

**TOWN OF NEWSTEAD - ZONING BOARD MINUTES**  
**Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY**  
**August 25, 2016**

**MEMBERS**

**PRESENT:** Bill Kaufman, Chairman  
Harold Finger  
Adam Burg  
John Klodzinski  
Fred Pask

<b>APPROVED</b> <b>12/8/2016</b>
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**Alternate:** Cheryl Esposito, Alternate  
**Other:** Michael Borth, "Acting" CEO  
Julie Brady, Recording Secretary

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Meeting was called to order at 6:32pm followed by the pledge to the flag.

Bill K. reviewed the procedures. Julie B. read the legal notice for the variance request as follows:

**Requesting a 36 foot area variance to build a front porch 29 feet from the right-of-way instead of the required 65 feet on a county road at 4684 Crittenden Rd., owned by Robert Brege.**  
**Town Code varied: Article IV. Chapter 450-29 A (2)**

Bill K. asked if there were any comments submitted to the Zoning clerk. Julie B. answered, "no".

Public hearing was open for comments at 6:36pm.

Robert Brege, 4684 Crittenden Road, owner of said property, stated that the other nearby structures are closer to the road than what he plans to do by building a front porch.

Bill K. asked three times if there were any more comments. Hearing none, he requested the public hearing be closed. Motion was made by Harold F., seconded by John K.

ZBA looked at the map and discussed the request.

Michael B. stated that there are no code issues or obstructing traffic view issues.

The Review sheet was completed as follows:

1. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance.  
AB (N) JK (N) WK (N) HF (N) FP(N) Overall - (NO-PASS)  
REASON: Same as homes in area, older home with existing exits, barn is closer to road
2. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.  
AB (N) JK (N) WK (N) HF (N) FP (N) Overall - (NO - Pass)  
REASON: Other structures in this area are as close to the road.
3. Whether the requested area variance is substantial.  
AB (Y) JK (Y) WK (N) HF (N) FP(Y) Overall - (Yes - Fail)  
REASON: The code requires 65 feet, requesting 29 feet setback. Bill K. stated no because it's a corner lot, house built before current codes. Fred P. "Yes, but not effecting the granting of the variance".
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.  
AB (N) JK (N) WK (N) HF (N) FP(N) Overall - (No-Pass)  
REASON: No site obstruction. No SEQR done per Fred P.

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- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude granting of the area variance.

AB (N) JK (N) WK (N) HF (N) FP(Y) Overall – (NO - Pass)

REASON: Not self-created, house was built before current code.

A motion was made by Adam B. to approve the variance. Seconded by Harold F. The Zoning Board was polled to approve this variance as follows:

Bill K. – Yes, Fred P. – Yes, John K. – Yes, Harold F. – Yes, Adam B.- Yes Variance request was approved by unanimously.

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6:45pm –Second and final public hearing of the night. Julie B. read the legal notice as follows:

**Requesting a six foot height area variance to construct a 26 foot high detached garage at the NE corner of Carney and Cedar St. owned by David Gustafson, under contract to Al & Camille Osborne**

**Variance Town Code varied: Article IV. Chapter 450-15 F (2) a**

Bill K. opened the public hearing.

Al & Camille Osborne, 5261 Comstock Rd., Lockport, NY 14094, stated they would like to purchase this land to build a single family home and pole barn to store their 5<sup>th</sup> wheel and lawn mower etc. Due to the fact that it is a corner lot, both being county roads with a setback of 65' from the ROW, he is limited to the placement of the structures. His intent is to build an attractive pole barn that will look similar to the house 35x40 and 26' high. When a building a barn of that size, if the roof pitch is lower it would appear more commercial losing the aesthetics he was trying to achieve, plus he needs a 16' high door for the 5<sup>th</sup> wheel.

Michael B. explained to the ZBA that the code will be changing to state accessory structures will be 30 feet maximum height instead of the existing 20 feet maximum, in the near future. He has already discussed this matter with the Town Attorney who agrees.

Bill K. asked three times if there were any other comments. Hearing none, a motion was made by Fred P. to close the public hearing, seconded by John K. Public hearing was closed at 6:57pm.

The Review sheet was completed as follows:

- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance.  
AB (N) JK (N) WK (N) HF (N) FP(N) Overall – (NO-PASS)  
REASON: Bill K., vacant property far enough away from other properties.
- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.  
AB (N) JK (N) WK (N) HF (N) FP (N) Overall – (NO - Pass)  
REASON: Applicant is trying to keep the property aesthetically pleasing.
- Whether the requested area variance is substantial.  
AB (N) JK (N) WK (N) HF (N) FP(N) Overall – (No Pass)  
REASON: CEO stated motion to amend code to 30 feet
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.  
AB (N) JK (N) WK (N) HF (N) FP(N) Overall – (No-Pass)  
REASON: No site obstruction, trying to improve property, far enough back, no environmental issues.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude granting of the area variance.  
AB (Y) JK (N) WK (N) HF (N) FP(Y) Overall – (NO - Pass)

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REASON: Not self-created, current code changing so they would not even need a variance.

A motion was made by Adam B. to approve the variance. Seconded by Harold F. The Zoning Board was polled to approve this variance as follows:

Bill K. – Yes, Fred P. – Yes, John K. – Yes, Harold F. – Yes, Adam B.- Yes Variance request was approved by unanimously.

Minutes of the August 25, 2016 meeting were discussed and a motion was made by Adam B., seconded by John K. to approve the minutes as is. All Ayes, No nays.

A motion was made to close the meeting at 7:12pm by Harold F., seconded by Fred P.. All Ayes.

Meeting adjourned.

Respectfully submitted,  
Julie Brady, Recording Clerk