

PENDLETON ZBA AGENDA

TUESDAY, 03/22/22 7:00 PM

1. Public Hearings
 - a. Magnuszewski, Dan – 5549 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 3200 SF aggregate accessory structure size variance. Property is 8.8 acres and zoned R2 Medium-density Residential.
 - b. Allen, Eric – 7101 Townline Rd. Applicant wishes to construct a 21 ft. x 36 ft. garage (756 SF) at a side yard setback of 3 ft. and a front yard setback of 89 ft. where the minimum side yard setback is 15 ft. per Town Code §247-10.E and the minimum front yard setback is 100 ft. per Town Code §247-10.D.(1). Area variances sought are 12 ft. side yard setback variance and 11 ft. front yard setback variance. Property is 100 ft. x 300 ft. and zoned R1 Low-density Residential.
 - c. Graham, Jacob – Property SBL 137.00-1-1.112 located on Lockport Rd. Applicant wishes to construct a 40 ft. x 80 ft. retail structure at a 60.1 ft. front setback in a Special Light Industrial (SLI) District where a minimum 100 ft. front setback is required per Town Code §247-15.H. Variance sought is 39.9 ft. front setback variance. Property is 1,705 ft. x 65.43 acres and zoned SLI Special Light Industrial.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. 22 February 2022 - [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
 - a. Magnuszewski
 - b. Allen
 - c. Graham
 - d. Grant – Pendale Cir. (hearing held 22 Feb 2022)
 - e. Sawma – Mapleton Rd. (hearing held 22 Feb 2022)
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Proposed revisions to the Town Code.
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 26 April 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.