

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, November 20, 2014 at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

**PRESENT:** Chairman Duffy Johnston, Member Terry Duffy, Member Irene Myers, Member Jackie Robinson, Assessor, Susan Driscoll.

**ABSENT:** Attorney Michael Dowd and Building Inspector, 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 September 18, 2014 minutes. Jackie Robinson made a motion to accept the minutes and was seconded by Irene Myers. Chairman Johnston asked for a Roll Call Vote. Irene Myers--yes; Jackie Robinson--yes; Terry Duffy--yes and Chairman Johnston--yes. All in Favor. Motion Carried.

Chairman read the following Notice of Public Hearing.

**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 **November 20, 2014** at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of Dale Casal, 1139 Cain Road, Youngstown, NY 14174.** Under Article II, Section 109 and Article VIII, Section 108 F-2 an Area Variance is required for the requirement of 10 acres to maintain a retention pond. The property is located in LDR Zoning District the North Side of Cain Road between Creek and Lutts Roads in said Town.

It was noted that both Mr. & Mrs. Casal were present. Irene Myers stated that this was a preliminary review and the \$100 application fee was not received. Chairman Johnston stated that the Planning Board denied the variance. We cannot act on this application, because it is a preliminary and the Planning Board turned it town. It was noted that the attorney and Building Inspector were not present tonight. We do have a full Board of four members, but we can't do anything on this.

Chairman Johnston asked Mr. Casal what he was told. Mr. Casal stated that the Code Enforcement Officer said that he could talk, but Mr. Casal did not attend the Planning Board Meeting as he was not notified. Chairman Johnston stated that this is an incomplete application.

Susan Driscoll stated that people involved are not invited to the Planning Board Meeting. Irene Myers asked how this application got to the next step. Susan Driscoll stated that Roy Rogers took the application and agreed with Mr. Casal that it would be a preliminary. Mr. Casal also stated that he was told he would have an informal discussion, and it would be on the agenda. Chairman Johnston again stated that it was a preliminary discussion, and the Board could not act on it.

Chairman Johnston stated that he was just notified that the Building Inspector would not be here tonight. Mr. Casal stated he was willing to give the \$100. The Building Inspector stated it would be a preliminary, and it would go before the Board. Mr. Casal stated he wanted to know what way the Board was going and Chairman Johnston asked Mr. Casal if he read the Zoning Manual on retention ponds. Mr. Casal stated it was recreational not drainage.

Chairman Johnston stated again that the Board could not do anything on this tonight and that he was sorry. We need to know this ahead of time. I had no idea it was a preliminary. Irene Myers stated that we don't do preliminary. It has to be a completed application. Mr. Casal stated he did not ask for a preliminary. Irene Myers stated that Mr. Rogers is not here tonight. Chairman Johnston explained the procedure to be followed. Mr. Casal stated that people saw it in the paper and approached him. He stated that he works 12 hour shifts.

Chairman Johnston stated he will meet with Roy Rogers.

Mrs. Casal stated that Roy Rogers has been to their property many times on the retention pond. All our friends were telling us about the article in the Gazette. We were under the impression that there would be an "informal" discussion with the Board. I never got a telephone call back from Roy Rogers and two months had passed. We have had the pond since 2006, and I paid for drainage. No one has said anything. Someone has complained. My property has been inspected twice.

Chairman Johnston questioned the drainage behind.

A neighbor also spoke to the Board about the pond and stated that Dr. Andres' property backed up to this. Chairman Johnston stated we had no idea that this pond has been there for so long.

Jackie Robinson made a motion to table this application and was seconded by Terry Duffy.

Mr. Casal asked what happens next. Chairman Johnston stated that he will talk to the Planning Board. Mrs. Casal stated that she doesn't feel confident about the Planning Board.

Chairman Johnston stated it was denied because of acreage. Chairman Johnston stated it is only a recommendation from the Planning Board, but it is the Zoning Board's decision.

Mr. Casal stated he didn't know how it got to Roy Rogers but they were told it was anonymous. Mr. Casal stated that they have lived there for over 18 years.

Chairman Johnston stated it is unfortunate that we don't have an attorney or building inspector here tonight. We never schedule a preliminary. Chairman Johnston stated that he would like to see the land behind. He asked Mr. Casal if the Board could come down to his property to see the pond.

A Motion was made by Irene Myers and seconded by Jackie Robinson to adjourn the meeting. The meeting was adjourned at 8:10 p.m. The next regular meeting will be held on **Thursday, December 18, 2014.**

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals