

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
February 5, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, February 5, 2019 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, Tim Steves, Joe Burns
Debra Stokoe

Absent:

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector
Mr. Robert Spear, Property Owner

First order of Business:

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

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

All members voting in favor, the motion was carried.

Second Order of Business:

The application of Robert J. Spear, to seek an area variance of Section 130-23.B.(1) of the Code of the Town of Wheatland to allow an accessory structure in a rear yard, closer than the required 20' setback in the AR-2 zoning district. The property address is 868 Wheatland Center Road. The Tax ID# is 185.04-1-13.1.

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

- Mr. Spear built a shed roof extension off from the existing pole barn 11.5' from lot line instead of the required 20'. He built the extension without a permit thinking the requirement was 10' not 20'.
- This really is the only location Mr. Spear could build the structure. He needed something to cover his boat and this was the easiest location for him to get his boat under.
- Due to the lot size, Mr. Spear is not able to get his boat and truck around the other side of the house and if he built the extension in back he would lose the ability to connect to the barn.
- Mr. Spear does not feel that there are any physical effects, there is still plenty of space between the lots and aesthetically it looks fine.

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Chairman Grasso stated that this is not really a substantial structure, it's not obtrusive and when the boat is not there you can see through it.

Bob Hatch stated that the lot is created sub-standard for the AR-2 zoning district. With 150' of frontage Mr. Spear is pretty limited to what he can do without encroaching on the setback.

Chairman Grasso asked Terry Rech, Building Inspector his thoughts on the application. Terry mentioned he struggled with this because he did not see a way that the board could realistically grant the variance. But, Terry stated that Bob (Hatch) brought up a point that litigates his initial concerns. All the lots in that stretch of Wheatland Center Road have 150' frontage which gives a closer, denser feel and look to the neighborhood. That coupled with the visual buffer of the existing trees has turned Terry around a bit.

The floor was opened for public comment at 7:12 pm. There was no public before the board. There being no further comments, public comment was closed at 7:13 pm.

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 with conditions the application of Robert Spear. 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 immediate neighborhood was divided into lots narrower than current code allows. Most structures are closer to property lines than current code, and there isn't much room for additional improvement.
- 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: to serve as a boat storage place, there isn't a compliant location that can be reasonably accessed.
- 3) The requested area variance is substantial as evidenced by: requested relief is 11' out of 20' 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: very minimal construction activity, minimal visual impact without walls to the structure.
- 5) And that the condition has not been self-created, as shown by: lot exits sub-standard current zoning and the orientation of the lot lines create even less useable space.

Further that this variance is subject to the following condition: the structure will not be enlarged at any time in the future.

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, Chairman Grasso entertained a motion to adjourn. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 7:40 P.M.

Respectfully submitted,

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
May 7, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, May 7, 2019 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, Tim Steves, Joe Burns
Debra Stokoe

Absent:

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector
Mr. James Webb, Property Owner
Mr. Chris Nadler, Attorney
Mr. Ray DiRaddo, Esq. Attorney for the Town of Wheatland

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the February 5, 2019 meeting. The meeting minutes were approved as submitted. Robert Hatch 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	-	Aye

All members voting in favor, the motion was carried.

Second Order of Business:

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.

The applicant's attorney Mr. Chris Nadler presented and discussed several reasons driving the need for this area variance application:

- Mr. Nadler explained that Mr. Webb had applied for this variance years ago and was denied the variance. They filed an article 78 and the Board's decision was affirmed. Before rendering a decision, the judge stated enough time has passed and suggested they re-apply for the variance and layout the reasoning for the variance more clearly.
- Mr. Nadler went over his application for an area variance. He stated that Mr. Webb would like to add a single-family house on the property. He believes that the board can grant the variance. They are seeking a small amount of road frontage, they currently have 171' and need 200'. They are asking for 29' variance which is less than 15%
- Mr. Nadler went over the points of the area variance application and he stated that the answer on all accounts is no.
- Mr. Nadler stated that adding another house on 6 acres will not put a negative impact on the neighborhood and there would be no environmental impact.

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- Mr. Nadler added that Mr. Webb previously engaged in discussion with the owner of Volkman Farms and the owners of 2416 North Road. They were not able to reach agreement on either buying added road frontage or selling Mr. Webb's parcel. Therefore, there are no other options other than granting this minimal variance.
- Mr. Nadler stated that in 1999 the owner of the parcel, Ms. Scudder, subdivided the parcel and transferred the title of the exterior lot to Mr. Webb. The interior parcel went into foreclosure. This is not Mr. Webb's hardship, this was created before he had the title of the property. Mr. Nadler stated Ms. Scudder did attempt to subdivide the property. The planning board was in favor of and granted the subdivision. He is not sure why it did not get filed at the County Clerk's Office.
- Mr. Nadler stated he does not think the Zoning Board should worry about setting a precedence. There is not another lot that is like this U shape parcel.

Chairman Grasso stated that Mr. Nadler has stated twice that they have more than enough frontage, and that if they had more than enough frontage, he wouldn't be here now trying to get a variance.

Board member Joe Burns asked for clarification of the subdivision. This was not a subdivision, it was a lot line adjustment. Mr. Burns stated that the owner should have realized this hadn't gone through when they were still receiving two tax bills for a few years. Mr. Nadler does not know why Ms. Scudder did not pursue this, his guess is that it was in error. He does not believe that this bears on the 5 steps for the area variance.

Chairman Grasso asked Mr. Nadler if there is anything different now from the facts of the last variance application. Mr. Nadler stated no, other than further facts; looking to put one single family home on the lot, that there would be no undesirable change and that he has expanded on the facts. He believes that a 4.7-acre lot and a 1.3-acre lot should be able to support 2 single family homes.

Chairman Grasso state that the creation of the lot was against the desire of the town. The lot was created, and it should not have been. Mr. Grasso does believe that if they grant this variance it would then allow people to buy a property and then want a variance to build a house on a substandard lot because someone else did. The lots were supposed to be combined, it is a substandard lot. Mr. Nadler believes if they grant this it would not set precedence because of the unique shape and size of the property. Mr. Grasso rebutted by stating that if the town grants this and similar facts come around and they deny the variance they are likely to be overturned.

Mr. Nadler discussed the function of the Zoning Board and stated that they need to provide a relief when the regulations do not make sense and in this particular instance feels that a 29' variance is a punitive stance because of something that was done prior to the owner obtaining the property.

Chairman Grasso asked Mr. Nadler if the facts are the same for the 5 points as they were in 2014. Mr. Nadler said that there were no differences.

Mr. Webb stood up and introduced himself, he stated that Ms. Scudder deeded the property to him. She didn't come tonight because she was embarrassed. She had lost the mortgage on the smaller property but if she put the two together she would have lost both, she would have lost everything. He stated that he does not have to do this, he can leave the lot vacant. He tried to swap with both neighbors, but both neighbors were trying to steal the property in the middle. They love the Wells Barns. Ms. Scudder received a grant to fix up the barns, the property has a separate well, a separate driveway, separate electric and would like to build a house behind the barns so the property is worth more.

Chairman Grasso then asked Mr. Nadler again, if the 5 points are the same as prior. Mr. Nadler stated "Yes, the 5-point facts are the same".

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Chairman Grasso stated that the mortgage situation that Mr. Webb stated could be construed as a reason why not to combine parcels, she could have lost the whole thing. Mr. Nadler stated he would think it is risky to speculate.

The floor was opened for public comment at 7:32 pm.

Mr. Bruce Volkman of Volkman Farms – owner of the surrounding property stated that nothing has changed since the last time this variance was decline. He states that building a house would be close to their property. He is a farming operation and farming is noisy, smelly and dusty. People do not like to live near that and would end up complaining.

There being no further comments, public comment was closed at 7:34 pm.

Mr. Nadler state that if the variance was granted he would agree to a condition to build a berm with trees and agree to setbacks.

Chairman Grasso read a letter from Christopher Foote, owner of 2416 North Road for the record. Mr. Foote is opposed to the Variance. He states that Mr. Webb would like the variance so that he can build a house on the property and sell the property for a higher value. The house would then be built behind their house and affect their value of their property. Mr. Webb has approached Mr. Foote several times with options to buy or swap the property and he has declined all offers. Mr. Foote states in the letter that Mr. Webb is seeking relief from the Zoning Board because it was not self-creating. However, he has an email where Mr. Webb states that he held onto the property thinking he could buy the house and put the two properties together. The realtor never called him back. His intent was to buy the house out of foreclosure, combining the two properties and selling them as one. In short, things did not work out as Mr. Webb had planned. Mr. Foote state that nothing is stopping Mr. Webb from putting the property up for sale without the variance. Mr. Foote asked the Board to consider the reasoning behind Mr. Webb's request and the president it would send in the town for other properties with similar situations. Mr. Foote stated he is urging the Zoning Board to deny Mr. Webb's request for an area variance.

Chairman Grasso asked Terry Rech, Building Inspector his thoughts on the application. Terry stated that he wanted to add some clarification, he was around for the original alteration of lot line.

- It was the first alteration of lot line that the planning board did. They had streamlined the process to aide in situations like this. Ms. Scudder was the first one, they reduced the application fee, in this case it was a unanimous decision and the Board felt it was a good thing. It would eliminate a substandard parcel, eliminate the side garage that was encroaching the side setback and aide in the existing driveway that was off the parcel for the house. The intent was to combine the two parcels. If the board knew it was not going to be combined they would not have approved it as a substandard lot and they would have made sure there was 200' frontage.
- The U shape parcel is not idle and vacant. It is utilized as one of the two permitted uses in the AR-2 District as an Ag use, being horse boarding. Mr. Webb stated there is a well on the property and electric is in the barn. This is an indication that it is not idle and vacant. This parcel has a permissible use and the town has not been punitive by allowing it to be a substandard lot.
- Terry questioned if there has been any attempt since the last court decision by Mr. Webb to approach the neighbors and try to strike a deal to seek some other means without coming to the board. Terry stated he is not aware if this has happened but thought it was a valid question.

Mr. Nadler replied to Terry that it has not happened, he does not think that would be productive.

Mr. Volkman stated he offered to buy the land the day of the auction but was turned down.

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Chairman Grasso asked Ray DiRaddo, Town Attorney if he had any thoughts or anything he wanted to add. Mr. DiRaddo stated that the Boards needs to determine if there were changed circumstances and encouraged the board to take a fresh look at this which may require the board to go into deliberation.

Chairman Grasso then agreed that the Board should take some time to deliberate and make a decision at a later time. He asked the board members to look at the 5 tests to see if they can come up with a different decision. If anyone can come up with additional reasoning that they can add that would be great.

There being no further business, Chairman Grasso entertained a motion to adjourn. Robert Hatch made a motion to table the application of James Webb for an area variance for the next meeting on Tuesday June 4, 2019. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 7:50 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
June 4, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, June 4, 2019 at 8:20 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Mike Grasso, Chairman, called the meeting to order at 8:20 pm and roll was taken.

Board Members

Present: Mike Grasso, Robert Hatch, Joe Burns
Debra Stokoe

Absent: Tim Steves

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector
Mr. Ray DiRaddo, Esq. Attorney for the Town of Wheatland

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the May 7, 2019 meeting. Chairman Grasso made corrections to page 2 of the May 7, 2019 minutes which were noted in the official archived approved minutes. The meeting minutes were approved as corrected. Debra Stokoe made such a motion; Bob Hatch seconded the motion. The vote was as follows:

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

All members voting in favor, the motion was carried.

Second Order of Business:

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.

Board members considered and discussed the details and effects of the requested variance which were presented at the May 7, 2019 Zoning Board of Appeals meeting.

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, denies the application of Mr. James Webb. This motion was based upon the following finding of facts:

- 1) The granting of this area variance will produce an undesirable change in the character of the neighborhood and/or be a detriment to nearby properties, demonstrated by: The granting of this variance would set a dangerous precedent by legitimizing a dimensionally sub-standard lot created contrary to the desire of the Planning Board of the Town of Wheatland. The Planning Board of the Town of Wheatland did approve, in 1999, a lot line adjustment, in order to enable 1.3764+ acres owned by Elizabeth N Scudder to be combined with the 4.5577 +/- acre lot purchased by Elizabeth Scudder to eliminate a substandard lot. Elizabeth Scudder never followed through with combining the two parcels, resulting in the two substandard lots remaining as such to the present time. The Zoning Board of

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Appeals would find it difficult, in the future, to deny other applications for an area variance on lots similarly created without approval.

- 2) The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. The benefit sought by the applicant, namely an increase in the sale price of the property, may be achieved by promoting the permitted use of the property for agricultural purposes. The applicant may have already done so by the renting of the property for the boarding of horses. The barns, well, electric service and the driveway on the property would seem to make this easier to achieve. This is not a simple vacant property as the applicant has stated. The benefit could also be achieved if the applicant were to come to an agreement with either neighbor to buy or trade property to increase the lot width to a conforming size.
- 3) The requested variance is substantial as evidenced by while the dimensionality of the variance request, 29' or approximately a 15% reduction in the minimum required, may be considered by some as not substantial, this Board does not agree. The granting of the request may have a substantial impact on the adjoining property owners. Both neighbors, Mr. Volkman and Mr. Foote stated how they felt it would affect them. Mr. Volkman believed that with a residence so close to his agricultural operation, he would be pressured to modify his practices that produce noise, dust and odors. These are inherent in a farming business. Mr. Foote submitted testimony that he felt a residence behind his, when there are none now, would decrease the value of his property.
- 4) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as shown by the granting of a variance in this instance would set a precedent that could encourage other dimensionally sub-standard lots to be created, and to be brought before the ZBA for a variance to use as residential property.
- 5) The condition has been self-created. The Applicant was aware that the property was sub-standard for a residential use and dimensionally non-compliant for residential use when he acquired title, and the property came into his possession.
- 6) An identically similar variance was before this board in 2014 and this Wheatland Board of Zoning Appeals denied the variance on November 5, 2014 for similar reasons. As stated by the applicant, there is no change in the facts as submitted before the Town of Wheatland Zoning Board of Appeals in 2014. Zoning Boards of Appeals are required to conform to their precedent or they must indicate reason for reaching different result. To do otherwise is arbitrary and capricious. In the Matter of Charles A. Field Delivery Service Inc., Respondent. Lillian Roberts, as Commissioner of Labor, Appellant. 66 N.Y. 2d 516, 488 N.E.2d 1223, 498 N.Y.S.2d 111. This Zoning Board of Appeals finds no rational basis for reaching a different conclusion on this application which has in it basically the same facts that were before it in 2014. Matter of Campo Grandchildren Trust v. Colson, 39 A.D. 3d 746 (2nd Dept.) 2006.

Robert Hatch made the motion to deny the variance of Mr. Webb based on the findings as outlined by Chairman Grasso with the suggested change in part 1 to state the 1.3764+/- acres owned by Elizabeth N Scudder to be combined with the 4.5577 +/- acre lot purchased by Elizabeth Scudder and seconded by Debra Stokoe. The vote was as follows:

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, Chairman Grasso entertained a motion to adjourn. Debra Stokoe seconded the motion. The vote was unanimous. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
November 6, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Wednesday November 6, 2019 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: Mike Grasso, Robert Hatch, Joe Burns
Debra Stokoe, Tim Steves

Absent:

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the June 6, 2019 meeting. Chairman Grasso made a correction to page 1 of the June 6, 2019 minutes which were noted in the official archived approved minutes. The meeting minutes were approved as corrected. Bob Hatch made such a motion; Joe Burns seconded the motion. The vote was as follows:

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

All members voting in favor, the motion was carried.

Second Order of Business:

The application of George Sewar, to seek an area variance of Section 130-23.B.(1) of the Code of the Town of Wheatland to allow an addition to an existing garage in a rear yard, closer than the required 20' setback in the AR-2 zoning district. The property address is 4540 River Road, 14546. The Tax ID# is 200.03-1-14.

The applicant, George Sewar presented and discussed several reasons driving the need for this area variance application:

- Mr. Sewar would like to add 35' off the back of his garage for storage. He is requesting an area variance because he will be 5' from the property line.
- The house was built in 1953, the property is not in compliance with today's standards.
- Mr. Sewar stated that this request will not affect the neighborhood in a negative way. The new construction will not be seen from the road.
- Mr. Sewar stated that this request will not affect the environment. The new construction will be 15-20' away from the leach field lines in his yard.
- The way that the house and the garage sit on the property there is no other option to add onto the garage the way he would like.
- He would like to add onto the garage because he restores old cars. Currently his cars are scattered all over and he would like to bring them home.

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Chairman Grasso asked Terry Rech, Building Inspector his opinion on the matter. Terry stated that the neighborhood's look and feel is already established. The lots are substandard in the AR-2 area. The fact that Mr. Sewar would like to build off the rear of the garage mitigates the substandard situation.

The current minimum for a side setback in the AR-2 area is 20' in rear yard and the lot width with public water is a minimum of 175'.

The floor was opened for public comment at 7:10 P.M.

Christina Agrez at 4580 River Road stated that she is fine with the Sewar's request. Her parcel neighbors them to the south.

There being no further comments, public comment was closed at 7:12 P.M.

Chairman Grasso read a letter that was submitted by neighbor Richard Saetta, Jr. located at 4516 River Road. Mr. Saetta stated that he is okay with George Sewar building a garage next to their property line.

There were no further questions from the Board, Chairman Grasso suggested that in the interest of time, he would like to suggest tabling the application so he can prepare a resolution for the next meeting. It has already been determined that this is a Type II Action under SEQRA.

Robert Hatch made the motion to table the application until Chairman Grasso can prepare a resolution and present it at the next meeting scheduled for Tuesday November 19, 2019. Debra Stokoe seconded the motion. All were in favor and the motion was carried.

Next order of business:

The application of Kathleen & David Merton, to seek an area variance of Section 130-23.A.(3) of the Code of the Town of Wheatland to allow an accessory structure in a required front yard and side yard, in the AR-2 zoning district. The property address is 9810 Union Street, 14546. The Tax ID# is 199.03-1-49.

The applicant, Kathleen Merton presented and discussed several reasons driving the need for this area variance application:

- Mr. & Mrs. Merton have a substandard lot which does not have a garage or a shed and the applicant would like to put an 8' x 12' shed on the property.
- The shed would be placed on gravel and cinderblocks, not a poured foundation.
- The backyard gets very wet and there are large trees and septic in the back area.
- Mrs. Merton stated that they would like to store snow removal equipment in this shed and would like to have the equipment easily accessible.
- Mrs. Merton does not see any negative environmental issues.

Chairman Grasso asked Terry Rech if he had any concerns about this application. Terry stated that this application is similar to the first application. The neighborhood is already established. The house is 1' off of the right of way, it is impossible to have a 75' setback for the shed, he stated that it seems to make sense.

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

Terry Rech stated that a neighbor had called and inquired about the hearing. Once he understood what the applicant was doing his concerns were alleviated.

There were no further questions from the Board. Chairman Grasso stated he would like to suggest again to table the application so he can prepare a resolution for the next meeting on November 19th.

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Robert Hatch made the motion to table the application until Chairman Grasso can prepare a resolution and present it at the next meeting scheduled for Tuesday November 19, 2019. Debra Stokoe seconded the motion. All were in favor and the motion was carried.

There being no further business, Chairman Grasso entertained a motion to adjourn. Debra Stokoe 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
November 19, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, November 19, 2019 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: Mike Grasso, Robert Hatch, Joe Burns
Debra Stokoe, Tim Steves

Absent:

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the November 6, 2019 meeting. Robert Hatch made two grammar corrections to the November 6, 2019 minutes which were noted in the official archived approved minutes. The meeting minutes were approved as corrected. Robert Hatch made such a motion; Debra Stokoe seconded the motion. The vote was as follows:

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

All members voting in favor, the motion was carried.

Second Order of Business:

The first of two area variances that information was collected from at the November 6, 2019 meeting:

The application of George Sewar, to seek an area variance of Section 130-23.B.(1) of the Code of the Town of Wheatland to allow an addition to an existing garage in a rear yard, closer than the required 20' setback in the AR-2 zoning district. The property address is 4540 River Road, 14546. The Tax ID# is 200.03-1-14.

Board members considered and discussed the details and effects of the requested variance which were presented at the November 6, 2019 Zoning Board of Appeals meeting.

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 with conditions the application of George Sewar. 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 be a detriment to nearby properties, demonstrated by: The character of the neighborhood is a rather closely built cluster of properties of sub-standard size and the variance will only allow an addition behind an existing structure.

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- 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: The size of the applicant's property (less than 100' in true width), and the location of the existing structures and sewage disposal system severely limit the area in which a conforming structure could be built.
- 3) The requested variance is substantial as evidenced by: A 14.7' reduction in the 20' required minimum is requested. That equates to a 74% reduction in the required 20' but is mitigated by the existing non-conformance of the neighborhood.
- 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: Variance will only allow an addition to an existing structure on a developed property located in a cluster of properties of sub-standard size and will not allow construction nearer the property line than the existing structure.
- 5) The condition has not been self-created, as shown by: The property, and structures there on, were non-conforming with building code when purchased by the applicant.

Further that this variance is subject to the following conditions: The addition will not be, at any point, closer to the property line than the existing garage (5.3').

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

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

All were in favor and the motion was carried.

Next order of business:

The application of Kathleen & David Merton, to seek an area variance of Section 130-23.A.(3) of the Code of the Town of Wheatland to allow an accessory structure in a required front yard and side yard, in the AR-2 zoning district. The property address is 9810 Union Street, 14546. The Tax ID# is 199.03-1-49.

Board members considered and discussed the details and effects of the requested variance which were presented at the November 6, 2019 Zoning Board of Appeals meeting.

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 with conditions the application of Kathy Merton. 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: Only a small structure is proposed in a neighborhood of close residential properties at setbacks larger than some existing structures on the property and in proximity.

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- 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: The small size of the property combined with the location of trees, sewage disposal system and poorly drained area limit the possible locations of the proposed structure.
- 3) The requested variance is substantial as evidenced by: The side proposed at 20' is 20% reduction in minimum front proposed at approximately 33' is +/- 55% reduction in minimum, but both are mitigated by the existing non-conformance of the neighborhood.
- 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: Only a minor structure is proposed, without a foundation, on an already developed lot, without major grading or removal of trees.
- 5) The condition has not been self-created, as shown by: The property was sub-standard in size when acquired by applicant. The property was doubled in size when the applicant purchased additional land and is still sub-standard in size.

Further that this variance is subject to the following conditions:

- 1) Proposed structure be constructed no closer to front line than the rear line of the existing house.
- 2) Proposed structure be constructed no closer than 20' to the south side of the property.

The motion to approve the variance was made by Joe Burns and seconded by Robert Hatch. The vote was as follows:

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

All were in favor and the motion was carried.

There being no further business, Robert Hatch made a motion to adjourn. Tim Steves seconded the motion. The vote was unanimous. The meeting was adjourned at 7:15 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
December 3, 2019**

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday December 3, 2019 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: Mike Grasso, Robert Hatch, Joe Burns
Debra Stokoe, Tim Steves

Absent:

Others Present:

Ed Shero, Town Board Liaison
Terry Rech, Building Inspector

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes of the November 19, 2019 meeting. The meeting minutes were approved as submitted. Robert Hatch made such a motion; Tim Steves seconded the motion. The vote was as follows:

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

All members voting in favor, the motion was carried.

Second Order of Business:

The application of Michael Pedeville of 70 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 allow and construct an accessory structure absent a primary structure and nonconforming to front and side setback requirements in an AR-2 residential zoning district. Tax ID # 198.07-1-44.3.

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

- Mr. Pedeville stated he is requesting to build a carport on his property, which is absent a primary structure, with a front setback of approximately 40' in a 75' front setback requirement and a 25' side setback on a 50' wide lot.
- Mr. Pedeville stated that this would improve the character of the neighborhood. His property would look better and he would have somewhere to store materials that are currently outside.
- Mr. Pedeville stated that this variance request would not have a negative effect on the environment, the structure will be built on gravel which is already established.
- This is the only location that he can put the carport. He would have to build up his land if he had to put it anywhere else due to flooding.
- Mr. Pedeville stated that many neighbors have structures on the other side of the road (from their homes). Many are in similar locations and this would stay within the character of the neighborhood.

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Chairman Grasso asked Terry Rech, Building Inspector if this area is in a flood zone. Terry stated that the pond is a flood zone. He stated that “informally” the standard used on the off pond lots in Blue Pond has been a 40’ setback.

Chairman Grasso raised a point that came up in a letter from a neighbor regarding survey maps. He explained, a survey map is not required but would be beneficial in these cases. Chairman Grasso questioned what happens if an 8’ variance is granted and later another survey is completed which states the structure is 2’ off the lot line? Is there anything that happens to fix that situation? Terry stated that the structure would have to be moved. Chairman Grasso asked Mr. Pedeville if he understood that without a current survey map there is a risk that the structure may need to be moved after it is constructed. Furthermore, a survey map can be done but if the markers are not laid on the ground, how do you know where the property line is? Neighbors need to agree on property lines. Mr. Pedeville stated he understood that, he was going by his neighbor’s survey map and where his neighbor has stated where the property line is.

The floor was opened for public comment at 7:10 P.M.

Mr. Robert Gall of 68 Blue Pond Manor sent a letter which Chairman Grasso read. Mr. Gall stated in the letter that allowing someone to build any accessory structure with side setbacks without a survey is creating a lot of problems.

Chairman Grasso also read a statement from Mr. Mike Star of 54 Blue Pond Manor which stated that he hopes Michael Pedeville is granted the variance. He stated that adding a garage helps store items inside, off the property, making it neater and cleaner.

There being no further comments, public comment was closed at 7:20 P.M.

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

Chairman Grasso suggested that it may be better to add a condition that the setback be 7 ½’ opposed to the 8’ requested to allow for less of a chance of a mistake. A discussion was also brought up about the existing shed on the property. Mr. Pedeville stated that the existing shed would be removed.

There were no further questions from the Board, Chairman Grasso stated he would like to table the application so he can prepare a resolution for the next meeting.

Robert Hatch made the motion to table the application until Chairman Grasso can prepare a resolution and present it at the next meeting scheduled for Tuesday January 7, 2020. Tim Steves seconded the motion. All were in favor and the motion was carried.

There being no further business, Chairman Grasso entertained a motion to adjourn. Robert Hatch seconded the motion. The vote was unanimous. The meeting was adjourned at 7:45 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary