

PENDLETON ZBA AGENDA

TUESDAY, 04/27/21 7:00 PM

1. Public Hearings
 - a. **Andrzejewski, Dion – 7212 Creekbend Dr.** Owner wishes to construct a 14 ft. x 24 ft. accessory structure at a 10 ft. side yard setback where 15 ft. minimum side yard setback is required per Town Code §247-34.F.(2)(b). Area variance sought is 5 ft. side yard setback variance. Property is 100 ft. x 359 ft. and zoned R2 Medium-Density Residential.
 - b. **Weller, Mark – 4946 Cloverleaf Lane.** Owner wishes to construct a 600 SF accessory structure on property in addition to an existing 140 SF accessory structure. Total aggregate accessory structure size would be 740 SF where 600 SF is maximum allowed per Town Code §247-34.E.(1). Owner also wishes to place the new structure at a front yard setback of 118 ft. where minimum allowed per Town Code §247-34.F.(2)(a). Area variances sought are 140 SF aggregate accessory structure size variance and 32 ft. front yard setback variance. Property is 100 ft. x 250 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 March 2021 - <https://pendletonny.us/wp-content/uploads/2021/04/ZBA-March-2021-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s)
 - a. 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.
 - b. Andrezejewski
 - c. Weller
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – None planned
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting 25 May 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.