

**PENDLETON ZBA AGENDA  
TUESDAY, 02/23/21 7:00 PM**

1. Public Hearings
  - a. **Arlington, Tim (on behalf of Howard Urban) – Property at Tonawanda Creek Rd. and Transit Rd.** Petitioner desires to construct a building wall longer than 25 ft. with 2 ft. offset where a minimum of 4 ft. offset is required per Town Code §247-12.K.(9). Petitioner also desires to create 2.6 parking spaces per unit on a site where a minimum of 3 spaces per unit is required per Town Code §247-12.K.(18)(c). Area variances sought are 2 ft. wall offset variance and 0.4 parking space variance. Property is 12.92 acres and zoned CO2 Medium Commercial.
  - b. **Bannochie, Eric – 7035 Bear Ridge Rd.** Owner wishes to construct 30 ft. x 24 ft. (approx.) accessory structure at a side yard setback of 10 ft. where a minimum of 15 ft. side yard setback is required per Town Code §247-34.F.(3)(b). Area variance sought is 5 ft. side yard setback variance. Property is 2.75 acres and zoned R1 Low-Density Residential.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. 26 January 2021 – see website
6. Deliberation on Hearing(s)
  - a. Arlington
  - b. Bannochie
  - c. Sunbeam Laboratories, LLC.
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – None planned
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting
    - i. 23 March 2021 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.