

PENDLETON ZBA AGENDA TUESDAY, 04/26/16 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. (continued from Feb meeting) 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. Dimaria, Charles – 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.
- d. Bush, Kevin – 6797 Campbell Blvd. Owner wishes to build a 100 ft. x 85 ft. pond with a side setback of 20 ft. where minimum required is 100 ft. per Town Code §247-46.A.(1) Area variance sought is 80 ft. side yard setback variance on each side of property. Property is 1.9 acres and zoned R1 Low-density Residential.
- e. Alex, Chris – 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.
- f. Hopkins, Todd – 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.
- g. Samra, Jai – 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.

2. Open regular meeting of ZBA

3. Changes to agenda

4. New Inquires to ZBA

5. Review minutes from prior meeting
 - a. Minutes 03/22/16
 - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-March-2016.pdf>

6. Deliberation on Hearing
 - a. Cantanese
 - b. Marciniak
 - c. Dimaria
 - d. Buch
 - e. Alex
 - f. Hopkins
 - g. Samra

7. Correspondence
 - a. Letter re Zeiss decision
 - b. Mandatory Workplace Violence Training May 17, 2016 1:00 PM
 - c. 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 24 May 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.