

TOWN OF PENDLETON  
6570 Campbell Boulevard  
Lockport, NY 14094



*Supervisor Joel Maerten  
Councilman Wolfgang Buechler  
Councilman Joseph Hickman  
Councilman David Leible  
Councilman Scott Lombardo*

At the meeting of the Town Board of the Town of Pendleton, Niagara County, New York, held in the Board Room at the Town of Pendleton Town Hall, 6570 Campbell Boulevard, Lockport, New York, 14094 at 7:00 p.m. on March 10, 2025.

**RESOLUTION AFFIRMING THE DETERMINATION OF THE TOWN BOARD THAT IT LACKS JURISDICTION TO ENTERTAIN A SPECIAL USE PERMIT APPLICATION FOR A STONE AND CONSTRUCTION DEBRIS CRUSHING OPERATION TO BE LOCATED AT 5532 KILLIAN ROAD, TOWN OF PENDLETON**

Whereas, the Town Board of the Town of Pendleton reviewed the request for a Special Use Permit for a stone and construction debris crushing operation to be located at 5532 Killian Road (the "Property"), Town of Pendleton; and

Whereas, the Property is located in the Light Industrial District, and the specially permitted uses in that District (§247-14(D)) do not include a stone and construction debris crushing operation; and

Whereas, a use is assumed to be prohibited where it is not listed as a use by right or special permit use without any zoning district and less there has been a written determination by the Zoning Board of Appeals pursuant to its interpretation authority that the proposed use is similar to permitted uses and not inherently a nuisance, menace or danger to the health, safety or welfare of the residents of the Town (§247-8(B)); and

Whereas the applicant has not provided the required determination under §247-8(B); and

Whereas, in September 2019 the Town Building Inspector issued a written decision stating "concrete-crushing is not a permitted use by right...", which determination was not appealed administratively or judicially; and

Whereas, the Zoning Board of Appeals had previously considered (Sept. 2020) will an area variance related to the stone and construction debris crushing operation and determined that such operation is not allowed within the Light Industrial District, and therefore such variance application could not be considered, said determination was not judicially appealed by the applicant and therefore is final; and

Whereas, the Town Board is in agreement with the Zoning Board of Appeals that the proposed use is not similar to permitted uses and further finds that such use would constitute a nuisance threatening the health, safety and welfare of the residents of the Town.

Now therefore be it resolved by the Town Board of the Town of Pendleton as follows:

1. The Town Board finds that has no jurisdiction to consider a special use application for a stone and construction debris crushing operation to be located at 5532 Killian Road, Town of Pendleton because the applicant has not obtained a written determination from the Zoning Board of Appeals that the proposed use an allowed use, and the prior action of the Zoning Board of Appeals demonstrates that said use is in fact not similar to any allowed specially permitted use.
2. This resolution is effective immediately.