

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
December 22, 2020 Meeting

Members:

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

The ZBA regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 PM. ZBA members Mr. Buechler, Mr. Schlemmer, and Mr. Welka were present at the meeting. Mr. Graves and Mr. Daigler attended remotely. Pendleton Town Prosecutor Theodore A. Joerg, Esq. was also present at the meeting. No changes were made to the ZBA agenda submitted by Wolfgang Buechler.

PUBLIC HEARINGS:

LaPort, Dian (Owner) / House Zack (Buyer)
SBL# 137.00-2-45.1
6371 E Canal Rd.
Pendleton, NY 14094

Prospective owner wishes to construct an 1800 SF accessory structure (approx. 30 ft. x 60 ft.) where maximum allowed is 1200 SF per Town Code §247-34.E(2). Area variance sought, with approval of current property owner, is 600 SF accessory structure size variance. Property size proposed is 482 ft. x 400 ft. and approx. 4.4 acres and zoned R2 Medium-Density Residential.

Mr. Zack House and Ms. Dian LaPort attended the hearing.

The proposed property size was updated at the hearing to 482 ft. x 433 ft. and approx. 4.8 acres, based upon input from Mr. House.

Mr. House plans to site the structure in the northeast corner of the lot. The approximate setbacks from the adjacent roadways are 250 ft. from East Canal Rd. and 350 ft. from Fisk Rd. The stated purpose of the structure is storage of automobiles owned by Mr. House, with several storage lifts to maximize storage capacity. Mr. House stated that no business activity would be performed in the structure.

Sunbeam Laboratories, LLC
6150 Donner Rd.
Pendleton, NY 14094

Owner is requesting an appeal from a Notice of Violation dated 22 July 2020 and a Stop Work Order dated 5 August 2020. Parcel is 8.3 acres and zoned LI Light Industrial.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by James Schlemmer to accept the minutes of the November 24, 2020 meeting, and was seconded by Nick Graves. All voted in favor.

Specific Board Deliberation Actions:

Sunbeam Laboratories, LLC, 6150 Donner Rd.

Owner is requesting an appeal from a Notice of Violation dated 22 July 2020 and a Stop Work Order dated 5 August 2020. Parcel is 8.3 acres and zoned LI Light Industrial.

A motion was made by James Schlemmer to the declare hearing application from Sunbeam Laboratories moot based on the withdrawal by the Code Enforcement Officer of both the Notice of Violation dated 22 July 2020 and the Stop Work Order dated 5 August 2020. Motion was seconded by Dennis Welka. All voted in favor and the Board closed the application.

Hayes, Jill and Farley, Scott, 7264 Creekbend Dr.

Owners wish to construct a 1400 SF accessory structure at a front yard setback of 102 ft. where maximum accessory structure area allowed is 600 SF and minimum front yard setback required is 150 ft. per Town Codes §247-34.E(1) and §247-34.F(3)(a), respectively. Area variances requested are 800 SF accessory structure size variance and 48 ft. front yard setback variance. Property is 147 ft. x 250 ft. and zoned R2 Medium-Density Residential.

The applicants submitted an emailed letter dated 22 December 2020 withdrawing their variance request based upon working out alternate plans with the Building Department that would not require variances.

A motion was made by Wolfgang Buechler and seconded by James Schlemmer to close the variance request without decision based upon the withdrawal by the applicant. All voted in favor and the Board closed the application.

Graham, Justin, 5227 Tonawanda Creek Rd. (Hearing date: 24 November 2020)

Owner wishes to construct a single family residence at a front yard setback of 550 ft. where maximum allowed is 250 ft. for main structures per Town Code §247-11.D(3). Area variance sought is 300 ft. main structure front yard setback variance. Property is 46 acres and zoned R2 Medium-Density Residential.

The Board reviewed the area variance request for front yard setback relief on the main 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 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 reasonable, alternative solutions due to the minimum build width at the front of the property. The existing drainage ditch significantly impacts the build space for a residence.

- c. Is the requested variance substantial?

It was agreed by all 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 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 James Schlemmer and seconded by Dennis Welka to grant the variance as requested. All voted in favor.

House, Zack (SBL# 137.00-2-45.1) [Property owner: Dian LaPort – 6371 E. Canal Rd.]

Prospective owner wishes to construct an 1800 SF accessory structure (approx. 30 ft. x 60 ft.) where maximum allowed is 1200 SF per Town Code §247-34.E(2). Property size proposed is 482 ft. x 433 ft. (updated at hearing) and approx. 4.8 acres. Property is zoned R2 Medium-Density Residential. Area variance sought, with approval from owner is 600 SF accessory structure size variance

The Board reviewed the area variance request for the proposed 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. The placement of the structure at sizable setbacks from adjacent roadways and from neighboring residences mitigates impacts on the neighborhood.

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

It was agreed that only a smaller accessory structure would be compliant with the Town Code.

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial. The Board noted that the applicant had reduced his original plans in order to decrease the request variance.

- 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 self-created.

Mr. Schlemmer moved to approve the project as proposed conditioned on a one year time limit on completion of the project and the specific siting of the structure as proposed to the Board in the variance application dated 7 December 2020 and at this hearing. Mr. Daigler seconded the motion. Voting in favor of the motion: Buechler, Daigler, Graves, and Schlemmer. Voting against: Welka. The variance request was granted with the stated conditions.

New Inquiries to ZBA:

None.

Correspondence:

Letter from Town attorney, John S. Sansone, regarding Sunbeam Laboratories
 Email from Jill Hayes and Scott Farley

Special Topics: None

Miscellaneous ZBA Topics: None

The next scheduled meeting will be on Tuesday, January 26, 2021 at 7:00 PM.

A motion was made by James Schlemmer to adjourn the meeting at 8:14 PM, and seconded by Nick Graves. All voted in favor.

Attachments:

- Sign In Sheet for 12/22/20
- Letter from Town attorney, John S. Sansone, regarding Sunbeam Laboratories
- Email from Jill Hayes and Scott Farley

Submitted for:

Dennis J. Welka
 Secretary