

**Meeting Minutes
Town of Wheatland
Zoning Board of Appeals
March 7, 2023**

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

Mike Grasso, Chairman, called the meeting to order at 7:15 P.M and roll was taken.

Board Members

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

Absent: Robert Hatch

Others Present:

Matt Van Allen, Homeowner
Terry Rech, Building Inspector
Ed Shero, Town Board Member

First order of Business:

Chairman Grasso asked for a motion to accept the Minutes from the October 4, 2022, meeting. The meeting minutes were approved as submitted. Joe Burns made such a motion; Laura Michaels seconded the motion. The vote was as follows:

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

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

Second Order of Business:

The application of Matt Van Allen to seek a variance per Section 130-66.D. (2) (b): To grant a permit for the reconstruction of a building or structure used for a non-conforming use, to an extent exceeding, in aggregate, 50% of the replacement cost of such building or structure, exclusive of foundations. Property address is 1035 Main St, Mumford, 14511. Tax Parcel #208.16-1-55.1

Mr. Van Allen is seeking a variance per Section 130-66.D. (2) (b): to grant a permit for the reconstruction of a building or structure used for a nonconforming use, to an extent exceeding, in aggregate, 50% of the replacement cost of such building or structure, exclusive of foundations.

The home was gifted to him, was originally constructed as a residence, and has remained so despite the Business zoning. He wishes to retain the home as a residence, but the existing structure is not sound or conducive to efficient energy use. Rebuilding the property would provide the opportunity to further separate the home from the neighboring structure providing increased protection from the spread of fire in the dense village setting. Mr. Van Allen is asking the Board for authorization to obtain a permit to construct a new single-family dwelling.

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Terry Rech, Building Inspector for the Town is in favor of the proposed. He stated the design fits the street view and complements the area architecture. Off street parking is a benefit as well. Larger commercial endeavors and typical residence above mercantile is a little restricted by lack of sewer facilities.

Mr. Rech's opinion letter has been entered into the minutes for the record.

OPINION

This opinion pertains to 1035 Main Street, Mumford 14511, and the proposed demolition and rebuild of a non-conforming use Single Family residence in the Village Business District.

Section 130-54. B. States:

A building or structure used by a nonconforming use shall not be reconstructed, structurally altered, restored or repaired to an extent exceeding 50% of the replacement cost of such building or structure, exclusive of foundations, unless the use of such building or structure is changed to a conforming use, provided that the reconstruction, restoration or repair of a structure partially destroyed shall commence within six months of the date of the partial destruction and is completed within 12 months of the date of destruction.

Section 130-66. D. (2) (b) gives the Zoning Board the authority:

To grant a permit for the reconstruction, structural alteration, restoration or repair of a building or structure used for a nonconforming use, to an extent exceeding, in aggregate, 50% of the replacement cost of such building or structure, exclusive of foundations.

The Zoning Board could follow and comment on the following items as prescribed in 130-66. A However, this is not a variance per se, simply authorization to issue a permit for extension of a non-conforming use. The references to variances are therefore struck out but left to guide thought process.

(1)

Strict application of the chapter would cause practical difficulties or unnecessary hardships which, under the circumstances, would deprive the applicant of the reasonable use of such land or buildings.

The use has historically been residential, has the look of residential, and despite the underlying business zoning, has not been subject to business conversion pressure. There has not been business development pressure in the area and this structure does not promote a business occupancy as street front/storefront placement as it sits back contrary to the typical Village Business setting.

To demolish and build a typical Village Business commercial ground floor with the residential use above at street level would reduce the fire separation to adjacent structures and add additional, potentially prohibitive costs. This would also reduce the amount of off-street parking that is already at a premium.

The current parcel/structure was gifted to the applicant who could simply repair and continue the non-conforming use. This would not reach the 50% threshold as the repairs could be tailored to not exceed. However, the result would be substandard in many regards:

The energy efficiency would be substandard to current new construction requirements.

The current structure is on or nearly on property line to 1037 Main and there is little fire separation distance to that adjacent structure.

The current structure appears "piecemeal" from substandard addition design.

(2)

Such practical difficulties or unnecessary hardships are unique and are not shared by all properties in the vicinity.

Adjacent parcels have street front settings. There is residential zoning in proximity across the street and 2 doors down so the residential look would not be out of place or detrimental.

(3)

Such practical difficulties or unnecessary hardships are not self-imposed.

This was gifted to the applicant, and he chooses to retain the residential use.

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(4)

~~Such variance is the minimum variance that will relieve such practical difficulties or unnecessary hardships.~~

(5)

~~Such variance is in the spirit of the general purposes and intent of this chapter as stated in § 130-2.~~

(6)

~~Such variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood or district, the conservation of property values in the vicinity and the guidance of building development in accordance with the Comprehensive Plan.~~

(7)

~~Such variance does not involve substantial detriment to the public welfare and does not substantially impair the intent and purpose of the zone plan and of this chapter.~~

For your consideration,

Terry
Building Inspector, Town of Wheatland

The Board members considered and deliberated the details and effects of the requested variance. The Chairman and Board reviewed the Short Environmental Assessment Form Part 1, 2 & 3.

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

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

After the close of the Public Hearing, Chairman Grasso asked the Board to entertain a motion based on the information and analysis above and any supporting documentation that the proposed action will not result in any significant adverse environmental impacts.

Joe Burns made a motion to issue a negative declaration for the issuance of permit to reconstruct the non-conforming use. Laura Michaels seconded the motion. The vote was as follows:

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

See attached Variance Determination Form

Chairman Grasso asked the Board to entertain a motion to authorize the Building Inspector to issue the Building Permit for the reconstruction of the non-conforming structure greater than 50% of the value of the structure.

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

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

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All were in favor and the motion was carried.

There being no further business, Joe Burns entertained a motion to adjourn. Tim Steves seconded the motion. The vote was unanimous. The meeting was adjourned at 8:03 P.M.

Respectfully submitted,

Lisa J. Bates

Lisa J. Bates
Recording Secretary