

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, July 16, 2010, at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

PRESENT: Member Peter Jeffery, Member Duffy Johnston, Member William Leggett, Member Jackie Robinson, Attorney Dowd, Susan Driscoll and Roy Rogers, Building Inspector

ABSENT: Chairman William H. Tower, Member Irene Myers.

Member Duffy Johnson asked if there were any additions or deletions to the June minutes. Jackie Robinson made a motion to accept the minutes as written and was seconded by William Leggett. **All in Favor. Motion Carried.**

Duffy Johnston read the following:

Application of Paul Schmoyer, 1809 Lake Road, Youngstown, NY 14174.

Grant a Variance under Section 503.3 and 704.2 of the Town of Porter Zoning Ordinance to relocate a six (6') foot in height fence to the West side of residential property and another portion to continue on the line 180' to the North and 40' to the West side of the property line.

Section 503.3 states "Maximum Height Residential Districts four (4') feet. Thus, a variance of two feet is requested. Property is located on the North Side of Lake Road in an ARR-100 Zoned District between Murphy's Corner Road and Porter Center Roads in said Town.

Duffy Johnston asked if everyone from the Board took a look at this property. All of the members present stated that they had been at the location. He stated that the bottom line is Mr. Schmoyer wants to move the fence to the lot line and there is a question about the right away. Attorney Dowd stated Mr. Schmoyer owns it. Peter Jeffery stated it is a flagged lot. Jackie Robinson stated this is a separate

lot that he is talking about. The lot where he wants to move the fence is a “buffer zone”. No trailers will be put there. It is a condition of the special permit.

Duffy Johnston asked Mr. Schmoyer if he wants to move the fence over or would he like to keep it where it is at. Mr. Schmoyer stated he originally put the buffer zone in 1989 and was originally going to put a cottage there. Two years later, it was declared a buffer zone with no trailers on it. I want to move the fence ten feet. It is on my property and I want to make full use of it. I showed the area to Mr. Rogers yesterday.

Duffy Johnston asked the question, “As far as the lot line goes, what does the buffer zone mean?” Attorney Dowd stated it is a road running South to North and is a separate parcel from the campsite. You are not going to put trailers on the driveway area. Peter Jeffery stated a fence is typically allowed in a buffer zone – an area underdeveloped. Attorney Dowd stated it is the access to the back road. The driveway can’t be developed anyhow. Mr. Schmoyer could put a four foot fence there and not bother with us.

Duffy Johnston raised the question about how far off the lot line. Attorney Dowd stated a four foot fence can be on the lot line with a six foot fence, typically there is a 2 foot strip so that they can get a lawn mover through. There is nothing stopping them from putting up a four foot or the Board granting a two foot variance. He stated that two feet off the property line you have adequate room to maintain the fence.

Mr. Schmoyer approached the Board to discuss the length of the fence with the Board. Peter Jeffery stated a six foot fence needs to be maintained and two feet off the property line. Duffy Johnston stated that Mr. Schmoyer does not need to be here for a four foot fence. Attorney Dowd stated if you want to keep it wide enough to get truck down there a six foot has to be two feet off the property line. You can come to the Planning Board and add another two feet off of your other property and then you will have a 12’ access. Attorney Dowd stated you need to make sure you can access the six foot fence on both sides.

Peter Jeffery stated that he walked down the private road and there were satellite dishes on the six foot fence. You are going to have to clean that area up. A barbed wire fence in some of the area is not allowed in any what shape or form. Mr. Schmoyer stated the barbed wire is coming down. Peter Jeffery asked if Mr. Schmoyer had the property surveyed. Mr. Schmoyer stated “yes”. I don’t want to give up the two feet. Peter Jeffery stated that Mr. Schmoyer is not allowed to put campers on that private lot – no structures. Jackie Robinson state camping activities should only be on the camping lot.

Mike Adams stated that this has come to a head again. Duffy Johnston stated that if the “buffer zone” is infringed on, you should talk to Mr. Rogers. Mr. Adams stated that the four foot fence no longer serves as a privacy fence and the Direct

TV should be on Mr. Schmoyer's side. Duffy Johnston stated if you can't function with a six foot fence, two feet off the property line; the campers will have to deal with a four foot fence.

Mr. Schmoyer stated that the six foot fence was put up in 1995. Duffy Johnston stated it is the zoning law that the six foot fence must be two feet off the property line. Mr. Schmoyer stated there have been exceptions with a six foot fence on the property line. Attorney Dowd stated that in Youngstown Estates two neighbors came in together and wanted to put a six foot fence on the lot line and tie into each fence. Duffy Johnston stated you can't maintain a six foot fence on the lot line. It is the law and there are rules. Peter Jeffery stated the "buffer zone" is part of the original part permit. The whole parcel is considered a "buffer zone".

Mr. Schmoyer stated he is going to put up a four foot fence on the lot line.

He asked the question if his campers can put up a removable trellis. Peter Jeffery stated the camper's activity is limited to the park lot and park parcel.

No further action was required on the application. Mr. Schmoyer asked a question about his driveway and raising it up. Peter Jeffery stated the grading should be looked at.

Duffy Johnston stated it is better that we all get along.

Concerns

Mr. Phil Incorvia, 2495 Lake Road, Ransomville approached the Board with a concern and wanted it on record. He stated that he had a conversation with Mr. Rogers. He wanted to get a permit for a shed and asked about the lot line restrictions – three feet for a temporary structure. I was told that 12 feet off the lot line for a permanent structure. He stated that the new build on his side has poured a foundation with bilco doors one to 1-1/2 feet off the property line. If someone should fall, I could lose my house. Mr. Rogers stated a permit was given with out the knowledge of the bilco doors. He also stated it is a substandard lot.

Mr. Incorvia stated it is 1 to 1-1/2 feet from my lot line, and I want it to be put on permanent record. I am going to ask for a six foot fence. Roy Rogers stated that our code states that stairs are not included but because it has a door, the foundation should be included. He stated he still has more research to do. He stated that the new build is a little less than 75'. His setback is 11.5. His house is okay but he as added the bilco doors. Mr. Incorvia stated if it does turn into an issue, you have been informed. Mr. Roger stated it is on the foundation plan but not on the site plan.

Mr. Incorvia stated he will probably come in for a permit for a six foot fence on the lot line. Peter Jeffery stated you wan to make it clear what type of fence you want.

Peter Jeffery made a motion to close the meeting and was seconded by Jackie Robinson. The meeting was adjourned at 8:21 pm. The next regular meeting will be held on Thursday, August 19, 2010.

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals