

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
July 25, 2019

MEMBERS

PRESENT: Bill Kaufman (WK) Chairperson
Adam Burg (AB),
Vickie Lombard, (VL)
Other: David Miller, Zoning Officer
Julie Brady, Recording Secretary
Absent: Fred Pask (FP)
John Klodzinski (JK)
Mike Mutter (MM) Alt
Max Brady (MB) Alt

APPROVED 8/22/2019

Meeting was called to order at 6:05pm. Bill K. reviewed the procedures/ground rules.
Public hearing was open at 6:08pm

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

Property Address: VL Cedar St., Akron, NY
Applicant/Owner Name: Tammy Fox, 6910 Cedar St., Akron, NY
SBL#: 33.00-3-6.112
Requesting an area variance to subdivide one parcel into three parcels, each being 40,050 square feet (with 150 feet of frontage) instead of the required 45,000 square feet per lot.
Town Code varied: 450-15D (1)(a)

No outside correspondence was submitted for this public hearing.

Jonathan Fox, 6910 Cedar St., Akron (owner of property) stated that they purchased said property (which is across the street from his residence) in 2013 in case their daughters would like to build there someday. Bedford's Greenhouse will be relocating and selling the lot adjacent to his residence so he would like to sell one of the lots to finance the purchase. Jonathan showed the proposed subdivision map and explained that at the time he purchased the land, both he and the seller believed the 450 x 300 parcel could be split into three equal lots.

David Miller, CEO explained that the deed reads from the centerline of the road, instead of starting the 150x300 from the right-of-way.

Kelly Spurlock, realtor for the applicant, 9090 Michael Douglas Dr., Clarence – stated that the surveyor even confirmed that it was meant to be three lots. She also checked with Erie County Health Dept. and they require ¾ acre for a buildable lot.

Bill K. asked if they have contacted the owner to rear of the land to purchase the addition 33 feet. Jonathan Fox stated that he did however he was unable to receive confirmation that this would be viable. Bill K. also asked if there were any wetlands. Julie B. stated there are no wetlands.

Bill K asked three times if there were any further comments, hearing none, the public hearing was closed at 6:23pm.

The zoning board and David Miller discussed how this appeared to be a misinterpretation on the surveyor's part. David Miller also spoke with the planning board last night about making sure it is clearly stated on all future subdivisions.

The zoning board was polled as follows:

1. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance.
WK (Y) AB (N) VL (N) Overall – (NO-PASS)
REASON: The applicant reached out to the neighbor to the rear of the property to purchase additional land but was unsuccessful. When the lot was purchased all parties understood the lot was to be subdivided in three equal lots.
2. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: The buildable lot is the same as the existing neighborhood. Maintaining the 150' frontage.

3. Whether the requested area variance is substantial.
WK (Y) AB (Y) VL (Y) Overall – (YES - FAIL)
REASON: Based on the percentage/# appx. 5,000 sq ft per lot

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: There is no negative physical or environmental impact due to the fact that they are maintaining 150' of frontage and there is ample room for a septic system.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude granting of the area variance.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: The applicant purchased this property intending to subdivide in three equal lots in good faith. Requirements not clearly defined in the code book.

A motion was made by Adam B. to approve the variance. Seconded by Vickie L. All Ayes, No Nays.

Variance request was approved unanimously

Public Hearing #2 was opened at 6:30pm. Julie B. read the legal notice as follows:

Property Address: 13275 Dorsch Rd., Akron, NY

Owner: Steve & Michelle Young

SBL#: 86.00-1-30.11

Requesting an area variance to construct a new addition and wrap around covered deck which will exceed 25% of the gross floor area of an existing single-family home which is a nonconforming use with a front yard setback of only 26.22 feet instead of the required 65 feet on a county road.

Town Code varied: 450-45

No comment from Erie County Planning. No other outside correspondence was submitted for this public hearing.

Matthew Hume, (Hume Construction) 2629 Pratt Rd., Batavia, NY, architect and builder on this requested variance/project. 13275 Dorsch Road was built in 1870 and may have been used as a barn at one time. We are planning to add living space in the back, tearing off a porch and replacing it. The covered porch will extend to the new addition, giving the owner's more outdoor living space and making the house visually appealing. The goal of this project is to add value, curb appeal and make the Town look better.

Steven Young, 13275 Dorsch Rd., Akron, *(Home owner/applicant) – stated that he feels the code is unclear because it states "A one- or two-family residential structure may be expanded even though the present structure violates current front or rear setback requirements, if the expansion does not result in any portion of the structure being in greater violation of such front or rear setback requirement than the existing structure." Steven Y. stated that his addition would not go closer to the road than the existing structure.

David Miller, CEO, explained that the variance is because his addition is more than 25% of the gross floor area. Steven Y. stated that his calculations show the living space addition as 30 sq ft. under the 25% (not including the porches). David M. stated that the porches are considered in the 25%.

Steven Y. also commented that the French doors actually go nowhere (there are no steps or deck outside the French doors). This addition will fix that problem.

Adam B. asked where the septic system is located and Matt H. explained that was taken into consideration when designing this project.

David M. stated that he has absolutely no problem with this project. Matt H. appreciated that.

Bill K. asked three times if there were any more comments. Hearing none, Adam B. motioned to close the public hearing, seconded by Vickie L., All Ayes – No Nays.

The zoning board discussed how precedence has been set with another variance on Rapids. Also noted that this will be in keeping with the site lines for safety measures.

The zoning board was polled as follows:

1. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: Septic inhibits addition in other direction, actually bringing other area into conformance with addition.
2. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: Property & character of the home is being improved.
3. Whether the requested area variance is substantial.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: No if you take just the living space into consideration it is less than the 25%.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: There is no negative physical or environmental impact as this project will be an improvement to the neighborhood.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude granting of the area variance.
WK (N) AB (N) VL (N) Overall – (NO-PASS)
REASON: The existing structure is approximately 150 years old (prior to zoning codes). The applicant is not going closer to the road and the home will be very attractive when completed.

A motion was made by Vickie L. to approve the variance. Seconded by Adam B. All Ayes, No Nays.

Variance request was approved unanimously

Adam B. motioned to approve the minutes from May 23, 2019, seconded by Bill K.. All Ayes, No Nays.

A motion was made at 6:48pm by Adam B. to adjourn the meeting. Seconded by Bill K. All Ayes, No Nays.

Meeting adjourned

Respectfully submitted,
Julie Brady, Recording Clerk