

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 December 13, 2018 at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	Date	Present	Absent
Jackie Robinson, Chairman	12/13/2018	yes	
Terry Duffy	12/13/2018	yes	
Bryan Meigs	12/13/2018	yes	
Marshall Hibbard	12/13/2018	yes	
Steve Zappy	12/13/2018	yes	
Atty Michael Dowd	12/13/2018		no
Peter Jeffery, Code Enforcer	12/13/2018	yes	
Susan Driscoll, Assessor	12/13/2018	yes	

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

A motion was made to approve the minutes of the October 25, 2018 by Member Bryan Meigs and seconded by Member Marshall Hibbard. Roll Call Vote. All in Favor. Motion Carried.

Chairman Robinson asked Irene Myers to speak about the property and provide a brief presentation. Assessor, Susan Driscoll had the parcel on the screen and Irene Myers stated that she would like to move the lot line to incorporate the pool and clean up the areas and make two more lots. According to Code Enforcer, Peter Jeffery she is going to start with two lots and end up with three parcels. The pool will be incorporated with the house. Chairman Robinson stated that the Board has to do an Environmental Assessment first. Irene Myers stated that all houses in the area were 100 foot frontage until the law changed in 2010.

Chairman Robinson read the Short Environmental Assessment form with the following answers. 1-moderate; 2-no; 3-no; 4-no; 5-no; 6-no; 7 (a) & (b) – no; 8-no; 9-no; 10-no; 11-no. Chairman Robinson discussed Part 3 – Determination of Significance and stated that there is no much impact and the variance will cover zoning law. Member Terry Duffy made a motion for a negative declaration and was seconded by Member Marshall Hibbard.

Roll Call Vote: Terry Duffy-yes; Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes; and Chairman Robinson-yes. All in favor for a negative declaration.

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, **December 13, 2018 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

APPLICATION OF IRENE MYERS, 2426 YOUNGSTOWN LOCKPORT ROAD, RANSOMVILLE, NY 14131, Tax Map No. 62.00-1-51-12. Under Article 200-8 and Article VIII Section 200-108F(2) an area variance is requested for road frontage at 112 feet rather than the minimum of 125 feet. The property is located on the South side of Youngstown Lockport Road in a RA Rural Agricultural Zoning District between Dickersonville and Ransomville Roads in said Town.

It was noted that Irene Myers was present. Chairman Robinson asked if anyone from the audience wished to speak.

Dick Shears at 3181 Creek Road asked if all the three lots are going to be 125' each. Chairman Robinson stated that two lots will be 113' for two lots and the other will be made bigger. Mr. Shears asked if anyone who puts in for a variance, will the variance be granted? In 2010 the zoning law changed and there was an increase in the lot size. Mr. Shears asked how many variances are approved or disapproved. I just wanted to know if everyone is going to be treated fairly. Peter Jeffery stated that the Board assesses on an individual basis. Mr. Jeffery explained that there was a professional consultant who worked on the 125 foot frontage that was preferred over the 100'.

Brenda Bank, 785 Lockport Road inquired if there were any documents on the old law, and why it was changed. Chairman Robinson stated we don't get a lot for a lot line variance. It is one of the few that we have had. I don't know the rationale for changing it. Peter Jeffery stated there are

minutes if you went back to the archives for the committee minutes and Board minutes. Irene Myers stated she is asking for a variance for the road frontage. The total square footage, I have more than enough. Each should be once acre pieces. Peter Jeffery stated they are still over the minimum lot you need. The variance is for the front.

Chairman Robinson read Area Variance.

2. (a) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

(3) Whether the required area variance is substantial;

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Mr. Shears questions if he could apply for a variance. Chairman Robinson said that he could fill out a Short Environmental Assessment Form and application. You are entitled to apply for a variance. Peter Jeffery stated everyone is entitled to apply for a variance. Chairman Robinson stated you can get this information that I just read if you want to apply for a variance. Peter Jeffery stated the Master Plan was increased to 125' frontage instead of decreasing it.

Brenda Bank questioned if it affects her ability to farm her property. Chairman Robinson said absolutely not. The Town of Porter is a farming community. Peter Jeffery told Ms. Bank that she was approved as a startup farm. You are protected by NY State Ag and Farm. Chairman Robinson stated the right to farm law is enforced in our community.

A motion was made by Terry Duffy and seconded by Marshall Hibbard to close the public part of the hearing. All in Favor. Motion Carried.

Chairman Robinson asked Peter Jeffery that Irene Myers stated that her daughter would build one house and her other daughter would live in the other. Does the variance go with the lot or with the owner? Peter Jeffery stated the variance, if granted, stays with the parcel. If you approve the variance and you could stipulate on the completion of the sub-division then the variance would be null and void. Peter Jeffery also stated that prior to 2010, the pre-existing lots of record are legal non-conforming lots of record and there are provisions in the code.

Terry Duffy questioned sewer lines. Peter Jeffery stated that there are no sewers in Ransomville. It was noted that the Planning Board approved the road frontage of 112 feet for Irene Myers at 2426 Youngstown Lockport Road, Ransomville; Tax Map ID 62.00-1-51-12.

Peter Jeffery described the three lots when Irene Myers applies for a sub-division. One lot will have the house and barn and will be on 11 acres. The other two will be one acre each.

Terry Duffy made a motion to grant this variance to Irene Myers at 2426 Youngstown Lockport Road, Ransomville, Tax Map ID 62.00-1-51-12 with the stipulation that the sub-division be completed and was seconded by Bryan Meigs. Roll Call Vote: Terry Duffy-yes; Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Peter Jeffery addressed the Board and the Special Use Permit process that he has been working on. He stated that at the last Planning Board meeting they went over line by line on the chart. Chairman Robinson asked if we could postpone this until the January meeting so that we could discuss in detail and also with Planning Board recommendations. There was also a general discussion on the Bed & Breakfast that will be on the January Planning Board meeting. After the discussion it was recommended that the Zoning Board send a letter to the Planning Board with their concerns about the proposed bed and breakfast.

The Community Solar meeting will be held on Thursday, January 17, 2019.

A motion was made to adjourn the meeting at 7:55 pm by Member Marshall Hibbard and seconded by Steve Zappy. The next meeting is scheduled for Thursday, January 24, 2019.

Sincerely,

Nancy Smithson
Secretary, Zoning Board of Appeals