

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**March 26, 2019 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, and The Town Prosecutor, Mr. Ned Perlman were present.

**PUBLIC HEARINGS:**

**Ripley, Jesse**  
**5396 Irish Rd.**  
**North Tonawanda, NY 14120**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 12 ft. x 20 ft. attached garage at a 9 ft. side yard setback where minimum side yard setback allowed is 15 ft. per Town Code §247-11.E. Area variance is sought for garage side yard setback variance of 6 ft. Property is 100 ft. x 301 ft. and zoned R-2 Medium Residential.

Mr. Ripley presented the Town of Pendleton Building Inspector's denial and a site survey of the property. Mr. Ripley indicated that he wanted to tear down the existing 15'w x 20'd attached garage and desired to construct a two bay attached garage to replace the existing single bay attached garage. Mr. Ripley would like the size of the first bay (closest to the house) 24'w x 24'd and the second bay 8'w x 24'd. For a total attached garage proposed size of 32'w x 24'd (768 sq. ft.) with a proposed side yard setback of 9' (requiring a 6' side yard variance) Mr. Ripley said his residence is 1800 sq. ft. Mr. Ripley said that the first bay would be used for daily drivers and the second bay would be used to store a classic car. Mr. Ripley gave Chairman Buechler a letter from his next door neighbor, stating her approval of the proposed project.

The public hearing was closed at 7:20 PM.

**Weitz, David**  
**6358 Bear Ridge Rd.**  
**Lockport, NY 14094**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 928 sq. ft. covered patio attached to a 700 sq. ft. detached garage where maximum allowed is 1200 sq. ft. per Town Code §247-11.I. Area variance is sought for detached garage size variance of 428 sq. ft. Property is 9.4 acres and zoned R-2 Medium Residential

Mr. Weitz presented the Town of Pendleton Building Inspector's denial and a site survey of the property.

Mr. Weitz indicated that he wanted to add a roof only addition to the existing detached garage and the new roof line would tie into the existing roof of the detached garage. The addition would be 928 sq. ft. and used as a covered shelter for his RV and a trailer.

The public hearing was closed at 7:27 PM.

**REGULAR ZBA MEETING:**

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

A motion was made by Mr. Welka to accept the minutes of the February 26, 2019 meeting, and was seconded by Mr. Schlemmer. All voted in favor.

***Specific Board Deliberation Actions:***

**Brian Miller**  
**5874 Fisk Road**  
**Lockport, New York 14094**

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.

The ZBA Board Action is as follows:

The Board discussed the validity of an accessory structure request with respect to Town Code §247-34A (1, 2 and 3) when the primary residence is not viable. The Board also confirmed the current condition of the residence with the Town Building Inspector.

Mr. Welka moved to deny the variance on insufficient proof of suitable primary residence to support compliance with Town Code §247-34A. Mr. Schlemmer seconded the motion.

All voted in favor to deny the variance.

**Ripley, Jesse**  
**5396 Irish Rd.**  
**North Tonawanda, NY 14120**

It was the opinion of a Board member that another look at Mr. Ripley's property was needed so that a proper decision could be made on Mr. Ripley's variance request.

A motion was made by Mr. Daigler and seconded by Mr. Buechler to table the deliberation.

All voted in favor.

**Weitz, David**  
**6358 Bear Ridge Rd.**  
**Lockport, NY 14094**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 928 sq. ft. covered patio attached to a 700 sq. ft. detached garage where maximum allowed is 1200 sq. ft. per Town Code §247-11.I. Area variance is sought for detached garage size variance of 428 sq. ft. Property is 9.4 acres and zoned R-2 Medium Residential

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 have minimal impact on the character of the neighborhood.

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

It was agreed that a smaller patio roof would not need a variance.

- c. Is the requested variance substantial?

It was agreed that the requested variance was substantial, but the limited visibility from the road and neighboring properties would negate the size requested.

- 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 an area variance of 428 sq. ft. and a maximum structure height that would not exceed the existing detached garage height. 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: Chairman Buechler distributed a letter in reference to The Bear Ridge Solar Project***

***Special Topics: None***

***Miscellaneous ZBA Topics:***

1. The next scheduled meeting will be on Tuesday, April 30, 2019, at 7:00PM.  
(Note: this is the 5<sup>th</sup> Tuesday)

A motion was made by Mr. Daigler to adjourn the meeting at 8:15 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

