

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

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

**Work Session**

**Minutes from last meeting**

Don made a motion to approve the minutes of February 23, 2015 as amended, seconded by Terry:

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

**Pending**

**Special Use Permit/Site Plan - Used Auto Sales - 12474 Main - Larry Fels:** Christine reported that Mr. Fels called this morning indicating that he has applied to New York State for a plumbing code variance, and he requested Ralph's mailing address for Kumar.

**Special Use Permit/Site Plan (expired) – Used Auto Sales – 11372 Main – John Smith, Jr.:** Mr. Smith will be resubmitting an application.

**Special Use Permit/Site Plan – Wind Turbine – 8268 Fletcher – Darren Kanehl:** an application to the Town Board for an area variance is forthcoming. The site plan application is on hold.

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

**15-lot major subdivision – 11198 Clarence Center Road – Thering:** Otto and Ken Thering met with staff at the Town Hall on March 16<sup>th</sup> to review procedure required for a major subdivision application. It was clear they had been researching our Code due to their familiarity with it. They will be submitting a sketch plan.

**Clarence-Akron Self Storage – 11234 Main Road:** Christine reported that she received a complete site plan application from Messrs. Baldo and Bola late on Friday. Today she forwarded a set to Scott Rybarczyk for drainage review and to Erie County Planning for the required referral.

**Fancher Properties expansion:** nothing to report.

**2015 Training:** Two members need additional training hours. Scott had indicated to Christine that he may present a segment on new stormwater regulations effective 1/1/15 for re-development.

**Conditions of rezoning – 5055 Havens Road - John Wargo**

We received a letter dated March 5, 2015 from Mr. Wargo requesting a modification to the conditions tied to the rezoning of 5055 Havens Road approved in 2012. Tom stated that no complaints have been received from the neighborhood, in fact; a couple of Mr. Wargo's neighbors accompanied him to our meeting on February 19<sup>th</sup>. Don made a motion to recommend that the Town Board waive condition #5 (dust suppression system) and #6 (buffers and landscape screening) with the provision that the Town of Newstead reserves the right to address potential future issues, seconded by Andy:

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

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**Special Use Permit conditions - 13546 Stage Road - Michael Borth**

Michael Borth appeared and stated the following:

- He has planted 50 trees for screening purposes; he lost some over the winter, but will be replacing them shortly.
- He has building materials on site ready for putting up a building when the ground thaws, for housing his outdoor storage items.
- He has been auctioning off some of his outdoor storage items; once the snow clears, progress will be made.
- He is an agricultural-based business and his intention is to continue operating it.
- He asked the Planning Board to call him with any concerns.

John Potera made a motion to recommend that the Town Board renew this special use permit through December 31, 2015, seconded by Terry:

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

**Wind Turbine-Special Use Permit/Site Plan Application-11734 Meahl Road-Christopher Milhollen**

Matt Vanderbrook of Sustainable Energy Developments, and Chris Milhollen appeared. Tom stated that the variance granted by the Zoning Board of Appeals is not valid. He explained that our windmill law states specifically that the Town Board must approve all windmill variances. Tom advised the applicant to apply to the Town Board for the variance.

Also, Tom shared that a written complaint against the variance was received by an adjacent property owner. The concern is that turbine location would result in a loss of desirable building lots in the future. This was shared with Mr. Milhollen.

Tom made a motion to recognize the variance was improperly issued and because of that, the Planning Board cannot recommend the site plan at this time, seconded by Don:

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

**Wind Turbine – 7269 Sandhill – York**

This wind turbine special use permit/site plan received final approval from the Town Board on February 23, 2015, for which the Zoning Board of Appeals previously granted a 105' side setback variance. Erik made a motion to recognize that the variance was improperly issued by the Zoning Board of Appeals and that it be looked at by the Town Board in compliance with our windmill law, seconded by Don:

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

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Discussion ensued about whether consideration should be made to amend our windmill law to making the Planning Board the approving authority for variances. If so, application would be made to the Planning Board for a variance AND for the special use permit, which is then recommended to the Town Board for final approval. As it is, the procedure now is to make application to the Town Board for a variance AND the special use permit. If it is changed to the Zoning Board approving these variances, they would be independent of the special use approval.

**Site Plan – 6,240 sq. ft. Storage Addition to Auction Building – 11167 Main Road - Kelly Schultz**

Kelly Schultz appeared. He would like to build a 60' x 104' addition to his auction building (9,000 sq. ft.) at 11177 Main Road in the C-2 and Overlay zones. The purpose is to make moving stored items around more efficient. The addition would look just like the auction building with two overhead doors at the end. Engineering review was not required. On February 26<sup>th</sup> the Zoning Board of Appeals granted a variance allowing this addition to be 6.19' to the property line instead of the 30' required by Code.

John Potera made a motion to recommend review and approval of the site plan to the Town Board, seconded by John Olaf:

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

**Sign Permit – Mooney's - 11891 Main Road – Kevin McFall**

Kevin McFall appeared. Mr. McFall stated that he is leasing this location, 100% of the property, from Ray Braun in order to operate Mooney's Bar & Grille. He stated this will be his sixth Mooney's location. Ray Braun is the landlord only, not a partner, and no other association. He is not looking to do concerts, but maybe family picnics. Mr. McFall stated the existing signs will be coming down, and he is replacing the 4' x 6' faceplate with his sign stating "Mooney's Bar & Grill – Home of the Mac & Cheese". The sign will be internally lit like it is now; the only difference is the face. All concert signs are coming down. Tom advised Mr. McFall that the street number must be on the sign.

John Olaf made a motion to approve the sign, seconded by Andy:

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

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

Respectfully submitted,  
Christine Falkowski, Recording Clerk