

## **PENDLETON ZBA AGENDA TUESDAY, 12/27/16 7:00 PM**

1. Public Hearings
  - a. Edwards, Don – 4744 Meyer Rd. Owner wishes to construct a 1200 sq. ft. accessory structure where 600 sq. ft. is maximum allowed per Town Code §247-34.E.(1). Variance sought is 600 sq. ft. accessory structure size variance. Property is approx. 1 7/8 acre and zoned R1 Low-density Residential.
  - b. Graham, Michael – 5171 Tonawanda Creek Rd. Owner wishes to construct a 154 ft. high self-standing steel triangular tower to support a wind turbine generator where Town Code requirements are:
    - i. Minimum distance from any property line is 1.5 times total height of tower (§247-68.13.B.(1))
    - ii. Minimum distance from any off-site residence is 500 ft. (§247-68.13.B.(3))
    - iii. Residential wind energy conversion system towers must be monopole design (§247-68.13.I.(3))
    - iv. Maximum of 120 ft. height (§247-68.13.I.(7))Variances are sought against all four code requirements. Property is 61.7 acres and 1.08 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 011/22/16  
<http://pendletonny.us/wp-content/uploads/2010/11/ZBA-November-2016.pdf>
6. Deliberation on Hearings
  - a. Edwards
  - b. Graham
7. Correspondence
  - a. TBD – based on inbox at Town Hall
8. Special Topics
  - a. Set date and meeting time for January 2017.
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting, Tuesday 24 January 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.