

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
June 25, 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. ZBA members Mr. Buechler, Mr. Daigler, Mr. Meholick & Mr. Welka 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 275 sq. ft. pool house on his property at a side yard setback of 10 ft. where a minimum of 15 ft. is allowed, and a rear yard setback of 10 ft. where a minimum of 20 ft. is allowed per Town Code. The side yard setback variance request would be 5 ft. as per Town Code §247-34.F(2)(b), and the rear yard setback variance request would be 10 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, and site survey of the property. Mr. Rizek indicated that he wanted to locate the pool house as far back in his property as possible as he was saving space for his children's play set. The pool house would be a diagonal design with an approximate 300 sq. ft. total area.

Mr. Buechler stated to Mr. Rizek that the variance request was not substantially different than what he applied for during the April 30th public hearing.

A motion was made by Mr. Buechler to decline conducting the public hearing of the variance request since it would be a rehearing, and was seconded by Mr. Welka. All voted in favor.

It was also recommended that the \$100.00 fee for the hearing be returned to Mr. Rizek by the Town Clerk.

The discussion was closed at approximately 7:11 PM.

Tracy Schmidt
6710 MacIntosh Lane
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 20 ft. x 30 ft. (600 sq. ft.) detached garage where only one garage is allowed per Town Code. In addition, the owner wishes to construct the garage at a 7.6 ft. side yard setback where a minimum of 15 ft. is allowed, and a front yard setback of 77 ft. where a minimum of 100 ft. is allowed per Town Code. The detached garage variance request would be as per Town Code §247-10.I, the side yard setback variance request would be 7.4 ft. as per Town Code §247-10.E, front yard setback variance would be 23 ft. as per Town Code §247-10.D(1), and the area variance would be 256 sq. ft. as per Town Code §247-34.E(1). The property is 125 ft. x 252 ft. (0.72 acres) and is R-2 medium density residential zoning.

Mr. Schmidt presented the Town of Pendleton Building Inspector's denial, and site sketch of the property showing the location of the proposed detached garage. Mr. Schmidt indicated that he was a contractor and needed additional storage space for his truck, tools, equipment & ATV's. It was suggested by the ZBA that if he attached the building to his existing garage he wouldn't need any of the variances requested. Mr. Schmidt preferred not to proceed with this option as it would be more expensive than his proposed plan, and he was concerned how he would tie in an addition due to the existing solar panels on the garage roof.

It was noted by Mr. Buechler that a letter was received from a Concerned Resident on MacIntosh Lane requesting that the ZBA deny the variance request.

The public hearing was closed at approximately 7:20 PM.

Scott Donner
5415 Feigle Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 26 ft. x 40 ft. (1,040 sq. ft.) accessory structure where the maximum allowed is 600 sq. ft. per Town Code, and a height request of 18 ft. where the maximum allowed is 16 ft. per Town Code. The area variance request would be 440 sq. ft. as per Town Code §247-34.E(1), and the height variance request would be 2 ft. as per Town Code §247-34.F(2)(d). The property is 150 ft x 275 ft. (0.95 acres) and is R-2 medium density residential zoning.

Mr. Donner presented the Town of Pendleton Building Inspector's denial, and site sketch of the property showing the location of the accessory structure. Mr. Donner indicated that he wanted the pole barn for storage of his two trucks, and needed the loft for storage. He wasn't completely committed to the overall height request of 18 ft., would consider a smaller accessory structure, and planned to move the propane tanks & lines that would be near the pole barn.

Mr. Donner's neighbors, William & Karen Feger, indicated that they were not in favor of the variance request. They presented to the ZBA several photographs of the property and letter outlining their concerns. The major points were as follows:

- * Accessory structure requested was almost the size of the existing house.
- * They felt an accessory structure already existed in the form of a detached garage that is 550 sq. ft. in size.
- * Based on the variance request, the property should be 2 acres for this size of building.
- * The large accessory structure would have a detrimental impact on their home & resale property value.
- * Proposed location is on the lowest property grade and could cause drainage issues.
- * The driveway needed for the proposed structure access would increase the grade slope between lots and cause water collection on their property.
- * There is a concern for driveway placement over two propane lines.
- * They felt that a metal pole barn would be unsightly and would block their view.

The public hearing was closed at approximately 7:38 PM.

Dino Ceccato
6716 Bear Ridge Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to subdivide vacant land into three parcels with one lot containing a garage. An accessory structure is subordinate in area and/or purpose to the principal residence. The variance request would be for relief for an accessory structure on a vacant parcel of land as per Town Code §247-34.A(2). The property is 35.2 acres and is R-2 medium density residential zoning.

Mr. Ceccato presented the Town of Pendleton Building Inspector's denial, and site surveys of the property to be subdivided. It was unclear to the ZBA members where the property was located on Bear Ridge Road as the address on the hearing request was the Ceccato home. It was determined that the property was SBL #15.00-2-39-11.

Mr. Tom Homme who wishes to purchase one of the subdivided lots was in favor of the variance request, and indicated that he was not interested in purchasing the lot with the existing garage.

Terry & Donna Wyant who also are interested in purchasing one of the lots were in favor of the variance request. They also indicated that they were interested in purchasing the lot with the garage as they intended to use it for storage.

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

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the May 28, 2019 meeting, and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:

Tracy Schmidt
6710 MacIntosh Lane
Pendleton, New York

The ZBA board reviewed the Area Variance tests for the area, front & side yard setbacks, and single garage code for 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 it would have a negative impact on the character of the development and was too close to the property line.

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

It was agreed that the alternative solution would be to add on to the existing garage to meet town code.

- c. Is the requested variance substantial?

It was agreed that all the variance requests were 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 it was unknown if the variance would have an adverse effect on the physical or environmental conditions in the neighborhood, but were concerned about possible shedding of water.

- 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. Meholick to deny all the variance requests, and was seconded by Mr. Welka. All voted in favor.

Scott Donner
5415 Feigle Road
Pendleton, New York

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

Dino Ceccato
6716 Bear Ridge Road
Pendleton, New York

A motion was made by Mr. Daigler to table the deliberation to view the property prior to a decision on the variance request, and was seconded by Mr. Welka. All voted in favor.

Gino Pinto (Continuation from May Meeting)
6885 Campbell Boulevard
Pendleton, New York

Eric Bogart (Continuation from May Meeting)
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.

A motion was made by Mr. Meholick to table the deliberation for another month with the approval of Mr. Pinto & Mr. Bogart, and was seconded by Mr. Welka. The applicants were advised that there is insufficient evidence provided supporting the claim that the proposed building site is the only viable site on the property. The applicants agreed to get core samples of the property at distances of 250 ft., 300 ft. and 350 ft. in order to establish alternate possible building locations of the home on the property.

Mr. Buechler also received an Email from Dave Britton indicating that the placement of the house at the proposed setback of 400 ft. would likely direct water runoff toward the neighboring property to the south (apartments).

New Inquiries to ZBA: None

Correspondence:

1. Letter from a Concerned Resident on MacIntosh Lane.

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, July 23, 2019, at 7:00PM.

A motion was made by Dennis Welka to adjourn the meeting at 9:35 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

Town of Pendleton Denial of Building Application for Mr. Tracy Schmidt
Town of Pendleton Public Hearing Request for Mr. Tracy Schmidt
Town of Pendleton Notice of Public Hearing for Mr. Tracy Schmidt
Public Hearing Mailing List for Mr. Tracy Schmidt
Site Survey of Property for Mr. Tracy Schmidt
Partial Wall Section Drawing of Garage for Mr. Tracy Schmidt
Concerned Resident Letter for Mr. Tracy Schmidt

Town of Pendleton Denial of Building Application for Mr. Scott Donner
Town of Pendleton Public Hearing Request for Mr. Scott Donner
Town of Pendleton Notice of Public Hearing for Mr. Scott Donner
Public Hearing Mailing List for Mr. Scott Donner
Site Sketch of Property for Mr. Scott Donner
Objection Letter from Wyant's for Mr. Scott Donner
Photograph of Property from Wyant's for Mr. Scott Donner

Town of Pendleton Denial of Building Application for Mr. Dino Ceccato
Town of Pendleton Public Hearing Request for Mr. Dino Ceccato
Town of Pendleton Notice of Public Hearing for Mr. Dino Ceccato
Public Hearing Mailing List for Mr. Dino Ceccato
Site Surveys of Property for Mr. Dino Ceccato
Letter from Pendleton Town Planning Board for Mr. Dino Ceccato

Email from Dave Britton Regarding Drainage of Property Mr. Bogart & Mr. Pinto
Letter from Castlevue Apartments for Mr. Bogart & Mr. Pinto
Letter from Donner Bros Excavating for Mr. Bogart & Mr. Pinto
Aerial Photographs of Property Mr. Bogart & Mr. Pinto