

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
September 22, 2014 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:

David Krebs
6670 Aiken Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 12 ft. x 30 ft. (360 sq. ft.) accessory structure to replace an existing 10 ft. x 12 ft. accessory structure with a front yard setback of 74 ft. where the minimum allowed is 150 ft. per town code. The area variance request would be 76 ft. as per Code Section 247-11.A(5) to 247-34. The size of the property is approximately 0.75 acres and is R-2 medium density residential zoning.

Mr. Krebs indicated that he wanted the accessory structure to store a Model A car, snow blower, and gardening equipment. He stated that he did not want to move the building further back as he didn't want to extend his driveway, and he would have to remove an existing fence and concrete walkway.

Mr. Buechler advised the ZBA members that no one in the area had two garages together in the vicinity of this property. The ZBA was concerned whether a permit was ever granted to construct the existing accessory structure along the side of the house.

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 to find more information on permitting of the existing shed, and was seconded by Mr. Welka. All voted in favor.

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

Ivan Yatchuk
6056 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 20 ft. x 9 ft. (180 sq. ft.) shed roof extension to an existing 600 sq. ft. accessory structure for a total area of 780 sq. ft. where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 180 sq. ft. as per Code Section 247-34.E.(1). The size of the property is approximately 1.14 acres and is R-2 medium density residential zoning.

Mr. Yatchuk indicated that he was issued a stop work order by the Code Enforcement Officer, Mr. Jack Striegel, as he had not obtained a permit for the addition of the shed roof. During the inspection of the property it was discovered that in addition to the accessory structure there was an existing 30 ft. x 9 ft. overhang on the back of the accessory structure, and also an existing shed which Mr. Yatchuk stated was 10 ft. x 14 ft. (140 sq. ft.). Mr. Yatchuk is using the accessory structure for commercial storage of his electrical material, and had several chickens & rabbits on the property.

Ms. Yatchuk's neighbor who lives to the south of his property, Mr. Ben Krentz, was present at the public hearing and voiced no objection to the proposed accessory structure additions.

Jim & Nancy Behrens who live to the north of his property, voiced concern about the use of the building and the gravel path to the fence.

Stephanie Foulis who has lived next door to this property for 25 years, felt that the area had lost its country feel and was being built up too quickly.

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

A motion was made by Mr. Meholick to table the public hearing to find out more information on the property & the permitting of the existing accessory structure, and was seconded by Mr. Schlemmer. All voted in favor.

The formal public hearing was tabled at approximately 7:40 PM.

Ronald LaRocque
SBL No. 150.01-1-39
6323 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new commercial use building with a side yard setback of 70 ft. where the minimum allowed is 100 ft. per town code. The side yard variance request would be 30 ft. as per Code Section 247-12.H(2). The size of the property is 200 ft. x 272 ft. and is CO-1 light commercial zoning.

Mr. LaRocque indicated that he wanted to open an art gallery to bring this type of traffic into Pendleton. The proposed building that would house the art gallery and three retail shops, would face Campbell Blvd. and be in line with the existing homes. In addition, he wanted to center the building in the lot so he would be further away from the vacant lot on the south side of the property. Mr. LaRocque also presented the site survey of the property and a drawing of the proposed building.

Mr. Steven Hilbrecht who lives on 6551 Campbell Blvd. was present at the public hearing to find out more information regarding the proposed variance and art gallery.

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

The formal public hearing was adjourned at approximately 7:50 PM.

REGULAR ZBA MEETING:

New Inquiries to ZBA: None

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the August 27, 2014 meeting and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:

**Ronald LaRocque
SBL No. 150.01-1-39
6323 Campbell Boulevard
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 change to the neighborhood and nearby properties, and was consistent with the buildings in the neighborhood.

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

It was agreed that alternate solution would be to build a smaller building or rotate the building to meet town code. Neither alternative satisfies Mr. LaRocque's business plan.

- c. Is the requested variance substantial?

It was agreed that the variance request was 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 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.

After discussion, Mr. Welka made a motion to grant the variance for the project detailed in the application, and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Daigler. All voted in favor.

Correspondence: *None*

Special Topics:

1. Mr. Fred & Conrad Janik were present at the meeting and due to delays in the title search for their property, they requested that the ZBA extend their previously granted variance to December 17, 2015. After the board reviewed the circumstances contribution to the construction delay, a motion was made by Wolf Buechler to extend the approved variance as requested, and was seconded by Dennis Welka. All voted in favor.
2. Mr. Buechler reminded the ZBA about the scheduled training at NCCC on October 9, at 5:00 PM.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, October 28, 2014, at 7:00PM.

A motion was made by Lee Daigler to adjourn the meeting at 8:35 PM, and seconded by Jim Schlemmer.

Submitted by:

James G. Meholick
Secretary

Attachments: (available for review in the Town Clerk's Office)
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Krebs Public Hearing
Town of Pendleton Notice of Public Hearing for Mr. David Krebs
Public Hearing Mailing List for Yatchuk Public Hearing
Town of Pendleton Notice of Public Hearing for Mr. Ivan Yatchuk
Public Hearing Mailing List for LaRocque Public Hearing
Town of Pendleton Notice of Public Hearing for Mr. Ronald LaRocque