

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
September 25, 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. No changes were made to the ZBA agenda submitted by the Chairman.

PUBLIC HEARINGS:

William C. Rott/Steven Kosmoski
5433 Irish Road
North Tonawanda, NY 14120

Potential buyer (Steven Kosmoski) wishes to construct a 5,000 sq. ft. accessory structure (50' x 100') where 2,000 sq. ft. maximum is allowed per Town Code §247-34.E(3). A 1,780 sq. ft. barn is preexisting as well. Existing owner, Mr. Rott, applied for the variance prior to sale of property.

Town Ordinance Affected: §247-34.E (3)
Variance Sought: 4,780 sq. ft.
Current Zoning: R-2
Size of Parcel: 16.52 acres

Mr. Rott provided a recent tax bill to show that he receives an AG exemption on his current Property Taxes. Mr. Rott also showed a letter from Joel Maerten stating that the Bush or Maerten family has been farming the Rott property at 5433 Irish Road since at least 1990. Mr. Rott presented, a site survey of the property illustrating the proposed location of the accessory structure and an existing 1,780 sq. ft. barn on the property. The survey also showed the size of the parcel to be 16.7 Acres +/-.

Mr. Kosmoski stated that the proposed 5000 sq. ft. structure would be located 280 to 300 feet from the road and that his intention was to store 10 cars, dump trailer, car trailer and a farm tractor in the proposed structure. Mr. Kosmoski also stated that he intended to have Wyatt Maerten continue to farm the property if he buys the 5433 Irish Road property.

A question was asked by a ZBA member if he could store the two trailers and the farm tractor in the existing barn. Mr. Kosmoski replied that he could but he did not like the dirt floor in a portion of the barn and that the long-term plans for the barn have not been decided.

The following neighbors spoke at the public hearing:

Diane Hazelet	5404 Irish Road
Larry Schumacher	5397 Irish Road
Ed Menard	5378 Irish Road
Julia Ripley	5396 Irish Road
Dan Dzikoski	5447 Irish Road
Michele Dzikoski	5447 Irish Road

Comments from above Individuals cited with concerns, issues or statements, grouped by topic:

Building Size:

- Building size too big
- That size building could store up to 30 vehicles
- The parcel would not support a structure of that size
- The proposed structure should be 2000 sq. ft. and 20 feet high max
- A building is more of a commercial or warehouse size
- Concern of starting business out of new structure

Farming Activity:

- Property is not being farmed by owner
- Having someone farm your land does not make your property a farm

Impact on Neighborhood and Environment:

- A building of that size would shed a considerable amount of water to adjoining properties in an area that the water was already knee deep in the spring of 2017
- No objection to building if it looks good
- The building would be a detriment to the community
- A negative effect to new potential buyers in the neighborhood
- Proposed structure would reduce property values of neighborhood
- Location of proposed structure would eliminate 40% of neighbor's view of natural habitat
- Not only will the new building block a neighbor's view but they have to look at an old barn now and the new building will just make it worse
- Traffic in an out of the property to haul the stored cars would be a nuisance to neighbors

Miscellaneous:

- Zoning rules are put in place for a reason
- It is not a hardship to owner that size of proposed structure is contingent for sale of property
- Currently a shared driveway is used between 5433 Irish Rd and neighbor, problems could occur if this driveway is used by construction vehicles and general traffic

Statement from ZBA Chairman Buechler

Chairman Buechler stated to all parties that the hearing was for an Accessory Structure not an AG building and that the existing barn is currently considered an accessory structure per details in the hearing application and the Building Inspector's Denial document. Therefore, any determination would be made on the aggregate size of the two structures on the parcel. Neither structure is being considered an AG building by the ZBA at this time.

The public hearing was closed at approximately 7:55 PM.

Joseph Follendorf
4119 Beach Ridge Road
North Tonawanda, NY 14120

Owner wishes to construct a new 2,480 sq. ft. accessory structure (40' x 62') where 600 sq. ft. is allowed per Town Code §247-34.E(1). There is also a pre-existing 588 sq. ft. structure on the property.

Town Ordinance Affected: §247-34.E (1)

Variance Sought: 2,468 sq. ft.

Current Zoning: R-1

Size of Parcel: 1.97 acres

Mr. Follendorf provided a comprehensive folder for the ZBA board members that showed all aspects of the scope of work for the proposed accessory structure.

Mr. Follendorf stated that he would be housing six high end, very desirable collectable vehicles, two antique motorcycles, and numerous automotive memorabilia in a 40'x40' section of the structure. The remaining 22'x40' section of the structure would be used for yard maintenance equipment.

Mr. Follendorf stated that the new structure would be attached to the existing 588 sq. ft. structure and the ridge of the proposed structure would blend in with the existing structure. Height of the proposed section would match existing building height.

Mr. Follendorf stated that the previous owner had a system to divert runoff water to the north of the property, where an easement is already established. Runoff from the proposed building would be tied into that system.

Nora Caron, a neighbor across the road attended the hearing to understand the project and the location of the proposed structure. She stated that after reviewing the project, she did not have any concerns with plan as proposed.

The public hearing was closed at approximately 8:27 PM

Wuendsch, Albert

**6565 Bear Ridge Road,
Pendleton NY (continued from 8/28/18)**

Owner wishes 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).
Area Variance Sought: 160 sq. ft.
Current Zoning: R-2.
Size of Parcel: 1.1 acres

At the August ZBA meeting the ZBA commented that a front yard setback might also be needed, based upon a review of the lot survey. Further correspondence with the Building Inspector indicated that a 30 ft. front yard setback variance would be required. This variance requirement was added to the request.

Karen Checlosky, a neighbor across the street, attended the hearing. Her main concern was the location of the proposed structure and its use. All her questions were answered and she was ok with the structure, as long as the placement was behind the residence as proposed.

The public hearing was closed at approximately 8:29 PM

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Mr. Schlemmer to accept the minutes of the August 28, 2018 meeting, and was seconded by Mr. Welka. All voted in favor.

Specific Board Deliberation Actions:

**William C. Rott/Steven Kosmoski
5433 Irish Road
North Tonawanda, NY 14120**

A motion was made by Mr. Welka to table the deliberation for an additional month so that all ZBA members would be present to vote on the variance request. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Joseph Follendorf
4119 Beach Ridge Road
North Tonawanda, NY 14120**

A motion was made by Mr. Welka to table the deliberation for an additional month so that all ZBA members would be present to vote on the variance request. The motion was seconded by Mr. Schlemmer. All voted in favor.

Wuensch, Albert
6565 Bear Ridge Road,
Pendleton NY (continued from 8/28/18)

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 the lot shape does not allow an accessory structure without a front yard setback variance.

- 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. Welka to grant an area variance of 160 sq. ft. and a front yard setback variance of 30 ft. with a maximum structure height of 16 ft. The motion was seconded by Mr. Schlemmer, all voted in favor. The variance as stated above was granted with a 1 year condition for the completion of the project.

New Inquiries to ZBA: None

Correspondence: None

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, October 23, 2018, at 7:00PM.

A motion was made by Mr. Daigler to adjourn the meeting at 9:09 PM, and seconded by Mr. Schlemmer. All voted in favor.

Submitted for:

James G. Meholick
Secretary

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