

## PENDLETON ZBA AGENDA TUESDAY, 06/27/16 7:00 PM

1. Public Hearings
  - a. Smith, Joel – 5341 Tonawanda Creek Rd. Owner wishes to construct a detached garage at a side yard setback of 11.5 ft. where minimum required is 15 ft. per Town Code §247-34.E. Area variance sought is 3.5 ft. side yard setback variance. Property is 1.8 acres and zoned R2 Medium-density Residential.
  - b. Grimmer, Thomas – 7172 Bear Ridge Rd. Owner wishes to construct an accessory structure at 60 ft. front yard setback where 150 ft. minimum setback is required per Town Code §247-34.F.(3).(A). Area variance sought is 90 ft. front yard setback variance. Property is 19.6 acres and zoned R1 Low-density Residential.
  - c. DiMaria, Charles - 4188 Tonawanda Creek Rd. Owner wishes to construct a 1140 sq. ft. accessory structure, where 600 sq. ft. maximum is allowed per Town Code §247-34.E.(1). Area variance sought is 540 sq. ft. of accessory structure size variance. Property is 1.6 acres 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
  - a. Minutes 05/24/16  
<http://pendletonny.us/wp-content/uploads/2010/11/ZBA-May-2016.pdf>
6. Deliberation on Hearing
  - a. Smith
  - b. Grimmer
  - c. Dimaria
7. Correspondence
  - a. TBD – based on inbox at Town Hall
8. Special Topics
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting **MONDAY** 25 July 2016 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.