

PENDLETON ZBA AGENDA TUESDAY, 05/28/19 7:00 PM

1. Public Hearings
 - a. **MJP Airport LLC – 4829 Tonawanda Creek Rd.** Owner requests a variance for a lot width of 97 ft. where minimum allowed per Town Code §247-11.C(1) is 100 ft. Area variance sought is 3 ft. lot width variance. Property is 23.3 acres and zoned R-2 Medium Residential.
 - b. **Goris, Mike – 5501 Irish Rd.** Owner wishes to construct a covered porch at a front yard setback of 48.7 ft. where minimum allowed front yard setback is 60 ft. per Town Code §247-11.D(1). Area variance sought is 11.3 ft. front yard setback variance. Property is 0.84 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. 30 April 2019 – <http://pendletonny.us/wp-content/uploads/2019/05/ZBA-April-2019-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. MJP Airport LLC
 - b. Goris
 - a. Pinto (6885 Campbell Blvd. Continued from 30 April 2019 meeting)
Owner wishes to construct a single family house on a property at a 394' front yard setback where a maximum allowed is 250' per Town Code §247-10 D (3). Property is approximately 2.85 acres and is zoned R-1 residential. Town Ordinance Affected: §247-10 D (3) Variance Sought: 144' front yard setback Size of Parcel: 2.85 acres Current Zoning: R-1
 - b. Bogart (6889 Campbell Blvd. Continued from 30 April 2019 meeting)
Same request as Pinto.
 - c. Johnson (5568 Mapleton Rd. Continued from 30 April 2019 meeting)
Owner wishes to construct a 28' x 32' (896 sq. ft.) detached garage to a (528 sq. ft.) existing detached garage, where on 50% of the primary structure is allowed which is 1248 sq. ft. = 624 sq. ft. Also, owner wished to construct garage addition at a 12' side yard setback where 15' is allowed. Town Ordinances Affected: §247-11(I), §247-11(E) Variance Sought: 800 sq. ft. and 3' side yard setback Size of Parcel: 1.2 acres Current Zoning: R-2
 - d. Pagels (6341 Campbell Blvd. Continued from 30 April 2019 meeting)
Owner wishes to construct a 12' x 24' (288 sq. ft.) accessory structure on property at a 45' front yard setback, where a minimum of 150' is allowed per Town Code §247-34 F2(a). Town Ordinance Affected: §247-34 F2(a) Variance Sought: 105' front yard set Size of Parcel: 3.0 acres Current Zoning: R-2
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – Training Orchard Park (4/30) and Millenium (5/13)

9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 25 June 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.