

**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, October 26, 2006 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 Meyers, Attorney Dowd; and Building Inspector, Roy Rogers.

ABSENT: Member Arthur King.

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 Joe Fleckenstein. 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 October 26, 2006 at 7:30 PM for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Mr. Joseph Calato (Tosca Manufacturing), 2555 Youngstown-Lockport Road, Ransomville, NY. To renew his special permit dated September 28, 2001 to manufacture wire brushes for drummers at the property known as the Old Ransomville Fire Hall. Property is located in an UCC-60 Zoned District on the North Side of Youngstown-Lockport Road between Academy Street and Ransomville Road in said Town.

It was noted that Mr. Calato was present. 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 Meyers. All in Favor. Motion Carried to close the public part of the hearing.

Chairman Tower asked Mr. Calato is there were any changes from the previous permit. Mr. Calato asked if he could increase the number of employees to seven. Duffy Johnston asked if he had enough parking for seven employees. Mr. Calato stated that he owns the house next door. Irene Meyers stated that she didn't think there is a problem. There is ample parking, and he can park down the street. He does own the house next door. Chairman Tower stated nobody has complained about it.

Joe Fleckenstein asked why he needs a permit. Attorney Dowd stated he needs a special permit for the type of business. It is a manufacturing operation. Joe Fleckenstein read – manufacturing if you are selling on site. He stated he was just questioning it.

William Leggett addressed parking. Chairman Tower stated that he didn't think Erway's property parking was acceptable. Attorney Dowd stated he has a special permit and a use variance because it is a business that wouldn't create any trouble. Parking – we wanted to make sure if there were more employees that they have a place to go. There has to be adequate parking for up to the number of employees. Irene Meyers stated that parking on Dave Erways was acceptable but Nash Car wasn't there when the original permit was allowed. Attorney Dowd stated to make sure that there is adequate parking for the number of employees. Joe Fleckenstein commented if his building will handle seven employees, we don't know how many cars. He only has street parking. Peter Jeffery stated he has a home next door. Attorney Dowd stated may be the employees don't take a car. I think when Mr. Calato originally came before the Board, he had Mr. Erway say that they could park there. If you take that out, you are reducing the number of parking spaces. Chairman Tower stated that he can park down at the bank. Attorney Dowd stated you have to be able to provide for off street parking for your employees. If there is a complaint, it will have to be addressed. Joe Fleckenstein questioned specifically where he can park. Attorney Dowd stated you are supposed to do a site plan review where the parking is going to be. If the original permission can from Dave Erway, how can you replace it? Attorney Dowd stated he doesn't want his employees parking on the side of a busy intersection. He has to provide adequate parking for his employees. Chairman Tower stated he doesn't see a problem with parking. Peter Jeffery stated we did the same thing for the restaurant on Creek Road by Lewiston-Porter School. We made them build a parking lot. Attorney Dowd stated we just need to stipulate that the owner needs to provide adequate parking for his employees. If you put seven cars in front of the building for eight hours a day, you will get people complaining. As long as the permit addresses adequate parking.

Mr. Calato stated he got permission from Dave Erway when we first started up.

Peter Jeffery made a motion to approve the permit of Joseph Calato for seven years with the same stipulations as the original permit with the exception of: No. 3. Number of employees not to exceed seven and No. 4. Parking: Adequate parking should be provided for all employees and was seconded by Duffy Johnston. Chairman Tower called for a Roll Call Vote. Peter Jeffery-yes; Duffy Johnston-yes; William Leggett-yes; Irene Meyers-yes; Joe Fleckenstein-yes and Chairman Tower-yes. All in Favor. Motion Carried.

Chairman Tower stated that Mr. Robert Slaven of Youngstown is here to address the Board regarding the site off of Lake Road. Mr. Slaven approached the Board and presented drawing and makes a presentation to the Board. He stated it was across the street from Lake Road and is zoned ARR-100. He stated that he was attempting to have it rezoned. He stated that he brought this before the Town Board and then to the Planning Board.

Duffy Johnston read in the minutes a letter dated June 14, 2006 from Merton K. Wierpert (Attachment 1). Joe Fleckenstein stated before he goes on what are the rules for spot zoning for this Town. Attorney Dowd addressed spot zoning.

Mr. Slaven stated that the reason this was denied was because of: Traffic – He stated that Scott Hillman visited the site several times and stated that there are no real problems with drainage. He stated that Scott Hillman felt that he could only see three to four cars in the morning and that doesn't present a traffic problem.

Duffy Johnston read a letter from Mark J. Seider (Attachment 2).

Joe Fleckenstein asked how many homes. Mr. Slaven stated originally there were 26 single family dwellings. Now, I moved it to 20. Peter Jeffery asked Mr. Slaven exactly what was he here for tonight. Can you give us more direction? Mr. Slaven stated he has a real problem with the MPC. Is there anything we can do to scale this down?

Attorney Dowd addressed Mr. Slaven. He stated that in June he tried to get it rezoned to MF-80; he scaled back from the earlier plan from an excess of 30 units to 26. He came back again asking for the rezoning. The Statute of Limitations from someone to challenge the rezoning has expired. It is not appropriate to accept any other application for the same thing. I did suggest it would be helpful for Mr. Slaven to have some professional with him. If it is his intention to scale back, you go before the Zoning Board of Appeals to seek a variance. Whether a zoning variance request is reasonable, I think it was an avenue for you to pursue. There is no application for a variance. I don't want to get lost in the debate.

Duffy Johnston asked how many units. Mr. Slaven stated 10 single units (1/2 acres per each unit). Peter Jeffery stated you are feeling out this Board and taking what is allowed by Code and doubling it. Attorney Dowd stated to Mr. Slaven this is what you have to present to the Board. Chairman Tower stated it is not a formal application yet. He stated 100% over variance is a lot. Joe Fleckenstein asked this property has already been subdivided. This has never been subdivided legally. Attorney Dowd stated that 20,000 square feet you can put 10 units.

Mr. Slaven stated he is here tonight to find out from this Board do they have any suggestions. Chairman Tower stated it has to be rezoned by the Town. This is above what this Board can write a permit for.

Attorney Dowd again stated to Mr. Slaven, I wish you would get a professional. There appears to be the ability to do some duplexes with deviations to what is required by a variance. You haven't brought it to the Board. Mr. Slaven stated that he bought a copy of the Master Plan. Attorney Dowd stated let's get this right. The Comprehensive Plan is a guideline. Currently, the existing lot is in an ARR-100 zoned district and we are stuck with that unless you are rezoned. We don't want spot zoning. The Board is taking a

reasonable position. Peter Jeffery stated to Mr. Slaven that he doesn't have a plan. You need a plan from engineers and architects that satisfy the current zoning laws.

Mr. Choboy stated he is looking for an area variance and he doesn't have a formal procedure. You have to go through the process. Mr. Slaven stated he applied for permission to start this project. They sent me to the Planning Board for their recommendations. Peter Jeffery stated if he looks for a variance, he will have to go to the Planning Board. Chairman Tower stated you are talking about a 100 to 200% variance.

Attorney Dowd stated to Mr. Slaven that could probably get some qualified engineers and attorneys and come in. There is a way that we can approach this Board for a variance. I can't do anything more for you. Duffy Johnston stated the key is the sewer. Peter Jeffery stated what we can tell you is that if you present us with a proposal, we can act on it. You need to get a professional and look at what is allowed. We have to have a proposal from you. Irene Meyers stated that the zoning manual is the guideline. Attorney Dowd stated to Mr. Slaven that he strongly suggests that he talk to Mr. Rogers, Building Inspector. You are going to have to put an application in. He might have some good ideas. Irene Meyers stated that we are not here to interpret this for you. You have to come to us and say that is what I want to do. We can't counsel you on this. Your first resource would be to see Mr. Rogers.

Irene Meyers made a motion to close the meeting and was seconded Duffy Johnston. The meeting was adjourned at 8: 30 pm. The next regular meeting will be held on Thursday, December 14, 2006.

Respectfully submitted,

Nancy Smithson, Secretary
Town of Porter Zoning Board of Appeals

Attachment 1 – June 14, 2006 Letter from M. Wiepert
Attachment 2 – July 12, 2006 Letter from Mark J. Seider