

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
September 22, 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:

Andrew Forrestel
7180 Creekbend Drive
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 16 ft. (192 sq. ft.) accessory structure at a front yard setback of 120 ft. where the minimum allowed is 150 feet. The accessory structure front yard setback variance request would be 30 ft. as per Code Section 247-34.F.(2)(a). The size of the property is approximately 0.50 acres and is R-2 medium density residential zoning.

Mr. Forrestel 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, a photograph of the proposed commercial storage shed, and a letter from his neighbors indicating that they had no objection to the location of the shed. Mr. Forrestel indicated that he had met with each of his neighbors to determine the best overall location of the accessory structure so that it would not affect their view of the pond on his property.

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

The formal public hearing was closed at approximately 7:12 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Lee Daigler to accept the minutes of the August 24, 2015 meeting and was seconded by Dennis Welka. All voted in favor.

Specific Board Deliberation Actions:

**Andrew Forrestel
7180 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 not have an undesirable change to the neighborhood. It was felt that since he had contacted his neighbors he was mitigating any potential placement issues.

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

It was agreed that the only alternative would be to move the accessory structure further back in the property.

- c. Is the requested variance substantial?

It was agreed that the requested variance 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 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. Daigler to grant 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. Mr. Buechler, Mr. Meholick, Mr. Daigler, and Mr. Schlemmer voted in favor of the motion, and Mr. Welka voted against the motion. The variance request was granted.

**Vito Palumbo (Continuation of August 24th Meeting)
End of Creekview Drive
SBL No. 166.00-1-10
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 have an undesirable effect on the character of the neighborhood. There was a concern by the ZBA members that if the variance were granted Mr. Palumbo could continue to subdivide the property incrementally without meeting the town code.

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

It was agreed that there were various alternative solutions including but not limited to extending the road into the property or providing for a cul-de-sac for the 3rd lot to meet town code.

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial as it was more than 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 request would not have an adverse effect on the physical or environmental conditions in the neighborhood. Impact of the subdivision plan would come under Planning Board review.

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

It was agreed that the applicant's difficulty was self-created since Mr. Palumbo was seeking a major subdivision and creating his non-conforming lot in the process.

A motion was made by Mr. Schlemmer to deny the variance as detailed in the request, and was seconded by Mr. Buechler. All voted in favor to deny the variance request.

Correspondence: *None*

Special Topics:

- 1. Several neighbors were present for the Vito Palumbo deliberation as can be seen per the sign-in sheet to hear the discussion & decision made by the ZBA members.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, October 27, 2015, at 7:00PM.

A motion was made by Jim Schlemmer to adjourn the meeting at 8:05 PM, and seconded by Wolf Buechler.

Submitted by:

James G. Meholick
Secretary

Attachments: Available in the Town Clerk's Office
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Forrestel
Town of Pendleton Denial of Building Application for Mr. Andrew Forrestel
Town of Pendleton Public Hearing Request for Mr. Andrew Forrestel
Town of Pendleton Notice of Public Hearing for Mr. Andrew Forrestel
Site Survey of Property for Mr. Andrew Forrestel
Photograph of Proposed Shed for Mr. Andrew Forrestel
Letter from Mark Heslin & Andrew Cianflone for Mr. Andrew Forrestel