

**Town of Pendleton, NY  
Zoning Board of Appeals (ZBA)  
Meeting Agenda – June 25, 2024  
Pendleton Town Hall - 7:00 PM**

1. Public Hearings
  - a. **Justin Dowd**  
*5295 Irish Rd., Lockport, NY 14094*
    - Owner wishes to construct a 36' x 40' (1,440 SF) accessory structure on a parcel less than seven acres. Town Code §247-34.E.2. limits accessory structure size to 1,200 SF on the property in question. Property is 200' x 1071' (4.31 acres) and zoned R-2 Residential. Total area variance sought: 240 SF accessory structure size.
  - b. **Dan & Colleen Bright**  
*5038 Tonawanda Creek Rd., North Tonawanda, NY. 14120*
    - Owner wishes to subdivide property into two lots, creating one compliant lot and one lot non-compliant lot of 79' x 215' and 16,985 SF. Town Code §247-11.C. requires any newly created lot to have a minimum width of 100', Depth of 250' and minimum total size of 25,000 SF. Existing property is 179' x 378' (1.48 acres), irregularly shaped, and zoned R-2 Residential. Total area variances sought: 21' lot width variance, 35' lot depth variance, and 8,015 SF lot size variance.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. May 28, 2024 – [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
  - a. Bright
  - b. Dowd
7. Review Correspondence (if applicable)
8. Special Topics
  - a. None
9. Miscellaneous ZBA items:
  - a. Welcome new member Harold McLellan
  - b. Secretary Appointment
  - c. Next Meeting/Attendance:
    - July 23, 2024 at 7:00 PM, Pendleton Town Hall.
  - d. 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.