

**PENDLETON ZBA AGENDA
TUESDAY, 12/28/21 7:00 pm.**

1. Public Hearings
 - a. **Doherty, Stephan** – 5138 Tonawanda Creek Rd. (Continued from 23 November 2021) Owner wishes to construct a 1520 SF detached garage where a where maximum detached garage size is 1200 SF per Town Code §247-11.I. Area variance sought is 320 SF detached garage size variance. Property is 125 ft. x 258 ft. and zoned R2 Medium-Density Residential.
 - b. **Culligan, Bruce** – 5408 Oakwood Dr. Owner wishes to construct a 960SF accessory structure (40' x 24') where maximum accessory structure size allowed is 600 SF per Town Code §247-34.E.(1). Owner also wishes to place the accessory structure 10 ft. from the side property line where minimum side yard setback is 15 ft. per Town Code §247-34.F.(2)(b). Area variances sought are 360 SF accessory structure size variance and 5 ft. side yard setback variance. Property is 100 ft. x 375 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. See Town website - <https://pendletonny.us/>
6. Deliberation on Hearing(s)
 - a. Doherty
 - b. Culligan
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics – None planned
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting 25 January 2022 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.