

**Town of Pendleton, NY**  
**Zoning Board of Appeals (ZBA)**  
**Meeting Agenda – July 23, 2024**  
**Pendleton Town Hall - 7:00 PM**

1. Public Hearings

a. **James Moll**

*4714 Tonawanda Creek Rd., North Tonawanda, NY 14120*

- Owner wishes to construct a 600 SF accessory structure on a parcel with an existing 100 SF accessory structure. Town Code §247-34.E.1. limits accessory structure size to 600 SF on the property in question. Owner wishes to locate the 600 SF structure 50' from the front yard right of way where town code requires a minimum of 50' setback. Property is 110' x 279' (0.70 acres) and zoned R-2 Residential. Total area variance sought: 100 SF accessory structure size and 50' front yard setback.

b. **Mike Forster**

*5228 Feigle Rd., Lockport, NY 14094*

- Owner wishes to construct a 24' x 30' (720 SF) accessory structure and connect it to an existing 30' x 30' (900 SF) accessory structure for a total of 1,620 SF. Town Code §247-34E(1) limits the total SF to 600 on a parcel less than two acres in size. Property is 114' x 500' (1.40 acres) and zoned R-1 Residential. Total area variance sought: 1,020 SF accessory structure size variance.

c. **Martin Boersch**

*7278 Lakeview Ct., North Tonawanda, NY 14120*

- Owner wishes to install approximately 70' of fencing at a height of 8'. Town Code §247-30B limits fence height to maximum of 7'. Property is 100' x 250' (0.63 acres) and zoned R-1 Residential. Total area variance sought: 1' Fence Height Variance at a length of 70'.

d. **Mark Vona**

*5363 Oakwood Dr., North Tonawanda, NY 14120*

- Owner wishes to construct a 1,672 SF accessory structure. A 192 SF accessory structure already exists on the property for a total of 1,864 SF. Town Code §247-34E(2) limits the total SF to 1,200 on a parcel of this size. Property is 4.50 acres and zoned R-1 Residential. Total area variances sought: 664 SF accessory structure 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. June 25, 2024

6. Deliberation on Hearing(s)

a. Moll

b. Forster

c. Boersch

- d. Vona
- 7. Review Correspondence (if applicable)
- 8. Special Topics
  - a. None
- 9. Miscellaneous ZBA items:
  - a. Secretary Appointment
  - b. Next Meeting/Attendance:  
August 27, 2024 at 7:00 PM, Pendleton Town Hall.
  - c. 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.