

PENDLETON ZBA AGENDA TUESDAY, 01/26/16 7:00 PM

1. Public Hearings
 - a. Winstel, John (agent for John Bertuzzi) – 4097 Beach Ridge Rd. (continued from Dec meeting) Applicant requests variance to conduct a non-conforming use in an R1 Low-Density Residential district. Property is 1.1 acres.
 - b. Cantanese, Salvatore – property located north of Kenyon's on Campbell Blvd. (continued from Dec meeting) Applicant wishes to construct a self-storage facility that would contain several small storage units where this use is not permitted by right per Town Code §247-12 CO1 Light Commercial. Property is 5.4 acres.
 - c. McCaffrey, Joseph – 6331 Campbell Blvd. Owner wishes to construct a 30 ft. x 60 ft. additional accessory structure (aggregate area 2695 sq. ft.) at a height of 21 ft. where 2000 ft. maximum aggregate area is allowed per Town Code §247-34.E.(3) and maximum height allowed is 20 ft. per Town Code §247-34.F.(3)(d). Variances sought are 695 sq. ft. aggregate accessory structure size variance and 1 ft. accessory structure height variance. Property is 8.2 acres and zoned R2 Medium-Density Residential.
 - d. Demjanenko, Victor (Forbes Capretto Custom Homes), 4420 Beach Ridge Rd. Developer proposes a street with 50 ft. right of way width at the intersection with an existing street where a minimum 90 ft. right of way width is required per Town Code §220-24.A. Variance sought is 40 ft. of right of way width. Property is 50 acres and zoned R1 Low-Density Residential.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting
 - a. Minutes 12/22/5
 - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-December-2015.pdf>
6. Deliberation on Hearing – None scheduled
 - a. Winstel (Bertuzzi)
 - b. Cantanese
 - c. McCaffrey
 - d. Demjanenko (Forbes)
7. Correspondence
 - a. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Confirm contact info for ZBA members
 - b. Set 2016 (plus Jan 2017) Schedule for Public Hearings/ZBA Meetings
 - c. Determine standard meeting start time
 - d. Review Sign-in sheet
 - e. Review Request to Petition for a Variance

- f. Reappointment status – Daigler (5 yr term – reappointed 1/11/16), Buechler (2016 Chair)
- g. Training - 2015 status and rollover balances
- h. Review 2015 attendance
- i. Review of referral requirement to Niagara County Planning Board

Per agreement dated December 2005, referral of area variances is not required. Use variances immediately adjacent to a municipal boundary or park, or corner lots on state highways require ZBA referral. A copy of the full agreement is in the ZBA folder.

- j. Review of notification requirement to neighboring municipalities

Notice must be transmitted to the clerk of the adjacent municipality at least ten days prior to any hearing for a use variance for property within 500 ft. of the adjacent municipality.

9. Miscellaneous ZBA items:

- a. Attendance: next meeting 23 Feb 2016 7:00 PM (tentative)
- b. Comments: ZBA members, Legal

10. Adjourn regular meeting

Area Variance Considerations

- 1. Benefit to applicant vs Detriment to community
- 2. Mandatory considerations:
 - 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
 - b. Are there alternative solutions that would not require a variance
 - c. Is the requested variance substantial
 - d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district
 - e. Is the applicant's difficulty self-created

Use Variance Requirements

No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.