



# 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 23, 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	03/23/2023	yes	
Terry Duffy	03/23/2023	yes	
Paul Brown	03/23/2023	yes	
Scott Szarejko	03/23/2023		yes
Steve Zappy	03/23/2023	yes	
Atty Michael Dowd	03/23/2023	yes	
Peter Jeffery, Code Enforcer Officer	03/23/2023	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 February 23, 2023 minutes. Steve Zappy made a motion to approve the February minutes as written and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes. All in Favor. Motion Carried.

Chairman, Jackie Robinson stated that the **Application of Kevin Heffler, 3715 River Road, Youngstown, NY Tax Map No. 59-00-1-20.** To renew his Special Use Permit No. SP-346-2018 for a recreational boating dock located at 3715 Lower River Road was first on the agenda tonight, and we will put his application aside if he shows up.

Chairman, Jackie 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,



# TOWN OF PORTER

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

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 23, **2023** at **7:00** PM for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of William McInerney, P O Box 642, Wilson, NY** Tax Map No. 62.10-3-32. Under Article IV, Article V and Article VIII, Section 200-107, to renew their Special Use Permit to operate Billy Macs Pizzeria at 2555 Youngstown-Lockport Road, Ransomville, NY.

Mr. William McInerney was present. Chairman Robinson stated that the current hours of operation was 10:00 am until 12:00 midnight, seven days a week. There was proper parking for patrons and employees. There is a driveway between the two buildings. Chairman Robinson asked Mr. McInerney if there was anything you wanted to add? Mr. McInerney stated it has been working so far.

Chairman Robinson asked if anyone from the audience wished to speak. None.

Steve Zappy made a motion to close the public part of the hearing. All in Favor. Motion Carried.

Chairman Robinson commented the hours are going to be the same. CEO, Peter Jeffery stated that there were no complaints.

Terry Duffy made a motion to renew the special permit for William McInerney to operate Billy Macs Pizzeria as previously written for a period of ten years and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Steve Zappy-yes and Chairman Robinson-yes. Motion Carried.

Chairman Robinson stated the special permit will be signed and put into the mail. Thank you.

Chairman Robinson read:

**Application of Neighbors of Willow Beach, LLC, 606 N. Saginaw St. SteA, Lapeer, MI 48446.** Tax Map No. 33-10-1-11 and 33-10-2-1.121. Under Article II, Section 200-08; Article IV, Section 200-29; and Article VIII, Section 200-107, a



# TOWN OF PORTER

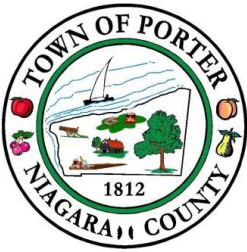
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Special Use Permit is required to operate a campground at 1809 Lake Road on the North side of Lake Road between Porter Center Road and Cothan Road in said town.

Mr. Jerry Rehill was present. Chairman stated that CEO Jeffery has worked at great length with the Planning Board and Willow Beach and making corrections and to make sure everything is up to snuff. She asked if anyone from the audience wished to speak on Willow Beach – None.

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

Chairman Robinson asked CEO Jeffery if he was satisfied with the changes. Issues have been resolved. We are waiting for the registering for the two trailers in the flood plain. It is in the works, and I haven't seen it yet. I have been out and reviewed it regarding the maintenance issues. Dates of operation from April 15 to October 15. CEO Jeffery stated the RV's are not intended to be left in year round. Anything over six months would be listed as not part time. Mr. Rehill is okay with April 15 to October 15. Chairman Robinson stated that Mr. Rehill requested a ten year period. Attorney Dowd stated typically you can split the time period. If there is a problem, you can pull the permit. Storage Building: one per unit 6x6x6. Quiet Hours: 10:00 pm to 8:00 am. This coincides with notice regulations. Chairman Robinson stated "copy of the Plot Plan will be presented to the Zoning Board every year, showing which units are not in compliance with the zoning Ordinance/Special Permit. CEO Jeffery stated this is to make sure everything is manually inspected in keeping with the special use permit. Code Enforcement should go through once a year. Accessory cottage – seasonal use only. Permit is not transferrable. Paul Brown commented on the shape of the facility and the number of new units registered yearly. CEO Jeffery stated he would like to do an inspection once a year. Mr. Rehill stated in reference to the percentage of campsites there were only two new ones this year. Mr. Rehill commented that I think it is ideal for seasonal. You can come back each year. This is what they wanted they wanted to come back for the summer. These people take care of the sites.



# TOWN OF PORTER

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

Regarding park vehicles and recreations vehicles, it doesn't show up on the site plan. Attorney Dowd stated if in the future they want a different type of unit they would have to come back to the Board. Mr. Rehill commented if they want to try a different type of unit. Attorney Dowd stated you would have to come back and have the permit amended. These rules would be part of the special use permit. Mr. Rehill stated that NY State doesn't differentiate between park and recreational vehicles. There is no differentiation. CEO Jeffery stated that site plan approval is for recreational vehicles. Steve Zappy asked if there is more than one type of park model. Mr. Rehill stated that there are a couple of park models. Park models are built for recreational vehicles. Some look more like campers and some have vinyl siding. Park models – they have these campers and spend \$100K for recreational vehicles but it is a park model. Traditionally, they are moved less because it is a bigger vehicle. We want the people who can afford to spend \$100K on a camper. I feel that they are vested to be here. Terry Duffy asked how is this going to be handled. Mr. Rehill commented that park models will be a tenant or camper, and we will work with different models. It is called a park model. I don't plan on buying or selling. We have people who want to come in with a park model.

Chairman Robinson stated park models cannot be brought down on the road. Mr. Rehill stated the size is 8-1/2' to 10'. This is a Florida spec. It is regulated by the Department of Transportation. NY State has a same day for issuing permit. Chairman Robinson stated he has 8' on the permit. CEO Jeffery commented on park models. Park models are built to the same standards as traditional rv's. Cannot be moved down the road. Park vehicle can be built with a winter use. My only reservation to park models is that they have a mobile home appearance. This is a traditional campsite. This campsite doesn't see that kind of in and out use – campground in a mobile home park.

Attorney Dowd stated it was never discussed at meetings. It is up to this Board and the Planning Board did not give any recommendation. I am not sure if it was in the site plan. You will have to get a variance. You can go back to the Planning Board or get your permit issued and if you want to amend it down the road you can come and apply. As a Planning Board member, it was not presented. Discussion on park models three weeks ago.



# TOWN OF PORTER

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

Chairman Robinson asked the Board how comfortable do you feel. CEO Jeffery stated you indicated 8' park model. It may need site plan approval by the Planning Board.

Attorney Dowd stated it affects the site plan. It's a campground. A park model it is not a camper for a campground. CEO Jeffery showed a picture of a park vehicle. Mr. Rehill stated 8-1/2' wide in NYS only. It can only be removed by a pick-up truck. NYS and Federal instructions are very strict. Chairman Robinson stated campers are 8'. Steve Zappy commented most trailers are 8-1/2' you see on the side of the road. CEO Jeffery stated NYS regulations for a campground trailers – 5' from the campsite line for fire and safety and 10' between all camping structures for all camping sites. Chairman Robinson stated we really need to see 8-1/2'. Do you want us to vote on this permit tonight? We need to go into the park model deeper and if you need it, you can come back and have it amended. Mr. Rehill stated can we use CEO Jeffery's discretion instead of coming back and amend it. Chairman Robinson stated it is not CEO Jeffery's call. Attorney Dowd stated it should have been brought up before tonight when their site plan was actually approved. It is an issue because it is two different things. You have to come back to the Planning Board. You need to give the Board the opportunity to review it.

Chairman Robinson asked the Board if they wanted to table it and have it go back to the Planning Board. This is the first time I have heard about this which was this afternoon. Mr. Rehill stated this is not an issue I brought up before. CEO Jeffery stated it was his recollection it was taken off site plan issues. It was overlooked by the Planning Board. Chairman Robinson stated we never saw this list before. CEO Jeffery stated it was on the previous permit. If we send it back to the Planning Board seven days before they meet and the Zoning board is on the fourth Thursday of the month. It is an opportunity to do some research. Paul Brown stated that if the Board decides to approve it, you can apply right away. It will have to go in front of the Board for appending that action. You will have this permit to operate. Chairman Robinson asked Mr. Rehill if that will work for you.

Terry Duffy stated that we were going to work with Neighbors of Willow Beach and put forth approval on the permit for the following and was seconded by Steve Zappy.





# TOWN OF PORTER

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

Timeframe – Five years (Expiration: March 23, 2028).

Dates of Operation: April 15 to October 15.

One storage unit per site no larger than 6x6x6.

Maximum deck or pad of 8' x length of unit.

RV's only 8-1/2' wide maximum; slide out allowed.

Quiet Hours: 10:00 pm to 8:00 am.

No year round use.

Accessory Cottage shall remain seasonal use only.

Maximum 75 campsites

All operations shall comply with Zoning law 200-29; NYS Dept. of Health, NYSDEC, and all other applicable zoning regulations.

Special Permit is not assignable or transferable and its privileges extend only to the above named applicant.

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

Chairman Robinson read the following:

**Application of Jon Lippert, 13123 Main Road, Akron, NY 14001.** Tax Map No. 45.00-1-42.2. 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 operation located at 3360 East Avenue, Youngstown, NY. 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.

Mr. Lippert was present. He passed out information to the Board which included a proposed estimated additional farm work to be completed and timeline.

“Proposed estimated additional farm work to be completed and timeline”

March – installing pad for manure removal container; repairing of shavings storage area; repairing or original fencing and installing new fencing for proper pasture management.

April – installing new window casings and windows in both barns; fixing and replacing barn siding; installing new posts and boards to complete outdoor riding arena, along with grooming and adding additional footing; brush, hogging and mowing of previously neglected pastures and grounds for preparation of new growth.



# TOWN OF PORTER

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

May – cleaning of barn siding for preparation of painting; cleaning and preparing original fencing for painting; preparing metal barn roofs for painting/sealing.

June – replacing roof on second story of white barn; painting of major areas of concern for first priority and painting the entire facility to meet the expectations of what we envision.

July – overflow month to complete prior projects that needed additional time or repairs.

August – inspecting and replacing of previously installed drain tile around the facility so it works adequately during the wet season.

September – modifying and/or replacing sliding doors with rollup doors on barns to get ready for cold weather.

All work listed above is subject to change in time due to weather conditions and priority as additional property issues introduce themselves.

With us living on site, our intention is to break ground on building a new house at around the two-year mark, or possibly sooner if the economy allows it.”

Mr. Lippert spoke to the Board and stated he is moving his facility to the Town of Porter. He stated he operates on his own weather permitting. If it rains, horses are not out in nasty weather. We are hoping to live on site with CEO Jeffery’s blessing. We will maintain property and grounds. Items addressed on issues from the prior owners – indoor and outdoor. CEO Jeffery put up pictures on the screen. We have two contracts to remove manure. It will be covered and maintained between existing barn behind the South barn. Our manure will go in on a daily basis – covered with tarp.

Chairman Robinson stated you have been working there; you have a signed contract to purchase; holding closing until you get blessing from the Zoning Board. You have poured concrete in the barn (all new floors). CEO Jeffery commented that he has been working throughout the facility with Jon Lippert. The trailer is up to code, everything they have been fast with what they have accomplished. Mr. Lippert stated they have cameras; fly control on the horses in the summer; stalls cleaned daily. Mr. Lippert stated all manure taken out back. Chairman Robinson stated you have no intention of manure at this facility.

Chairman Robinson asked if anyone from the audience wished to speak.



# TOWN OF PORTER

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

Mr. Dennis Ketch stated you are purchasing 22-1/2 acres. Are you planning on using all of it. Horses behind there. I back up to that. Mr. Lippert stated 90% we are planning on using for the horses. He stated that there might be some trails in the back acres. He stated we are a two family owned business. We encourage you to come it. Families to come out and play in the playground.

CEO Jeffery stated there is a mobile home on the property. It wasn't in the last few years. It was not habitable. They are not close to the point of a certificate of occupancy – one bedroom mobile home unit. Mr. McManus asked if you are planning on living there – Yes. Mr. Lippert stated there will be no breeding of horses. Mr. McManus asked how many horses – 25. CEO Jeffery stated total 25 maximum on the 22-1/2 acre parcel. CEO Jeffery stated they have long term goals and permanent residence. Mr. Lippert stated he is planning on building a home on site so we will always be on location. CEO Jeffery stated it is important that they are vested in the community. Mr. McManus asked is there permanent septic. CEO Jeffery stated yes it is approved.

Terry Duffy made a motion to close the public part of the hearing and was seconded by Paul Brown. All in Favor. Motion Carried.

Paul Brown stated you haven't closed on the property yet. Mr. Lippert replied as soon as I can get the paper from the county and I will be on site. Terry Duffy asked if the Akron business is being sold. Mr. Lippert-yes. How many customers? Mr. Lippert about 15. We have a lesson program (4 to 5), and we are eventually looking for new lessons. The girls who board horses with us help with the stalls. Paul Brown asked about the manure storage. Mr. Lippert stated it is behind painted building. Is that where the asphalt is? Mr. Lippert replied right behind that.

Chairman Robinson stated she is truly impressed. You put your horses before yourself.

Attorney Dowd no input.

Chairman Robinson commented on the length of time five years.

Paul Brown – just horses.





# TOWN OF PORTER

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

Chairman Robinson commented on the manure. I don't know how much manure. A container would be no more than three weeks.

Terry Duffy commented on training and lessons and people on site. Any side area for kids and parking arrangements. Jon Lippert stated area behind the white barn for parking and some parking by the North barn.

Chairman Robinson commented if you decide on doing a horse show, you would need a temporary use permit. You would have to go to CEO Jeffery.

CEO Jeffery commented something more than 50 people or more we would require a special permit.

Terry Duffy commented on bathroom facilities. Jon Lippert stated bathroom in the South barn and one in the mobile home. We do own a porta potty if needed.

Terry Duffy commented also we are impressed with the work you have done and would like to make a motion to approve your application for a special use permit with the following conditions and upon Mr. Lippert closing and seconded by Paul Brown.

Timeframe Five years

Addressing newer situations as discussed

Parking all off road; parking at the side

Outside events--temporary use permit to be discussed with CEO Jeffery and that you have facilities on site.

Twenty-five (25) horses allowed.

Conditional upon Lipperts closing on the property

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

CEO Jeffery – Nothing to report.



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A motion was made to adjourn the meeting at 8:15 pm by Paul Brown and seconded by Terry Duffy. Motion Carried. The next meeting is scheduled for Thursday, April 27, 2023.

Sincerely,

Nancy Smithson  
Secretary, Zoning Board of Appeals