

**PENDLETON ZBA AGENDA
TUESDAY, 12/27/22 7:00 PM**

1. Public Hearings
 - a. Hood, Ann – 5275 Mapleton Rd, Pendleton NY
Owner wishes to construct a 1,920 SF accessory structure where maximum accessory structure size allowed is 1,200 SF per Town Code §247-34.E.(2). Property is 5.7 acres and zoned R2 Medium-Density Residential. Area variance sought is 720 SF accessory structure size variance.
 - b. Coddwomple Resorts – property address: 5549 Tonawanda Creek Rd, Pendleton NY (continued from 11/22/22)
Owner wishes to install a pond at 50 ft. setback from side property line where minimum setback required is 100 ft. per Town Code §247-46.A.(1). Property is 8.8 acres with 105 ft. frontage and zoned R1 Low-Density Residential. Area variance sought is 50 ft. pond side 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): [ZBA Minutes \(22 November 2022\)](#)
6. Deliberation on Hearing(s)
 - a. Hood
 - b. Coddwomple Resorts
7. Correspondence. TBD – based on inbox at Town Hall
8. Special Topics
 - a. Training
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - i. 24 January 2023 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.