

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
September 21, 2023

MEMBERS

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

Other: Dave Miller (DM) CEO
Julie Brady, Recording Secretary
Katie Bird, Building & Assessor Clerk

ABSENT: Fred Pask (FP)
Joshua Kraft (JK) Alternate

The meeting was called to order at 6:36pm. Bill K. reviewed the process of the meeting.

Bill K. opened the public hearing and asked if there was any correspondence. Julie B. told the board that there was a letter from Carl Domescek, the owner, in their packets.

Katie B. read the legal notice:

Request for an Area Variance of 726 square feet

to construct a 28'x32' (896 square feet) addition to a non-conforming detached garage (681 square feet) in the Town of Newstead

Town Code Varied: 450. Zoning Article V. Nonconforming Uses and Structures
450-43 A. Enlargement
450-45. Alterations (May not be structural altered to exceed 25% of the gross floor area of said structure)

Location: 7548 Greenbush Rd., Akron, NY

Owner/Applicant: Carl Domescek, 7548 Greenbush Rd., Akron, NY

Bill K. read the criteria for an area variance.

William Miller, 1128 Virginia Drive, Alden, NY, representing Carl Domescek as an overseer of the project. W. Miller explained that the intent of the variance would allow Domescek to house his personal equipment, vintage cars etc. that are currently stored outside.

Dan Friend, 5865 Strickler Road, Clarence, NY- also representing Carl Domescek as his friend, stated that the variance would allow him to neaten up the property and allow safe adequate storage.

William Miller, asked for clarification of non-conforming uses and square footage.

David Miller commented about setback requirements, non- conforming uses and the variance exceeding the 25% threshold. The requested variance would be projected to be 120% of the current non-conforming threshold and current square footage.

Bill K. asked three times if anyone else would like to speak on this issue. Hearing none. Adam B. motioned to close the public hearing, seconded by John K. Hearing All Ayes, No Nays the public hearing was closed.

Bill K. questioned the concrete pad that was displayed on the survey.
William Miller confirmed it was a hot tub.

William Miller showed the zoning board members the survey of where the pole barn addition would be constructed. He mentioned a utility pole that would need to be removed and was deteriorating. He commented that he has already spoken to the utility company to discuss its removal if the variance was approved for construction. He additionally commented on the limitation of the project being built in other locations on the property, because of the wetlands and septic field on the opposite side of the property.

Vickie L questioned when the year of the existing garage was built and if the setback has changed since.

William Miller estimated it was the same year as the residence (around the 1960s).
Dave M. stated that the building predated the zoning requirements currently in place.

Bill K. asked for clarification of the setback and right away requirements.
Dave M. stated the setbacks are from the right-of-way and not the center of the road.

Bill K. called for any additional questions.

The zoning board voted on the variance request:

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.
 POLL: AB-N JK-N WK-N VL-N (PASS)
 Reason: No space to provide for addition, land is too wet and does not allow relocation.

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.
 POLL: AB-N JK-N WK-N VL-N (PASS)
 Reason: No effect on the community, will not affect drainage or other environmental factors. Will be more appealing to have property inside enclosed building.

3. Whether the requested area variance is substantial.
 POLL: AB-Y JK-Y WK-Y VL-Y (FAIL)
 Reason: over 120% Larger than existing building,

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 POLL: AB-N JK-N WK-N VL-N (PASS)
 Reason: Attached to existing building, there is sufficient are for drainage and no noise concerns.

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.
 POLL: AB-Y JK-Y WK-Y VL-Y (FAIL)
 Reason: Could demo existing structure and build conforming use. Accumulated more personal possessions than has storage for. Existing non-conforming use was already preexisting when purchased. Has other avenues for placement.

A motion to approve the variance was made by Vickie L. No one seconded, therefore the motion failed to pass.

A motion was made to deny the variance request by Bill K. seconded by John K. The zoning board was polled and voted as follows:

Adam B.	Aye to deny
John K.	Aye to deny
Bill K.	Aye to deny
Vickie L.	Nay to deny

The variance was denied.

The public hearing was opened by Bill K. Julie B. read the legal notice:

Request for an Area Variance of 35 feet

To construct an 18' x 22' pole barn 40 feet from the right-of-way instead of the required 75 feet setback.

Town Code varied: Chapter 450-27 (A)

Location: 7201 Sandhill Rd., Akron, NY

Owner/Applicant: William Gliss, Ruth Gliss & Edward Gliss

Bill K. read the criteria for an area variance.

Ruth Gliss, 7201 Sandhill Road, Akron, NY 14001- Owner, stated that they would like to construct a pole barn near the house so they could use the existing driveway. Ruth showed an aerial photo to explain the existing landscape and tree on the property that they did not want to tear down because of age and cost, she additionally mentioned that the west winds would impact placement of the structure and would create a cyclone of snow and snow drift that would impact placement if further set back. She informed the board the intent was for personal equipment storage

David M. commented on the history of permit application stating the cost of concrete with downward slope would be impactful and exceed the cost of the overall project if placed in conjunction with the residence.

Bill K. confirmed the style of build being pole barn, and size of the barn being 18' X 22'.

All board members contributed to discussion of neighboring properties being set back and uniformity of setback for the neighborhood in union to the proposed variance.

Bill K. called for any additional comments three times, hearing none, John K. motioned to close the public hearing, seconded by Bill K. Hearing all Ayes, No Nays, the public hearing was closed.

Bill K. asked the zoning board if they had any further comments. Hearing none, the zoning board voted on the variance request:

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.
 POLL: AB-Y JK-Y WK-Y VL-Y (FAIL)
 Reason: Enough space on property to meet requirements. Would not be able to use the existing driveway. Financial hardship, and cost imperative would create hardship.
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.
 POLL: AB-N JK-N WK-N VL-N (PASS)
 Reason: Other properties are closer to the road.
3. Whether the requested area variance is substantial.
 POLL: AB-Y JK-Y WK-Y VL-Y (FAIL)
 Reason: Almost 50% approved setback.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 POLL: AB-N JK-N WK-N VL-N (PASS)
 Reason: Will not affect any drainage, and no harm visible by request.
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.
 POLL: AB-Y JK-Y WK-Y VL-Y (FAIL)
 Reason: More personal property accumulated than storage. Enough property to construct.

A motion was made to approve the variance request by Adam B. seconded by Vickie L.

VOTE:

Adam B.	Aye to approve the variance request
John K.	Aye to approve
Bill K.	Aye to approve
Vickie L.	Aye to approve

The variance was approved unanimously.

The minutes from January 12 and February 2, 2023, were reviewed. John K. motioned to approve the minutes, seconded by Adam B.

All Ayes, No Nays, the minutes were approved unanimously.

The minutes from June 22, 2023, were reviewed. Adam B. motioned to approve the minutes, seconded by Vickie L. All Ayes, No Nays, the minutes were approved unanimously.

John K. motioned to adjourn the meeting, seconded by Vicki L. Hearing All Ayes, No Nays the meeting was adjourned at 7:22pm.

Respectfully submitted by,

Katie Bird
Recording Secretary
