

TOWN OF PENDLETON
ZONING BOARD OF APPEALS (ZBA)
Meeting Minutes – 11/19/2024

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, Mr. Meholick, and Mr. McLellan were in attendance. Pendleton Town Prosecutor Theodore A. Joerg, Esq., was 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 for a third consecutive meeting. Mr. Graves made a motion to deny the variance request without prejudice. Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, McLellan

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote.

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

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.

Prior to the meeting, the applicant submitted formal communication to the Building Department requesting to withdraw the variance application in its entirety. Mr. Graves made a motion to approve the withdrawal as requested by the applicant without prejudice. Mr. Kantor seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, McLellan

Voting Against: None

Abstained: None

Motion carried by a 4-0 vote

c) Matthew Cole – SBL: 164.03-3-41 - Townline Rd. (Continued)

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 resumed at 7:09 pm. The applicant was in attendance and provided a recap of the proposed project as well as an updated site drawing, survey, and proof of ownership from Niagara County. The applicant also stated he had received communication from the Niagara County Department of Health indicating support for the proposed septic plan, though this was not provided to the board. The applicant stated he would ideally connect to the nearest sewer approximately 400' away but has not yet explored the feasibility of doing so.

Neighbors in attendance spoke out against a two or more family home being erected on the property due to the small lot size. Others voiced concerns regarding drainage issues and potential ground water contamination due to placing all required septic equipment on such a small portion of the undersized lot. Another neighbor took issue with the large amount of variances needed in general to accommodate the applicant's request.

The public hearing was closed at 7:23 pm.

Mr. Churchill made a motion to deny the construction of a two or more family home on the property. Mr. Meholick seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Churchill made a motion to approve a 5' side yard setback with the home located as far from easement on the SE property line and closest to the NW easement as possible. Additionally, the owner shall construct a drainage swale after submitting stamped engineered drawings to the Building Department/Planning Board before obtaining a building permit. Mr. Graves seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, McLellan

Voting Against: Meholick

Abstained: None

Motion carried by a 4-1 vote

Mr. Graves made a motion to approve a 20' rear yard setback variance. Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, McLellan

Voting Against: Kantor, Meholick

Abstained: None

Motion carried by a 3-2 vote

Mr. Graves made a motion to approve a 47’ property depth variance. Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, McLellan

Voting Against: Kantor, Meholick

Abstained: None

Motion carried by a 3-2 vote

Mr. Graves made a motion to table the remainder of deliberations to allow the applicant time to explore the feasibility of connecting to the sewer system as opposed to installing septic on the property. Mr. McLellan seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

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

Owner is seeking a myriad of variances consisting of lot width, lot depth, and lot size on a total of 9 proposed lots in a planned subdivision. Town Code §247-11.C. Specifies lot width, depth, and overall size for new parcels in the Town of Pendleton. Total relief sought to be determined after thorough review in the public hearing. Properties are all zoned R-2 Residential.

The public hearing resumed at 8:04 pm. An engineer from GPI was in attendance along with the applicants from Regency Builders. A brief recap of the project was provided for the proposed major subdivision on Campbell Blvd and residents were given time to review the detailed drawings of the site. 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 was closed at 8:20 pm.

Mr. Churchill made a motion to approve a 998 sf lot size variance and a 23’ lot depth variance for LOT 6, with a 3-year time limit for project completion. Mr. Meholick seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Churchill made a motion to approve a 2,785 sf lot size variance and a 31’ lot depth variance for LOT 7, with a 3-year time limit for project completion. Mr. Meholick seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Churchill made a motion to approve a 1,050 sf lot size variance and a 31' lot depth variance for LOT 8, with a 3-year time limit for project completion. Mr. Meholick seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Churchill made a motion to approve a 29' lot depth variance for LOT 9, with a 3-year time limit for project completion. Mr. Meholick seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Meholick made a motion to approve a 2,626 sf lot size variance, a 2' 4" lot width variance, a 4' lot depth variance for LOT 14, with a 3-year time limit for project completion and no permittance of a side load garage. Mr. Graves seconded the motion.

Voting in Favor: Graves, Meholick, McLellan

Voting Against: Kantor, Churchill

Abstained: None

Motion carried by a 3-2 vote

Mr. Meholick made a motion to approve a 1,224 sf lot size variance and a 5' lot width variance for LOT 16, with a 3-year time limit for project completion and no permittance of a side load garage. Mr. Graves seconded the motion.

Voting in Favor: Graves, Meholick, McLellan

Voting Against: Kantor, Churchill

Abstained: None

Motion carried by a 3-2 vote

Mr. Meholick made a motion to approve a 5' lot width variance for LOT 17 with a 3-year time limit for project completion and no permittance of a side load garage. Mr. McLellan seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Meholick made a motion to approve a 17.5’ lot width variance for LOT 26, with a 3-year time limit for project completion. Mr. Kantor seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

Mr. Meholick made a motion to approve a 7.5’ lot width variance for LOT 27, with a 3-year time limit for project completion. Mr. McLellan seconded the motion.

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

Voting Against: None

Abstained: None

Motion carried by a 5-0 vote

2. Changes to the agenda: None

3. New Inquires: None

4. Review Minutes from Prior Meeting:

Mr. Kantor moved to approve the minutes from the October 22, 2024 Meeting of the ZBA. Mr. Churchill seconded the motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick

Voting Against: None

Abstained: McLellan (Not present at Oct. meeting)

Motion approved by a 4-0 vote

5. Correspondence: None

6. Special Topics: None

7. Miscellaneous ZBA Topics:

1. The next scheduled meeting of the ZBA is now scheduled for Tuesday, December 17, 2024 at 7:00 pm.

8. Adjournment:

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

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

Voting Against: None

Abstained: None

Motion approved by a 5-0 vote