

PENDLETON ZBA AGENDA

TUESDAY, 03/23/21 7:00 PM

1. Public Hearings
 - a. **Grear, Scott – 6991 Bear Ridge Rd.** Owner wishes to construct a 16 ft. x 36 ft. extension to rear of an existing accessory structure for a total of 2,304 SF where maximum accessory structure size allowed is 1,200 SF per Town Code §247-34.E.(2). Area variance sought is 576 SF accessory structure size variance. There is an existing accessory structure size variance of 528 ft. approved by ZBA on 22 May 2001. Property is 4.77 acres and zoned R1 Low-Density Residential.
 - b. **Burich, Keith and Mary – 5217 Tonawanda Creek Rd.** Owners wish to construct a 1,036 SF detached garage at a 62 ft. front yard setback where minimum 100 ft. front yard setback is required per Town Code §247-11.D.(1). Area variance sought is 38 ft. detached garage front yard setback variance. Property is 153 ft. x 683 ft. and zoned R2 Medium-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. 23 February 2021 – see website
6. Deliberation on Hearing(s)
 - a. Arlington (on behalf of Howard Urban) - Property at Tonawanda Creek Rd. and Transit Rd (Public Hearing 2/23/21) - Petitioner 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 variance sought is 0.4 parking spaces per unit. Property is 12.92 acres and zoned CO2 Medium Commercial.
 - b. Grear
 - c. Burich
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – None planned
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 27 April 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.