

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
January 28, 2020 Meeting

Members:

Wolfgang Buechler, Chairman
Lee Daigler
Nicholas Graves
James Schlemmer
Dennis Welka, Secretary

The ZBA open regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 p.m. ZBA members Mr. Buechler, Mr. Daigler, Mr. Graves, Mr. Schlemmer, Mr. Welka, and Town Prosecutors Ted Joerg and John Sansone were present at the meeting. No changes were made to the ZBA agenda submitted by Wolfgang Buechler.

PUBLIC HEARINGS:

Timothy Dorner
5292 Feigle Rd.
Pendleton, NY

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 2400 sq. ft. accessory structure (30' x 80') where the maximum accessory structure size allowed by Town Code §247-34.E(2) is 1200 sq. ft. Area variance sought is an accessory structure size variance of 1200 sq. ft. Property is 3.2 acres and is zoned R-2 Medium Density Residential.

During the hearing, it was determined that the planned structure height was 23 ft. where maximum accessory structure height allowed by Town Code §247-34.F(3) is 20 ft. The variance application was amended to include an additional variance allowing the 23 ft. structure height.

Mr. Dorner presented the Town of Pendleton Building Inspector's denial, and site survey of the property. Mr. Dorner indicated that he wanted to store two trailers, a log splitter, a skid steer, and create a work area. The primary residence on the property is 1472 sq. ft. and there is an existing 520 sq. ft. accessory structure on the property. Mr. Dorner stated that the existing accessory structure would be torn down and removed, but planned to use it for storage during the construction of the new building. Misters Buechler, Daigler, Schlemmer, and Welka had visited the property. The public hearing was closed at approximately 7:18 p.m.

Ronald Cappello (Gasper Fulfaro, Agent)
5532 Killian Rd.
Pendleton, NY

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 indicated that the public hearing would continue to be tabled at the request of Mr. Gasper Fulfaro’s Counsel, Elizabeth A. Holmes. She indicated that her client was taking steps that might eliminate the need for variance, but he was not yet in a position to withdraw his application.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Lee Daigler to accept the minutes of the December 17, 2019 meeting, and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Timothy Dorner
5292 Feigle Rd.
Pendleton, NY**

The ZBA board reviewed the Area Variance tests for the area 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 granting a reduced variance would not create an undesirable change to the neighborhood and nearby properties as it would have be consistent with the character of the neighborhood.

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

It was agreed that the only alternative solution would be to comply with the town code.

- c. Is the requested variance substantial?

It was agreed that the variance request was 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.

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 a 600 sq. ft. variance allowing for a reduced total accessory structure size of 1800 sq. ft. with structure height not to exceed 21 ft. The motion included additional conditions that the existing accessory structure be removed and that the project must be completed within one year. The motion was seconded by Mr. Schlemmer. Mistery Buechler, Daigler, Graves, and Schlemmer voted in favor. Mr. Welka voted in opposition. Motion passed and variance granted

New Inquiries to ZBA: None

Correspondence: None

Special Topics:

- New Members were introduced: Nicholas Graves- ZBA Member; John Sansone and Ted Georges- Legal Counsel
- Calendar of 2020 Meeting Dates – accepted unanimously following a motion to accept by Dennis Welka and seconded by Jim Schlemmer
- Meeting Times – 7 p.m. - accepted unanimously following a motion to accept by Dennis Welka and seconded by Jim Schlemmer
- Sign-in Sheet - accepted unanimously following a motion to accept by Dennis Welka and seconded by Jim Schlemmer
- Reappointment status – Lee Daigler (current term expires 12/31/2020)
- Reviewed 2020 YTD training hours
- Reviewed 2019 meeting attendance
- Reviewed requirement for referral to Niagara County Planning Board
- Reviewed requirement of notification to neighboring municipalities
- Reviewed Request to Petition for Variance form maintained by Building Dept.

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, February 25, 2020, at 7:00 p.m.

A motion was made by Lee Daigler to adjourn the meeting at 8:15 p.m. and seconded by Nicholas Graves. All voted in favor.

Submitted by:

Dennis J. Welka
Secretary

Attachments:

Town of Pendleton Denial of Building Application for Mr. Timothy Dorner
Town of Pendleton Public Hearing Request for Mr. Timothy Dorner
Town of Pendleton Notice of Public Hearing for Mr. Timothy Dorner
Town of Pendleton Accessory Structure Permit Application for Mr. Timothy
Dorner
Public Hearing Mailing List for Mr. Timothy Dorner
Site Survey of Property for Mr. Timothy Dorner
Renderings of Proposed Accessory Structure for Mr. Timothy Dorner
Hearing Sign-in Sheet for 1/28/20
2020 Town of Pendleton Public Hearing and Meeting Schedule