

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
February 6, 2018**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, February 6, 2018 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Mike Grasso, Chairman, called the meeting to order at 7:00 pm and roll was taken.

Board Members

Present: Mike Grasso, Don Woerner, Bob Hatch, Tim Steves, Joe Burns
Debra Stokoe, Steve Stein

Others Present:

Ed Shero, Town Board Liason
Terry Rech, Building Inspector
Mr. & Mrs. Russell Free, Property Owner

First order of Business:

Mike asked for a motion to accept the Minutes of the December 5, 2018, meeting. Don Woerner made such a motion; Tim Steves seconded the motion. The vote was as follows:

Don Woerner	-	Aye
Tim Steves	-	Aye
Debra Stokoe		Aye
Bob Hatch		Abstain (Alternate)
Joe Burns	-	Aye
Mike Grasso	-	Aye

All members voting in favor, the motion was carried.

Second Order of Business:

The application of Russell and Deborah Free, to seek an area variance of Section 130-10 of the Code of the Town of Wheatland to use an existing long term commercial use structure, that has expired non-conforming status due to vacancy, for renewed retail purposes. The subject parcel is tax I.D. #208.02-1-13, presently known as 2566 Scottsville Mumford Road.

The applicant Deborah Free presented and discussed a number of reasons driving the need for this use variance application:

- This parcel and existing structure is located in an AR-2 Zoning District
- This is an existing long term use and structure constructed originally for commercial use
- Portions of the parcel adjacent to this structure are in the 100 year flood zone (F-1 Zoning), which limits expansion, reconfiguration or upsizing of the septic system for residential use.
- The building itself is a historical icon for the area.
- The building was always used for commercial purposes and converting to residential would push beyond a reasonable return of investment.
- Ms. Free provided an letter from a local real estate broker that the property can not make a reasonable return as a residential property.

There was other information and discussion concerning the appropriateness of the proposed to the neighborhood.

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Lauren Grossman recounted a phone conversation with Cassandra Balonek, the neighbor across the street . Cassandra stated that she thought the proposed would be a good addition to the neighborhood . She stated that the property has been vacant for many years and has been an eyesore. She is interested in seeing what comes of the project.

Board members considered and discussed the details of the Short Environmental Form and discussed in great length the Part 2 Impact Assessment section for the requested variance.

The floor was opened for public comment at 7:35 pm. There was no public before the board. There being no further comments, public comment was closed at 7:35 pm.

The Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-66 and after careful consideration, review of the evidence presented and having heard all the facts determined that; this area variance is a UNLISTED action under SEQRA.

Motion for Negative Declaration was made by Don Woerner and seconded by Debra Stokoe. The vote was as follows:

Bob Hatch	-	Abstain
Don Woerner		Aye
Tim Steves		Aye
Debra Stokoe		Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye

Further, the action taken on this application to be the minimum variance that it deems necessary and adequate to the address the unnecessary hardship of the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The Town of Wheatland Zoning Board of Appeals hereby approves as requested the application of Mr. & Mrs. Russell Free. This motion is based upon the following findings of facts:

- 1) The applicant can not realize a reasonable return based upon the conversion to a residence, finding it financially cost prohibited and based on our opinions and a licensed associate realestate broker.
- 2) That the hardship relating to this property is unique, and does not apply to a substantial portion of the district or neighborhood as shown by constructed use for long term commercial business. Non conforming as to current set backs, and too small for to be used for agricultural use.
- 3) That the requested use variance, will not alter the essential character of the neighborhood as shown by the building has commercial character and is part of what makes the neighborhood what it is. And it has been used for business for many many years.
- 4) And that the alleged hardship has not been self created. The condition predates current zoning code.
- 5) Further that this variance is subject to the following conditions: This use variance will allow any business permitted in the village business district and signage that complies with the town commercial signage code. The address will be changed to 2659 Scottsville Mumford Road.

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Motion to approve the variance was made by Mike Grasso and seconded by Debra Stokoe. The vote was as follows:

Bob Hatch	-	Abstain
Don Woerner		Aye
Tim Steves		Aye
Debra Stokoe		Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye

All were in favor and the motion was carried.

There being no further business, Mike Grasso entertained a motion to adjourn. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 8:00 P.M.

Respectfully submitted,

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
September 4, 2018**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, September 4, 2018 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Mike Grasso, Chairman, called the meeting to order at 7:00 pm and roll was taken.

Board Members

Present: Mike Grasso, Don Woerner, Tim Steves, Joe Burns
Debra Stokoe

Absent: Robert Hatch

Others Present:

Ed Shero, Town Board Liason
Terry Rech, Building Inspector
Mr. & Mrs. Charlie Johnston, Property Owners

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the February 6, 2018 meeting. The meeting minutes were approved as corrected. Don Woerner made such a motion; Tim Steves seconded the motion. The vote was as follows:

Don Woerner	-	Aye
Tim Steves	-	Aye
Debra Stokoe		Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye

All members voting in favor, the motion was carried.

Second Order of Business:

The application of Charlie and LeAnne Johnston, to seek an area variance of Article II, Sections 130-9., and 130-11 of the Code of the Town of Wheatland, to allow an expansion of an existing front porch to encroach the required 35' front setback in an R-12/F-1 zoning district. The subject parcel is tax I.D. #208.15-1-47, 931 George St., Mumford 14511.

The applicants Charlie and LeAnne Johnston presented and discussed a number of reasons driving the need for this area variance application:

- The porch is in need of repair. The porch and steps are falling apart and it is now a safety and liability issue. They are asking to extend their porch 60" East and 24" North. The house was built in 1860 and predates zoning. The latest revision in the code was 1970's.
- At one time the porch went the entire length of the home. Mr. & Mrs. Johnston would like to somewhat bring back the original look of the porch.
- Mr. & Mrs. Johnston presented the board with pictures from various houses on their street stating that the renovation to the porch would impact their neighborhood in a positive way.
- Currently the base of the porch is a solid cement structure. The new deck would be built with wood and stone which would help the flow of water for the flood zone.

Chairman Grasso asked Terry Rech, Building Inspector if he was okay with the proposal. Terry stated per 130-26 F, he could use 25' as base set back as everyone else in the area

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encroaches more than that. He is okay with the proposal with the understanding that the new construction of the porch needs to allow for flood waters.

There was additional information and discussion concerning the appropriateness of the proposed to the neighborhood.

Two neighbors that were unable to attend the Zoning Board Hearing sent in letters. Chairman Grasso read the following:

- “Whatever the Johnston’s want is ok with me. “Yes”. -Audrose M. Banks of 121 Smith St.
- “I think we all should be able to do any thing we want to improve our homes. I am all for Charlie and Leanne having a new porch!!” -Betty Ackerman of 930 George St.

Board members considered and discussed the details and effects of the requested variance.

The floor was opened for public comment at 7:25 pm. There was no public before the board. There being no further comments, public comment was closed at 7:26 pm.

The Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-66, after careful consideration and review of the evidence presented and having heard all the facts hereby, approve the application of Charlie and LeAnne Johnston. This motion was based upon the following finding of facts:

- 1) The granting of this area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, demonstrated by: Neighboring properties have same problem with non-conformance. Replacement porch/deck will be much more pleasing to the eye and allow for increased flood water flow. A conforming structure would be out of character with the neighborhood.
- 2) The benefit sought by the applicant can not be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: Front porch is best situated in the front of the house. 4’ depth as existing has limited functionality, 5’ depth makes a substantial difference.
- 3) The requested area variance is substantial as evidenced by: Requested relief is 60+% of 35’ minimum and per 130-26 F, 50% of the building inspector’s discretionary minimum.
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as shown by: Improved look of new porch, same as others in the neighborhood actually having a larger setback. Flood proofing will prevent adverse impact to the flood zone.
- 5) And that the condition has not been self created, as shown by: House is a pre-existing, non-conforming structure, only a small increase in the non-conformity is being proposed.

Further that this variance is subject to the following condition: Building inspector is satisfied that the adequate flood proofing measures are incorporated into the construction.

Motion to approve the variance was made by Chairman Grasso and seconded by Joe Burns. The vote was as follows:

Don Woerner		Aye
Tim Steves		Aye
Debra Stokoe		Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye

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All were in favor and the motion was carried.

There being no further business, Don Woerner entertained a motion to adjourn. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 7:55 P.M.

Respectfully submitted,

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
December 4, 2018**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, December 4, 2018 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Mike Grasso, Chairman, called the meeting to order at 7:00 pm and roll was taken.

Board Members

Present: Mike Grasso, Robert Hatch (alternate), Tim Steves, Joe Burns
Debra Stokoe

Absent: Don Woerner

Others Present:

Ed Shero, Town Board Liason
Terry Rech, Building Inspector
Mr. & Mrs. Michael Legno, Property Owners

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the September 4, 2018 meeting. The meeting minutes were approved as submitted. Debra Stokoe made such a motion; Tim Steves seconded the motion. The vote was as follows:

Tim Steves	-	Aye
Debra Stokoe	-	Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye
Robert Hatch	-	Abstain

Robert Hatch abstained from the vote due to his absence from the September 4, 2018 meeting; with all other present members voting in favor, the motion was carried.

Second Order of Business:

The application of Michael Legno, to seek an area variance of Article III, Sections 130-30. A. (1), of the Code of the Town of Wheatland, to allow a fence in a required side yard greater than 4 ft. (nominal 6' proposed) in an R-16 zoning district. The subject parcel is tax I.D. #208.12-1-2.1, 164 Oatka Ave. Extension, Mumford 14511.

The applicant Michael Legno presented and discussed several reasons driving the need for this area variance application:

- He would like to continue his existing fence up to 87' from the road. This would align his fence with the neighbor's house two doors down.
- The fence will keep the line of structure with the other homes on the street.
- Mr. Legno would like to contain their dog; the neighbors have children and receive frequent lawn treatments.
- A 6' fence would provide additional privacy and hide their "stuff" (four-wheeler, working and gardening tools, etc.).

The floor was opened for public comment at 7:17 pm. There was no public before the board. There being no further comments, public comment was closed at 7:18 pm.

Chairman Grasso asked Terry Rech, Building Inspector his thoughts on the application. Terry stated that he did speak to the immediate neighbor. Mr. William Hammon of 156 Oatka Ave Ext. stated, "he has no problem with the fence". Terry also stated that the home is in a R-16 Zoning District. The front setback is 50'. All the houses are set way

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further back than the required setback. Realistically, for that Zoning District everything could be moved forward.

Debra Stokoe asked if the fence is in the flood zone. Terry stated that the fence will not be in the flood zone.

Board members considered and discussed the details and effects of the requested variance.

The Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-66, after careful consideration and review of the evidence presented and having heard all the facts hereby, approve the application of Michael Legno. This motion was based upon the following finding of facts:

- 1) The granting of this area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties, demonstrated by: 1.) The house is set-back further than required and a 6' fence will not extend appreciably further than the required minimum setback. 2.) The proposed fence will only be as close to the road as the house closest to the road in proximity to this address.
- 2) The benefit sought by the applicant can not be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: desired screening effect would not be realized by a 4' tall (permitted) fence.
- 3) The requested area variance is not substantial as evidenced by: relief sought is approximately 50' in length, when rear house line is approximately 125' from front lot line and barely within required 50' front setback.
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as shown by: relatively short length of fence requested that will be only 2' taller than allowed.
- 5) And that the condition has been self-created, as shown by: screening desired is because of belongings and personal preference.

Further that this variance is subject to the following condition: proposed 6' tall fence is no closer than 80' from the edge of the street.

Motion to approve the variance was made by Chairman Grasso and seconded by Robert Hatch. The vote was as follows:

Tim Steves	-	Aye
Robert Hatch	-	Aye
Debra Stokoe	-	Aye
Joe Burns	-	Aye
Mike Grasso	-	Aye

All were in favor and the motion was carried.

There being no further business, Joe Burns entertained a motion to adjourn. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 7:45 P.M.

Respectfully submitted,

Lisa J. Bates
Recording Secretary