

**ZONING BOARD OF APPEALS**  
**Town of North Greenbush**  
**2 Douglas Street**  
**Wynantskill, NY 12198**  
**Meeting Minutes**  
**October 14, 2020**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of North Greenbush will hold public hearings on Wednesday, October 14, 2020 for the following applications at the Town Offices, 2 Douglas Street, Wynantskill, NY, beginning at 6:30 P.M.

**IN ACCORDANCE WITH EXECUTIVE ORDER 202.1**

**NOTICE IS HEREBY GIVEN that public hearings will be held before the Zoning Board of the Town of North Greenbush with respect to the following matter at the time and place set forth below:**

**Time & Place: October 14, 2020 beginning at 6:30 pm**  
**VIA LIVE STREAM**

[www.townofng.com](http://www.townofng.com) (Click on the top banner that says: Watch Town Meetings, then click on the Zoning Board Meeting link)

Due to the current COVID-19 pandemic and Gov. Cuomo's executive order 202.1, at this time, the public is not able to participate in person during the hearing. All application materials are available for review on the Town's website. If you would like to make a comment on the applications, all comments must be submitted via e-mail to: [building@townofng.com](mailto:building@townofng.com) or by phone 518-283-2714. In the event that the Governor's guidelines allow for participation in person, it will be noted on the Town's website. However, the Town will still continue with the live streaming of the Zoning Board public hearings and accept comments by email or phone.

Due to on-going social distancing requirements and to maintain the opportunity for the public to participate, the Town of North Greenbush will hold public hearings via teleconference and videoconference on Wednesday, October 14, 2020 beginning at 6:30 pm. The following applications will be heard:

**Attendance:**

**Attendance: John Dalmata, Richard French (Chairman), Leanne Hanlon (Secretary), Michael Miner (Building Department), Robert Ewing, Tony Crucetti, Louise Germinerio, Al Kolakowski (Legal Counsel).**

Chairman French opened the meeting with the Pledge of Allegiance and roll call. Chairman French also explained the special permit rules and what this board does.

**Old Business:**

**Application 20-21, for the area variance request of Michael Moscatiello, 99 North Greenbush Road, Troy, NY 12180, for relief from the minimum number of parking spaces required (38 spaces) for the purpose of allowing proposed development with 33 parking spaces AND for relief from restrictions allowing a limit of 2 business uses, for the purpose of allowing 3 retail stores in the proposed building to be located at 271 North Greenbush Road, Troy, NY 12180, in a BN district, having parcel ID#: 123-17-4-37.**

No Public Hearing but the file was left open for 10 business days for people to respond per Chairman French. He also read all the written comments that were sent in after last month's meeting.

Kruzaliki: comments read by Chairman French. (fence along north property line) (email).

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LaFevre: comments read by Chairman French. (email)  
Marshall: read by Chairman French (email)  
Mair: read by Chairman French (email)  
One was received outside the 10 day timeline.

Mr. Moscatiello spoke about the comments and showed the board a preliminary plot plan. 15 foot elevation from the grade of the parking lot to the top of the backyards on Birch Street per Mr. Moscatiello. On the north side there is a 7 foot elevation between the parking lot the neighbor. Mr. Moscatiello said he will trees there though (arborvitaes, etc.). The building elevation for the 2<sup>nd</sup> floor would be the apartment people looking out not down on the neighbors. He said he will give up the food service tenants for this new building. He also said he would like the operating hours to be 8am-8:30pm. Chairman French said he does not want to see a coffee shop or convenient store there either and Mr. Moscatiello is agreeable to that.

**Conditions:** no food service tenants or convenient store. Limit tenants to no food service, all uses allowed in BN with the exception of food service or sale or prep, unless otherwise approved by the ZBA. North Side parking lot double staggered arborvitaes. He will show that on his site plan for PB. Hours of operation: 8am-8:30pm. Limited to no more than 3 business tenants. 2 apartments on 2<sup>nd</sup> floor.

As the characteristics of Rt. 4 change people can come before the board again per Chairman French. Chairman French stated the revised plan addresses everything that was discussed with Mr. Moscatiello. The site plan is on the ZB page of the website now per Mr. Miner. Chairman French stated PB is lead agency.

All SEQRA questions were asked and answered by the board.

Motion made for a neg dec by Mr. Ewing and seconded by Mr. Crucetti.  
Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing. All in favor.

County: Per Mr. Miner-local consideration shall prevail.

Undesirable change: No  
Benefits sought by applicant: No, however the original plan did not need any variances but he try to meet the needs of the neighbors.  
Substantial: No  
Adverse affect: No with mitigations in conditions  
Self created: Yes but does not preclude

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Motion made to approve with above conditions by Mr. Crucetti and seconded by Mr. Ewing.  
Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing. All in favor.

**New Business:**

**Application 20-22, for the area variance request of Chris & Michelle Constantine, 7 Baker Avenue, Wynantskill, NY 12198, for relief from lot size requirements of 20,000 sf. due to a lot line adjustment reducing parcel size to 6,142 sf., at the property located at 462 Main Avenue, Wynantskill, NY 12198, in a H (Hamlet) district, having parcel ID#: 124.10-4-4.**

Mr. Miner stated this is a non-conforming lot to begin with. The board reviewed the map to get a better idea. Mr. Constantine spoke. He owns the parcel on 7 Baker Ave. He owns both parcels. He wants to join both parcels. He bought the other parcel that went into foreclosure.

Public Hearing Opened:

Chairman French read one written comment from Andrew Mair.

Mr. Miner stated this does not change the density in any way. This will make the lot on the corner of Baker and Milhiser a conforming lot now.

No other written or verbal comments were received during the meeting.

County: no impact local consideration shall prevail per Mr. Miner.

Motion made to close public hearing by Mr. Dalmata and seconded by Mr. Crucetti.

Type 2 SEQRA

Undesirable change: No

Benefits sought by applicant: No

Substantial: Not when you look at the plot plan

Adverse affect: No

Self created: Yes but does not preclude.

Mr. Ewing does not want to set a precedence for the small lot in the future if someone else owns the property at a later time.

Motion made to approve by Mr. Ewing and seconded by Mr. Crucetti.

Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing. All in favor.

**Application 20-23, for the area variance request of Patrick Bergmann, Capital Region Hearing, 9 West Sand Lake Road, Wynantskill, NY 12198, for relief from setback requirements of 15 ft. for a freestanding business sign, for the purpose of allowing a sign at the property line, at the property located at 9 West Sand Lake Road, Wynantskill, NY 12198, in a H (Hamlet) district, having parcel ID#: 124.10-12-3.**

Mr. Bergmann opened a practice in the same building as Dr. Perrotta and his patients are having trouble finding his practice. Distance between property line and parking lot is 13 feet per Mr. Miner. He also said because there are shrubs there moving the sign back would make it invisible. Mr. Bergmann stated the Perrotta sign is in the same distance he would like currently. Chairman French asked if Dr. Perrotta would be willing to do a joint sign. Mr. Bergmann said he is willing to but does not know if Dr. Perrotta would do this. There are 3 practices in the building. Ms. Germinerio stated that where he wants to put the sign will make it difficult to see pulling out of Streamview Lane. She suggested another location. Mr. Bergmann stated his sign would be toward the center of the lot. Chairman French stated maybe that is the best location for the Dr. Perrotta (joint practice sign). Mr. Miner stated where he wants to put this there is no line of sight issues. Mr. Crucetti asked if Dr. Perrotta had a problem with this sign but he signed the application as well.

Public Hearing opened:

Chairman French read a written comment from Andy Mair. He feels the variance is 100%. Chairman French suggested tabling this for one month to allow applicant to discuss with the other practices about a joint sign that would be more favorable. Multiple signs for the same building are not good and this board does not want to do that. Mr. Miner said he would be happy to discuss this with Dr. Perrotta and Mr. Bergmann.

Mr. Ewing stated the proposed sign is large for an individual sign. If it will be a combined sign that would be acceptable.

No other comments were received.

Motion made to table and keep public hearing opened until next month by Mr. Dalmata and seconded by Ms. Germinerio. All in favor.

**Application 20-24, for the Code Interpretation request of ARC of Rensselaer County, 79 102<sup>nd</sup> St., 3<sup>rd</sup> Floor, Troy, NY 12180, for the purpose of determining allowable uses, for the property located at 148 North Greenbush Road, Troy, NY 12180, in a BN district, having parcel ID#: 123.13-1-3.**



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Not present – still heard at meeting. The building layout is a one story bldg. that goes back and opens up to a community room dining area etc. The corridors have rooms off of them. Can these be made apartments? Mr. Miner stated they would need a use variance. They are independent living facility and be considered individual use. Do we say they are not apartments currently? The building has been for sale for several years. Mr. Miner does not know enough about prior use. There was independent living but just a bedroom and shared bathrooms.

Comment from Andy Mair: read by Chairman French.

Chairman French stated that Mr. Miner needs to make an interpretation if they are currently apartments. First floor apartments are not allowed in BN district. So is what currently is there existing apartments? Mr. Ewing stated that the current functionality seems they are apartments. His gut feeling is the function falls into “apartment”. This is a group home. Chairman French feels there are no other homes like this in NG.

It was determined by the board that they are not apartments and they have to come before the board for a use variance and the board can put conditions on this.

Mr. Miner read a written comment by Mr. Moscatiello.

Motion made that Apartments are not allowed on ground floor in BN and what exists there now are not apartments by Ms. Germinerio and seconded by Mr. Dalmata.

Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing. All in favor.

**Application 20-25, for the use variance request of Carole Ann Reed, 434 North Greenbush Road, Rensselaer, NY 12144, for the purpose of allowing temporary housing in a mobile home while restoration from a fire is completed, at the property located at 434 North Greenbush Road, Rensselaer, NY 12144, in a BN (Neighborhood Business) district, having parcel ID#: 134.13-13-4.**

Not present. Mr. Miner stated he contacted the applicant at both numbers and left a message to call and she did not.

Chairman French noted that he is an abutting neighbor for this. He owns 200 feet of the common property of the Reed property. The mobile home is already there per Chairman French. The fire occurred in late August. They are going to need to get a CO from the BD. Chairman French said he does not see anyone living in the mobile home right now even though it is on the property. A serious derogation of the septic system was discovered by code during the fire and there is a health department issue. The septic has to be repaired that is not part of the fire damage.

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Public Hearing opened:

Two written comments from Andy Mair were read by Chairman French.

Use variance questions:

Reasonable return: no fiscal evidence but Mr. Miner stated this may not apply to them and this is a temporary use. This is financially feasible for them per Mr. Miner. They are not able to do anything financially different.

Alleged Hardship unique: Per Mr. Miner it is unique because it has fire damage that makes it unique to the rest of the neighborhood. This is unique and is not a permanent residence.

Use variance will not alter the character of the neighborhood: There are other RV's stored on other neighbors in the neighborhood. It will not because it is temporary.

Is the hardship self created: No there was a fire that damaged the home. This is unique circumstances per Mr. Miner.

Chairman French asked what happens in 6 months if the work is not complete or they run out of money to complete the repairs? Mr. Miner stated that they would have to come back before the board again.

Conditions: RV cannot be occupied until such time that a RCDOH approves sanitary solution. Health department approval on the damaged septic before they move back into the repaired home. RV cannot be occupied beyond 6 months from date of occupancy it. Beyond 6 months requires further approval from this Board.

County: no impact local consideration shall prevail per Mr. Miner.

No other comments.

Type 2 SEQRA

Motion made to close the public hearing by Mr. Crucetti and seconded by Mr. Dalmata.

Motion made to approve with conditions above by Mr. Ewing and seconded by Mr. Crucetti.  
All in favor.

Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing.

**Application 20-26, for the area variance request of Walter G. & Peggy C. Breakell, 16 Saratoga Farm Road, Malta, NY 12020, for relief from side setbacks of 20 ft. for a left side setback of 11ft. and a right side setback of 12 ft. for the purpose of constructing a single family home, at the property located at 281 Geiser Road, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 135.13-1-17.1.**

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Kevin McGrath presented the application for the owners. The owners want to use this (camp now) for their summer home. They will winter in Florida. They are selling their home in Saratoga per Mr. McGrath. The camp will be removed. The new home will be wider because of the proposed garage. Mr. McGrath shared a plot map for the board. He did say he did not believe any trees would be cut. Chairman French started this could be a welcome improvement to the neighborhood.

Public Hearing opened:

Janice Catel-Charton sent written comment. Chairman French read her comment.

Chairman French stated a condition would be that the ash and maple trees not be taken down.

County: Per Mr. Miner local consideration shall prevail. Construction silk in catch basin to keep waste out of it.

No other comments received.

One other comments asked for the plan to be on the website. Miner will handle that and wait for comment.

Another comment was added. When will construction begin, hours of operation for construction. The board does not control when projects begin. Miner stated there are different construction times but typically 7am-4pm. Concrete typically starts at 6am though per Mr. Miner. The town has no regulations for this per Chairman French.

Motion made to close public hearing by Ms. Germinerio and seconded by Mr. Dalmata.

Type 2 SEQRA

Undesirable change: No, it's an improvement

Benefits sought by applicant: No

Substantial: No

Adverse affect: No

Self created: Yes but does not preclude

Conditions: Cluster of Maple trees and 24 inch ash trees be maintained. There is sewer and water in this area per Chairman French. One year separation.

Motion made to approve with above conditions by Mr. Dalmata and seconded by Mr. Ewing.  
Roll call vote: Dalmata, Crucetti, French, Germinerio, Ewing. All in favor.

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Motion made to approve September minutes by Mr. Dalmata and seconded by Mr. Crucetti. All in favor.

Chairman French read some comments he received regarding a case that the board approved in September. 27 Franklin Avenue application.

Katherine Renzulo sent the correspondence however also commented at last month's meeting as well.

Counsel stated you cannot come back and re-litigate it a second time. Chairman French will write her back and ask counsel to view it before he sends it. Mr. Miner did not receive any other calls from residents about that application.

Chairman French read another comment regarding the 44 Haywood Lane by David Comiskey who now owns 66 Haywood Lane. Is he entitled a response? Counsel stated no. The original owner has moved. The new owner has to come before the board if he wants to do something different from the original variance.

Motion made to adjourn at 9:10pm by Mr. Ewing and seconded by Ms. Germinerio.

If you need additional information or have questions about the process, please contact us at: 518-283-2714 or [building@townofng.com](mailto:building@townofng.com) .