

## **PENDLETON ZBA AGENDA TUESDAY, 04/24/18 7:00 PM**

1. Public Hearings
  - a. Elberson, Thomas – 5822 Dunnigan Rd. Owner wishes to construct a new 30 ft. x 40 ft. accessory structure (1200 sq. ft.) where 600 sq. ft. is maximum allowed per Town Code 247-34.E(1). Area variance sought is 600 sq. ft. accessory structure size (area) variance. Property is 1.7 acres and zoned R2 Medium Residential.
  - b. Leible, Robert – 6750 Campbell Blvd. Owner has placed an accessory structure at 120 ft. from front property line where 150 ft. minimum front yard setback is required per Town Code 247-34.F(2). Area variance sought is 30 ft. front yard setback variance. Property is 2.78 acres and zoned R2 Medium Residential.
  - c. Schmit, Michael – 5972 Fisk Rd. Owner wishes to construct a new accessory structure with height of 29 ft. where 20 ft. maximum of 20 ft. is allowed per Town Code 247-34.F(3)(d). Area variance sought is 9 ft. accessory structure height variance. Property is 4.9 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(s)
  - a. 27 March 2018 – <http://pendletonny.us/wp-content/uploads/2018/04/115-ZBA-March-2018-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
  - a. Rawe, Andrew – 6971 Bear Ridge Road (Continued from 3/27/18) Owner is requesting an area variance of 1497 sq. ft. to construct a 44x66 (2640 sq. ft.). A maximum size of 2000 sq. ft. is allowed for this parcel of 21.9 acres. Also, there is an existing accessory building on the parcel that is 857 sq. ft. Requested variance was modified at public hearing to account for overhangs on both existing and proposed buildings
  - b. Maurer, Blair – 4555 Meyer Road. (Continued from 3/27/18) Owner wishes to construct a 1680 sq. ft. building (1200 sq. ft. building with 480 sq. ft. overhang) where 1200 sq. ft. maximum is allowed. Owner also wishes to build at peak height of 22 ft. where 20 ft. maximum is allowed. Variances sought are 480 sq. ft. of accessory structure size and 2 ft. of accessory structure height. Relevant Town Codes are §247-34F(3)(d) and 247-34E(2). Property is 2.0 acres and zoned R2 Medium Residential.
  - c. Elberson
  - d. Leible
  - e. Schmit
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics - None
9. Miscellaneous ZBA items:

- a. Attendance: next meeting
  - i. 23 May 2018 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.