

**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, March 22, 2007 at 7:30 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

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

**ABSENT:** Member Peter Jeffery

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. William Leggett made a motion to accept the minutes as written and was seconded by Irene Myers. Chairman Tower called for a Roll Call Vote. 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 March 22, 2007 at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

**APPLICATION OF DAVID ERWAY, 4202 Willow Road, Wilson, NY 14172.**

Under Sections 464.3F, 464.7, 705 and 710, A Special Permit and Variance is required to build a Convenience Store and Gas Station located on Tax Map #62-14-1-27. The property is located in an UCC-60 Zoned District on the South side of Youngstown-Lockport Road between Ransomville Road and Academy Street in said Town.

It was noted that David Erway was present. Mr. Timothy Arlington from Apex Consulting was also present on behalf of David Erway to answer any questions.

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 Irene Myers. Chairman Tower asked for a Roll Call Vote. Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in favor. Motion.

Chairman Tower stated we have some maps from Mr. Rogers. We do not have any Planning Board recommendations.

Attorney Dowd stated that tonight was an initial conference to the development. The Planning Board has to complete site plan approval before we can act. It will be referred back to this Board by the Planning Board. Chairman Tower stated that regarding the underground tanks, it will be contingent upon DEC approval. Chairman Tower stated that there will be no set back required because all other parties are within three feet of the street.

Attorney Dowd stated we need site plan approval from the Planning Board. We cannot take any action on this tonight. The Planning Board will make sure that the tanks are part of the site plan review process.

Mr. George Spira stated that the Planning Board cannot expedite it. The Planning Board is going to take every measure to make sure it is done properly.

Chairman Tower stated we have to give this man an answer within 62 days of tonight. Attorney Dowd stated that under Section 13 of 267A, states what we can do here. It used to be that if we didn't take action within the required period of time, it would be deemed approval. It has gone the other way. If we don't act, it will be a denial. Attorney Dowd also stated that we have asked the Town Engineer to work with Mr. Erway. They are close to a preliminary site plan. They might be able to role it into the final plan. We still have to get County approval. We have to get information from the Planning Board.

Mr. Timothy Arlington presented drawing to the Board about the project and answered any questions.

Irene Myers stated that she has a concern on the East side with the children walking to school.

Joe Fleckenstein had a concern about the trees. He didn't want them to block the driveway. Mr. Arlington stated that the height of the shrubs would be about 20 feet. Joe Fleckenstein stated that you want to be able to see around them. You don't want to create a problem. I am just concerned about it.

Attorney Dowd stated that the Planning Board will have County impact by next month. Let's table for 30 days. The Board might also want to reconsider reopening the public part of the hearing. Maybe people will want to look at the plans. Chairman Tower stated he will see how it goes.

Duffy Johnston made a motion to table for 30 days the application of David Erway and was seconded by Irene Myers. Chairman Tower asked for a Roll Call Vote. Duffy Johnston-yes; William Leggett-yes; Irene Myers-yes; Joe Fleckenstein-yes; Chairman Tower-yes. Motion Tabled for 30 days.

Attorney Dowd stated that at next month's meeting if you don't have anything back from the Planning Board then there is no reason to do anything. You have the approval of the applicant, and if necessary, reopen the public part of the hearing if anyone from the audience want to talk.

M. Weipert questioned the sidewalks. The Engineer stated it could be part of the project. We could possibly take a look at it and make some improvements. We want the project to look all brand new.

Irene Myers made a motion to close the meeting and was seconded Duffy Johnston. The meeting was adjourned at 8:00 pm. The next regular meeting will be held on Thursday, April 26, 2007.

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals