

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS (ZBA)**

**Meeting Minutes – 08/27/2024**

**Members:**

Nicholas Graves, Chairman  
Jim Churchill, Secretary  
David Kantor  
James Meholick  
Harold McLellan

The meeting of the Zoning Board of Appeals (ZBA) was called to order by Mr. Graves at 7:00 pm. ZBA members Graves, Churchill, Kantor, Meholick, and McLellan were present at the meeting. Pendleton Town Prosecutor Theodore A. Joerg, Esq., and Building Inspector Diedrich were also in attendance.

**1. PUBLIC HEARINGS:**

a) **Lindsley – 4736 Meyer Rd. N. Tonawanda, NY 14120.**

Owner wishes to construct an addition to an existing non-conforming 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.

The public hearing commenced at 7:00 PM. The applicant was in attendance and provided an overview of the proposed project. Of note, the existing home has a non-compliant front yard setback which would require a variance regardless of where an addition would be constructed. The applicant stated the addition will match the rest of the home in elevation and décor with draining tied into the existing flow on the property. The public hearing was closed at 7:05 without input from those in attendance.

Mr. Kantor moved to approve a 27' Front Setback Variance with an 18-month time limit for project completion. Mr. Churchill seconded the Motion.

Voting in Favor: Graves, Churchill, Kantor, Meholick, McLellan

Voting Against: None

Abstained: None

Motion approved by a 5-0 vote

b) **Ferlito Restaurant Inc. – 4072 Beach Ridge Rd. N. Tonawanda, NY 14120.**

Owner wishes to allow for 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, thus, a Use Variance will be considered for the property at 7083 Townline Rd. N. Tonawanda, NY 14120.

The public hearing commenced at 7:06 PM. The applicant was in attendance with an engineer for the proposed project and provided an overview of the proposed use for the property. The applicant

stated the overall intent is to merge the properties at 4072 Bear Ridge Rd and 7083 Townline Rd. In doing do, the applicant proposed converting the home at 7083 Townline Rd. into an Ice Cream Shop/Country Store, while turning the front, rear, and side yards into additional parking spaces for the neighboring restaurant and newly added retail operations. Of note, substantial parking issues exist multiple days a week, especially on the weekends, between the hours of 8 am and 12 pm.

Numerous residents from the neighborhood were in attendance and voiced their support for additional off-street parking but not for additional retail operations. Residents also had questions about drainage problems, septic issues/relocation, changing neighborhood dynamic, and expressed the desire for substantial fencing or foliage to be added as conditions for property barriers in the event the variance is approved. The applicant stated without additional parking spaces, their restaurant business would likely fail. Currently, approximately 20 parking spaces exist, 56 are proposed in the project plans. Additionally, the applicant has attempted to purchase adjoining land unsuccessfully.

The public hearing concluded for the evening but remains open to be revisited at the September meeting of the ZBA.

**2. Changes to the agenda:** None

**3. New Inquires:** None

**4. Review Minutes from Prior Meeting:**

Mr. Meholick moved to approve the minutes as drafted from the July 23, 2024 Meeting of the ZBA. Mr. Kantor seconded the motion.

Voting in Favor: Graves, Kantor, Meholick, McLellan

Voting Against: None

Abstained: Churchill (Not present at July meeting)

Motion approved by a 4-0 vote

**5. Correspondence:** None

**6. Special Topics:** None

**7. Miscellaneous ZBA Topics:**

1. The next scheduled meeting of the ZBA is Tuesday, September 24, 2024 at 7:00 pm.

**8. Adjournment:**

A motion was made by Mr. Churchill to adjourn the meeting. Mr. Meholick seconded.

Voting in Favor: Graves, Churchill, Kantor, Meholick, McLellan

Voting Against: None

Abstained: None

Motion approved by a 5-0 vote