

**TOWN OF NEWSTEAD - ZONING BOARD MINUTES**  
**Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY**  
**February 21, 2013**

**MEMBERS**

APPROVED 4/25/13

**PRESENT:** Bill Kaufmann, Chairman  
Adam Burg  
Harold Finger

**Alternate:** Fred Pask  
Cheryl Esposito

**Absent:** John Klodzinski  
Corky Keppler

**OTHER:** Julie Brady, Recording Clerk

**Continuation of Public Hearing from December 27, 2012 on the following:**

**Area Variance – 5982 Crittenden Road, to create two parcels by dividing the current eight acre parcel.**

**Applicant: Richard Manns, 5982 Crittenden Road, Akron, NY 14001**

The meeting was opened at 6:35pm to discuss the area variance request to subdivide the property at 5982 Crittenden Rd. This parcel is unique with two different frontages of 65.85' and 43.32' totaling 109.17' in the R1 District. The existing house and driveway use the 65.85' of frontage for access. The owner could go to the Planning Board for an open development and divide the parcel into 3 or 4 lots there legally without getting a variance.

Tom Cowan, Planning Board Chairman, stated that the Planning Board recommends the split with both lots entering through the 65' northerly driveway with a written agreement. Tom also explained that the master plan is to collectively try to build homes as close to the village then building out and this property is very close to the village so it supports the master plan. The Planning Board recommends splitting this property in two and none of the members would approve the driveway being on the southerly 43' access because it is too close to the neighbors and crosses wetlands.

Bonnie James, 5950 Crittenden Rd. – We are not against the split but we are very concerned about how this will affect our current water problems because we are the lowest of the adjacent properties. If there becomes an issue, will it be addressed?

Tom Cowan – If the property is split, the Planning Board requires Town Engineering for drainage approval before anything is built.

The board reviewed the map of the area with Tom and Bonnie.

Bill K. asked Mr. Mann's if he had any comments and he said that he had no comment.

Harold F. stated that Tom did a nice job explaining the Planning Board's suggestion. His concern was that the driveway agreement be spelled out so that it is not an issue for future owners.

Tom confirmed that it is addressed in the code and the planning board has made it a provision to accommodate homeowner.

Bill K. asked if there were any other comments three times. Hearing no additional comments, Fred Pask made a motion to close the public hearing, seconded by Harold Finger, All Ayes. The public hearing was closed.

Bill K. questioned Tom Cowan that if the ZBA grants the variance for the lot to be split, how many houses could be built on the 8 acres. Tom said that the Planning Board requires 2 acre lots for an open development. There may even be a possibility of hooking up with the Village sewer through Forrestel's property. There would be no variance request for an open development because this preexisting lot meets the requirement of 60' of frontage. Now the law states you need 260' of frontage if you created a new lot for an open development.

Bill K explained to the owner, Mr. Manns, that the variances are good for one year. If no action is taken by February 21, 2014, he would need to reapply to the zoning board.

Fred Pask recommended that the owner of the new lot cannot come back to the zoning board for a variance using the 43' frontage as a driveway.

Tom Cowan recommended that the 43' frontage would stay with the northerly property when subdivided at the Planning Board level or perhaps Mr. Mann's could sell and merge the 43' frontage and strip of land to the adjacent neighbors so that it is no longer an issue or it may be used for drainage to the road culvert from the rear properties. This would be discussed at the site plan review with the Planning Board.

Bill K. read the criteria for the area variance "Benefit to applicant must be balanced with potential detriment to health, safety & welfare of community"

1. Can benefit be achieved by other means feasible to applicant? Yes, he could go to the Planning Board for an open development.
2. Cause undesirable change in neighborhood character or nearby properties? No
3. Is request substantial? No
4. Will request have adverse physical or environmental effects? No, using the same driveway
5. Is alleged difficulty self-created? No

Bill K recommended that two conditions be placed on this variance request:

1. The newly created lot must have a written agreement to use the existing driveway as a shared/common driveway which is the northerly 65.85' frontage access.
2. Property will be split evenly 4 acres and 4 acres. (This idea was discussed briefly by the board and denied)

Adam B. motioned to approve the variance request to split the property with the condition that the 43' frontage to the south would never be used as a driveway. Both of the properties would be required to have a written agreement to share the existing driveway which is the northerly 65.85' frontage access. Fred Pask seconded the motion.

Cheryl E. then asked "How many homes can you put on one driveway?"

Tom C. said that the planning board has the right to deny an open development. He sees two homes off one driveway.

All in favor of approving the variance – All Ayes. No Nays, the variance request was approved.

Bill K. discussed training opportunities.

Harold Finger motioned to close the meeting at 7:25pm, Adam Burg seconded it. All Ayes.

Respectfully submitted,  
Julie Brady, Recording Clerk