

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
August 28, 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 ZBA Chairman Mr. Wolfgang Buechler at 7:00 PM. ZBA members Mr. Daigler, Mr. Schlemmer & Mr. Welka, were present. The ZBA agenda was updated to show the proposed accessory structure dimensions, in reference to the Chrzanowski deliberation.

PUBLIC HEARINGS:

Albert Wuendsch
6565 Bear Ridge Road
Lockport, NY 14094

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct an additional accessory structure of 20' x 30' (600 sq. ft.) on property where there is an existing 10' x 16' (160 sq. ft.) accessory structure for a total of 760 sq. ft. where 600 sq. ft. maximum is allowed per Town Code §247-34.E(1).
Town Ordinance Affected: §247-34.E(1) Variance Sought: 160 sq. ft. Current Zoning: R-2 Size of Parcel: 1.1 acres

Mr. Albert Wuendsch presented the Town of Pendleton Building Inspector's denial, a site survey of the property illustrating the proposed location of the accessory structure, It was indicated that there is an existing 10 ft. x 12 ft. (160 sq. ft.) shed on the property. Mr. Wuendsch stated that he would extend his driveway to the structure for storage of his vintage car and his summer use only vehicle. Mr. Wuendsch also agreed that he would keep the structure to a maximum height of 16 ft.

Board action during Hearing:

The question was raised if a front yard setback was needed, since no one present at the hearing could answer the question, a motion was made by Mr. Schlemmer and second by Mr. Buechler to table the hearing until a verification is made by the Building Inspector if a variance is needed in reference to the 150 ft. front yard setback. All voted in favor.

Craig Schmidt
6140 Aiken Road
Lockport, NY 14094

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to keep a shed in current placement at a setback of 120' where 150' is required.
Town Ordinance Affected: §247-34, F(2)A Variance Sought: 30' Front Yard Setback Current Zoning: R-1 Size of Parcel: 1.44 Acres

Mr. Craig Schmidt was notified by mail that he has a nonconforming accessory structure and needed to come into Building Inspector office to address the situation. A Denial of Building Application was issued and a Public Hearing Request Form was completed.

Mr, Schmidt explained that because his house is less than a year old, he thought that an accessory structure permit would be covered under the building permit for the house and that he was not aware of the front yard setback requirements.

The public hearing was closed at approximately 7:24 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Jim Schlemmer to accept the minutes of the July 24, 2018 meeting, and was seconded by Dennis Welka. All voted in favor.

Specific Board Deliberation Actions:

David & Patricia Chrzanowski
5191 Tonawanda Creek Road
North Tonawanda, 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.) Addition with 8 ft. x 36 ft. shed roof overhang (288 sq. ft.) to their existing 864 sq. ft. accessory structure on their property for a total building size of 2,016 sq. ft. where a maximum of 600 sq. ft. is allowed per Town Code. The area variance request would be 1,416 sq. ft. as per Town Code §247-34.E.(1). The property is approximately 1.5 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 not 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 an alternative solution would be to construct a smaller accessory structure or purchase more property from the family to meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was approximately two and half times larger 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. Schlemmer to grant an area variance of 1,416 sq ft. which would consist of 864 sq. ft. addition to the existing structure. The new structure must be attached and located directly behind the existing structure (north) and a 288 sq. ft overhang to the east side of the new addition, the motion was seconded by Mr. Daigler. Mr.Schlemmer, Mr. Daigler and Mr Buechler voted in favor, Mr. Welka voted against. The variance as stated above was granted with a 1 year condition for the completion of the project.

Craig Schmidt
6140 Aiken Road
Lockport, NY 14094

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.

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

It was agreed that an alternative solution would be to move the structure back into the property so that it would be 150 ft. From the road.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was not 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 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 sought of a 30’ Front Yard Setback. the motion was seconded by Mr. Schlemmer. Mr.Schlemmer, Mr. Daigler and Mr Buechler voted in favor, Mr. Welka voted against. The variance was granted.

New Inquiries to ZBA: None

Correspondence: A letter was read by ZBA Chairman Re: Solar Project Committee

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, September 25, 2018, at 7:00PM.

A motion was made by Dennis Welka to adjourn the meeting at 8:09 PM, and seconded by Jim Schlemmer. 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. Wuendsch
 - Town of Pendleton Public Hearing Request for Mr. Wuendsch
 - Town of Pendleton Notice of Public Hearing for Mr. Wuendsch
 - Public Hearing Mailing List for Mr. Wuendsch
 - Site Survey of Property for Mr. Wuendsch
 - Town of Pendleton Denial of Building Application for Mr. Schmidt
 - Town of Pendleton Public Hearing Request for Mr. Schmidt
 - Town of Pendleton Notice of Public Hearing for Mr. Schmidt
 - Public Hearing Mailing List for Mr. Schmidt