

**TOWN OF NEWSTEAD - ZONING BOARD MINUTES**  
**Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY**  
**October 22, 2020**

**MEMBERS**

**PRESENT:** Bill Kaufman (WK) Chairperson  
Adam Burg (AB)  
Fred Pask (FP)  
John Klodzinski (JK)  
Vickie Lombard (VL)

**Other:** Dave Miller, Zoning Officer,  
Julie Brady, Recording Secretary

**ABSENT:** Max Brady (MB), Alternate  
Mike Mutter (MM), Alternate

<b>APPROVED</b> <b>12/17/2020</b>
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6:00pm – Work session; the board reviewed the documents regarding the request at hand.

6:15pm – Vickie L. opened the meeting by leading the pledge to the flag.  
Bill K. reviewed the house rules and read the five criteria for an area variance.  
Julie B. read the legal notice as follows:

**Property Address: VL Dorsch Rd., Akron, NY**  
**Zoning District: Rural Agricultural**  
**Owner: Christina Heiman & Norman Heiman II**  
**SBL#: 74.00-4-17.11**

**Requesting a 90.25’ area variance to sell a buildable lot with a frontage of 59.75’ instead of the required 150’ frontage.**  
**Town Code varied: Chapter 450-15 D. (1)(b)**

The public hearing was opened at 6:20pm.  
Bill K. summarized the meeting procedure and asked if there were any other communications.  
Julie B. stated there were no other written comments submitted besides the Town Attorney, Brendan Neill’s email confirming the need for a variance.

Richard Bruke, 13480 Dorsch Rd., Akron – asked if this property had been previously subdivided and if so, were they given a warning that there would not be sufficient frontage left at that time.

Bill K. replied that they did subdivide and read the planning board minutes from September 21, 1998 stating:  
The board met with Mr. Norman Heiman from Dorsch Rd. in regards to his request for a minor subdivision. There is an eight-foot creek that runs along the rear corner of the new lot, however, being that it is not a ditch, the board does not feel the need for an easement for the Town of Newstead. Mr. Heiman is proposing splitting off a lot 226’ x 660’, leaving a frontage of 60’. The board made Mr. Heiman aware that there would not be enough frontage left to build a house on the remaining property. Since he also owns adjoining parcels, this will not be a problem in the future. The lot size incorrect on the application. Andy made a motion to recommend approval of the subdivision, with changes in the lot size on the application. Jim seconded the motion and all approved.

Gary Syroczyński, 13468 Dorsch Rd., Akron- (resides at the aforementioned lot that was subdivided). Mr. Syroczyński stated that his property has major drainage problems and he has spent a lot of money and time to build up his driveway and make this issue manageable. He fears that if a driveway is allowed through the wetlands, it would create even more problems.

Dave Miller, Code Enforcement Officer – stated that he sent a denial letter to the applicants and believes that 90’ is a substantial request and this situation is a self-created hardship due to the 1998 subdivision, leaving the remaining parcel, not buildable.

Bill K. asked if this 60’ frontage was left to access the farmland. Heiman’s said yes.

Dave M. suggested that they take 150’ frontage from the adjacent parcel (74.00-4-14.1) and merge it with 74.00-4-17.11 to create a buildable lot.

Jeff Meacham, 13418 Dorsch Rd., Akron – said that this area has poor drainage and water issues.

Dave M. agreed that the neighbors have a legitimate concern for drainage if someone builds on this property. He described the type of soil and how drainage issues may be addressed.

Christina Heiman, 8473 Hayes Hollow Rd, Colden, NY – owner and applicant. The main farm runs between 13293 Steiner and Dorsch Rd. The parcel they want to sell was bought in 1978 and subdivided one time in 1998. Surrounding areas, Ayers and Schurr Rd were farmed wetlands that are now developed with homes. The intent is to sell this parcel so that her brother can continue to run the main farm and pay the taxes.

Richard Brucke, 13480 Dorsch Rd., Akron asked if they tried to sell it as AG?

Jill Syroczyński, 13468 Dorsch Rd., Akron stated that her husband has put a lot of work into their property but when it rains hard, the water still goes over the top of the bridge and there is a current that runs through their property. She fears for her children's safety and cannot imagine how much worse it would be if a driveway was allowed on the adjacent property.

Gary Syroczyński, 13468 Dorsch Rd., Akron stated that they bought the house already built and had no idea there was a water issue. He is worried that if someone is allowed to build behind his property how he will have even more water issues.

Jeff Meacham, 13418 Dorsch Rd., Akron asked where a house would potentially be built.  
Norman Heiman II, 13293 Steiner Rd., Akron said they would build straight back the lane.

Dave M. stated that a wetland delineation would have to be done prior to any construction, as well as a fresh-water federal wetland permit from the Army Corp. The property to the west is in the DEC check zone which would be easier to obtain a permit.

John K. asked if they had a potential buyer. Christine Heiman said yes.

Bill K. asked three times if there were any other comments. Hearing none, John K. motioned to close the public hearing, seconded by Adam B. All Ayes, No Nays, public hearing was closed at 6:50pm.

The board discussed the alternatives to this variance request.

The vote for an area variance follows:

1. Can benefit be achieved by other means feasible to applicant? (FAIL)  
POLL: WK -Y; JK - Y; AB - Y; VL - Y; FP - N  
Reason: The applicant/owner has additional property adjacent to create a lot with 150' of frontage. Fred P. stated it would not be feasible due to the cost.
2. Cause undesirable change in neighborhood character or nearby properties? (FAIL)  
POLL: WK -Y; JK - Y; AB - Y; VL - Y; FP - Y  
Reason: Water/drainage issues with neighbors
3. Is request substantial? (FAIL)  
POLL: WK -Y; JK - Y; AB - Y; VL - Y; FP - Y  
Reason: 90.26' is substantial
4. Will request have adverse physical or environmental effects? (FAIL)  
POLL: WK -Y; JK - Y; AB - Y; VL - Y; FP - Y  
Reason: Water issues
5. Is alleged difficulty self-created? (FAIL)  
POLL: WK -Y; JK - Y; AB - Y; VL - Y; FP - Y  
Reason: Yes. 1998 Planning board minutes advised owner there would not be enough frontage left to build a house on the remaining property.

A motion was made by Fred P. to deny the variance request. Seconded by Vicki L. Hearing all ayes, no nays, the variance was denied unanimously.

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Zoning Board of Appeals  
October 22, 2020

A motion was made by Adam B. to approve the minutes from September 3, 2020, seconded by Fred P.  
All Ayes, No Nays

A motion was made at 7:05pm by Adam B. to adjourn the meeting. Seconded by John K., All Ayes, No  
Nays.

Meeting adjourned

Respectfully submitted,  
Julie Brady, Recording Clerk