

**PENDLETON ZBA AGENDA
TUESDAY, 06/23/20 7:00 PM**

1. Public Hearings

- a. **Morris, Nathan – 4779 Tonawanda Creek Rd.** Owner wishes to construct a 30 ft. x 60 ft. (1800 sq. ft.) accessory structure with 12 ft. x 60 ft. (720 sq. ft.) lean-to where 1200 sq. ft. is maximum allowed per Town Code §247-34.E.(2). Area variance sought is 1320 sq. ft. accessory structure size variance. Property is 4.7 acres and zoned R2 Medium-Density Residential.
- b. **Dexheimer, Jennifer and Kevin – 5877 Dunnigan Rd.** Owners wish to construct an accessory structure on property with an existing accessory structure where total aggregate accessory structure size will be approx. 1137 sq. ft. Maximum aggregate accessory structure size allowed is 600 sq. ft. per Town Codes §247-34.E.(1) and §247-34.C. Area variance sought is 537 sq. ft. of accessory structure area variance. Property is 150 ft. x 250 ft. and zoned R2 Medium-Density Residential.
- c. **Dispenza, Charles – 6721 Aiken Rd.** Owner wishes to construct a 300 sq. ft. (approx.) egg storage building at 45 ft. front yard setback where minimum allowed per Town Code §247-34.F.(2)(a) is 150 ft. Area variance requested is 105 ft. of accessory structure front yard setback variance. Property is 15 acres and zoned R1 Low-Density Residential.
- d. **Scruggs, Richard – 4675 Meyer Rd.** Owner wishes to construct a 28 ft. x 30 ft. (840 sq. ft.) accessory structure where maximum allowed per Town Code §247-34.E.(1) is 600 sq. ft. Area variance sought is 240 sq. ft. accessory structure size variance. Property is 1.14 acres and zoned R1 Low-Density Residential.
- e. **Jordan, Kelly – 7151 Rolling Meadows.** Owner wishes to move existing 10 ft. X 12 ft. shed to 85 ft. from front lot line and 5 ft. from side lot line where minimums are 150 ft. and 15 ft. respectively, per Town Codes §247-34.F.(2)(a) and §247-34.F.(2)(b). Area variances sought are 65 ft. accessory structure front yard setback variance and 10 ft. accessory structure side yard setback variance. Property is 165 ft. x 250 ft. and zoned R2 Medium-Density Residential.
- f. **Santillo, Joe – 7172 Creekbend Dr.** Owner wishes to construct a 32 ft. x 30 ft. accessory structure (960 sq. ft.) at 120 ft. front yard setback where the minimum accessory structure front yard setback allowed per Town Code §247-34.F.(3)(a) is 150 ft. Area variance sought is an accessory structure front yard setback of 30 ft. Property is 4.7 acres and zoned R2 Medium-Density Residential.
- g. **Lukasik, Timothy – 4581 Ridgeview Drive South.** Owner wishes to construct a 15 ft. x 22 ft. pool house with an additional 245 sq. ft. of roof overhang for a total of 575 sq. ft. area. Aggregate accessory structure size on property, including an existing 12.3 ft. x 14.3 ft. accessory structure, would be approx. 751 sq. ft. where 600 sq. ft. is maximum allowed per Town Codes §247-34.E.(1) and §247-34.C. New structure is planned for 90 ft. front yard setback where minimum allowed is 150 ft. per Town Code §247-34.F.(2)(a). Area variances sought are 151 sq. ft. of aggregate accessory structure size variance and 60 ft. of accessory structure front yard setback variance. Property is 125 ft. x 200 ft. and zoned R2 Medium-Density Residential.
- h. **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. 25 February 2018 – See website <https://pendletonny.us/wp-content/uploads/2020/03/138-ZBAFebruary-2020-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. Littlefield - 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.
 - b. Freunds Schuh - 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.
 - c. Rizek - 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.
 - d. Morris
 - e. Dexheimer
 - f. Dispenza
 - g. Scruggs
 - h. Jordan
 - i. Santillo
 - j. Lukasik
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 28 July 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.