

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
March 22, 2018

MEMBERS

PRESENT: Bill Kaufman, Chairman (WK)
Adam Burg (AB)
John Klodzinski (JK)
Vicki Lombard, (VL)
Fred Pask (FP)

Alternate: Max Brady, Alternate (MB)

Other: Nathan Neill, Town Attorney
John Jendrowski, Councilman
Julie Brady, Recording Secretary

APPROVED 5/1/2018

Meeting was called to order at 6:33pm, followed by the pledge to the flag.

Bill K. reviewed the procedures. Julie B. read the legal notice for the variance request as follows:

Two area variances for front setbacks in the C2 zone, where a 65' setback is required for a state road. Requesting a 29.89' D x 75'L variance and a 37.96' D x 30.92'L set back variances to construct an addition to a commercial building.

- **(SBL# 33.00-2-19.1)**
- **Located at 12715 Lewis Rd, Akron, NY 14001**
- **Owned by: 12715 Lewis Rd., LLC (Niagara Label)**
- **Town Code Varied: Chapter 450-21 E (2)(a); 450-29 A (2)**

Public hearing was open for comments at 6:36pm.

Rick Gunn, Calamar Construction representing the applicant, Niagara Label, presented the site plan to the zoning board; stating that the proposed addition would include a 10,000 square foot warehouse and a 7,000 square foot two story office building. The site contains wetlands which have been delineated by Don Wilson, Wilson Environmental. This proposal is feasible to build if granted these variances with minimal disturbance (9/10th according to the Army Corp without having to do mitigation). They have been working on this project for many years and played with the layouts, but every other option would have exceeded Niagara Label's budget, would have caused more wetland disturbance, creating a major SEQR. This plan creates no impediment to visibility and the west side facing Hake Rd. does not require a variance. The truck traffic will no longer need to back in off of Lewis Road, but will use two cuts on Hake Rd. to pull forward and off the road. The front of the building will be the offices and the dumpsters will be moved to the back making this location aesthetically pleasing.

The requested setback measurements were taken from the right-of-way. However, Nathan Neill stated that in the near future the Town Board will be changing this to be measured from the edge of the pavement which would actually lessen the setback required.

The zoning board members asked Chris Whitmarsh from Niagara Label and Rick Gunn from Calamar more specifics regarding the number of employees, parking, SEQR, drainage, wetlands, widening the road, flood zone, the cost of buying wetland credits, traffic at that intersection. All of these matters were satisfied with the new proposal. It was determined by the Town Engineering firm that a SEQR was not required for this area variance, because it involves a front setback.

Chris W. described that the drainage at the corner of Hake & Lewis has been an issue so he has been in contact with the State to correct the deteriorating of the pipe and the flow because the culvert pipe is tipped in the wrong direction.

Lisa Cole-Felsky and Thomas Felsky, 6629 Hake Rd. live to the south of Niagara Label, reviewed the proposal and expressed their concern over the truck traffic and noise that they can hear at their home.

Chris Whitmarsh assured them that they intend to be "good neighbors" and will look into noise mitigation as well as making sure that the trucks only deliver between 8am and 5pm.

Nathan Neill, 6424 Hake Rd. stated he has no problem with the project. Two other neighbors (Mr. Thomas and Ms. Gerstung) also contacted the office to say they had no issue with this project.

Bill K asked 3xs if there were any further comments, hearing none, the public hearing was closed. Motion made by Fred P., seconded by John K. All Ayes.

The Review sheet was completed as follows:

1. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance.
AB (N) JK (N) WK (N) VL (N) FP (N) Overall – (NO-PASS)
REASON: Proposal is the best use for the site to meet the needs, no other way to accomplish it. The applicant went above & beyond to stay here in this community. Although the applicant knew there were wetlands on the property there was no other way to do this project cost effectively.
2. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
AB (N) JK (N) WK (N) VL (N) FP (N) Overall – (NO-PASS)
REASON: Commercial zoned property/existing commercial business. This project will clean up the area and not only make it more aesthetically pleasing but will also improve the safety.
3. Whether the requested area variance is substantial.
AB (N) JK (N) WK (N) VL (Y) FP (N) Overall – (NO-PASS)
REASON: Due to the proposed code changes to side of pavement and the dimensions of the original request are in line given the scope of the larger project.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
AB (N) JK (N) WK (N) VL (N) FP (N) Overall – (NO-PASS)
REASON: The applicant has made significant strides to not disturb the wetlands. Drainage/retention pond is in the plans and this project will actually be a benefit by fixing the problem with the pipe.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude granting of the area variance.
AB (N) JK (N) WK (N) VL (N) FP (N) Overall – (NO-PASS)
REASON: The applicant has to work with what they have and did not anticipate such success/needing expansion. They also did not have any control over the pipe being tipped in the wrong direction.

A motion was made by Adam B. to approve the variance. Seconded by Fred P. All Ayes, No Nays.

Variance request was approved unanimously.

Motion was made to accept the minutes of the July 27, 2017 meeting by Adam B., seconded by Bill K. All Ayes, No nays.

A motion was made to close the meeting at 7:20pm by Bill K. seconded by John K., All Ayes. No Nays

Meeting adjourned.

Respectfully submitted,
Julie Brady, Recording Clerk