



# 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

June 11, 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 May 14, 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. Reviewed the following Planning Board Site Review Process Results sent to the ZBA for information: Borrego Solar Systems, Aubrey Way Subdivision, Wheatfield Gardens, Summit Outlets, Anchor Motel, Woodlands Patio Home Development and Driftwood Suites.
2. Section 200-94, Code of the Town of Wheatfield. Advised by the Town Attorney to continue the current process while acknowledging the Planning Board will only respond to matters of interest to them.

**Reports of Committees:** New and original ZBA T-shirts created for its members were distributed. The T-Shirts are a convenient way of introducing members to residents undergoing variance surveillance.

#### **Unfinished Business:**

1. Reading assignments for continuing education: discussion of three striking NY State requirements (Pages 1 through 9) postponed to the July 2018 meeting because of the number of variances to be addressed at this meeting. **Action:** Members
2. Wage Equity Justification: The draft justification proposal, after discussion, was tentatively approved by the members. The extent of the disparity will be presented at the July 2018 meeting. **Action:** Deb

**New Business:** Specific requirements for "staking" properties scheduled for a variance hearing (10 days prior): subsequent to an energetic discussion, leading to a lack of consensus, was postponed until the July 2018 meeting. This additional time will provide the members time to ponder a solution. **Action:** Members

#### **Hearing(s) Held/Interpretations**

**7:05 pm, Andrew Hoover** requests an area variance for Lot #133.12-2-3, located at 6003 Hoover Rd, to construct a 6' fence that exceeds the maximum 4' height requirement.

#### **Board Findings:**

1. The applicant requests a 6' fence for family privacy and security. Also, to provide better control of his dog.
  2. No neighbors attended to support or deny the request.
- Motion to close the public hearing made by R.W. Muscatello, seconded by A. Kroening. 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 dog(s). The construction of a 6' fence will not compromise the culture of the neighborhood.

2. No. The 6' fence would be constructed of vinyl, not chain link.
3. Yes. From 4' to 6'.
4. No. The structure would have a positive effect on the neighborhood and give the property curb appeal.
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

**7:35 pm: NAS Sign** requests an area variance for Lot #161.00-1-52, located at 7200 Williams Rd, to construct a second ground sign where only one is permitted.

Board Findings:

1. Considering where the sign would be placed, there would be no sight line issues.
2. The shared driveway services three (3) buildings. The proposed sign would direct the driver to the proper building, improving traffic control and safety.
3. Suggested the removal of brush along Williams Rd. would make it easier to read the “7200” address sign.

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

Findings per New York State Law:

1. Yes. Petitioner has proposed a concept of one sign listing all the buildings. However, the other building owners were not receptive. The existing sign will be torn down. Two different signs will replace the one. The proposed sign will be placed approximately 15' from the road with the address and one to be placed approximately 130" from the road as a directional with the complex entity.
2. No. It will be a driver and safety friendly with a substantial setback.
3. No. An existing sign will be removed.
4. No. The Niagara County allows local determination for sign placement.
5. Yes. Out of necessity.

Motion to approve the request with the sign constructed according to Town standards made by R.W. Muscatello, seconded by M. Klettke.

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

Motion approved

**8:05 pm: Thomas Murphy** requests approval for lot #175-14-1-47, lying within the LWRP, located at 2444 River Road, for the construction of a 3-season sunroom addition attached to the main dwelling.

Board Findings:

1. One neighbor, residing at 2424 River Road, spoke in favor of the proposed construction.
2. The proposed sunroom addition would be placed over an existing concrete pad.
3. Per the Town's Code Enforcement Officer, the structure will be out of the flood hazard area and be constructed above the base flood elevation.

Motion to close public hearing made by M. Schaffer, seconded by A. Kroening. Ayes: Unanimous

Findings per New York State Law:

1. No. Addition will not obstruct anyone's view of the river and will be built over the existing pad.
2. No. The addition will enhance the appearance of the structure.

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

Motion approved.

**8:35 pm: Robert Mikiewicz** requests an area variance for lot #163.04-5-37, located at 7250 Katie Drive, to construct a 6' fence that exceeds the maximum 4' height requirement. Applicant failed to appear as scheduled. Telephonic contact was unsuccessful. This Public Hearing is rescheduled for the July 9, 2018 meeting at 7:05 pm. Applicant will be notified accordingly. **Action:** Deb

**Request for Comment:** One ZBA board member suggested the need for amending the Town's fence laws relating to corner lots, lest the Town create, inadvertently, a "mish-mash" milieu.

**Miscellaneous: None**

**Next Meeting Schedule:** July 9, 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	Bridgette Grawe (Assessor)
Mike (Building Dept.)	Matthew Klettke
Curt Doktor	Larry Helwig
Art Gerbec	Art Kroening
Mike Schaffer	Gil Doucet
Deborah Carr	Richard W. Muscatello
Randy Retzlaff	Walt Garrow (Planning Board)
Harrington-McDonell (Clerk)	Fire Advisory Board
Don Wallace (MIS)	Record File

Note: These minutes will be scheduled for approval at the July 9, 2018 meeting