

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**July 28, 2020 Meeting**

**Members:**

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

The ZBA open regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 PM. ZBA members Mr. Buechler, Mr. Schlemmer, Mr. Daigler (remotely), Mr. Graves & Mr. Welka were present at the meeting.

**PUBLIC HEARINGS:**

**Michael Brown**  
**7282 Edgewater Circle**  
**Pendleton, NY 14120**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct an accessory structure (pool house) at a front yard setback of 132 ft. and a side yard setback of 10 ft. where minimums are 150 ft. and 15 ft., respectively, per Town Codes §247-34F(2)(a) and §247-34F(2)(b). Area variances requested are 18 ft. front yard setback variance and 5 ft. side yard setback variance. Property is 100 ft. x 259 ft. and zoned R2 Medium Residential.

Owner stated that because of a handicapping condition he needs the structure to be on level ground for accessibility and surrounding area is steeply sloped and not accessible.

The public hearing was closed at approximately 7:23 p.m.

**Ronald Cappello (Gaspar Fularo, Agent)**  
**5532 Killian Rd.**  
**Pendleton, NY 14120**

Continuation of Public Hearing on hold per request of applicant.

**REGULAR ZBA MEETING:**

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

A motion was made by Dennis Welka to accept the minutes of the June 25, 2020 meeting, and was seconded by Nick Graves. All voted in favor.

***Specific Board Deliberation Actions:***

**Brown, Michael – 7282 Edgewater Circle** Owner wishes to construct an accessory structure (pool house) at a front yard setback of 132 ft. and a side yard setback of 10 ft. where minimums are 150 ft. and 15 ft., respectively, per Town Codes §247-34F(2)(a) and §247-34F(2)(b). Area variances requested are 18 ft. front yard setback variance and 5 ft. side yard setback variance. Property is 100 ft. x 259 ft. and zoned R2 Medium Residential.

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?  
Board felt that there would be no significant change in the characteristics of the neighborhood.
- b. Are there alternative solutions that would not require a variance?  
It was agreed that there were no alternative solutions.
- c. Is the requested variance substantial?  
It was agreed that all the variance requests were 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 it 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 not self-created.

A motion was made by Mr. Graves to grant the proposed variance requests and completion of the project in one year. The motion was seconded by Mr. Schlemmer. All voted in favor

**Ronald Cappello (Gaspar Fularo, Agent)-5532 Killian Rd.**

A motion was made by Mr. Welka to approve the Chairman to notify Mr. Fularo that the ZBA is moving forward with the public hearing on August 25, 2020. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Jordan, Kelly – 7151 Rolling Meadows.** Owner wishes to move existing 10 ft. X 12 ft. shed to 85 ft. from front lot line and 5 ft. from side lot line where minimums are 150 ft. and 15 ft. respectively, per Town Codes §247-34F(2)(a) and §247- 34F(2)(b). Area variances sought are 65 ft. accessory structure front yard setback variance and 10 ft. accessory structure side yard setback variance. Property is 165 ft. x 250 ft. and zoned R2 Medium-Density Residential.

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?

Board felt that the 5’ setback would be too great and at the same time, the trees would amply block the sight line therefore there would be no change to the characteristics of the neighborhood. Perspectives were offered on both opinions.

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

It was agreed that an alternative solution would be to raise the current structure and add drainage underneath.

- 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 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 not self-created.

A motion was made by Mr. Schlemmer to grant the proposed variance requests and completion of the project in one year. The motion was seconded by Mr. Graves. Mr. Schlemmer, Mr. Graves, Mr. Welka voted in favor. Mr. Daigler, Mr. Buechler were opposed. Variance granted by a 3-2 vote

**Dispenza, Charles – 6721 Aiken Rd.** Owner wishes to construct a 300 sq. ft. (approx.) egg storage building at 45 ft. front yard setback where minimum allowed per Town Code §247-34.F.(2)(a) is 150 ft. Area variance requested is 105 ft. of accessory structure front yard setback variance. Property is 15 acres and zoned R1 Low-Density Residential.

A motion was made by Mr. Schlemmer to approve table the decision for 1 month in anticipation of Mr. Dispenza' s property being added to the Ag District map. The motion was seconded by Mr. Daigler. All voted in favor.

**Santillo, Joe – 7172 Creekbend Dr.**

A motion was made by Mr. Buechler to close the hearing with no decision because the applicant has proposed an alternate solution with the Building Dept. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Dexheimer, Jennifer and Kevin – 5877 Dunnigan Rd.**

A motion was made by Mr. Schlemmer to close the hearing as no longer applicable since the applicant was deemed in compliance by the Building Dept. The motion was seconded by Mr. Buechler. All voted in favor.

***New Inquiries to ZBA:       None***

***Correspondence:*** Letter from Mrs. DiNicolantonio  
Letter from Real Estate agent for DiNicolantonios

***Special Topics:*** *None*

***Miscellaneous ZBA Topics:***

1. The next scheduled meeting will be on Tuesday, August 25, 2020, at 7:00PM.

A motion was made by Mr. Schlemmer to adjourn the meeting at 8:48 PM, and seconded by Mr. Graves. All voted in favor.

Submitted for:

Dennis J. Welka  
Secretary

**Attachments:**

Town of Pendleton Public Hearing Request for Mr. Michael Brown  
Town of Pendleton Notice of Public Hearing for Mr. Michael Brown  
Town of Pendleton Denial of Building Application for Mr. Michael Brown  
Public Hearing Mailing List for Mr. Michael Brown  
Site Survey of Property for Mr. Michael Brown  
Renderings of Proposed Accessory Structure for Mr. Michael Brown

***Correspondence:***  
Letter from Mrs. DiNicolantonio  
Letter from Real Estate agent for DiNicolantonios

Hearing Sign-in Sheet for 7/28/20