

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**May 22, 2018 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 were present at the meeting. No changes were made to the ZBA agenda submitted by Wolfgang Buechler.

**PUBLIC HEARINGS:**

**Aleksandr & Lyudmila Zhilevich**  
**6825 Bear Ridge 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 36 ft. (864 sq. ft.) accessory structure on their property where a maximum of 600 sq. ft. is allowed per Town Code. The area variance request would be 264 sq. ft. as per Town Code §247-34.E.(1). The property is approximately 1.39 acres and is R1 light density residential zoning.

The Zhilevich's presented the Town of Pendleton Building Inspector's denial, a site survey of the property, and several sketches illustrating the proposed accessory structure. Mr. Zhilevich indicated during the public hearing that they would like to add an 8 ft. x 36 ft. overhang and increase the maximum height of the accessory structure to 17 feet. The application was amended during the hearing for an area variance of 552 sq. ft. and a height variance of 1 foot.

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

The public hearing was closed at approximately 7:15 PM.

**REGULAR ZBA MEETING:**

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

A motion was made by Lee Daigler to accept the minutes of the April 24, 2018 meeting, and was seconded by Dennis Welka. All voted in favor.

***Specific Board Deliberation Actions:***

**Aleksandr & Lyudmila Zhilevich  
6825 Bear 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 accessory structure will not be visible due to the slope of the property behind the house.

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

It was agreed that a alternative solution would be to construct a 600 sq. ft. building that meets the town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was approximately twice what town code allows.

- 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 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. Schlemmer to grant an area variance of 264 sq. ft. and a height variance of 1 ft., allowing for a new structure of 864 sq. ft. with a total height of 17 ft., conditional on a one year time limit on completion. The motion was seconded by Mr. Buechler. Mr. Schlemmer, Mr. Buechler, Mr. Meholick & Mr. Daigler voted in favor, and Mr. Welka voted against. The variance request was approved.

**Thomas Elberson (Continuation of April 24<sup>th</sup> Public Hearing)  
5822 Dunnigan Road  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a new 30 ft. x 40 ft. (1,200 sq. ft.) accessory structure on his property where a maximum of 600 sq. ft. is allowed per Town Code. The area variance request would be 600 sq. ft. as per Town Code §247-34.E.(1). The property is approximately 1.7 acres and is R2 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.

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

It was agreed that a alternative solution would be to construct a 600 sq. ft. building that meets the town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was approximately twice what town code allows.

- 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 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 area variance request of 600 sq. ft., and was seconded by Mr. Meholick. Mr. Buechler, Mr. Schlemmer, Mr. Meholick & Mr. Welka voted in favor, and Mr. Daigler voted against. The variance request was denied.

**Michael Schmit (Continuation of April 24<sup>th</sup> Public Hearing)  
5972 Fisk Road  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a new accessory structure at a height of 29 ft. on his property where a maximum of 20 ft. is allowed per Town Code. The height variance request would be 9 ft. as per Town Code §247-34.F.(3)(d). The property is approximately 4.9 acres and is R2 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 because of the requested height of the structure.

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

It was agreed that a alternative solution would be to construct a building at a 20 ft. height that meets the town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was approximately 70% greater than town code allows.

- 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 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 grant a height variance of 1 ft., allowing for a maximum structure height of 17 ft., conditional on a one year time limit on completion. The motion was seconded by Mr. Meholic. Mr. Schlemmer, Mr. Meholic & Mr. Welka voted in favor, and Mr. Buechler & Mr. Daigler voted against. The variance request of 1 ft. was approved.

***New Inquiries to ZBA:       None***

***Correspondence:***     *None*

***Special Topics:***     *None*

***Miscellaneous ZBA Topics:***

1. The next scheduled meeting will be on Tuesday, June 26, 2018, at 7:00PM.

A motion was made by Jim Meholick to adjourn the meeting at 8:20 PM, and seconded by Wolf Buechler. All voted in favor.

Submitted for:

James G. Meholick  
Secretary

Attachments: Town of Pendleton Zoning Board of Appeals Sign-In Sheet

Town of Pendleton Denial of Building Application for Mr. Aleksandr Zhilevich  
Town of Pendleton Public Hearing Request for Mr. Aleksandr Zhilevich  
Town of Pendleton Notice of Public Hearing for Mr. Aleksandr Zhilevich  
Public Hearing Mailing List for Mr. Aleksandr Zhilevich  
Site Survey of Property for Mr. Aleksandr Zhilevich  
Picture of Accessory Structure for Mr. Aleksandr Zhilevich  
Sketches of Accessory Structure for Mr. Aleksandr Zhilevich