

Town of Pendleton, NY
Zoning Board of Appeals (ZBA)
Meeting Agenda – October 22, 2024
Pendleton Town Hall - 7:00 PM

1. Public Hearings

a. Ferlito Restaurants Inc. (Continued)

4072 Beach Ridge Rd. N. Tonawanda, NY. 14120.

- Owner wishes to allow retail operations on a residential lot (7083 Townline Rd. N. Tonawanda, NY. 14120) in a non-conforming district. Town Code §247-10 does not permit the intended use by right or special use permit. Property is 90' x 166' and zoned R-1 Residential. A use variance will be considered for the property at 7083 Townline Rd. N. Tonawanda, NY. 14120.

b. Tim Joyner

7051 Campbell Blvd. North Tonawanda, NY 14120.

- Owner wishes to construct a 24' x 30' (720 SF) accessory structure. Town Code §247-34.E.1 limits an accessory structure to 600 SF on parcels less than two acres. Property is 100' x 408' (.94 acres) and zoned R-2 Residential. Total relief sought: 120 SF accessory structure size.

c. Sean Benoit

7086 Campbell Blvd. North Tonawanda, NY 14120.

- Owner wishes to construct a 3,000 SF accessory structure on a vacant lot. Town Codes §247-34.A.3 & 247-34.E state that an accessory structure must be located on the same lot at the principle residence. Owner is also requesting an area variance of 1000 SF as town code limits the size of an accessory structure to 2,000 SF on a parcel 7 acres or greater in size. Property is 27 acres in size and zoned R-2 Residential. Total relief sought: Accessory structure on a vacant lot and 1,000 SF accessory structure size.

d. Matthew Cole

439 - 69th St. Niagara Falls, NY 14304. (SBL: 164.03-3-41 - Townline Rd.)

- Owner wishes to construct a two-family residence on a non-conforming lot. Town Codes §247-11.E.1 and 247-11.C.4. requires a minimum lot size of two acres, 200 ft of frontage, depth of 250 ft, and side setbacks of 15 ft. Property is 150' x 170' (.3 acres) and zoned R-2 Residential. Total relief sought: Lot Size, Lot Frontage, Lot Depth, Side Yard, Rear Setback area variances.

e. Regency Builders, LLC

4899 Meyer Rd. Lockport, NY 14094

- Owner is seeking a myriad of variances consisting of lot width, lot depth, and lot size on a total of 9 proposed lots in a planned subdivision. Town Code §247-11.C. Specifies lot width, depth, and overall size for new parcels in the Town of Pendleton. Total relief sought to be determined after thorough review in the public hearing. Properties are all zoned R-2 Residential.

2. Open regular meeting of ZBA

3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. September 24, 2024
6. Deliberation on Hearing(s)
 - a. Ferlito Restaurants Inc.
 - b. Joyner
 - c. Benoit
 - d. Cole
 - e. Regency Builders, LLC
7. Review Correspondence
8. Special Topics
 - a. November Meeting Date
9. Miscellaneous ZBA items:
 - a. Next Meeting/Attendance:
November 26, 2024 at 7:00 PM, Pendleton Town Hall.
 - b. Comments: ZBA members, Legal, Building Dept.
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.