

TOWN OF NEWSTEAD - PLANNING BOARD MINUTES
Newstead Town Hall – 7:00PM
February 23, 2015

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

Work Session

Minutes from last meeting

John Olaf made a motion to approve the minutes of February 9, 2015, seconded by Andy:

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

Tom reported that John Wargo met with him and others on Thursday. He will be sending us a letter requesting a modification to the conditions tied to the rezoning of 5055 Havens Road.

Pending

Clarence-Akron Self Storage – 11234 Main - Nothing to report.

Fancher Properties expansion – 13661 Main Road - Nothing to report.

Used Auto Sales - 12474 Main Road - Larry Fels – Ralph reported that Mr. Fels met with him again today, where Ralph again told him a bathroom is required for an office. Ralph downloaded the form to apply for a plumbing code variance to New York State and gave it to Mr. Fels. Terry stated that Mr. Fels has a New York State permit to sell vehicles; therefore he recommends we treat this as a retail operation. John Olaf stated there is no septic system on the site, making it doubtful that the landowner, Patricia Demblewski-Pasinski, would make such an investment for this use.

13546 Stage Road conditional special use permit – Christine reported that as requested, Michael Borth stated he would meet with the Planning Board on March 23rd.

6-Lot Major Subdivision – 12089 Clarence Center Road – application is forthcoming.

Wind Turbine – 11734 Meahl Road - Applicant has applied to the Zoning Board for an area variance. The public hearing will be held on February 26th. Special use permit application is pending.

Town Code potential revisions

Windmill law amendment – Christine distributed Carl Klingenschmitt’s email of February 20, 2015 that states the following: “Seems the concern is not only lost blades (present windmill designs are such that blades will seldom escape) but ice accumulations which can fly fair distances. Might not be much concern for the small ones unless sited near a roadway, buildings or thruway”. Carl suggests this change for Chapter 422-5 C. 5 Rotor Safety – “This certification would normally be supplied by the manufacturer and *if required, at the request of the Planning Board or the Town Board*, include the distance and trajectory of a thrown bade from an exploding turbine or propeller *or the shedding of accumulated ice according to an accepted Loss of Blade Theory calculation*”. But Ralph and the Planning Board did not agree with this as it may create a liability issue for the Town. John Potera would like to know if Carl has any data on how far ice can fling from turbine blades.

Don made a motion to recommend amending the windmill law to the Town Board, to give approval jurisdiction for Type 2 wind turbines to the Planning Board for special use permit approval vs. the Town Board with the option to waive the public hearing at their discretion, seconded by Terry:

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

Agricultural home based business/Agri-business

Tom stated that we want to amend Chapter 186 Farming Article I. Right to Farm to include agri-business and asked the Board what language they would like to propose. He also stated that the Combined Comprehensive Plan of 2003 addresses this issue as excerpted below:

- land in agricultural use comprises the largest acreage of any category, amounting to 15,652 acres or 50% of the combined land area in Newstead and Akron.
- By deferring the development of residential uses on agricultural land, the Town and Village may realize savings in servicing the communities.
- 55% of area farmers listed farming as their principal occupation, while the remaining 45% listed a principal occupation other than farming. These figures may indicate the need to bolster farm income with additional sources; and/or the emergence of smaller hobby-type agricultural activities in addition to a primary non-farming occupation.
- The northern section of the Clarence-Newstead ag district is in a floodplain; agricultural acreage could be increased if drainage were improved.
- “Agriculture may fare well in the future if the people and representatives within all government levels make a concerted effort to include agriculture as an equal in community and economic planning activities” according to Erie County Farms for the Future-1996.

The article from the Sept/Oct 2014 Talk of the Towns describes “agribusiness” as businesses collectively associated with the production, processing and distribution of ag products. The term agribusiness has been expanded to include agricultural tourism which is being embraced by farm operators as a way to increase diversity and profitability while also helping to preserve ag land and open space. Andy suggested following the agricultural exemption terms of a minimum 10 acres and \$10,000 net income.

As suggested in the article, Newstead’s current regulatory tools already assist in advancing our community’s agricultural economic development needs in that:

- We have two agricultural districts
- We have a Right to Farm Law
- Our Comprehensive Plan, as stated above, provides the foundation for local planning.
- Our current zoning regulations permit agricultural uses.

Tom stated we currently have five agribusiness/agritourism operations in Newstead, only one of which currently has a special use permit for a “home-based business” in the RA zone.

Christine stated that our home-based business law 450-72(4), which requires a special use permit, states the following: "Agricultural home-based businesses which are operated in conjunction with a farming or ag operation shall be allowed to conduct retail operations serving customers that visit the property and shall be exempted from the limitations on employment and parking...(a) to qualify as an ag home-based business at least 25% of the goods sold at the location shall be grown or product at such location. (b) The Planning Board must approve the site plan for the ag home-based business to ensure that neighbors are not harmed as a result of conducting such operations..."

Erik made a motion, seconded by John Potera to:

- (a) Be willing to recommend standards if the Town Board is willing to amend the Right to Farm Law to add agribusiness and agritourism.
- (b) To cross reference section 450-72(4) agricultural home-based business with Chapter 186 Right to Farm.
- (c) And/or amend Article III 450-15 A. Permitted principal uses in the R-A District (4) "Experimental stations for agriculture or related uses" by replacing with "Agribusiness and Agritourism", and cross reference this with 450-72(4).

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

Special Use Permit/Site Plan – Wind Turbine – 11090 Miland Road -Dale & Margaret Berghorn

This item is not listed on our agenda as it was received on Friday. The Berghorn's own a 12.5 acre parcel on Miland Road where they would like to place a Type 2, 10kW, 140' self-supporting lattice tower Bergey wind turbine used to power the home and farm on site.

Terry made a motion to recommend review of the site plan and approval of a special use permit to the Town Board, seconded by Don:

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

There being no further business, John Potera made a motion to adjourn the meeting at 8:30PM, seconded by Erik and all approved.

Respectfully submitted,
Christine Falkowski, Recording Clerk