

## **PENDLETON ZBA AGENDA TUESDAY, 05/24/16 7:00 PM**

1. Public Hearings
  - a. Callahan, Shawn – 5529 Tonawanda Creek Rd. Owner wishes to construct a 700 sq. ft. accessory structure at a height of 20 ft. where maximum size allowed is 600 sq. ft. per Town Code §247-34.E.(1) and maximum height is 16 ft. per Town Code §247-34.F.(2)(d). Area variances sought are 100 sq. ft. accessory structure size variance and 4 ft. accessory structure height variance. Property is under 0.75 acres and zoned R2-Medium Density Residential.
  - b. Schmit, Mike – property location is vacant land on Fisk Rd. near Transit Rd. Owner wishes to construct a 50 ft. x 150 ft. pond at 69.5 ft. side setback on both sides of property where 100 minimum setback is required per Town Code §247-46.A.(1). Area variance sought is 30.5 ft. pond side yard setback variance for each side. Property is 5.0 acres and zoned R2-Medium Residential.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting
  - a. Minutes 04/26/16
  - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-April-2016.pdf>
6. Deliberation on Hearing
  - a. Marciniak - 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.
  - b. Dimaria - 4188 Tonawanda Creek Rd. Owner wished to construct a 36 ft. x 44 ft. (1584 sq. ft.) accessory structure, where 600 sq. ft. maximum is allowed per Town Code §247-34.E.(1), and a side yard setback of 5 ft. where minimum required is 15 ft. per Town Code §247-34.F.(2).(b). Area variances sought are 984 sq. ft. of accessory structure size and 10 ft. side yard setback. Property is 1.6 acres and zoned R1 Low-density Residential.
  - c. Alex - 4932 Devonshire Ln. Owner wishes to construct an 830 sq. ft. accessory structure with a height of 20 ft. at a front yard setback of 92.7 ft. where maximum size allowed is 600 sq. ft. per Town Code §247-34.E.(1), maximum height allowed is 16 ft. per Town Code §247-34.F.(2).(d), and minimum front yard setback required is 150 ft. per Town Code §247-34.F.(2).(a). Area variances sought are: 230 sq. ft. accessory structure size, 4 ft. accessory structure height, and 57.4 ft. front yard setback. Property is 0.5 acres and zoned R2 Medium-density Residential.
  - d. Hopkins - 6147 Aiken Rd. Owner wished to build an agricultural building at a side setback of 55 ft. where minimum 100 ft. is required per Town Code §247-40.A. Area variance sought is 45 ft. side setback. Property is approximately 24 acres and zoned R2 Medium-density Residential.

- e. Samra - 6755 Aiken Rd. Owner wishes to construct a 777 sq. ft. accessory structure where 600 sq. ft. is maximum allowed per Town Code §247-34.E.(1). Area variance sought is 177 sq. ft. accessory structure size variance. Property is 0.75 acres and zoned R1 Low-density Residential.
- f. Callahan
- g. Schmit

7. Correspondence

- a. Mandatory Workplace Violence Training
- b. TBD – based on inbox at Town Hall

8. Special Topics

9. Miscellaneous ZBA items:

- a. Attendance: next meeting **MONDAY** 27 June 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.