

**Town of Pendleton, NY**  
**Zoning Board of Appeals (ZBA)**  
**Meeting Agenda – September 24, 2024**  
**Pendleton Town Hall - 7:00 PM**

1. Public Hearings
  - a. 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.
  - 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.
2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
  - a. August 27, 2024
6. Deliberation on Hearing(s)
  - a. Ferlito Restaurants Inc.
  - b. Joyner
7. Review Correspondence (if applicable)
8. Special Topics
  - a. Secretary Appointment
9. Miscellaneous ZBA items:
  - a. Next Meeting/Attendance:  
October 22, 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.