

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**November 22, 2016 Meeting**

**Members:**

Wolfgang Buechler, Chairman  
Lee Daigler  
James Schlemmer  
James G. Meholick, Secretary  
Dennis Welka

The ZBA open regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 PM. All ZBA members, and The Town Prosecutor, Mr. Ned Perlman, were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

**PUBLIC HEARINGS:**

**Ken Morton**  
**4163 Beach Ridge Road**  
**Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a new single family residence on his property with a 106 ft. lot width at a side yard setback of 27 ft. where a 125 ft. minimum lot width is required per the Town Code §247-10.C.(1). A setback of 30 ft. minimum for all structures was previously set by the ZBA as a condition of variance granted at our July 23, 2014 meeting. The variance sought is a 19 ft. lot width with reduced condition of 3 ft. side yard setback from conditions set previously. The property is less than 1 acre and is R-1 low density residential zoning.

Mr. Morton presented the Town of Pendleton Building Inspector's denial; and a letter detailing the reasons for the additional 6 ft. of side yard setback request. The letter included a dimensional sketch of the proposed residence, article related to the measurements required for a 2-car garage, left rear of the house sketch, and a photograph of a similar house that he intends to build. Mr. Morton also indicated that he would address any issues related to drainage around his property.

Carol & Stan Woodcock, his neighbor to the east, was concerned about water issues & drainage as their home would be below the elevation of Mr. Morton's house. Mr. Dave Drexel, his neighbor to the west, was also present at the hearing to hear Mr. Morton's plans for his home.

All ZBA members stated that they had driven by or visited the property.

The formal public hearing was closed at approximately 7:30 PM.

**REGULAR ZBA MEETING:**

***Review Minutes from Prior Meeting:***

A motion was made by Dennis Welka to accept the minutes of the October 25, 2016 meeting and was seconded by Jim Schlemmer. All voted in favor.

***Specific Board Deliberation Actions:***

**Ken Morton  
4163 Beach Ridge Road  
Pendleton, New York**

The ZBA board reviewed the Area Variance tests, and commented as follows:

- a. Will the granting of the variance result in an undesirable change to the character of the neighborhood or will it be detrimental to nearby properties?

The board members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties as the proposed residence location preserved existing town code side yard setbacks. The board considered the basis of the previously granted variance with the objective to preserve as much separation between the proposed residence and existing neighboring residences as possible in spite of the reduced lot width granted. Also considered was the character of the neighborhood, much of which was built before the current zoning was enacted.

- b. Are there alternative solutions that would not require a variance?

It was agreed that the alternative solution would be to build a smaller building .

- c. Is the requested variance substantial?

It was agreed that the requested variance request was not substantial.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

It was agreed that the variance could potentially have an adverse effect on the physical or environmental conditions in the neighborhood due to the concern about water drainage on both sides of the property.

- e. Is the applicant's difficulty self-created?

It was agreed that the applicant's difficulty was self-created as Mr. Morton purchased an undersized lot.

A motion was made by Mr. Buechler to approve a new variance for a lot width of 106 ft. with conditions of a 30 ft. side yard setback on the northeast side of the property for all structures, and a 24 ft. side yard setback on the southwest side of the property for all structures. All voted in favor. This decision replaces and supersedes the ZBA decision of July 23, 2014, pertaining to his property.

**Tom Scozzafava (Continuation of October 25 Public Hearing)  
7338 Paddock Ridge  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 16 ft. x 22 ft. (352 sq. ft.) accessory structure at the end of his driveway. There is also an existing 14 ft. x 20 ft. (280 sq. ft.) accessory structure on the property for a total area of 632 sq. ft. where the maximum size allowed is 600 sq. ft. per Town Code. The accessory structure would be located at a side yard setback of 12.37 ft. where the minimum allowed is 15 feet, and at a front yard setback of 89.73 ft. where the minimum allowed is 150 ft. per Town Code. The aggregate area variance request would be 32 sq. ft. as per Town Code §247-34.E.(1), side yard setback variance request of 2.63 ft. as per Town Code §247-34.F.(2)(a), and front yard setback variance request of 60.27 ft. as per Town Code §247-34.F.(2)(b). The property is 0.57 acres and is R-2 medium density residential zoning.

The ZBA board reviewed the Area Variance tests, and commented as follows:

- a. Will the granting of the variance result in an undesirable change to the character of the neighborhood or will it be detrimental to nearby properties?

The board members felt that the granting of the variance would create an undesirable change to the neighborhood and nearby properties as the proposed accessory structure would be located too close to the front of his property and would have a detrimental visual impact to the neighborhood.

- b. Are there alternative solutions that would not require a variance?

It was agreed that the alternative solution would be to build the building further back in the property or expand the existing structure.

- c. Is the requested variance substantial?

It was agreed that the requested front yard variance request was substantial as it was 60% greater than the town code allowed.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members were uncertain if the variance would have an adverse effect on the physical or environmental conditions in the neighborhood.

e. Is the applicant's difficulty self-created?

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Welka to deny the aggregate area, side yard setback & front yard setback variances as detailed in the request, and was seconded by Mr. Meholick. Mr. Welka, Mr. Meholick, Mr. Buechler and Mr. Schlemmer voted in favor to deny the variances requested, and Mr. Daigler voted against the motion to deny.

***Correspondence:***     *None*

***Special Topics:***     *None*

***Miscellaneous ZBA Topics:***

1. Next ZBA meeting is scheduled for Tuesday, December 27, 2016, at 7:00PM.

A motion was made by Dennis Welka to adjourn the meeting at 8:27 PM, and seconded by Jim Meholick.

Submitted for:

James G. Meholick  
Secretary

Attachments: Town of Pendleton Zoning Board of Appeals Sign-In Sheet  
Public Hearing Mailing List for Mr. Ken Morton  
Town of Pendleton Denial of Building Application for Mr. Ken Morton  
Town of Pendleton Public Hearing Request for Mr. Ken Morton  
Town of Pendleton Notice of Public Hearing for Mr. Ken Morton  
Letter from Mr. Ken Morton