

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 12, 2019, at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	Date	Present	Absent
Jackie Robinson, Chairman	12/12/2019	yes	
Terry Duffy	12/12/2019	yes	
Bryan Meigs	12/12/2019	yes	
Marshall Hibbard	12/12/2019	yes	
Steve Zappy	12/12/2019	yes	
Atty Michael Dowd	12/12/2019	yes	
Peter Jeffery, Code Enforcer	12/12/2019	yes	

Chairman, Jackie Robinson called the meeting to order with the pledge of allegiance at 7:04 pm.

Chairman Robinson asked for approval of the October 24, 2019 minutes. A motion was made by Steve Zappy and seconded by Terry Duffy 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, **December 12, 2019 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of KiPo Motors Chevrolet, Inc., 2534 Lockport Road, Ransomville, NY. Tax Map No. 62.14-1-62.1. Under Article II, Section 200-12 and Article VIII, Section 200-107, a Special Use Permit is required for vehicle dealership, outside vehicle (cars and trucks) storage outside at 3696 Ransomville Road, Ransomville, NY. Property is located in a CMU

Zoning District of the West side of Ransomville Road between Youngstown-Lockport Road and Balmer Road in said Town.

Kenneth Schultz and Keith Lucas (from Kipo) were present.

Chairman Robinson stated this was tabled from the October meeting, and we did close the public part of the hearing. We could open the public hearing. We have a copy of the lease agreement.

Code Enforcement Officer (CEO), Peter Jeffery pointed out an April 2019 image of the parcel that they are proposing to lease to KiPo.

Chairman Robinson asked CEO Jeffery is there anything in the code as to how close they can park vehicles to the lot line. CEO Jeffery stated that they have to be back 20 feet minimum from the edge of the right away.

Marshall Hibbard asked if they are planning on additional security. Mr. Lucas from Kipo stated possibly putting lights up. They have had \$35,000 to \$40,000 in theft. They come in through the fields and go back through the woods. They don't have any overflow now; nothing for another month. Ideally, they would like to keep everything back at our place.

CEO Jeffery stated we have a regulation for shield lighting. I will work with them if they need lights, Mr. Lucas stated only lighting if there is theft. It is not for display. We show everything at the dealership. Mr. Lucas asked if there was going to be any signage. He stated may just so people won't loiter. This is a storage facility --a small 3' x 3' sign. CEO Jeffery stated it is allowed in that district.

Chairman Robinson asked Attorney Dowd if he had any input. He stated the lease was for three years, and the permit should be for three years. Other than that, everything is okay. If the lease is terminated, then the permit is terminated.

Steve Zappy made a motion for a three year permit with the stipulation if the lease is terminated for any reason the permit will be terminated and was seconded by Terry Duffy. Roll Call Vote. Terry Duffy-yes; 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 Jeff Skellen, 3197 Porter Center Road, Youngstown, NY. Tax Map No. 41.00-1-77 Under Article II, Section 200-8; and Article VIII, Section 200-108F(1), an use variance is required to let BL Tree Service (Brandon Lindke) to use property to park his equipment and to split and store wood. Property is located in a RA Zoning District on the East side of Porter Center Road between Braley Road and Youngstown-Lockport Road, Rte. 93 in said Town.

It was noted that Jeff Skellen and Brandon Lindke were present.

Chairman Robinson stated that last month the public hearing was left open. She asked if anyone in the audience wished to speak. None. Marshall Hibbard made a motion to close the public part of the hearing and was seconded by Terry Duffy. All in Favor. Motion Carried to close the public part of the hearing.

Chairman Robinson stated that we need to get some legal explanation from Attorney Dowd. Bryan Meigs made a motion and was seconded by Marshall Hibbard to break for Executive Session at 7:15 pm. All in Favor. The Zoning Board returned at 7:25 pm.

Attorney Dowd stated that no action was taken. It was stated that the Code doesn't provide for this activity, and there is nothing even close. I think the Board recognizes this type of activity is appropriate. A suggestion was made that the Zoning Board make a recommendation to the Town Board to adopt a law to change the permitted use table for a tree removal company and include setbacks; screens, etc. We could do this in approximately three to four months. We would table this application for a period of time for the Town Board to adopt a law. CEO Jeffery would not enforce any violations.

Chairman Robinson stated we don't have any basis for a decision in the code and rather than make a wrong decision we could table indefinitely until the Town Board made an amendment to the code and then we will address this application. We need your permission (Skellen and Lindke) to table this application. CEO Jeffery will not shut them down. CEO Jeffery stated he will actively work with the Planning and Zoning Boards to forward

recommendations to the Town Board for a new law. Both Jeff Skellen and Brandon Lindke approved to table their application.

Terry Duffy made a motion to table this application for a indefinite period of time pending review by the Planning and Zoning Boards and then forward to the Town Board for law 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

General Discussion

Chairman Robinson stated that there is a petition circulating on the new solar law. Is there anything you need to tell us? Is there anything we should be aware of as a Board? Attorney Dowd stated that there is a moratorium for a month. CEO Jeffery stated there is no complete application to the Town for any of the sites. Attorney Dowd recommends to the Town Board to discuss this with both the Zoning and Planning Boards. There was a discussion on some of the proposed locations and whether they would be good locations. CEO Jeffery stated that the Article X has generated some concern with people. He explained the new law and the three tiers. He stated that we have a pretty good law. There was a discussion between the Board and CEO Jeffery. Steve Zappy also commented that you have to be near a transmission line. CEO Jeffery stated he has a diagram as to where the transmission lines are in the Town of Porter. CEO Jeffery stated that he would put together some information as to what we have on the Town's book today.

Chairman Robinson stated the other issue is that the Fleckenstein variance. The time is up. Tom Fleckenstein called Chairman Robinson while she was harvesting apples. It is fascinating to see what is being done. Chairman Robinson gave a brief description of what process she saw.

CEO Jeffery stated that the secretary had advised him of the following four permits/variances that have expired.

Fleckenstein Variance V#268-2018 will expire on 12/24/2019. CEO Jeffery will try to take a look and will need to determine what needs to be done next. CEO Jeffery stated he will: (1) see what he has completed; (2) what has to be completed and (3) where we should go from here.

Grandpaws Place SP-3014-2012 has expired. Letters were sent on February 13, 2017 and March 30, 2019.

Michael Jeffords SP #331-2014 expired on September 18, 2014. Letter was send on August 22, 2019

Jordon Stables expired on December 10, 2019. The no longer live on East Avenue and are currently leasing the stables. They are in violation. CEO Jeffery will follow up.

A motion was made to adjourn the meeting at 8:00 pm by Member Bryan Meigs and was seconded by Terry Duffy. The next meeting is scheduled for Thursday, January 23, 2020.

Sincerely,

Nancy Smithson
Secretary, Zoning Board of Appeals