

**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, January 25, 2007 at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

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

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. Peter Jeffery made a motion to accept the minutes as written and was seconded by Joe Fleckenstein. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Chairman Tower stated that the next item on the agenda was to elect a Vice Chairman. William Leggett made a motion to elect Duffy Johnston and was seconded by Irene Myers. Chairman Tower asked if there was anyone else. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. 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 January 25, 2007 at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Homer L. Krout, 895 Lake Road (995 Woodcliff Drive) Youngstown, NY 14174. Under Section 401.6 and 401.7 a variance is requested from the maximum land coverage by building permitted 10% and yard requirements – front yard minimum depth from street line 60' to put on an attached garage (approximately 21'x21') onto the front residence and a 13'x 30' living room addition. Property is located on the North Side of Lake Road in an ARR-100 Zoned District between Fort Niagara Beach and Creek Road in said Town.

It was noted that Scott Szarejko was present representing Homer Krout. Chairman Tower asked if anyone from the audience wished to speak. None. Duffy Johnston made a motion to close the public part of the hearing and was seconded by Peter Jeffery. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes;

William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes.
All in Favor. Motion Carried.

Scott Szarejko approached the Board to present blue prints of the house. Joe Fleckenstein asked for the figures (percentage) regarding lot size and square footage. Chairman Tower stated that they have Planning Board approval. William Leggett asked if the Board could have the figures on the application. Joe Fleckenstein stated that it is a very narrow lot. Chairman Tower stated that a lot of the property was washed away over the years. It is a substandard lot of record. William Leggett asked if it was going to be close to the road. Scott Szarejko stated the other houses are 20' from the road and this setback will be more. Roy Rogers gave the following figures: 1831 sq ft. What is allowed is 1500 sq ft. You need an area variance and set back approximately 22% over. Joe Fleckenstein stated that he wanted this in the record and how we are going to vote on it. Attorney Dowd stated that 22% is not excessive. He also stated that the building should not be closer to the road than the neighboring buildings. Because the houses are preexisting and closer to the road, they are not going to be out of character in the neighborhood.

Attorney Dowd asked the Board to take a look at:

Section 704.2 Area Variance.

- A. How substantial the variation is in relation to the requirement;
- B. The effect, if the variance is allowed, of the increased population density thus produced on available government facilities;
- C. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created;
- D. Whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance;
- E. Whether in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

Section 704.2 Conditions.

1. Will be in harmony with the general purposes and intent of this Ordinance or such regulation, taking into account the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it and the size of the site in respect to streets giving access thereto.
2. Will not tend to depreciate the value of the adjacent property, taking into account the possibility of screening or other protective measures to protect adjacent properties.
3. Will not create a hazard to health, safety or general welfare.
4. Will not alter the essential character of or be detrimental to the neighborhood.
5. Is the minimum necessary to afford relief?

Chairman Tower stated that I don't think that there are any problems. Joe Fleckenstein stated that because they are substandard lots I think we have to be lenient.

Peter Jeffery made a motion to approve this application for an area variance and set back variance based on the variance is not substantial and it also conforms with Section 704.2A-E and Section 704.3 (1-5) and was seconded by Duffy Johnston. Joe Fleckenstein asked, "Do you know the size of the last variance?" 94% over. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Duffy Johnston raised the question about the pods that are coming out and are being used as a permanent storage. Attorney Dowd stated that anything in the front of the house is a "no go". Duffy Johnston stated it has been there for a long time. Attorney Dowd stated that storage of materials outside should be screened from public view. A pod is not a screen. Roy Rogers stated if it has wheels it is considered a vehicle. If you pull the tractor trailer in the back yard and pull the wheels off, not licensed or uninsured. Attorney Dowd stated it would be a junk vehicle. Joe Fleckenstein stated a pod is still a storage vehicle. Attorney Dowd read Section 501.2 Storage: To provide visual protection from the storage of equipment and materials (as opposed to material for sale on display), such storage in any District shall be within completely enclosed buildings or, if left open to the sky, shall be effectively screened from public view. Duffy Johnston asked if there will be a time limit on it. Peter Jeffery stated it is gone right now. Duffy Johnston stated it was close to the end of the driveway.

Chairman Tower stated that we have an Article 78. The Board broke for Executive Session and 7:50pm and returned at 8:00 pm. Joe Fleckenstein made a motion that we defend the Article 78 and Duffy Johnston seconded. Chairman Tower asked for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Irene Myers made a motion to close the meeting and was seconded Duffy Johnston. The meeting was adjourned at 8: 10 pm. The next regular meeting will be held on Thursday, February 22, 2007.

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals