

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
07/26/2022 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 Wolfgang Buechler, Jonathan Welka, David Kantor, Nicholas Graves, and Dennis Welka were present at the meeting. Mr. Theodore Joerg, Esq., Pendleton Town Prosecutor was also present.

PUBLIC HEARINGS:

Huff, Alan, H. Sr. – (property located at 6400 Campbell Blvd, Pendleton NY)

Owner wishes to construct on or develop a parcel of land that does not meet the required minimum lot width of 200 feet per Town Code §247-12.F. Property is 1.5 acres and zoned CO1 Light Commercial. Area variance sought is relief from minimum lot width requirement of 200 ft.

Mr. Huff's attorney, Mr. Goldberg, presented documentation from Niagara County ORPS stating that Mr. Huff did, in fact, own the property in question. Previously, Mr. Hebler, the neighboring property, had claimed ownership of all or part of the property in question. The ZBA received a withdrawal of this claim dated 26 July 2022 from Mr. Hebler's attorney, Ms. Diane Tiveron.

Mr. Goldberg stated that there currently is no specific plan for the use of the property except that it will comply with any approved uses for the CO1 zoning.

Mr. Goldberg stated that Mr. Huff's only option to bring the property in compliance would be to acquire additional property from the neighboring property owner. To date, all attempts at such purchase had failed.

Mr. Goldberg also stated that Mr. Huff understands that restrictions on feasible uses of the property may be imposed during site plan review based on the property being narrower than normal in that zoning district.

The public hearing was closed at approximately 7:26 pm.

Allan, Shiloh – 6544 Sheetram Rd., Pendleton NY

Owner wishes to construct a single family residence at a front yard setback of 330 ft. where the maximum front yard setback allowed is 250 ft. per Town Code §247-11.D.(3). Property is 5.56 acres and irregularly shaped with width of 123 ft. and depth of 562 ft. x and zoned R2 Medium-Density Residential. Area variance sought is 80 ft. front yard setback variance for primary residence.

The applicant was not in attendance. A motion was made by Dave Kantor and seconded by Jonathan Welka to table the public hearing. All voted in favor.

The ZBA will request that the Building Dept. contact the applicant and stress the importance of attending his variance hearing to present the reasons a variance is necessary.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Nick Graves to accept the minutes of the 06/28/2022 meeting, and was seconded by Dave Kantor. All voted in favor.

Changes to the Agenda:

- 1) Change requested variance for Matt Dunn from 2800 sf to 1800 sf

Specific Board Deliberation Actions:

Huff, Alan, H. Sr. – (property located at 6400 Campbell Blvd, Pendleton NY)

The Board reviewed arguments related to area variance testing as submitted by Mr. Goldberg and discussed possible alternatives to the situation.

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 was split on the question of its impact on the character with the neighborhood.

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

The board felt that only option would be for the applicant to purchase additional property from the neighboring property owner. That owner has been unwilling to sell a portion of his property.

- c. Is the requested variance substantial?

It was felt to be significant.

- 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 Nick Graves and seconded by Dave Kantor to approve the request for a variance. W. Buechler, N. Graves and D. Kantor voted in favor of the variance. D. Welka and J. Welka voted against.

Dunn, Matt – 4904 Mapleton Rd, Pendleton NY (from hearing on 24 May 2022).

Applicant wishes to construct a 50 ft. x 60 ft. (3,000 SF) accessory structure on a parcel resulting from a propose 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. Proposed lot will

be under 7 acres and zoned R2 Medium-Density Residential. Area variance sought is 1800 SF accessory structure size variance.

The ZBA board previously reviewed the Area Variance tests in the June meeting.

A motion was made by Dave Kantor and seconded by Nick Graves to grant an accessory structure size variance of 1300 SF for a total building size of 2500 SF with a two-year time limit on construction.

Voting in favor were W. Buechler, D. Kantor and N. Graves. Voting against were D. Welka and J. Welka.

New Inquiries to ZBA: None

Correspondence:

Letter from D. Tiveron, Mr. Hebler's attorney

Letter from A. Goldberg, Mr. Huff's attorney

Letter from Campanelli & Associates

Special Topics: None

Miscellaneous ZBA Topics:

1. The next scheduled ZBA meeting will be on Tuesday, 8/23/2022 at 7:00 pm.

A motion was made by Jonathan Welka to adjourn the meeting at 8:15 pm and seconded by Dave Kantor. All voted in favor.

Submitted for:

Dennis J. Welka
Secretary

Attachments:

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

Letter from D. Tiveron, Mr. Hebelers attorney
Letter from A. Goldberg, Mr. Huff's attorney
Letter from Campanelli & Associates

Sign-in Sheet