

## **PENDLETON ZBA AGENDA TUESDAY, 05/24/22 7:00 PM**

### 1. Public Hearings

- a. Dunn, Matt – 4904 Mapleton Rd, Pendleton NY  
Applicant wishes to construct a 50 ft. x 60 ft. (3,000 SF) accessory structure on a parcel resulting from a propose subdivision. Maximum accessory structure size allowed on the proposed parcel is 1200 SF per Town Code §247-34.E.(2). Also, an accessory structure is subordinate to the main residence and would not be allowed until a residence is constructed on the proposed parcel. Proposed lot will be under 7 acres and zoned R2 Medium-Density Residential. Area variance sought is 2800 SF accessory structure size variance.
- b. Demmin, James – 5840 Donner Rd, Pendleton NY  
Owner wishes to construct a 24 ft. x 30 ft. detached garage at a 40 ft. front yard setback where the minimum setback allowed is 100 ft. per Town Code §247-11.D.(1). Property is 1.26 acres and zoned R2 Medium-Density Residential. Area variance sought is 60 ft. front yard setback variance for detached garage.
- c. Sattleburg, John – 6652 Aiken Rd, Pendleton NY  
Owner request a variance to allow a second 12 ft. x 24 ft. (288 SF) accessory structure to remain on property. There is currently a 1200 SF pole barn on the property per a variance granted in 2003. The maximum aggregate accessory structure size allowed is 600 SF per Town Code §247-34.E.(1). Property is 80.38 ft. x 300 ft. and zoned R2 Medium-Density Residential. Additional area variance sought is 288 SF accessory structure size variance in addition to the existing accessory structure size variance of 600 SF.
- d. Walker, Nicholas – 5536 Mapleton Rd, Pendleton NY  
Owner wishes to construct a 36 ft. x 16 ft. (1,728 SF) accessory structure where maximum allowed accessory structure size is 1200 SF per Town Code §247-34.E.(2). Property is 220 ft. wide (2+ acres) and zoned R2 Medium-Density Residential. Area variance sought is 528 SF accessory structure size variance.
- e. Zielen, John – 5543 Irish Rd, Pendleton NY  
Owner wishes to construct a 30 ft. x 40 ft. accessory structure at a 5 ft. side yard setback where minimum side yard setback allowed is 15 ft. per Town Code §247-34.F.(3)(b). Property is 102 ft. x 861 ft. (approx. 2.1 acres) and zoned R2 Medium-Density Residential. Area variance sought is 10 ft. side yard setback variance.
- f. Aponchuk, Anatolly – 7189 Creekbend Dr, Pendleton NY  
Owner wishes to construct a 16 ft. x 20 ft. accessory structure at a front yard setback of 90 ft. where minimum front yard setback allowed is 150 ft. per Town Code §247-34.F.(2)(a). Property is 100 ft. x 221 ft. and zoned R2 Medium-Density Residential. Area variance sought is 60 ft. front yard setback variance.

### 2. Open regular meeting of ZBA

### 3. Changes to agenda

4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. 26 April 2022 – [see Pendleton Website](#)
6. Deliberation on Hearing(s)
  - a. Allen, Eric – 7101 Townline Rd. (from hearing on 22 March 2022) 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.
  - b. Dunn
  - c. Demmin
  - d. Sattleburg
  - e. Walker
  - f. Zielen
  - g. Aponchuk
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting
    - i. 28 June 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.