

TOWN OF PENDLETON
ZONING BOARD OF APPEALS (ZBA)
Meeting Minutes – July 25, 2023

Members:

Nicholas Graves, Chairman
David Kantor
Jonathan Welka
Lee Daigler
James Churchill

The meeting of the Zoning Board of Appeals (ZBA) was called to order by Mr. Graves at 7:00 pm. ZBA members Graves Kantor, Daigler, and Churchill were present. Mr. Welka was excused. Pendleton Town Prosecutor Theodore A. Joerg, Esq. and Town Building Inspector Ron Diedrich were also in attendance.

A vote for a rehearing of the Shadwick Case was held, a motion to rehear the case was made by Mr. Graves and a 2nd was made by Mr. Churchill. A unanimous vote by all members in attendance is required for rehearing.

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote (unanimous by all members in attendance)

PUBLIC HEARINGS:

Shadwick (Re-Hearing)

6118 Bear Ridge Rd, Pendleton, NY

The owner wishes to construct a single-family residence on a nonconforming 98.56' lot. Town Code requires 100'. Parcel 137.03-1-9.12. Side Yard Setback variance sought is 1.44'.

The public hearing was opened at 7:05 pm

The applicant was in attendance and provided a review of the project along with reviewing drawings submitted with the application. All details of the project remain unchanged from the previous month. Property has been owned by Shadwick as of 6/20/2023. Several neighbors voiced objection over the accuracy survey of the property provided by the applicant; stating that the property may actually be narrower than the applicant stated. The survey provided by the applicant matched the information on the SBL system. A real estate agent speaking on behalf of the neighbor's stated that the construction of the home would decrease the value of the adjacent properties. Other neighbors stated that construction of the home as indicated on the proposed plans would place the home in the backyard of the neighbors and would not be set at the same angle as other homes on the street. The next door neighbor had concerns about drainage but stated drainage is not currently a problem.

No additional comments or questions came from the general public in attendance.

The public hearing was closed at 7:59 pm.

Argentieri (cont.)

7301 Paddock Ridge, Pendleton, NY

The owner wishes to construct a single story addition (sun room) 5' from the side property line. Town Code requires a minimum setback of 15'. Variance sought 10' for single story addition.

The public hearing was opened at 8:02 pm

The applicant was in attendance and provided an update of the project along with reviewing drawings submitted with the application. The applicant has decided not to pursue a garage addition as previously stated; and is only requesting a side yard setback variance of 10'. No additional information was provided.

No additional comments or questions came from the general public in attendance.

The public hearing was closed at 8:11 pm.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Mr. Kantor to accept the minutes of the June 27, 2023 meeting of the ZBA and seconded by Mr. Churchill.

Voting in Favor: Kantor, Daigler, Churchill

Voting Against: None

Abstained: Graves

Motion carried by a 3-0 vote

Specific Board Deliberation Actions:

Shadwick

6118 Bear Ridge Rd, Pendleton, NY

The ZBA board reviewed the Area Variance and commented as follows:

1. 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 approving the variance would have no impact on the character of the neighborhood or nearby properties.

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

The board felt no other alternatives exist other than to sell the property.

3. Is the requested variance substantial?

No, the proposed variance is approximately 1.44% less than required by Town Code.

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

The board felt there would be no effect on the physical or environmental conditions in the neighborhood.

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

The board agreed the difficulty is not self-created.

Mr. Churchill moved to grant approval for the existing lot width of 98.56' (variance sought of 1.5'.) with an 18-month timeline limit for project completion. Mr. Graves seconded the Motion.

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote (unanimous by all members in attendance)

Specific Board Deliberation Actions (cont):

Argentieri

7301 Paddock Ridge Rd, Pendleton, NY

The ZBA board reviewed the Area Variance and commented as follows:

1. 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 approving the variance is undesirable but not detrimental to the character of the neighborhood or nearby properties.

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

The board felt the project could be smaller, moved to other areas of the property, or scrapped altogether.

3. Is the requested variance substantial?

Yes, the proposed variance is approximately 66% less than allowed by Town code.

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

The board felt there would be no effect on the physical or environmental conditions in the neighborhood.

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

The board agreed the difficulty is self-created.

Mr. Kantor moved to grant an approval for a 4.93' side yard setback with a 12-month timeline limit for project completion. Mr. Graves seconded the Motion.

Voting in Favor: Graves, Kantor

Voting Against: Churchill, Daigler

Abstained: None

Motion denied by a 2-2 vote

Mr. Graves moved to approve a 7.5' side yard setback with a 12-month timeline limit for project completion. Mr. Kantor seconded the Motion.

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

Specific Board Deliberation Actions (cont):

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7272 Edgewater Circle, Pendleton, NY

The ZBA board reviewed the Area Variance and commented as follows:

1. 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 approving the variance would have no impact on the character of the neighborhood or nearby properties.

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

The board felt the project could be smaller to meet code.

3. Is the requested variance substantial?

No, the proposed variance is a third of the Town code.

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

The board felt there would be no effect on the physical or environmental conditions in the neighborhood as it is an open-air structure.

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

The board agreed the difficulty is self-created.

Mr. Daigler moved to grant a approval as 5' side yard setback variance with a 12-month timeline limit for project completion. Mr. Kantor seconded the Motion.

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

New Inquiries to ZBA: None

Correspondence: None

Special Topics:

After a discussion of the board with input from the Towns legal counsel regarding the guidance passed by New York State, it was determined that the sign in sheet used for ZBA meetings requires updating. Mr. Joerg will provide the board with recommendations as to the language that should be on the sign in sheet.

Mr. Churchill made a motion to change the sign in sheet to voluntary, to comply with the guidance of NYS. And seconded by Mr. Graves.

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: none

Abstained: none

Motion carried by a 4-0 vote

Miscellaneous ZBA Topics:

1. The next scheduled meeting of the ZBA is Tuesday, August 22, 2023 at 7:00 pm.

A motion was made by Mr. Graves to adjourn the meeting and seconded by Mr. Churchill

Voting in Favor: Graves, Kantor, Daigler, Churchill

Voting Against: none

Abstained: none

Motion carried by a 4-0 vote

Submitted by:

Nicholas Graves

Chairman, Town of Pendleton ZBA