

**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, September 25, 2008, at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

**PRESENT:** Chairman William H. Tower, Member Joe Fleckenstein, Member Duffy Johnston, Member William Leggett, Member Irene Myers, Building Inspector, Roy Rogers and Attorney Michael Dowd

**ABSENT:** Member Peter Jeffery.

Chairman Tower called the meeting to order at 7:30 pm Chairman Tower asked if there were any additions or deletions to the previous month's minutes. William Leggett made a motion to accept the minutes as written and was seconded by Joe Fleckenstein. Chairman Tower asked for a Roll Call Vote. **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 September 25, 2008, at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of Anthony Lazarek, 181 King Street East, Toronto, Ontario M5N 1J4.** Under Section 704.1, a variance is requested to build a 24' x 40' pole barn before construction of new home at 477 Lake Road, Youngstown, NY. The property is located on the North Side of Lake Road between Ft Niagara Beach and Creek Road in an ARR-100 Zoned District in said Town.

It was noted that Mr. Lazarek was present. Chairman Tower asked if anyone from the audience wished to speak. Gloria Carmody, 475 Lake Road stated that she has been talking back and forth with Mr. Lazarek and wanted to know if there was a time frame from when the garage is built and when the house is going to be built. She asked if the grass is going to be cut while there is construction. I am concerned because Mr. Lazarek lives in Toronto. Her property is on the West side of the Mr. Lazarek. William Leggett asked if the grass

is being mowed now. Yes. I have his permission to keep it cut. We don't know what the codes are in buildings, property lines, resurveyed, etc. The drainage is also low.

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

Chairman Tower asked Mr. Lazarek, "How long from the time you build the accessory building will you start the structure of the house?" Mr. Lazarek replied within a year. How soon do you need the accessory building before you start the house. Mr. Lazarek replied in as little as six months. Chairman Tower asked if we had any final plans on the building or house. Irene Myers stated that she would like to see a site plan, 24 x 40 pole barn plans, plans for the house so that you don't supersede the size of the land. Mr. Lazarek replied that he does have a survey with the house drawn on it. Mr. Lazarek presented the survey to the Board. Joe Fleckenstein stated that as far as our Board we are taking care of the building. Irene Myers asked about the height of the pole barn. Do you want it 35 feet from ground level? Chairman Tower asked if the siding of the barn going to mach the house in some way. Mr. Lazarek replied, No. Joe Fleckenstein stated the way the lot is, it is long and narrow. Did you figure the building square footage of the lot. Roy Rogers replied we are going to do it by the formula. I don't have the dimensions of the house. Mr. Lazarek stated a one floor ranch approximately 1600 square feet with a basement. Mr. Lazarek replied this is a retirement home. Chairman Tower asked Mr. Lazarek if he has the financing in line for the house. Joe Fleckenstein stated we don't want to have you come back to us a year from now and have you take down the pole barn. Irene Myers asked if there was going to be enough room for the driveway. I am trying to visualize where the house is going to be plotted on the lot.

Roy Rogers stated he should be allowed. He will be under 10%. Attorney Dowd stated that Mr. Roger can tell Mr. Lazarek what the permitted square footage, in addition to the barn, contingent on a

gentlemen's agreement that the square footage of the house will be less than what is permitted. As long as it complies and it is limited to 1800 square feet for the house and that it is within the permitted dimensions.

Joe Fleckenstein stated that we need to set a time line. Joe Fleckenstein asked Mr. Lazarek, "Are you building the house yourself?" Mr. Lazarek stated that he has a couple of options – one having the house build in PA and brought to the site, the other is having a local contractor build the house. Joe Fleckenstein asked Mr. Lazarek if he was comfortable with one year time from the day he starts building the pole barn and house. Mr. Lazarek stated unless we discover the lack of workers. Irene Myers stated that she can't foresee that being a problem.

Irene Myers stated that she was adamant about the size of the pole barn, and it being built in a timely manner. Mrs. Carmody stated it is going to be built near my garage. I don't want a factory outside. I don't want it to be a storage area for cars. I work very hard for my house. I am concerned. We want to keep everything neat and tidy.

The Planning Board approves this request to build a 24' x 40' pole barn with the provision that the construction of the home begins within one year.

Joe Fleckenstein made a motion to approve the 24' x 40' Parco pole barn not to exceed 30 feet in height from ground level with ten foot eave barn walls and an 1800 or less sq foot house to be built within one year from the start of the barn and was seconded by Duffy Johnston. Chairman Tower asked for a Roll Call Vote. Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Irene Myers asked Roy Rogers if he was going to discuss drainage with Mr. Lazarek.

Chairman Tower read the following from last month's meeting.

**Application of Lon Flick, 1587 Lake Road, Youngstown, NY**

**14174.** Pursuant to Sections 503.3, 705 and 710, a Variance is requested to erect a six foot in height fence along on the West side of the property for approximately 240 feet to the South of the garage and sixty (60') feet north of the Garage. Section 503.3 states "Maximum height Residential Districts four (4') feet. Thus, a variance of two feet is requested. Property is located in an ARR-100 Zoned District between Tower and Murphy's Corner Roads in said Town.

It was noted that Mr. Flick was not present.

Duffy Johnston read the following letter dated September 24, 2008 from Mr. John J. Brett. "I have no objection to the proposed fence requested by Lon Flick on Lake Road if the proposed fence does not extend further north than the north end of my home."

Chairman Tower stated that the Planning Board recommends that the Zoning Board of Appeals APPROVE the 240 feet of six foot fence to the south of the garage but NOT the sixty feet long section north of the garage.

Chairman Tower stated that the 6' fence for privacy should be denied as it will set a precedent for the Town on what is considered the front yard set to block the neighbor's view of the lake.

Irene Myers made a motion to deny the fence by Mr. Lon Flick at 1587 Lake Road for the 60 feet of fence six foot in height in the front yard at the recommendation of the Planning Board and to table the rest of the permit for 30 days as the applicant is not present and was seconded by Duffy Johnston.

Chairman Tower asked for a Roll Call Vote. Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Irene Myers stated that the applicant should be present.

Joe Fleckenstein brought up several items that he thought should be addressed.

Harrison Lane – Wallace. The five or six foot fence. Also, when the permit was issued for the barn, the lot was to be cleaned up and shed torn down. One side of the barn there is plan junk. It is getting back to the way it was. Boats outside and rubbish.

2391 Park Lane. Is anything being done about that? Roy Rogers stated that he was given a violation notice.

1963 A Lake Road. What about the boat? Roy Rogers to check out.

1711 Harrison Lane. Pheasants. Is there a DEC permit? Chairman Tower stated he has had it there for several years.

Chilberg on Balmer Road. Roy Rogers was aware. He was to clean up the construction material a week to ten days ago.

Dale Myers on Balmer Road. Washing machines.

2236 Balmer Road. I think they are running a junk yard.

Chairman Tower stated that at the next meeting Verizon would like to build a cell tower – 186-187 feet in height. He stated that it will be on Tim Senek property. I will get together with anyone from the Board who wants to see the location – it is ½ mile down the road. Attorney Dowd stated we should adopt Lead Agency before it goes to the Planning Board, County Board and Engineers for review. Joe Fleckenstein made a motion to be the lead agency for the Verizon Cell Tower and was seconded by Duffy Johnston. Chairman Tower called for a Roll Call Vote. Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Joe Fleckenstein also questioned PCB's at CWM. M. Wiepert stated he will make some calls, and Attorney Dowd stated he would contact Bob Maher.

Karen Schmidt stated that all the Board members received a copy of the proposed new Manual. There will be a meeting on Oct 27,

2008 and everyone should attend. Please note anything that if there is anything missing from the Manual or should be included, please address it at the meeting.

Irene Myers made a motion to close the meeting and was seconded by Joe Fleckenstein. The meeting was adjourned at 8:20 pm. The next regular meeting will be held on Thursday, October 23, 2008.

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals