



**TOWN OF WHEATFIELD**  
**NIAGARA COUNTY**  
**2800 CHURCH ROAD**  
**NORTH TONAWANDA, NEW YORK 14120-1099**  
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Office of Zoning Board of Appeals  
Minutes of Meeting  
March 1<sup>st</sup>, 2017

McIntyre called the meeting to order at 7:00pm.  
Members present: McIntyre, Milleville, Schaffer and K. Retzlaff  
Members absent: Canada

The following hearings were scheduled:

**3/20/17 7:05 pm:** Rescheduled the hearing for Benjamin Lengen as the applicant or their designated representative did not appear before the board. The hearing is for 2 variances for lot #147.18-2-63, located at 6737 Sy Rd; 1) variance from fold prevention law to build an accessory structure at or slightly above the base flood elevation. 2) An area variance to construct a pole barn that exceeds the maximum height of 14ø

Public Hearings Held / Interpretations

**7:05 pm:** Bradley and Susan Milleville request two area variances for lot # 148.00-1-64, located north of 6665 Nash Rd; 1) for the construction of a single family home with a 300ø to 400ø set back from the road and 2) the construction of a pole barn to be located in the front of the primary dwelling.

The hearing was called to order and criteria for area variance read by Chairman McIntyre. Mr. Milleville states the property has not been purchased yet, however there is a conditional purchase contract and letter of intent to purchase the land. The lot is 150ø x 600ø deep. They are looking to place a single family ranch with a pole barn in front of it. They would like a 300ø to 400ø set back to which would be in line with the adjacent house that has an approximate 375ø set back. The pole barn would be in front of the home in order to keep the back yard space open and save considerable costs for the driveway. The pole barn would only be for personal storage and would be 40 x 60 x 30.

Public comments: 6664 ó across the street only here for information on the pole barn, it would be 200-300ø off the road depending on where the house was situated. He would start this project within the year. 6629 ó Concerned about pole barn obstructing the view ó after seeing the plans he does not have any issues with it.

Retzlaff motion to close the public hearing, seconded by Milleville, ayes: unanimous.

Findings:

House set back

- 1) Intent is to be in line with 6673 between 300ø-400ø per the Building Dept. option would be to be in line with closer homes, but there is no negative impact to the town where it is proposed
- 2) There were no neighbor objections; home will be similarly placed to 6673, in character with the neighborhood.
- 3) Yes it is a substantial request, 300-400ø vs allowed 65ø
- 4) No concerns on SEQR or by planning board noted. No drainage issues noted with this property.
- 5) Yes this was self-created.

Motion by Schaffer to approve variance as requested with restriction that the house be placed +/- 10ø from the setback of 6673. Seconded by McIntyre, Ayes: Unanimous

Pole barn:

- 1) Front location offers costs savings to the applicant with no negative impact to the town
- 2) Several other pole barns are in the area ó one on the same road with barn in front of the primary structure.
- 3) Yes ó in front vs behind the primary structure.
- 4) No concerns noted on SEQR or by planning board.
- 5) Yes, self-created.

Motion by McIntyre to approve the variance as requested with the set back of the pole barn not to be less than 200ø. Seconded by Retzlaff, ayes: unanimous.

**7:35 pm:** Benjamin Lengen requests 2 variances for lot #147.18-2-63, located at 6737 Sy Rd; 1) variance from fold prevention law to build an accessory structure at or slightly above the base flood elevation. 2) An area variance to construct a pole barn that exceeds the maximum height of 14ø

There were no representatives for Mr. Lengen, McIntyre made a phone call and applicant stated he did not receive the notice of the hearing. He agreed to a 3/20/17 7:05 pm rescheduling. McIntyre then notified the residents in attendance that the meeting would be rescheduled for 3/20/2017 at 7:05 pm. No additional notification will be sent to the residents. The applicant will receive notification in the mail with the rescheduled date.

**7:45 pm:** M.A.C. development requests a use variance for lot #133.20-1-15.11 located at 6245 Ward Rd to construct a 2 family home in an R-1 district.

The hearing was called to order by Chairman McIntyre at 7:45 pm.

History of the property per the applicant reveals that as far back as 1972 it was in use as a 2 family residence. It was originally constructed in 1836. MAC Development has owned the property since 1999 and has made \$15,000-\$20,000 in improvements on the property. They now want to sell the property, however the lending institution for a prospective purchaser is requiring assurance that the property could be kept as 2 family in the case of a catastrophic event that would require the structure to be rebuilt.

There is a duplex across the street but it is in a different Zoning district. There are no other 2 family residences in their Zone. They had to extend their contract with their realtor for an additional 90 days and have not received any other offers on this property, even with an asking price drop of \$9,000. The property was purchased for \$89,000 and are now asking \$140,000. The property has been rented approximately 90% of the time. Motion by Milleville to close the public hearing, seconded by Schaffer, Ayes: unanimous

- 1) The property has been in use as a 2 family dwelling since before zoning regulations. The property is currently allowed to be used as 2 family dwelling. The only reason for this request is to satisfy banking requirements. If the structure were to be destroyed, the owner would have 1 year to start rebuild to keep the variance if granted under New York State law. The current use is not in question, only if the structure was > 50% destroyed. The current owner has put significant money into the upkeep and development of this property. These factors make this situation unique to this property.
- 2) As per the building inspector, there are no other 2 family homes in this zoning district.
- 3) There are at least 3 other 2 family homes outside of the district, but within the neighborhood ó keeping it in character.
- 4) Not self-created ó the use has existed; a bank is requiring just that it remain as such.

Motion by McIntyre to approve the variance, seconded by Schaffer, Ayes: unanimous.

#### General Business

**Next Meeting: Monday, March 20<sup>th</sup>, 7:00 pm**

A motion to adjourn was made by Retzlaff and seconded by Milleville. Ayes: Unanimous

Respectfully submitted,



Mark Milleville  
Zoning Board of Appeals