

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**11/22/2022 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. Buechler at 7:00 pm. ZBA members Wolfgang Buechler, Jonathan Welka, Nicholas Graves, and Dennis Welka were present at the meeting. David Kantor was absent. Mr. Theodore Joerg, Esq., Pendleton Town Prosecutor and Ron Dietrich, Building Inspector were also present.

**PUBLIC HEARINGS:**

**Taylor, Aaron**  
**6542 Bear Ridge Rd**  
**Pendleton NY**

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner requests an area variance to construct a 30 ft. x 40 ft. (1,200 SF) accessory structure where maximum accessory structure size allowed is 600 SF per Town Code §247- 34.E.(1). Property is irregularly shaped with 193 ft. frontage and 271 ft. depth and zoned R2 Medium-Density Residential. Area variance sought is 600 SF accessory structure size variance

It was noted that there is an existing accessory structure on the property of approximately 220 SF that the applicant wishes to retain. The variance application was amended to request an 820 SF variance for an aggregate accessory structure size of 1,420 SF.

The applicant stated that he wants additional storage for his motorhome, boat, and various vehicles. He added that the main residence is an historic building and does not provide significant storage area.

Mr. Joe Panepinto, the owner's father-in-law, stated that he would be doing most of the construction.

The hearing was closed at 7:53 p.m..

**Coddiwomple Resorts**  
**property address: 5549 Tonawanda Creek Rd**  
**Pendleton NY**

Application for variance of the provisions of the Zoning ordinance of the Town of Pendleton. Owner requests an area variance to install a pond at 50 ft. setback from side property line where minimum setback required is 100 ft. per Town Code §247-46.A.(1). Property is 8.8 acres with 105 ft. frontage and zoned R1 Low-Density Residential. Area variance sought is 50 ft. pond side yard setback variance.

Mr. Dietrich stated that he received communication from the owner stating that Mr. McNamara, project manager, had permission to speak for him.

Mr. McNamara outlined the current plan for the pond as well as other recreational improvements to the property. Mr. McNamara also detailed the overall plans for drainage of pond overflow to Tonawanda Creek via existing paths recently improved by the Town. Mr. McNamara stated that he believed the proposed site for the pond was the lowest part of the property and that the remainder of the property naturally drained in the pond area.

Mr. Trowse, a neighbor to the front of the property, was concerned about the project's location and possible water issues. Mr. Hulse, a neighbor to the rear of the property, had no objections to the project assuming there were no drainage problems.

The Board noted that the requested variance aligned with the common boundary line between the property and a Town Park. The Board expressed a concern for safety considering that the park includes a children's playground.

Mr. Buechler discussed his understanding that the setbacks required in the Town Code are also intended to provide sufficient buffer between the pond and neighboring properties should the pond water quality deteriorate.

The Board questioned Mr. McNamara on alternative placements of the pond given the large size of the property. Included in that discussion was whether the profile of the pond could be flipped so that a variance might not be required. Mr. McNamara requested that the Board hold the application with the hearing open in order for the plans to be reconsidered.

A motion was made by Wolf Buechler and seconded by Nick Graves to table the request for a variance so that the applicant could reconsider topographic elevations and reconfiguring of the pond to be compliant with 100 ft. side setback. All voted in favor of the motion.

### **REGULAR ZBA MEETING:**

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

A motion was made by Nicholas Graves to accept the minutes of the 10/25/2022 meeting, and was seconded by Jonathan Welka. All voted in favor.

#### ***Changes to the Agenda:***

- 1) Change requested variance for Aaron Taylor from 600 SF to 820 SF aggregate accessory structure size variance to account for an existing accessory structure on the property.

***Specific Board Deliberation Actions:***

**Taylor, Aaron - 6542 Bear Ridge 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 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 Dennis Welka to grant an aggregate accessory structure size variance of 220 SF for a total aggregate of 820 SF for the two structures with a one-year time limit on completion of the project. The motion was seconded by Nicholas Graves. All voted in favor.

***New Inquiries to ZBA: None***

***Correspondence: None***

***Special Topics:***

Training hours and opportunities for additional training if necessary.

***Miscellaneous ZBA Topics:***

1. The next scheduled ZBA meeting will be on Tuesday, 12/27/2022 at 7:00 pm.

A motion was made by Jonathan Welka to adjourn the meeting at 8:25 pm and seconded by Nick Graves. All voted in favor.

Submitted for:

Dennis J. Welka  
Secretary

Attachments:

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

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

Email from Ron Dietrich

Sign-in Sheet