

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
May 2, 2023**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday May 2, 2023, at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Joe Burns, Vice-Chairman, called the meeting to order at 7:50 P.M and roll was taken.

Board Members

Present: Joe Burns, Laura Michaels, Tim Steves, Kane Gascon,
Robert Hatch

Absent: Mike Grasso

Others Present:

Mr. & Mrs. Cook, Property Owner
Brandi Spezzano, Property Owner
Terry Rech, Building Inspector
Ed Shero, Town Board Member
Ray DiRaddo, Town Attorney

First order of Business:

Vice-Chairman Burns asked for a motion to accept the Minutes from the March 7, 2023, meeting. The meeting minutes were approved as submitted. Laura Michaels made such a motion; Tim Steves seconded the motion. The vote was as follows:

Laura Michaels -	Aye
Robert Hatch -	Abstain
Joe Burns -	Aye
Tim Steves -	Aye
Kane Gascon -	Aye

With all other present members voting in favor, the motion was carried.

Second Order of Business:

The application of Carol & Dave Cook, to seek an area variance of Section 130-11 of the Code of the Town of Wheatland to allow a rear addition to encroach the required 35' setback in an R-16 zoning district. The property address is 21 Fairview Rd, Scottsville, 14546. The Tax ID# is 187.03-1-27.1.

Mr. & Mrs. Cook are seeking an area variance to allow the issuance of a Building Permit for a rear addition to encroach the required 35' setback. They would like to build a new kitchen, connecting it to the existing house and will end at the back of the garage. The garage is set back 20' from the property line and they would like to match the addition to the existing setback. Mrs. Cook explained this is the only area they can do this because of the current location of the kitchen. They have septic and a leach field in the backyard which they need to avoid. She stated that the addition will be an improvement to the house and the neighborhood, increasing the property value.

With no further questions from the Board the floor was opened for public comment at 7:55 P.M.

There being no public before the board, public comment was closed at 7:56 P.M.

2 | Town of Wheatland Zoning Board of Appeals

Terry Rech, Building Inspector, stated that the rear of the addition is in the back and will not encroach any further than the existing garage. This does not have any impact on any of the neighbors.

The 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, approves as requested the application of Carol and Dave Cook. 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: it fits into the existing structure on back of the house, matching the existing setback. This will increase the property value.
- 2) The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: location for kitchen attachment to existing structure is best where shown due to house layout.
- 3) The requested area variance is substantial as evidenced by: 43% reduction in rear setback, however it will match the existing garage 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: addition will be on back of house, mostly hidden by existing house and garage. Will fit into the character of the neighborhood and match the house in appearance.
- 5) And that the condition has not been self-created, as shown by: existing garage is at 20-foot setback now and new addition will match it. Built prior to zoning.

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

Tim Steves	-	Aye
Robert Hatch	-	Aye
Laura Michaels	-	Aye
Joe Burns	-	Aye
Cane Gascon	-	Aye

All were in favor and the motion was carried.

Third Order of Business:

The application of Brandi Spezzano to seek an area variance of Article II, Sections 130-9, 130-11 and 130-23.B. of the Code of the Town of Wheatland, to build an accessory structure to encroach the required front and side setbacks in an R-16 zoning district. The subject parcel is 702 State Street Mumford, NY 14511. Tax I.D. #208.12-1-42.

Ms. Spezzano is seeking an area variance to allow her to place an accessory structure in the front side yard of her property. She needs storage and would like to improve the look and value of her home. This shed would allow her to de-clutter her yard and properly store her outdoor equipment. The look of the structure would remain the same as the house, a nicely built Amish structure, the same color as the house. Ms. Spezzano stated that this is the only location to place this structure due to leach lines and septic tank locations. She stated that if there was a location to put it without having to seek a variance she would have done so. She has proposed two options to the Board. One being off the driveway (Option 1) and the other set closer to the side yard (Option 2). Ms. Spezzano stated of the two options she would prefer Option 1.

3 | Town of Wheatland Zoning Board of Appeals

Let the record show that at 8:15pm Board Member, Laura Michaels left the meeting. She did state prior to leaving she was in favor of granting the variance.

Vice-Chairman Burns asked Building Inspector, Terry Rech his thoughts on this request. Terry stated that he tried his best to find another option but looking at the immediate neighborhood this structure would not look out of place where the applicant is requesting to put it. She is limited by physical constraints in the rear yard so he stated he will leave it in the board's hands.

With no further questions from the Board the floor was opened for public comment at 8:20 P.M.

There being no public before the board, public comment was closed at 8:23 P.M.

The 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, approves as requested Option 1 of the application of Brandi Spezzano. 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: most houses on State Street in this area are close to the road. The neighbor to the east is closer. The house to the west is about the same. Applicant wants to store items out of site, de-clutter yard.
- 2.) The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: This is a very small odd, shaped lot. The septic system is in the back of the house.
- 3.) The requested area variance is substantial as evidenced by: 50% on front set back.
- 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: Purpose is to store yard equipment out of site and under cover.
- 5.) And that the condition has not been self-created, as shown by: Small odd, shaped lots that have existed before zoning.

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

Tim Steves	-	Aye
Robert Hatch	-	Aye
Joe Burns	-	Aye
Cane Gascon	-	Aye

All were in favor and the motion was carried.

There being no further business, Tim Steves entertained a motion to adjourn. Robert Hatch seconded the motion. The vote was unanimous. The meeting was adjourned at 8:35 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
June 6, 2023**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday June 6, 2023, 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 P.M and roll was taken.

Board Members

Present: Joe Burns, Laura Michaels, Tim Steves, Kane Gascon,
Robert Hatch (Alternate), Mike Grasso

Absent:

Others Present:

Richard Hinkley, representing Heather Stewart, property owner
Terry Rech, Building Inspector
Ed Shero, Town Board Member
Ray DiRaddo, Town Attorney

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the May 2, 2023, meeting. The meeting minutes were approved as submitted. Joe Burns made such a motion; Laura Michaels seconded the motion. The vote was as follows:

Laura Michaels -	Aye
Joe Burns -	Aye
Tim Steves -	Aye
Kane Gascon -	Aye
Michael Grasso-	Abstain

With all other present members voting in favor, the motion was carried.

Second Order of Business:

The application of Richard Hinkley, to seek an area variance of Sections 130-9, 130-11, and 130-23. B of the Code of the Town of Wheatland to allow an accessory structure to encroach required side setback in an AR-2 Zoning District. The subject parcel is at 25 South Road, Scottsville, NY 14546. Tax Parcel # 211.03-1-18.114.

Mr. Hinkley is seeking an area variance to build a 30' x 40' accessory structure 7' off the side lot line instead of the required 20' side setback. Mr. Hinkley stated that this is the only place he can put the barn. The backyard floods, there is a well on the side and the septic is in the front yard. He prefers the right side of the house because the driveway and garage are there. Chairman Grasso asked Terry Rech, Building Inspector how close an accessory structure can be to the house. Terry stated that there is no mandate in the code, however, the side set back is 25'. Mr. Hinkley said he would like to build the barn so they can get their tools and things out of the weather and to get organized. He feels it would raise the property value of his home and there would not be any negative effect on the environment. He explained another reason for the proposed location is because the house sits closer to the back of the lot, and they currently have chickens and a garden in the backyard.

Chairman Grasso and the Board Members discussed with Mr. Hinkley some alternatives to try to accommodate his request with less of a reduction in the side set back. After

2 | Town of Wheatland Zoning Board of Appeals

much conversation, it was suggested that the discussion be tabled until next month to give Mr. Hinkley some time to come up with some different orientations.

A motion to table the application until next month was made by Joe Burns and seconded by Tim Steves. The vote was as follows:

Tim Steves	-	Aye
Joe Burns	-	Aye
Kane Gascon	-	Aye
Laura Michaels	-	Aye
Mike Grasso	-	Aye

All were in favor and the motion was carried.

There being no further business, Tim Steves entertained a motion to adjourn. Mike Grasso seconded the motion. The vote was unanimous. The meeting was adjourned at 7:25 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
July 5, 2023**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday July 5, 2023, 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 P.M and roll was taken.

Board Members

Present: Joe Burns, Laura Michaels, Tim Steves, Kane Gascon,
Mike Grasso

Absent: Robert Hatch

Others Present:

Terry Rech, Building Inspector
Ed Shero, Town Board Member
Ray DiRaddo, Town Attorney

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the June 6, 2023, meeting. The meeting minutes were approved as submitted. Joe Burns made such a motion; Kane Gascon seconded the motion. The vote was as follows:

Laura Michaels -	Aye
Joe Burns -	Aye
Tim Steves -	Aye
Kane Gascon -	Aye
Michael Grasso-	Aye

With all present members voting in favor, the motion was carried.

Second Order of Business:

The application of Richard Hinkley, to seek an area variance of Sections 130-9, 130-11, and 130-23. B of the Code of the Town of Wheatland to allow an accessory structure to encroach required side setback in an AR-2 Zoning District. The subject parcel is at 25 South Road, Scottsville, NY 14546. Tax Parcel # 211.03-1-18.114.

Chairman Grasso stated that the application for an area variance for 25 South Road was tabled at the last meeting after the applicant left during the information gathering portion of the meeting. We have not heard back from Mr. Hinkley. Chairman Grasso asked the board members if they would like to entertain a motion to deny without prejudice the application of Richard Hinkley for his area variance. This will allow Mr. Hinkley the opportunity to reapply for a new application if he chooses at a later date.

A motion to deny the application of Richard Hinkley without prejudice was made by Joe Burns and seconded by Tim Steves. The vote was as follows:

Tim Steves -	Aye
Joe Burns -	Aye
Kane Gascon -	Aye
Laura Michaels -	Aye
Mike Grasso -	Aye

2 | Town of Wheatland Zoning Board of Appeals

All were in favor and the motion was carried.

There being no further business, Tim Steves entertained a motion to adjourn. Joe Burns seconded the motion. The vote was unanimous. The meeting was adjourned at 7:05 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
December 5, 2023**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday December 5, 2023, 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 P.M and roll was taken.

Board Members

Present: Joe Burns, Robert Hatch, Tim Steves, Mike Grasso

Absent: Laura Michaels, Kane Gascon

Others Present:

Ty Fischer, 637 Wheatland Center Rd.
Terry Rech, Building Inspector
Ed Shero, Town Board Member
Ray DiRaddo, Town Attorney

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the July 5, 2023, meeting. The meeting minutes were approved as submitted. Joe Burns made such a motion; Tim Steves seconded the motion. The vote was as follows:

Joe Burns	-	Aye
Tim Steves	-	Aye
Robert Hatch	-	Abstain
Michael Grasso	-	Aye

With all present members voting in favor, the motion was carried.

Second Order of Business:

The application of Ty Fischer of EnCompass Pipeline, LLC as agent for B & T Property Holdings, LLC to seek an amendment to a previous use variance of Section 130-9 and 130-10 to allow the operation of a utility pipeline construction company business office and storage. Seeking a modification of the previous business office and log transfer station in an AR-2 Zoning District. Property address is 637 Wheatland Center Road, Scottsville NY 14546. Tax Parcel #185.04-1-2.

Mr. Fischer stated that the reason he is here this evening is to request a Use Variance for 637 Wheatland Center Road so he can run his utility pipeline construction business at this location. He thought that the use variance would transfer over from the previous business, but it does not. He would also like to propose building a larger shop to work on the vehicles, the equipment, and to do some light fabricating. In the future he would like to build another smaller building to the west of the existing barn. Mr. Fischer also stated that they will be utilizing the outdoor space on the property to store their equipment and piping. Though he purchased the property quite some time ago, he has not utilized the facility, he has been busy at another location.

Chairman Grasso asked Terry Rech, Building Inspector for some history on 637 Wheatland Center Road. Terry stated that the property has had a quasi-industrial use for some time. Many years ago, a site plan was granted for a nursery. The nursery was viewed as AG, it was not under a variance. In 2006 a variance was granted to Woodwise

2 | Town of Wheatland Zoning Board of Appeals

– Timber operations. This was viewed as somewhat AG but more of an industrial look and feel. With that said, history is more of commercial occupancies than residential or AG.

Chairman Grasso explained to Mr. Fischer what needs to happen for the Board to approve this Use Variance. He stated that the biggest “test” he must convince the board of is to prove the hardship that is involved. To make that decision a lot of information needs to be brought forth and the Board would need to do some research.

Board Member Joe Burns asked if this is a new variance, a continuation of an existing variance or a special exception? Terry stated it would be a new use because it is an entirely different business. The Board will have to show its due diligence in discussion and rationalization.

Chairman Grasso asked Town Attorney Ray DiRaddo his opinion on self-created hardship when already owning the property. Mr. DiRaddo stated that even though he purchased the property knowing he would need a different use variance he can still bring the application forward. He stated that even though the four tests should be met, have the applicant prove the first three and hear the information on the fourth. Do some research and then decide.

Mr. DiRaddo asked the applicant a few questions for the record:

What are they going to be fabricating at the site?

Mr. Fisher: They construct different above and below ground pipeline facilities. They will be fabricating certain pieces of materials made of steel, plastic, and HDPE piping.

What time will they be utilizing the facility?

Mr. Fisher: 8 – 10 hours, approximately 7am – 5pm.

What will be stored at the facility?

Mr. Fischer: They will be storing support equipment, protective safety gear, welding, and steel fittings. Outside they will be storing timber matting.

How many people will there be at the facility daily?

Mr. Fischer: Approximately 20-30 employees on top of the normal 15-20 support people.

Terry Rech stated that this shows the uniqueness of this situation, he is struggling with the self-created hardship. The previous use was specific – it was a storage processing facility of wood only; no milling was being done. The board at that time was very specific. However, they did not indicate what the concerns were. The motorcycle track to the north is new, certainly that has created a negative impact on the permitted uses for this land since that variance was approved but he is still struggling with the self-created component of this.

Mr. DiRaddo read our own code aloud. Definition of AR-2 defines business development is permitted. But should blend visually and architecturally with the adjacent residential and agricultural use. Development should be compatible with the surrounding area.

Board Member Joe Burns shared that he thinks they should make the best use of the land. He believes this is not a suitable location for residential. There are no homes nearby, there are wetlands on the property, and the RG& E substation and thruway are all right there.

Chairman Grasso stated that he would like to hold off on SEQRA until they research more details. He asked the Board Members to investigate self-created hardships and he suggested to Mr. Fischer to come back next month and be prepared to present the financial hardship in detail.

3 | Town of Wheatland Zoning Board of Appeals

He then asked the board to make a motion to table this meeting until next month.

A motion to table the application of Ty Fischer until the January 2, 2024, meeting was entertained by Tim Steves and seconded by Robert Hatch. The vote was as follows:

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

All were in favor and the motion was carried.

There being no further business, Tim Steves entertained a motion to adjourn. Joe Burns seconded the motion. The vote was unanimous. The meeting was adjourned at 7:55 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary