

**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, December 13, 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, Building Inspector, Roy Rogers and Attorney Michael Dowd.

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. Duffy Johnston made a motion to accept the minutes as written and was seconded by Irene Myers. 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 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 December 13, 2007 at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Timothy Jeffery, 2624 Braley Road, Ransomville, NY 14131. Under Sections 401.3, 563.2, 705 & 710, a Special Permit is required to operate an auto repair shop located at 2624 Braley Road. Property is located in an ARR-100 Zoned District on the South Side of Braley Road between Ransomville Road and where the Town of Porter ends in said Town.

It was noted the Tim Jeffery was present. Chairman Tower asked if anyone from the audience wished to speak. Susan Borget, 2630 Braley Road. We are an agricultural district. I don't want a repair shop in my back yard. What we have is good now, and I think it should stay in a commercial zone. What about Cammacks. Joe Fleckenstein bought out Cammacks. It is not available for Mr. Jeffery. I believe it should stay commercial. You have structures uptown. I live right next door. It would be in my back yard. William Leggett asked if a fence would protect her site. Exactly, where is it going to be and how far back? Tim Jeffery stated that he has 15 acres. Peter Jeffery asked if they had any specific concerns. There would be noise and where would the driveway be. There are old tires and junk. William Leggett stated he is leasing his present place right now.

Tim Jeffery stated I don't have any other place to go. William Leggett stated it is a business we need in town. Duffy Johnston asked to please address the concerns. There are a lot of stipulations the Board can place. There are a lot of different things he has to abide by. Peter Jeffery stated the board as to look over the concerns so that we can make a good decision.

Curtis Altizer of 2613 Braley Road. Tim has been a good neighbor. I don't like the business coming in. It brings with it a lot of traffic that we have no control over. I am right across the road from Tim. There has to be traffic, noise, smell that I don't have control over once he gets in. Whatever happens, once he gets in, he will not be leaving. It is not our fault that he can't find a place to put his shop. There has to be somewhere around. You can't go down the road and not find houses. People moved out here for one reason, and I can't have it.

Peter Jeffery stated we are listening to the concerns of both parties and we haven't made any decision. Chairman Tower stated that this man is 58 year old and he is filing under hardship. He can't get any other job. Mr. Altizer stated I am 71 years old and I can't get a job. I can't go anywhere else. Chairman Tower stated that it would be back several hundred feet. Mr. Altizer stated that there is already too much traffic on Braley Road. There is going to be a lot of traffic. I can't go out and direct it. Once it is there, we don't have any control. Peter Jeffery asked Tim Jeffery to give the Board some more information as to the place, hours of operation, and size of the building you are thinking about. Tim stated that it is going to bring more traffic; four bay garage; five to ten cars a day; certain days even more; 400-500' back from the road. Peter Jeffery asked if he envisions an 8:00 am to 5:00 pm operation. I am trying to outline the scenario. Tim Jeffery stated he has a normal ten hour day. Irene Myers asked if he has looked into alternatives. He stated that he has been talking to people but they are slow in getting back to him. I don't have any other income. Peter Jeffery asked if there are any compromises you folks would be willing to entertain. Tim could work around the hours of operation or are you dead set that you won't want it. Tim stated six days a week. There is no commercial land anywhere. Chairman Tower stated that we are going to table for 30 days until we have Planning Board input. William Leggett made a motion close the public part of the hearing and was seconded by Duffy Johnston. Chairman Tower called for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower. All in Favor to close the public part of the hearing.

Chairman Tower said Tim is trying to purchase property from Debbie Parker to stay in Ransomville. Otherwise, he will have to file for a hardship. Irene Myers made a motion to table for 30 days until the January meeting and for Planning Board input and was seconded by Duffy Johnston. Any further discussion. 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 to Table for 30 days.

William Leggett asked Tim Jeffery if he had a lease now and Tim replied that he has close to four years left on his lease. The people come in and it doesn't seem to matter. Peter Jeffery asked what the anticipated scenario is. Tim Jeffery stated that they are going to start construction in the spring for a super Rite Aid. Joe Fleckenstein stated that there is not enough commercial territory. Merv Weipert stated that the Town Board has the final decision. Peter Jeffery asked why the zoning is stalled. Merv Weipert stated that the Town had a \$77,000 grant. The Town hired an engineering firm, and we don't have enough money in the budget. We are stalled until we hire the engineer back. Irene Myers asked on the near horizon, what are alternative uses. The people have to get involved to get more commercial land. Joe Fleckenstein stated why we are paying an engineer to do crap like that. Peter Jeffery stated that you have to come to the meeting to get your point across. Merv Weipert stated come and talk about it. Chairman Tower stated that at the last meeting Choboy did not want any comments or discussion. Merv Weipert lets stop right here and come to the meeting and give your input.

Chairman Tower asked if there was anything else.

Mr. Drennan stated that he would like to build a barn before building the house at 1491 Lake Road. The house would be built in April. Irene Myers asked if the lot accommodates the size of the house and the barn. Joe Fleckenstein stated that I think you should see a final plan design for the house and barn. We need to know exactly what is going on the property. Peter Jeffery asked if you have preliminary plans. Mr. Drennan stated before Christmas. Joe Fleckenstein stated that we are approving a barn on a lot before the house. We need to see preprinted drawings to see if there is allowable lot coverage. Irene Myers stated we have given too much in the past. Peter Jeffery stated that a site plan could be pushed along. Chairman Tower stated we need a site plan. Joe Fleckenstein stated we need a little more so that we can see the set back Peter Jeffery stated we need square footage. The key is that you are in the required allotment. Next month we need a site plan with allowable area. Mr. Drennan stated that he will get everything.

The Board asked Mr. Rogers about the Sgroi fence. Mr. Rogers stated they did paint the fence. It is an acceptable color. Will the Board reverse the decision to remove it? Attorney Dowd stated that the gentlemen painted the fence. I don't think he will do it again.

The Wallace property. They had 30 days to remove the shed. Joe Fleckenstein stated that they have been a thorn in our side for a full year. We had specific verbage. Irene Myers stated that she asked Mrs. Wallace if she understood what was said. Roy Rogers stated he will write them a letter tomorrow that they have ten days from tomorrow to remove the shed or we will revoke their permit.

Roy Rogers stated that there are a number of violations in the Town and there was a discussion with the Board on the violations and the information was given to Mr. Rogers.

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, January 24, 2008.

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals