

## **PENDLETON ZBA AGENDA TUESDAY, 06/28/22 7:00 PM**

1. Public Hearings
  - a. Wendt, Aaron – 5333 Oakwood Dr, Pendleton NY  
Applicant wishes to construct a 728 SF accessory structure (pole barn) where the maximum accessory structure size allowed is 600 SF per Town Code §247-34.E.(1). Applicant also wishes to place the structure at a 5 ft. side yard setback where the minimum side yard setback allowed is 15 ft. per Town Code §247-34.F.(2)(b). Property is 100 ft. x 276.44 ft. and zoned R2 Medium-Density Residential. Area variances sought are 128 SF accessory structure size variance and 10 ft. accessory structure size variance.
  - b. Hitzges, Tim – 4758 Beach Ridge Rd, Pendleton NY  
Owner wishes to build an addition to his 2,168 SF accessory structure for a new total area of 4,528 SF where the maximum accessory structure size allowed is 2,000 SF per Town Code §247-34.E.(3). Property is 600 ft. wide and totals 42.3 acres. Property is zoned R2 Medium-Density Residential. Area variance sought is 2,528 SF accessory structure size variance.
  - c. Huff, Alan, H. Sr. – (property located at 6400 Campbell Blvd, Pendleton NY)  
Owner wishes to construct on or develop a parcel of land that does not meet the required minimum road frontage of 200 linear feet. Property is 1.5 acres and zoned CO1 Light Commercial. Area variance sought is relief from minimum lot width requirement of 200 ft.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. 24 May 2022 – [see Pendleton Website](#)
6. Deliberation on Hearing(s)
  - a. Wendt
  - b. Hitzges
  - c. Huff
  - d. Dunn, Matt – 4904 Mapleton Rd, Pendleton NY (from hearing on 24 May 2022).  
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.

- e. Demmin, James – 5840 Donner Rd, Pendleton NY (from hearing on 24 May 2022). 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.
  - f. Sattleburg, John – 6652 Aiken Rd, Pendleton NY (from hearing on 24 May 2022). 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.
  - g. Zielen, John – 5543 Irish Rd, Pendleton NY (from hearing on 24 May 2022). 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.
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
- a. Attendance: next meeting
    - i. 26 July 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.