

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, October 17, 2013 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, and Roy Rogers, Building Inspector.

**ABSENT:** Susan Driscoll and Attorney Michael Dowd.

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

Chairman Johnston asked if there were any additions or deletions to the August 15, 2013 minutes. Jackie Robinson made a motion to accept the minutes and was seconded by Irene Myers. 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 **October 17, 2013** at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of Susan Morrisette, 1460 Lockport Road.** Under Article IV, Section 35, a special permit is required to open a single chair beauty salon in her home at above address. The property is located in a Rural Agriculture Zoned District on the South side Lockport Road between Lutts and Porter Center Roads in said Town.

It was noted that Sarah Morrisette was present. It was noted that her name was misspelled.

Sarah Morrisette explained to the Board why she needed the Special Permit. She explained that her husband had surgeries, and she needed to provide for her family. She has a good clientele.

Chairman Johnston asked if anyone from the audience wished to speak.

Mr. Fred Bruening, 1472 Lockport Road stated his concern is the traffic. He stated he is on a truck highway with a speed of 55 mph and little ladies have no way to turn around. There will be a traffic problem.

Irene Myers stated that Sarah Morrisette is only going to have one, and this is no different than if she is having company over. Chairman Johnston stated that all the driveways are short in that area. Sarah Morrisette stated that they have added to the driveway and it hasn't been paved yet. They will be able to drive in and out once this is done. She stated that there will be plenty of room to drive in and back out.

Fred Bruening stated that he is concerned about backing out into the main highway. He also stated that he applied to the Board to put a garage on Lutts Road and was turned down. Whenever I apply for a permit to build a garage it is turned down. Peter Jeffery stated that what you are asking for isn't allowed by code and Sarah Morrisette's is. Peter Jeffery stated that right now we are dealing with this application. If it is in regards to something else, it is not what this meeting is for. Fred Bruening stated that he applied for a fence in his yard. He presented a design to Roy Rogers and I have had it surveyed three times. Peter Jeffery stated that there are options for you to proceed but not for this application. Fred Bruening talked

about his permit for a fence. I would like to build a fence. Somebody has to start listening to me.

Chairman Johnston stated to Mr. Bruening that you need to come to the Town Meeting.

William Leggett made a motion to close the public part of the hearing and was seconded by Jackie Robinson. All in Favor. Motion Carried.

Chairman Johnston read the following Section 35 Home Occupation (page 46) of the Zoning Manual.

Home Occupations shall be subject to the following requirements:

- A. A home occupation shall be conducted entirely within a dwelling or existing accessory structure. Yes.
- B. The home occupation is clearly incidental and secondary to the principal use of the dwelling. Suitable home occupations include, but are not limited to: office for professional (architect, attorney, accountant, etc.); instructors limited to one or two students at a time; barber limited to one chair; hairdresser limited to two chairs; computer technician. Yes.
- C. The establishment of a home occupation shall not change the principal character or use of the dwelling unit involved.
- D. A maximum of one person other than members of the immediate family residing on the premises may be employed.
- E. A maximum of 25% of the floor area of one (1) story shall be devoted to the home occupation. This requirement shall not apply to family day care home.
- F. A home occupation shall not require internal or external alteration or invoke construction features not customarily in a dwelling. *It doesn't.*
- G. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street. *No one will be parking in the street.*

- H. Storage or display of materials, goods, supplies or equipment related to operation of a home occupation shall not be visible from outside the dwelling. *It won't.*
- I. Mechanical, electrical or other equipment, which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure, shall not be used. *It won't.*
- J. A home occupation shall not be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions. *It doesn't pertain.*
- K. A home occupation shall not involve the use of advertising signs. Only one (1) non-illuminated name plate, not to exceed one (1) foot by two (2) feet shall be allowed. It may display the name of the occupant and/or the name of the home occupation.

Chairman Johnston stated that we don't have Planning Board approval in front of me but both Attorney Dowd and Roy Rogers confirmed approval.

Irene Myers asked about the hours of operation: 7:00 am to 8:00 pm Mondays through Saturdays. This gives you flexibility. Sarah Morrisette stated that some people come in before they go to work. William Leggett discussed the sign and Peter Jeffery stated that we want to maintain the character of the neighborhood.

Irene Myers made a motion to approve this special permit for a home occupation for Sarah Morrisette for a single chair beauty parlor. No employees; no street parking; hours of operation: 7:00 am to 8:00 pm (Monday thru Saturday) for a period of three years 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. All in Favor. Motion Carried.

Chairman Johnston read the following:

**Application of Stephen Stepien, 324 Third Street, Youngstown, NY** Under Article VIII, Section 108, an area variance of five (5) feet is requested for a side set back from fifteen (15') to replace a previously demolished garage located at 3829 Creek Road. Property is located in a Low Density Zoned Area between Balmer and Calkins Road in said Town.

It was noted that Stephen Stepien was present. Roy Rogers presented a picture of the building and discussed it with the Board. Irene Myers commented that her main concern is "hardship". Chairman Johnston stated that he is just asking for a variance. There was a discussion among the Board members about the design of a single story garage, cape cod style.

Chairman Johnston stated that there was no one that wished to speak from the audience. Irene Myers made a motion to close the public part of the hearing and was seconded by Peter Jeffery. All in favor. Motion Carried.

Peter Jeffery commented that you need to concur on the majority in order to satisfy the code. Irene Myers stated there really isn't any reason why we shouldn't grant it. There is nothing that is hands down. It is a personal thing.

Mr. Stepien stated that Larry Steward recommended that I get the variance.

The following Area Variance was read from page 140 of the zoning manual.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance. *No.*
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; *No*
3. Whether the requested area variance is substantial. *No*  
*substantial variance.*

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; *No*
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. *Was not self-created.*

William Leggett made a motion to approve this variance of Stephen Stepien for five feet and was seconded by Jackie Robinson. Chairman Johnston called for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes; Jackie Robinson-yes and Chairman Johnston-yes. All in Favor. Motion Carried.

A Motion was made by Irene Myers and seconded by Jackie Robinson to adjourn the meeting. The meeting was adjourned at 8:05 p.m. The next regular meeting will be held on **Thursday, November 21, 2013.**

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals