



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
November 12, 2018

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

Roll Call:

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

Motion to go into executive session for possible litigation made by R.W. Muscatello, seconded by M. Schaffer.

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

Motion approved.

Reading & Approval of Previous Meeting Minutes:

Motion to approve minutes of October 22, 2018:

Made by: M. Schaffer Seconded by: A. Kroening

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

Motion approved

Communications: R.W. Muscatello, M. Schaffer, A. Gerbec and M. Klettke attended the Niagara County Planning & Zoning Training on Tuesday, October 30, 2018 at Niagara County Community College. Art Kroening advised the board he will pursue the same education subjects via the internet on-line.

Reports of Committees: Not applicable

Unfinished Business: (Carry over)

Members were invited to digest the contents of “The Use variance” portions of the NYS ZBA manual, inasmuch as New York Dept. of State officials has informally advised Town officials that the “Use” variances must be strictly controlled and minimized with documented justification.

Action: Members

New Business: (Carry over)

Discussed the need to amend the Flood Zone Variance Application and accompanying cover page. The amended application will be presented to the Board for approval at the next ZBA meeting.

Action: Deb

Hearing(s) Held/Interpretations

7:30 pm, Borrego Solar for David & Dennis Jakubaszek requests an area variance for Lot #133.00-1-3, located at 2469 Lockport Rd., to construct a 7' fence that exceeds the maximum 6' height requirement.

Board Findings:

1. One resident assertively vocalized his disapproval of the entire project, the approval process by both the Planning Board and Town Board: all of which is beyond the purview of the ZBA whose responsibility is limited to determining the height of the fence installation.
2. The applicant is amendable to erect a 6' fence without a variance. However, the National Electrical Code (NEC), as part of Town law, requires a 7' fence.
3. As previously documented the fence would be 7' high with no barb wire.

Motion to close the public hearing on October 22, 2018 made by M. Schaffer, seconded by R.W. Muscatello.

Ayes: Unanimous

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

Motion approved

Findings per New York State Law Guidelines:

Acknowledging the documentation of the previous ZBA Minutes of Meeting of October 22, 2018 and today's conversation, motion to approve the seven (7) foot fence height as submitted 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

8:00 pm, Frontier Fire Co., Gary Hunt, request an area variance for Lot #174.08-1-22.1, located at 2181 River Rd., to upgrade existing sign with a LED lighted sign with a set-back of 10' where a 15' set-back is required.

Board Findings:

1. No neighbors attended to support or deny the request
2. There is an existing wooded sign in the same location.
3. Sign will display internal and public safety messages, as encouraged by NY State.

Following the petitioner's presentation of intentions, plans, questions and answers:

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

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

Motion carried

Findings per New York State Law Guidelines:

1. No. Petitioner would have to remove 2 existing full grown trees.
2. No. The sign has the capability to be dimmed. The sign will be in compliance with the Town's EMD sign law.
3. Yes. From 15' to 10'. There will be no visual obstructions.
4. No. The sign will actually be an improvement.
5. Yes.

Motion to approve the request as submitted made by M. Klettke, seconded by A. Gerbec.

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

Motion approved

8:30 pm, Bergholz Fire Co., Brian Kroening, request an area variance for Lot #147.14-2-23, located at 2470 Niagara Rd., to upgrade an existing wooden sign with a LED lighted sign with a set-back of 10' where a 15' set-back is required.

Board Findings:

1. No neighbors attended to support or deny the request.
2. The sign would be in symmetry with the other existing signs in the area.

Following the petitioner's presentation of intentions, plans, questions and answers:

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

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

Motion approved

Findings per New York State Law Guidelines:

1. No.
2. No. The sign has the capability to be dimmed. The sign will be in compliance with the Town's EMD sign law.
3. Yes. The position of the intended sign will be consistent with other signs contiguous to the intended sign. It will create an improvement of symmetry going from 15' to 10'.
4. No. The street view will be improved by replacing a pole type sign with a monument sign, creating consistency with the other signs in the close proximity.
5. Yes.

Motion to approve the request as submitted made by M. Klettke, seconded by A. Gerbec.

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

Motion approved.

Public Hearings: None

Miscellaneous: None at this time.

Next Meeting Schedule: November 26, 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

Don MacSwan, Supervisor
Mike Klock (Building Dept.)
Curt Doktor
Art Gerbec
Mike Schaffer
Deborah Carr

Bridgette Grawe (Assessor)
Matthew Klettke
Walt Garrow (Planning Board)
Art Kroening
Harrington-McDonell (Town Clerk)
Richard W. Muscatello

Randy Retzlaff
Gil Doucet
Larry Helwig
Don Wallace (MIS)
Fire Advisory Board
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