

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
February 22, 2022 Meeting

Members:

Wolfgang Buechler, Chairman
David Kantor
Jonathan Welka
Nicholas Graves
Dennis Welka, Secretary

The ZBA open regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 pm. ZBA members Wolfgang Buechler, David Kantor, Jonathan Welka, Nicholas Graves, and Dennis Welka were present at the meeting. Mr. Theodore Jeorg, Esq., Pendleton Town Prosecutor was also present.

PUBLIC HEARINGS:

Magnuszewski, Dan – 5549 Tonawanda Creek Rd., Pendleton, NY

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 40 ft. x 100 ft. (4000 SF) accessory structure where maximum allowed accessory structure size is 2000 SF per Town Code §247-34.E.(3). There is an existing 24 ft. x 50 ft. (1200 SF) accessory structure on site. Area variance requested is 4000 SF aggregate accessory structure size variance. Property is 8.8 acres and zoned R2 Medium-density Residential.

It was discovered at the onset of the hearing that there was no formal denial from the Building Department Board. It was also noted that the Board was provided with an incorrect address.

The ZBA members agreed that they could not conduct the hearing at this time and that the case should be referred back to the Building Dept. for a formal denial.

The Board then continued informal discussion with the applicant and his representatives to better understand the proposed project in preparation for future site visits.

The Board questioned whether the variance applied for should actually be 3200 SF rather than 4000 SF.

Grant, David – 7199 Pendale Circle, Pendleton, NY

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to erect a 12 ft. x 16 ft. accessory structure at a 7 ft. side yard setback and a 110 ft. front yard setback where minimum setbacks of 15 ft. and 150 ft., respectively, are required per Town Codes §247-34.F.(2)(b) and §247-34.F.(2)(a). Area variances requested are 8 ft. side yard setback variance and 40 ft. front yard setback variance. Property is 100 ft. x 250 ft. and zoned R1 Low-density Residential.

Mr. Grant stated that placing the structure at a compliant front yard setback would block the view of the pond for his neighbor to the right. Additionally, there are existing trees that would be impacted. He also stated that compliant locations on his property have drainage problems. Mr. Higgins, a neighbor to his left, spoke in favor of the project. Additionally, a letter from Mr. Larson, the neighbor to his right, was presented in favor of the proposed location.

The public hearing was closed at approximately 7:50 pm.

Sawma, Brian and Jamie – 4075 Mapleton Rd., Pendleton, NY

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a new single-family home at a setback of 45 ft. from Townline Rd. where minimum setbacks from both streets on corner lots is 75 ft. per Town Code §247-26.A and §247-10.D.(1). Area variance sought is 30 ft. corner lot setback variance. Property is 160 ft. x 296 ft. and zoned R1 Low-density Residential.

Mr. Sawma stated that he wishes to minimize the cost of a driveway between the residence and Townline Rd. Mr. Sawma also want to better center the main residence with respect to the frontage on Mapleton Rd.

The public hearing was closed at approximately 8:05 pm.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

Regular meeting opened at 8:05 pm.

A motion was made by Nick Graves to accept the minutes of the 01/25/2022 meeting, and was seconded by Dave Kantor. All voted in favor.

Specific Board Deliberation Actions:

Grant, David – 7199 Pendale Circle

The desired location was in question by board members as the lot divisions on the pond were irregular and the concern for the neighbor may be unwarranted since he has no actual frontage on the pond.

Dennis Welka made a motion to table a decision so members could revisit the site. The motion was seconded by Nick Graves. All voted in favor of the motion.

Sawma, Brian and Jamie – 4075 Mapleton Rd.

The Board discussed the challenges of building on a corner lot and on possible solutions for the applicant. The ZBA members discussed the impact of various side setback distances from Townline Rd. including the proposed 45 ft., an optional 55 ft. setback, and the compliant 75 ft. setback.

The Board also discussed whether it had an obligation to notify neighboring municipalities of this variance request.

The ZBA board reviewed the Area Variance 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 the granting of the variance would not create an undesirable change to the neighborhood and nearby properties .

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

It was agreed that the alternative solution would be to build to code.

- c. Is the requested variance substantial?

It was agreed that the requested variance was minimal at 55 ft.

- 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 of the neighborhood.

- e. Is the applicant's difficulty self-created?

The board felt that the applicant's difficulty was self-created.

A motion was made by Wolfgang Buechler to table decision in order to verify what the Board's obligation was regarding notifying neighboring municipalities. The motion was seconded by Nick Graves. All voted in favor of the motion.

New Inquiries to ZBA: NONE

Correspondence: NONE

Special Topics: NONE

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, March 22, 2022 at 7:00 pm.

A motion was made by Dave Kantor to adjourn the meeting at 8:51 pm., and seconded by Jonathan Welka. All voted in favor.

Submitted for:

Dennis J. Welka
Secretary

Attachments:

Town of Pendleton Public Hearing Request for Dan Magnuszewski
Town of Pendleton Notice of Public Hearing for Dan Magnuszewski
Public Hearing Mailing List for Dan Magnuszewski
Site Survey of Property for Dan Magnuszewski

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

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

Letter from Brett Larson
Sign-in Sheet