## Meeting Minutes Town of Wheatland Zoning Board of Appeals January 7, 2020

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, January 7, 2020 at 7:00 P.M. in the Wheatland Municipal Building, 22 Main Street, Scottsville, NY.

Before the meeting started, Terry Rech, Building Inspector for the Town of Wheatland introduced Laura Michaels, new Zoning Board Member.

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<br/>Laura Michaels, Tim Steves

# Absent:

### **Others Present**:

Ed Shero, Town Board Liaison Terry Rech, Building Inspector Mr & Mrs. Michael Pedeville

#### First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the December 3, 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:

Laura Michael	s -	Abstain
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.

Board members heard all the evidence at the December 3, 2019 meeting. After discussing and considering the details and effects of the requested area variance with board members, Chairman Grasso formulated the following resolution:

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 Michael Pedeville. This motion was based upon the following finding of facts:

 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: Many properties in this neighborhood are non-conforming as to size and building setbacks, and many have accessory structures without a primary structure. The proposed structure would be in the character as much of the neighborhood.

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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: It is not possible to build any structure on the lot that could meet minimum required side setbacks and building the desired structure far enough from the road would put it in a lower area subject to more severe flooding and requiring additional driveway to be built.
- 3) The requested area variance is substantial as evidenced by: The side setback requested is a reduction of almost 68%. Front setback requested is a reduction of almost 47%. Both reductions are mitigated by the conditions in the neighborhood, that is to say, many small lots with setbacks much less than required and because the Cottager's Association (essentially "the neighborhood") has set a precedent to allow accessory structures on the non-waterfront parcels to be built at a 40' front setback . This proposal is in keeping with the character, look and feel 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 the district as shown by: Only a small structure is proposed, essentially built without excavation, using an existing driveway and requiring removal of an existing accessory structure. Lot size, small setback and accessory use lacking primary use are common in the neighborhood.
- 5) The condition has not been self-created, as shown by: The lot was sub-standard in size before being purchased by applicant.

Further that this variance is subject to the following conditions:

- 1. Front setback be no less than 40' measured perpendicularly to the road easement line.
- 2. Side setback be no less than 7.5' (7'6") measured perpendicularly to the side lot line.
- 3. Any other/existing structures on this lot must be removed within 30 days of completion of the new carport.

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

Robert Hatch	-	Aye
Laura Michae	els -	Abstain
Joe Burns	-	Aye
Tim Steves	-	Aye
Mike Grasso	-	Aye

All were in favor and the motion was carried.

There being no further business, Tim Steves made a motion to adjourn. Robert Hatch seconded the motion. The vote was unanimous. The meeting was adjourned at 7:10 P.M.

Respectfully submitted,

Lisa J. Bates

## Meeting Minutes Town of Wheatland Zoning Board of Appeals July 7, 2020

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, July 7, 2020 at 7:00 P.M. in the "*virtual*" 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
	Laura Michaels, Tim Steves

### Absent:

#### **Others Present**:

Ed Shero, Town Board Liaison Terry Rech, Building Inspector Mr. Jason Baird Mr. Barry Panepanto

### First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the January 7, 2020 meeting. The meeting minutes were approved as submitted. Joe Burns made such a motion; Robert Hatch seconded the motion. The vote was as follows:

Laura Michaels -	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 Jason Baird of 789 Quaker Road to seek an area variance of Section 130-30. A. 1. of the Code of the Town of Wheatland to allow a fence in a required side yard to have a height greater than 4 feet. Proposed height is 6 feet. Tax I.D. #210.02-1-8.12

Mr. Baird would like to extend his existing 6' fence in his side yard 32' towards the front yard. Mr. Baird stated that he moved his family out to this area for peace and quiet and privacy. In 2018 a new owner purchased the house next door and since then there has been ongoing construction. Every time he opens his garage door to leave his home, he is looking at a construction zone, there are several trucks, dumpsters, and construction trailers. Mr. Baird feels that by extending his 6' fence 32' towards the front yard he will elevate the noise, gain his privacy back and allow his family to enjoy their property.

Chairman Grasso asked Terry Rech, Building Inspector if he had any thoughts on this variance. Terry stated that there is an existing row of pine trees so your eye will not be drawn to just a solid fence. If Mr. Baird chose to do a hedge that would need to stay at 4' as well and take some time to fill in. Terry stated that he sees this being a positive change and a better realistic option all the way around.

The floor was open for public comment at 7:20 P.M.

Chairman Grasso read a letter from Jerry and Pat Strassner of 788 Quaker Road stating they have no issue with Mr. Baird constructing a 6' fence in his side yard. They stated

that Mr. Baird has endured the neighbor's continuous noise level due to building activity over the past several years as well as they have.

Ed Shero, Town Council Member, but speaking as a resident of 832 North Road stated he drives by Mr. Baird's neighbors home several times a day because his mother lives on Quaker Road. Mr. Shero stated that he seconds the Strassner's letter, there is all kinds of equipment in that yard. Mr. Shero stated that he feels Mr. Baird is being very gracious as to how he has described his neighbor and should be granted this variance.

There being no further comments, the public comment was closed at 7:25 P.M.

After discussing and considering the details and effects of the requested area variance with board members, Chairman Grasso formulated the following resolution:

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 Jason Baird. 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 request is very small; only 32 linear feet of fence, 2'higher than allowed. The fence will be difficult for anyone to see except the applicant and his neighbor, who is creating the problem that the fence is meant to remedy.
- 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 dumpster, vehicles and trailers are in a specific location. Moving the fence to the rear yard would not block the applicant's view of the clutter. Fence seems most reasonable solution as hedge or other plantings would also require a variance and take time to solve the applicant's problem.
- 3) The requested area variance is not substantial as evidenced by: The request is for only an additional 2' onto what would be allowed, and only a short length of fence is proposed.
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district as shown by: The request is very small; only 32 linear feet of fence, 2' higher than allowed. The fence will be difficult for anyone to see except the applicant and his neighbor. Only a fence is proposed. No major construction is planned.
- 5) The condition has not been self-created, as shown by: The applicant's neighbor has created the eyesore and it is directly visible from the applicant's side-load garage which pre-dates the eyesore.

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

Robert Hatch -	Aye
Laura Michaels -	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 Barry Panepento of 66 Blue Pond Manor to seek an area variance of 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 Zoning district. Tax I.D.# 198.07-1-39.2

Chairman Grasso stated that this variance is like the one we discussed back at the December 2019 and January 2020 Zoning Board of Appeals meeting.

Mr. Panepanto explained that he would like to build a 20' x 16' garage at 66 Blue Pond Manor with a 54' set back from the road. He stated that he was not sure what the actual Zoning Code set back is. He also stated that he believes this addition would remain within the character of the neighborhood because his 3 neighbors east of him already have garages on their properties. Mr. Panepanto believe there would be no negative effect to the neighborhood.

Chairman Grasso explained that the Zoning Code for Blue Pond Manor is the same as the rest of the AR-2 Zoning District. But, we have, at the request of the Cottager's Association, (while we can't change the Zoning Code), have agreed that a 40' set back would be acceptable to the residents, so a 54' set back would not be a problem.

Chairman Grasso asked Terry Rech, Building Inspector if he had any input on the variance. Terry stated that one concept of Building Code is to have everything looking the same. In this case he does not know if it should be 40' or 54'. However, it does reach the 40' minimum max side set back.

The floor was opened at 7:44 P.M. for public comment. There was no public before the board. There being no further comments, the public comment was closed at 7:48 P.M.

After discussing and considering the details and effects of the requested area variance with board members, Chairman Grasso formulated the following resolution:

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 Barry Panepanto. This motion was based upon the following finding of facts:

- 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: Many properties in this neighborhood are non-conforming as to size and building setbacks, and many have accessory structures without a primary structure. The proposed structure would actually be in the character of much of the neighborhood.
- 2) The benefit sought by the applicant can not be achieved by some method, feasible for the applicant to pursue, other than an area variance, as shown by: It is not possible to build a primary or accessory structure on the lot that could meet minimum required side setbacks and building the desired structure far enough from the road would make it look out of character with many other structures existing in the neighborhood.
- 3) The requested area variance is substantial as evidenced by: The requested side setback is a reduction of 36% of the required 25' minimum. The requested front setback is a reduction of 28% reduction of the required 75'minimum. Both reductions are mitigated by the conditions in the neighborhood, that is to say, many small lots with setbacks much less than required and because of the Cottager's Association (essentially "the neighborhood") has set a precedent to allow accessory structures on the non-waterfront parcels to be built at a 40'front setback. This proposal is in keeping with the character, look and feel of the neighborhood.

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- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district as shown by: Only a small structure (1 car garage) is proposed, using an existing driveway. Lot size, small setback, and accessory use lacking primary use are common in the neighborhood.
- 5) The condition has not been self-created, as shown by: The property was substandard in size when purchased by the applicant and has not been changed in size since it was originally created.

Further that this variance is subject to the following conditions:

- 1. That the proposed garage be built no closer than 16.0' from either side of the property line.
- 2. That the proposed garage be built at least 54', measured radially, from the Right-of-Way line of Blue Pond Manor.

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

Robert Hatch -	Aye
Laura Michaels -	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 8:10 P.M.

Respectfully submitted,

Lisa J. Bates

## Meeting Minutes Town of Wheatland Zoning Board of Appeals September 1, 2020

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, September 1, 2020 at 7:00 P.M. in the "*virtual*" 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
	Laura Michaels, Tim Steves

### Absent:

### **Others Present**:

Ms. Kathy Richmond Dan Brocht, LaBella Associates Ray DiRaddo, Town Attorney Ed Shero, Town Board Liaison Terry Rech, Building Inspector

#### First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the July 7, 2020 meeting. The meeting minutes were approved as submitted. Robert Hatch made such a motion; Joe Burns seconded the motion. The vote was as follows:

Laura Michaels -	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 Kathy Novak Richmond of 512 Armstrong Rd to seek an area variance of Section 130-9. A. and 130-10 Accessory Uses 2. of the Code of the Town of Wheatland to allow an accessory structure on an adjacent parcel (under common ownership) without a primary structure. Tax I.D. #209.01-1-11 and #209.01-1-12.

Ms. Richmond stated to the Board Members that she and her husband would like to build a Pole Barn on their property. She and her husband did extensive research and applied for a permit only to find out that they needed a variance. They were not aware that you cannot have an accessory structure on a parcel without a primary structure. They needed to apply for a variance or combine parcels. They also learned that parcels can only be combined during the months of January thru March. Ms. Richmond explained that they have already chosen their vendor and prices have drastically increased since they began the variance process. She is afraid if they wait until next year after they combine the parcels the prices will be even higher. The barn is sited to be built in the back of their property (on the adjacent parcel), replacing the existing shed. Ms. Richmond said that the barn will not look out of place, they will not be taking down any trees and no significant digging is needed. They did explore as many options as they could to the put the barn on the parcel with the primary structure. The only possible locations would have been behind the house, but the leach field is there and then there is a drop off to Oatka Creek. Placing the barn on the other parcel really is the only option. Chairman Grasso asked Ms. Richmond if they were planning on combining the parcels and Ms. Richmond stated yes as soon as they can in January. Chairman Grasso also asked if they were planning on adding a driveway. Ms. Richmond stated they are not adding a driveway, but stone will be put down, so the heavy equipment does not ruin the lawn. Board Member, Laura Michaels asked what the size of the barn will be, the barn will be 24'x 32'x 17' high. Chairman Grasso asked Terry Rech, Building Inspector, if the setbacks were okay. Terry stated that the proposed location is well within the setbacks.

Chairman Grasso asked Terry Rech for his feedback regarding this request. Terry stated that this is a temporary situation. This is a matter of timing rather than anything else. Mick Bonanza, Town Assessor, will ask the county to combine the parcels in January, Tim Murphy at the County is on board with it. Terry stated he felt this is "a pretty clean deal" and it affords the Richmond's the ability to get this underway prior to the spring.

The floor was open for public comment at 7:16 P.M.

No one from the public wished to speak. It was mentioned that one neighbor had called in inquiring about the sign, but once explained, there were no further questions.

There being no further comments, the public comment was closed at 7:19 P.M.

After discussing and considering the details and effects of the requested area variance with board members, Chairman Grasso formulated the following resolution:

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 Kathy Novak Richmond. 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:

Structures like the one being proposed are common in the neighborhood. After the combination of the two parcels, the structure would be a permitted use on the property. The combination will take place in a relatively short amount of time. It is not evident that two parcels make up the Richmond's property.

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 location of the leach field in the rear yard and the slope of the land to the to the creek at the rear of the lot make siting a structure like this on the parcel with a primary use difficult.

3) The requested area variance **is not** substantial as evidenced by:

The requested variance is difficult to quantify mathematically because it is not a reduction in a minimum or an increase in a maximum allowed. We feel it is not substantial because it is essentially a temporary variance. When the 2 parcels are combined, the structure will be considered a permitted action.

4) The proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district as shown by:

The proposed structure will be constructed without significant excavation or earth moving. The structure will be a permitted use once the parcels are combined in a relatively short time.

5) The condition **has not** been self-created, as shown by:

Applicants purchased both parcels at the same time with one deed and have not changed them since.

Further that this variance is subject to the following conditions:

- 1. The existing accessory structure (shed) located on the parcel absent a primary use will be removed.
- 2. The two tax parcels will be combined at the earliest opportunity, which is during the first quarter of 2021.

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

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

All were in favor and the motion was carried.

There being no further business, Joe Burns made a motion to adjourn. Bob Hatch seconded the motion. The vote was unanimous. The meeting was adjourned at 7:32 P.M.

Respectfully submitted,

Lisa J. Bates

# Meeting Minutes Town of Wheatland Zoning Board of Appeals October 6, 2020

The Zoning Board of Appeals of the Town of Wheatland held a meeting on Tuesday, October 6, 2020 at 7:00 P.M. in the "*virtual*" 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
	Laura Michaels, Tim Steves

#### Absent:

### **Others Present**:

Mr. Nicolas Rehberg Ed Shero, Town Board Liaison Terry Rech, Building Inspector

### First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the September 1, 2020 meeting. The meeting minutes were approved as submitted. Robert Hatch made such a motion; Tim Steves seconded the motion. The vote was as follows:

Laura Michaels -	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 Nicolas Rehberg of 1375 Beulah Road to seek an area variance of Section 130-9. A. and 130-10 Accessory Uses/Structures 2. of the Code of the Town of Wheatland to allow an accessory structure on an adjacent parcel (under common ownership) without a primary structure. Tax I.D. #197.01-1-4.1 and #197.01-1-4.2.

Mr. Rehberg stated he is requesting a temporary variance to build a 36'x 48' barn on his vacant lot which is adjacent to his primary use lot. Town ordinance/zoning law does not permit building an accessory structure on a lot without a primary structure. Mr. Rehberg would like to merge both parcels, but it cannot happen until 2021 and he would like to build now. Mr. Rehberg stated that there will not be any impact on the character of the neighborhood, many of the homes in the vicinity have barn type accessory structures. There will be no effect on the environment. Mr. Rehberg already entertained building the accessory structure on several spots with the existing primary. Due to leach line locations and areas of potential falling trees, he decided it is best to place the structure in a more open area. The only other option is to wait until next year but would rather do it now due to the potential increase in cost.

Chairman Grasso asked the Zoning Board Members if they had any questions for Mr. Rehberg. Board Member Tim Steves asked how high the barn will be. Mr. Rehberg stated the dimensions will be 36' x 48'x 12' high. Chairman Grasso asked if there would be an impact on earth disturbance. Mr. Rehberg explained that from the structure there would be a stone driveway that would connect to the existing driveway. Chairman

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Grasso also mentioned that from the environmental information that is available it shows there is wetland on a good portion of that lot not far from where Mr. Rehberg would like to put the barn. Mr. Rehberg was not aware of that. Building Inspector, Terry Rech stated he would send Mr. Rehberg a pdf to show him what the Board Members are looking at and that it doesn't appear that where he is proposing to put the barn would be affected by the wetlands. He would need to contact the Army Core of Engineers to investigate it and delineate it.

Board Member Robert Hatch also mentioned that to merge the parcels, both parcels must have the same exact names on them. It was recommended that Mr. Rehberg contact an attorney to get that done ahead of time to make the process go smoother.

The floor was open for public comment at 7:28 P.M.

Jim and Nancy Gillman stated they live across the street from Mr. Rehberg and they have no objections.

There being no further comments, the public comment was closed at 7:29 P.M.

Chairman Grasso asked Terry Rech for his feedback regarding this request. Terry stated that this is almost an instant replay of last month. We have checked with the county and it appears that they are okay with the combo after the taxes are paid next year. The setbacks will be met, and the condition will fall away once the lots have been combined.

After discussing and considering the details and effects of the requested area variance with board members, Chairman Grasso formulated the following resolution:

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 Nicholas Rehberg. 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:

Structures like the one being proposed are common in the neighborhood. After the combination of the two parcels, the structure would be a permitted use on the property. The combination will take place in a relatively short amount of time. It is not evident that two parcels make up the Rehberg's property.

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 location of the leach field in the rear yard and the location of trees that may potentially become dangerous to the new structure, make siting a structure like this on the parcel with a primary use difficult.

3) The requested area variance **is not** substantial as evidenced by:

The requested variance is difficult to quantify mathematically because it is not a reduction in a minimum or an increase in a maximum allowed. We feel it is not substantial because it is essentially a temporary variance. When the 2 parcels are combined, the structure will be considered a permitted action.

4) The proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or the district as shown by:

The proposed structure will be constructed without significant excavation or earth moving and no new driveway will be constructed to the road. The structure will be a permitted use once the parcels are combined in a relatively short time.

5) The condition **has not** been self-created, as shown by:

Applicant purchased both parcels at the same time with one deed and has not changed them since.

Further that this variance is subject to the following conditions:

1. The two tax parcels will be combined at the earliest opportunity, which is during the first quarter of 2021.

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

Robert Hatch	-	Aye
Laura Michae	ls -	Aye
Joe Burns	-	Aye
Tim Steves	-	Aye
Mike Grasso	-	Aye

All were in favor and the motion was carried.

There being no further business, Joe Burns made a motion to adjourn. Tim Steves seconded the motion. The vote was unanimous. The meeting was adjourned at 7:47 P.M.

Respectfully submitted,

Lisa J. Bates