

**TOWN OF NEWSTEAD - ZONING BOARD OF APPEALS**  
**MINUTES of November 16, 2004**

Present: Bill Kaufman  
Dave Wakeman  
Corky Keppler  
John Olaf  
Rebecca Baker, Zoning Officer  
Martin Dugan, Building Inspector  
Nathan Neill, Town Attorney  
Christine Falkowski, Recording Secretary

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

Dave motioned to approve the minutes from September 7, 2004, seconded by Corky and all approved.

**Public Hearing – Use Variance – 6858 Cedar Street - Barbookles**

Public hearing to consider use variance request to construct a partial basement (crawl space) below base flood level in anticipation of FEMA removing the property from the floodplain at 6858 Cedar Street, owned by Denise Barbookles. Newstead Code section 52-16 states that one cannot construct below base flood level.

Denise Barbookles stated that she split her land on Cedar Street, sold the house she was living in, and is now building a house on the newly created parcel, which is in the floodplain. Her plans call for a utility room on the first floor to house her water tank and furnace. But she was advised that this plan is more costly, therefore, she had a 6' crawl space built to house the water tank and furnace. Mrs. Barbookles was advised on two previous occasions to file for a LOMA (Letter of Map Amendment) with FEMA. Marty stated that he met with Rebecca Anderson of the NYSDEC at the site, who also advised that the property appeared to be non-problematic and would most likely be approved for a LOMA. Mrs. Barbookles felt this to be another financial hardship since she must submit engineered grade shots with the application. She has lived there 23 years, Corky has trapped there all his life, and Jim DeYoung has lived there 50 years. All indicate that the creek/ditch has never flooded. Mrs. Barbookles stated that she will not have a mortgage, therefore, the cost of flood insurance is not an issue. John stated that if the property should flood however, her homeowner's insurance company would not be happy that she has no flood insurance in a floodplain. Nathan stated that in Amherst, the State gave waivers to contractors to build in the floodplain, and look at the trouble that has caused for those homeowners.

John made a motion to close the hearing at 7:50PM, seconded by Dave and all approved.

Corky motioned to approve the variance, seconded by Dave, and all approved with the following conditions:

- (1) Mrs. Barbookles must file a LOMA application
- (2) The Town of Newstead must receive a copy of FEMA's determination
- (3) Mrs. Barbookles must sign a waiver holding the Town of Newstead harmless in the event of a flood
- (4) If the LOMA is not approved, Mrs. Barbookles must ensure that furnace/water tank are protected with a 2 – 3' wall built around it and put up on a pedestal (Building Inspector will check on maximum height).

Rebecca presented the idea that training sessions be set up for the Board. She has the resources for this. The Board will think about what topics they are interested in. We should also meet even when there are no variance requests just to stay informed about and become familiar with current issues pertaining to the Town.

Dave motioned to adjourn the meeting at 8:15PM, seconded by Bill and all approved.

Respectfully submitted,  
Christine B. Falkowski, Recording Secretary