

**STATE OF NEW YORK
COUNTY OF NIAGARA**

**ZONING BOARD OF APPEALS
TOWN OF PORTER**

The Regular Meeting of the Town of Porter Zoning Board of Appeals was held on Thursday, January 22, 2009, at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

PRESENT: Chairman William H. Tower, Member Peter Jeffery, Member Duffy Johnston, Member William Leggett, Member Irene Myers, Attorney Michael Dowd, and Building Inspector, Roy Rogers

ABSENT: Member Joe Fleckenstein

Chairman Tower called the meeting to order at 7:30 pm Chairman Tower asked if there were any additions or deletions to the previous month's minutes. Duffy Johnston made a motion to accept the minutes as written and was seconded by Chairman Tower. **All in Favor. Motion Carried.**

Chairman Tower asked that we have to elect a Vice Chairman. Irene Myers made a motion to nominate Duffy Johnston and was seconded by Peter Jeffery. Chairman Tower asked if there was any further discussion. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Irene Myers-yes and Chairman Tower-yes. Motion Carried to elect Duffy Johnston as Vice Chairman.

It is also noted that William Leggett is the alternate member of the Zoning Board.

Chairman Tower read the following:

NOTICE IS HEREBY GIVEN THAT, pursuant to Section 267 of the Town Law and Local Law No. 1 of 1968, as amended, of the Town of Porter, Niagara County, New York, a PUBLIC HEARING will be held by the Zoning Board of Appeals at the Town Offices, 3265 Creek Road, Youngstown, NY on January 22, 2009, at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Mark Webster, 3409 Witmer Road, Niagara Falls, NY 14305.

Pursuant to Sections 401.7B, 704.2 and 710, an area Variance is requested for a new home construction located at 3321 East Avenue, Youngstown, NY. The side set back is 32 feet thus a variance is requested. Property is located in an ARR-100 Zoned District between Youngstown-Lockport Road (Rte 93) and Blairville Road in said Town.

It was noted that Mr. Mark Webster was present.

Chairman Tower stated that Mr. Webster needed a side lot set back because there is a proposed road and in the future if he is only four to five feet off the lot line he would

already have a variance. Chairman Tower stated that the Planning Board approved this application. Duffy Johnston made a motion to close the public part of the hearing and was seconded by Irene Myers. Chairman Tower asked if there was any further discussion. None. Chairman Tower asked if the Board was in favor. All in Favor. Motion Carried to close the public part of the hearing.

Duffy Johnston asked what the side lot set back is – fifty feet and Mr. Webster is asking for 32 feet. Peter Jeffery asked if the house would be centered on the lot. Chairman Tower asked if the Board would be granting an area variance tonight under Section 704.2. There are certain criteria for an area variance just because you are closer on the lot than normally permitted. Peter Jeffery asked about the size of the house. Mr. Webster stated a ranch about 1,000 square feet.

Chairman Tower read the following:

704.2 Area Variance.

Area variances may be considered where setback, frontage, lot size, density or yard requirements of this Local law cannot be reasonably met. The Board of Appeals may grant an area variance on the ground of practical difficulty, such as practical difficulty to be determined by consideration of the following:

- A. How substantial the variation is in relation to the requirement;
- B. The effect, if the variance is allowed, of the increased population density thus produced on available governmental facilities (fire, water garbage and the like);
- C. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created;
- D. Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance; and
- E. Whether in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

Chairman Tower asked if there were any other questions from the Board. Attorney Dowd stated the 401.7B is a corner lot. This is a back property not be developed for a long time. Chairman Tower stated is an open field. Peter Jeffery stated that he heard that it was already subdivided. I don't have any other concerns.

Attorney Dowd asked the Board to take a look at Section 704.3. There are things that you should consider.

Chairman Tower read Section 704.3.

No variance under the provisions of this Part shall be authorized by the Board unless it finds that such variance:

1. Will be in harmony with the general purposes and intent of this Ordinance or such regulation, taking into account the location and size of use, the nature and intensity of the operations involved or in conducted in connection with it and the size of the site in respect to streets giving access thereto.
2. Will not tend to depreciate the value of the adjacent property, taking into account the possibility of screening or other protective measures to protect adjacent properties.
3. Will not create a hazard to health, safety or general welfare.
4. Will not alter the essential character of or be detrimental to the neighborhood.
5. Is the minimum necessary to afford relief.

Chairman Tower stated that it is all of the above. I feel that this permit should be granted.

Duffy Johnston made a motion to give an area variance for Mr. Mark Webster at 3321 East Avenue in an ARR-100 Zoned District and was seconded by Peter Jeffery.

Chairman Tower asked if there was any further discussion. None. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; Irene Myers-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Chairman Tower stated that the Zoning Board Meeting will be held on the third Thursday of every month beginning in February.

Irene Myers made a motion to close the meeting and was seconded by Duffy Johnston. The meeting was adjourned at 7:55 pm. The next regular meeting will be held on **Thursday, February 19, 2009.**

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals