

PENDLETON ZBA AGENDA

TUESDAY, 02/22/22 7:00 PM

1. Public Hearings
 - a. Grant, David – 7199 Pendale Circle. Owner wishes to erect a 12 ft. x 16 ft. accessory structure at a 7 ft. side yard setback and a 110 ft. front yard setback where minimum setbacks of 15 ft. and 150 ft., respectively, are required per Town Codes §247-34.F.(2)(b) and §247-34.F.(2)(a). Area variances requested are 8 ft. side yard setback variance and 40 ft. front yard setback variance. Property is 100 ft. x 250 ft. and zoned R1 Low-density Residential.
 - b. Magnuszewski, Dan – 5594 Tonawanda Creek Rd. Owner wishes to construct a 40 ft. x 100 ft. (4000 SF) accessory structure where maximum allowed accessory structure size is 2000 SF per Town Code §247-34.E.(3). There is an existing 24 ft. x 50 ft. (1200 SF) accessory structure on site. Area variance requested is 4000 SF aggregate accessory structure size variance. Property is 8.8 acres and zoned R2 Medium-density Residential.
 - c. Sawma, Brian and Jamie – 4075 Mapleton Rd. Applicants wish to construct a new single-family home at a setback of 45 ft. from Townline Rd. where minimum setbacks from both streets on corner lots is 75 ft. per Town Code §247-26.A and §247-10.D.(1). Area variance sought is 30 ft. corner lot setback variance. Property is 160 ft. x 296 ft. 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. 25 January 2022 – [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
 - a. Grant
 - b. Magnuszewski
 - c. Sawma
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 22 March 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.