

PENDLETON ZBA AGENDA TUESDAY, 07/25/17 7:00 PM

1. Public Hearings
 - a. Madonia, Tony – 4881 Tonawanda Creek Rd. Prospective buyer seeks preapproval for a variance to construct a 50 ft. x 100 ft. building at a 20 ft. side yard setback from a residential zone where a minimum of 100 ft. is required per Town Code §247-12.E. Variance sought is 80 ft. side setback variance. Property is 1.6 acres and zoned C01 Light Commercial.
 - b. Scozzafava, Tom – 7338 Paddock Ridge. Owner wishes to construct an accessory structure at a setback of 90 ft. where 150 ft. minimum is required per Town Code §247-34.F(2)(a). Variance sought is 60 ft. front yard setback variance. Property is 0.57 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(s)
 - a. 27 June 2017 - <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-June-2017.pdf>
6. Deliberation on Hearing(s)
 - a. Pinzone, Mary – 4729 Mapleton Rd. (Public Hearing 27 June 2017) Owner wishes to construct a parking area in front of an existing building at a 30 ft. front setback where 50 ft. minimum front setback is required per Town Code §247-12.G.(2). Variance requested is 20 ft. front setback variance. Property is 1.46 acres and zoned Light Commercial.
 - b. Meyer, Don – 5924 Fisk Rd. (Public Hearing 27 June 2017) Owner wishes to construct a 48 ft. x 72 ft. (3456 sq. ft.) accessory structure where 1200 sq. ft. maximum is allowed per Town Code §247-34.E(2). Area variance sought is 2256 sq. ft. accessory structure area variance. Property is 5.1 acres and zoned R2 Medium-density Residential.
 - c. Winstel, John – 4097 Beach Ridge Rd. (Public Hearing 27 June 2017) Prospective buyer wishes to utilize the property for his small general contracting business and is seeking a determination that this is a continuation of current non-conforming use. Proposed business specializes in exterior renovations and property maintenance. Property is 1.1 acres and zoned R1 Low-density Residential.
 - d. Madonia
 - e. Scozzafava
 - f. Empire Pipeline, Inc. – 4281 Killian Rd. (Public Hearing 25 May 2017) Applicant requests a determination that it is an “essential service” under Town Code §247-4; or, in the alternative, requests a use variance to place, construct and/or operate a natural gas compressor facility on the site. Property is approximately 20 acres and zoned LI District: Light Industrial.
7. Correspondence. TBD – based on inbox at Town Hall

8. Special Topics

9. Miscellaneous ZBA items:

- a. Attendance: next meeting
 - i. 22 August 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.