

PENDLETON ZBA AGENDA TUESDAY, 02/28/17 7:00 PM

1. Public Hearings
 - a. Urban, Howard – 6856 Transit Rd. Owner wishes to construct a high temperature air dome at a max height of 60 ft. where maximum building height specified in Town Code §247-13.J is 35 ft. Variance sought is 25 ft. structure height variance. Property is 155.4 acres and zoned CO2 Medium Commercial.
 - b. Blanton, Ethan and Marian – 5761 Dunnigan Rd. Owner wishes to construct a 24 ft. x 14 ft. (336 sq. ft.) accessory structure at a front yard setback of 100 ft. where 150 ft. is the minimum front yard setback allowed per Town Code §247-34.F(2)(a). Variance sought is 50 ft. accessory structure front yard setback variance. Property is 1.425 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 1/22/17
 - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-January-2017.pdf>
6. Deliberation on Hearing(s)
 - a. Urban
 - b. Blanton
7. Correspondence
 - a. TBD – based on inbox at Town Hall
8. Special Topics
 - a. 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.
 - b. 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 28 Mar 2017 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.