

**TOWN OF NEWSTEAD - ZONING BOARD MINUTES**  
**Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY**  
**August 22, 2019**

**MEMBERS**

**PRESENT:** William Kaufman (WK)  
Adam Burg (AB), Chairperson  
John Klodzinski (JK)  
Vicki Lombard, (VL)  
Fred Pask (FP)

**Other:** David Miller, Code Enforcement Officer/Zoning Officer  
Julie Brady, Recording Secretary

**Absent:** Max Brady, Alternate  
Mike Mutter, Alternate

<b>APPROVED</b> <b>10/24/2019</b>
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**Purpose for Request:** Denial of Building Permit by Code Enforcement Officer

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Meeting was called to order at 6:05pm, followed by the pledge to the flag.

Motion to accept the minutes from July 25, 2019 was made by Adam B., seconded by Vickie L., All Ayes, No Nays.

Bill K. reviewed the ground rules for the meeting and use variance requirements.

Julie B. read the legal notice as follows:

**Requesting a use variance to construct a greenhouse and pole barn in the R-1 district for commercial use.**

**Owned by: Newstead Park Assoc., 114 Huxley Dr., Snyder, NY 14226**

**Applicant: Steven Bedford, 6820 Cedar St. Akron, NY 14001**

**SBL#: 61.00-2-4**

**Town Code varied: 450-16A (Permitted principal uses in the R-1 District)**

Public hearing was open for comments at 6:12pm.

Dave Miller, CEO/Zoning Officer, stated that this case is rather unique because it involves 1 of the only 3 parcels in the entire Town that are comprised of RA, R-1, C-2, and the Overlay district. That's 4 different sets of Zoning standards this lot must comply with for development. In my opinion, when the Town implemented the C-2 and Overlay district down Main, they increased the hardship for any developer of this lot. The overlay extends 1500 feet north down Buell which takes up the entire lot. This presents, in my opinion, challenges because the overlay goes 500 feet back off of Buell, which is where the RA begins and the R-1 ends, so the RA zoning on this lot is virtually unusable. Then either the R-1 and the C-2 would also have to comply with the overlay regulations, but you would almost have to choose 1 of the zones to develop and almost abandon the other.

For example, lets just say you wanted to build a house on the lot in the R-1 Zone on Buell in the overlay district. The standards to build a single family there versus the R-1 NOT in the overlay is more difficult. Smaller lot size requirements in the R-1 and 10 ft. side yard setbacks but the overlay requires 30 foot side yard setbacks. In my opinion, some of the burden of hardship lay at the feet of the Town in this instance and shouldn't be completely born by the owner or applicant.

Bill K. asked if there were any written comments. Julie B. said there were none except that the owner did send a letter authorizing permission for Steve Bedford to go for the variance. No comment from Erie County planning.

Steven Bedford, 6820 Cedar St., Akron – Applicant for the variance, stated that he plans on developing the entire northeast corner of Main & Buell St. in two phases. This variance request is for the first phase and includes moving Bedford Greenhouse from Cedar St. to this location starting with a work barn for the employees, greenhouse and growing fields north of the greenhouse. The ponds will be sized in the first phase for the entire project for run-offs. The second phase would be a strip plaza/grocery store on the corner, including retail space. Steve showed plans of the project to the zoning board.

David Miller stated that this is a nice blend not impeding on potential conflict for the village and will be a pleasing entrance to our community.

John K. asked how many acres? Steve told him it will be approximately 23 acres total.

Adam B. asked about his timeline. Steve said he wants to start as soon as his permits are issued. Get the barn up and utilities to the barn. Complete site work, clean the entire parcel, hopefully the retail in the spring and build the growing range next summer.

Ralph Johnston, 5698 Buell St. stated that why would the Town allow a commercial business to go there since it is near homes. Doesn't the residential zoning maintain peace and quiet for its residents? As of now they already have issues with the noise of banging dumpsters & smells of smoke from McDonalds ¼ mile away. The property values plummet when commercial is allowed near residential. Can't they move somewhere else in the commercial zone?

Bill K. summarized that Buell St. is in the Route 5 overlay zone and the value of commercial property. Steve B. confirmed that he has owned and operated his greenhouse on Cedar St. for 28 years and has never had any complaints from the neighbors. He keeps a clean, well maintained facility and is very concerned and courteous to the neighbors.

George Burg, 12836 Main Road, Akron (also owner of surrounding vacant land in the area), stated that there are so many things that could go into this property and he feels this is the best you do. The Cedar St. location is between houses and is very well maintained.

John Jendrowski, 12375 Meahl Rd., Akron gave his approval of the project, stating Bedfords' Greenhouse is a top-notch business and is good for the community. Clean, quiet, good-fit for the area.

Bill K. asked three times if there were any more comments. Hearing none, a motion was made by Adam B., seconded by Fred P. to close the public hearing at 6:40pm. All Ayes, No nays.

Zoning board discussed how this is a gateway to our community and the best use of the property. Adam B. asked if the planning board sent a memo. Julie B. stated that they are in favor of the project. John K. asked if the zoning could be changed down the road. John Jendrowski said that the Town Board is looking into correcting some of the zoning issues in our town in the near future.

The Review sheet was completed as follows:

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence.  
AB (Y) JK (Y) JK (Y) VL (Y) FP (Y) Overall – (YES-PASS)  
REASON: The uniqueness of the parcel presents several issues with respect to return. The proposed development demonstrates an effort to work with the prohibitive zoning regulations to bring a benefit to the community and a return which otherwise couldn't be done. Given the geographic location of nearby church, public park and proximity to the business corridor of the Town along Route 5, constructing an allowable use in this area is limited and not profitable.
2. The alleged hardship relating to the property is unique.  
AB (Y) JK (Y) JK (Y) VL (Y) FP (Y) Overall – (YES-PASS)  
REASON: As CEO stated, this situation is one of only three parcels in the Town facing these issues that was mainly created by the Town.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood.  
AB (N) JK (N) MB (N) VL (Y) FP (N) Overall – (NO-PASS)  
REASON: It will improve the visual appearance and not create any more traffic. It will improve the character as entering into the Town. It's already near other retail properties.
4. Whether the alleged hardship has been self-created..  
AB (N) JK (N) MB (N) VL (N) FP (N) Overall – (NO-PASS)  
REASON: The applicant has tried to follow proper procedure (leasing land – has not purchased it then come to us with this plan) The hardship was imposed by the Town by putting four zones on one parcel.

A motion was made by Adam B. to approve the use variance. Seconded by Fred P.. All Ayes, No Nays.

Variance request was approved unanimously.

A motion was made to close the meeting at 7:00pm by John K. seconded by Adam B., All Ayes. No Nays

Meeting adjourned.

Respectfully submitted,  
Julie Brady, Recording Clerk