



# TOWN OF WHEATFIELD

## COUNTY OF NIAGARA

### Zoning Board of Appeals

2800 Church Road, North Tonawanda, NY 14120

Phone: (716) 694-1026 Fax: (716) 694-1800

www.wheatfield.ny.us

### Minutes of Meeting

June 12, 2023

Chairman Schaffer called the meeting to order at 7:00pm

#### **Roll Call:**

Present: Walter Garrow  
Art Gerbec  
Matt Klettke  
Arthur Kroening  
Michael Schaffer (Chairman)

Planned Absence: Matthew Kroening – Permitted Leave of Absence

#### **General Business:**

Motion to approve Board minutes of May 22, 2023 was made by M. Klettke, Seconded by A. Gerbec.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke – Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

#### **Hearings Held:**

7:05pm: Kalid & Nicole Abusalah, request an area variance for Lot# 162.14-2-22, located at 2606 David Drive, to construct a six (6) foot fence which exceeds the maximum height for front yards. This property is a corner lot, at David Drive and Joann Court. A front yard, residential use fence can only be, per code, a maximum of four (4) feet.

Chairman Schaffer opened the Public Hearing at 7:18pm, as alternate ZBA member A. Gerbec was late to the meeting. It should be noted that the chairman asked the applicant and the residents to address the Board when speaking about this proposal.

The applicant's explained their request for a variance.

#### **Board Findings**

1. The applicant's acquired the property in September 2020.
2. The applicant's will install a vinyl fence, if approved.
3. The applicant's are requesting this variance to install a fence for privacy and protection for their pool.
4. The applicant's have three children, ages 8, 13 and 17.
5. The fence, if approved, will be installed starting just south of the current pine trees along Joann Court and within the Town and Utility Easement.

#### **Resident concerns**

1. Erin Bennett – 7001 Dawn Drive – Loves the neighborhood and her neighbors. There was no maintenance on this property from April 2020 until the neighbors purchased the property in September 2020. Many people park their vehicles on the road. Mrs. Bennett has no issues with the height of the fence but has a problem with how close the fence will be to the road.
2. Mark & Patti Schifferle - 2636 Kenneth Court – Owner's have concerns with visibility and speed. They also question the privacy of the lot when the pine trees existed.
3. David & Cheryl Polasik – 2569 David Drive – Owners have safety concerns and think that the fence being installed further back would help with visibility along Joann Court.
4. D'Angelo Family Trust – 2563 David Drive – Theresa D'Angelo is concerned with safety when cars are parked on the street. Mr. D'Angelo mentioned covenants (deed restrictions) for the neighborhood. One of

the covenants is that no commercial vehicles can be parked outside. The other covenant mentioned is that fences for front yards cannot be more than four (4) feet in height.

5. David & Joan Smith – 2636 David Drive – Owners walk in the neighborhood and have concerns with safety and due to the bad curve, the closeness the fence will be to the road.

Motion to close the Public Hearing was made by W. Garrow, Seconded by M. Klettke.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke – Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

#### Findings per NYS Law Guidelines

1. Whether benefit can be achieved by other means feasible to the applicant: It should be noted that the applicant's have three (3) children, ages 17, 13, and 8. The applicant's are interested in this fence for privacy. There are however, other feasible means to accomplish privacy: they could add arborvitae for screening or installing a two (2) foot berm and adding a four (4) foot fence on top or the applicant's can add privacy slats to the chain link fence that exists around the pool.
2. Undesirable change in the neighborhood character or detriment to nearby properties: It should be noted that numerous neighbors attended the Public Hearing to voice major concerns, specifically about safety and visibility on the roadway, installing the fence inside the fifteen (15) foot easement and that there are other corners lots that have fences however, these properties have fifty (50) to sixty (60) feet of green space.
3. Whether request is substantial: Numerically, the request is substantial, the request is from four (4) feet to six (6) feet. Visually, the request is not as noticeable with the fence being inside the easement.
4. Whether request will have adverse physical or environmental effects: It should be noted that this request might have safety issues and sight line issues. The proposal is to install the fence within the Town and Utility Easement. It should also be noted that the applicant took down trees that were at least twenty (20) feet in height. This provided screening for the backyard and some of these trees were installed in the Town and Utility Easement.
5. Whether alleged difficulty is self-created: This is a self-created hardship.

Motion made by W. Garrow, Seconded by M. Schaffer to recognize this request for variance as a Type 2 Action under SEQR.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke – Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

Motion made by W. Garrow, Seconded by M. Klettke to deny the request for variance of installing a six (6) foot fence within the fifteen (15) foot Town and Utility Easement as presented.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke – Yes
- A. Kroening – No
- M. Schaffer – Yes

Motion carried.

**Next meeting:**

July 10, 2023 @ 7:00pm, Town Hall, Upper Level

**Public Hearings:**

7:05pm – 2606 David Drive - Kalid & Nicole Abusalah; 7:35pm – 7475 Shawnee road – Chelsea Ramirez; 8:05pm – 3401 Ashwood Drive – mark Anastasia, Jr.

**A motion to adjourn:**

Motion made by W. Garrow, Seconded by M. Klettke. Ayes: unanimous. Motion carried.

Respectfully Submitted,  
Melissa Germann, Secretary

ZBA Distribution Listing

Town Supervisor  
Building Dept

Town Board  
Planning Board

ZBA members  
Town Clerk