

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
September 26, 2017 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. Lee Daigler at 7:07 PM. ZBA members Mr. Schlemmer, Mr. Daigler, Mr. Meholick & Mr. Welka were present at the meeting. No changes were made to the ZBA agenda submitted by Jim Meholick.

PUBLIC HEARINGS:

Greg Soemann / James Edwards
6310 South Transit Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 3,840 sq. ft. building at a 15 ft. rear yard setback where a minimum of 50 ft. is required per Town Code. The rear yard variance request would be 35 ft. as per Town Code §247-13.I. The property is approximately 10 acres and is CO2 Medium Commercial zoning.

Mr. Jim Edwards presented the Town of Pendleton Building Inspector's denial, and a site survey illustrating the proposed location of the metal building with open lean-to-roof. He indicated that they were a communication service company for AT&T and Spectrum, and need the building for storage of their bucket trucks. The proposed building would be closed on three sides with the east side being open, would have no heat, and would drain into the parking lot. The proposed location would allow them easy entry & exiting of the parking lot, and provide adequate space for future expansion.

All ZBA members stated that they had driven by or visited the property, but did not realize that this was a rear setback request.

The public hearing was closed at approximately 7:22 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the August 23, 2017 meeting, and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Greg Soemann
6310 South Transit Road
Pendleton, New York**

A motion was made by Mr. Welka to table the deliberation for one month to enable the ZBA members to revisit the property. The motion was seconded by Mr. Meholick. All voted in favor.

**Tony Madonia (Continued from August 2017)
4881 Tonawanda Creek Road
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 50 ft. x 100 ft. (5,000 sq. ft.) building at a 20 ft. side yard setback from a residential zone where a minimum of 100 ft. is required per Town Code. The side yard variance request would be 80 ft. as per Town Code §247-12.E. The property is 1.6 acres and is CO1 Light Commercial 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.

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

It was agreed that a alternative solution would be to move the building to the opposite side of the property to meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial.

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

The board members felt that the variance would have an adverse effect on the physical or environmental conditions in the neighborhood due to the potential noise & fumes from the idling trucks.

- 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 side yard variance as detailed in the request, and was seconded by Mr. Meholick. All voted in favor.

New Inquiries to ZBA:

- 1. Mr. Don Meyers of 5924 Fisk Road, was denied a variance request for a 3,456 sq. ft. accessory structure at the ZBA Public Hearing in July of 2017. He is still interested in building a new accessory structure on his property and inquired about what was required to apply for another variance for a smaller building. The board indicated that a 1,200 sq. ft. building with a maximum height of 20 ft. was allowed by town code for his 10 acre property. If the variance request was for a 1,800 sq. ft. or larger building, the Planning Board would need to review his plans prior to the Public Hearing.

Correspondence: *None*

Special Topics: *None*

Miscellaneous ZBA Topics:

- 1. The next scheduled meeting will be on Tuesday, October 24, 2017, at 7:00PM.

A motion was made by Lee Daigler to adjourn the meeting at 8:00 PM, and seconded by Dennis Welka. All voted in favor.

Submitted for:

James G. Meholick
Secretary

Attachments: Available to review in the Town Clerk's Office
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Greg Soemann
Town of Pendleton Denial of Building Application for Mr. Greg Soemann
Town of Pendleton Public Hearing Request for Mr. Greg Soemann
Town of Pendleton Notice of Public Hearing for Mr. Greg Soemann
Site Survey of Property for Mr. Greg Soemann