

Town of Pendleton, NY
Zoning Board of Appeals (ZBA)
Meeting Agenda – February 28, 2023
Pendleton Town Hall - 7:00 PM

1. Public Hearings

a. **Coddiwomple Resorts (Continued)**

5549 Tonawanda Creek Rd., Pendleton, NY

- Owner wishes to install a pond at 50 ft. setback from side property line where minimum setback required is 100 ft. per Town Code §247-46.A.(1). Property is 8.8 acres with 105 ft. frontage and zoned R1 Low-Density Residential. Area variance sought is 50 ft. pond side yard setback variance.

b. **Matthew Donahue (Continued)**

5077 Tonawanda Creek Rd., North Tonawanda, NY 14120

- Owner wishes to subdivide a parcel of land zoned R-2 Residential into two lots. Proposed subdivision would result in a non-conforming lot with 80 feet of frontage where 100 ft is required per Town Code §247-11.(C). Owner is also requesting a front yard setback of 375 feet where a maximum setback of 250 feet is allowable per Town Code §247-11(D). Property is 15-acres and zoned R-2 Residential. Area variances sought are 20 feet of frontage and 125 ft of front yard setback.

c. **Robert Taylor**

6668 Campbell Blvd., Lockport, NY 14094

- Owner wishes to add 600ft² of storage space to an existing 600ft² accessory structure. A second 600ft² accessory structure also exists on the property for a total aggregate accessory structure square footage of 1200ft² which is the maximum allowable for this parcel pursuant to Town Code §247-34E(1). Property is 2 acres and zoned R-2 Residential. Area variance sought is 600ft².

d. **Andrew Yaeger**

6988 Bear Ridge Rd., North Tonawanda, NY 14094

- Owner wishes to construct a 36'x48' accessory structure totaling 1,728ft². Pursuant to Town Code §247-34E(1), a maximum accessory structure of 600ft² is permitted on properties under 2 acres. Property is 1.90 acres, irregularly shaped, and zones R-1 Residential. Area variance sought is 1,128ft².

e. **Robert Benigno**

5390 Irish Rd., Lockport, NY 14094

- Owner wishes to construct a 28'x32' detached garage totaling 896ft². Pursuant to Town Code §247-11(i), a maximum detached or attached garage may be no larger than 50% of the floor area of the primary structure. The primary structure is 1,161ft², the property is 2.13 acres, and zoned R-2 Residential. Area variance sought is 316ft².

f. **Dylan Randall (On Behalf of Gary & Jayne Baldwin)**

4774 Mapleton Rd., Lockport, NY 14094 (Parcels 136.22-159.12 & 136.00-1-58)

- Applicant is seeking a use variance for proposed parcel to allow for the operation of a recreational facility which is not a use permitted by right for the property pursuant to Town Code §247-11(A). The property size is yet to be determined and zoned R-2 Residential. Use variance sought to allow the property to be used to operate a commercial recreational facility.

2. Open regular meeting of ZBA
3. Changes to agenda
4. New Inquires to ZBA
5. Review minutes from prior meeting(s)
 - a. January 24, 2023 – [ZBA Minutes on Pendleton Website](#)
6. Deliberation on Hearing(s)
 - a. Coddwomple Resorts
 - b. Donahue
 - c. Taylor
 - d. Yaeger
 - e. Benigno
 - f. Randall (Baldwin)
7. Review Correspondence (if any)
8. Special Topics
 - a. Welcome new ZBA Member (if appointed)
 - b. Review document posting procedures for public hearings
 - c. Training
9. Miscellaneous ZBA items:
 - a. Attendance: next meeting
 - March 28, 2023 at 7:00 PM, Pendleton Town Hall.
 - b. 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.