

## PENDLETON ZBA AGENDA TUESDAY, 09/28/21 7:00 PM

1. Public Hearings
  - a. **Alex, Christopher and Danielle** – 4932 Devonshire Ln. Property has an existing pool filter system at 11 ft. property boundary setback where a minimum setback of 15 ft. is required per Town Code §222-2.D. Area variance sought is 4 ft. property setback variance. Property is 100 ft. x 256 ft. and zoned R2 Medium-Density Residential.
  - b. **Riedy, Joseph and Nicole** – 7216 Creekbend Dr. Owners wish to construct a 500 SF accessory structure at a 10 ft. side yard setback where a minimum side yard setback of 15 ft. is required per Town Code §247-34.F.(2)(b). Area variance sought is 5 ft. side yard setback variance. Property is 0.70 acres and zoned R2 Medium-Density Residential.
  - c. **Barbalato, Anthony** – 4126 Mapleton Rd. Owner wishes to construct a 1,792 SF accessory structure at a side yard setback of 3 ft. where the maximum size allowed is 1200 SF per Town Code §247-34.E.(2) and minimum side yard setback required is 15 ft. per Town Code §247-34.F.(3)(b). Property is 3.12 acres 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. 24 August 2021 – See <https://pendletonny.us/wp-content/uploads/2021/08/153-August-2021-ZBA-Meeting-Minutes.pdf>
6. Deliberation on Hearing(s) –
  - a. Alex
  - b. Riedy
  - c. Barbalato
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – None planned
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting 26 October 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.