

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**May 27, 2025 Meeting Minutes**

**Members:**

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

The meeting of the Zoning Board of Appeals (ZBA) was called to order by Mr. Nicholas Graves at 7:00 PM. ZBA members Graves, Kantor, Churchill, and McLellan were present, Secretary Meholick was excused. Additionally, Town Prosecutor, Mr. Theodore Joerg, Esq.; Town Building Inspector/Code Enforcement Officers Mr. Ron Diedrich and Mr. Troy Barnes, Highway Superintendent Dave Fischer, and Planning Board Chairman Joe McCaffrey were present at the meeting. No changes were made to the ZBA agenda submitted by Mr. Graves.

**PUBLIC HEARINGS:**

**Devin & Kimberly Hope**  
**7283 Creekbend Dr., North Tonawanda, NY. 14120.**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 20' x 24' (480 SF) accessory structure and place it 10' from side property line. Owner is also seeking a 30' front yard setback variance. Town Code 247-11E allows for a minimum of 15' side yard setback and Town Code 247-34F(2)(a) requires a minimum of 150' front yard setback for accessory structures measured from the Right of Way. Property is zoned R-2 Residential and irregularly shaped. Total relief sought: 5' side yard setback variance and 30' front yard setback variance.

The Public Hearing was opened at 7:01. The applicants were present at the hearing and provided an overview of the proposed project which will be used to store standard lawn equipment, patio furniture, and children's toys. The applicant's also provided several letters from surrounding neighbors voicing their support for the variance. Of note, there is a pond in the rear of the property that would mostly preclude the applicants from placing a shed to code. The applicants stated they did not wish to move the shed closer to the street and out of the view of the neighboring proposed view to keep the structure in line with the rear of their back patio and also had no desire to construct a 3<sup>rd</sup> car garage. The public hearing was closed at 7:13 without input from any of the residents in attendance.

**Rodney Phillips (Owner)**  
**David Bratek (Authorized Representative)**  
**4629 Meyer Rd., North Tonawanda, NY 14120.**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to split parcel 149.00-4-30.12 into two parcels to facilitate the construction of a single-family home. Town Code requires a lot size for a single-family detached home to have a minimum width of 100' and a minimum depth of 250'. There is a 15' sewer easement on the property, therefore, the minimum depth of the proposed lot must be 265'. The proposed lot size is 110' x 255.87', which will require a 9.13' depth variance. Property is zoned R-2 Residential and irregularly shaped. Total relief sought 9.13' property depth variance.

The public hearing opened at 7:14 pm. The applicant's authorized representative, Mr. David Bratek was present at the hearing and provided a brief overview of the proposed project. Of note, it was determined by the Board that the actual depth variance sought was 50' due to an improper dimension used by the Building Department when preparing the documentation for the case. Numerous neighbors were in attendance and spoke both in favor of and against the proposal.

Multiple advocates for the proposal noted increased tax dollars for the town, cleaning up a lot in vegetative disarray, and stated it was in improvement for the neighborhood as they felt the house would look like it belonged there all along if constructed.

Several opponents stated it violated the Community Restrictions put in place by the neighborhood (not recognized by the ZBA), ongoing drainage issues that could be made worse by the construction of a new home, the visual impact a new home would have on the entrance to the subdivision, and having more construction in an "already completed" subdivision.

The public hearing was closed at 7:48 pm.

**Lauren Molloy**  
**6679 East Canal Rd., Lockport, NY. 14094.**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 30' x 40' (1,200 SF) accessory structure to be erected 58' from the front property line. Town Code 247-34F(3)(a) requires a minimum front yard setback of 150'. Property is zoned R-2 Residential, 549' x 228' (2.12 acres) in size, and irregularly shaped. Total relief sought is 92' front yard setback variance.

The public hearing was opened at 7:50 pm. The applicant was in attendance and provided a brief overview of the project. Of note, the very irregular shape of this lot as well as the placement of the existing home, limit the locations an accessory structure may be placed on the property. There is not a garage on the property. The applicant stated she is seeking somewhere to store lawn equipment and other outdoor items.

The public hearing concluded at 7:56 pm without any input from the residents in attendance.

**Greg & Susan Lambros****4999 Tonawanda Creek Rd. North Tonawanda, NY. 14120.**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct an addition onto an existing attached garage. This addition would bring the front corner to within 8' 2" of the side property line. Town Code 247-11E requires a minimum side yard setback of 15'. Property is zoned R-2 Residential and 100' x 350' (0.80 acres) in size. Total relief sought: 6' 10" side yard setback variance.

The public hearing was opened at 7:57 pm. The applicants were in attendance and provided a brief overview of the project. Of note, the typical corner lot restrictions provided in Town Code do not apply to this lot as the neighboring street is a private drive. The applicants stated they would both like to park both of their cars in the garage and would be leaving the mature evergreens along the East property line as an additional buffer from any errant vehicles. The applicants stated the addition would match the existing façade of the residence if constructed.

A resident spoke on behalf of the private subdivision adjacent to the property voicing existing drainage concerns and how they may be impacted moving forward by the addition to the garage, the Board did not agree that this project would lead to any additional flooding issues in the private subdivision.

The public hearing concluded at 8:02 pm.

**Dale Acker****6555 Campbell Blvd. Lockport, NY 14094**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 12' x 20' (240 SF) accessory structure and place it 10' from the side property line. Town Code 247-34F(2)(b) allows for a minimum of 15' side yard setback. Property is zoned R-2 Residential and 100' x 516' (1.18 acres) in size. Total relief sought: 10' side yard distance variance.

The public hearing was opened at 8:05 pm. Of note, this is an approved re-hearing of a previously determined matter and will require a unanimous vote of all ZBA members in attendance to alter the previous ruling.

The applicant was in attendance and provided an updated overview of the proposal. The applicant stated he would like to place the shed as far back on his property as possible without encroaching on any wetlands or wetland buffers. He stated the further back the shed is placed, the closer it needs to be to the property line due to the wetlands as well as to dodge areas with significant drainage issues. The applicant also stated the existing shed on the property would be torn down.

Planning Board Chairman Joe McCaffrey spoke stating the wetland boundaries have recently changed and given the close proximity to wetlands, stated a Delineation would likely be required before a permit could be issued to ensure compliance with NYS and Federal wetland protections.

The public hearing was closed at 8:17 am without any additional input from the residents in attendance.

**Joe & Julie Snyder**  
**6600 West Canal Rd. Lockport, NY 14094**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to continue to construct a single-family home on parcel 150.00-2-23.12 after a Stop Work Order on 4/23/25 due to a poured foundation failing to meet minimum setback requirements contained in Town Code 247-11D(1) and 247-26. Town Code requires 60' distance from front property line on both West Canal & Bear Ridge Rd. Owner is requesting 20' of relief from both roads, reducing the setback to 40', where the home is currently standing. Property is zoned R-2 Residential, 295' x 223' (1.51 acres). Total relief sought: Two (2) 20' distance variances.

The public hearing was opened at 8:18 pm. Mr. Snyder was in attendance with a representative from the Builder's office. Both provided an overview of the issues that led to the home being constructed in the wrong spot, stating the measurements were not taken from the proper locations and that they also failed to provide the Building Department with a required spot survey for the approval of the foundation before moving onto the next phase(s) of construction.

A neighbor voiced his unconditional support for the project.

Another neighbor was concerned with the home's proximity to drainage ditches and fears this would cause cresting of the ditch and flooding in the area. Also questioned was the validity of the septic plan given that the home was now built in a different location than expected.

Town Building Inspector Diedrich stated the builder failed to do the proper due diligence on the matter and that work has continued on the property on multiple occasions despite the Stop Work Order.

Planning Board Chairman Joe McCaffrey spoke, mentioning the routine requirement for builders to submit a Spot Survey and stated it was unlikely this was a simple mistake.

The public hearing was closed at 8:47 pm.

**REGULAR ZBA MEETING:**

***Review Minutes from Prior Meeting:***

A motion was made by Mr. Kantor to accept the minutes of the April 22, 2025 meeting and was seconded by Mr. Churchill. All voted in favor.

***Specific Board Deliberation Actions:***

**Devin & Kimberly Hope  
7283 Creekbend Dr., North Tonawanda, NY. 14120.**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**

The board members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties.

**b. Are there alternative solutions that would not require a variance?**

It was agreed that an alternative solution would be to construct the accessory structure to meet town code.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Kantor to approve a 30' Front Yard Setback and a 5' Side Yard Setback with a one-year time limit for project completion. Mr. McLellan seconded the motion. Motion was carried by a 3-1 vote with Mr. Graves voting no.

**Rodney Phillips (Owner)  
David Bratek (Authorized Representative)  
4629 Meyer Rd., North Tonawanda, NY. 14120.**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**

The board members felt that the granting of the variance would not create an undesirable

change to the neighborhood and nearby properties with proper drainage conditions imposed

**b. Are there alternative solutions that would not require a variance?**

No.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was not substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood with proper approval conditions.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Graves to approve a 50' depth with an 18-month time limit for project completion on the condition that swales are placed at North and South property lines that drain into the existing drainage ditch, with drainage plans to be approved by the Town Engineer in advance of Building Permit issuance. Mr. McLellan seconded the motion. Motion was carried by a 4-0 vote.

**Lauren Molloy**  
**6679 East Canal Rd., Lockport, NY. 14094.**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**

The board members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties.

**b. Are there alternative solutions that would not require a variance?**

It was agreed that an alternative solution would be to construct the accessory structure to meet town code.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Churchill to approve a 92' Front Yard variance with a one-year time limit for project completion. Mr. Graves seconded the motion. Motion was carried by a 4-0 vote.

**Greg & Susan Lambros**

**4999 Tonawanda Creek Rd., North Tonawanda, NY. 14120.**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**

The board members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties.

**b. Are there alternative solutions that would not require a variance?**

No.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would have an adverse effect on the physical or environmental conditions in the neighborhood due to the proximity to the private subdivision.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Graves to approve a 6' 10" Side Yard Setback variance with a one-year time limit for project completion. Of note, this variance allows the applicant to encroach within 10' of the property line and will require additional fire rating on the Eastern garage wall due to newest NYS code. Mr. McLellan seconded the motion. Motion was carried by a 4-0 vote.

**Dale Acker**  
**6555 Campbell Blvd., Lockport, NY 14094**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**

The board members felt that the granting of the variance would not create an undesirable change to the neighborhood and nearby properties.

**b. Are there alternative solutions that would not require a variance?**

It was agreed that an alternative solution would be to construct the accessory structure to meet code.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Churchill to approve an 8' Side Yard Setback Variance with a two-year time limit for project completion on the condition that proof of approval and delineation from NYS DEC is provided to the Building Department prior to permit issuance. Mr. Kantor seconded the motion. Motion was carried by a 4-0 vote.

**Joe & Julie Snyder**  
**6600 West Canal Rd. Lockport, NY. 14094.**

The ZBA board reviewed the Area Variance tests for the property, and commented as follows:

**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?**



The board members felt that the granting of the variance would have an undesirable but not detrimental impact on the neighborhood

**b. Are there alternative solutions that would not require a variance?**

It was agreed that alternative solutions would involve knocking the home down or parts of the home to properly comply with setbacks.

**c. Is the requested variance substantial?**

It was agreed that the requested variance request was substantial.

**d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?**

The board members felt that the variance would have an adverse effect on the physical or environmental conditions in the neighborhood given the placement of a large home on an irregularly shaped lot of this nature.

**e. Is the applicant's difficulty self-created?**

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Graves to approve a 17' Front Yard Setback along Bear Ridge Rd. and a 24' Front Yard Setback along West Canal Rd with a one-year time limit for project completion on the condition that two rows of staggered evergreens placed no further than 8' apart and no shorter than 8' in height, and 8' from Southern property line at time of install are placed along the South property line from the West Canal Right of Way and beyond the front of the accessory structure located at 6616 West Canal to create a full vegetative buffer with a 5-year period in which the trees must remain healthy and be replaced in the event of their death(s). Mr. McLellan seconded the motion. Motion was carried by a 4-0 vote.

***New Inquiries to ZBA:***        *None*

***Correspondence:***        *None*

***Special Topics:***

Mr. Graves recognized and thanked outgoing Building Inspector Diedrich for his hard work and dedication to the Town in his capacity as Building Inspector. The Board wishes him well in retirement.

***Miscellaneous ZBA Topics:***

1. The next scheduled meeting will be on Tuesday, June 24, 2025, at 7:00PM.

A motion was made by Mr. Churchill to adjourn the meeting at 9:38 PM, and was seconded by Mr. Graves. All voted in favor.

Submitted for the Chairman:

James G. Meholick  
Secretary