

Town of Pendleton, NY
Zoning Board of Appeals (ZBA)
Meeting Agenda – May 28, 2024
Pendleton Town Hall - 7:00 PM

1. Public Hearings

a. **Josef & Sara Loeser**

5387 Oakwood Dr. North Tonawanda, NY. 14120

- Owner wishes to construct a 34' x 50' (1,700 SF) pole barn on a parcel greater than two but less than four acres. Town Code §247-34.E.(2) limits the total SF to 1,200 on a parcel of this size. Owner also wishes to position the structure 10' from the property line where a minimum 15' side setback is required by Town Code. Property is 168' x 1,475' (~5.70 acres) and zoned R-2 Residential. Total area variances sought: 500 SF accessory size variance and 5' side setback variance.

a. **William Myers Jr.**

4975 Oakwood Dr. North Tonawanda, NY 14120

- Owner wishes to construct a 1,120 SF accessory structure on a parcel less than two acres. Town Code §247-34.E.(1) limits total square feet to 600 SF on a parcel of this size. Property is 100' x 664' (1.52 acres) and zoned R-2 Residential. Total area variance sought is 520 SF.

2. Open regular meeting of ZBA

3. Changes to agenda

4. Review minutes from prior meeting(s)

- a. March 26, 2024 – [ZBA Minutes on Pendleton Website](#)
- b. April 23, 2024 – [ZBA Minutes on Pendleton Website](#)

5. Deliberation on Hearing(s)

- a. Loeser
- b. Myers

6. Review Correspondence

7. Special Topics

- a. Secretary Position

8. Miscellaneous ZBA items:

- a. Next Meeting/Attendance:
 - June 25, 2024 at 7:00 PM, Pendleton Town Hall.
- b. Comments: ZBA members, Legal, Public

9. Adjournment

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.