

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
February 23, 2012

APPROVED 7/19/12

MEMBERS

PRESENT: Bill Kaufmann, Chairman
 John Klodzinski
 Adam Burg
 Harold Finger

ABSENT: Corky Keppler
 Fred Pask, Alt.
 Cheryl Esposito, Alt.

OTHER: Julie Brady, Recording Clerk
 Ralph Migliaccio, CEO
 Nathan Neill, Town Attorney

Meeting came to order at 7:00 pm,

7557 Greenbush Road, use variance to move manufactured home:

Bill K. opened the public hearing. Julie B. read the legal notice for an area variance at 7557 Greenbush Road, owned by Eddie L. Hoover and Gwendolyn D. Hoover. A use variance requesting permission to relocate their manufactured home to a different part of property on a permanent basis for the purpose of housing farm supervisor located at 7557 Greenbush Road. Newstead Town Code 450-24D states that manufactured homes shall only be permitted within the Town of Newstead, outside the Village of Akron, in the MHP (Mobile Home Park) District. 7557 Greenbush is zoned RA (Rural Agricultural).

Bill stated that the Hoover's called to reschedule due to their attorney not being able to attend. Bill asked if there were any comments from the public. After asking three times and hearing no comments, Harold F. made a motion to adjourn and leave the public hearing open until the next meeting on March 22, 2012. Adam B. seconded the motion.

Minutes were reviewed from December 22, 2011 meeting. Adam made a motion to approve the minutes. John K. seconded. All Ayes except Bill K. abstained since he was not at the meeting.

6993 Maple Road, 15' area variance to build closer to state road:

Julie B. read the legal notice. Bill K. read the area variance requirements
 Public Hearing was opened to the floor at 7:17pm

Mrs. Margaret Meides, applicant, her daughter, Holly Meides, and their contractor, Tom Kelkenberg approached the board. Mrs. Meides is requesting 15' area variance located at 6993 Maple Road. (Variation of the Newstead Town Code 450-15E (1); 450-29A (2)). Mrs. Meides plans to subdivide 1.45 acres (apx. 370' x 184') from her existing 88.78 acre farm to build a single family home with a full basement at this location. She would like to set her house back 50' from the right of way instead of the required 65' for a State road.

Bill K stated that Holly Meides had been previously granted a variance request for the property adjacent to the requested property due to wetlands in the rear, floodplain and cost prohibitive playing into it as he recalled.

Tom Kelkenberg stated that the land drops off which would cause a major drop out of Mrs. Meides' back door if she were to build back the required 65'. Harold F. asked Tom if he could speak to the site plan map. Tom showed the slope on the map to the board and said the house needs to be higher. Harold F. questioned if the house could be moved to a different location.

Ralph M. stated that the road drops going north and that it would be possible to go back 65' but you would have to bulldoze and bring in fill, but that's the cost of doing business. The code is 65' for a reason (the state may want to widen the road in the future). Ralph stated, "There are 88 acres, I'm sure she can find a better location that would not need a variance."

Tom K. stated that Mrs. Meides had plans to keep another lot for future income, therefore limiting where she could place her house at this time.

Bill K. asked Tom if there were other means feasible and what was the purpose of this house being built? Tom K. replied that Mrs. Meides plans to build a house to stay close to her children/grandchildren. It would be a financial hardship if she could not build there due to the expense of bringing in fill. Holly M. also mentioned that she will be her mother's primary caregiver.

Bill K. asked if there was any other public comment 3 times. Hearing no further comment, John K. motioned to close the public hearing, seconded by Harold F. All Ayes, none opposed.

Bill K. began reviewing the five area criteria as follows:

FACTORS CONSIDERED:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes _____ No: **BK, AB, JK, HF**

Reasons: There are existing homes that are only 50' from the ROW now.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes: **BK, AB, JK, HF** No _____

Reasons: Property is not yet subdivided, feasible other alternatives exist, could bring in fill or move to a different location.

3. Whether the requested variance is substantial: Yes: **BK, AB, JK, HF** No _____

Reasons: 15' is substantial because of the reasons stated in question #2. Harold F. stated that the code is there for a reason and other means should be explored.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes _____ No: **BK, AB, JK, HF**

Reasons: Residential Home being built in a RA Zone with septic system and water at site

5. Whether the alleged difficulty was self-created: Yes: **AB, JK, HF** No: **BK**

Reasons: Bill K. stated that it would be self-created if Mrs. Meides had already subdivided the property. The consensus of the board was that it is self-created because there are other options.

The ZBA discussed other options. Bill K. asked Julie if the property was in the wetlands. Julie B. stated that the wetland maps that we have are only a guideline and that Mrs. Meides would have to hire an engineer to delineate the wetlands to know for sure. Bill K. explained that the area variance was based on the majority of the 5 questions not all or nothing.

Adam B. motioned to deny the variance based on the fact that there are other options. Since there was no second motion, discussion continued. Harold stated that he'd like to work with Mrs. Meides, but felt he could not move forward at this time.

Tom asked if this would hold up the subdivision process. Ralph recommended that he look for other alternatives before locking into subdividing before they know for sure what they are going to do. Tom said that he would look for other options for Mrs. Meides

Bill K. recommended tabling this until the next meeting on March 22, 2012, allowing Tom and Mrs. Meides time to review other options. John K. motioned to table til 3/22/12, seconded by Harold F. All Ayes.

Ralph M. pointed out to the Meides and Tom Kelkenberg that when they apply for a subdivision, the Town engineer will look at the lot to see if it's a buildable lot. Bill K. also noted that if they should be approved for a variance, they must take action within one year or the variance approval is null/void.

Adam B. made a motion to enter executive session to discuss litigation, seconded by John K. All Ayes in favor.

The zoning board entered in executive session at 7:52pm.

Adam B. made a motion to exit executive session at 8:25pm, seconded by Harold F., All Ayes.

Harold F. made a motion to adjourn the meeting at 8:26pm, seconded by John K., All Ayes.

Respectfully Submitted,
Julie Brady
Recording Secretary