

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
April 30, 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 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:

Gassan Rizek
7261 Townline Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 300 sq. ft. pool house on his property at a side yard setback of 5 ft. where a minimum of 15 ft. is allowed, and a rear yard setback of 5 ft. where a minimum of 20 ft. is allowed per Town Code. The side yard setback variance request would be 10 ft. as per Town Code §247-34.F(2)(b), and the rear yard setback variance request would be 15 ft. as per Town Code §247-34.F(3)(b). The property is 100 ft. x 250 ft. (0.57 acres) and is R-2 medium density residential zoning.

Mr. Rizek presented the Town of Pendleton Building Inspector's denial, site survey of the property, and rendering of the proposed 20 ft. x 40 ft. pool that would be located the long way on the property. Mr. Rizek indicated that he wanted to locate the pool house as far back in his property as possible. The pool house would be a diagonal design with a 220 sq. ft. total area.

Neighbor's Beverly Wollaber & David Wagner were against granting the variance requests as they felt the structure would be located too close to the property lines, and could cause drainage issues.

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

Gino Pinto
6885 Campbell Boulevard
Pendleton, New York

Eric Bogart
6889 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a single family house on the property at a front yard setback of 394 ft. where a maximum of 250 ft. is allowed per Town Code. The front yard setback variance request would be 144 ft. as per Town Code §247-10.D(3). The property is 2.85 acres and is R-1 low density residential zoning.

The public hearings were held together as both properties were side by side, and the parties were requesting the same variance request. The driveways would also be on the same side and the properties are located near the condominiums on Campbell Boulevard near the Castle.

Mr. Pinto & Mr. Bogart presented the Town of Pendleton Building Inspector's denial, site survey of the property, and letter with reasons for the variance request. They are concerned that since they are on a major highway they don't want their future children playing too close to a state highway. They also did not want to have the back yard of their home to be in front of the condominiums that are adjacent to the properties.

Mr. John Santo, the neighbor behind the properties, was concerned as to why they were not following town code as he felt they would have drainage & flooding issues on his property that is currently farmed. He also indicated that the applicants could put up berms & pine trees in front and on the side of their homes for protection.

The public hearing was closed at approximately 7:40 PM.

Shirley LeBlanc
6299 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 40 ft. x 48 ft. (1,920 sq. ft.) accessory structure on her property where a maximum of 1,200 sq. ft. is allowed per Town Code. The area variance request would be 720 sq. ft. as per Town Code §247-34.E(2). The property is 4.5 acres and is R-2 medium density residential zoning.

Ms. LeBlanc presented the Town of Pendleton Building Inspector's denial, site survey of the property, photographs with the view of the house & the proposed accessory structure location, and letter with reasons for the variance request. Ms. LeBlanc indicated that the accessory structure would be built to match their existing home at a maximum height of 15 ft., and 10 ft. x 48 ft. of the building would be an overhang that would extend inside of the existing fencing. The existing shed that is in disrepair would also be torn down. The building would be used for storage of their two cars & utility tractor, and for a work area.

The public hearing was closed at approximately 7:50 PM.

Richard Johnson
5568 Mapleton Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 28 ft. x 32 ft. (896 sq. ft.) addition to an existing 528 sq. ft. detached garage, where 50% of the primary structure (1,248 sq. ft.) is allowed (624 sq. ft.). In addition, the owner wishes to construct the garage at a 12 ft. side yard setback where a minimum of 15 ft. is allowed per Town Code. The area variance request would be 800 sq. ft. as per Town Code §247-11.(I), and the side yard setback variance request would be 3 ft. as per Town Code §247-11.(E). The property is 1.2 acres and is R-2 medium density residential zoning.

Mr. Johnson presented the Town of Pendleton Building Inspector's denial, site survey of the property, and sketch of the proposed garage addition. Mr. Johnson indicated that the addition would be used for storage as they have no basement or attic, and the existing shed would be torn down. There is also a septic system that is located 4 ft. from the edge of the existing garage.

Neighbor's Bonnie & Scott Kane live across the street and were okay with the Johnson's plan.

The public hearing was closed at approximately 8:00 PM.

Bradley Pagels
6341 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 12 ft. x 24 ft. (288 sq. ft.) accessory structure on property at a front yard setback of 45 ft. where a minimum of 150 ft. is allowed as per Town Code. The front yard setback variance request would be 105 ft. as per Town Code §247-34.F(2)(a). The property is 3.0 acres and is R-2 medium density residential zoning.

Mr. Pagels presented the Town of Pendleton Building Inspector's denial, site survey of the property, contractor design specification for the accessory structure, and several photographs of their home & property. Mr. Pagels indicated that the building would be used for storage as they have no basement or attic, and they didn't have enough room to park their two cars in the existing detached garage. They preferred not to build behind the garage as the back yard is wet, and the structure would be built at the same setback as the house.

The public hearing was closed at approximately 8:20 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

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

Specific Board Deliberation Actions:

**Gassan Rizek
7261 Townline Road
Pendleton, New York**

The ZBA board reviewed the Area Variance tests for the side & rear yard setback 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 create an undesirable change to the neighborhood and nearby properties as the proposed structure encroaches on the adjacent properties.

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

It was agreed that an alternative solution would be to locate the pool & pool house to a location that met town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance requests were substantial as it was approximately 65% of the side yard and 75% of the rear yard setbacks required by town code.

- 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. Jim Schlemmer to deny the side & rear yard setback variance requests, and the motion was seconded by Mr. Dennis Welka. All voted in favor to deny the request.

Gino Pinto
6885 Campbell Boulevard
Pendleton, New York

A motion was made by Mr. Buechler to table the deliberation to review the view of the property from the condominiums, and the traffic & drainage concerns. The motion was seconded by Mr. Meholick. All voted in favor.

Eric Bogart
6889 Campbell Boulevard
Pendleton, New York

A motion was made by Mr. Buechler to table the deliberation to review the view of the property from the condominiums, and the traffic & drainage concerns. The motion was seconded by Mr. Meholick. All voted in favor.

Shirley LeBlanc
6299 Campbell Boulevard
Pendleton, New York

The ZBA board reviewed the Area Variance tests for the area 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 as the shed in disrepair would be replaced with a nicer building at a limited height. .

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

It was agreed that an alternative solution would be to construct a smaller building to meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was 60% of the maximum area required by town code.

- 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 could have an adverse effect on the physical or environmental conditions in the neighborhood as it there was an unknown potential for water run-off.

- 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 the area variance with the accessory structure at a maximum height of 16 ft., building size of 30 ft. x 48 ft., overhang of 10 ft. x 48 ft. and removal of the existing shed with a one year time limit. The motion was seconded by Mr. Buechler. All voted in favor.

Richard Johnson
5568 Mapleton Road
Pendleton, New York

A motion was made by Mr. Welka to table the deliberation to review the location of the garage addition on the property, and was seconded by Mr. Schlemmer. All voted in favor.

Bradley Pagels
6341 Campbell Boulevard
Pendleton, New York

A motion was made by Mr. Meholick to table the deliberation to review the location of the accessory structure on the property, and was seconded by Mr. Welka. All voted in favor.

Jessee Ripley (Continuation of March Meeting)
5396 Irish Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 12 ft. x 20 ft. (288 sq. ft.) attached garage on his property at a side yard setback of 9 ft. where a minimum of 15 ft. is allowed as per Town Code. The side yard setback variance request would be 6 ft. as per Town Code §247-11.E. The property is 100 ft. x 301 ft. (0.69 acres) and is R-2 medium density residential zoning.

The ZBA board reviewed the Area Variance tests for the side yard setback of the attached garage, 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 a feasible alternative solution would be smaller 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. Buechler to grant a 3 ft. side yard setback variance for the project with a one year time limit. The motion was seconded by Mr. Meholick. Mr. Buechler, Mr. Meholick, Mr. Schlemmer & Mr. Daigler voted in favor of the variance request, and Mr. Welka voted against the request. The variance request was granted.

New Inquiries to ZBA: None

Correspondence: None

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, May 28, 2019, at 7:00PM.

A motion was made by Dennis Welka to adjourn the meeting at 9:00 PM, and seconded by Jim Meholick. 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. Gassan Rizek
- Town of Pendleton Public Hearing Request for Mr. Gassan Rizek
- Town of Pendleton Notice of Public Hearing for Mr. Gassan Rizek
- Public Hearing Mailing List for Mr. Gassan Rizek
- Site Survey of Property for Mr. Gassan Rizek
- Rendering of Proposed Pool for Mr. Gassan Rizek

Town of Pendleton Denial of Building Application for Mr. Gino Pinto
Town of Pendleton Public Hearing Request for Mr. Gino Pinto
Town of Pendleton Notice of Public Hearing for Mr. Gino Pinto
Public Hearing Mailing List for Mr. Gino Pinto
Site Survey of Property for Mr. Gino Pinto
Proposal Letter for Variance Request for Mr. Gino Pinto

Town of Pendleton Denial of Building Application for Mr. Eric Bogart
Town of Pendleton Public Hearing Request for Mr. Eric Bogart
Town of Pendleton Notice of Public Hearing for Mr. Eric Bogart
Public Hearing Mailing List for Mr. Eric Bogart
Site Survey of Property for Mr. Eric Bogart
Proposal Letter for Variance Request for Mr. Eric Bogart

Town of Pendleton Denial of Building Application for Ms. Shirley LeBlanc
Town of Pendleton Public Hearing Request for Ms. Shirley LeBlanc
Town of Pendleton Notice of Public Hearing for Ms. Shirley LeBlanc
Public Hearing Mailing List for Ms. Shirley LeBlanc
Site Survey of Property for Ms. Shirley LeBlanc
Proposal Letter for Variance Request for Ms. Shirley LeBlanc
Photographs of Property for Ms. Shirley LeBlanc

Town of Pendleton Denial of Building Application for Mr. Richard Johnson
Town of Pendleton Public Hearing Request for Mr. Richard Johnson
Town of Pendleton Notice of Public Hearing for Mr. Richard Johnson
Public Hearing Mailing List for Mr. Richard Johnson
Site Survey of Property for Mr. Richard Johnson
Proposal Sketch for Garage Addition for Mr. Richard Johnson
Photographs of Property for Mr. Richard Johnson

Town of Pendleton Denial of Building Application for Mr. Bradley Pagels
Town of Pendleton Public Hearing Request for Mr. Bradley Pagels
Town of Pendleton Notice of Public Hearing for Mr. Bradley Pagels
Public Hearing Mailing List for Mr. Bradley Pagels
Accessory Structure Specification for Mr. Bradley Pagels
Photographs of Property for Mr. Bradley Pagels