



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
May 14, 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 23, 2018 -

Motion made by:	A. Gerbec
Seconded by:	A. Kroening
	A. Kroening - Yes
	A. Gerbec – Yes
	M. Schaffer – Yes
	M. Klettke - Yes
	R. W. Muscatello – Yes

Motion approved

Communications:

1. The Planning Board, via correspondence, dated May 2, 2018; put the ZBA on notice that they will not review future ZBA variance applications contrary to Section 200-94, Code of the Town of Wheatfield. The Code reads in part: “. . . At least 15 days before the date of the hearing required by law on an application or appeal to the Zoning Board of Appeals, the Secretary of said Board shall submit to the Planning Board a copy of said application or appeal, together with a copy of the notice the aforesaid hearing, and shall request that Planning Board submit to the Zoning Board of Appeals its opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. . .”

The ZBA will continue to adhere to the Town mandated provisions of the Town Code, until such time that the Town Attorney responds to ZBA correspondence, dated May 8, and May 15, 2018.

2. Future Variance requests and appeals to the ZBA must be accompanied by a map surrounding the area around the address of the request.

Reports of Committees: None

Unfinished Business: None

New Business:

1. Request the Building Department written instructions to stake the location (10 days prior to the scheduled hearing) of the variance or appeal, be highlighted on the application and placed as the first page to that application. Copies must be directed to the Town Clerk, Building Department, and to the petitioner, at the appropriate time.
2. Motion made by A. Gerbec, seconded by M. Klettke to purchase Town of Wheatfield polo shirts, embossed with Town crest for the seasonal meetings and on-site visits for Zoning Board members.

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

Motion approved (Coordination delegated to A. Gerbec & M. Schaffer)

Public Hearings Scheduled: None at this time.

Hearing(s) Held/Interpretations

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.

Board Findings:

1. There exists a 6' fencing within the neighboring 500' distance.
2. Applicant alleges neighbors have full approval of the fence. No neighbors attended to support or deny the request.

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

Findings per New York State Law Guidelines:

1. Yes. Petitioner could build a 1' or 2' berm with a 4' fence. The berm would result in a significant cost increase and would not be aesthetically pleasing. Petitioner could plant shrubbery for privacy but there would be no security for the dogs. The benefit is the enhancement of the culture of the neighborhood.
2. No. A 6' fence would give the area a sight line on Ashley Lane of about 70'. The fence would enhance the curb appeal of the home.
3. Yes. From 4' to 6'. A variance was previously granted for a 6' fence on June 13, 2005, but never acted upon.
4. No. The structure would have a positive effect on the neighborhood.
5. Yes.

Motion to approve the request with the condition the fence is constructed according to Town standards, and be placed no further than 16' from the west corner of house which keeps the fence out of the easement, made by M. Klettke, seconded by M. Schaffer.

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

Motion approved

7:35 pm: Deborah Popp requests an area variance for Lot #162.06-2-28, located at 2394 Lake Mead Rd, to construct a 6' fence that exceeds the maximum 4' height requirement.

Board Findings:

1. There is an existing 6' fencing along Jagow Rd.
2. Applicant alleges neighbors approve of the fence. No neighbors were present to speak for or against the variance request.

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

Findings per New York State Law:

1. Yes. Petitioner could build a 1' or 2' berm with a 4' fence. The berm would result in a significant cost increase and would not be aesthetically pleasing. Petitioner could plant shrubbery for privacy but there would be no security for the dogs. The benefit is the enhancement of the culture of the neighborhood.
2. No. The 6' fence would be consistent with the other 6' fencing along Jagow Rd.
3. Yes. From 4' to 6'.
4. No. The structure would have a positive effect on the neighborhood.

5. Yes.

Motion to approve the request with the fence constructed according to Town standards made by M. Schaffer, seconded by A. Kroening.

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

Motion approved

8:05 pm: Marcel Longin requests an area variance for lot #174.08-1-63, located at 2136 River Road, for the construction of a garage with a setback of 45' which is less than the minimum 65' setback from a state or county road.

Board Findings:

1. There were no neighbors with objections or approvals present.
2. The proposed garage would be placed approximately 31' from the residence.
3. The applicant would like to park his vehicle out of the weather.

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

Findings per New York State Law:

1. No. Garage could be placed on the west side of the property but trees would have to be removed. The tree removal would result in a significant cost increase.
2. No. The garage will be located in line with other garages in the area.
3. Pending
4. Pending
5. Pending

Motion to table the request until the applicant receives written approval and guidance from National Grid stating the construction of a garage will not interfere with their telephone pole between the house and proposed garage, made by R.W. Muscatello, and seconded by A. Gerbec.

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

Motion approved. (Mr. Longin understands it is his responsibility to secure the National Grid documentation and deliver same to the ZBA Chair to bring this request to resolution).

8:35 pm: Terence Calway requests an area variance for lot #149.03-1-17.1, located at 6754 Townline Rd, for the construction of an accessory building (pole barn) with a height of approximately 15' where the maximum permitted height is 14'.

Board Findings:

1. There is another 16' pole barn within 500 feet.
2. Applicant alleges neighbors have full approval of the pole barn. No neighbors appeared to speak for or against this request.
3. The intended pole barn is for personal use with 12' side walls, 10' garage door, an 11' lift and storage for a trailer.
4. The lots in the area are exceptionally deep lots.

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 pole barn with a 12' wall height and a flat roof. A flat roof tends to leak after a few years. A flat roof in the area would not be aesthetically pleasing.
2. No. The benefit is the enhancement of the culture of the neighborhood.

3. Yes. From 14' to approximately 16-17'.
4. No. There is a 16' pole barn within 500 feet. The structure would have a positive effect on the neighborhood. Applicant will be using rain barrels to assist drainage
5. Yes

Motion to approve the request with the condition that gutters and downspouts is tied into drain tile that runs to the back of the property, subject to Town code, made by M. Schaffer, seconded by A. Gerbec.

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

Motion approved

Request for Comment: None

Miscellaneous: None

Meeting Schedule: (Next) June 11, 2018@ 7:00pm, sharp, Building Department Conference Room, Lower Level, Town Hall

A motion to adjourn: made by R.W. Muscatello, seconded by M. Schaffer. 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

Note: These minutes will be scheduled for approval at the June 11, 2018 meeting