

TOWN OF PENDLETON

ZONING BOARD OF APPEALS

August 27, 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. Meholick, Mr. Daigler and Mr. Schlemmer were present at the meeting. No changes were made to the ZBA agenda submitted by Wolfgang Buechler.

PUBLIC HEARINGS:

Ronald Cappello (Gasper Fulfaro, Agent)
5532 Killian Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to operate a stone crushing operation in a zoning district where such activity is not a permitted use per Town Code §247-14. Stone crushing operation is also located 450 ft. from an occupied dwelling where no power activated sorting machinery or equipment may be located within 600 ft. of any occupied dwelling as per Town Code §247-43.B. Variances sought are a use variance allowing use of the property for stone crushing operation and an area variance of 150 ft. from the 600 ft. required setback. The property is 6.6 acres and is LI Light Industrial zoning.

Mr. Buechler received a letter from Mr. Gasper Fulfaro's Counsel, Elizabeth A. Holmes, dated on August 22, to remove Mr. Fulfaro's pending application from any upcoming ZBA agenda while she works through the details of the variance request with the Town.

A motion was made by Mr. Schlemmer to table the public hearing, and was seconded by Mr. Meholick. All voted in favor.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Jim Schlemmer to accept the minutes of the July 23, 2019 meeting, and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:**Scott Donner (Continuation from June Meeting)
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 requested that the ZBA members consider another possible location & size for his accessory structure. He proposed to construct a 24 ft. x 32 ft. (768 sq. ft.) building between the residence & the right property line at a front yard setback of approximately 95 feet. The area variance request was revised to 168 sq. ft. as per Town Code §247-34.E(1), with a front yard setback variance request of 55 ft. as per Town Code §247-34.F(3)(a).

The ZBA board reviewed the Area Variance front yard setbacks 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?

While the neighbors present at the public hearing were against the original proposed location of the accessory structure, the ZBA members felt that the granting of the revised variance was a reasonable compromise to meet Mr. Donner's storage needs and would not create an undesirable change to the neighborhood and nearby properties. The Board also considered constraints imposed by the existing septic leach field.

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

It was agreed that the alternative solution would be to locate the accessory structure at a location that met 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 would not have an adverse effect on the physical or environmental conditions in the neighborhood as the property.

- 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 168 sq. ft. area and 55 ft. front yard setback variance requests; conditional upon a 16 ft. maximum height limit, location of structure as proposed, front setback of structure to rear of existing house & garage front lines, and completion of the project in one year. The motion was seconded by Mr. Meholick. All voted in favor.

New Inquiries to ZBA: None

Correspondence: None

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, September 24, 2019, at 7:00PM.

A motion was made by Jim Meholick to adjourn the meeting at 7:55 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
Letter from Barclay Damon, Counsel for Mr. Gasper Fulfaro
Sketch of Proposed Accessory Structure Location for Mr. Scott Donner