

# TOWN OF NEWSTEAD - PLANNING BOARD MINUTES

Newstead Town Hall

December 15, 2008

PRESENT: Tom Cowan, Chairman  
John Olaf  
Terry Janicz  
Rick Meahl  
Don Hoefler  
John Potera  
Andy Kelkenberg  
Christine Falkowski, Manager of Planning & Building  
John Good, Code Enforcement Officer  
Roland Georger, Damon & Morey LLP

## 7:30PM Work Session

- Rick Meahl submitted his resignation effective January 1, 2009.
- Tonight's agenda items were discussed.
- **Minutes from November 24, 2008 meeting**  
Rick made a motion to approve the November 24, 2008 minutes, seconded by Andy:  
Tom Cowan -Aye  
John Olaf -Aye  
Terry Janicz -Aye  
Rick Meahl -Aye  
Don Hoefler -Aye  
John Potera -Aye  
Andy Kelkenberg -Aye

- **Special Use Permits – 2009 Renewal**

<u>Permit Holder</u>	<u>Location</u>	<u>Reason</u>
Lewistraum Kennels	12472 Stage Road	Kennel in RA
Triple G Small Engine Repair	12506 Buckwheat Road	not permitted in RA
Buffalo Drilling Co. (soil lab)	12340 Main Road	research facility in RA
Champion Auto Locaters	11678 Main Road	used auto sales in C2
T & T Tire & Auto	11720 Main Road	used auto sales in C2
Michael Shields	12690 Main Road	used auto sales in C2

Michael Shields – John Potera noticed what appears to be junk and vehicles at the rear of this property. John Good reported that Mr. Shields is operating an impound lot, that it is out of sight to the rear and that all impound vehicles are licensed and registered. It was thought that New York State will probably require the impound lot to be fenced or garaged eventually. The Board was concerned with this lot being gravel only due to potential oil leaks. John will investigate and report back to the Board. Also, as conditioned in his permit, Mr. Shields will be asked to provide evidence of his land lease renewal with Mr. Draper which gives him the minimum required frontage for used auto sales in the Overlay Zone.

Terry made a motion to recommend that the Town Board renew for 2009 all of the above special use permits, except Michael Shields which was tabled, seconded by Don:

Tom Cowan -Aye  
John Olaf -Aye  
Terry Janicz -Aye  
Rick Meahl -Aye  
Don Hoefler -Aye  
John Potera -Aye  
Andy Kelkenberg -Aye

- **Sign Law Review**

Don brought to the meeting a copy of the Town of Amherst's law that we modeled ours after. It was determined that where our Code states "allow 6 sq. ft. of free standing signage" is probably a typo and should say "allow **64** sq. ft. of free standing signage". Also, the Board questioned whether the size should be determined by the road frontage. It may be simpler just to say that Planning Board must approval all new signs. But in every zone? This item was tabled until the next meeting.

- **Expiration of Site Plan Approval options.** The Planning Board was asked which of the following options they prefer:

#1 One year period given to commence construction after site plan approval, but after one year applicant must meet any additional requirements enacted after approval.

or

#2 Approval valid for 18 months, with one extension allowed 12 months thereafter via written request. Any longer would require re-application to the Planning Board, but with a reduced fee of \$100 (vs. \$250).

Most preferred option #1, and this item was tabled until the next meeting.

Terry made a motion to adjourn the work session at 8:40PM, seconded by John Potera:

Tom Cowan	-Aye
John Olaf	-Aye
Terry Janicz	-Aye
Rick Meahl	-Aye
Don Hoefler	-Aye
John Potera	-Aye
Andy Kelkenberg	-Aye

The Planning Board meeting was called to order by Tom Cowan.

#### **Buck's Motorsports – 13090 Main Road – review of temporary lit sign**

John reported that the sign is there now, just not lit. It is a 36 sq. ft. sign advertising merchandise sales for the season. John Potera made a motion to approve the lit sign, seconded by Rick with the following conditions: (1) lit until 11PM only and (2) display until January 31, 2009.

#### **Preapplication Conference – Utley Road – Craig Kelkenberg**

Craig Kelkenberg attended, along with Roger Glor and Fred Pask. On June 7, 2004 the Planning Board approved Craig's 2-lot minor subdivision application. The result was three lots, the center 10-acre lot having an existing house. The north lot and the south lot were then leased out to farmers for agriculture. In 2006, the center 10-acre lot was sold and split in half by Clayt Ertel. Craig now feels that our code should have exempted him from the subdivision requirement and fees due to the following exemption: "divisions of land found by the Planning Board to be for agricultural purposes where all resulting parcels are 10 acres or larger in size". Craig stated that former Supervisor Summe governed that Craig be denied exemption. Therefore, he would like a waiver, and plans to split the northerly 14-acre parcel into three lots. Craig was told that five or more lots less than five acres each require Erie County Health Dept. approval prior to subdividing. Tom stated that we will research this issue and consult the Town Attorney.

#### **Work Session (continued)**

#### **Buffalo Shooting Club (BSC) – Billo Road Site Plan/Special Use Permit Application**

Roland Georger of Damon & Morey attended. The following has transpired since the last Planning Board meeting:

November 25<sup>th</sup> - Tom sent letter to Jeff Palumbo itemizing a list of concerns.

December 1<sup>st</sup> - Applicant representatives and DEC met at Wendel Duchscherer

December 5<sup>th</sup> - Submitted: revised grading & drainage plan, stormwater management report

December 8<sup>th</sup> - Tom attended meeting with Alden's Planning & Town Boards. Applicant reps and Joe Frey also in attendance.

December 10<sup>th</sup> - Submitted: response to Tom's November 25<sup>th</sup> letter, Earth Dimensions letter, survey without overlay, tax parcel map, Alden map and lead management plan.

December 11<sup>th</sup> -Submitted: Letter of intent from Town of Alden to work with Joe Frey on entering into an agreement for reconstruction of Billo Road by Frey. Attached is a written promise from Joe Frey to rebuild Billo Road north of Genesee Street to Town standards in return for lifting qualified abandonment.

**Buffalo Shooting Club (BSC) – Billo Road Site Plan/Special Use Permit Application (con't)**

December 11<sup>th</sup> – Agenda meeting was held where it was decided that this would not be an agenda item, but that submitted documents would be reviewed by Planning Board on December 15<sup>th</sup>. Email notification sent by Christine. John also sent more detailed email later same day.

December 15<sup>th</sup> – Delivered at 4:20PM were amended EAF, topographical survey showing existing elevations and letter from Jeff Palumbo expressing his disappointment.

Roland stated that they feel our concerns are holding up the commencement of the coordinated review where they will be addressed by potentially interested agencies. Don stated that we are following the SEQR process and that the Planning Board cannot recommend the project to the Town Board until they are comfortable doing so. He also stated that the ACOE may be their biggest holdup and could take up to four months to process. John Good stated he would call ACOE for BSC.

Wendel Duchscherer has done a preliminary review, which requires a complete response as yet. LaFarge holds a current mining permit which must be transferred to new owner (first to Joe, then to BSC?) Andy asked about the noise study---will there be year-round shooting, what was the wind direction at the time, and when it was done in August, could the full foliage have muffled the noise? Terry asked about gas wells that going through the property; who owns them and how close to the site are they? Tom stated he has asked the Conservation Advisory Council to review the lead management plan, and they meet Thursday night. Tom Cowan strongly recommended visiting the site if not done so already.

Tom made a motion to adjourn the meeting at 9:10PM, seconded by John Potera and all approved.

Respectfully submitted,  
Christine Falkowski, Manager of Planning & Building