

Town of Pendleton, NY
Zoning Board of Appeals (ZBA)
Meeting Agenda – August 27, 2024
Pendleton Town Hall - 7:00 PM

1. Public Hearings
 - a. **Joshua Lindsley**
4736 Meyer Rd. N. Tonawanda, NY. 14120.
 - Owner wishes to construct an addition to an existing single family residence at a proposed setback of approximately 48'. Town Code §247-10.D.1. requires a minimum of 75' setback from the front property line. Property is zoned R-1 Residential and 1.23 acres in size. Total relief sought: 27' front setback variance.
 - b. **Ferlito Restaurants Inc.**
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.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. July 23, 2024
6. Deliberation on Hearing(s)
 - a. Lindsley
 - b. Ferlito Restaurants Inc.
7. Review Correspondence (if applicable)
8. Special Topics
 - a. Secretary Appointment
9. Miscellaneous ZBA items:
 - a. Secretary Appointment
 - b. Next Meeting/Attendance:
September 24, 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.