

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**October 27, 2015 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 7:05 PM. All ZBA members were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

**PUBLIC HEARINGS:**

**Steve Flay**  
**4933 Mapleton Road**  
**Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new porch at a front yard setback of 42 ft. where the minimum allowed is 60 feet. The porch front yard setback variance request would be 18 ft. as per Code Section 247-11.D.(1). The size of the property is approximately 1.15 acres and is R-2 medium density residential zoning.

Mr. Flay presented the Town of Pendleton Building Inspector's denial, the site survey of the property that illustrated the proposed location of the accessory structure with relationship to the house, and exterior elevation & framing section drawings of the proposed 8 ft. wide porch. Mr. Buechler indicated that the house is currently non-conforming at a front yard setback of 50 feet.

Mr. Marc Dunn, who lives on 4904 Mapleton Road, was present at the public hearing and supports the variance request.

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

The formal public hearing was closed at approximately 7:10 PM.

**Carlton Zeisz**  
**7225 Creekbend Drive**  
**Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 10 ft. x 16 ft. (160 sq. ft.) accessory structure at a front yard setback of 81 ft. where the minimum allowed is 150 feet. The accessory structure front yard setback variance request would be 69 ft. as per Code Section 247-11.A.(5) to 247.34.F.(2)(A). The size of the property is approximately 0.69 acres and is R-2 medium density residential zoning.

Mr. Zeisz presented the Town of Pendleton Building Inspector's denial and the site survey of the property that illustrated the proposed location of the accessory structure with relationship to the house. Mr. Zeisz indicated that he wanted to access the accessory structure from behind his driveway.

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

The formal public hearing was closed at approximately 7:25 PM.

**Jeff & Jackie Duncan  
6650 Shee-tram Road  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 24 ft. x 32 ft. (768 sq. ft.) accessory structure where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 168 sq. ft. as per Code Section 247-34.E.(1). The size of the property is approximately 1.3 acres and is R-2 medium density residential zoning.

Mr. Duncan presented the Town of Pendleton Building Inspector's denial and the site survey of the property that illustrated the proposed location of the accessory structure with relationship to the house. Mr. Daigler advised the board that there was an existing 8 ft. x 8 ft. (64 sq. ft.) metal shed, 8 ft. x 8 ft. (64 sq. ft.) tree house, and an additional 12 ft. x 12 ft. (144 sq. ft.) shed on the property that was not included in the variance request. Mr. Duncan indicated that he needed the new accessory structure to store his Model A car, 4-wheeler, and patio furniture. He also intended to remove the old metal shed which would revise the total aggregate area for the three structures to 976 sq. feet, and adjust the area variance request from 168 to 376 sq. feet.

Mr. Buechler pointed out that the town code per Code Section 247.34C only allowed a maximum of two accessory structures, so the request would also need to be amended for the total amount of accessory structures on the property.

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

A motion was made by Mr. Buechler to table the public hearing in order to verify the total number of structures required in order to determine the total area variance. The motion was seconded by Mr. Welka. All voted in favor.

The formal public hearing was tabled at approximately 7:35 PM.

**REGULAR ZBA MEETING:**

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

A motion was made by Dennis Welka to accept the minutes of the September 22, 2015 meeting and was seconded by Jim Schlemmer. All voted in favor.

***Specific Board Deliberation Actions:***

**Steve Flay  
4933 Mapleton 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 have an undesirable effect on the character of the neighborhood as the home improvement would have a positive impact on the neighborhood with minimal change to the front yard setback of the home. It was also noted that there were several other reduced front yard setbacks in the general neighborhood.

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

It was agreed that there were no alternative solutions that would not require a variance.

- c. Is the requested variance substantial?

It was agreed that the variance request was not substantial as it would be only 8 ft. closer to the front of the property since the house was at a non-conforming setback already.

- 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 request would not 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 approve the variance as detailed in the request, and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Carlton Zeisz**  
**7225 Creekbend Drive**  
**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 front yard variance would have an undesirable change to the neighborhood as several of his neighbors built sheds at compliant setbacks.

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

It was agreed that the alternative solution would be to build the accessory structure further back in the property compliant with town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance was substantial as it was approximately 50% of the town code.

- 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 would not 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 variance as detailed in the request, and was seconded by Mr. Meholick. All members voted in favor of the motion to deny the variance request.

***Correspondence:***     *None*

***Special Topics:***

- 1. Conrad & Fred Janik attended the meeting and requested that the board grant an extension to their variance that was approved at the meeting in December of 2013. Mr. Buechler advised them to come back when they were ready to secure the permit from the building inspector's office.

***Miscellaneous ZBA Topics:***

1. Next ZBA meeting is scheduled for Tuesday, November 24, 2015, at 7:00PM.

A motion was made by Jim Schlemmer to adjourn the meeting at 8:10 PM, and seconded by Dennis Welka.

Submitted by:

James G. Meholick  
Secretary

Attachments: Town of Pendleton Zoning Board of Appeals Sign-In Sheet  
Public Hearing Mailing List for Zeisz, Duncan & Flay  
Town of Pendleton Denial of Building Application for Mr. Steve Flay  
Town of Pendleton Public Hearing Request for Mr. Steve Flay  
Town of Pendleton Notice of Public Hearing for Mr. Steve Flay  
Site Survey of Property for Mr. Steve Flay  
Exterior Elevation of Proposed Porch for Mr. Steve Flay  
Framing Section of proposed Porch for Mr. Steve Flay  
Town of Pendleton Denial of Building Application for Mr. Carlton Zeisz  
Town of Pendleton Public Hearing Request for Mr. Carlton Zeisz  
Town of Pendleton Notice of Public Hearing for Mr. Carlton Zeisz  
Site Survey of Property for Mr. Carlton Zeisz  
Town of Pendleton Denial of Building Application for Jeff & Jackie Duncan  
Town of Pendleton Public Hearing Request for Jeff & Jackie Duncan  
Town of Pendleton Notice of Public Hearing for Jeff & Jackie Duncan  
Site Survey of Property for Jeff & Jackie Duncan