

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 19, 2012 at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

**PRESENT:** Chairman Duffy Johnston, Member Peter Jeffery, Member William Leggett, Member Irene Myers, Member Jackie Robinson, Attorney Michael Dowd and Susan Driscoll and Roy Rogers.

Chairman Johnston called the meeting to order at 7:30 pm.

Chairman Johnston asked if there were any additions or deletions to the June 28, 2012 minutes. Peter Jeffery made a motion to accept the minutes and was seconded by Irene Myers. Chairman Johnston called for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes; Jackie Robinson-yes.; Chairman Johnston-yes. All in Favor. Motion Carried.

Chairman Johnston gave the Board an update on the DeFazio/Eismuller permit. They bought a lodge in Michigan. They were going to have their lawyer present, but instead Eric Wieland was going to represent them tonight. Eric Wieland contacted Attorney Michael Dowd and stated his daughter had to go in for emergency surgery today. He did not know if he would be able to make the meeting. Duffy Johnston stated that they did have a letter from the Army Corp of Engineers. Duffy Johnston read the letter into the minutes of the meeting.

"I am writing in regards to the dock you constructed in the Niagara River, located at 3735 Lower River Road in the Town of Porter, Niagara County, NY.

Our office issued you a permit on March 11, 2003 to install and maintain this dock. Your application for this permit included the project description "install one floating dock for Spring and Summer

use only”. Based on this description, the language in our permit letter referenced the structure as a “floating seasonal dock”. However, although many floating docks are indeed seasonal, there is no language or reference in the actual 87-000-1 Regional Permit document addressing the seasonality of any structure.

Under the terms and conditions of this permit, there is absolutely no requirement for seasonal removal for a structure, even if described in the application or permit letter as being either floating or seasonal. Our permit does allow you to keep this dock in the waterway permanently, although it must be properly maintained or removed if it becomes dilapidated or abandoned in use. This issue was partially addressed in my letter dated May 25, 2006 (copy enclosed).

If you choose, you may still seasonally remove and replace this dock under your permit, as needed. I inspected your dock on May 28, 2009 and found it to be in compliance with your permit, with the exception there was an additional 10 foot section installed. I informed you this could be resolved by applying for a permit modification, or removing the additional segment. You have since notified me you intend to remove the dock this Fall, and that upon reinstallation in the Spring the additional section will be eliminated, in which case you will be in full compliance with your Department of Army Permit.

Please be aware our permit does not supersede or negate any other state or local requirements.” Letter signed by Joseph E. Kassler, Monitoring and Enforcement.

The Board then approached the table to look at the pictures of the dock. Eric Wieland was hired to weld the dock from it going out into the river. The Board questioned the different dimension changes. Irene Myers pointed out the changes on the drawings. Roger Rogers explained the drawing and length of the dock in the water. Attorney Dowd stated Eric Wieland needs to be here to explain the dock and what is being done.

Irene Myers made a motion to table the DeFazio/Eismuller application because of the circumstances that no one was present and was seconded by Peter Jeffery. Chairman Johnston called for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes; Jackie

Robinson-yes. Chairman Johnston-yes. All in Favor. Motion Carried to table the application for 30 days.

Irene Myers brought up about the September schooling. It was noted that a letter be sent to George Spira and Pamela Parker about scheduling a four hour class for training.

A Motion was made by Irene Myers and seconded by Jackie Robinson to adjourn the meeting. The meeting was adjourned at 7:50 pm. The next regular meeting will be held on **Thursday, August 16, 2012.**

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals