

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
December 18, 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:

Brian Miller
5874 Fisk Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 32 ft. x 60 ft. (1,920 sq. ft.) accessory structure on property where there is an existing 26 ft. x 40 ft. (1,040 sq. ft.) accessory structure, for a total of 2,960 sq. ft. where a maximum of 1,200 sq. ft. is allowed as per Town Code. The area variance request would be 1,760 sq. ft. as per Town Code §247-13.E(2). The property is 6.98 acres and is R-2 medium density residential zoning.

Mr. Miller presented the Town of Pendleton Building Inspector's denial, and the site survey of the property illustrating where they would like to locate the accessory structure. Mr. Miller indicated that he needed the building for storage of his trailers, tractors & ATV. It was noted that there was a small shed on the property and Mr. Miller stated that it would be torn down if the variance was approved. The utilities to the existing home were not hooked up, and it was uncertain if a certificate of occupancy could be received based on the condition of the house.

A motion was made by Mr. Buechler to table the public hearing for one month to review whether we can consider this variance request when a certificate of occupancy does not exist, and was seconded by Mr. Schlemmer. All voted in favor.

The public hearing was tabled at approximately 7:30 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Jim Schlemmer to accept the minutes of the November 27, 2018 meeting, and was seconded by Dennis Welka. All voted in favor.

Specific Board Deliberation Actions:

**Don Meyer (Continuation of November 27th Public Hearing)
5924 Fisk Road
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 45 ft. x 40 ft. (1,800 sq. ft.) accessory structure on his property where the maximum allowed is 1,200 sq. ft. per Town Code. The area variance request would be 600 sq. ft. as per Town Code §247-13.E(2). The property is 5.1 acres and is R-2 medium density residential zoning.

The ZBA board reviewed the Area Variance tests for the height of the accessory structure, 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 build a smaller building that met town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was 50% 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. Buechler to grant the area variance as detailed in the request with the condition that the project be completed in one year. The motion was seconded by Mr. Schlemmer. Mr. Buechler, Mr. Schlemmer & Mr. Daigler voted in favor; and Mr. Welka & Mr. Meholick voted against the variance request. The variance was approved.

New Inquiries to ZBA: None

Correspondence: None

Special Topics: None

1. Lee Daigler, Jim Meholick & Wolf Buechler signed the form acknowledging receipt of the Town of Pendleton Code of Ethics & Sexual Harassment Policy.

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, January 22, 2019, at 7:00PM.

A motion was made by Wolfgang Buechler to adjourn the meeting at 8:30 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. Brian Miller
Town of Pendleton Public Hearing Request for Mr. Brian Miller
Town of Pendleton Notice of Public Hearing for Mr. Brian Miller
Site Survey of Property for Mr. Brian Miller
Photographs of Storage Equipment for Mr. Brian Miller