

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
05/24/2022 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. Graves at 7:00 pm. ZBA members David Kantor, Nicholas Graves, and Dennis Welka were present at the meeting. Wolfgang Buechler and Jonathan Welka were excused. Mr. Theodore Joerg, Esq., Pendleton Town Prosecutor and Ron Dietrich, Building Inspector were also present.

PUBLIC HEARINGS:

Dunn, Matt – 4904 Mapleton Rd, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 50 ft. x 60 ft. (3,000 SF) accessory structure on a parcel resulting from a proposed subdivision. Maximum accessory structure size allowed on the proposed parcel is 1200 SF per Town Code §247-34.E.(2). Also, an accessory structure is subordinate to the main residence and would not be allowed until a residence is constructed on the proposed parcel per town code. Proposed lot will be under 7 acres and zoned R2 Medium-density Residential. Area variance sought is 2800 SF accessory structure size variance.

The owner stated that he wishes to construct a 3000 sf accessory structure for large items pertaining to numerous hobbies including a fishing boat and multiple snowmobiles. He is aware that the house must be built first and stated that 2400 sf would be the minimum amount of space needed to complete the project. Neighbors Trevor Krabbenhoff, Leonard Binns, and Joshua Bancroft were in attendance and stated that they have no objections with the project.

The public hearing was closed at approximately 7:10 pm.

Sattleburg, John – 6652 Aiken Rd, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner requests a variance to allow a second 12 ft. x 24 ft. (288 SF) accessory structure to remain on property. There is currently a 1200 SF pole barn on the property per a variance granted to the home's previous owner in 2003. The maximum aggregate accessory structure size allowed is 600 SF per Town Code §247-34.E.(1). Property is 80.38 ft. x 300 ft. and zoned R2 Medium-density Residential. Additional area variance sought is 288 SF accessory structure size variance in addition to the existing accessory structure size variance of 600 SF.

The applicant stated that he was unaware that a permit was needed for the shed in question as the previous owner of the residence had a temporary structure in the same place on the lot. A complaint to the Building Department generated the request for a variance. The current pole barn built in 2003 replaced a garage. Suzanne Phillips, a next door neighbor was vehemently opposed to Mr. Sattleburg's petition to keep the second structure on the property stating that the applicant collects "junk" and leaves it around his property in a disorganized manner. Mr. Krebs, a neighbor and a friend, stated that the property is well kept and the new structure cannot be seen from the road because it is behind his pole barn. Mr. Graves noted that when he visited the property there was no evidence of excessive trash or other collected items strewn about the yard. Mr. Graves also noted that the current location of the shed is not correct on the survey. The shed currently sits directly behind the aforementioned garage.

The public hearing was closed at approximately 7:43 pm.

Zielen, John – 5543 Irish Rd, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner wishes to construct a 30 ft. x 40 ft. accessory structure at a 5 ft. side yard setback where minimum side yard setback allowed is 15 ft. per Town Code §247-34.F.(3)(b). Property is 102 ft. x 861 ft. (approx. 2.1 acres) and zoned R2 Medium-density Residential. Area variance sought is 10 ft. side yard setback variance.

The applicant stated that he wishes to rebuild his garage in a different location than the original garage, which burned down in a fire in 2021, for ease of pulling in his boat.

Jane Lombardo, his next-door neighbor stated that she was confused as to the proposed location of the new garage. Once shown the proposed location was actually further away from her home than the previous garage, she indicated she was in favor and would only object in the event the garage was moved closer to her residence than the original garage.

The public hearing was closed at approximately 7:52 pm.

Walker, Nicholas – 5536 Mapleton Rd, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner wishes to construct a 36 ft. x 16 ft. (1,728 SF) accessory structure where maximum allowed accessory structure size is 1200 SF per Town Code §247-34.E.(2). Property is 220 ft. wide (2+ acres) and zoned R2 Medium-density Residential. Area variance sought is 528 SF accessory structure size variance.

Applicant wishes to build an Accessory Structure to accommodate his 8 cars and 2 lifts. He stated that the dimensions would be 36 ft. x 48 ft. x 16 ft. with 12 ft. walls. Mr. Graves noted there was an existing accessory structure on the property which was not depicted on the survey or in the paperwork submitted to the ZBA. The applicant stated the shed was dilapidated, completely unusable, and would be removed in the very near future.

The public hearing was closed at approximately 7:57 pm.

Demmin, James – 5840 Donner Rd, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner wishes to construct a 24 ft. x 30 ft. detached garage at a 40 ft. front yard setback where the minimum setback allowed is 100 ft. per Town Code §247-11.D.(1). Property is 1.26 acres and zoned R2 Medium-density Residential. Area variance sought is 60 ft. front yard setback variance for detached garage.

Applicant stated that the garage would be too far away from his home if built to code and also stated he doesn't want to clear the large number of trees and brush needed in order to make the garage compliant.

The public hearing was closed at approximately 8:02 pm.

Aponchuk, Anatolly – 7189 Creekbend Dr, Pendleton NY

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner wishes to construct a 16 ft. x 20 ft. accessory structure at a front yard setback of 90 ft. where minimum front yard setback allowed is 150 ft. per Town Code §247-34.F.(2)(a). Property is 100 ft. x 221 ft. and zoned R2 Medium-density Residential. Area variance sought is 60 ft. front yard setback variance.

Applicant stated that the proposed location of the structure was chosen for cost savings as opposed to building to code elsewhere on the property. Neighbors Sharon Terpin and Thomas DiNunzio sent a statement that they would not be opposed to the location. Mr. Graves noted that it appeared the applicant would also require a side setback to build the structure in the proposed location or changes to the proposed building's size would need to be made in order to remain compliant. The applicant agreed he would likely be within the required 15' side yard setback.

The public hearing was closed at approximately 8:13 pm.

REGULAR ZBA MEETING:***Review Minutes from Prior Meeting:***

A motion was made by David Kantor to accept the minutes of the 04/26/2022 meeting, and was seconded by Dennis Welka. All voted in favor.

Changes to the Agenda:

- 1) Change requested variance for Matt Dunn from 2800 sf to 1800 sf
- 2) Change Nicholas Walker variance from 36'x16' to 36'x48'x16'

Specific Board Deliberation Actions:**Dunn, Matt – 4904 Mapleton Rd,**

A motion was made by Nick Graves and seconded by Dennis Welka to table discussion and a vote until the full Board is present. All voted in favor.

Sattleburg, John - 6652 Aiken Rd.

A motion was made by Dennis Welka and seconded by Nick Graves to table discussion and a vote until the full Board is present. All voted in favor.

Zielen, John - 5543 Irish Rd.

A motion was made by Dave Kantor and seconded by Nick Graves to table discussion and a vote until the full Board is present. All voted in favor.

Walker, Nicholas - 5536 Mapleton Rd.

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?

No

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

Build to code

- c. Is the requested variance substantial?

The Board felt that the size request was borderline substantial.

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

No

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

Yes

The motion was made by Nick Graves to approve a maximum of 1450 sf with a one year time limit and the removal of the existing shed. The motion was seconded by Dennis Welka. All voted in favor.

Demmin, James - 5840 Donner Rd.

A motion was made by Dave Kantor and seconded by Nick Graves to table discussion and a vote until the full Board is present. All voted in favor.

Aponchuk, Anatolly – 7189 Creekbend Dr.

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 felt that it was not in character with the neighborhood.

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

The board felt that the applicant had a large yard and could easily be compliant in multiple other locations on the property.

- c. Is the requested variance substantial?

It was felt to be significant at 1/3 of the town code.

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

Effect would be unknown

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

Yes.

A motion was made by Dave Kantor and seconded by Nick Graves to deny the request for a variance. All voted in favor of the motion. Variance denied.

Allen, Eric - 7101 Townline Rd. (from hearing on 22 March 2022)

Applicant wishes to construct a 21 ft. x 36 ft. garage (756 SF) at a side yard setback of 3 ft. and a front yard setback of 89 ft. where the minimum side yard setback is 15 ft. per Town Code §247-10.E and the minimum front yard setback is 100 ft. per Town Code §247-10.D.(1). Area variances sought are 12 ft. side yard setback variance and 11 ft. front yard setback variance. Property is 100 ft. x 300 ft. and zoned R1 Low-density Residential.

Applicant was absent for the second consecutive hearing.

Motion was made by Dave Kantor and seconded by Nick Graves to deny the request for a variance. All voted in favor.

New Inquiries to ZBA: None

Correspondence: None

Special Topics:

Ron Diedrich informed the Board of a new initiative he was spearheading, an open meeting for members of the various town departments to attend on the 3rd Tuesday of every month at 10 am in an effort to improve continuity and communication within the various divisions. The next meeting will be on June 21st at 10 am.

Miscellaneous ZBA Topics:

1. The next scheduled ZBA meeting will be on Tuesday, 6/28/2022 at 7:00 pm.

A motion was made by Dave Kantor to adjourn the meeting at 9:02 pm and seconded by Dennis Welka. All voted in favor.

Submitted for:

Dennis J. Welka
Secretary

Attachments:

Town of Pendleton Public Hearing Request for Matt Dunn
Town of Pendleton Notice of Public Hearing for Matt Dunn
Town of Pendleton Denial of Building Application for Matt Dunn
Public Hearing Mailing List for Matt Dunn

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

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

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

Town of Pendleton Public Hearing Request for James Demmin
Town of Pendleton Notice of Public Hearing for James Demmin
Town of Pendleton Denial of Building Application for James Demmin
Public Hearing Mailing List for James Demmin
Site Survey of Property for James DemminSuzanne Phillips

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

Letter from Suzanne Phillips
Pictures from Suzanne Phillips
Letter from Ceilia Lombardo
Note from Sharon Terpin and Thomas DiNunzio

Sign-in Sheet