



TOWN OF PORTER

3265 Creek Road ♦ Youngstown, New York 14174 ♦ (716) 745-3730, ext. 7 ♦ fax (716) 745-9022 ♦

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 March 24, 2022 at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	<u>Date</u>	<u>Present</u>	<u>Absent</u>
Jackie Robinson, Chairman	03/24/2022	yes	
Terry Duffy	03/24/2022	yes	
Paul Brown	03/24/2022	yes	
Scott Szarejko	03/24/2022		yes
Steve Zappy	03/24/2022	yes	
Atty Michael Dowd	03/24/2022		Yes
Peter Jeffery, Code Enforcer Officer	03/24/2022	yes	

Chairman, Jackie Robinson called the meeting to order with the pledge of allegiance at 7:00 pm.

Chairman, Jackie Robinson asked for approval of the February 24, 2022 minutes. Terry Duffy made a motion to approve the minutes and was seconded by Steve Zappy, Roll Call Vote-Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes. All in Favor. Motion Carried.

Chairman Robinson thanked everyone for coming. She stated that we were going to conduct the meeting as efficiently as possible and setting some ground rules. We are going to hear everyone that wants to be heard and where you are from, so that the Secretary can get it recorded. Politely, I want to say no yelling, no screaming, no kicking, no punching. Keep your remarks as brief as possible, getting said what you need to say. If you have something to say that somebody has already said, it is perfectly okay to say that I totally agree with him and then if you want to add something. That's great. The Town attorney is not here tonight but is available by phone.



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Chairman Robinson read the following:

NOTICE IS HEREBY GIVEN THAT, pursuant to Section 267 of the Town Law and Local Law No. 2 of 2010, 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 Thursday, **March 24, 2022 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Jason Berger and Tom Neilson, 1698 Braley Road, Ransomville, NY. Under Article II, Section 200-8; Article IV, Section 200-48 and Article VIII, Section 200-107, to renew two special use permits for Skydive the Falls and Shear Airport, located at 1698 Braley Road, Ransomville, NY Tax Map No. 47-00-1-30. Property is located in an RA Zoning District on the South Side of Braley Road between Youngstown-Lockport Road and Porter Center Road in said Town.

Jason Berger and Tom Neilson were both present.

Chairman Robinson stated this came before the Board three years ago. It was a new experience for skydiving involved, so we gave them a three year permit. They are looking to renew their permit; they went before the Planning Board and they approved it.

Chairman Robinson asked Jason Berger if he had anything to say. Jason stated at this point, we are looking to do pretty much everything the same as the original permit. We went before the Planning Board and they approved. As you know, we started three years ago and I think we made almost a world name for ourselves.

Mr. Joel Knack. 3372 Porter Center Road, Youngstown, NY. Skydivers landed in my field and killing the corn; noise is not what I moved out here for. Planes sometimes fly 500 feet above my house and that is illegal; they got a new plane now and hopefully that helps; they stated tandem jumps – I don't see any tandem jumping out there; landing in my field, and they stated it was going to change; safety concern – planes landing with two parachuters still coming down—that is going to be a problem. What is going to be done about killing corn every time they



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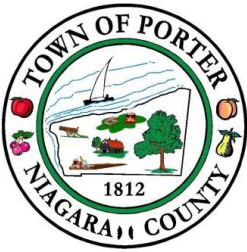
land in my field; posted property; driving on my property; and I called the police or will they change. The biggest concern is the noise, and the hours of operation you have to have an end time.

Ashley Daul, 3269 Porter Center Road, Youngstown, NY. I have a letter from my neighbor who is out of town and I agree with Mr. Knack. Ashley Daul passed out the letter to the Board members; and she outlined four pressing concerns – hours of operation; noise disruptions; events; guideline of the permit. They are flying right above my house and late noise. We have asked for an end time. It is not fair to listen to a plane until 9:00 pm. Please set guidelines – a time (before sunset or whatever is sooner). I can't function on less sleep. Community respect for those who live here.

Steve Dominski, 1563 Lockport Road. #1 - One of their plans landed in the corn field? They have never had an issue. Their FAA record is spotless; they have passed with flying colors. It is an airstrip. I live right behind the airport. Weed blowers make more noise. They are jumping in tandem. They are a business trying to support themselves. Give the guys a break. They are not flying in the middle of the night. They land in the dark. That is all I have to say. Thank you.

Jeff Budde, 1783 Braley Road. I hear noise and swearing. If the skydivers land in my trees, who pays? Do you have insurance? Jason Berger replied \$1,000,000. Is their fire equipment to fight a fuel spill. What about leakage? You cannot land on private property, it is trespassing. I have several pictures (13 pictures) presented to the Board and in the file. He stated that something hit the plane, and I saw it immediately land. I found a face shield on my property. I don't want things falling out of the sky. He showed pictures of the skydivers eating chicken wings on the way down. He showed pictures of landing down; taking off. They are not 1,000 feet off the ground. Skydivers land on Porter Center and Braley. I have skydivers walking through Mr. Knack's field. Skydivers wound up in the corn field. Skydivers on Danny Whites property. Skydivers on Towers property. Skydivers walking on Mr. Knack's field and climbing over the fence. I have seen them down Braley from the West carrying their parachutes.

Dan Gross. I don't reside in the Town of Porter. Skydiving – it is not our intention to land where we are not supposed to land. That is probably one of the serious things that could happen to us. There is never an intention to land outside of



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where we are supposed to land. We want to know the terrain where we are landing; unfortunately, the wind changes. With the shield that he is claiming that is from a skydiver, if it is, accidents happen. I start nowhere near dark because we can't see anything on the ground. So, I just want to say that for those things, I get they may be upsetting to people; but let me tell you that it is probably one of the scariest things for us is to land off. We are trying to make it back. If it happens, we are just happy that we are on the ground. We don't want to be there when it is dark.

Jeff Skellen, Porter Center Road, I agree with Mr. Knack. I live in Ransomville for peace and quiet. I pay my taxes. There is vulgar language, and I wish you could turn it down.

Tim Sylvester and Catherine Sylvester, 1678 Braley Road; which is right next door. We have no problem having their business here. There has to be some give and take. We think a quieter plane helped a lot and it is quieter; hours to accommodate people here. We hope for consideration. We see tandem jumpers. Quieter planes help a lot.

Jaimie Mahola. She stated that she is a cancer survivor and is a firm supporter of this business in our area. My brother who has a terminal illness went up in Jason's plane for a ride of a lifetime. Many of my cancer friends have come out and gone for a skydiving ride that they couldn't go anywhere else to do. I grew up on Lake Ontario all my life. How many of those big cigar boats have been up and down the lake? We've had private planes of other people, flying by. We've had military planes. Life is very, very short and you can compromise, you can work with people. I think they've brought a wonderful thing to the community. If you've ever taken the time, put your lawn chair out, watch them. I'd love to hear the stories of people who have done it. My brother was one of those people, and it was a thrill. I think if everybody would be willing to work together, they brought something wonderful to our community. They brought things to our community, talked about Main Street and Youngstown. They talked about the little restaurants and brought people to Ransomville. So, I think with a little compromise, life is short, so enjoy it!

Andrew Zastrow, 3221 Warren, Wilson, NY. I graduated back in 2000, started skydiving in 1998 I started skydiving when I was in tenth grade. He stated that the



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visor that was shown by Mr. Budd it was mine. It actually fell off my helmet. I will email you the video. I packed 2010 parachutes last year. I make my income and my living for the whole year there in six months. There are a lot of people around here. It is good fun.

Kevin Toohey, 1576 Braley Road. It is simply the noise. It is constant. You have a nice day; and I want to lay in my hammock. You have to do something about the noise.

Lee Wills. You are used to living in a great community where it is beautiful. It is every day we brought something up. I cannot plan a family outing in my yard. Every day -- It is not fair. Give us a day that we can enjoy the outdoors. We shouldn't have to listen to airplanes from 9:00 am until sunset and then they land after sunset after 9:00 pm. Give and take. I just want to enjoy the outside.

Catherine Sylvester, 1678 Braley Road. There are planes that fly over our house constantly and they are not always the Skydivers. If we are going to complain make sure it is them. Make sure we are talking about them specifically. How is it any different from Ransomville Speedway? Just because you are not interested in it, what is the difference?

Chairman Robinson read the Noise Limitations Section 200-75(E). In addition the specific exceptions provided above, these shall not apply to the following:

- (1) The emission of sound for the purpose of alerting persons to the existence of an emergency.
- (2) Noise from the use of machinery or equipment for public or private emergency needs or purposes.
- (3) Noise from the use of any authorized machinery or equipment for the purpose of the maintenance and repair of public roads and highways, including snowplows.
- (4) Noise generated by the installation and maintenance of utilities.
- (5) Agricultural activities on land zoned for such activities.
- (6) Noise from Town-sponsored celebrations or events.
- (7) Noise from non-sponsored events which have been authorized by the Town.
- (8) The operations or use of any organ, bells, chimes or sound amplifiers associated with church, synagogue or any other place of public worship.
- (9) Refuse collection vehicles.



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- (10) The discharge of firearms for the purpose of hunting during the hours and locations permitted by state and local law.
- (11) Activities of the Town, school, law enforcement, or volunteer fire company in performance of its duties, drills or public demonstrations.
- (12) Noise from any legitimate commercial or industrial use or activity located in its proper zone as long as the noise emanating therefrom does not begin prior to the hour of 7:00 am and does not regularly run beyond the hour of 12:00 a.m. or is not otherwise scheduled to run beyond 12:00 a.m.

Fred Bruening. I own 60 acres on 93, and I am going to welcome them dropping on my place. There is a plane that flies over on Sunday morning. I know what he is doing. He is practicing. You are doing something, and you enjoy it. You are only going to live once.

Joel Knack stated he had questions for the lawyer. He gave Chairman Robinson the questions because she stated that Attorney Dowd was not present tonight. Who is going to pay for my crops? Ransomville Speedway operates three days a week.

J. Thurman, 1842 Youngstown Lockport Road. I think it is thrilling. I don't see all the noise. It is not constant in my house.

Tom Neilson stated he has been taking a lot of notes. If there is a way I can acknowledge the owners of damage done. Where the craft landing by the parachuters? If someone drove on his property, I am not aware of it. Jason Berger stated no one has ever driven on his property. Three times landed on his property. He (Joel Knack) was very angry, and he brought a weapon. I always call him – four times within three years. Tom Neilson stated we are using the same aircraft this year as last year. We didn't land in the street. Regarding the fuel storage we purchased it from Pryor. It is legal for our business. The Fire Company – we have gotten with them and they have checked our facilities and they are aware of what is there. Landing in the dark -- that is something that our pilots don't want to do. We have no landing lights. That is all I have.

Lee Wills stated Ransomville Speedway runs two nights a week scheduled. If they want to run two days a week, I would like that they are aware that most of the



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noise comes from circling around. There are times we would like to have peace and quiet. I have an app on my phone and we know their tail numbers.

Steve Dominski, 1563 Youngstown Lockport Road. The lawn mowers make more noise than the people do. People who complain about the noise, they don't go for the local businessman.

Ashley Daul. If there is an event for four days in a week, it is a bit much. Starts on Wednesday instead of Thursday, Friday, Saturday. You guys advertised Thursday through Sunday. Everybody shows up on Wednesdays. The aircrafts are coming in late. I want the event, but please not during the week. Not on Thursdays, maybe Friday, Saturday and early Sunday.

Jason Berger, I encourage everyone to call the Office in Rochester for the FAA regarding the Freedom of Information Act. There are two people in this room that are not allowed to make any more phone calls for business planes against us. It is called the Freedom of Information Act. You can get their names from the FAA and those people did speak tonight. No. 2 - Ransomville Speedway operates with 10,000 people in the stands. Whatever their hours are that's their thing. That is more business than we do in a year. Our season is extremely short; constant noise is false. Things that keep you from jumping – everything; wind limits; cloud cover, weather.

Paul Brown asked do you have to apply for flight plans. Jason Berger stated as to approving flight plans, they are already have to be done this year. It has to be filed every year.

Chairman Robinson stated that she had a telephone call from Jeff Baker, Town of Porter Councilman, who could not be here night, that he wanted it on record that he approves the airport.

She also received emails from the following:

..Wilkins Bodhi dated March 24, 2022 – *“My name is Bodhi and I consider STF to be one of my home drop zones. While I’ve only been in the sport for about 5 months, I can say for sure that STF offers one of the best drop zone experiences out there. The community and regulars there are all incredibly*



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friendly and have many stories and pieces of advice to share. Not to mention the view from up top, which is truly one of a kind. Becoming a skydiver was probably one of the best decisions I've ever made, and I hope more people get the chance to try it for themselves.”;

..Rick Henkel dated March 24, 2022 *“My name is Rick Henkel and I am emailing you to voice my support for Skydive the Falls. I am one of the licensed skydivers that considers this drop zone my second home. I have met some amazing people whom I consider family. Not only that, but many people I know make their livelihood and pay a lot of taxes from this drop zone. I for one look forward to spending my hard earned dollars to skydive all summer long.*

The FAA encourages and actively supports aeronautical activities at airports, including skydiving. At Skydive the Falls, we put safety first, having fun is second. We are in constant contact with the USPA and FAA to stay up to date on best safety practices, licensing and requirements. Every flight we communicate with the nearby air traffic, control towers to make sure we share the airspace safely.

The aircraft we jump from do not make that much noise, certainly less noise than farming equipment, hunting rifles, lawn mowers and the cars from the race track. We all love the hobbies we love, be it hunting, race car driving, boating, four wheeling, motorcycles or skydiving. I hope you take into consideration and give approval for us to continue doing what we love. Flying in airplanes, jumping out of them and landing safely to do it again. Thank you for your time and for reading this”;

..Nancy Alt emailed March 24, 2022, *“I recently found out that you are trying to shut down the skydiving school. I am not in favor of this. They are a good asset to the community. They teach and volunteer their services for community events. I hope you take their contributions into consideration before you try to remove them”;*

..Larry Weibert (Weiberts Auto Place) email dated March 24, 2022, *“I just wanted to write in support of their existence as it supports several of the local businesses in the Town of Porter. When those visiting need repairs or emergency services we are here to help and it works both ways. I am happy for their success. Once in a while we see the motorized parachutes fly over the lake and our business and it is nice to watch”;*



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..Robert Healey, emailed dated March 24, 2022, *“Any safely operated aeronautical Activity on any airport, including skydiving, is supported by the FAA. They have a flawless track record, as evidenced by safety policies set forth by the United States Parachuting Association. In addition to safety oversight, the USPA provides training, curriculum ratings requirements, licensing, etc. to ensure safety of all patrons. The FAA and the Buffalo Tower know that they are communicating with the Tower and other aviation traffic on every flight, additionally.*

I know a common argument is noise. Airplanes make equal or less of it than lawn mowing, tractors, other farm equipment and even less than hunting and racecar driving (Ransomville Speedway).

I sincerely hope you will take this into consideration in your meeting tonight, skydiving is a source of joy for many folks in the area. You should come see for yourself if you haven't already”;

..Wally Nowacki (Lakeview Motel) email dated March 23, 2022, *“As owners of the Lakeview Motel located at 2000 Lake Road, Youngstown, NY 14174 we wanted to convey our support Jason Berger and his business known as “Skydive the Falls”. Due to his hard work and determination Jason’s business now attracts skydivers from across the USA thereby promoting Youngstown as a desirable, attractive destination. Skydivers usually stay 2-3 nights and spend time frequenting our restaurants, grocery stores, convenient stores and numerous tourist attractions thus helping our businesses to thrive and providing and maintaining jobs in our community. Jason’s business Skydive the Falls complements the other businesses in Youngstown, puts Youngstown on the map so to speak, and attracts repeat customers to our area. We support Jason and his business endeavors and we hope that you allow him to continue to operate”;*

..Rob Kudel (Bandana’s Bar and Grill) emailed dated March 23, 2022 *“We were asked to write on behalf of the operators of the air strip on Braley. We support them continuing operation in our town. Small business is essential and is the backbone of our local economy”;*



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..Eric Heuser email dated March 23, 2022 *"I live at 1728 Braley Road, directly next door to Skydive the Falls. I received the letter in reference to the renewal of their special use and business permits. They are good neighbors and I have no objection to the renewal of their permits";*

..John Benoit, email dated March 24, 2022, *"It has come to my attention that your board has under consideration renewal of variances which would allow continued operation of the airport and skydiving enter on Braley Road. As former Board chairman of the Niagara USA chamber of Commerce I am well aware of the positive impact of tourist attractions on the local economy. As a long time and active skydiver I am also very familiar with such operations. I can assure you the operators of this particular business are very safety conscious and responsible. I would like to encourage you to support the economic development which I am sure will make a positive impact on your town and all of Niagara County.";*

..Jimmy Tavino email dated March 24, 2022, *"thanks for taking the time to read the emails which have been arriving at your office. I have been long established in the Western NY Sport Parachuting Community. The fellows who are operating S.D. the Falls on Braley Road are Family Men, and real friends to many of the areas Group of "Fun Jumpers". The Tandem program they use has sparked great Interest in the Niagara County Area and the towns nearby as they include a Sightseeing Flight right over the Falls for every student. What a bonus. I have found that places for breakfast and other meals are nearby and patronize them. Happily. I have also found very good lodging at Lake View Motel. The owners are friendly and helpful. I try to stop and buy gasoline or supplies in Wilson often. I have known Tom since the late '90s and Jason since about 2005. They are well regarded and safe skydivers. They adhere to all protocols and procedures as set by the United States Parachute Associates. They are smart and flexible and have multiple USPA Instructional ratings. I look forward to visiting their drop zone soon. We all appreciate your patience with our enthusiasm, and your attention to renewing their permit";*

..Patrick Finnegan email dated March 24, 2022 *"It has come to my attention that some members of the community are in opposition to Skydive the Falls (SRF) receiving a renewal on their permit to continue skydiving operations out of Shear Airport. I would like to voice my support and offer an expert opinion on the legitimacy and safety of the STF operation. I am a professional pilot, having*



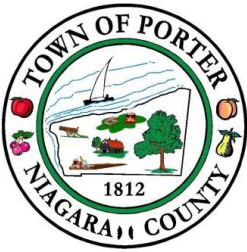
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flown for over 20 years. I am an FAA certified Airline Transport Pilot, Gold Seal Certified Flight Instructor, Instrument and Multi-Engine Instructor and Ground Instructor. I hold type ratings in 8 jet aircraft and have flown a large variety of small general aviation aircraft throughout my career. I am currently a Boeing 737 Pilot for United Airlines, as well as a USPA (United States Parachute Association) licensed skydiver. If not for being on a work trip I would have been here in person. Jason and Tom are highly experienced and respected members of the skydiving community. I met them last summer when I decided to go for a tandem skydive. Skydiving is something that I had always thought about trying, but was too afraid to, and didn't have much of an understanding of the risks and safety precautions involved in the sport. Due to the professional and safety-oriented operation that I witnessed at STF (and absolutely loving my jump), I decided immediately that skydiving was something I wanted to get involved in. I worked with Jason, Tom and STF Instructors and Coaches through the summer and earned my skydiving license. This allows you to make jumps with other licensed skydivers. There is quite a large community of us "fun jumpers" out at STF that get immense joy and stress relief from skydiving.

STF uses properly certified Commercial and Airline Transport-rated pilots for their jump aircraft. Every one of them has been professional and safety-oriented. Their aircraft are reliable and well-maintained. STF is also an official USPA drop zone and not every operation carries this designation. To receive this, STF must voluntarily follow many additional rules and regulations.

STF is also a business that is highly recognizable and has done jumps that bring positivity and recognition to the community. I was out jumping in Arizona at one of the world's largest skydiving operations in February. I was wearing my Skydive the Falls jersey while jumping, and I received several questions and comments about jumping at STF due to the allure of Niagara Falls and people wanting to come and jump there. I didn't realize how well known our small drop zone was out in the larger community. Jason and Tom have also organized the first skydive over Niagara Falls, which brought a lot of positive attention, as well as jumping while dressed as Elves this past December much to the delight of local families. While not intimately familiar with the nature of the issues that some residents have, my goal is to highlight the fact that STF is an extremely safe and community-friendly operation. STF has provided positive experiences for thousands of people, along with providing a great place for us fun jumpers to



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participate in the sport. We are extremely fortunate to have a local drop zone, as many fun jumpers have to drive several hours to get to the nearest one. Also, keep in mind that I am a very safety-conscious professional who feared the idea of skydiving. The STF crew provided me with a rigorous education in the sport which completely changed my perception of it. I can imagine that a lot of the concern stems from a lack of understanding of what actually goes on at STF, with skydiving in general. Furthermore, STF's primary jump aircraft, the Cessna 208 Caravan, is one of the quietest aircraft that can be used in such an operation if noise is a concern. Because of all of this, and other reasons I left out for brevity, I urge the board members to vote in favor of STF. Patrick Finnegan, FAA Certified ATP, CFI, CFII, MEI, United Airlines 737 First Officer,, USPA Licensed Skydiver."

Mr. Tower, 1495 Lake Road. I am in line when they take off. It is a little noisy. They are going to be landing, and I cannot hear them when they are coming down. I cannot hear it. How often do you let them come in from the South? Jason Berger stated they always take off in the wind. Winds are out of the NW here. Mr. Tower stated I will be out on a Sunday afternoon and I cannot hear it. I am in the flight path. I heard that you were going to give a permit for five years should be less because of the complaints.

Jason Berger stated he has asked for Peter Jeffery to show the property – North boundary area. We do get a lot of traffic. If I had an emergency, there are steps where you can land. Personal pilots, crop dusters and one plane compared to others.

Jeff Schulze, Chairman of the Town Planning Board stated he has four main points: 1. Business—fresh new faces. There are very few businesses that bring in fresh new faces to Porter, as we are tucked in a corner of the state that doesn't see many traveling to/through this area. We need to support businesses like Skydive the Falls in the area for this reason. 2. The Shear Airport is the only FAA recognized airport in Porter. It's in our best interest to keep at least one working, active runway open in Porter. The Skydive the Falls business supports the maintenance and funding of this runway. 3. Festival-The bi-plane has a radial engine and it does generate more noise, and that is a legit complaint. However, it's a historical airplane. Many historical airplanes no longer fly at small airports due to noise complaints. It's important to keep planes like this flying so children can understand the historical significance of planes such as these. They are a part



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of both WWII and agricultural history. Many farmers (including my grandfather) hired crop-dusters who used planes just like the one at the festival for agricultural purposes. Porter is an agricultural community. 4. In the Planning Board meeting in February, there was a lot of thought and discussion that went into our recommendation to the ZBA on this matter. I would ask that you heavily consider adapting the planning board's recommendation, with the existing stipulations that are already called out in that recommendation. It should also be noted that Skydive the Falls was not granted everything they were looking for in our recommendation to the ZBA.

Chairman Robinson asked for a motion to close the public part of the hearing. Terry Duffy made a motion to close the public part of the hearing and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Paul Brown asked the question on flight plans – daily or once a week. Jason Berger stated it needs to be filed yearly. Terry Duffy questioned the liability concerns – 1 million dollars I think is a paltry amount. It seems to be minimal. The fuel trucks; would you consider a different type of liability.

Jason Berger stated it doesn't exist. Tom Neilson stated they just don't make it. We asked for higher amounts. Jason Berger stated it does not exist (higher insurance coverage) because it has never been needed.

Paul Brown stated we have a lot to talk about and go through emails.

Andrew Zastrow asked if there is anything you can do to appease concerns of neighbors? Jason Berger stated if we do so, not everyone will be happy. We have neighbors who park in front of our driveway and take pictures.

Chairman Robinson asked if you can give me an estimate of flights a year – It is 750 or 800; a best day maximum flight = 24 times a day and that is the most we have ever done, and that was during the festival from 9:05 am and projected shut down at sunset. How many days per season to you lose to weather – at least half.

Regarding the fuel question. Peter Jeffery stated he evaluated fuel tank against the fire code. They were in compliance when I inspected them last year.



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Chairman Robinson stated the Festival seems to be a big issue – only three days. Jason Berger stated the first year it was three day. We got grounded due to weather. The first four day festival – operated 3 out of 4; The second four day festival – operated two. The helicopter is 50 flights.

Paul Brown questioned does the helicopter only fly during the festival. Yes, Jason Berger stated we try to have the Festival during the Town of Porter festival.

Chairman Robinson asked if there was anything else.

Jeff Schulze commented that the FAA rule for operating an aircraft is 500 feet above ground level in rural areas. Nobody owns airspace.

Chairman Robinson stated sunset is a huge point of discussion. On June 21 sunset is pretty late and by the end of October sunset is pretty early. I don't know how to fix the sunset problem. I don't know how we can make everyone happy.

Jason Berger explained the difficulty with sunset. Chairman Robinson asked how many days can you run a sunset flight. Jason Berger replied 3 or 4 days. Paul Brown asked the time from when you take off until you land. Jason Berger stated 24 and ½ minutes. After the Festival we could only operate only three days from that point only one weekend.

Terry Duffy asked about the detriments of weather. Jason Berger stated low clouds; we have our own limits – wind and gusts.

Chairman Robinson addressed the following asked what can we do as a Board to make your happy.

Mr. Knack – reimburse me for my damaged crops in the cornfield. Peter Jeffery asked Mr. Knack – don't you lease to a farmer? Mr. Knack replied it doesn't matter, I am responsible. Can you come to an agreement with Jason and Tom? Mr. Knack replied I want to be the first one to be called. If we can work out something every time somebody lands and there is damage. Is there any way you can get together with them to work out. I don't have control over what they could



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do. Isn't there some way you can work out individually? Can you guys work this out? Jason Berger – absolutely.

Jeff Budde – Anything going to make you happy? Mr. Budde replied a little bit of respect. Anything about this that will make you happy? Jason Berger stated we don't have people on the road. He also asked about the speeding on the road. Peter Jeffery stated to call the Niagara County Sheriff Department. It is out of our hands.

Ashley Daul – She stated noise is her biggest beef. The end time and the late noise. What does close mean? There is no time. Chairman Robinson stated you would like a certain time.

Paul Brown stated with everything going on I would like to make a motion to table until next month's meeting which is April 28, 2022 and was seconded by Terry Duffy.

Jason Berger questioned tabling until next month's meeting. We are just getting ready to open up. Peter Jeffery stated your permit is still valid. Chairman Robinson stated we have to make the best choice for you. The first time we did this permit there were things we didn't get in it. We want to make sure it is right for everyone. Peter Jeffery stated we are not suggesting you postpone your start day. You will have a determination then.

Terry Duffy stated things need to be finalized. Chairman Robinson talked about the comments to us right now and making as many people as happy as we can. It is a permitted use. We need to draft something that works for the majority of the town residents. Terry Duffy stated we are going to review this. We do not have our Town Attorney tonight

Chairman Robinson asked for a Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes; and Chairman Robinson-yes. All in Favor to table for 30 days. Motion Carried.

Chairman Robinson read the following:



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Application of Eco-Site/Verizon Telecommunication Tower, 2521 Lockport, Ransomville (Ransomville Fire Company) Tax Map. No. 62.10-2-11.2. Under Article II, Section 200-08; Section IV, Section 200-31 and Article VIII, Section 200-107 and Section 200-108, a Special Use Permit and Variance are required for a New Telecommunication/Cell Tower. Property is located in a Rural Agricultural Zoning District on the North Side of Youngstown-Lockport Road between Dickersonville Road and Ransomville Road in said Town.

Chairman Robinson stated that we need a motion for lead agency. Terry Duffy made a motion to approve the Zoning Board for lead agency and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

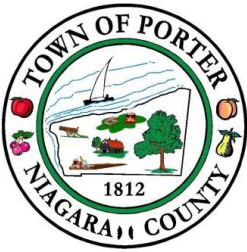
Next item was Part Two of the Short Environmental Assessment Form.

#1-no; #2-no; #3-no; #4-no; #5-no; #6-no; #7a-no; #7b-no; #8-no; #9-no; #10-no; #11-no.

Terry Duffy made a motion to approval the Negative Declaration on the Short Environmental Assessment Form Part 2 and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Chairman Robinson stated that the Planning Board had approved the area variance to include the height variance for the pole of the cell tower for 174-feet and a height variance for an 8-foot high opacity slated colored fence to surround the compound.

Matthew Kerwin, Esquire, Barclay Damon, LLP, Syracuse, NY proposed the new cell tower 174 foot in height to be used by Verizon and potential users. There is a capacity issue in the area as well as coverage in the area with Verizon. The new tower will alleviate the issues. Looking for a co-location. Unfortunately, there is no existing structure in the area; height dictates coverage. Mr. Kerwin showed a diagram area of the problem, and you can access the site through an easement. Planning Board met on landscaping and showed a diagram. We are proposing spruce trees around the perimeter. He also showed where Verizon will be on the Tower.



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Martin Miller, 2495 Youngstown Lockport Road. It is behind the fire hall to the North of my property. Peter Jeffery explained it is ½ way between the fence and wooded line. He asked if there was ever a stipulation when the property was given to the fire hall. Pictures were shown of the tower. It is a 170 foot monopole tower. Peter Jeffery stated it is a typical tower. Terry Duffy question 170 feet (it is about 5 stories).

Matt Kerwin stated height is important. He showed different pictures on the plan. Peter Jeffery also showed picture on the screen to the audience. He also showed existing coverage on the map. He stated coverage is an issue. People are working remotely and 55 percent of the phones are wireless. He also stated the capacity will be addressed; coverage will be addressed. We need a new site for co-location in the area. We ruled out all other sites. He stated we have to find a landlord. There is a lot that goes into it. Finding the right fit in the right location to satisfy Verizon. This site fits that puzzle. Chairman Robinson asked him to address the height. There was a discussion on height. Matt Kerwin, with respect to the variance talked about the cases in the Court. We are addressing our needs and our packet lays this out.

Chairman Robinson asked for public input.

Mr. Miller, 2495 Youngstown Lockport Road. My question is location. A ditch runs North to South. Doesn't it run East to West. On the screen, Peter Jeffery showed Mr. Miller where his home is and mid-way between your property line and the woods. Matt Kerwin showed Mr. Miller where the tower would be.

Karen Miller, 2495 Youngstown Lockport Road. I believe we do need a cell tower in Ransomville. My concern is personal – health. Why when the property was documented for an athletic field and nothing happened to it. We have done research with radiation issues. I am extremely concerned for that tower to be there. I heard there were five sites. I personally would like to be here but not be in the center of the community—more to the outskirts.

Matt Kerwin listed the five sites (Exhibit 7)

- . M. Kiely – wetlands (Ransomville Road (Site A)
- . Jay Fare – not interested
- . Anna McCollum- already leases property



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. Water tower – too short.

Mr. Miller asked if they will have a lease with the Fire Company. Mercy Flight comes from the North. Matt Wedge, Chief, Ransomville Fire Company stated the tower will not obstruct it. It does not need a light. We make Mercy flights aware of what is around the fire hall. We are adamant on any obstruction they may see.

Matt Kerwin addressed the health concerns. The FCC recommends these installations. The tower is provided two frequencies. There will be no health concerns.

Mr. Miller questioned if internet will be involved. Matt Kerwin stated phone only. Fios – that is a totally different division.

Mr. Tower questioned the wetlands. Peter Jeffery stated it is mapped on the map as wetlands.

The Planning Board asked to address the batteries to be used. Peter Jeffery stated fire code addresses different types of batteries. Knowing what type of battery, I will review all the construction documents that type of battery is in there. The Planning Board stated the fence should be 8 feet chain link brown vinyl.

Mr. Miller asked is 170 feet higher than the code. Peter Jeffery stated “yes”. Peter Jeffery stated the tower is designed to accept four collocated antennas.

Mr. Tower questioned the Fire Company going to get a lease payment. Are you going to drop our tax rate? Matt Wedge, Chief, Ransomville Fire Company explained what the taxpayers pay for. The Fire Company paid off \$30,000 air monitor; \$215,000 for a new ambulance. The Fire District pays for all maintenance in the hose house; ladders, etc. and training. The cell tower lease will go the Fire Company. The Fire District and the Fire Company are totally different entities.

Mr. Miller asked if there was any thought the Fire Company would want another access road. Is everyone going to be happy it will be maintained? “yes”. Peter Jeffery stated the access road will be required. There is no other road by the Miller’s house.



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Mr. Matthew Miller and Karen Miller both object to the site.

Steve Zappy made a motion to close the public part of the hearing and was seconded by Terry Duffy. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in favor. Motion Carried.

Chairmen Robinson stated we have to have a height variance and a special use permit.

Jeff Schulze stated he would like a little bit more on the landscaping. Peter Jeffery showed pictures on the screen.

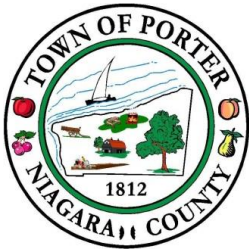
Terry Duffy made motion to approve the overall height of the cell tower to 174 feet and a variance for the height of the fence to 8 feet high, surrounding the ground compound which shall also include landscaping as approved by the Planning Board and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in favor. Motion Carried.

Terry Duffy made a motion to approve the special use permit contingent upon any/all conditions of the final Site Plan approved by the Planning Board and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. All in favor. Motion Carried.

A motion was made to adjourn the meeting at 9:30 pm by Paul Brown and was seconded by Terry Duffy. The next meeting is scheduled for Thursday, April 28, 2022.

Sincerely,

Nancy Smithson
Secretary, Zoning Board of Appeals



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