

# 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 June 27, 2019 at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	Date	Present	Absent
Jackie Robinson, Chairman	06/27/2019	yes	
Terry Duffy	06/27/2019		yes
Bryan Meigs	06/27/2019	yes	
Marshall Hibbard	06/27/2019	yes	
Steve Zappy	06/27/2019	yes	
Atty Michael Dowd	06/27/2019	yes	
Peter Jeffery, Code Enforcer	06/27/2019	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 May 23, 2019 minutes. A motion was made by Marshall Hibbard and seconded by Steve Zappy to approve the minutes. All in Favor. Motion Carried.

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, **June 27, 2019 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of Josh Nichols 884 Balmer Road, Youngstown, NY 14174. Tax Map No. 62.00-3-2,** Under Article II, Section 200-8; and Article VIII, Section 200-108F(2), an area variance is required for a 4' height chain link fence in the front and side yards. Property is located in a Rural Agricultural Zoning district on the right side of Balmer Road between Creek Road, Rte 18 and Lutts Road in said Town.

It was noted that Josh Nichols was present. He stated that basically he is putting up a fence to keep the dogs in with a space to run. Chairman Robinson asked "Can you do it some other way; maybe the back yard?" Mr. Nichols stated there is a septic system in the back and we are going to have to replace it. I would have to tear down the fence when we do the septic. The way it is set up in the front and side we are able to use the door in the front of the house. In the backyard, we would have to put them on a leash for two dogs. CEO, Peter Jeffery presented a drawing of the fence. The members discussed the fence and the size of the front yard.

Chairman Robinson asked if anyone else in the audience wished to speak. None. Marshall Hibbard made a motion to close the public part of the hearing and was seconded by Bryan Meigs. Roll Call Vote. 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 recommended the approval of this application subject to the following conditions: Chain link fence only and paint entire fence black. Chairman Robinson stated that Mark Fox said that a galvanized fence is bright. Josh Nichols commented that the street signs are galvanized and he is right down the street from CWM.

Chairman Robinson read 200-108(2) Area Variance.

- (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 requested 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.

Chairman Robinson stated that you are requesting a one foot variance. Marshall Hibbard asked if the fence has a pipe on the top. Josh Nichols replied "yes". Attorney Dowd stated that you should make the fence as unobtrusive as possible. Chairman Robinson stated the outline is very shiny. Attorney Dowd stated that you could put conditions on the variance. Chairman Robinson asked Mr. Nichols "How big are the dogs?" He replied 60 lbs. – a lab and a boxer. CEO, Peter Jeffery stated the framework of the fence is already in place. He sent them a letter. It was already started. Chairman Robinson asked "What would it entail for you to paint the fence black?" Josh Nichols stated that he is trying to find the best way to do it and be cost effective. CEO, Peter Jeffery stated to roll the paint on the chain link fence. It is the best way.

Bryan Meigs stated that there is no one here to complain. Josh Nichols stated this house is bright yellow and it sticks out. Chairman Robinson stated that she is taking into consideration Mark Fox's input. CEO, Peter Jeffery stated that he did not explain to the Planning Board it was already started. Josh Nichols stated that after they bought the house, they got some bad information about putting up the fence. CEO, Peter Jeffery stated Mr. Nichols did stop the fence when he got the letter. Chairman Robinson asked Mr. Nichols if he could possibly trade the chain link fence in. Josh Nichols stated he could look into it. Marshall Hibbard stated the best way would be to trade in the material.

Marshall Hibbard made a motion to approve the application of Josh Nichols for a 4 foot high chain link fence only and paint it black and was seconded by Bryan Meigs. Roll Call Vote. Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes; and Chairman Robinson-yes. All in Favor. Motion Carried.

Chairman Robinson read the following:

**Application of Joshua Smith, 3880 Dickersonville Road, Ransomville, NY 14131. Tax Map No. 61.00-2-29.** Under Article II, Section 200-8, Article VIII, Section 200-107, to Renew his Special Permit for the sale and

transfer of firearms mainly on line, appointment only, no signs or traffic. The property is located on the West Side of Dickersonville Road in a RA Zoning District in said Town.

It was noted that Joshua Smith was present. He stated basically he would like to renew the permit. He stated that he thought the Planning Board said for a period of seven years with no changes. CEO, Peter Jeffery stated that he has no complaints on the books.

Chairman Robinson asked if anyone from the audience would like to speak. None. Steve Zappy made a motion to close the public part of the hearing and was seconded by Marshall Hibbard. Roll Call Vote. 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 the Planning Board recommended approval with the same stipulations as current Special Use Permit with a seven year issue.

Bryan Meigs made a motion to approve the application of Joshua Smith for a home occupation – Gunsmith with the same stipulations as current Special Use Permit but with a seven year issue and was seconded by Marshall Hibbard. Roll Call Vote. Bryan Meigs-yes; Marshall Hibbard-yes; Steve Zappy-yes; Chairman Robinson-yes. All in Favor. Motion Carried to approve the application of Joshua Smith.

Aaron Bradley approached the Board about putting in a recreational pond. He has a drainage problem and if it was possible to build a pond an taper it off. It is very soft. I would ask my grandparents if I could buy five acres but my grandmother has dementia, and they have a will and my grandfather would not go behind my grandmother.

CEO, Peter Jeffery showed the Board the property and where the pond would be put. Aaron Bradley stated that it would be 100 feet off the property line. He presented the Board with a drawing.

Chairman Robinson stated there is no resistance on this area variance. Chairman Robinson read the following from Recreational Ponds – 200-50. *“The parcel shall have a minimum lot size of 10 acres and shall have an established dwelling.”* Chairman Robinson asked Mr. Bradley if he talked

to Soil and Water yet. CEO, Peter Jeffery stated he told Mr. Bradley that it was a bit of a stretch and he would talk to the Board. Chairman Robinson stated I think you should have Soil & Water come out. Chairman Robinson also asked if there were wetlands. CEO, Peter Jeffery stated that they are wetlands on the back of his grandfather's property. Chairman Robinson stated you heard me read the criteria for the area variance.

Attorney Dowd discussed a situation in the Town where another person was requesting a pond. If there is no house there it tends to get overgrown. Aaron Bradley stated it would definitely be maintained. Attorney Dowd asked "How much fill do you have to bring in?" Aaron Bradley replied a lot. Both Marshall Hibbard and Chairman Robinson asked Mr. Bradley to call Soil and Water and see if they can help you.

A neighbor across the street from Joshua Smith commented that there is no web site for Mr. Smith. I don't know how they conduct business. I don't see any traffic.

A motion was made to adjourn the meeting at 7:35 pm by Member Marshall Hibbard and was seconded by Steve Zappy. The next meeting is scheduled for Thursday, July 25, 2019 .

Sincerely,

Nancy Smithson  
Secretary, Zoning Board of Appeals