

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 27, 2020 at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	Date	Present	Absent
Jackie Robinson, Chairman	08/27/2020	yes	
Terry Duffy	08/27/2020	yes	
Bryan Meigs	08/27/2020	yes	
Marshall Hibbard	08/27/2020	yes	
Steve Zappy	08/27/2020	yes	
Atty Michael Dowd	08/27/2020	yes	
Peter Jeffery, Code Enforcer	08/27/2020	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 July 23, 2020 minutes. A motion was made by Terry Duffy and seconded by Marshall Hibbard to approve the minutes. All in Favor. Motion Carried.

Chairman Robinson asked for an Executive Session. Terry Duffy made a motion for Executive Session and was seconded by Marshall Hibbard. All in Favor. The Board met for Executive Session at 7:02 pm and returned at 7:12 pm.

Chairman Robinson read the following:

Application of Shennen Hannam, 2584 Youngstown-Lockport Road, Ransomville, NY. Tax Map No. 62.14-1-36.2 Under Article II, Section 200-12; and Article VIII, Section 200-108, a variance is requested for a 6.5 foot fence on South and 7.5 foot fence on North due to the slope of the property. Property is located in a Commercial Mixed-Use District on the South side of Youngstown-Lockport Road between Ransomville Road and where the Town of Porter ends in said Town.

It was noted that Shennen Hannam was present. Mr. Hannam spoke and stated that he did not know there was a height restriction. The property slopes down. The fence is not very long and does not obstruct the view. Code Enforcement Officer (CEO), Peter Jeffery stated he did notify the Hannam's, and they were apologetic and were willing to work with me to make it right. CEO, Peter Jeffery described where the fence was in relation to the neighbor. It is a wood fence and stained. Terry Duffy made a motion to close the public part of the hearing and was seconded by Bryan Meigs. 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 to close the Public Part of the Hearing.

Chairman Robinson asked if there were any questions from the Board. None. Attorney Dowd didn't have any questions.

Steve Zappy made a motion to approve the fence variance for Shennen Hannam 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 to approve the Variance for Shennen Hannam.

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, **August 27, 2020 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

Application of Darlene J. Clark, 3123 Park Avenue, Youngstown, NY. Tax Map No. 45.32-1-15 Under Article II, Section 200-10; and Article VIII, Section 200-108F(2), an area variance is requested for a bedroom. Property is located in a WR District on the East side of Park Avenue in said Town.

It was noted that Darlene Clark was present. She stated that she purchased the house in May and stated that the wall on the North side has to be replaced (just the addition). Since it has to be removed, I wanted to go out six feet because it is only 10' x 12'. Before I did anything to it, I

would like to make it bigger for my mom and make it wheelchair accessible. I wanted to go out since it has to be replaced.

CEO, Peter Jeffery showed the visual on the Town owned right away. He explained that the right away is owned by the Town of Porter. There is no pavement on it. The sub-division has very little right away. They like to have room to push snow into that area. I can't speak for the Town if they want to get a road on it. CEO Jeffery explained that under a use variance she could only go out ½'. If she can't have six foot what would be the maximum the Board would approve.

Larry Whitmer, 3118 Park Avenue described his property. He explained that the water treatment plant was there.

CEO Peter Jeffery stated she would be 3.56 off the edge of the right away. My understanding is the right away is owned by the Town of Porter. Everybody has the right to use the right away. Chairman Johnson asked if she will infringe on the right away.

Karen Feathers (V. Bell's daughter) , 3115 Park Avenue stated that she believes it was a water treatment plant and that the Town of Porter has the right to get on and off. It is no longer necessary for the easement. My mother has lived there for 45 years. Chairman Robinson stated the easement does not disappear.

Attorney Dowd stated that when there is a land locked parcel, you can get an easement. It doesn't even need to be in writing by the Court. If the treatment plant isn't there, the easement does not go away. The land is not buildable. No one can put anything there.

V. Bell stated that they don't have a problem with the variance.

Bryan Meigs and Steve Zappy visited the property, and it doesn't seem to be an issue for six feet. Terry Duffy stated that he has walked the neighborhood and doesn't see an issue.

Terry Duffy made a motion to close the public part of the hearing and was seconded by Marshall Hibbard. Chairman Johnson 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 to close the public part of the hearing.

Bryan Meigs made a motion to approve the 5-1/2' area variance and was seconded by Terry Duffy. Chairman Johnson 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 to approve the area variance for Darlene Clark.

Chairman Robinson stated there is an ongoing issue with the sky diving. CEO Peter Jeffery has had complaints – more so because of the 3 to 4 day festival. It was noisy. We live there. They did have a permit for the event. CEO Peter Jeffery issued the permit. It was noisy. I don't think anybody would have known what the scope of the helicopter would have been. They didn't do anything wrong out of the scope of the permit -- nothing illegal. The only thing this Board can do, if they come next year for a permit, we will revisit because they were disruptive to the community. You have our apology. There wasn't anything done that was wrong.

Attorney Dowd stated that regarding the temporary permit we will be taking a hard look into the decibels of the plane. We won't have to give the temporary permit because of the complaints.

Chairman Robinson stated the regular special use permit is for three years. CEO Peter Jeffery is in close contact with them. I know what is going on. They seem to be in compliance. You have to give them credit for their enthusiasm and success.

Attorney Dowd explained the permit if there were violations of the permit. The permit will expire in three years, and we will revisit all of this in three years. You will be notified of this.

CEO Peter Jeffery stated the temporary use they would like to have an annual event. We are going to address the Town Board and Planning Board. Supervisor Johnston has had complaints on the festival weekend. There will be restrictions placed on it relative to the complaints coming in on the temporary use next year. I will ask the Town Board, Planning Board for their recommendations. We are going to add restrictions in that regard. CEO Peter Jeffery also spoke about the special use permit and the restrictions.

Chairman Robinson stated things are going on in all Towns that annoy people. Each town has to deal with issues that people don't like. Chairman Robinson asked that each person speaking to identify themselves.

Ashley Daul, 3269 Porter Center Road. I have had a number of conversations with CEO Peter Jeffery on the event. I believe the whole area should have been notified. There were no masks. This is a whole Covid thing. This is not one of my main concerns. Parking – 9 to 10 maximum. They were violating this.

Chairman Robinson stated we have no control over masks. We cannot police that. The parking issue there is a house that is attached, an Airbnb and how can we figure out where what facility was attached to it. I don't know who can make that determination.

CEO Peter Jeffery stated ten cars parking max. The question is about the number of cars parking. As long as they are not parking on the street, that is not going to be a problem.

L. Wells, 3269 Porter Center Road. Closing time is sunset and they are jumping out of the airplane. Chairman Robinson explained that they can do flights from 9:00 am until sunset. They can't land the plane in the dark. Mr. Wells stated planes are still driving around twenty to thirty minutes after. They are taking their time driving over 9 o'clock at night. I am just asking them to be compliant -- land plane before sunset. Please give the area a break and ask Jason if there is any chance he can adjust this.

Attorney Dowd questioned landing on the air strip. We should look into it; if they come back for their permit renewal, it is not unreasonable what these people are asking for. If anyone has questions, reach out to CEO, Peter Jeffery.

Ms. Daul stated that she had a conversation with Duffy Johnston and we were told we could have the permit adjusted. I have spoken to the FAA, and they are doing an investigation. I am trying to make sure they are doing what they are supposed to. They don't live in our community.

Chairman Robinson stated that she felt that CEO Peter Jeffery addressed your concerns. They did all the right steps to do what they are doing. We

put parameters on. Your concerns are in the minutes. CEO Jeffery stated that the concerns will be brought up with them when they come up for renewal.

Frank at 3231 Porter Center Road stated he could not get his pick-up in the driveway. There were very few masks. He stated that the helicopter landed at 9:30pm on 8/13 and at 10:45pm on 8/14. Chairman Robinson stated that if they have that information, please give it to CEO Peter Jeffery. They also stated the hot air balloon was in the air at 8:30 pm. We have all the tail numbers of the planes.

Attorney Dowd stated if you have this type of information, please give it to Peter Jeffery. Sunset is coming a lot earlier now.

Chairman Robinson stated it is better if you are calm and sensible. Jason is quite easy to work with. CEO, Peter Jeffery stated that this is the first real violation and well over the time limit.

Ashley Daul stated that she appreciated the time the Board listened to her.

Chairman Robinson thanked them for coming in. She asked if there were any more questions. None.

A motion was made to adjourn the meeting at 7:55 pm by Member Bryan Meigs and was seconded by Marshall Hibbard. The next meeting is scheduled for Thursday, September 24, 2020.

Sincerely,

Nancy Smithson
Secretary, Zoning Board of Appeals