

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, March 18, 2010, at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

PRESENT: Chairman William H. Tower, Member Peter Jeffery, Member William Leggett, Member Irene Myers, Susan Driscoll and Roy Rogers, Building Inspector

ABSENT: Member Duffy Johnston, Member Jackie Robinson, and Attorney Michael Dowd.

Chairman Tower asked if there were any additions or deletions to the February minutes. William Leggett made a motion to accept the minutes as written and was seconded by Chairman Tower. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes, Irene Myers-yes and Chairman Tower-yes. **All in Favor.**

Motion Carried.

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 **March 18, 2010** at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Richard Parson, 1549 Lockport Road, Youngstown, NY 14174. Under Sections 401.3CC, 563, 705 and 710, a special permit is required to operate a home occupation at residence. Property is located on the North Side of Lockport Road in an ARR-100 Zoned District between Tower Road and Murphy's Corner Road in said Town.

It was noted that the parcel is located between Lutts Road and Porter Center Road.

It was noted that Mr. Parson was present. He approached the Board. Mr. Parson indicated that he works full time – National Guard. It is a small business with some commercial accounts and what he would like to do is to take care of people with motorcycles and snowmobiles. I would like to be able to go to the customer or to have them come to me. He has containers but not over a gallon. I have everything prepackaged. Peter Jeffery asked, “How much inventory do you anticipate in having?” Most home occupations have no stock in trade. Mr. Parson indicated about \$1,000.00 worth (\$10.00 a quart). I could lower it if you need me to. My supplier is up on Lockport Road in Wheatfield. I normally pick up the material or sometimes UPS delivers.

Chairman Tower asked about specific hours of operation. Peter Jeffery stated we establish hours of operation – give us a target. What we are trying to avoid is people in at midnight. Establish some reasonable hours so we are not affecting the neighborhood. Mr. Parson said nothing later than 8:30 at night. Irene Myers stated, “It is really not a home occupation.” He wants to open up a retail store. Section 563.2 “no stock in trade” is the real issue.

Chairman Tower asked if anyone in the audience wished to speak. None. Chairman Tower asked for a Roll Call Vote. Peter Jeffery made a motion to close the public part of the hearing and was seconded by Irene Myers. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes and Chairman Tower-yes. Motion Carried to close the public part of the hearing.

Chairman Tower read the following Planning Board recommendations: “The Planning Board does not have a problem with this home occupation and recommend that the Zoning Board of Appeals approve this request as submitted. The sign is now 2’ x 3’ and the town law allows a sign 1’ x 2’. Mike Dowd brought up the issue regarding the sale of product at retail where you keep stock in trade. Chairman Spira read further from the zoning law regarding stock in trade. The Zoning Board of Appeals should consider limiting the number of customers, employees, cars, and the hours of

operation should be no later than 8am – 8pm. The business should not occupy any more than 5% of the house. The permit should limit the business to the sale of lubricants only. The permit should be issued for only one year.”

Peter Jeffery stated he assumes this is going to be in the garage. Mr. Parson stated the garage is attached, and I am not planning on keeping that much. Peter Jeffery stated that we need to set some guidelines to make sure it doesn't become a huge retail outlet. Irene Myers stated that he is not against any home occupation, but I don't want to get into it to let this gentlemen get in too much stock in trade. Chairman Tower stated that there is stock in trade for a beauty parlor and Peter Jeffery stated there is stock in trade for antiques. Peter Jeffery stated if we limit the percentage and the number of customers can be let this happen. Let's put some guidelines and establish it on our permit. Peter Jeffery asked Irene Meyers are you on board with this and Irene Myers replied I am on board.

Peter Jeffery made a motion that we approve this application of Mr. Parson and was seconded by William Leggett for a home occupation for one year with the following stipulations:

- . Hours of operation: Monday – Friday: 5:00 pm to 8:00 pm;
Saturday and Sunday: 10:00 am to 8:00 pm.
- . No employees other than family.
- . Not to occupy no more than 5% of house.
- . Signage: 1' x 2'
- . Business is for the sale of lubricants and filters only.
- . Nothing to be stored outside.
- . No more than 3 to 5 cars at one time.

Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Chairman Tower read the following:

Application of William and Karen Hurtgam, 3332 Porter Center Road, Youngstown, NY 14174.

It was noted that Mr. & Mrs. Hurtgam were present. Chairman Tower stated that Mr. & Mrs. Hurtgam sent their daughter in last month with no formal paperwork. Peter Jeffery stated this is a renewal. Chairman Tower stated it has been renewed three times and the last permit was for ten years. I would like to recommend it be renewed for 15 years and there have been no complaints. Irene Myers asked the Hurtgam's if they wanted anything changed on the permit.

Irene Myers made a motion to renew the special permit for Karen & William Hurtgam at 3332 Porter Center Road for a permit of fifteen years and was seconded by William Leggett with the same conditions as the previous permit.

Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Chairman Tower stated that he has one more item for tonight's meeting. Mr. Neal Freiermuth wants to rescind his special permit for a home occupation. He is not going to have the business as he couldn't do it under an LLC group. The insurance was too expensive.

Peter Jeffery made a motion to rescind and was seconded by Irene Myers to rescind the permit as per his request. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Irene Myers made a motion to close the meeting and was seconded by William Leggett. The meeting was adjourned at 7:56 pm. The next regular meeting will be held on **Thursday, April 15, 2010.**

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals