

**PENDLETON ZBA AGENDA
TUESDAY 09/22/20 7:00 PM**

NOTE: All appropriate health and safety guidelines will be followed. All in attendance should expect to wear a mask and social distance.

1. Public Hearings
 - a. **Hayes, Jill and Farley, Scott – 7264 Creekbend Dr.** Owners wish to construct a 1400 SF accessory structure at a front yard setback of 102 ft. where maximum accessory structure area allowed is 600 SF and minimum front yard setback required is 150 ft. per Town Codes §247-34.E(1) and §247-34.F(3)(a), respectively. Area variances requested are 800 SF accessory structure size variance and 48 ft. front yard setback variance. Property is 147 ft. x 250 ft. and zoned R2 Medium-Density Residential.
 - b. **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.
 - c. **Cappello, Ronald (Gasper Fulfaro, Agent) – 5532 Killian Rd.** (continued from public hearing of 23 July 2019). Tenant of property wishes to operate a stone crushing operation which is located 450 ft. from an occupied dwelling where no power-activated sorting machinery or equipment shall be located within 600 feet of any occupied dwelling per Town Code §247-43.B. Area variance sought is 150 ft. variance from required 600 ft. separation from any occupied residential dwelling. 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. August minutes - <https://pendletonny.us/wp-content/uploads/2020/09/141-ZBA-August-202-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. **Hayes/Farley**
 - b. **Sunbeam**
 - c. **Fulfaro**
 - 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. 27 October 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.