

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
May 23, 2019

MEMBERS

PRESENT: Bill Kaufman (WK) Chairperson
Fred Pask (FP)
Adam Burg (AB),
John Klodzinski (JK)
Mike Mutter (MM) Alt

APPROVED 7/25/2019

Other: David Miller, Zoning Officer
Julie Brady, Recording Secretary

Absent: Vickie Lombard, (VL)
Max Brady (MB) Alt

Meeting was called to order at 6:09pm, followed by the pledge to the flag.
Public hearing was open at 6:12pm

Julie B. read the legal notice for the variance request as follows:

**Requesting a use variance for online auto sales office and detail shop to be located at 12285
Clarence Center Rd. in the (R-A) Rural Agricultural zone.**
Owned by: Arrowhead Settlement, LLC
SBL#: 46.00-4-54

Town Code varied: 450-15A (Permitted principal uses in the R-A District

Bill K. reviewed the procedures and comments as follows:

- o Planning Board memo – not in favor of use variance
- o Erie County Planning – no comment
- o David Cummings, 12353 Clarence Ctr Rd. – not in favor of use variance
- o Landowner, Lucas James, Arrowhead Settlement LLC, 43 Conrad, Depew, NY 14043,
in favor of use variance

Ian Schumacher, Applicant, 15 Croydon Dr., Depew, NY 14043, read a letter stating his intent to conduct an online auto sales and detailing shop 12285 Clarence Ctr Rd. The property was advertised as commercial property and he thought that it would be located next to the golf courses. He would like to put 3 cars outside, no unready cars. He has a separate location in an industrial park in Hamburg to get the cars ready for sales. This location would be strictly the online business, photo shoots and detailing. Used car sales is changing. His business is unique and would be hardly any traffic. He's open to ideas and is willing to work with the town in order to maintain the character of the neighborhood.

Sheryl Fatig, 12227 Clarence Ctr Rd., second house away from building. Initially Ian said no signs, no cars. We moved to the country to enjoy country living, no an auto shop. Concerned over vacuuming noise all day and possible eye-sore from the road.

Cathy Dunn, 12229 Clarence Ctr Rd, house next door to building. Cathy stated that although she feels bad for Ian – he was misled. Concerned over the owners of Arrowhead rezoning for other projects as well. She also wants a quiet country setting, not to live next door to a business.

Bill K and Adam B explained how “spot zoning” is not part of the master plan.

Sheryl Fatig asked the board if they could help him out with compensation and they don't want to hurt Ian. She respects his enthusiasm.

Bill K. asked three times if there were any more public comments. Hearing none, John K. motioned to close the public hearing, Adam B. seconded the motion. All Ayes, No Nays. Public hearing was closed at 6:37pm.

The zoning board and Ian discussed his plans and how this would set precedence for our community.

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial: Yes _____ No X
VOTE: AB – No; JK – No; BK - No; MM – No; FP - No
Proof: No financial documents were presented. Due to the fact that the applicant is the tenant instead of the land owner, the financials/conversion costs were not supplied. The applicant could run his business in a location that is a permitted use (ex. Rte 5).
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood) Yes _____ No X
VOTE: AB – No; JK – No; BK - No; MM – No; FP - No
Proof: This parcel has plenty of other allowable uses. Newstead also have available properties in the C2 zone.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Yes _____ No X
VOTE: AB – No; JK – No; BK - No; MM – No; FP - No
Proof: This use variance would alter this country setting and would not benefit the neighbors. It would be against the Town’s comprehensive plan.
4. The alleged hardship has been self-created: Yes X No _____
VOTE: AB – Yes; JK – Yes; BK - Yes; MM – Yes; FP – Yes
Proof: Although the applicant was misled, he failed to do his due diligence by going to the Town prior to signing the lease and investing money and time at this property.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTS:

The ZBA, after reviewing the above four proofs, finds unanimously that the applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statutes. Motion was made to deny this use variance by John K., seconded by Adam B. All Ayes, No Nays.

Adam B. motioned to approve the minutes from December 6, 2018, seconded by Fred P. All Ayes, No Nays.

Training was discussed for the betterment of the zoning board.

A motion was made at 7:00pm by Bill K. to adjourn the meeting. Seconded by John K. All Ayes, No Nays.

Meeting adjourned

Respectfully submitted,
Julie Brady, Recording Clerk