

Town of Pendleton
ZONING BOARD OF APPEALS
March 23, 2021 Meeting

MEMBERS:

Wolfgang Buechler, Chairman
Dennis Welka, Secretary
James Schlemmer
Nicholas Graves
David Kantor

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

PUBLIC HEARINGS:

Grear, Scott

6991 Bear Ridge Rd.
Pendleton, NY 14094

Owner wishes to construct a 16 ft. x 36 ft. extension to rear of an existing accessory structure for a total of 2,304 SF where maximum accessory structure size allowed is 1,200 SF per Town Code §247-34.E.(2). Area variance sought is 576 SF accessory structure size variance. There is an existing accessory structure size variance of 528 SF approved by the ZBA on 22 May 2001. Property is 4.77 acres and zoned R1 Low-Density Residential.

The public hearing was opened at 7:00 PM by Chairman Buechler.

Mr. Grear provided site drawings with approximate location of the existing structure and stated that the proposed addition was intended to be an open-ended overhang to house an RV that does not fit in the existing structure. Mr. Grear stated the impact on the surrounding area would be minimal due to the obscured location on the property. He also stated that the height of the overhang would follow the existing roofline and tie directly into the existing structure. The parking area will be crushed stone.

The public hearing was closed at 7:10 PM.

Burich, Keith & Mary

5217 Tonawanda Creek Rd.
Pendleton, NY 14094

Owners wish to construct a 1,036 SF detached garage at a 62 ft. front yard setback where a minimum of 100 ft. front yard setback is required per Town Code §247-11.D.(1). Area variance sought is 38 ft. detached garage front yard setback. Property is 153 ft. x 683 ft. and zoned R2 Medium-Density Residential.

The public hearing was opened at 7:12 by Chairman Buechler.

Mr. & Mrs. Burich provided site drawings and indicated the approximate location of the proposed structure as well as preliminary architectural drawings depicting the proposed elevation and design. The petitioners stated the structure was intended as a dual-use two car garage and pool house as the rear of the structure would back up to the front of an in-ground pool on the property. Mr. & Mrs. Burich noted that an existing high-pressure gas line crosses the entire property at a depth of 1-3 feet about 20 feet from the dwelling. The purpose for the variance is to avoid building on or beyond the gas line.

In attendance for the public hearing were next-door neighbors Jeff and Suzanne Kuntz of 5213 Tonawanda Creek Rd. Mr. & Mrs. Kuntz raised concerns regarding potential decreases to property their value, changing wind patterns, potential to turn the addition into living space, and obstruction of the view out the window in the direction of the applicant's property and portions of Tonawanda Creek should the variance be approved.

Mr. & Mrs. Burich stated no water would be run to the structure, nor would anybody be residing inside the structure for any period of time.

The hearing was closed at 7:35 pm.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Mr. Schlemmer to accept the minutes of the February 23, 2021 meeting, and was seconded by Mr. Graves. All voted in favor.

Specific Board Deliberation Actions:

Burich, Keith & Mary

5217 Tonawanda Creek Rd.
Pendleton, NY 14094

Owners wish to construct a 1,036 SF detached garage at a 62 ft. front yard setback where a minimum of 100 ft. front yard setback is required per Town Code §247-11.D.(1). Area variance sought is 38 ft. detached garage front yard setback. Property is 153 ft. x 683 ft. and zoned R2 Medium-Density Residential.

A motion was made by Mr. Buechler to table a vote on the variance in order to visit the property once again. Motion was seconded by Mr. Kantor. All voted in favor of the motion.

Grear, Scott

6991 Bear Ridge Rd.
Pendleton, NY 14094

Owner wishes to construct a 16 ft. x 36 ft. extension to rear of an existing accessory structure for a total of 2,304 SF where maximum accessory structure size allowed is 1,200 SF per Town Code §247-34.E.(2). Area variance sought is 576 SF accessory structure size variance. There is an existing accessory structure size variance of 528 SF approved by the ZBA on 22 May 2001. Property is 4.77 acres and zoned R1 Low-Density Residential.

The ZBA board reviewed the variance for the proposed 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 as a result of the proposed 576 SF addition to the accessory structure as it is mostly out of view from neighboring properties and entirely from the road.

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

It was agreed that there were no alternative solutions that were reasonable and still provided benefit to the applicant.

- c. Is the requested variance substantial?**

It was agreed that 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.

- 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. Kantor and seconded by Mr. Graves to approve the variance as requested with a one year time limit for the project to be completed. All voted in favor of the motion. Variance granted with condition.

Arlington, Tim (on behalf of Howard Urban)
Property at Tonawanda Creek Rd. and Transit Rd.
Pendleton, NY 14094

Petitioner desires to create 2.6 parking spaces per unit on a site where a minimum of 3 spaces per unit is required per Town Code §247-12.K.(18)(c). Area variance sought is 0.4 parking space variance. Property is 12.92 acres and zoned CO2 Commercial.

The ZBA board reviewed the Variances for the proposed 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 as many of the apartments have only one bedroom.

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

It was agreed that space did exist on the property to add more parking space but this could create potential drainage issues as well as reduce the amount of greenspace on the site.

- c. Is the requested variance substantial?**

It was agreed that the variance request was 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 self-created.

A motion was made by Chairman Buechler and seconded by Mr. Schlemmer to approve the variance as requested. Chairman Buechler, Mr. Schlemmer, and Mr. Kantor voted in favor of the motion. Mr. Graves was opposed. Variance granted.

New Inquiries to ZBA: None

Correspondence: None

Special Topics: None

Miscellaneous ZBA Topics: None

The next scheduled meeting will be on Tuesday, April 27, 2021 at 7:00 pm.

A motion was made by Mr. Graves to adjourn the meeting at 8:30 PM and seconded by Mr. Kantor. All voted in favor.

Attachments:

Sign In Sheet for 3/23/21

Town of Pendleton Public Hearing Request for Gear, Scott
Town of Pendleton Notice of Public Hearing for Gear, Scott
Town of Pendleton Denial of Building Application for Gear, Scott
Public Hearing Mailing List for Gear, Scott
Project renderings for Gear, Scott
Site Survey of Property for Gear, Scott

Town of Pendleton Public Hearing Request for Burich, Keith & Mary
Town of Pendleton Notice of Public Hearing for Burich, Keith & Mary
Town of Pendleton Denial of Building Application for Burich, Keith & Mary
Public Hearing Mailing List for Burich, Keith & Mary
Project renderings for Burich, Keith & Mary
Site Survey of Property for Burich, Keith & Mary

Submitted by Nicholas Graves for:

Dennis J. Welka
Secretary