

**Town of Pendleton, NY**  
**Zoning Board of Appeals (ZBA)**  
**Meeting Agenda – October 24, 2023**  
**Pendleton Town Hall - 7:00 PM**

1. Public Hearings
  - a. **John Kelly**  
*6733 Aiken Rd. Lockport, NY. 14094.*
    - Owner wishes to construct an 11' x 30' (330 SF) addition to an existing 24' x 30' accessory structure resulting in a total of 1,050. Town Code §247-34.E.(1) limits total square feet to 600 SF on a parcel less than 2 acres. Property is 1.01 acres and zoned R-1 Residential. Total area variance sought is 330 SF.
  - b. **Francis Morabito**  
*4424 Beach Ridge Rd. Lockport, NY. 14094.*
    - Owner wishes to remove existing structures on property and construct a new 40' x 60' (2,400 SF) accessory structure and place it less than 15' from the property line. Town Code §247-34.E.(1) limits total square feet to 600 SF on a parcel less than 2 acres. Town Code §247-34.F.(2)(b) requires a 15' side yard setback. Property is 1.15 acres and zoned R-1 Residential. Total area variance sought is 1,800 SF and a side yard setback variance to be determined.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. August 22, 2023 – [ZBA Minutes on Pendleton Website](#)
  - b. September 26, 2023 - [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
  - a. Kelly – 6733 Aiken Rd.
  - b. Morabito – 4224 Beach Ridge Rd.
7. Review Correspondence (if applicable)
8. Special Topics
  - a. Training Opportunities
9. Miscellaneous ZBA items:
  - a. Attendance: next meeting
    - November 28, 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.