

**PENDLETON ZBA AGENDA**  
**TUESDAY, 08/25/20 7:00 PM**  
(Revised 08/24/20)

**NOTE: All appropriate health and safety guidelines will be followed. All in attendance should expect to wear a mask and social distance. Entry to the Town Hall meeting room will be through direct doors at the southwest corner of the building.**

1. Public Hearings

- a. **Benson, Diane – 5123 Mapleton Rd.** Owner wishes to construct a garage addition to the primary residence with a side yard setback of 10 ft. where minimum side yard setback of 15 ft. is required per Town Code §247-11.E. Area variance requested is 5 ft. side yard setback variance. Property is 100 ft. x 400 ft. and zoned R2 Medium-Density Residential.
- b. **DiPasquale, Daniel – 4674 Meyer Rd.** Owner wishes to construct a garage with area of 1,440 SF at a 10 ft. side yard setback where maximum size allowed is 543 SF. and minimum side yard setback required is 15 ft. per Town Codes §247-10.I and §247-10.E, respectively. Area variances requested are 897 SF garage area variance and 5 ft. side yard setback variance. Property is 100 ft. x 1589 ft. (3.4 acres) and zoned R1 Low-Density Residential.
- c. **Sunbeam Laboratories, LLC – 6150 Donner Rd.** Owner is requesting an appeal from a Notice of Violation dated 22 July 2020 and a Stop Work Order dated 5 August 2020. Parcel is 8.3 acres and zoned LI Light Industrial.

Note: Applicant has requested an adjournment of this hearing to the 22 September 2020 ZBA meeting in a letter dated 21 August 2020 from The Zoghlin Group PLLC, Attorneys at Law representing Sunbeam Laboratories LLC.

- d. **On hold: Cappello, Ronald (Gasper Fulfaro, Agent) – 5532 Killian Rd.** Continuation of public hearing on hold per mutual agreement with applicant.

2. Open regular meeting of ZBA

3. Changes to agenda

4. New Inquires to ZBA

5. Review minutes from prior meeting(s)

- a. July minutes - <https://pendletonny.us/wp-content/uploads/2020/08/140-ZBA-July-2020-Minutes.doc.pdf>

6. Deliberation on Hearing(s)

- a. **Benson**
- b. **DiPasquale**
- c. **Sunbeam**
- d. **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.

7. Correspondence. TBD – based on inbox at Town Hall

8. Special Topics
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting
    - i. 22 September 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.