

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
May 6, 2014**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, May 6, 2014 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Members Present: Don Woerner, Mike Grasso, Steve Stein, Debra Stokoe, Tim Steves

Alternates Present: Bob Hatch, Scott Hallock

Others Present: Terry Rech, Building Inspector and Ed Shero, Town Board Liaison

Don Woerner, Chairman, called the meeting to order at 7 pm and roll was taken. Tim Steves recused himself as he is a next-door neighbor to the applicant.

D. Woerner asked for a motion to accept as submitted the Minutes of the June 18, 2013 meeting. S. Stein made such a motion with a Second by D. Stokoe. The vote was unanimous.

New Business:

The Public Hearing notice for May 6, 2014 was read by D. Woerner.

For consideration:

The application of Dustin and Kimberly Auger to seek an area variance of Section 130-23.B.(2) of the Code of the Town of Wheatland to allow less than the required 20' setback for an accessory structure in an AR-2 residential zoning district. The property address is 65 McGinnis Rd. The Tax I.D. number is 198.01-1-21.1.

D. Woerner asked Kim Auger to give a summary of the application. She indicated that the current structure would be taken down and a new structure would be put up in the same spot but with larger dimensions and still 11.7' from the property line.

D. Woerner opened the Public Hearing at 7:06 P.M. No interested parties had signed in to speak and the Public Hearing was closed at 7:07 P.M.

D. Woerner opened up discussion for the Zoning Board. Members considered and discussed the details and effects of the requested variance while the Area Variance Determination Form information was documented.

There being no further discussion, the Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-66 after careful consideration, review of the evidence presented and having heard all the facts hereby: Approves As Requested the application of Dustin & Kimberly Auger. 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: the new building will be in the same location as the old building, which has been in place for 70 years.
- 2) The benefit sought by the applicant Can be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: the applicant could move the structure in question.
- 3) The requested area variance Is substantial as evidenced by: the requested setback is 11.7' where the requirement is 20'. This is an approximate 42% change.
- 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: the new building will be in the same location as the existing one has been for 70 years.
- 5) And that the condition Has Not been self-created, as shown by: the existing building was built before local zoning existed.

S. Stein asked for input from the Building Inspector. T. Rech quoted Section 130-54.C. that a rebuilt structure should not increase the degree of existing nonconformity, thus this larger structure would require a variance.

D. Woerner entertained a motion to approve the variance as requested. Such a motion was made by B. Hatch. Second was made by S. Stein. The vote was as follows:

M. Grasso	-	Aye
S. Stein	-	Aye
D. Stokoe	-	Aye
B. Hatch	-	Aye
D. Woerner	-	Aye

There being no further business, B. Hatch made a motion to adjourn. The Second was made by D. Stokoe. The vote was unanimous. The meeting was adjourned at 7:33 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
July 1, 2014**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, July 1, 2014 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Members Present: Don Woerner, Mike Grasso, Steve Stein, Debra Stokoe, Tim Steves

Alternates Present: Bob Hatch, Scott Hallock

Others Present: Terry Rech, Building Inspector and Ed Shero, Town Board Liaison

Don Woerner, Chairman, called the meeting to order at 7:04 pm and roll was taken.

D. Woerner asked for a motion to accept as submitted the Minutes of the May 6, 2014 meeting. D. Stokoe made such a motion with a Second by S. Stein. The vote was unanimous.

New Business:

The Public Hearing notice for July 1, 2014 was read by D. Woerner.

For consideration:

The application of Stephen Berghash to seek an area variance of Section 130-23.C.(1) of the Code of the Town of Wheatland to allow less than the required 70' front setback for an accessory off-street parking area in a SCB zoning district. The property address is 3750 Scottsville Rd., Scottsville NY 14546. The Tax I.D. number is 187.03-1-72.3.

D. Woerner asked Stephen Berghash to give a summary of the application. S. Berghash indicated that he wanted to add 13 additional parking spaces on the west side of the parking area. The variance requested is 18' less than the required 70' front setback.

D. Woerner opened the Public Hearing at 7:11 P.M. No interested parties had signed in to speak but Kevin Curran, Valley Tire Store Manager, spoke and said that he sees the parking problem with cars trying to find parking spots. The Public Hearing was closed at 7:12 P.M.

D. Woerner opened up discussion for the Zoning Board for finding of facts. Members considered and discussed the details and effects of the requested variance as the Area Variance Determination Form information was documented.

There being no further discussion, the Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-66 after careful consideration, review of the evidence presented and having heard all the facts hereby: Approved with Conditions the application of Stephen Berghash. 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: many area properties have parking areas closer to the road than the applicant was requesting.
- 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: no other area on the property is available for parking.
- 3) The requested area variance Is Not substantial as evidenced by: the variance requested is approximately 25% of the required code distance.
- 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: there will be no environmental impact, and parking conditions will be safer.
- 5) And that the condition Has Not been self-created, as shown by: the parking lot is currently being used at capacity.

Further, that this variance is subject to the following conditions: (1) Amend map to show the fenced-in dog area, (2) Construct landscape berm/buffer with plantings to shield the new parking area and Scottsville Rd.

D. Woerner entertained a motion to Approve the variance With Conditions. Such a motion was made by S. Stein. Second was made by D. Stokoe. The vote was as follows:

M. Grasso	-	Aye
S. Stein	-	Aye
D. Stokoe	-	Aye
T. Steves	-	Aye
D. Woerner	-	Aye

There being no further business, D. Stokoe made a motion to adjourn. The Second was made by S. Stein. The vote was unanimous. The meeting was adjourned at 7:29 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
October 7, 2014**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, October 7, 2014 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Members Present: Mike Grasso, Steve Stein, Debra Stokoe, Tim Steves

Members Absent: Don Woerner

Alternates Present: Bob Hatch, Scott Hallock

Others Present: Terry Rech, Building Inspector, Ed Shero, Town Board Liaison and John Glavin, Town Attorney

Mike Grasso, Vice-Chairman, called the meeting to order at 7:23 pm and roll was taken.

M. Grasso asked for a motion to approve as submitted the Minutes of the July 1, 2014 meeting. S. Stein made such a motion with a Second by D. Stokoe. The vote was as follows:

S. Stein	-	Aye
D. Stokoe	-	Aye
T. Steves	-	Aye
R. Hatch	-	Aye
M. Grasso	-	Aye

New Business:

The business before the Board regarded the Application by James Webb for an Area Variance to allow 171' for lot width instead of the 200' minimum required lot width at his property adjacent to 2416 North Rd. M. Grasso asked Mr. Webb for a summary of his request/opinions. J. Webb addressed the information points requested on the application and spoke about the history and process that culminated in the purchase of the lands (not tax parcel) adjacent to 2416 North Rd. as well as the current status of the 2 properties- his property and 2416 North Rd. He indicated that he had tried to sell and/or trade land with both adjacent neighbors but that had failed. He also felt that the condition had not been self-created. J. Webb also read a letter from his wife Elizabeth Webb (the previous owner) reflecting her understanding of the current situation and thanking the Board for their consideration of the request for a variance. Under the previous ownership she did not think she had been required to combine the lands under discussion- 2416 North Rd and the adjacent property.

M. Grasso addressed the point regarding if the relief requested is substantial. He noted that the 200' width requirement is at the 75' front setback requirement. It appeared that the relief requested would be closer to approximately 176'.

M. Grasso opened the Public Hearing at 7:39 p.m. and read the Public Hearing Notice.

For consideration:

The application of James Webb to seek an area variance of Section 130-11 of the Code of the Town of Wheatland to allow less than the required 200' minimum width lot in an AR-2 zoning district. The property address is adjacent to 2416 North Rd. The Tax I.D. number is 198.01-1-13.2.

Christopher Foote of 2416 North Rd. signed in to speak of his concerns. He and his wife did not want the variance granted. He expressed his concern over where a house would be built should the property in question become a buildable lot. He felt that there would be an adverse effect to the neighborhood atmosphere if a house were built behind them. He said that he and his wife had considered purchasing the property but felt it more of a liability than an asset. A letter from Volkman Farms was entered into the record stating their concerns/opposition to granting the area variance. They had made an offer to buy the property in question at time of auction but were turned down. J. Webb asked to speak

again summarizing the confusion at auction time as to the how the parcels were “split”/not-combined, and how/if they could be sold.

The Public Hearing was closed at 7:52 P.M.

Before Board deliberation, M. Grasso summarized that it appeared that all other setbacks required most likely would be satisfied to build a house on this property other than the requested variance for the minimum lot width which appeared to be “ballpark” 177’ at the setback line.

M. Grasso asked Terry Rech for his input/thoughts. T. Rech gave an historical review of the property. As a result of a 1999 Planning Board meeting, approval was given for alteration of lot line, which should have resulted in the combination of lands (the lands in question and 2416 North Rd) into one tax parcel. Upon filing with Monroe County, the additional lands and 2416 North Rd were not combined, and an additional Tax ID parcel # was then assigned to the lands in question. This resulted in a substandard parcel for the newly assigned Tax parcel ID and left the property at 2416 North Rd as a pre-existing nonconforming parcel also. Prior to the 1999 Planning Board meeting, the property at 2416 North Rd measured less than 2 acres with the garage on the property line. Buying the adjacent lands and combining was supposed to bring it to conforming status and create one tax parcel. It was approved by the Board as such but in the filing with the County it did not happen.

There was discussion regarding the definition of alteration of lot line as opposed to subdivision (which results in additional Tax parcels), and the intent of the 1999 business before the Planning Board. S. Hallock made the point of this being an example of self-created hardship where the intent was to combine the lands but then the owner didn’t do so. Further discussion by M. Grasso confirmed that upon acquiring the property under review, J. Webb had acquired a non-conforming/substandard lot which is considered a self-created difficulty/condition.

John Glavin was asked for his input. He felt that the Board should delay it’s deliberations to give the parties a chance to negotiate. J. Webb stated that he felt they were past that point. Further discussion included different options for the owner and neighbors. M. Grasso asked J. Glavin if the Zoning Board would be able to approve the application before the Board if it was with regard to a lot that was created without approval. J. Glavin indicated no, it would be confirming a mistake. He wanted to bring forward another idea for consideration.

M. Grasso entertained a motion to suspend Board deliberations at that time for further review/discussion. B. Hatch made a motion to table the matter. The second was made by D. Stokoe. The vote was unanimous.

There being no further business, D. Stokoe made a motion to adjourn. The Second was made by B. Hatch. The vote was unanimous. The meeting was adjourned at 8:08 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary