

# TOWN OF PENDLETON

## ZONING BOARD OF APPEALS

12/27/2022 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 David Kantor, Nicholas Graves, Jonathan Welka, Wolfgang Buechler and Dennis Welka were present at the meeting. Mr. Theodore Joerg, Esq., Pendleton Town Prosecutor, attended remotely.

### PUBLIC HEARINGS:

**Hood, Ann**  
**5275 Mapleton Rd, Pendleton NY**

Owner wishes to construct a 1,920 SF accessory structure where maximum accessory structure size allowed is 1,200 SF per Town Code §247-34.E.(2). Property is 5.7 acres and zoned R2 Medium-Density Residential. Area variance sought is 720 SF accessory structure size variance.

Mr. Hood stated that he wants more storage for his Campers, RV, and implements. The owners wish to include a roof overhang for an adjacent patio area facing the center of the property. The building height is expected to be under 20 ft.

The owners indicated where, with respect to the property survey, the building would be situated and that the longer dimension of the building would run with the depth of the property.

The Board discussed the location of the accessory structure with regards to the front setback and determined that it needed to be approximately 30 ft. from the rear of the house in order to be compliant. The applicant stated that they discussed that with the Building Inspector and were aware of the constraint.

The applicant mentioned annual drainage issues on the property.

The hearing was closed at 7:20 pm.

**Coddiwomple Resorts property address: 5549 Tonawanda Creek Rd, Pendleton NY**  
**(continued from 11/22/22)**

Owner wishes 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.

Applicant was not present. Applicant’s representative, Mr. R. McNamara had contacted Mr. Buechler, requesting a one-month extension in order that the applicant may present his request personally.

**REGULAR ZBA MEETING:**

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

A motion was made by Nick Graves to accept the minutes of the 11/22/2022 meeting, and was seconded by Jonathan Welka. All voted in favor.

***Changes to the Agenda: None***

***Specific Board Deliberation Actions:***

**Hood, Ann  
5275 Mapleton Rd, Pendleton NY**

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 would be one of the larger non-agricultural buildings in the neighborhood but felt that it would not change the character of the neighborhood.

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

The applicant would need to build to code in order to avoid requiring a variance.

- c. Is the requested variance substantial?

Yes, the proposed structure is 60% greater than the town code allows.

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

Effect would be unknown. Runoff from building could increase the applicant’s drainage problems on property.

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

Yes

A motion was made by Nick Graves to approve a variance of 336 SF for an aggregate size of 1536 SF with a one-year time limit on completion of the project. The motion was seconded by David Kantor. All voted in favor of the motion.

**Coddiwomple Resorts - property address: 5549 Tonawanda Creek Rd, Pendleton**

David Kantor made the motion to approve the requested one month hearing extension and was seconded by Jonathan Welka. All voted in favor of the motion.

*New Inquiries to ZBA: None*

*Correspondence: None*

***Special Topics:***

Wolf Buechler shared with the Board training opportunities from NY DOS Training, specifically the online recorded training: “Making a Record”, which he recommended for all. He also mentioned upcoming live, online training from NY DOS:

January 11, 2023 – Planning Board Overview (2 hr. credit)

January 18, 2023 – Zoning Board of Appeals (2 hr. credit)

***Miscellaneous ZBA Topics:***

1. The next scheduled ZBA meeting will be on Tuesday, 1/24/2023 at 7:00 pm.

A motion was made by David Kantor to adjourn the meeting at 8:00 pm and seconded by Nick Graves. All voted in favor.

Submitted for:

Dennis J. Welka  
Secretary

**Attachments:**

- Town of Pendleton Public Hearing Request for Ann Hood
- Town of Pendleton Notice of Public Hearing for Ann Hood
- Town of Pendleton Denial of Building Application for Ann Hood
- Public Hearing Mailing List for Ann Hood
- Site Survey of Property for Ann Hood
- Sign-in Sheet

