

TOWN OF NEWSTEAD - PLANNING BOARD MINUTES

Newstead Town Hall – 7:00PM

February 22, 2016

MEMBERS Tom Cowan, Chairman
PRESENT: John Potera
Terry Janicz
Don Hoefler
Erik Polkowski
John Olaf
Andy Kelkenberg
OTHER: Christine Falkowski, Recording Clerk
Ralph Migliaccio, Code Enforcement Officer

Agenda items were reviewed.

1-Lot Minor Subdivision: 11973 Stage Road - Thomas Zackey

Thomas Zackey appeared. He owns a five acre parcel on the south side of Stage Road near Havens Road where his two-family home is on the market. He would like to separate the house with 3.55 acres, and the pole barn with 1.83 acres. Mr. Zackey operates a business out of the pole barn. Tom stated that essentially he should have a special use permit for a home-based business in the RA zone, but that we've received no complaints. It will no longer be a home-based business when separating the home from the business. Ralph stated the business is not an allowed use in the RA, and that he must not advertise the lot as a business, and Mr. Zackey agreed stating that he is currently just parking trucks and trailers there, that his crew comes and goes once a day. His plan is to move his business from Newstead to Clarence where he plans to purchase commercial property within a year. Mr. Zackey stated the reason for the subdivision is that his realtor advised that his home may be more marketable with less land since he is competing with the Havenwood subdivision prices. His purpose was not to merely create a building lot. He has already purchased another home in Pembroke. Ralph asked him if he plans to finish construction on the open permit for a pole barn, and he said yes once his new house is remodeled.

Wendel completed two reviews of the drainage plan and has recommended engineering approval.

Terry made a motion to waive the public hearing, seconded by John Olaf:

Tom - Aye
Terry - Aye
Don - Aye
John Potera - Aye
John Olaf - Aye
Andy - Aye

John Potera made a motion to approve the subdivision with the condition that when the house is sold, the existing business must be moved within one year, seconded by John Olaf:

Tom - Aye
Terry - Aye
Don - Aye
John Potera - Aye
John Olaf - Aye
Andy - Aye

Mr. Zackey was given Erie County's subdivision plat map filing requirements.

(Erik left at 8:30PM, before this item was voted on late in the meeting).

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Land Separation – Subdivision Exemption: Rapids Road - Gary Baker

Mr. & Mrs. Baker appeared. In 2013 the Planning Board approved exempting from subdivision ten acres on Rapids Road from 88 acres for the Bakers. Now they wish to separate 59 acres from 78 to sell for agricultural purposes. The Bakers stated that their sales contract requires the 59 acres must stay farmland for ten years.

Don made a motion to exempt the 59 acre separation from the subdivision law per Code section 360-6(2)(a), seconded by Erik:

Tom	- Aye
Terry	- Aye
Don	- Aye
John Potera	- Aye
John Olaf	- Aye
Andy	- Aye
Erik	- Aye

Mr. Baker was given Erie County's subdivision plat map filing requirements.

Work Session

Minutes from last meeting: John Potera made a motion to approve the minutes of February 8, 2016, seconded by Andy:

Tom	- Aye
Terry	- Aye
Don	- Aye
John Potera	- Aye
Erik	- Aye
John Olaf	- Aye
Andy	- Aye

- **Code Review**

- **Subdivision exemption per Planning Board/application fee**

- Code section 360-6-A(2)(a) states "division of land **found by Planning Board** to be for ag, wetlands, recreation, green space or other purposes where all resulting parcels are 10+acres and where no development is anticipated...shall not be considered "subdivisions". What is our procedure to change the non-developable farm parcel back to a building lot in the future and who is responsible for paying greenspace fee? John Potera feels either (a) the greenspace fee should be charged up front to avoid this dilemma or (b) redact this waiver in our code.

- Also, the procedure for separating land via this waiver, albeit exempt from the meaning of subdivision, should procedurally be handled by submittal of a survey, completed subdivision application and \$200 application fee. The process is the same for genuine subdivisions minus greenspace fee and engineering review fee. All seemed to agree.

- This item was tabled for further review.

- **C-2 zone minimum side yard setback**

- Ralph stated this is already addressed in the zoning code and NYS Fire Code. John Potera feels that our zoning code should agree with Fire Code for consistency and ease of use. Ralph stated he would never approve a permit without sufficient firetruck access around structures; that our code is superseded by Fire Code.

- Tom stated this item will be removed from agenda.

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○ Relocating lot lines

This is similar to 360-6A (2)(c) referring to exchanging adjacent lots via merger. But even without merging being involved, the Code Enforcement Officer must determine what may be necessary, such as a drainage plan or a survey, etc. He may refer situations to the Planning Board as well. This item was tabled for further review.

Ralph read from the Storm water Management and Erosion Control code that “stormwater management and erosion control plans should be prepared and reviewed for all land development projects and construction activities when it is determined that stormwater runoff and/or erosion will have a significant effect on the environment” and pointed out that enforcement of this chapter is the responsibility of the Code Enforcement Officer.

- Meeting schedule change – Christine distributed meeting schedules reflecting date changes in April and May.
- Training 2016 – John Potera indicated he is interested in attending the New York Planning Federation annual conference at Saratoga Springs in April. He will put this in writing to Christine, and she will request approval from the Town Board.

Pending:

14-lot major subdivision – Clarence Center & Utlely Roads – Thering: no action

7-lot major subdivision – 12089 Clarence Center Road – Rothlands: no action

There being no further business, John Potera made a motion to adjourn the meeting at 8:45PM, seconded by John Olaf and all approved.

Respectfully submitted,
Christine Falkowski, Recording Clerk