

# 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 August 23, 2018, at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

|                              | Date       | Present | Absent |
|------------------------------|------------|---------|--------|
| Jackie Robinson, Chairman    | 06/28/2018 | yes     |        |
| Terry Duffy                  | 06/28/2018 | yes     |        |
| Bryan Meigs                  | 06/28/2018 | yes     |        |
| Marshall Hibbard             | 06/28/2018 | yes     |        |
| Steve Zappy                  | 06/28/2018 | yes     |        |
| Atty Michael Dowd            | 06/28/2018 | yes     |        |
| Peter Jeffery, Code Enforcer | 06/28/2018 | yes     |        |
| Susan Driscoll, Assessor     | 06/28/2018 | yes     |        |
|                              |            |         |        |

Chairman, Jackie Robinson called the meeting to order with the pledge of allegiance.

A motion was made to approve the minutes of the June 28, 2018 by Member Marshall Hibbard and seconded by Member Terry Duffy. Roll Call Vote. All in Favor. Motion Carried.

Chairman Robinson started with 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, **August 23, 2018 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

**APPLICATION OF E & R HORIZONS, LLC, 38 SAINT DAVID'S DRIVE, West Seneca, NY Tax Map #47.00-1-76 (3231 Porter Center Road, Youngstown, NY.** Under Article II Section 200-8 and Article VIII Section 200-107, a special use permit is requested for a two family residence. The property is located in a Rural Agricultural Zoning

**District on the East side of Porter Center Road between Braley and Youngstown Lockport Roads in said Town.**

Ralph Lorgio, Attorney for E&R Horizons was present. Attorney Lorgio stated his client bought the property out of foreclosure as a two-family home. In order to remodel, he needed to go through this process. A variance was needed and was granted with the following stipulations – remove the north driveway encroachment and restore the neighbor's property to the original condition; establish and implement a drainage plan/system – approved by the Town of Porter and provide and install a fence from the West corner of the Northern garage, running west to the road right right-of way – as per the town's fence regulation. The variance was granted unanimously. We made a presentation to the Planning Board, and they made a recommendation to approve the special use permit for a two-family residence. My client is putting the property into a very good condition. I have represented them for almost four decades, and there have been no complaints because of violation on maintenance.

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

Mr. Jeffrey Skellen, 3197 Porter Center Road, I am the property to the North, and I have talked about the fence previously. Attorney Lorgio stated he has offered the fence and presented diagram 100 feet away from the property line as agreed by the Building Inspector. Code Enforcement Officer, Peter Jeffery stated the fence has to be three feet in the front yard and the side and rear yard fence six feet is allowed. Mr. Skellen had discussed his concerns. There have been numerous encroachments on my property. Mr. Skellen stated that cars are 10 feet to 12 feet on my property. Chairman Robinson stated it was discussed. It is between Peter Jeffery, Code Enforcement Officer and E&R Horizons. I have met with the owners of the property and with Mr. Skellen and looked at the preexisting drainage. Owners have agreed on which way the drainage should go. All directed to the rear property on the NE corner. All the drainage system will be directed appropriately off the property. Those things will be required for a certificate of occupancy.

Terry Duffy made a motion to close the public part of the hearing and was seconded by Steve Zappy. Chairman Robinson asked for a Roll Call Vote. Terry Duffy-yes; Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes

and Chairman Robinson-yes. All in Favor. Motion Carried to close the public part of the hearing.

Chairman Robinson stated that the Planning Board did recommend approval of a Special Use Permit for a two-family residence.

Ralph Lorgio stated they needed approval in order to proceed. Attorney Dowd stated you can limit the duration of the two-family residence on the special use permit – possibly ten years. Assessor, Susan Driscoll stated it is a two-family residence.

Terry Duffy made a motion to approve the Special Use Permit of E&R Horizons for a period of ten years. Attorney Dowd stated if you sell the property, the permit will stay in place. You have to put a time limit on it. Attorney Ralph Lorgio questioned, “Why do we have to give a time limit on a special use permit?” Peter Jeffery, Code Enforcement Officer stated it gives the Town a little more control with a time limit.

Chairman Robinson read the following from Section 200- 107 G. Expiration (1). “As a condition in granting a special use permit, the Zoning Board of Appeals may require that the special use permit be renewed at regular intervals. Regular intervals for special permit renewal shall not be less than two years.”

Attorney Dowd and Attorney Ralph Lorgio discussed the expiration of the special use permit. Attorney Lorgio stated that Section 200-8 RA specifically allows two family with a special use permit. It is properly zoned.

Chairman Robinson read Section 200-107G Expiration (2). “The special use permit may be revoked at any time if the Zoning/Code Enforcement Officer finds that any of the conditions of the permit have been violated.”

Jeffery Skellen asked if it could be revoked. Attorney Dowd replied “yes” anytime if there is a violation.

Terry Duffy made a motion and was seconded by Bryan Meigs for a Special Use Permit for E&R Horizons for an indefinite period of time unless a violation has occurred regarding the removal of the north driveway encroachment and restore the neighbor’s property to the original condition;

establish and implement a drainage plan/system –approved by the Town of Porter and provide and install a fence from the West corner of the Northern garage, running west, to the road right-of-way – as per the Town’s fence regulation. A period of four months (120 days) to address the above work addressed. Chairman Robinson asked for a Roll Call Vote. Terry Duffy-yes; Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes.

Code Enforcement Officer Peter Jeffery stated that all the work has to be done before he can issue a “certificate of occupancy”.

Code Enforcement Officer, Peter Jeffery addressed the Board. Chairman Robinson asked a question about wineries.

Assessor Susan Driscoll addressed the Board with information on community solar. Peter Jeffery stated that there is a push for green energy in New York State. Community solar is an opportunity for all residents, but particularly those in rental accommodations, lower income, or persons who cannot, or do not wish to put solar panels on their homes for whatever reason, to ‘go green’.

A 900 acre solar farm in Cambria/Pendleton, is progressing forward using New York State Law Article 10. Article 10 bypasses local codes. A solar project needs to be situated close to local transmission lines in order to be cost effective. Code Enforcement Officer Peter Jeffery stated that our code would have to be revised to allow a community solar project (5 to 20 acres in size). It is hoped that such a project can be sited on an industrial zoned parcel. The Board was asked if there was interest in attending a NYSEDA session on community solar, here at Town Hall. Interest was expressed, with a preference to hold the session in early November.

Code Enforcement Officer, Peter Jeffery touched upon the four changes to code laws discussed previously and hasn’t heard anything from the Town Board. There is still work on the special use permit process .

A motion was made to adjourn the meeting at 8:00 pm by Member Terry Duffy and seconded by Member Bryan Meigs. The next meeting is scheduled for Thursday, September 27, 2018.

Sincerely,

Nancy Smithson  
Secretary, Zoning Board of Appeals