

TOWN OF NEWSTEAD – ZONING BOARD OF APPEALS
MINUTES of July 24, 2008

Present: Bill Kaufman
Peter Randall
John Klodzinski
John Good – Code Enforcement Officer
Jennifer Heberling – Recording Secretary

Absent: Corky Keppler
Scott Zitzka

Bill Kaufman called the meeting to order at 7:30 PM and led the Pledge of Allegiance to the American Flag.

Area Variance Request – Joseph Kausner – Clarence Ctr & Utley Road – legal notice was read by the clerk.

Joseph Kausner of 11122 Clarence Center Road, Akron, NY appeared to speak. He is planning on purchasing this lot depending on the result of the variance request. He wants to build a 1600 square foot ranch. He has done his research and found many houses in the area in a similar situation with regards to setback.

Since no one else appeared to speak, the public hearing was closed at 7:35PM.

John Good presented a map he generated showing other houses on Clarence Center Road built just as close to the road as Mr. Kausner is planning.

Discussion amongst board.

Mr. Kausner already has approval from the health department for the septic system. Bill Kaufman asked Mr. Kausner if he has approached any of the neighbors about purchasing anymore property. Mr. Kausner explained that the bike path and a ROW for the power company border this property and it would not be possible.

Bill Kaufman and the board went through the Area Variance Checklist.

1. **Whether benefit can be achieved by other means feasible to applicant:** No. ROW for power company and bike path do not allow the applicant to obtain more property.
2. **Undesirable change in neighborhood character or to nearby properties:** No. Map shows other houses closer or same distance from the road.
3. **Whether request is substantial:** No. Unique situation since it is a corner lot.
4. **Whether request will have adverse physical or environmental effects:** No. There are no ditches.
5. **Whether alleged difficulty is self-created:** No. This is due to geography of lot.

Bill Kaufman made a motion to approve proposal #1 (house fronting on Utley Road, 10' variance) and seconded by John Klodzinski.

Bill – Aye
Peter – Aye
John – Aye

Variance request granted.

Area Variance Request – Kreher's Poultry Farm – 5411 Davison Road – legal notice read by the clerk at 7:45PM.

Don Kreher of 13212 Main Road, Akron NY and Brett Kreher of 4695 Pepperwood Lane, Clarence NY both appeared before the board to speak. They showed sketches to the board of the corn bins they are proposing to build and showing the proximity to the road. This is a family farm that was built many years ago when setbacks were not regulated. Two years ago they received a variance to construct a corn bin the same distance within the ROW. They need to construct another one and it needs to be kept in line with the previous one.

This is for purchased corn to feed the chickens. In the past, Kreher's would purchase corn on an as needed basis throughout the year. Due to the ethanol plants, it is harder to purchase corn year round like they used to.

Since no one else appeared to speak, the public hearing was closed at 7:49PM.

Bill Kaufman stated that this is the same variance request they approved 2 years ago.

Bill Kaufman and the board went through the Area Variance Checklist.

1. **Whether benefit can be achieved by other means feasible to applicant:** No. System was designed years ago and there is really no space to put it anywhere else.
2. **Undesirable change in neighborhood character or to nearby properties:** No. Entire side of Davison Road is owned by Kreher's Poultry Farm.

3. **Whether request is substantial:** No. This variance was already approved 2 years ago for a different corn bin.
4. **Whether request will have adverse physical or environmental effects:** No. There may be less traffic in the long term.
5. **Whether alleged difficulty is self-created:** No. Farm has been there for a long time.

Bill Kaufman made a motion to approve the variance request and seconded by Peter Randall.

Bill – Aye
John – Aye
Peter – Aye

Variance request granted.

John Klodzinski made a motion to approve the minutes from June 26, 2008. Seconded by Peter Randall and all in favor.

Use Variance Request – Golden Pond Estates – 13415 Main Road – legal notice read by the clerk at 8:00PM.

Before Bill Kaufman opened the public hearing he announced that Peter Randall will have to abstain from the voting. The public hearing will still be held, but the variance request will be tabled until the next meeting because a quorum is necessary. Then Bill read the Use Variance Criteria so the applicant was aware of what has to be proved.

Public hearing opened.

James Felber of 13415 Main Road, Akron NY appeared to speak. Mr. Felber told the board he is looking to construct these mainly for the residents of Golden Pond Estates so they can have extra storage, but also for the general public. He stated that he does have a hardship because self storage units aren't allowed in any zoning in the Town. Bill Kaufman asked John Good if there would be a problem if these were private self storage units. John stated that there would have to be 60% of the units rented to Golden Pond residents and the units would have to be built on MHP zoned property only, and receive a special use permit. Jim Felber is aware that this is a route he could go, but he does not want to be tied to this. He feels the renters from the mobile home park will be cyclical.

Mr. Felber believes the units will be the factory designed ones and have smaller units that would be easier for people to use. Sheds are not allowed in Golden Pond so this is some of the reason he wants to build the self storage units. He already has an area in the park where boats/RV's are stored. He is thinking about incorporating this with the storage units. Bill Kaufman explained they have had problems with unlicensed vehicles in the past and he would want Mr. Felber to regulate any vehicles that would be stored.

The buildings would be approximately 20' x 100' with the number of units varied. Jim doesn't want to restrict himself and he is planning on building the units in stages.

Douglas Klotzbach of 10225 Main Street, Clarence NY appeared to speak on behalf of the new owner of Newstead Self Storage, an existing self storage unit. He wants the variance denied since the new owner of Newstead Self Storage purchased the property with the idea of expanding with some improvements – landscaping, paving, painting, on-site staffing, roofing and new fencing. He will be working on the expansion and upgrades over the next couple of years. Mr. Klotzbach asked why they would allow a variance to be granted when Newstead Self Storage is working on expanding in an allowed use. He also spoke about how these are very similar products and Golden Pond's would not be unique to the area. There already is a self storage unit. He also explained how mobile home parks are allowed to put in self storage units for their residents in the MHP zoning. The new owner of Newstead Self Storage is intent on bringing his property up to capacity in an allowed zone. (Mr. Klotzbach gave the clerk a copy of his notes to be made part of the final minutes.)

John Good explained how Newstead Self Storage is a legal non-conforming use. They will be allowed to expand within the original footprint. Newstead Self Storage will be coming to the ZBA in the future to expand outside of the original footprint.

Jim Felber believes that competition is good for business. He doesn't think he should not be not allowed to have a self storage business while someone next to him is allowed to expand their self storage business.

Bill Kaufman stated that a variance is not intended to stifle competition. Bill read the Use Variance Criteria again.

Since no one else appeared to speak, the public hearing was closed at 8:25PM. Issue tabled until next meeting.

When asked, Jim stated that he would like to get started before winter. He has been holding off on the engineering until the variance is resolved.

Peter made a motion to adjourn the meeting at 8:30PM, seconded by John and all approved.

Respectfully Submitted,
Jennifer Heberling
Recording Secretary

Per John Good, ½ hour training session on "Conflict of Interest" was held after the meeting.