

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**April 27, 2021 Meeting**

**Members:**

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

The ZBA regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 pm. ZBA members Mr. Buechler, Mr. Graves, Mr. Kantor and Mr. Welka were present at the meeting. Mr. Schlemmer 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 Wolfgang Buechler.

**PUBLIC HEARINGS:**

**Andrzejewski, Dion**  
**7212 Creekbend Dr.**  
Pendleton, NY

Owner wishes to construct a 14 ft. x 24 ft. accessory structure at a 10 ft. side yard setback where 15 ft. minimum side yard setback is required per Town Code §247-34.F.(2)(b). Area variance sought is 5 ft. side yard setback variance. Property is 100 ft. x 359 ft. and zoned R2 Medium-Density Residential.

The applicant stated that the contour of a pool mound encroaches on access to the proposed structure if it were placed at 15 ft. Proposed location is as far back on the property as possible within the constraints of existing wetlands.

The hearing was closed at 7:15 pm.

**Weller, Mark**  
**4946 Cloverleaf Lane**  
Pendleton, NY

Owner wishes to construct a 600 SF accessory structure on property in addition to an existing 140 SF accessory structure. Total aggregate accessory structure size would be 740 SF where 600 SF is maximum all owed per Town Code §247-34.E.(1). Owner also wishes to place the new structure at a front yard setback of 118 ft. where minimum allowed per Town Code §247-34.F.(2)(a). Area variances sought are 140 SF aggregate accessory structure size variance and 32 ft. front yard setback variance. Property is 100 ft. x 250 ft. and zoned R2 Medium-Density Residential.

The applicant stated that he wishes to place accessory structure at the end of his driveway so as not to incur the cost of extending his driveway and he also wants to locate it near his pool. Mr. Weller also stated that he would remove the smaller 140 SF accessory structure on the property, if necessary.

Mr. Hoffman, a neighbor to the right, stated that the sight lines of his pool and patio would be negatively impacted as would the resale value of his property. There are no fences in this development.

The hearing was closed at 7:45 pm.

**Panasyuk, Aleksandr**  
**6121 Campbell Blvd.**  
**Pendleton, NY**

Owner wishes to construct a 40' x 100' accessory structure totaling 4000 SF whereas maximum allowed is 2000 SF on a parcel over 7 acres per Town Code 247-34E(3). Size of parcel is 136 ft. x 3300 ft. (approx. 30 acres) and is zoned R-2 Residential.

The applicant stated that he requires the space for winter storage of bee hives for his bee keeping activity and for additional personal items.

Mr. Phil Becker and Mr. David Becker, neighbors across the street, stated that the structure was too large for the neighborhood and should not be allowed to be built in the middle of a residential neighborhood.

The hearing was closed at 7:30 pm.

### **REGULAR ZBA MEETING:**

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

A motion was made by Nick Graves to accept the minutes of the March 23, 2021 meeting, and was seconded by Dennis Welka. All voted in favor.

#### ***Specific Board Deliberation Actions:***

#### **Andrzejewski, Dion, 7212 Creekbend Dr.**

The ZBA board reviewed the requested side setback 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?

Board was split with regard to the detriment to the nearby properties.

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

The structure could be moved 5 ft. to comply with code.

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial - 1/3 of required setback.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members felt that effect would be unknown.

- 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. Welka to table the decision. Motion failed for lack of a second. Mr. Graves made a motion to grant the variance as requested with a one year time limit. It was seconded by Mr. Kantor. Voting in favor of the motion: Buechler, Graves, and Kantor. Voting against: Welka. The requested variance was granted.

Weller, Mark, 4946 Cloverleaf Lane

The ZBA board reviewed the front yard setback and aggregate area variances requested 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 a detriment to neighboring properties from both the aggregate size and structure placement.

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

It was agreed that there were alternative solutions that were reasonable. There was sufficient room on the lot to be conforming and a smaller structure could be built or existing structure could be removed.

- c. Is the requested variance substantial?

It was agreed that both 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 have an adverse effect on the physical or environmental conditions in the neighborhood, creating adverse sight lines to his neighbor.

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 to approve the accessory structure size variance request with regards to the size and seconded by Mr. Graves.

A motion was made by Mr. Graves to approve the setback variance request as written and seconded by Mr. Kantor.

Voting in favor of both motions: Graves and Kantor. Voting against: Buechler and Welka. Final decisions on size and setback are pending the May 25, 2021 ZBA meeting.

**Panasyuk, Aleksandr, 6121 Campbell Blvd.**

A motion was made by Mr. Kantor to table the decision to allow Board Members the opportunity to visit the property. The motion was seconded by Mr. Welka. All voted in favor.

Mr. Panasyuk was advised to consider alternatives to his request. He was also informed that NYS Ag and Markets and the Cornell Extension may be resources for advice on his objective.

It was agreed that the applicant's difficulty was self-created.

**Burich, Keith and Mary, 5217 Tonawanda Creek Rd. (hearing on 23 March 2021)**

Owners wish to construct a 1,036 SF detached garage at a 62 ft. front yard setback where minimum 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 variance. Property is 153 ft. x 683 ft. and zoned R2 Medium-Density Residential

The ZBA board reviewed the Area Variance side 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 a detriment to nearby properties and the neighborhood in general.

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

It was agreed that there were alternative solutions. The accessory structure could be built on the left side of the lot to be conforming.

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 effect would be unknown.

- 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. Buechler to deny the variance, seconded by Mr. Welka. Voting in favor of the motion to deny the variance request: Buechler, Kantor, and Welka. Voting against: Graves. The variance request was denied.

***New Inquiries to ZBA:***

None.

***Correspondence:***

Notice of Action by SunBeam Laboratories, LLC. to appeal ZBA decision.

Email from Mr. Hoffman regarding Weller variance.

***Special Topics:***

None

***Miscellaneous ZBA Topics:*** None

The next scheduled meeting will be on Tuesday, May 25, 2021 at 7:00 pm.

A motion was made by Nick Graves to adjourn the meeting at 8:40 pm., and seconded by David Kantor. All voted in favor.

Attachments:

Sign In Sheet for 4/27/21

Town of Pendleton Public Hearing Request for Dion Andrzejewski  
Town of Pendleton Notice of Public Hearing for Dion Andrzejewski  
Town of Pendleton Denial of Building Application for Dion Andrzejewski  
Public Hearing Mailing List for Dion Andrzejewski  
Site Survey of Property for Dion Andrzejewski

Town of Pendleton Public Hearing Request for Mark Weller  
Town of Pendleton Notice of Public Hearing for Mark Weller  
Town of Pendleton Denial of Building Application for Mark Weller  
Public Hearing Mailing List for Mark Weller  
Site Survey of Property for Mark Weller

Town of Pendleton Public Hearing Request for Aleksandr Panasyuk  
Town of Pendleton Notice of Public Hearing for Aleksandr Panasyuk  
Town of Pendleton Denial of Building Application for Aleksandr Panasyuk  
Public Hearing Mailing List for Aleksandr Panasyuk  
Site Survey of Property for Aleksandr Panasyuk

Submitted for:

Dennis J. Welka  
Secretary