



TOWN OF PORTER

3265 Creek Road ♦ Youngstown, New York 14174 ♦ (716) 745-3730, ext. 7 ♦ fax (716) 745-9022 ♦

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 March 25, 2021 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	03/25/2021	yes	
Terry Duffy	03/25/2021	yes	
Paul Brown	03/25/2021	yes	
Marshall Hibbard	03/25/2021	yes	
Steve Zappy	03/25/2021	yes	
Atty Michael Dowd	03/25/2021	yes	
Peter Jeffery, Code Enforcer Officer	03/25/2021	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 December 2020 minutes. Member M. Hibbard made a motion and was seconded by Member S. Zappy to approve December 2020 minutes. All in Favor. Motion Carried.

Chairman Robinson asked for the approval of the January 2021 minutes. Member T. Duffy made a motion and was seconded by Member M. Hibbard to approve the January 2021 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, **March 25, 2021**



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

Application of Dennis & Abigail Mitchell, 3344 Porter Center Road, Youngstown, NY 14174. Under Article II, Section 200-8; and Article VIII, Section 200-108F(2), an area variance of seven (7') feet to erect a canopy building. Property is located in a RA Zoning District on the North side of Porter Center Road between Braley Road and Youngstown-Lockport Road, Rte. 93 in said Town.

It was noted that Mr. Mitchell was present. Member Terry Duffy and Member Paul Brown made motion to approve the opening of the Public Hearing.

Mr. Mitchell stated that he is putting a canopy up on the side of the house. He has had it surveyed and has the exact measurements -- 7'6" off the lot line in the back and 9' off the lot line in the front. Member Zappy asked what is the purpose of the canopy? Mr. Mitchell stated to park a car and an open gazebo. Chairman Robinson asked Mr. Mitchell to explain the picture of the survey and where the canopy will be. CEO, Jeffery stated it is closer to the house and five feet off of the garage. Chairman Robinson stated the concrete is already there, and Mr. Mitchell agreed. Member Brown asked if this is going on top of the existing concrete. Chairman Robinson asked for the dimensions again. CEO Jeffery stated eight feet at the back corner – NW corner to the property line; closer to the road – five feet – NE of the house; canopy is 12 feet. The code asked for 15 feet in the front yard. Because it is in the side yard, it doesn't fit into the code; hence, a variance is requested. Member Zappy asked if it could be closer to the road. CEO, Jeffery stated accessory building should not be in the front of the yard. CEO, Jeffery stated it will be attached to the house (breezeway). It is the preference of the Board.

Chairman Robinson asked if anyone else from the audience wished to speak. None. Member Duffy made a motion and was seconded by Member Brown to close the public part of the hearing. All in Favor. Motion Carried.

Member Zappy asked Mr. Mitchell if he has spoken to any of the neighbors. There was no opposition.



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Chairman Robinson read the following:

Area Variance: (*Board answers are in italic*)

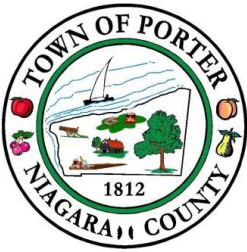
- (a) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board 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; *No*
 - (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; *You do have room in the back but there is no concrete; probably used as a carport.*
 - (3) Whether the requested area variance is substantial; *It is extremely substantial; requesting seven foot variance; almost 50%.*
 - (4) Whether the proposed variance will be an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; *It won't* 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 be necessarily preclude the granting of the area variance.

Chairman Robinson stated the biggest difference is for No. (3) substantial.

Attorney Dowd stated it will be open; not closed; it is not a living space. Attorney Dowd stated it is a substantial issue. It is not an included living area. Chairman Robinson stated we should say it is an open sided structure. We need to justify it.

CEO, Jeffery stated Mr. Mitchell already has the concrete there and his wife wants to park there. It is part of the rationale.

Chairman Robinson stated the Planning Board approved it. Chairman Robinson asked if there were any other questions. We have to justify the variance. CEO, Jeffery stated there will be manufacturing recommendations and specifications when Mr. Mitchell submits the building application. Member Duffy asked if are there going to be any utilities. Mr. Mitchell said nothing there.



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Member Duffy made the following: to approve the Variance of Dennis Mitchell for an area variance of seven feet to erect a canopy building with the following stipulations: (1) it is an accessory structure – not a living structure; (2) it has to be anchored down and (3) no sides and was seconded by Member Hibbard. Roll Call Vote: Member Duffy-yes; Member Brown-yes; Member Hibbard-yes; Member Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried to approve the variance of Dennis Mitchell.

CEO, Jeffery stated he will issue a building permit. He asked Mr. Mitchell to bring in the documentation on the building/structure.

Chairman Robinson read the following:

Application of Anthony Certo/Ensol, 3787 Lower River Road, Youngstown, NY. Tax Map No. 59.18-1-8. Under Article II, Section 200-10; and Article VIII, Section 200-107, a Special Use Permit is required for construction of a stairway from street level to a deck and floating dock at Niagara River shoreline. Property is located in a R1 w/Niagara River Overlay on the West Side of Lower River Road near Collingwood Estates in said Town.

It was noted the Kristin Price and Brian Boddecker were present from EnSol on behalf of Anthony Certo. Kristen Price stated it is a 25' x 25' platform and floating dock (seasonal) with modular blocks that fit together and will be removed at the end of the season. The deck will be permanent.

CEO, Jeffery showed an aerial picture of the drawing and layout of the dock and explained the configuration of the deck.

Chairman Robinson stated this is a joint application between the DEC and the Army Corp of Engineers. Kristin Price explained the joint application in an email to Peter Jeffery dated February 18, 2021. Kristin Price also stated that there will be posts in the dock.

Chairman Robinson asked if there was any other input. Tony Collard stated this is a very professional presentation and drawings. Mr. Collard questioned the distance the posts will be away from the shoreline. Mr. Boddecker replied 30' to



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35'. CEO, Jeffery stated it will be dictated by the Army Corp of Engineers. Attorney Dowd stated the posts have to come out that are in the water. CEO, Jeffery stated the Army Corp of Engineers will require it. Member Duffy stated that the docks in Lewiston have some permanent posts in the river.

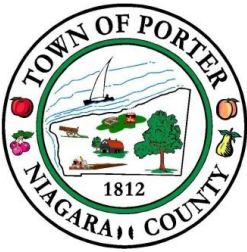
Member Marshall Hibbard made a motion to close the public part of the hearing and was seconded by Member Terry Duffy. All in Favor. Motion Carried to close the public part of the hearing.

Chairman Robinson asked a question about the SEQR form. Attorney Dowd stated the DEC might ask for it to be done. Kristin Price stated it was already given to the DEC. Attorney Dowd questioned who the lead agency was. He stated he didn't think we were the lead agency so we don't have to fill out the SEQR. Kristin Price stated the DEC is the lead agency.

Chairman Robinson raised the question about the parking of cars. Are they going to be parking at the house? The code stated no more than four cars and no parking on the West side of River Road. CEO Jeffery showed where the dock will be placed on the aerial view. Chairman Robinson stated no more than four boats; no parking on River Road; parking cannot impede people coming out of Howard Drive. Member Terry Duffy questioned the people using the boats. Kristin Price stated friends or family. CEO Jeffery showed the diagram of the dock (four really small boats). Member Terry Duffy questioned parking on Howard Drive. Tony Collard stated he doesn't thinking there are shoulders on Howard Drive. CEO Jeffery sated they could get four cars in the driveway.

Chairman Robinson asked if there were any further questions.

Member Terry Duffy made the following recommendation that we approve the application of Anthony Certo for a special permit for construction of a stairway from street level to a deck and floating dock at Niagara River shoreline with the following conditions; (1) It is in compliance with the Army Corp of Engineers and DEC requirements (2) no permanent posts; floating docks and ramp must be removed seasonally; the dock will have no more than four boats for private use only; (3) no parking on the West side of River Road; parking in driveway; no parking in the right away and no parking on Howard Drive. (4) Under the terms: current property owners and no change in the configurations or the structures as



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presented and was seconded by Member Marshall Hibbard. Roll Call Vote. Member Duffy-yes; Member Brown-yes; Member Hibbard-yes; Member Zappy-yes and Chairman Robinson-yes. All in Favor. Motion Carried.

Attorney Dowd has nothing to report.

CEO Jeffery passed out two documents on "Proposed Amendment to the Farm Market definition and "Proposed home based contractor business (Rural Residential Business). After discussion, Attorney Dowd and CEO Jeffery will work on a final draft to propose to the Town Board on the farm market definition. Regarding home occupation there was discussions on proposed working from home; lot size for different businesses/contractors.

Ceo Jeffery thanked the Board for their input and will put together a package and go back to the Planning Board.

A motion was made to adjourn the meeting at 9:00 pm by Member Terry Duffy was seconded by Member Marshall Hibbard. The next meeting is scheduled for Thursday, April 22, 2021.

Sincerely,

**Nancy Smithson
Secretary, Zoning Board of Appeals**