

**Town of Wheatland
Zoning Board of Appeals
March 6, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, March 6, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Mike Grasso, Randy Dawley

Members Absent: Don Woerner, Steve Stein, Debra Stokoe

Alternates Present: Bob Hatch, Shawn Veaut

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

Terry Rech asked that a Vice Chair be appointed for the Board to run the meeting that evening as Don Woerner, Chair, was absent.

Upon nomination by Randy Dawley and second by Shawn Veaut, a passing vote by board members resulted in Mike Grasso selected as Vice Chair of the Board.

Mike Grasso, Vice Chairman called the meeting to order.

Minutes of the August 2, 2011 meeting were not present at the meeting and were not voted upon for approval.

New Business:

- 1) The application of William Cox to seek an area variance of Section 130-11 of the Code of the Town of Wheatland to construct an addition closer to the required 25' side setback in an AR-2 residential zoning district. Property address is 2382 Scottsville-Mumford Rd.

Bill Cox was invited to the podium to summarize his application for the area variance. He was given the opportunity to wait until another meeting time for a full 5-person Board. He declined and wished to proceed with the Public Hearing and presentation to the Board for the variance.

He built his house in 1973 when the required side setback at the time was 10'. At this point, Terry Rech confirmed the change in zoning from Res AAA (minimum lot 150 x 200 ft.) to AR-2 (minimum lot 200 ft frontage and 2 acres) with the side setback requirement for the property changing from 10 to 25'. Bill Cox continued on that he wants to put on a walk-in closet of 11' x 20' at the west end of the house. With the new addition the side setback would then be 14'.

Bob Hatch pointed out that as the property wasn't squared to the structure, would it be a full 14' at the addition site?

There being no further discussion, Mike Grasso read the Public Hearing Notice before opening the Public Hearing at 7:20 P.M. There was no one to speak, but a written letter received from a neighbor at 2350 Scottsville Mumford Rd., John F. Skivington, was read aloud by Mike Grasso stating that there was no objection to the variance approval. The Public Hearing was closed at 7:23 P.M.

Mr. Cox was asked by Randy Dawley if there was an alternate possibility for building on another side of the house. He replied that there was an oil tank that prohibited adding on to the back side. Mike Grasso asked if he had reviewed the concerns/tests outlined on application for the effects to the surrounding area. Mr. Cox replied that he felt that he had met the tests adequately. Mike Grasso mentioned that he had been out to view the property to review the concerns/tests for the consideration of approval of the variance. The Board continued on to review each item of concern listed on the Area Variance Determination Form. When asked again about the possibility of adding on at some other point on the house, Mr. Cox mentioned again the buried oil tank on the pool side and referred to an interior marble wall that prohibited building on the front.

Terry Rech asked to have noted in the minutes that without the dimensions on the Survey, measurements were made to determine that at the closest point there was still a 14' setback in the event of the addition.

There being no further discussion, the Town of Wheatland Zoning Board of Appeals as authorized under Wheatland Town Code Section 130-60 after careful consideration, review of the evidence presented and having heard all the facts determines that: this area variance is a Type II action under SEQRA, the action taken is the minimum variance that it deems necessary and adequate to 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 William Cox. This motion is 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 house was built when minimum code was 10' side setback. Other houses in that area are closer than the 25' now required.
- 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: the closet will serve the master bedroom and the area in the rear of the house is where the fuel oil tank is buried.
- 3) The requested area variance is substantial as evidenced by: current code requires 25' side setback. However, former setback was 10' and the variance will allow almost to 10 feet.
- 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 addition is well screened by plantings and is opposite the neighbor's garage.
- 5) And that the condition has not been self-created, as shown by: the applicant has owned the property since prior to the zoning change that increased the side setback from 10' to 25'.

Further, that this variance is subject to the following conditions: the addition will remain close to the proposed 11' x 20' and will be no closer than 10' to the lot line.

Motion was made by Bob Hatch. Second by Shawn Veaut. The vote was as follows:

R. Dawley	-	Aye
R. Hatch	-	Aye
S. Veaut	-	Aye
M. Grasso	-	Aye

There is a Zoning Board meeting scheduled for April 3, 2012.

There being no further business, Randy Dawley made a motion to adjourn. Second by Bob Hatch. The vote was unanimous. Meeting was adjourned at 7:40 P.M.

Respectfully submitted,

Linda Turner
Recording Secretary

**Town of Wheatland
Zoning Board of Appeals
April 3, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, April 3, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Don Woerner, Mike Grasso, Randy Dawley, Debra Stokoe

Members Absent: Steve Stein,

Alternates Present: Bob Hatch, Shawn Veaut

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

Don Woerner, Chairman, called the meeting to order at 7:03 pm and roll was taken.

First order of business was to review and approve the minutes from the August 2, 2011 meeting. A correction in paragraph 6 under New Business, item 1, was submitted by Mike Grasso to reflect a change in wording from “drove” to “driven.” Bob Hatch made a motion to accept the minutes with the change. The Second was made by Debra Stokoe. The vote was unanimous with none opposed.

The second order of business was to review and approve the minutes from the March 6, 2012 meeting. Mike Grasso indicated that in paragraph 6 of New Business, item 1, the minutes should reflect that the marble wall on the front of the house indicated by the owner was an exterior wall not interior. Bob Hatch motioned to accept the minutes with the change and a Second by R. Dawley was made. The vote called was unanimous with none opposed. D. Woerner abstained as he was not present at the meeting.

The third order of business was to revisit the official business conducted before the March 6, 2012 meeting was called to order. As reflected in the March 6th minutes when motions were made and accepted to appoint a Vice Chairman, Don Woerner “re-appointed” Michael Grasso as Vice Chairman of the Zoning Board of Appeals.

New Business:

Don Woerner read the Public Hearing Notice including the following:

The application of Genesee Lime Products, Inc. to seek a use variance of Section 130- 9 and Table 130-10 of the Code of the Town of Wheatland to allow fabrication of masonry clay and brick components for residential masonry heaters. Property address is 2135 Wheatland Center Rd.

He indicated that the review would be considered an Unlisted Coordinated Review by the Town of Wheatland as well as other involved Agencies. A package with required documentation would be submitted declaring the intention that the Town of Wheatland be designated as Lead Agency. Because of the 30 day response period allowed for the other Agencies, he indicated that the final decision probably, at the earliest, wouldn't be made until the June meeting.

Mr. Woerner invited Donald Moore, current owner of the property, to present his request to the Board. Mr. Moore indicated that he was told that he would need to apply for a use variance in the case that he wished to sell his property for future use as outlined in the application. Mr. Moore then invited Jonathan Steele to speak. Mr. Steele has made a contingent offer to purchase the property upon approval of the use variance.

Mr. Steele made a visual presentation with a jar including the 3 materials/minerals included in his production process: Flint Clay, Kyanite and Secar 41. He discussed the processing of the materials using water, and also his review with the DEC regarding the surrounding wetlands. He reviewed that his business made masonry heaters and wood-fired ovens. He uses steel form fabrication. At present time he does not run a kiln. If that time comes, it would be a drying kiln. There was further discussion of the mixing process. D. Stokoe asked about the dust generated by the process and he replied that it doesn't affect him. B. Hatch questioned any storage outside. J. Steele replied no but then

said that slabs of soap stone might be outside. R. Dawley asked how much could there be in storage outside. J. Steele indicated it could be as much as a container-load of 9 bundles at 40,000 lbs if it could be achieved. R. Dawley also asked about truck traffic and J. Steele said there would currently be a couple of trucks per quarter.

There being no further discussion, Don Woerner opened the Public Hearing at 7:22 P.M. There were 2 members of the public who signed in to speak. Robert Couture of 2020 Wheatland Center Rd. expressed his concerns about truck traffic and also his concern about noise levels. He also questioned the amount of dust that would be generated and what kind. He wanted more details. Robert Sherman of 1851 South Rd. indicated he was in favor of a new business that didn't involve chemical use. The Public Hearing was closed at 7:27 P.M.

D. Woerner asked how many trucks ran daily when Genesee Lime, Inc. was still in operation. D. Moore replied that during the spring season, there could be as many as 30/40 per day back in the 1980's and '90's. As business declined, there were between 6 and 12 trucks for the whole season. J. Steele indicated that he would want 2- 3 trucks per week.

Terry Rech followed up with questions. He asked for the specific spelling for the materials involved. Also, he asked if welding was involved in the cutting of the steel forms. J. Steele replied yes. The status of the gas main was also questioned. D. Moore indicated that it was shut off somewhere between the building and the house at 1886 Wheatland Center Rd. T. Rech asked if there were restrooms in the building, and with septic. D. Moore responded yes with the septic system on the north side. J. Steele was asked if he would put in a showroom. He responded no, he has other sites for a showroom. T. Rech makes the point that the variance would go with the land and not the business, and therefore would need to know all the details of what is anticipated.

J. Steele stated that he did want to hold "hands-on workshops" perhaps twice a year that would generate public traffic. B. Hatch asked how many people would be anticipated at a workshop. J. Steele replied 20 -50.

R. Dawley asked if he was going to run a masonry business. J. Steele replied no. Mr. Dawley also asked about the noise levels. J. Steele indicated that the tools were electric and were handheld. No tools required a gas motor.

T. Rech asked if there was to be any other storage outside. J. Steele stated there would be trailers: a 12' enclosed and a 24' flat that would be outside.

There was a discussion about drying time before the shipping. Also discussed was that the water was not public water, and therefore not for drinking. The water supply is a dug well.

D. Woerner asked the Board if they wanted a site tour. Members agreed. D. Moore was asked for the tour at 6:30 pm on Tuesday April 17. The date and time were agreed upon.

D. Woerner asked for a motion to table the application until the May meeting. R. Dawley made such a motion with a Second by B. Hatch. The vote was as follows:

R. Dawley	-	Aye
D. Stokoe	-	Aye
R. Hatch	-	Aye
M. Grasso	-	Aye
S. Veaut	-	Aye
D. Woerner	-	Aye

There being no further business, D. Stokoe made a motion to adjourn. The vote was unanimous. Meeting was adjourned at 7:43 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Town of Wheatland
Zoning Board of Appeals
May 1, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, May 1, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Don Woerner, Mike Grasso, Randy Dawley, Debra Stokoe
Members Absent: Steve Stein,
Alternates Present: Bob Hatch
Alternates Absent: Shawn Veaut
Others Present: Terry Rech, Building Inspector and Ed Shero, Town Board Liaison

Don Woerner, Chairman, called the meeting to order at 7:01 pm and roll was taken.

The first order of business was to review and approve the minutes from the April 3, 2012 meeting. D. Woerner commented on a procedural issue: that both alternates were present and voted at that meeting resulting in 6 votes. In the future, one alternate will need to abstain from voting when necessary. M. Grasso also wanted to clarify Mr. Steele's response in paragraph 9 under New Business. Mr. Steele had said that he was not going to be running a Masonry business. Mr. Grasso questioned whether this would actually be the case from the information given at the meeting. Comments were made that a future clarification would need to be made regarding this issue. M. Grasso made a motion to approve the minutes as submitted. The Second was made by B. Hatch. The vote was unanimous with none opposed.

Old Business:

Regarding the application of Genesee Lime Products, Inc. to seek a use variance for the property address 2135 Wheatland Center Rd., D. Woerner had received a letter since the Public Hearing on April 3, 2012 regarding the matter. A neighbor at 2125 Wheatland Ctr Rd., Ralph LaRose, wrote to state that he had no objection to the variance requested.

D. Woerner stated that the formal letter to declare Lead Agency with regard to the application had been submitted and there weren't any responses at that time. A letter had also been submitted to J. Steele with a request for a survey map. There was no reply at that time.

Terry Rech had an update regarding the gas main. RG&E responded that the 14" gas main had been abandoned in place in 1989. T. Rech thus felt this would not be a concern.

As no further discussions or decisions regarding the application of Genesee Lime, Inc. would be made that evening, D. Woerner asked for a motion to table further discussion until the June 5th meeting. R. Dawley made such a motion with a Second by D. Stokoe. The vote was as follows:

R. Dawley	-	Aye
D. Stokoe	-	Aye
M. Grasso	-	Aye
B. Hatch	-	Aye
D. Woerner	-	Aye

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 7:09 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Town of Wheatland
Zoning Board of Appeals
June 5, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, June 5, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Don Woerner, Mike Grasso, Randy Dawley, Debra Stokoe

Members Absent: Steve Stein,

Alternates Present: Shawn Veaut

Alternates Absent: Bob Hatch

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

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

The first order of business was to review and approve the minutes from the May 1, 2012 meeting. As there was no discussion, D. Woerner entertained a motion to approve the minutes. Debra Stokoe made a motion to approve the minutes as submitted. The Second was made by Randy Dawley. The vote was unanimous with none opposed.

Old Business:

Regarding the application of Genesee Lime Products, Inc. to seek a use variance for the property address 2135 Wheatland Center Rd., the Board had not received a response from the applicants for the written request of further mapping of the property. The applicants also were not present for the meeting. It was noted that Monroe County had responded to the 239-m Referral and concluded it was a local matter and did not have comments.

D. Woerner indicated that the application was incomplete at this point.

T. Rech made note that with regard to the Lead Agency notification letter, there weren't any responses from other agencies or entities that wanted the designation of Lead Agency.

As there was no further discussion, D. Woerner asked for a motion to deem the application incomplete and deny the application without prejudice. S. Veaut made such a motion with a Second by D. Stokoe. The vote was as follows:

R. Dawley	-	Aye
D. Stokoe	-	Aye
M. Grasso	-	Aye
S. Veaut	-	Aye
D. Woerner	-	Aye

The next meeting will be July 3, 2012. There will be an item before the Board for an area variance application at a property on Blue Pond Manor. There will be a Public Hearing.

There being no further business, D. Stokoe made a motion to adjourn. The Second was made. The vote was unanimous. The meeting was adjourned at 7:07 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
July 3, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, July 3, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Mike Grasso, Randy Dawley, Don Woerner

Members Absent: Steve Stein, Debra Stokoe

Alternates Present: Bob Hatch, Shawn Veaut

Others Present: Terry Rech, Building Inspector

Don Woerner, Chairman, called the meeting to order at 7 pm.

Minutes of the June 5, 2012 meeting were approved by the Board as submitted, with a motion by M. Grasso and second by R. Dawley. B. Hatch abstained from the vote.

New Business:

The Public Hearing notice for July 3, 2012 was read by D. Woerner.

For consideration: The application of Donna M. and Ray Treat of 38 Blue Pond Manor to seek an area variance of Sections 130-9.A, 130-10, and 130-23.B.(2) of the Code of the Town of Wheatland to relocate and replace an existing shed which is nonconforming to front and side setback requirements in an AR-2 residential zoning district.

The applicant was invited to the podium to summarize the application for the area variance. Ray Treat gave a short presentation regarding the existing situation and the requested variance to allow a 40' front setback and a 5' side setback for the relocation of the new shed.

D. Woerner opened the Public Hearing at 7:09 P.M. Al Borrelli of 3 Blue Pond Manor had signed in to speak as President of the Board of Directors of the Blue Pond Cottage Association. On behalf of the Association he said there were no objections to the requested variance. The Public Hearing was closed at 7:11 P.M.

D. Woerner opened up discussion for the Zoning Board. Members considered and discussed the details and effects of the variance.

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 determines that: this area variance is a Type II action under SEQRA, the action taken is the minimum variance that it deems necessary and adequate to 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 Donna and Ray Treat. This motion is 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 shed will have greater front and side distances than the existing shed and is in line with other properties.
- 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: the existing lot is only 40' wide.
- 3) The requested area variance is substantial as evidenced by: the requested side setback is only 5'. The required setback is 20' but is in keeping with the general look of the area. The front setback is 40' while the required is 75'.
- 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: all lots are of the approximate same size and all structures have same setback dimensions.

5) And that the condition has not been self-created, as shown by: the condition is pre-existing.

T. Rech notes that there was a survey map submitted that shows accurate property lines resulting in accurate measurement. He also notes that regarding item 3, the variance is substantial but is in keeping with the general look and feel of the neighborhood.

D. Woerner entertains a motion to vote on approval of the variance. A Motion to grant the variance for the accessory structure side setback at a minimum of 5' was made by M. Grasso. Second is made by B. Hatch. The vote was as follows:

R. Dawley	-	Aye
B. Hatch	-	Aye
M. Grasso	-	Aye
S. Veaut	-	Aye
D. Woerner	-	Aye

Another motion was made by M. Grasso to grant the variance for the accessory structure front setback at a minimum of 40'. The Second is made by S. Veaut. The vote was as follows:

R. Dawley	-	Aye
B. Hatch	-	Aye
M. Grasso	-	Aye
S. Veaut	-	Aye
D. Woerner	-	Aye

There is a Zoning Board meeting scheduled for August 7, 2012.

There being no further business, Randy Dawley made a motion to adjourn. The vote was unanimous. Meeting was adjourned at 7:29 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
August 7, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, August 7, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Randy Dawley, Don Woerner, Steve Stein, Debra Stokoe

Members Absent: Mike Grasso

Alternates Present: Shawn Veaut

Alternates Absent: Bob Hatch

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

Don Woerner, Chairman, called the meeting to order at 7 pm.

Minutes of the July 3, 2012 meeting were approved by the Board as submitted with a motion by R. Dawley and second by S. Veaut. D. Stokoe and S. Stein abstained from the vote.

New Business:

The Public Hearing notice for August 7, 2012 was read by D. Woerner.

For consideration: The application of Schultz Associates as agent for Donald Krenzer 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 1077 Beulah Rd. The Tax I.D. number is 183.04-2-1.1.

The applicant was invited to the podium to summarize the application for the area variance. Chris Schultz reviewed the re-subdivision request of the Krenzer parcels to establish a lot line to give relief of variance requirements in the best possible manner for the accessory structure.

D. Woerner opened the Public Hearing at 7:05 P.M. As there wasn't anyone signed in who wished to speak, the Public Hearing was closed at 7:06 P.M.

D. Woerner opened up discussion for the Zoning Board.

There being no further discussion, D. Woerner read through the Area Variance Determination Form for Board comment and consensus. An email sent to members from M. Grasso for discussion/review was referenced in the determination 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 determines that: this area variance is a Type II action under SEQRA, the action taken is the minimum variance that it deems necessary and adequate to 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 with Conditions the application of Donald Krenzer. This motion is 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: there being no new construction or changes in property.
- 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: moving the line back would put the large barn too close to the property line.
- 3) The requested area variance is substantial as evidenced by: the requested setback is a 40% change from the required 20'. However, it is the minimum necessary and will maintain the continuity between the two properties.

- 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: no new construction or change in appearance of property.
- 5) And that the condition has been self-created, as shown by: the applicant has decided on location of the new lot line.

Further that this variance is subject to the following conditions: the applicant may not change the structure resulting in a further increase of the variance.

T. Rech notes that the uniqueness of the property also allows for a higher comfort level in granting the less-than-required setback. He suggests that this would prohibit other structures from being built in between this area with the new lot line established and, this would then help to retain the existing look and feel of the property.

D. Woerner entertains a motion to vote on approval of the variance. A motion to grant the variance for the accessory structure as recorded on the Determination Form was made by S. Veaut. Second is made by D. Stokoe. The vote was as follows:

R. Dawley	-	Aye
D. Stokoe	-	Aye
S. Stein	-	Aye
S. Veaut	-	Aye
D. Woerner	-	Aye

There being no further business, D. Stokoe made a motion to adjourn. The second was made by S. Veaut. The vote was unanimous. Meeting was adjourned at 7:25 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
November 7, 2012**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Wednesday, November 7, 2012 at 7:00 P.M. in the Scottsville Village Hall, 22 Main Street, Scottsville, NY.

Members Present: Mike Grasso, Don Woerner, Debra Stokoe

Members Absent: Steve Stein, Randy Dawley

Alternates Present: Bob Hatch, Shawn Veaut

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

Don Woerner, Chairman, called the meeting to order at 7 pm.

It was noted by D. Woerner that the Minutes of the August 7, 2012 meeting were approved by the Zoning Board as submitted, when the Zoning Board convened briefly for only that purpose on September 4, 2012 before the Planning Board Meeting.

New Business:

The Public Hearing notice for November 7, 2012 was read by D. Woerner.

For consideration: The application of Kevin O'Donoghue as agent for Daniel and Donna Harmon 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 3660 Oatka Creek Rd. The Tax I.D. number is 196.04-01-2.

The applicant, Kevin O'Donoghue, was invited to the podium to summarize the application for the area variance. Mr. O'Donoghue pointed out David Page who wants to purchase the parcel. D. Page would like to have use of the metal storage building on the back parcel (proposed Lot 2), and that has dictated how they have proposed the new lot line which has generated the less than required setback for the other accessory structure cited in the application. The Harmons were not present. There was discussion of the proposed subdivision and how the lot lines would best be drawn to meet setback requirements.

D. Woerner opened the Public Hearing at 7:12 P.M. No interested parties had signed in to speak and the Public Hearing was closed at 7:13 P.M. D. Woerner inquired if there had been any related correspondence/inquiries regarding the matter. T. Rech responded that there had not been any.

D. Woerner opened up discussion for the Zoning Board. Members considered and discussed the details and effects of the variance including possible conditions that would facilitate approval.

M. Grasso inquired as to why the Harmons didn't just take the barn down since it was falling down? K. O'Donoghue responded that the Harmons were not in a position to take it down or refurbish it and felt that they wanted to proceed with the application.

D. Woerner asked for T. Rech's opinion. T. Rech indicated that there would not be any real change to the character of the neighborhood. He recommended that the structure be made structurally sound and weather tight if the variance was approved. A building permit would then be required and would expire after a year. B. Hatch added that if the Variance was granted and the structure then taken down, an approval for this application should be conditioned on the setback Variance being removed.

David Page asked to speak. He indicated that he did not want to refurbish the structure as that would cost too much. He asked for the variance to be granted to the Harmons, and then he would take the barn down.

Board consensus was that conditions for approval would have to include: No changes would be made that would further reduce the 12.8' allowed and no change in the overall

footprint for the barn would be allowed. The structure would have to be “rehabbed” and a building permit obtained within 60 days and work completed within 12 months.

However, 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: DENIED the application of Daniel and Donna Harmon. 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: there will be no change after the new line is drawn.
- 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 remove the barn in question.
- 3) The requested area variance is substantial as evidenced by: the requested setback is 12.8’ where the requirement is 20’. This is an approximate 40% 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: there will be no actual change in the property.
- 5) And that the condition has been self-created, as shown by: the applicant drew the new line.

D. Woerner entertained a motion to vote on denial of the variance. A motion to DENY the variance application based on the map dated October 9, 2012 and as recorded on the Determination Form was made by S. Veaut. Second was made by D. Stokoe. The vote was as follows:

D. Stokoe	-	Aye
B. Hatch	-	Aye
M. Grasso	-	Aye
S. Veaut	-	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 7:42 P.M.

Respectfully submitted,

Mary Hastings
Recording Secretary

