

**PENDLETON ZBA AGENDA  
TUESDAY, 10/22/19 7:00 PM**

1. Public Hearings
  - a. **On hold: Cappello, Ronald (Gasper Fulfaro, Agent) – 5532 Killian Rd.**  
Continuation of public hearing on hold per request of applicant.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. 24 September 2019 – <https://pendletonny.us/wp-content/uploads/2019/09/133-ZBA-September-2019-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s) – none
7. Correspondence.
  - a. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting
    - i. 26 November 2019 7:00 PM
    - ii. 17 December 2019 7:00 PM (note: third Tuesday)
  - 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.