

**PENDLETON ZBA AGENDA
TUESDAY, 03/23/16 7:00 PM**

1. Public Hearings
 - a. Catanese, 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.
 - b. Marciniak, Carrie – 6743 Aiken Rd. Owner wishes to construct a 24 ft. x 32 ft. (768 sq. ft.) accessory structure where 600 sq. ft. is the maximum allowed per Town Code §247-34.E.(1). Area variance sought is 168 sq. ft. of accessory structure size. Existing accessory structure will be removed. Property is 1.0 acres and zoned R1 Low-density Residential.
 - c. Moslow, Justin – 5754 Dunnigan Rd. Owner wished to raise roof height of an existing accessory structure to 21 ft. Where 16 ft. is maximum allowed per Town Code §247-34.F.(2)(d). Area variance sought is 5 ft. structure height. Property is 5.33 acres and zoned R2 Medium-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 02/23/16
 - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-February-2016.pdf>
6. Deliberation on Hearing
 - a. Cantanese
 - b. Marciniak
 - c. Moslow
7. Correspondence
 - a. Letter re Zeiss decision
 - b. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Referral requirement to Niagara County Planning Board (Status)
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting 26 April 2016 7:00 PM
 - 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.