

TOWN OF PENDLETON
ZONING BOARD OF APPEALS (ZBA)
Meeting Minutes – 10/22/2024

Members:

Nicholas Graves, Chairman
Jim Churchill, Secretary
David Kantor
James Meholick
Harold McLellan

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

1. PUBLIC HEARINGS:

a) Joyner – 7051 Campbell Blvd. N. Tonawanda, NY 14120.

Owner wishes to construct a 24' x 30' (720 SF) accessory structure. Town Code §247-34.E.1 limits an accessory structure to 600 SF on parcels less than two acres. Property is 100' x 408' (.94 acres) and zoned R-2 Residential. Total relief sought: 120 SF accessory structure size.

The applicant was not in attendance but sent his contractor to speak on his behalf. A letter was not presented granting the contractor to speak on the behalf of the applicant. Mr. Graves made a motion to table the hearing an additional month to allow the applicant to attend or to issue the proper permissions for his agent(s). Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote.

b) Ferlito Restaurant Inc. – 4072 Beach Ridge Rd. N. Tonawanda, NY 14120.

Owner wishes to allow for retail operations on a residential lot (7083 Townline Rd. N. Tonawanda, NY 14120) in a non-conforming district. Town Code §247-10 does not permit the intended use by right or special use permit. Property is 90' x 166' and zoned R-1 Residential, thus, a Use Variance will be considered for the property at 7083 Townline Rd. N. Tonawanda, NY 14120.

The applicant was not in attendance for the meeting. Mr. Graves made a motion to continue to table the hearing for an additional month to allow the applicant to attend. Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

c) Sean Benoit – 7086 Campbell Blvd. N. Tonawanda, NY 14120.

Owner wishes to construct a 3,000 SF accessory structure on a vacant lot. Town Codes §247-34.A.3 & 247-34.E state that an accessory structure must be located on the same lot at the principle residence. Owner is also requesting an area variance of 1000 SF as town code limits the size of an accessory structure to 2,000 SF on a parcel 7 acres or greater in size. Property is 27 acres in size and zoned R-2 Residential. Total relief sought: Accessory structure on a vacant lot and 1,000 SF accessory structure size.

The public hearing began at 7:07 PM. The applicant was in attendance and provided a brief overview of the proposed project. The applicant stated that he owns a non-conforming lot next-door to the property which contains his primary residence. He would like to erect a 3,000 SF accessory structure next-door at 7086 Campbell without first building a primary residence on the lot. The owner has not attempted to merge the two lots in question, which would alleviate the need for one of two variances. The applicant submitted a number of letters of support from nearby neighbors and town residents. Additionally, several residents in attendance voiced their support for the project. The public hearing closed at 7:16 PM.

Mr. Kantor made a motion to deny the construction of an accessory structure on a lot without a primary residence. Mr. Meholick seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

Mr. Meholick made a motion to approve a 1,000 SF accessory structure size variance subject to property merger with a lot containing a primary residence and provided that lot remains greater than 7 acres in size at all times. Mr. Graves seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

d) Matthew Cole – SBL 164.03-3-41 – Townline Rd. Lockport, NY 14094.

Owner wishes to construct a two-family residence on a non-conforming lot. Town Codes §247-11.E.1 and 247-11.C.4. requires a minimum lot size of two acres, 200 ft of frontage, depth of 250 ft, and side setbacks of 15 ft. Property is 150' x 170' (.3 acres) and zoned R-2 Residential. Total relief sought: Lot Size, Lot Frontage, Lot Depth, Side Yard, Rear Setback area variances.

The public hearing began at 7:17 PM. The applicant was in attendance and provided an overview of the project. The applicant stated he invested his life savings into the purchase of the land but bought it knowing it was not a buildable lot. Neighbors were in attendance voicing their displeasure in the project due to the number of variance required to build in relation to the size of

the lot. Neighbors also stated a gas line runs through the center of the lot which could create further issues during building. The applicant stated he is in communication with the utility companies regarding an easement and will build in compliance with the gas department’s wishes. The applicant also stated he has been in contact with the Niagara County Department of Health regarding the septic system and indicated they may be willing to support the project.

The hearing ended for the evening at 7:33 PM but will remain open in order for the applicant to furnish additional documents requested by the ZBA.

e) Regency Builders LLC – 4899 Meyer Rd. Lockport, NY. 14094.

Owner wishes to construct a two-family residence on a non-conforming lot. Town Codes §247-11.E.1 and 247-11.C.4. requires a minimum lot size of two acres, 200 ft of frontage, depth of 250 ft, and side setbacks of 15 ft. Property is 150’ x 170’ (.3 acres) and zoned R-2 Residential. Total relief sought: Lot Size, Lot Frontage, Lot Depth, Side Yard, Rear Setback area variances.

The public hearing began at 7:35 PM. An engineer from GPI was in attendance on the behalf of Regency Builders and spoke at length about the proposed subdivision on Campbell Blvd. Numerous residents were in attendance and were able to view the plan and ask questions at length about the project. Overall, it was determined 9 proposed lots will require variances, the majority of which would require more than 1 variance each.

The public hearing ended for the evening at 8:14 but will remain open for confirmation of the specific variances needed at the November meeting of the ZBA.

2. Changes to the agenda: None

3. New Inquires: None

4. Review Minutes from Prior Meeting:

Mr. Churchill moved to approve the minutes from the September 24, 2024 Meeting of the ZBA. Mr. Meholick seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion approved by a 4-0 vote

5. Correspondence: None

6. Special Topics:

1. November Meeting Date

Mr. Graves made a motion to move the November 26, 2024 meeting of the ZBA to November 19, 2024. Mr. Meholick seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

7. Miscellaneous ZBA Topics:

1. The next scheduled meeting of the ZBA is now scheduled for Tuesday, November 19, 2024 at 7:00 pm.

8. Adjournment:

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

Voting in Favor: Graves, Churchill, Kantor, Meholick.

Voting Against: None

Abstained: None

Motion approved by a 4-0 vote