

PENDLETON ZBA AGENDA

TUESDAY, 01/24/17 7:00 PM

1. Public Hearings
 - a. Graham, Michael (continued from 12/27/16) – 5171 Tonawanda Creek Rd. Owner wishes to construct a 154 ft. high self-standing steel triangular tower to support a wind turbine generator where Town Code requirements are:
 - i. Minimum distance from any property line is 1.5 times total height of tower (§247-68.13.B.(1))
 - ii. Minimum distance from any off-site residence is 500 ft. (§247-68.13.B.(3))
 - iii. Residential wind energy conversion system towers must be monopole design (§247-68.13.I.(3))
 - iv. Maximum of 120 ft. height (§247-68.13.I.(7))
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting
 - a. Minutes 12/27/16
 - b. <http://pendletonny.us/wp-content/uploads/2010/11/ZBA-December-2016.pdf>
6. Deliberation on Hearing(s)
 - a. Graham
7. Correspondence
 - a. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Confirm contact info for ZBA members
 - b. Set 2017 (plus Jan 2018) Schedule for Public Hearings/ZBA Meetings
 - c. Determine standard meeting start time
 - d. Review Sign-in sheet
 - e. Review Request to Petition for a Variance
 - f. Reappointment status – Schlemmer 5 yr term - reappointed 1/9/17, Buechler - 2017 Chair.
 - g. Training - 2016 status and rollover balances
 - h. Review 2016 attendance
 - i. Review of referral requirement to Niagara County Planning Board

Per agreement dated December 2005, referral of area variances is not required. Use variances immediately adjacent to a municipal boundary or park, or corner lots on state highways require ZBA referral. A copy of the full agreement is in the ZBA folder.

- j. Review of notification requirement to neighboring municipalities

Notice must be transmitted to the clerk of the adjacent municipality at least ten days prior to any hearing for a use variance for property within 500 ft. of the adjacent municipality.

9. Miscellaneous ZBA items:

- a. Attendance: next meeting 28 Feb 2017 7:00 PM (tentative)
- 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.