

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, June 28, 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 May 17, 2012 minutes. Peter Jeffery made a motion to accept the minutes and was seconded by William Leggett. 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 stated that he was going to begin with the following as Mr. Webster had been present at two previous meetings.

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 **June 28, 2012** at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Edward Webster, 1009 Meadow Drive, Youngstown, NY 14174. Under Section 70 and 108, an area variance is required for a staggered fence for privacy. The property is located in a LDR Zoning District on the West side of Meadow Drive

on the NW corner of Youngstown Road and Youngstown-Lockport Road, Rte. 93 in said Town.

Chairman Johnston asked if anyone from the audience wished to speak. None. Chairman Johnston asked for a motion to close the public part of the hearing and was seconded by Irene Myers. All in Favor. Motion Carried to close the public part of the hearing.

Mr. Webster was present and presented drawings to the Board. Chairman Johnston stated it was going to be a staggered fence. Set back 30 feet from the center of the road. There was a discussion among the Board Members about the fence being 33 feet from the center line of the road and a gate facing Meadow Drive. Peter Jeffery commented that he doesn't see a staggered fence, as a solid fence and he doesn't have an issue.

Peter Jeffery made a motion to approve this fence as indicated with a 33 foot set back from the center of Youngstown-Wilson Road, board on board staggered fence as indicated in the dimensions as provided and William Leggett seconded. Chairman Johnston asked 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.

The next item was Mo Mo Electronics, 3449 Porter Center Road, Youngstown, NY to renew his Special Permit #265-2005. Mr. Pinkney was present.

Chairman Johnston read the following:

Application of Mo Mo Electronics (Paul Pinkney), 3449 Porter Center Road, Ransomville, NY 14131.

To renew his Special Permit No. SP-265-2005 to allow assembly of electronic components in a former church building. The property is located in a RA Zoning District on the East side of Porter Center Road near the intersection of Youngstown-Lockport Road in said Town.

Chairman Johnston asked if anyone from the audience wished to speak. None. Chairman Johnston made a motion to close the public

part of hearing and was seconded by Irene Myers. All in Favor. Motion Carried to close the public part of the hearing.

Roy Rogers commented that he visited the location with CRA & Associates. He stated that CRA stated it was structurally sound. Roy Rogers gave a list of items to the Board.

Peter Jeffery read the memo dated June 18, 2012 to the Board from Roy Rogers. Chairman Johnston stated that as a Board we understand that time are tough and we will work with Mr. Pinkney a little bit. Mr. Pinkney, you have a business, and employ people and keep plugging away at the list.

Irene Myers questioned the bell tower and about removing it. Mr. Pinkney stated that about 15 years ago I spent a lot of time on the tower and five pillars have been replaced. The building was built in 1854. Peter Jeffery commented that the shutters have been removed. Irene Myers asked if he was planning on rejuvenating the bell tower. Mr. Pinkney stated I am no that ambitious as I was twenty years ago. There is a sealed roof on the interior to keep the water out.

Attorney Dowd commented that Mr. Pinkney should address the issues and they should be completed within a certain period of time. Chairman Johnston stated that maybe we could take a walk through within a two year time period. Peter Jeffery commented that it technically doesn't conform to the property maintenance code. Irene Myers stated that she is willing to work with Mr. Pinkney and things like the top five on Roy Roger's memo. I don't think two years is asking too much. Mr. Pinkney asked if it would be better if he took the steeple off.

Irene Myers made a motion to approve the renewal of Mr. Pinkney's (Mo-Mo Electronics) permit for a period of ten years and nothing has changed in the operation as was in the previous permit. Regarding the June 18 memo from Roy Rogers, the five issues that were addressed by Roy Rogers to Duffy Johnston that they have to be addressed in the two year time period and the bell tower should either be repaired or removed and was seconded by William Leggett. Chairman Johnston asked for a Roll Call Vote. Peter Jeffery-yes;

William Leggett-yes; Irene Myers-yes; Jackie Robinson-yes and Chairman Johnston-yes. Motion carried and approved for ten years.

Chairman Johnston read the following:

Application of James Eismuller, 3735 River Road, Youngstown, NY. To renew his Special Permit No. SP-302-2009 for an L-shaped floating dock in the Niagara River at 3735 Lower River Road. The property is located in a WR Zoning District on the East side of Lower River Road between Youngstown and Collingwood Estates in said Town.

It was noted that both Mr. Eismuller and Mary Beth DeFazio were not present

Chairman Johnston stated the boat was shipped to Michigan to a boating/fishing lodge and Mr. Eismuller is selling the property.

Peter Jeffery commented that the permit doesn't transfer when the property is sold. It is a special use permit.

Gerrienne Serchia, 3739 Lower River Road stated that the property has been taken off the market. Chairman Johnston stated that Mr. Eismuller has 30 days to comply because he missed the public hearing. Ms. Serchia stated that she believes they have added to the dock and the original permit application was not available. They have to apply to the Army Corp of Engineers that the dock is in compliance. Ms. Serchia also brought up about the 80' x 40' pole barn. What happens to the structure if the property is sold. Roy Rogers stated that Mr. Eismuller has one year to get the job done. If it is sold, there is no open permit. We would have to take a look at the lot regarding the new home owners. Attorney Dowd commented that it would be up to the new owners. They would have to come to Mr. Rogers and ask that the permit be changed. They would have to make a formal request to Roy Rogers. Ms. Serchia commented that we have looked at the structure. Attorney Dowd stated I would imagine that the Building Inspector would see that there are no more extensions or take it down. They have until September 15 to get it finished or move forward. Roy Rogers commented that he put in certain requirements on the building permit.

Peter Jeffery asked if the boat dock stayed in the water permanently. Is it in the river now? William Leggett stated if they don't show up, the application will lapse.

Peter Jeffery stated he doesn't believe anyone has requested the Army Corp of Engineers. Ms. Serchia stated her concern is, it is different from what was originally done.

Irene Myers stated that because Mr. Eismuller is not here we cannot ask if he has something from the Army Corp of Engineers.

Chairman Johnston stated that the public hearing will be left open. Mr. Eismuller needs to show up next month and maybe he will have something from the Army Corp of Engineers to say it is still in compliance.

In the file, there is a letter dated September of 2009 that the dock can stay in the water and there is a ten foot extension installed. Roy Rogers commented that he will measure the dock.

Ms. Serchia commented that the dock is not in compliance. They are difficult neighbors. There is an open trench and it is a never ending issue with them.

Irene Myers asked if there was a problem with the dock. Ms. Serchia stated that she feels the dock is not in compliance with the permit,

Peter Jeffery commented to Ms. Serchia that this is a public hearing and it is your right to be informed of this meeting.

Chairman Johnston asked that a letter be sent to Mr. Eismuller/Mary Beth DeFazio that if they don't appear at next month's meeting, July 19, 2012, the permit will expire and the dock will be removed. If there is a sale of the property, this permit does not go with the sale. It is non-transferrable.

Roy Rogers stated that he will take pictures of the dock and Chairman Johnston stated he will take a tape measure.

Peter Jeffery made a motion to table this application for 30 days and was seconded by Jackie Robinson. Chairman Johnston asked 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 for 30 days.

Peter Jeffery stated that Little Jo's pizzeria has been sold to new owners and the permit is not transferrable. There was a discussion between the Board members.

A Motion was made by Irene Myers and seconded by William Leggett to close the meeting and was seconded by Jackie Robinson. The meeting was adjourned at 8:30 pm. The next regular meeting will be held on **Thursday, July 19, 2012.**

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals



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