

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, February 17, 2011 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 Jackie Robinson, Member William Tower, and Attorney Michael Dowd.

ABSENT: Member Irene Myers; Susan Driscoll and Roy Roger, Building Inspector.

Chairman Johnston called the meeting to order at 7:30 pm. Before we begin with the December minutes, we have to vote on a new Vice Chairman for 2011 and I would like to entertain a motion. Jackie Robinson made a motion to nominate William Tower and was seconded by Peter Jeffery. Chairman Johnston stated we have a motion and I would like to have a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Jackie Robinson-yes and Chairman Johnston-yes. Motion Carried to elect William Tower as Vice Chairman for the 2011 year.

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

Chairman Johnston read the following:

NOTICE IS HEREBY GIVEN THAT, pursuant to Section 267 of the Town Law and Local Law No. 2 of 2010, 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 **February 17, 2011** at 7:30 PM for the

purpose of considering and hearing all interested persons concerning the following application(s):

Application of Louis Antonacci, 2659 Lake Road,

Under Section 10 and 108.F.2 of the Town of Porter Zoning Ordinance, an area Variance is required to expand East to 3' from property line. A variance of 3'6" is requested. The property is located on the North side of Lake Road in a Waterfront Residential Zoned District between Ransomville Road and where the Town of Porter ends in said Town.

It was noted that Mr. Antonacci was present. Chairman Johnston stated there was a mix up. The public hearing should have been a preliminary, and it should have gone before the Planning Board. Peter Jeffery stated we need Planning Board input before we make a decision.

Mr. Thavisin, 20 Rollingwood Street, Williamsville, NY stated that his property is to the East of Mr. Antonacci. He stated this is new to him, and he came here tonight to address some issues. He wanted to know the rules of the Town and the required feet from the property line. He presented a letter to Chairman Johnston to be put in the file.

Peter Jeffery stated that he pulled in the driveway of Mr. Antonacci's today and he asked Mr. Antonacci if he was adding on. Mr. Antonacci stated he is taking it down to the foundation and building a new structure. Peter Jeffery stated you want to put it on the existing foundation. He stated that there are three buildings and a large deck. Peter Jeffery asked Mr. Antonacci if he was using the existing foundation. Mr. Antonacci stated he did not know. Peter Jeffery stated if he looks at the exiting code, it is a prior non-confirming use. This is a new code. I know the non-confirming use is that you can't increase or change the non-confirming use. If you are replacing the foundation and it is a non-confirming use, you will have to apply all the new regulations. If you don't use the old foundation, you will have to be seven feet off the property line and you have to apply for a variance.

Chairman Johnston asked Mr. Antonacci if he had been in to see Roy Rogers. Mr. Antonacci replied "yes".

Attorney Dowd stated if you take the building down you lose your variance. Peter Jeffery Read Section 113 C (2). When such a part of a nonconforming structure is damaged or destroyed, by any means, to the extent of 50% or less of the fair market value of the structure before being damaged, no repairs or restoration except in the conformity with the applicable zoning district regulations shall be made unless a building permit is obtained and restoration is actually begun within six (6) months after the date of such partial destruction and completed within one (1) year.

Peter Jeffery read Section 113 B. Any nonconforming structure may be enlarged, maintained, repaired or altered provided no additional nonconformity is created or the degree of the existing nonconformity is not increased.

William Tower stated you can't tear it down and leave it sit. Chairman Johnston read Section 114 A. Any lot that existed before adoption of this chapter, but does not meet the lot area or lot width requirements of this Chapter, may still be developed by any use which is permitted within the District.

Peter Jeffery commented that the building is on piers. A new build is not going to be on piers. Attorney Dowd stated it can't be any bigger than it is now. If you want to avoid a variance process, you could build on the existing footprint.

Peter Jeffery if you want to stay as close to the property line on the West, use the footprint of the existing house as the new work. Attorney Dowd stated you can't enlarge the nonconformance.

Mr. Antonacci talked about the deck. Attorney Dowd stated it probably would not be part of the footprint. Peter Jeffery stated the deck is an accessory structure.

Chairman Johnston stated we could table this application. He stated he would really like Mr. Antonacci talk to Roy Rogers.

Mr. Thavisin (neighbor) had some concerns. He stated he has no problem with the deck. I disagree if it will block the view and would be too close to the property line. I would like to protect my view.

Mr. Antonacci stated we can table his application. Peter Jeffery stated to Mr. Antonacci to have everything ready to present to the Planning Board in April. Chairman Johnston asked Mr. Antonacci to meet with Roy Rogers and he will call Mr. Antonacci to let him know when Roy Rogers will be back.

William Tower made a motion to table the application of Mr. Antonacci until the April meeting with the consent of Mr. Antonacci and was seconded by Peter Jeffery. Chairman Johnston asked for a Roll Call Vote. Peter Jeffery-yes; William Tower-yes; William Leggett-yes; Jackie Robinson-yes and Chairman Johnston-yes. All in Favor. Motion carried.

William Tower made a motion to close the meeting and was seconded by William Leggett. The meeting was adjourned at 8:00 pm. The next regular meeting will be held on **Thursday, March 17, 2011.**

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals