

PENDLETON ZBA AGENDA

TUESDAY, 02/25/20 7:00 PM

1. Public Hearings
 - a. **McDonough, Jamie – 4561 Beach Ridge Rd.** Owner wishes to construct a 24 ft. x 40 ft. accessory structure (960 sq. ft.) where the maximum accessory structure size allowed per Town Code §247-34.E.(1) is 600 sq. ft. There is an existing 10 ft. x 12 ft. (120 sq. ft.) accessory structure on the property. Area variance sought is an aggregate accessory structure size variance of 480 sq. ft. Property is 125 ft. x 375 ft. and zoned R2 Medium-Density Residential.
 - b. **Littlefield, Richard – 7381 Bear Ridge Rd.** Owner requests variance for an existing 1500 sq. ft. accessory structure where maximum allowed per Town Code §247-34.E.(2) is 1200 sq. ft. There is an additional 1328 sq. ft. accessory structure on the property. Area variance sought is an aggregate accessory structure size variance of 1628 sq. ft. Property is 4.3 acres and zoned R2 Medium-Density Residential.
 - c. **Freundschuh, Tim – Vacant Lot 166.00-1-14 (East of 6079 Tonawanda Creek Rd)** Owner requests variance to construct single family residence at 300 ft. front setback on a nonconforming lot where maximum front setback allowed per Town Code §247-10.D.(3) is 250 ft. Frontage of property is 80 ft. where minimum required per Town Code §247-10.C.(1) is 125 ft. Property is 40 acres and zoned R1 Low-Density Residential.
 - d. **Rizek, Samer – 4097 Beach Ridge Rd.** Owner wishes to lease out a portion of the building for office and retail business space under the existing nonconforming use conditions (see Town Code §247-59). Interpretation sought is applicability of current nonconforming use to the proposed uses. Property is 1.1 acres and zoned R1 Low-Density Residential.
 - e. **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. 17 December 2018 – See website <https://pendletonny.us/wp-content/uploads/2020/02/137-ZBAJanuary-2020-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. McDonough
 - b. Littlefield
 - c. Freundschuh
 - d. Rizek
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:

- a. Attendance: next meeting
 - i. 24 March 2020 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.