

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 October 22, 2020 at 7:00 PM, in the Town Hall Auditorium located at 3265 Creek Road, Youngstown, NY 14174.

	<u>Date</u>	<u>Present</u>	<u>Absent</u>
Jackie Robinson, Chairman	10/22/2020	yes	
Terry Duffy	10/22/2020	yes	
Bryan Meigs	10/22/2020		yes
Marshall Hibbard	10/22/2020	yes	
Steve Zappy	10/22/2020	yes	
Atty Michael Dowd	10/22/2020	yes	
Peter Jeffery, Code Enforcer	10/22/2020	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 September 24, 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 brought up about the November and December meetings. Normally, the Zoning Board does not meet in November due to hunting. She asked the Board if they wanted to combine the November and December meetings or have one for each month. Member Steve Zappy stated that he didn't think the December meeting would be affected by hunting. Code Enforcement Officer (CEO), Peter Jeffery stated he will confirm the availability of the room for November 19 and December 17. CEO Jeffery stated he would follow up with an email regarding the meeting dates for November and December. Attorney Dowd stated he is ok with both dates.

Chairman Robinson stated that we were going to do the application of Mr. Fox which was tabled from the September meeting. Mr. Fox was present. CEO Jeffery stated that he talked to Mr. Sher along with Duffy Johnston and Attorney Dowd. He stated that they had a good conversation with Mr.

Sher. He stated that Mr. Sher was not going to plant anything along the lot line.

Attorney Dowd confirmed that Mr. Sher stated he would not be planting plants along his property. He took all the rubble out and filled it in and that was a big concern of the Town. He is going to burn the wood in the winter. He will be in violation if not handled quickly. He needs a permit for the burning. Niagara County issues the permit for burning. It is a State law.

Mr. Fox stated he was willing to go with a five foot fence from the front property line to the front porch. Member Steve Zappy asked if a five foot fence would be good. You originally asked for an eight foot fence. The Planning Board approved a six foot fence, and the Zoning Board asked for a five foot fence from the corner of the front of the house to the edge of the property line. Member Zappy asked Mr. Fox how far from the front property line to the road. CEO Jeffery stated it is 62.2 feet from the white line of the pavement. Member Zappy stated he doesn't think it will be impacting drivers.

Chairman Robinson stated it is a substantial variance. To protect ourselves from future issues, we should put specification in the variance; such as, line of site not impacted; traffic coming from the East, and there is light in his windows. Chairman Robinson stated in the September minutes on the second to last page (5) "**it was**". This was not self-created. Member Steve Zappy made a motion to amend the September minutes (#5) . **change to "It was not"** and was seconded by Terry Duffy. Roll Call Vote. Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. Motion Carried to amend September minutes.

Member Hibbard and Attorney Dowd both asked Mr. Fox is he considered putting up trees, and Mr. Fox replied that he would have to move the driveway over. Attorney Dowd stated you have to weigh this on your merits. You can put into the minutes why you approved this variance. Member Hibbard stated the neighbor across the street had questions but it was noted that the neighbor was questioning a solar farm. Attorney Dowd stated if you give the variance on the neighbor's side you could ask for plantings. Attorney Dowd stated he could ask Mr. Sher again, but Mr. Sher was not interested. Mr. Fox stated that he had a surveyor today, and my property line is right on the edge of the driveway.

CEO Jeffery stated there was one other consideration that the good side of the fence (chain link) facing Mr. Fox. Mr. Fox stated the fence will be all black. When I put the chain line up, I am going to have to go on Mr. Sher's property. Attorney Dowd commented that he didn't think Mr. Sher would object. CEO Jeffery stated now is the time to clarify this. Attorney Dowd stated Mr. Sher will be selling off as building lots. The good side definitely should be facing the neighbor. Terry Duffy commented on the slats of the fence. Instead of all black it would be greenery instead of all black. Steve Zappy asked about possibly a tier from 3 to 4 to five feet. Mr. Fox stated that the end of the fence closest to the road is the problem. There is a glare coming from the East facing into the house. CEO Jeffery showed it on the overhead map. Steve Zappy stated that he is concerned if there are other houses being put in. Will we be setting a precedent? It was mentioned that there is a possibility of one to two lots. Chairman Robinson stated they will be buying the lot as existing. There will be no precedent. Attorney Dowd stated the line of sight will now be from Creek Road.

Chairman Robinson asked if there were any further questions.

Member Terry Duffy made a motion to approve the five (5) foot fence variance of William Fox, 913 Lockport Road, Youngstown, NY from the front property line to the front porch and install green prime hedge slats with the right side out and no variation in height. Four elements were considered (1) degree of variance is appropriate; (2) it is not self-imposed; (3) it won't affect the neighbor's property (4) it is not out of character of neighbor's property. The owner cleared away everything. It was not self-created and was seconded by Marshall Hibbard. Roll Call Vote. Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. 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, **October 22, 2020 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):

**Application of Elizabeth Rockett, 2505 Lake Road, Ransomville, NY. Tax Map No. 21.18-1-29** Under Article II, Section 200-10; and Article IV, Section 200-35 and Article VIII, Section 200-107, a Special Use Permit for a home occupation “Writer’s Cramp Camp” in detached storage building (originally a cottage). Under Article II, Section 200-10; and Article VIII, Section 200-108F(2), an area variance is requested for a roof projection (post & barn structure) for firewood storage. Property is located in a WR (Waterfront Residential District) on the North side of Lake Road between Dickersonville and Ransomville Roads in said Town.

It was noted that Elizabeth Rockett was present. Chairman Robinson stated that Elizabeth Rockett was applying for a special use permit for a home occupation and a variance for firewood storage. Elizabeth Rockett has retained an attorney and would like to have this tabled until next month’s meeting. We could go on with the public hearing tonight. We could have a discussion. Camille Brown, Attorney stated that they would appreciate the opportunity to prepare a presentation and table this application until the November meeting. Marshall Hibbard made a motion to table this application until the November meeting and was seconded by Terry Duffy. Chairman Robinson asked for a Roll Call Vote. Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. Motion Carried to Table the application of Elizabeth Rockett and the public hearing will still be open.

Member Zappy asked Elizabeth Rockett a question regarding the home occupation – writer’s camp and asked her where the wood storage would be. Does the neighbor have a problem? Elizabeth Rockett stated the neighbor lives in Italy, and they discussed the wood storage and explained where it was going to be. I definitely will not be on the property. I will be 1’3” away from the line. There is 7’4” between the original little cottage and his metal shed. I will not have to go on his property. CEO Jeffery showed the survey and actual dimensions.

CEO Jeffery stated he will make sure this room is available and will send out a confirming email.

A motion was made to adjourn the meeting at 7:40 pm by Member Terry Duffy and was seconded by Member Marshall Hibbard. The next meeting is scheduled for Thursday, November 19, 2020.

Sincerely,

Nancy Smithson  
Secretary, Zoning Board of Appeals