

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
December 3, 2020

MEMBERS

PRESENT: Bill Kaufman (WK) Chairperson
Adam Burg (AB)
John Klodzinski (JK)
Fred Pask (FP)
Max Brady, Alternate

Other: Dave Miller, Zoning Officer & Acting Recording Secretary

Absent: Vickie Lombard (VL), Mike Mutter (MM), Alternate

APPROVED 12/13/2020

The meeting was called to order and opened with the pledge to the flag. Bill K. reviewed the rules and criteria for an area variance. The public hearing was opened at 6:13pm. Dave M. read the legal notice as follows:

Property Address: 12926 Carney Rd., Akron, NY
Zoning District: Rural Agricultural
Owner: Steven & Carol Ann Hill
SBL#: 21.00-3-49

Requesting a 7 ft area variance to place a 14'x28' pre-fab shed 3 ft from existing garage. Also requesting a 13 ft area variance to place said shed 62 ft from the right-of-way.
Town Code varied: Chapter 450-27 (A) & (D)

Dave M. stated that no correspondence or comments were received.

Opened hearing from public comment:

Darryl Murszewski, 7540 Cedar St., Akron, northeast of said property posed a question if the proposed action was evaluated against the deed restrictions on the property that deal with setbacks and drainage excavation. As of Feb. 1978, the Town approved what was known as the Churchill Farms, Cedar/Carney Rd Subdivision which included all the properties on Carney Rd. from Rte 93 to Cedar St. and some on both of the roads as well. As a condition of those approvals of that subdivision, two major actions were recorded, the deed restrictions were recorded on all of the parcel deeds. The northerly boundary of that property the Town has a 60' wide easement that extends all the way from Rte 93 to Carney Rd. I've lived in the Town for over 12 years now and over that time I've had numerous interactions with the Town over drainage problems on my property, a lot of which originates from this area. That is the reason I am here, not trying to be unneighborly. I have copies of all of this information that I have given to the Town previously. Something has to be done about this drainage issue. I ask that the Town take it up as a consideration. (Darryl submitted a copy to Dave M. who gave it to the board for review).

Bill K. The variance we are addressing isn't going to change the environmental factor. If you have drainage concerns, please go before the Town Board.

Steven Hill, 12926 Carney Rd., Akron, applicant, 31 years, I always need more space, it will be close to the existing garage like a three-car garage. I don't want to go through additional cost to put in an additional driveway. I have a tamped pad. My wife was diagnosed with cancer, so we want her to have her car in the garage even with the existing garage. I really can't move it over further b/c of the drainage pipes.

Bill K. -why don't you put on an addition instead of a separate structure.
Steven H. said that the cost was prohibitive.

Bill K. asked three times if there were any other comments. Hearing none, Adam B. motioned to close the public hearing, seconded by John K., All ayes, No nays. The public hearing was closed. Zoning board discussed and heard Dave M.'s comments. The deed restrictions do outline that there is a minimum of 100' setback for all buildings on anything newly incorporated.

Steven Hill stated that it is a prefab building that will be placed on the tamped down area. Drainage and deed restrictions were discussed. Dave M. stated that he cannot issue a certificate of occupancy or compliance on something that is in violation of a deed restriction that is filed at the county.

Bill K. recommended a motion to table this variance request until we consult with the Town Attorney.

Steve Hill said that he has put money down and the structure is being built, not knowing that he needed a variance.

A motion was made by Adam B., seconded by John K. to table this variance request until the Town Attorney is consulted, at which time, Steven Hill will be notified and another meeting will be held in a timely manner.

The second area variance legal notice was read by Dave Miller:

Property Address: 12087 Buckwheat Rd., Akron, NY
Zoning District: Rural Agricultural
Owner: Robert Cierniak
SBL#: 85.00-2-35.1

Requesting a 15 ft area variance to place a 24'x30' pole barn 60 ft from the right-of-way.
Town Code varied: Chapter 450-27 (A)

Bill K – **opened public comment.** Are there any outside comments? Dave M. stated there was not.

Robin Cierniak, applicants' daughter, representing her father, the applicant. Her father's life-long dream has been to build a pole barn to work on cars. Buckwheat Rd. is 66' wide. Robin showed photos to the zoning board with the actual 60' but would like to put it actually 40' back. (revised asking for 35' variance) The side lot is heavily wooded. Less impact on his neighbors and less cost for the project. To have trees removed is very expensive. He would like to place it closer to the existing shed and leave as many trees as possible. A stone driveway would lead to the pole barn. The cost to go back any further would be astronomical due to taking down large trees and more detrimental to neighbors.

Dave M. there are no deed restrictions. The minimum amount should be considered for the variance.

Bill K. asked three times if there were any other comments. Hearing none, Fred P. motioned to close the public hearing, seconded by Adam B. All Ayes, No Nays, public hearing was closed.

The board discussed the alternatives to this variance request. Bill K., John K & Fred P. voted to stay with the 15' variance request. Adam B. suggested splitting the difference.

Robin Cierniak, the shed built in 2017 never had to go for a variance and was permitted under the prior code enforcement officer. Trying to keep it aesthetically pleasing.

The vote for an area variance based on 15' area variance follows:

1. Cause undesirable change in neighborhood character or nearby properties? (PASS)
POLL: WK -N AB - N JK - N FP - N
Reason: The pole barn would not change the character for the neighborhood
2. Can benefit be achieved by other means feasible to applicant? (PASS)
POLL: WK Y AB - Y JK - Y FP - Y
Reason: (FP) Cut down more trees, (AB) however this remedy would put unnecessary financial hardship.
3. Is request substantial? (PASS)
POLL: WK -N AB - N JK - Y FP - N
Reason: (WK) No, in line with the house (JK) Yes, Can do it without a variance
4. Will request have adverse physical or environmental effects? (PASS)
POLL: WK -N AB - N JK - N FP - N
Reason: NO, the barn would not impact the neighborhood
5. Is alleged difficulty self-created? (FAIL)
POLL: WK -Y AB - Y JK -Y FP - Y
Reason: Yes -The applicant has other options such as moving it back farther.

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A motion was made by Adam B. to approve the variance request. Seconded by Fred P. Hearing all ayes, no nays, the variance was passed unanimously.

A motion was made by John K. to adjourn the meeting. Seconded by Fred P. All Ayes, No Nays.

Meeting adjourned

Respectfully submitted per a recording of the meeting,

Julie Brady, Recording Clerk