

Town of Pendleton, NY
Zoning Board of Appeals (ZBA)
Meeting Agenda – March 28, 2023
Pendleton Town Hall - 7:00 PM

1. Public Hearings
 - a. **Robert Benigno (Continued)**
5390 Irish Rd., Lockport, NY 14094
 - Owner wishes to construct a 28'x32' detached garage totaling 896ft². Pursuant to Town Code §247-11(i), a maximum detached or attached garage may be no larger than 50% of the floor area of the primary structure. The primary structure is 1,161ft², the property is 2.13 acres, and zoned R-2 Residential. Area variance sought is 316ft².
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. February 28, 2023 – [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
 - a. Coddiwomple Resorts
 - b. Benigno
7. Review Correspondence (if any)
8. Special Topics
 - a. Review document posting procedures for public hearings
 - b. Review required documents to be turned in with variance requests
 - c. Review public notices sent to neighboring properties in advance of the public hearing
 - d. Training
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - April 25, 2023 at 7:00 PM, Pendleton Town Hall.
 - b. Comments: ZBA members, Legal
10. Adjourn regular meeting of the ZBA

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.