

PENDLETON ZBA AGENDA TUESDAY, 01/22/19 7:00 PM

1. Public Hearings
 - a. **Wojtas, Philip – 6697 Dublin Ln.** Owner has constructed a 20 ft. x 16 ft. accessory structure 6 ft. from the side lot line where a minimum of 15 ft. is required per Town Code §247-34 F(2)(b). Area variance is sought for side yard setback variance of 9 ft. Property is 0.74 Acres and zoned R-2 Medium Residential.
 - b. **McDermitt, Paul – 4623 Mapleton Rd.** Owner wishes to place a 30 ft. x 40 ft. accessory structure at 138 ft. from the front property line where minimum of 150 ft. is required per Town Code §247-34 F(3)(a). Area variance sought is for front yard setback variance of 12 ft. Property is 1.3 acres and zoned CO-1 Light Commercial.
 - c. **Miller, Brian – 5874 Fisk Rd. (Continued from 12/18/18)** Owner wishes to construct 1,920 sq. ft. accessory structure (32 ft. x 60 ft.) where there is an existing 1,040 sq. ft. (26 ft. x 40 ft.) structure for a total aggregate accessory structure size of 2,960 sq. ft. Maximum allowed per Town Code §247-13.E(2) is 1200 sq. ft. Area variance is sought for aggregate accessory structure size variance of 1,760 sq. ft. Property is 6.98 acres and zoned R-2 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. 18 December 2018 – See website www.Pendletonny.us
6. Deliberation on Hearing(s)
 - a. Wojtas
 - b. McDermitt
 - c. Miller
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Set 2019 (plus Jan 2020) Schedule for Public Hearings/ZBA Meetings
 - b. Determine standard meeting start time
 - c. Review Sign-in sheet
 - d. Review Request to Petition for a Variance
 - e. Reappointment status –Meholick
 - f. Training
 - g. Review 2018 attendance
 - h. 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.

i. 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

i. 26 February 2019 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.