

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
February 25, 2025 Meeting

Members:

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

The ZBA open regular meeting was called to order by Mr. Nicholas Graves at 7:00 PM. ZBA members Mr. Graves, Mr. Kantor, Mr. Meholick & Mr. McLellan were present; Mr. Churchill was excused; Town Prosecutor, Mr. Theodore Joerg; and The Town Building Inspector/Code Enforcement Officer, Mr. Ron Diedrich, were also present at the meeting. No changes were made to the ZBA agenda submitted by Nicolas Graves.

PUBLIC HEARINGS:

Kyle Craig
5352 Feigle Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 40 ft. x 40 ft. (1,600 ft²) accessory structure on his property where a maximum of 1,200 square feet is allowed per Town Code. The area variance request would be 400 square feet as per Town Code §247-34(2). The property is 161 ft. x 250 ft. (2.8 acres) and is R-2 medium density residential zoning.

Mr. Craig indicated that he needed the accessory structure for storage of wood, lumber, and outside equipment; and that approximately 400 sq. ft. of the building would include an overhang over the pad. He planned on providing a swale between his and the neighbor's property for drainage. The ZBA received a letter from a neighbor in support of granting the variance request.

The public hearing was closed at approximately 7:06 PM.

Dale Acker
6555 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 12 ft. x 12 ft. (240 ft²) accessory structure on his property with a side lot setback of 5 ft. where a minimum of 15 ft. is allowed per Town Code. The side lot setback variance request would be 10 ft. as per Town Code §247-11E. The property is 100 ft. x 516 ft.

Mr. Acker indicated that he wanted to locate his new shed next to the wooded property owned by the town for aesthetic reasons for his neighbors in order to provide everyone a better view. He also stated he was going to contact the town to investigate the possible purchase of the property so he wouldn't require a variance. The existing 8 ft. x 10 ft. shed was going to be removed when he built the new shed.

The public hearing was closed at approximately 7:16 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by David Kantor to accept the minutes of the January 28, 2025 meeting, and was seconded by Harold McLellan. All voted in favor.

Specific Board Deliberation Actions:

Mathew Cole
439 – 69th Street
Niagara Falls, New York

For Parcel: 164.03-3-41 located on Townline Road, Pendleton, NY

Mr. Cole presented a site survey illustrating all of easements on the property with the proposed home he was able to construct based on the available buildable area for the property at 7,070 square feet. In addition, based on the site survey, Mr. Cole required a lot size variance of 17,120 square feet.

The ZBA board reviewed the Area Variance tests for the lot size variance request 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 members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties.

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

It was agreed that there were no alternative solutions that wouldn't require a variance.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial.

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

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Kantor to approve the lot size variance for the project as proposed, conditioned on the applicant's providing sewer in lieu of a septic system, conditioned on complying with all previous various requests granted, and conditioned on completion of the project in two years. The motion was seconded by Mr. McLellan. All voted in favor.

Kyle Craig
5352 Feigle Road
Pendleton, New York

The ZBA board reviewed the Area Variance tests for the property, 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 members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties as it would be adjacent to town property & wouldn't affect any neighbors.

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

It was agreed that an alternative solution would be to construct the accessory structure to meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was not substantial.

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

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Graves to grant the variance as detailed in the request, conditioned on removing the existing shed on the property, and conditioned on completion of the project in one year. The motion was seconded by Mr. Kantor. All voted in favor.

Dale Acker
6555 Campbell Boulevard
Pendleton, New York

The ZBA board reviewed the Side Yard Variance tests for the property, 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 members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties as it would be adjacent to town property & wouldn't affect any neighbors.

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

It was agreed that an alternative solution would be to place the accessory structure 15 ft. from the property line to meet the town code.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial.

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

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Meholick to deny the variance as detailed in the request and was seconded by Mr. McLellan. All voted in favor to deny the variance request.

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

Correspondence: ***None***

Special Topics: ***None***

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, March 25, 2025, at 7:00PM.

A motion was made by Nicholas Graves to adjourn the meeting at 7:53 PM, and seconded by David Kantor. All voted in favor.

Town of Pendleton

Zoning Board of Appeals

Submitted for the chairman:

James G. Meholic
Secretary