



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 on September 23, 2021 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	09/23/2021	yes	
Terry Duffy	09/23/2021	yes	
Paul Brown	09/23/2021	yes	
Marshall Hibbard	09/23/2021	yes	
Steve Zappy	09/23/2021	yes	
Atty Michael Dowd	09/23/2021		yes
Peter Jeffery, Code Enforcer Officer	09/23/2021	yes	

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

Chairman Robinson asked for approval of the August 26, 2021 minutes. Member Steve Zappy made a motion and was seconded by Member Paul Brown to approve August 26, 2021 minutes. All in Favor. Motion Carried.

Chairman Robinson stated that we have a lot to get through tonight as quickly possible. Remember the rules for a public hearing, and we ask that you state your name and address and be polite.

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, September 23,



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2021, **at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Stephen P. Schmoyer/Willow Beach Campsite, 1809 Lake Road, Ransomville, NY. Tax Map No. 33.10-1-11. Under Article IV, Section 200-29 and Article VIII, Section 200-107 to renew Special Use Permit dated July 2011 to operate a campground on the North Side of Lake Road between Porter Center Road and Cothran Road in said Town.

Mr. Stephen Schmoyer, 1809 Lake Road, Youngstown, NY was present. Chairman Robinson asked Mr. Schmoyer if he had any changes to the previous permit. None. Chairman Robinson asked if anyone in the audience wished to speak. None. Terry Duffy made a motion to close the public part of the hearing and was seconded by Marshall Hibbard. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor to close the public part of the hearing. Motion Carried.

Chairman Robinson asked Code Enforcement Officer (CEO), Peter Jeffery to address any issues. He stated that he sent out comments to the Planning Board meeting—the dates for opening and closing of the seasonal campground listed on the permit. Mr. Schmoyer stated that he is flexible on the dates. He stated that on the leases the dates are May 15 to October 15. Also that none of the recreational vehicles are intended to be used year round. Member Steve Zappy questioned the quiet hours. CEO Jeffery stated it is adjusted to align with our noise limitations section of the Code – 10:00 pm instead of 11:00 pm on the original permit. CEO Jeffery commented on putting some screening and cleaning up the trash dumpster and recycling area. It is really out near the road. We required for others before – fence type of screening. CEO Jeffery stated it is a code. I am comfortable with those stipulations. There was a discussion on seasonal cottages. The campsite water system is turned off for the winter. The house is on a separate line.

Chairman Robinson stated the Planning Board recommended approval of this application.

Terry Duffy made a motion to approve the application of Stephen Schmoyer/Willow Beach Campsite the same as the previous with the following



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additions: For a period of ten years; Quiet Hours – 10:00 pm to 8:00 am; no living year round; screening specifics on the dumpster and was seconded by Marshall Hibbard. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Mr. Schmoyer questioned, “You can’t live there year round but there are a lot of people that go to check on them and do maintenance but they can’t stay overnight”.

Chairman Robinson read the following:

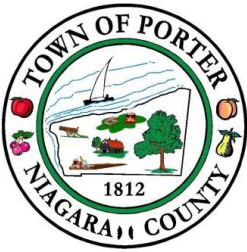
Application of Scott MacVie, 3674 Lutts Road, Youngstown NY. Tax Map No. 60.00-2-29-4. Under Article II, Section 200-15 and Article VIII, Section 200-107 to renew his Special Permit dated September 2011, to place a 18,000 gallon propane tank for distribution and storage of propane. Property is located at 1225 Balmer Road, Youngstown, NY in a M2 Zoning District on the North Side of Balmer Road between Creek Road and Lutts Road in said Town.

Mr. Scott MacVie, 3675 Lutts Road was present. He stated he would like the permit extended to ten years. Terry Duffy made a motion to close the public part of the hearing and was seconded by Marshall Hibbard. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor to close the public part of the hearing. Motion Carried.

Chairman Robinson stated that the Planning Board recommended approval of this application.

Terry Duffy made a motion to approve the application of Scott MacVie per the Planning Board recommendations for a period of ten years and was seconded by Marshall Hibbard. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes; Chairman Robinson-yes. Motion Carried. All in Favor.

Chairman Robinson read the following:



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Application of Robert Seyler, 1669 Lake Road, Youngstown, NY. Under Article II, Section 200-10 and Article VIII, Section 200-108F(2) an Area Variance is required for a side yard setback from the 15 feet required setback to 10 feet at above address. Property is located on the North Side of Lake Road in a WR Zoning District between Murphy's Corner Road and Porter Center Road in said Town.

Mr. Robert Seyler of 1669 Lake Road, Youngstown, NY was present.

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; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor to close the public part of the hearing. Motion Carried.

Mr. Seyler stated that this was a father and son project. He is asking for a setback and unfortunately he started before approval. CEO Jeffery showed pictures to the Board and was recommending a ten foot variance. CEO Jeffery stated a building permit would be issued pending approval of the variance. Mr. Seyler has been approximately five (5) feet off the property line. It is a WR Zoning District, and it is a 15 foot side yard setback. CEO Jeffery stated Mr. Seyler needs a variance to do anything. He stated the Board would be reluctant for a large variance. Mr. Seyler is now asking for 10 feet instead of the 15 foot required. CEO Jeffery stated that he was unfortunately not at the Planning Board meeting and was not there for discussion.

Chairman Robinson stated the Planning Board recommend approval of this variance. Chairman Robinson questioned the lot frontage. CEO Jeffery stated it is a little over 100 feet. Chairman Robinson questioned ten feet to the end of the roof line. Paul Brown stated to the overhang of the roof at the closest point of the structure to the property line. A question was raised if there were any problems with the neighbors. It was noted that one house was up for sale. CEO Jeffery stated no input or paperwork from the neighbors.

Chairman Robinson asked if there were any further questions. Terry Duffy made a motion on the Planning Board recommendations to approve Mr. Seyler's for a side yard setback to ten feet and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes; Chairman Robinson-yes. All in Favor. Motion Carried.



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Chairman Robinson stated to Mr. Seyler that you can see CEO Jeffery for a building permit.

Application of Arthur Garabedian, 5334 Elm Drive, Lewiston, NY 14092.

Under Article II, Section 200-09; Article IV, Section 200-38 and Article VIII, Section 200-107, a Special Use Permit is required for a commercial horse stable located at 3360 East Avenue, Youngstown, NY Tax Map No. 45.00-1-42.2. Property is located in a LDR Zoning District on the West Side of East Avenue between Youngstown Lockport Road, Rte. 93 and Blairville Road in said Town.

and

Application of Lakeview Animal Sanctuary, Inc. (Tenant) of Arthur

Garabedian at 3360 East Avenue Youngstown, NY 14174. Under Article II, Section 200-09; Article IV, Section 200-27 and Article VIII, Section 200-108(F), a Variance is required to operate an animal sanctuary for farm animals at above address. Tax Map No. 45.00-1-42.2. Property is located in a LDR Zoning District on the West Side of East Avenue between Youngstown Lockport Road, Rte. 93 and Blairville Road in said Town.

Chairman Robinson stated our Town Attorney is not here tonight because of a death in the family.

Chairman Robinson stated: (1) Mr. Garabedian have you have withdrawn your application for a permit for commercial stables? (2) Attorney Dowd commented in the minutes of the Planning Board that Mr. Garabedian needs to apply for the use variance (property owner). He stated twice that before there can be anything else done, there has to be a use variance for the property. The hardship does not fall on Lakeview to prove. It falls on the property owner. The Members and Attorney Dowd discussed Chapter 200, Section 200-108 of the Town Code, Use Variance and felt that Mr. Garabedian has not proven hardship for a Use Variance. Attorney Dowd stated that Mr. Garabedian should consider hiring both a lawyer and accountant to represent him at the Zoning Board of Appeals meeting to address the requirements of the Code. Lakeview President Anthony Crowley stated that the hardship falls on Lakeview, but Attorney Dowd stated it falls on the property owner.



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Chairman Robinson stated that we have a letter from your Attorney Ari Goldberg dated September 22, 2021 asking that this matter be adjourned until the October meeting. Everyone needs to know what happens. The use variance is 100% Mr. Garabedian. It has nothing to do with Lakeview Animal Sanctuary. The Lakeview Animal Sanctuary will be a special use permit for the process. This is where we stand right now. Attorney Dowd did speak with your attorney today. This is where we stand. In October, Mr. Garabedian will have to apply for a use variance. If it is approved we will address the Lakeview Animal Sanctuary special use permit. The Planning Board feels that the Use Variance should be denied as the applicant has not proven hardship under Chapter 200, Section 200-108 of the Town Code. Attorney Dowd did call Attorney Ari Goldberg representing Lakeview Animal Sanctuary. He asked Attorney Ari Goldberg if he was also representing Arthur Garabedian. He stated that he would be representing both parties at the October meeting. CEO Jeffery stated there is a 60 day time line for the application and as long as both parties are in agreement and put on record tonight.

Chairman Robinson stated these two applications will be both adjourned until the October meeting. Terry Duffy made a motion to adjourn the above application of Mr. Garabedian and Lakeview Animal Sanctuary with their approval until the October meeting and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

A question was raised if Arthur Garabedian needs a new application. CEO Jeffery stated Attorney Dowd has interpreted the law, and we could amend the application of Arthur Garabedian. It is not necessary to fill out another application but amend the application.

Chairman Robinson stated to the applicants that they should have a Plan B in place. October 28 is the next meeting. Lakeview Animal Sanctuary just has to appear before the Zoning Board.

Mr. Donald Dutko of 3338 East Avenue stated he is 75 year old. I am curious about if they don't have a use variance how are they operating. Chairman Robinson stated they are operating illegally, and the Code Enforcement Officer is



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aware of that. CEO Jeffery stated that the process has taken longer than anyone would have anticipated. Chairman Robinson stated the public hearing is still open. If it was approved, we would have discussed the parameters under their special use permit. Chairman Robinson also stated they are only supposed to have their own animals there. They were warned at the last meeting --- no more animals. Mr. Dutko asked the question if the number of animals were compared from last month to this month. It was noted that members of both the Planning and Zoning Boards were welcomed to see the site. Chairman Robinson stated you are operating without a permit and the animals should not be there. You should be aware of what you post on Facebook.

We will see you at the October meeting.

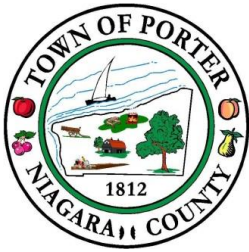
CEO Jeffery would like to bring up starting training for both the Planning and Zoning Boards. He questioned if anyone has done anything to date. He was going to bring it before the Planning Board next month. Tony Collard mentioned the four hours of training that we could do in house like the last time – planning board-one hour; zoning board-one hour; CEO Jeffery-one hour and Terry Duffy mentioned he could present what he obtained from his training.

It was noted that the Board was notified of a mandatory sexual harassment presentation on October. There will be two times.

Chairman Robinson questioned Weibert's zoning changes to the Town Board. There was a discussion among the board and what was being proposed. Chairman Robinson stated for the board to review it and it will be put on next month's agenda for further discussion. CEO Jeffery showed on the overhead map where the Weibert property was. Chairman Robinson stated these are things to consider. A lot of potential increase in traffic could be a concern. CEO Jeffery stated he would get the paperwork and forward to the Board.

A motion was made to adjourn the meeting at 7:40 pm by Terry Duffy and was seconded by Marshall Hibbard. The next meeting is scheduled for Thursday, October 28, 2021.

Sincerely,



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Nancy Smithson
Secretary, Zoning Board of Appeals