

**TOWN OF NEWSTEAD - PLANNING BOARD MINUTES**  
**Newstead Town Hall – 7:00PM**  
**May 18, 2015**

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

**Work Session** - The five applications scheduled for tonight's agenda were reviewed.

**Pending items:**

8-lot major subdivision – 12089 Clarence Center Road – Rothlands  
14-lot major subdivision – Clarence Center & Utley – Thering  
1-lot minor subdivision 11365 Main Road – Tina Ball (June 22<sup>nd</sup>)  
Site plan – 11190 Main Road – Doug Webster  
Site plan/special use permit – wind turbine – 8268 Fletcher – Kanehl  
Site plan/special use permit - wind turbine – 12067 Nice – Andrusz  
Site plan/special use permit - wind turbine – 7722 Moore – Dee  
Site plan *amendment*/special use permit-wind turbine-11734 Meahl – Milhollen

**Site Plan amendment/Special Use Permit-Wind Turbine: 7269 Sandhill- Don York**

Alex Fox, of CEC Energy appeared. Don York has withdrawn his application for an area variance to the Town Board, and has amended his site plan with the turbine location 523' and 376' from south and north property lines, respectively. Mr. Fox distributed 10 copies and stated that site plan amendment fee was on its way. Erik made a motion to recommend that the Town Board hold a public hearing and approve this site plan, seconded by Don:

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

**Site Plan/special use permit amendment: Kelkenberg Farm – 12607 Stage - Andy Kelkenberg**

Andy recused himself. Marilyn Kelkenberg appeared. The Kelkenberg's have a permanent special use permit for a home-based business in the R/A zone. They would like to expand their agribusiness to include an agricultural education building/special events building to host weddings, corporate outings, family outings, etc. on the farm. Construction of a 48' x 70' barn would seat 200 people. A separate bar and dance floor would be attached. The side section would be insulated and heated, but their season would run May 1<sup>st</sup> – October 15<sup>th</sup>. The birthday party building near the house would be kept separate. Andy plans to build the foundation this summer, giving them time for site development, growing grass to prepare for their 2017 opening. Septic system and utilities will be separate.

Ralph stated that he waived drainage review and that this project is exempt from stormwater regulations per Town code section 349. They would not have a liquor license, and instead events would be catered utilizing a licensed bartender with a 10PM curfew. The existing 200' x 260' parking lot holds 150 cars. A drainage ditch runs east-west through the property and crosses South Newstead Road. Andy would put a bridge across the ditch for cars to drive over to the circular driveway leading to the new building. A brine line follows the ditch. They would have a dumpster service for trash. Ralph stated that this is a public assembly building, and asked where the nearest hydrant is located to which Marilyn pointed out the hydrant location to Ralph on the site plan. Ralph shared that the fire apparatus access road must extend to within 150' of all portions of the facility and cannot be more than 400' from a hydrant. Don stated that he believes Wendel should review this plan as the amount of disturbance may be open to NYS stormwater regs just as much as other applications we have looked at. The short EAF reveals that the 85 acre parcel will physically disturb less than .25 acres.

**Site Plan: Clarence Self Storage – 11234 Main Road**

Steve Baldo, Jim Bola and Mike Metzger appeared. Scott Rybarczyk entered the meeting. Andy re-entered the meeting. The existing building will be converted to climate-controlled storage and office space. Eleven cold storage buildings would be constructed for a total of 44,725 square feet. Additional paving will be added. The project will be phased with phase one to include the existing building conversion and construction of three new buildings on the western side of the parcel. A Sunoco gas line runs north south through the property that they will be careful of. The entire 4.8 acre parcel will be fenced and gated. The Zoning Board granted setback variances allowing them to be 5’ from the property lines. Mike stated the pond will discharge to two wells as a back-up system, even though water will likely seep into the rock. Mr. Bola stated the ornamental fence at the front will allow visibility of units which is good marketing, and that seasonal flowers and shrubs will suffice for landscaping. John Potera suggested a few trees be planted, to which Mr. Baldo replied that adequate space is needed for trailers for loading and unloading. The existing changeable sign will be used, although they are not sure of the business name---Clarence Self Storage or Clarence Secure Storage, etc. Terry asked about Janice Carson’s concern on the fence impacting her driveway, to which Mr. Baldo replied that her driveway is 7’ onto their property line. The existing tenant in the rear of the building has two more years on his lease.

Terry made a motion to recommend that the Town Board begin SEQR review, hold a public hearing and approve this site plan, seconded by Andy, with the following condition:

- (a) That one deciduous tree be planted on the outside of the fence along Main Road during Phase I construction and during Phase II construction:

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

**Site Plan: Buffalo Drilling – 12264 Main Road - Jim Holtz**

Jim Holtz appeared. Buffalo Drilling owns five parcels on Main Road and submitted a site plan for the second parcel from the west (SBL #60.00-2-51). Three concrete block retaining walls are depicted. Ralph had issued a stop work order for construction without a permit, which went to Court, and they were advised to seek Planning Board approval as it is in the Overlay Zone. Ralph stated the minimum setback is 50’ from the center of the road.

- (1) The front L-shaped 24’ x 26.5’ wall is in the ROW. Mr. Holtz stated the wall will be 4’ high and the purpose is for parking vehicles behind it.
- (2) The next wall is only 10’ wide and 8’ high according to Mr. Holtz.
- (3) Labelled “open storage” will be a 40’ x 42’ L-shaped concrete block wall that will be 8’ high for the purpose of concealing pipe, according to Mr. Holtz.

When asked about stability of such high block walls, Mr. Holtz stated they would be reinforced with rebar. John Potera would rather see bushes vs. walls, but snowplows and road salt kills them according to Mr. Holtz. He stated there was previously a steel wall that is now gone, and that these blocks will be painted the same color as the building.

Don made a motion, seconded by Andy to recommend it to the Town Board and approve this site plan and with the condition that:

- (a) the wall shown in the ROW be moved back to a minimum 50’ from the center of the road and

- (b) the block walls are painted to match the buildings:

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

**Pre-Application Conference: V/L Main Road - Tim Horton’s Café & Bake Shop - Robyn Cierniak**

Robyn Cierniak of Schutt Engineering and David Beaton, owner of Tim Horton’s franchises appeared. Don Hoefler recused himself. A preliminary site plan was received via email last week, but a revised site plan was submitted by Robin tonight. The 45-acre parcel adjacent to the west of Dollar General is owned by Kimberly, George & Kurt Burg. The Burg’s want to subdivide a 165’ x 275’ building lot for the purpose of creating a Tim Horton’s Café & Bake Shop. The first 500’ are zoned C-2 and Overlay, with the remainder in the RA zone. According to assessment records and maps, 50% is State and Federal wetlands.

The size of the restaurant will be 1,776 sq. ft. with 28 inside seats and a patio. Stacking of 19 cars is planned for the drive-thru lane. A drainage pond and septic system with a trench to Route 5 will be placed at the rear. Robin stated that if the pond were placed at the front, 3 – 4’ of fill would be required. The driveway will be 75’ from Dollar General’s driveway. Pole signage specs were distributed, which are prohibited; monument signs are preferred. Erik stated that our overlay zone encourages cross connection to adjacent properties when practical. Christine shared Dollar General’s site plan that outlines a future cross connection and a Town Board resolution dated May 23, 2005 that states Dollar General’s site plan approval is conditioned upon (a) their developer entering into a written agreement with the Town that developer will install a sidewalk along Route 5 to comply with the overlay zone at such time as the adjacent property along route 5 develops and (b) that they agree to connect the parking lot with property owners to the west and east to allow vehicles to travel from parcel to parcel without entering Route 5 at such time as the adjacent property along Route 5 develops and (c) that....no Certificate of Occupancy be issued until these conditions are met. Some felt that the drive-thru lane would make this impractical. Erik suggested it may work if the site were pushed back about 25’. Robyn stated that NYSDOT cannot deny road cut if parcel is existing.

When asked about landscaping, Mr. Beaton stated that Woodstream Nurseries is preparing the landscaping plan. Robyn stated she would like the 1-lot minor subdivision application to be handled concurrently with the site plan application. Construction requires only 90 days, and they plan to open this year. Robyn plans to submit final application documents on Friday, May 22<sup>nd</sup> in order to meet the 30-day advance deadline for the June 22<sup>nd</sup> Planning Board meeting.

Don re-entered the meeting.

**Minutes from last meeting:** Don made a motion to approve the minutes of May 4, 2015, seconded by Terry:

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

**Agricultural Amendments to the Zoning Law and Windmill law amendment:** Christine stated that these amendments are pending further input from the Planning Board, and that the Town Board would like this information very soon. She asked if a special meeting might be necessary to allow sufficient time to work on this. Tom suggested that June 8<sup>th</sup> or 15<sup>th</sup> be set aside to work on amendments to the zoning law only. It was agreed that a special work session be scheduled for June 15<sup>th</sup> for this purpose.

There being no further business, John Potera made a motion to adjourn the meeting at 9:46PM, seconded by Terry and all approved.

Respectfully submitted,  
Christine Falkowski, Recording Clerk