

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
April 15, 2021

MEMBERS

PRESENT: Bill Kaufman (WK) Chairperson
Adam Burg (AB)
John Klodzinski (JK)
Fred Pask (FP)
Vickie Lombard (VL)

Other: Dave Miller, CEO/Zoning Officer, Julie Brady, Recording Secretary

Absent: Mike Mutter (MM), Alternate

APPROVED 5/20/2021

The meeting was called to order at 6:15pm by Bill K. Pledge to the flag. Bill K. reviewed the rules and area variance requirements.

Julie B. read the first legal notice:

Property Address: 7955 Scotland Rd., Akron, NY

Zoning District: Rural Agricultural

Owner: Robert J. Henkel, 10829 Main St. Clarence, NY

SBL#: 22.00-1-6.1

Requesting a 112 square foot area variance to make the existing structure (888 sq ft) compliant to a single-family home in the R-A zone with a minimum square footage of 1000 sq ft.

Town Code varied: Chapter 450-15 F. (1)(b)[1]

No written comment.

Bill K. opened the public hearing at 6:20pm

Robert Henkel, 10829 Main St., Clarence, NY, owner and applicant. Stated he is trying to comply and become a resident of Newstead. He is dealing with Chuck Rosenberg at the DEC and has an appointment scheduled with him Tuesday to inspect the checklist requirements he has completed in order to rectify the violations. Mr. Henkel said his intent is to spend weekends at this time and maybe have a place to retire. The previous owner built the shed and had a grinding toilet and a gray system for plumbing. He has also been in contact with Erie County Health Dept. and had a design completed, approved and installed.

Dave Miller, CEO/Zoning Officer, stated that there was a STOP work order from the Town of Newstead and from Erie County Health Dept. due to the fact this structure is not an approved dwelling.

Fred P. asked about the Wetlands. Dave M. stated that the driveway goes through the wetlands. Mr. Henkel is working with the DEC to rectify his violations.

Adam B. asked Dave M. what other issues the applicant faces. Dave M. stated that he needs architectural drawings as if starting from scratch because the structure received a building permit and certificate of occupancy as a shed. He will need to provide all code compliant information like light calculations, egress windows, ventilation, smoke detectors, Co2 detectors.

John K. asked how close to the wetlands can he build. Dave M. specified that he may be able to get a DEC permit. Federal wetlands are not applicable in this situation.

It was determined that the 888 sq ft shed was built in 2013.

Bill K. asked three times if there were any comments, hearing none a motion was made by Fred P. to close the public hearing and seconded by John K. All Ayes to close the hearing, No Nays.

Opened discussion up to the zoning board.

Adam B. asked Mr. Henkel if he would consider adding on to the structure to bring it up to the 1000 sq ft. and Mr. Henkel said "Yes". Bill K. asked him to get pricing to make it compliant by putting on the addition. If this would be cost prohibitive, then the zoning board can review the variance request when all of the other issues are resolved.

A Motion was made by John K. , seconded by Adam B. to table this variance request until the following are approved:

1. DEC Approval
2. Erie County Health Dept. approval based on proposed occupancy

3. Architectural drawings bringing the structure up to code.

POLL: WK -Y AB - Y JK - Y FP - Y VL - Y -All Ayes, No Nays

The second legal notice was read by Julie B.

Property Address: VL Dorsch Rd., Akron, NY (East of 13331 Dorsch Rd)

Zoning District: Rural Agricultural

Owner: James Kidder, 13115 Dorsch Rd., Akron, NY

SBL#: 86.00-1-39.11

Requesting a 37 feet area variance to subdivide off a five-acre parcel with 113' of road frontage instead of the minimum 150' frontage.

Town Code varied: Chapter 450-15 D. (1)(b)

Written comment received from Erie County Mapper, Lauren O'Meara stated based on their findings there is 113.13' frontage. She requested they contact their surveyor with this information.

James Kidder, 13115 Dorsch Rd., owner/applicant, We have always had Ottney & Miller survey all of our property on Dorsch Rd., dividing it into 150' of frontage for lots. Bob Fritsche, surveyor, that was with Ottney & Miller and is now with GPI surveyed this property as having 150' frontage but the Town tax map shows 113 feet. There must be a mistake made in the numbers because we added up the frontage on Dorsch between Crittenden and Ayers and there is 37 feet more on the North side than the South Side of Dorsch Rd.

Sue Kidder, 13115 Dorsch Rd., Jame's wife/applicant, stated that her children want to move from California and build their home close to her and James to take care of them as they age. They want to subdivide off 5 acres so that they can build back behind the other houses. If you measure between the two survey stakes there is 150' – come walk the property.

Bill K. asked if their residence touches this property. Sue K. said no they are ¼ mile down the road. Dave M. stated that property stakes get moved and that we cannot solely rely on stakes. That is why there is a search and survey completed when property transfers.

Marie Bell, 13367 Dorsch Rd., neighbors to the east of said property. Marie B. stated that her concern is how it will affect her property. She plans to put an addition on the house and she currently has 150' frontage. Bob Arnold, 13367 Dorsch Rd., said that the survey stakes were in the exact same place now as when Marie purchased the property.

James K. stated that the problem is on his brother, Floyd's side.

The board discussed Title Insurance and liability on the Town as well as when the lots were subdivided around it (early 2000s).

Bill K. asked three times if there any further comments, hearing none the public hearing was closed at 7:17pm.

Opened discussion up to the zoning board.

A motion was made by Fred P. and seconded by Vickie L. to table this variance request until the error can be found. Dave M. suggested contacting the Town Attorney, Kidder's attorney, the surveyor and Erie County mapping to meet.

POLL: WK -Y AB - Y JK - Y FP - Y VL - Y -All Ayes, No Nays

A motion was made by Fred P. to accept the minutes from December 17, 2020, seconded by Adam B. Hearing all ayes, no nays the minutes were approved.

Julie B. stated that Dave DeRose will be resigning as alternate.

Vickie L. motioned to adjourn the meeting. Seconded by Adam B. Hearing all ayes, no nays, the meeting was adjourned at 7:30pm.

Respectfully submitted,

Julie Brady, Recording Clerk