



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 May 25, 2023 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	05/25/2023	yes	
Terry Duffy	05/25/2023	yes	
Paul Brown	05/25/2023	yes	
Scott Szarejko	05/25/2023	yes	
Steve Zappy	05/25/2023	yes	
Atty Michael Dowd	05/25/2023	yes	
Peter Jeffery, Code Enforcer Officer	05/25/2023	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 April 27, 2023 minutes. S. Szarejko made a motion to approve the April minutes as written and was seconded by Terry Duffy. All in Favor. Motion Carried.

Chairman Robinson read the following Notice of Public Hearing.

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, May 25, **2023 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):



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Application of Kenneth Young, 632 Blairville Road, Youngstown, NY 14174.

To renew his Special Permit No. 293-2008 to operate a paving business and storage of equipment in a pole barn at above address. Property is located in an ARR-100 Zoned District on the South Side of Blairville Road between the Robert Moses Parkway and East Avenue in said Town.

It was noted that Kenneth Young was present.

Chairman Robinson asked Mr. Young if there was anything he wanted to say, change or add. None. Chairman Robinson stated the previous hours of operation were six days a week (Monday through Saturday); 7:00 am until 11:00 pm. CEO, Peter Jeffery stated he had no complaints that he was aware of.

Paul Brown 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; Scott Szarejko-yes; Steve Zappy-yes; Chairman Robinson-yes. All in Favor. Motion Carried to close the public part of the hearing.

Terry Duffy asked Mr. Young if he wanted to change anything. None. Scott Szarejko stated that they had no complaints in 15 years – nothing on the record.

Scott Szarejko made a motion to approve the permit of Kenneth Young for a period of 15 years with the same hours of operation as on the previous permit and was seconded by Terry Duffy. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Scott Szarejko-yes; Steve Zappy-yes; Chairman Robinson-yes. All in Favor. Motion Carried to approve the application of Kenneth Young.

Chairman Robinson stated that Mr. Young will receive the signed permit when she returns from vacation.

Chairman Robinson read the following:

Application of Dan Truesdell, 2003 Lake Road, Youngstown, NY 14174. Tax Map No. 33-00-2-3.11 to renew his Special Permit No. 324-2013 for storage and rental of heavy construction equipment at 2002 Lake Road. Property is situated on the South Side of Lake Road between Porter Center and Dickersonville Roads in a Rural Commercial District in said Town.



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It was noted that Mr. Truesdell was present. Chairman Robinson stated it was a ten year permit. Mr. Truesdell stated everything was okay with the permit. Mr. Wally Nowacki stated he had a complaint. He stated Mr. Truesdell took the business over from his father. Mr. Nowacki state he is very disappointed, and we had a falling out between us. Mr. Truesdell when he drives by he uses the jake brakes. I think he is abusing Rte 18, State highway. I went to the State regarding the jake brakes for a sign and for a machine which measures the noise. He drives by my house. I did go the state regarding Rte 18. That is my complaint. I am not happy. Chairman Robinson stated the Zoning Board doesn't control the roads. Mr. Nowacki stated again that he is not happy with Mr. Truesdell's business. CEO, Jeffery stated he has no complaints, and this is the only one he has heard of.

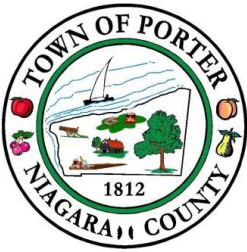
Paul Brown made a motion to close the public part of the hearing and was seconded by Terry Duffy. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Scott Szarejko-yes; Steve Zappy-yes; Chairman Robinson-yes. Motion carried to close the public part of the hearing.

Paul Brown commented about Route 18. Chairman Robinson explained to Wally Nowacki that he as to go to the State. It is out of this Board's control. You should address it with law enforcement. It was noted that there were no limitations on the days of operation on the existing permit. Wally Nowacki stated if he needs help, he will be back to CEO Jeffery. Chairman Robinson again stated it is law enforcement not Zoning.

Attorney Dowd stated maybe because of storage of equipment, you could put hours on the new permit. We typically put hours of operation. It is nothing to do with Mr. Nowacki.

Scott Szarejko stated hours of operation 8:00 am to 6:00 pm. He asked Mr. Truesdell what hours of operation would you be looking for.

Paul Brown brought up about quiet hour time, but he also stated if equipment is broken down you have to repair it. Attorney Dowd commented that all businesses we have hours of operation. It is up to the Board. Chairman Robinson asked if this changes anything. CEO Jeffery commented, no, in as far as noise



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regulations. Mr. Nowacki commented that he has a motel, and I don't want a lot of noise. Attorney Dowd state we should have hours of operation and days. You should consider hours of operation. There was a discussion with the Board on days and hours of operation. Mr. Truesdell stated we have to listen to the people at Mr. Nowacki's motel. We don't say anything. It was stated that neighbor disputes don't belong here.

CEO Jeffery commented regarding the section on noise ordinance – Mr. Truesdell asked about 6:00 am. Attorney Dowd addressed the Board and stated whatever you consider reasonable, you should put in in the permit. Mr. Truesdell stated he normally doesn't work on Sundays.

Scott Szarejko made a motion to approve the application of Daniel Truesdell for the storage and rental of heavy construction equipment with the following hours of operation: Monday thru Saturday 6:00 am – 9:00 pm; Sunday – 8:00 am – 5:00 pm. For a period of ten years and everything else stays the same as the previous permit and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Scott Szarejko-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Chairman Robinson said the signed permit would be mailed when she returns from vacation.

Rusty Tower came before the Board about damage of his property by the neighbors and people working on their property. Attorney Dowd stated it is a neighbor dispute. Rusty Tower stated it is trespassing. Attorney Dowd explained criminal trespassing; civil trespassing. You could go into Court unless it is a code matter than it is a Town issue. Attorney Dowd stated you could take the person to court. Chairman Robinson stated to Mr. Tower that you could talk to the people doing the work or call the police. Rusty Tower stated it is a civil matter. Chairman Robinson questioned noise ordinance late at night. CEO Jeffery stated to Mr. Tower if you can get me evidence – video with noise. If you have something like that I can send a notice of violation. CEO Jeffery checked Code 200-75. 7:00 am until 10:00 pm are the perimeters. Chairman Robinson commented on the code and there is an exception for emergency work.

Attorney Dowd had nothing to report.



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CEO Jeffery had nothing to report.

A motion was made to adjourn the meeting at 7:35 pm by Terry Duffy and seconded by Paul Brown. Motion Carried. The next meeting is scheduled for Thursday, June 22, 2023.

Sincerely,

Nancy Smithson
Secretary, Zoning Board of Appeals