

ZBA  
September 25, 2014

**TOWN OF NEWSTEAD - ZONING BOARD MINUTES**  
**Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY**  
**September 25, 2014**

**MEMBERS**

**PRESENT:** Bill Kaufman, Chairman  
Harold Finger  
Adam Burg  
John Klodzinski  
**Alternate:** Fred Pask, (voting alternate)  
  
**Absent:** Corky Keppler  
**Other:** Julie Brady, Recording Secretary

<b>Unapproved 9/25/14</b>
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Meeting was called to order at 6:30pm followed by the pledge to the flag.

Julie B. read the legal notice for the variance request as follows:

**Use variance request to build a pole barn as an accessory structure without a primary structure on vacant land, Clarence Ctr. Rd. (SBL# 46.00-4-30.111) owned by Curtis & Elizabeth Mohr. Town code varied: Article III, 450-15, R-A B (2).**

Bill K. reviewed the procedures and opened the public hearing for comments.

Curtis Mohr, 11821 Clarence Ctr Rd., owner of said vacant land requesting the variance, explained that he is looking to “prebuild” a pole barn this winter to store supplies prior to building a house in the spring. When he built a home on Crego 20 years ago, he had theft, so by building the barn he would be able to lock up his building materials.

Doug Mohr, 11821 Clarence Ctr Rd., resides next door to property, has no problem with the building of the barn.

Bill K. asked 3 times if anyone else would like to speak, hearing none, John K. motioned to close the public hearing, seconded by Fred P. All Ayes. The public hearing was closed at 6:33pm.

Bill K. asked Curtis M. if he was still planning on having a tree farm at this location. Curtis M. said that he plans on doing it in his retirement, over a period of several years, mainly specialty type trees like Japanese Maples, not Christmas trees. It would not be a high traffic retail business. The barn would be placed off the road approximately 700 feet and be roughly 46x60. It would be sided and roofed the same as the new house.

Harold Finger said that he needs to be careful of the setbacks so he doesn't end up having to come back to the zoning board for another variance. Curtis M. explained the measurements and how he has already met with the architect and has preliminary plans.

Bill K. explained the use variance and how his interpretation was that there should be no reason to get a variance to a barn up in the R-A zone. Newstead is a right-to-farm community. Bill K. met with the Town board and the CEO regarding the way the law is written. Both the Town attorney and CEO agreed that the definition of a barn is an accessory structure which is not an allowable use without a primary structure. The Town Board plans on looking into revising this law in the near future. Discussion took place regarding why the law was written and agricultural use.

Fred P. pointed out that Chapter 450-15 Article III A states that the Permitted principal uses in the RA District is (1) General agricultural land uses, BUILDINGS and activities, such as the growing of field, truck and TREE crops, dairying, livestock raising, poultry farming, fur farming and hog raising.

The general consensus of the ZBA was that this code pertained to the variance being requested and therefore made it a permitted use in the RA district.

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The Use Variance Test was given and the votes and proof are as follows:

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:  
WK – Yes; AB – Yes; JK – Yes; HF – Yes; FP – Yes                      VOTE = YES  
Reason: The barn is ancillary to farming. One cannot realize a reasonable return without proper equipment and storage. Building a primary structure is a financial hardship without having storage in the barn to lock up valuable materials.
  
2. The alleged hardship relating to the property is unique.  
WK – Yes; AB – Yes; JK – Yes; HF – Yes; FP – Yes                      VOTE = YES  
Reason: This is not applicable due to 450-15 A (1) –a barn is a permitted AG use in the RA as a principal use.
  
3. The requested use variance, if granted, will not alter the essential character of the neighborhood.  
WK – Yes; AB – Yes; JK – Yes; HF – Yes; FP – Yes                      VOTE = YES  
Reason: Building a barn in a RA use would not alter this neighborhood
  
4. The alleged hardship has been self-created:                                      VOTE = NO  
WK – No; AB – No; JK – No; HF – No; FP – No  
Reason: No construction on the pole barn has begun yet.

Determination of ZBA: Vote to pass the variance:

to build the pole barn for agricultural use, not to be utilized for commercial use

WK – Yes; AB – Yes; JK – Yes; HF – Yes; FP – Yes

Motion by Harold F., seconded by Adam B. – All Ayes. Variance approved unanimously.

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The Zoning Board approved the minutes from August 28, 2014. Harold F. motioned to accept the minutes, seconded by Fred P. John K & Adam B abstained due to the fact she was not at the last meeting. Harold F., Bill K. and Fred P. all voted yes to accept said minutes.

The Zoning Board discussed the required training. Bill K. said the Town Board is considering allowing eight hours of training to be completed over two years.

Motion was made by Harold F. to adjourn the meeting at 7:35pm. Seconded by John K. All Ayes.

Meeting adjourned.

Respectfully submitted,  
Julie Brady, Recording Clerk