

PENDLETON ZBA AGENDA TUESDAY, 08/27/19 7:00 PM

1. Public Hearings
 - a. **Cappello, Ronald (Gasper Fulfaro, Agent) – 5532 Killian Rd.** Tenant of property wishes to operate a stone crushing operation in zoning district where such activity is not a permitted use per Town Code §247-14. Stone crushing operation is also located 450 ft. from an occupied dwelling where no power-activated sorting machinery or equipment may be located within 600 ft. of any occupied dwelling per Town Code §247-43.B. Variances sought are a use variance allowing use of the property for stone crushing operation and an area variance of 150 ft. from the 600 ft. required setback. Property is 6.6 acres and zoned LI Light Industrial.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. 23 July 2019 – <https://pendletonny.us/wp-content/uploads/2019/08/131-ZBA-July-2019-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. Donner – From hearing 6/25/19. Owner wishes to construct a 26 ft. x 40 ft. (1040 sq. ft.) 18 ft. high accessory structure where maximums allowed are 600 sq. ft. and 16 ft. respectively, per Town Code §247-34.E(1) and §247-34.F(2)(d). Area variances sought are 440 sq. ft. accessory structure size variance and 2 ft. accessory structure height variance. Property is 150 ft. x 275 ft. and zoned R-2 Medium Residential.
 - b. Cappello
7. Correspondence.
 - a. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 24 September 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.