

TOWN OF NEWSTEAD - PLANNING BOARD MINUTES

Newstead Town Hall – 6:30PM

June 6, 2022

MEMBERS Tom Cowan
PRESENT: Don Hoefler
Terry Janicz
Andy Kelkenberg
Erik Polkowski
John Olaf
OTHER: David Miller, Code Enforcement Officer
Julie Brady, Recording Clerk
ABSENT: John Potera

Emily Janicz, Town Attorney and Mike Coutu, Assistant Town Attorney joined us to discuss possible changes in the Town code to clarify the intent and expansion of the C-2/Rte 5 overlay zone.

Tom C. opened the meeting by giving an overview of how the commercial zone was put in place when he was on the board in the 1990s. When the commercial zone was created the idea was to follow the boundary lines, but the engineer and legal representatives said that would be too much work and expense. It was then decided to create the C-2 zone 500' on either side of Main Rd. with the intention that the property owners could come in and ask to have it moved. Tom asked Emily if the Planning Board can recommend it without going to the zoning board.

Emily J. stated that the Clarence Hollow overlay code simply stated properties that front on Main St. but this would not work for Newstead because we may inadvertently create a commercial zone on a side street when the property extends all the way to another road. Emily also does not see the expansion as spot zoning, but rather as an extension of an existing zone. Another way would be to increase the 500' a flat amount straight across the board with a specified distance from the next road (or even a section of Main Rd.)

Don H. objected to spot zoning and said it would be rezoning.

Emily stated that even if someone would have an issue and take us to court for spot zoning it's unlikely they would be successful in that challenge as the expansion of the commercial zone on Route 5 is certainly part of the broader plan and was the initial intent.

Dave M. also noted that it already says in the code that the commercial zone can be extended beyond the 500' an additional 30'

REFERENCED § 450-14 Lots in more than one district.

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

Erik P. stated that he likes limitations as to not go the full length of a property to another road. Erik also agreed that a case-by-case would not be spot zoning but just an extension of an existing zone. With a public hearing held by the Town Board, all adjacent neighbors would be notified.

Don H. was concerned over the planning board taking over the zoning board's role.

Julie B stated that the zoning board can only grant variances, in this case a use variance which is very difficult to obtain. The Town Board is the only one that can rezone an area.

Dave M. suggested that because there is a code to extend 30' beyond a multi-zoned parcel, we could change that number to allow for further expansion. A particular zone, in this case, C-2 can extend 30' into the RA zone.

John O. agreed with looking at each property on a case-by-case basis, not a blanket additional number of feet across the C2/Rte 5 overlay zone.

Mike C. stated this would be the easiest way to address concerns and will look into the legality of doing so.

7:03pm Denis Kitchen, Attorney representing Glenn Ederer, owner of 5781 Davison Rd., Akron, NY 1-Lot Minor Subdivision Mr. Kitchen stated that they are selling the lot to a party that intends to build a single-family home.

Tom reviewed the subdivision process. The board reviewed the application and surveys provided. Tom C. asked if anyone has any questions. Hearing none, Don H. motioned to waive the public hearing, John O. seconded the motion. All Ayes, No Nays.

The public hearing was waived unanimously.

John O. motioned to approve the 1-Lot subdivision, Terry J. seconded the motion

Don H. - Aye
John O. - Aye
Andy - Aye
Tom - Aye
Terry - Aye
Erik - Aye

The subdivision was unanimously approved

Pre-Application Conference for a Major Subdivision at 12287 Clarence Ctr. Rd. (Old Bright Meadows Golf Course, North side) Owner: Arrowhead Settlement, LLC

Applicant: Jeremy Bates, Buffalo Modular Homes stated they are interested in purchasing the 59 acres. After speaking with Jennifer Delaney at Erie County Health Department, they have revised the initial sketch from a 9-Lot Major Subdivision to a 21-Lot. The lots will be approximately 1 ½ acre parcels developed in phases to meet the 4 every 3 years by Erie County Health Dept. as there are no sewers. Jeremy stated that he feels this would be the best use for the area and a nice transition from the golf course/event venue to the neighborhood. There will be a road off of Clarence Ctr. Rd.

Don H. asked about the lot development, impinging to the next phase.

Jeremy said that the road and utilities would of course be the 1st phase. Probably giving the buyers their choice of lots, but most likely working from the back, northern most part to the south near Clarence Ctr. Rd. Jeremy also stated that the property has already been delineated but may need to be updated.

Dave M. stated that the delineations are good for 5 years.

Jeremy B. also stated that they would be acting as the developer and not restricting potential buyers to build with them. However, with modular homes, the sky is the limit when adding architectural value with porches, garages and the material used. The homes will range in size from 1,700 to 3,000 square feet.

Dave M. asked if there will be a home-owner's association, deed restrictions and if the road will be private or turned over to the Town. Jeremy B. stated that there may be simple deed restrictions like the size of the home.

John O. stated that you will have to meet DOT standards when building the road. The school buses also cannot go down a private road so it may be more appealing to make it a Town road for potential buyers.

Terry J. reviewed the proposed site plan with Jeremy regarding the solar panels which will remain with Arrowhead.

Dave M. suggested that Jeremy review the Town codes for frontages on a cul-de-sac and recommended they submit a site plan application for the Planning Board to review. Jeremy B. asked about the timeframe and Dave M. said the earliest would be 90 days for a decision as there are many agencies involved.

Motion was made by Terry J., seconded by Don H. to approve the minutes from May 23, 2022.

John O. abstained as he was absent on May 23, 2022.

Tom C. -Aye
Don H. -Aye
Andy K. -Aye
Terry J. -Aye
Erik P. -Aye

Worksession/ Pending Items:

- Kelly Schultz's 11-Lot major subdivision. Wendel has submitted their first response to Metzger Engineering. No further comment.
- Site Plan – 12474 Main Road – U-Gate – Joe Frey; no correspondence has been received to date.

There being no further business, John O. made a motion to adjourn the meeting, seconded by Andy K. All Ayes, No Nays. The meeting was adjourned at 7:43pm.

Respectfully Submitted,

Julie Brady, Recording Clerk