

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, August 15, 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, Susan Driscoll, Roy Rogers, Building Inspector 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 July 18, 2013 minutes. Jackie Robinson made a motion to accept the minutes and was seconded by Irene Myers. 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 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 **August 15, 2013** at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Daniel Ecker, 366 Howard Drive, Youngstown, NY. Under Article II, Section 8 and Article VIII, Section 108, a variance to build a single family residence located at 3030 Creek

Road. The property is located in a Rural Agriculture Zoned District on the North side of Creek Road between Youngstown-Lockport Road and Cain Road in said Town.

It was noted is should be Darrel Ecker. Darrel Ecker was present. Chairman Johnston asked if anyone in the audience wished to speak. Irene Myers stated that this is Darrel Ecker's initial application. Chairman Johnston stated it was a different size lot and a variance was needed. **Joseph Matthews**, 3089 Creek Road, Youngstown, NY addressed the Board. He stated that he doesn't believe it should have been deemed a buildable lot. It will be right in my back yard. What is the code? Irene Myers stated that because of his yard, he wants a variance of three feet. Mr. Matthews stated that the house will be right by his pool in his backyard. He stated that he has an aluminum fence around the pool, but it is not a privacy fence. Mr. Matthews questioned by he didn't get a copy of the survey. When you see it from my property, it will be three feet closer.

There was a discussion about the variance and it was noted that Mr. Ecker is being proactive. He eventually wants to put up a garage and that is why he is moving the house to allow for the garage. Irene Myers stated that you are going to be neighbors. It will be an attached garage. The garage won't be built for a couple of years. Darrel Ecker stated that his future plans are to put a garage up. I would like to center the house on the lot.

Chairman Johnston stated the Planning Board unanimously approved the application of Darrel Ecker.

Attorney Dowd stated that the Board should consider the criteria for the variance (page 140) of the Zoning Manual. Attorney Dowd read the variance and stated he would reply "no" to all five questions. This criteria should be considered before approving the application.

Chairman Johnston read the following from page 140 of the Zoning Manual on Area Variance.

- (i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby

properties will be created by the granting of the area variance. **No.**

(ii) 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.**

(iii) Whether the requested area variance is substantial. **No.** It is a small percentage on the NW corner

(iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, **No** and

(v) 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, Peter Jeffery commented it is a small impact in his opinion. **No**

Irene Myers made a motion to approve the application for Darrel Ecker for a 3 foot variance on the NW corner of the lot at 3030 Creek Road and was seconded by William Leggett. Chairman Johnston asked for a Roll Call Vote. William Leggett-yes; Peter Jeffery-yes; Irene Myers-yes; Jackie Robinson-yes and Chairman Johnston-yes. All in Favor. Motion Carried.

It was noted that Darrel Ecker's address is 20 Carrolwood Court, Youngstown, NY

Chairman Johnston stated that we tabled the application of Timothy Senek. It is no longer necessary for a Special Permit. Roy Rogers will make sure that there are smoke alarms, septic, etc. Duffy Johnston asked if the \$100 will be refunded. Peter Jeffery stated that the new code states that they need site plan approval. There was a small discussion among the board members.

A Motion was made by William Leggett and seconded by Irene Myers to adjourn the meeting. The meeting was adjourned at 8:00 p.m.

The next regular meeting will be held on **Thursday, October 17, 2013.**

Respectfully submitted,

**Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals**