



Town of Porter

Work Session

~ Minutes ~

3265 Creek Road
Youngstown, NY 14174
TownofPorter.Net

Kara Hibbard
716-745-3730

Monday, June 14, 2021

6:30 PM

Town Hall Auditorium

I. Call to Order

6:30 PM Meeting called to order on June 14, 2021 at Town Hall Auditorium, 3265 Creek Rd., Youngstown, NY.

Attendee Name	Organization	Title	Status	Arrived
Jipp Ortiz	Town of Porter	Councilman	Present	
J. Duffy Johnston	Town of Porter	Supervisor	Present	
Jeff Baker	Town of Porter	Deputy Supervisor	Present	
Larry White	Town of Porter	Councilman	Present	
Tim Adamson	Town of Porter	Councilman	Present	
Kara Hibbard	Town of Porter	Town Clerk	Present	
Kimberli Boyer	Town of Porter	Bookkeeper	Present	
Mike Dowd	Town of Porter	Attorney	Present	

II. Reports

1. Report 2021-68

Rural Residential Business Discussion

Rural Residential Business Discussion

Supervisor Johnston started the discussion by saying that he talked with Jackie Robinson, chairman of the Zoning Board, because he was worried that this possible new law would take the authority away from the Porter Planning and Zoning Boards. She said that as long as there is a special variance put in place, she is ok with it and it won't take away their power.

Dowd explained that it started by Joe Niccola coming in and said he wanted to keep his wood stored on his property and build a pretty big building and operate it as tree removal and Peter said that under the current code, we cannot let you do that. It was suggested to Mr. Niccola that he make a request to change the local law to permit that kind of activity in a residential zone and Peter said if we were going to do this, we should just expand this to include the other kinds of things that were done in customary home occupations. But repair shops are not customary. So that is where it started from. Are we going to allow tree removal services to operate?

Supervisor Johnston does not want to take anything away from the boards and why would we put this law into effect if we already have our boards in place to do all of that.

Councilman Ortiz asked Attorney Dowd about legal concerns and Dowd said that you are really going to open up a can of worms if you start allowing auto shops. If so, you better make sure they have a lot of acres and can be screened. He feels were getting away from the master plan. Sort of the fundamentals of why we did this. He does perceive problems. We're sort of expanding what our master plan intended in these areas regarding commercial activity. Are we expanding it to too much.

Deputy Supervisor Baker asked what was wrong with the law the way it is and Tony Collard (Chairman of

the Planning Board) said that home occupation covers a lot of stuff and he felt the wording was wrong. Repair shops are not home occupation. He thought that every home occupation had to get a permit and their permit could be revoked if deviated from.

Code Enforcer Jefferys said that looking into this type of law from his perspective that he brought to the Zoning and Planning Board was based on the position of code enforcement. For example, if he had a complaint about one of these existing businesses, there is nothing in our current law that says they're allowed or disallowed. If it's not in the permitted use table and not defined in our code then his interpretation is that it is allowed and he would have to take action on it. His position from being self employed feels that the businesses on the list are important to our community and he wanted to provide for it in the law so that he had something to stand on and protect and find a scope so it didn't get out of control like if they got too big then they would have to go to a more appropriately zoned location. His intent was to provide a law for the businesses that were on the list and the potential new law would not retro actively affect them.

Deputy Supervisor Baker felt that some of the current businesses have more activity than others and when they got their variances to do this, they were very specific on what they could and couldn't do. It just makes more sense to have our boards put the restrictions of the special use permits. I would question is Derick Smith a registered auto shop with the county? If not then he shouldn't even have one in his opinion.

Supervisor Johnston said that if we pass this law, are we opening a can of worms?

Councilman Ortiz said that what were concerned with is will somebody be able to take this law and say "you can't really stop me because it says so right here". Attorney Dowd said that as long as you comply with the regulations, then no.

Code Enforcer Jefferys feels that by making businesses have special use permits the boards can stipulate the heck out of their operation depending on the conditions that exist on an application. Once you say that they're allowed, I'm going to think that Mike Dowd will tell us that we can't flat out deny them but we can stipulate as far as what, when, where and how long and how noisy.

Supervisor Johnston said that if we pass this law and it's a little bit more strict, can they still go to the boards?

Attorney Dowd stated that this really needs to be discussed and looked at because what is being said essentially is that we are going to allow these activities to occur in our rural residential because if you piss off somebody enough, they're going to sue the Town. You need to be more careful with less traditional agricultural accessories. He's not saying don't do it. At the end of the day it is up to the Town Board.

Code Enforcers Jefferys stated that most of the existing businesses do not have any type of permit. He does not want this to become something like when we get our first application with an auditorium full of residents/neighbors saying hey, wait a second, we want you to put a moratorium on it.

Supervisor Johnston said that we are in no hurry to pass this law so let's wait and see what the Niagara County Planning Board says. There needs to be more discussion on this subject. We know a lot more than we did but we still need to talk about it.

Motion to close the Public Hearing at 7:00 PM was made Deputy Supervisor Baker and seconded by Councilman Adamson.

Motion carried.

RESULT:	REPORT ISSUED
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