



# TOWN OF WHEATFIELD

## COUNTY OF NIAGARA

### Zoning Board of Appeals

2800 Church Road, North Tonawanda, NY 14120

Phone: (716) 694-1026 Fax: (716) 694-1800

www.wheatfield.ny.us

Minutes of Meeting

April 23, 2018

Chairman Muscatello called the meeting to order at 7:00 pm.

#### **Roll Call:**

Present: Richard W. Muscatello (Chair) Michael Schaffer (Vice Chair)  
Arthur Gerbec Matthew F. Klettke  
Arthur Kroening Deborah Carr (Secretary/Non Member)

#### **Reading & Approval of Previous Meeting Minutes:**

Motion to approve minutes for April 9, 2018 -

Motion made by: R.W. Muscatello  
Seconded by: M. Schaffer  
Ayes: Unanimous

**Communications:** Distributed to Board Members, New York State Bulletin "Zoning Board of Appeals" - Division of Local Government Services. This document is to promote Board members' understanding and execution of their duties. At some point in the future, this document will be used as an educational tool.

**Reports of Committees:** None

#### **Unfinished Business:**

Future public hearings will be posted on the Town Hall Bulletin Board. The Town Clerk and Building Department Supervisor & staff will be advised accordingly.

Motion made by: R.W. Muscatello  
Seconded by: M. Schaffer  
Ayes: Unanimous

#### **New Business:**

Motion to extend the marking or staking period of the exact location of the placement of a new or modified structure for an area variance from 5 days to 10 days.

Motion made by: R.W. Muscatello  
Seconded by: M. Klettke  
Ayes: Unanimous

**Note:** The Town Clerk and Building Department Supervisor and staff will be advised accordingly. Written instructions to petitioner will be modified and distributed at the appropriate time.

**Note:** Not all Board members performed the required on-site visit to the sites discussed this evening. Using other methods in lieu of actual visit; internet, memory, is not considered a factual substitute.

**Public Hearings:** Scheduled for May 14, 2018

**7:05 pm, Heather Maglio** requests an area variance for Lot #163.04-5-53, located at 3587 Kelsey Lane, to construct a 6' fence that exceeds the maximum 4' height requirement.

Supporting material was distributed to the members attending, with the expectation they will visit the site prior to the scheduled meeting. Petitioners are expected to "stake out" their properties to accommodate the purpose of the on-site visit. Board absentee(s) may obtain this documentation by contacting the ZBA Secretary at the Town Hall.

### Hearing(s) Held/Interpretations

**7:10 pm: Elaine Brixius** requests an area variance for Lot #147.20-1-76, located at 2897 Pearce Rd, to construct an attached garage that does not meet the minimum 10' side yard setback.

#### Board Findings :

1. There is a pole barn on the corner of Pearce and Ward Roads and other garages in the area.
2. Applicant alleges neighbor on west side has full approval of the intended home improvement including garage.
3. The intended garage is 20' which is the minimum for a 2 car garage. Generally, 2 car garages are 22'x 24'.  
Motion to close public hearing made by M. Schaffer, seconded by A. Gerbec. Ayes: Unanimous

#### Findings per New York State Law Guidelines:

1. Yes. Petitioner could build a garage to accommodate one vehicle or build an unattached structure in the rear yard. An unattached garage would result in a significant cost increase which would impede the improvement of the overall building which is severely needed. The benefit is the enhancement of the culture of the neighborhood.
2. No. An attached garage would enhance the curb appeal of the home as opposed to an unattached garage in the rear yard.
3. No. The aesthetic improvement is worth the 25%. Relocating to the rear yard would increase overall improvement costs substantially.
4. Adding drain tile and receivers will help with drainage of the properties. That improvement plus the improvement of the structure would have a positive affect on the neighborhood.
5. Yes. The petitioner is willing to convert the severely depressed structure dating back to the early 1950s, into an attractive and practical structure. In these modern days, every home should be entitled to have the convenience of a garage.

Motion to approve the request with the following condition, gutters and downspouts are tied into drain tile and receivers that run from the back of the property to the front subject to town code, made by M. Schaffer, seconded by R.W. Muscatello.

- A. Kroening - Yes
- A. Gerbec – Yes
- M. Schaffer – Yes
- M. Klettke - Yes
- R. W. Muscatello – Yes
  - o Motion approved

**7:35 pm: Bergholz Fire Department** requests an area variance for Lot #147.18-2-66.121, located at 2470 Niagara Rd, for the construction of a 40' x 80' pavilion on the Fire Hall grounds that does not meet the minimum front yard setback of 40'.

#### Board Findings:

1. The proposed 40' x 80'Pavilion is intended to include an attached small garage to store and preserve a historical firefighting truck, restrooms and small kitchen.
2. The proposed pavilion replaces a deteriorated pavilion.
3. The only neighbor in the fire hall complex approves of the construction of the pavilion as presented in the accompanying documents.
4. The set back of the proposed pavilion is identical to the home that was demolished.
5. The Town
6. Transportation Map does not reference this particular road.

Motion to close public hearing made by R.W. Muscatello, seconded by M. Schaffer. Ayes:  
Unanimous

Findings per New York State Law:

1. No. The rear property is in flood plain, and is not conducive to placing the pavilion behind the fire hall because of need for the storage of the historical fire truck. Also, there exists a 15" sewer easement.
2. No. The previous pavilion was located at the rear of the property which was used for many community events. The newer pavilion will be a great improvement and aesthetically pleasing.
3. Yes. Numerically only.
4. No. The Fire Company has been at this location for 100 years. The pavilion will enhance the neighborhood.
5. Yes.

Motion to approve the request, with the stipulation that written letter of approval from the neighbor be submitted to the building department prior to the permit being issued, made by M. Schaffer, and seconded by R.W. Muscatello.

A. Kroening - Yes

A. Gerbec – Yes

M. Schaffer – Yes

R.W. Muscatello – Yes

M. Klettke – Yes

- o Motion approved

**Request for Comment:** None

**Miscellaneous:**

**Meeting Schedule:** (Next) May 14, 2018@ 7:00pm, sharp, Building Department Conference Room, Lower Level, Town Hall

**A motion to adjourn:** made by R.W. Muscatello, seconded by A. Gerbec. Ayes: Unanimous

Respectfully Submitted,

Deborah Carr  
Secretary, Zoning Board of Appeals (edited for content by Chairman)

Distribution: ZBA Distribution Listing

Supervisor Don MacSwan

Mike (Building Dept.)

Curt Doktor

Art Gerbec

Mike Schaffer

Deborah Carr

Randy Retzlaff

Harrington-McDonell (Clerk)

Don Wallace (MIS)

Bridgette Grawe (Assessor)

Matthew Klettke

Larry Helwig

Art Kroening

Gil Doucet

Richard W. Muscatello

Walt Garrow (Planning Board)

Fire Advisory Board

Record File

**Thought for the Day:**

“One day of your life will flash before your eyes, make sure it’s worth watching” – Gerard Way \i

Note: These minutes will be scheduled for approval at the May 14, 2018 meeting