



# 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 May 27, 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	05/27/21	yes	
Terry Duffy	05/27/21	yes	
Paul Brown	05/27/21	yes	
Marshall Hibbard	05/27/21	yes	
Steve Zappy	05/27/21	yes	
Atty Michael Dowd	05/27/21	yes	
Peter Jeffery, Code Enforcer Officer	05/27/21	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 April 22, 2021 minutes. Member T. Duffy made a motion and was seconded by Member P. Brown to approve April 22, 2021 minutes. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-absent from April meeting; 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, **May 27, 2021 at 7:00 PM** for the purpose of considering and hearing all interested persons concerning the following application(s):



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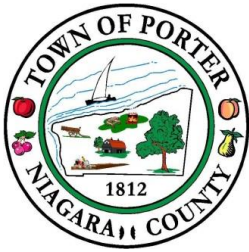
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## **Application of Arthur Garabedian, 5334 Elm Drive, Lewiston, NY 14092.**

Under Article II, Section 200-09; and Article VIII, Section 200-107, a Special Use Permit is required the use of the existing horse barn/riding arena for storage of trailers, motorhomes, boats and r.v's at 3360 East Avenue, Youngstown, NY Tax Map No. 45.00-1-42.2. Property is located in a LDR Zoning District on the West Side of East Avenue between Youngstown Lockport Road, Rte. 93 and Blairville Road in said Town.

Mr. Garabedian was present. He explained that he wanted to put in the riding arena a 60' wide by 180' long storage for boats, cars and small motor homes. Small vehicles due to the size of the garage doors, it will be indoors. I am only asking for indoor storage. Terry Duffy asked the question, "How many vehicles?" Mr. Garabedian stated maximum number of 35 vehicles so we can have a wider driveway inside the building. Chairman Robinson questioned if it was only winter storage. Mr. Garabedian stated that he has received calls from people in Lewiston and surrounding areas to store good cars in the winter. I had calls due to the article in the newspaper. The response has been very positive. Chairman Robinson questioned the timeframe of storage from October 31 to May 16 – it will be closed. If put in October, you can't take out until the middle of May. Mr. Garabedian stated there will be four times during the summer. We will be closed Tuesday, Wednesday and Thursday. Terry Duffy questioned if there will be a person on staff during the times of operation. Mr. Garabedian replied "yes", Peter Jeffery, Code Enforcement Officer (CEO) talked about seasonal storage. A new law was adopted a year or two ago. There was an amendment to the original. There is no other primary use at this time. Chairman Robinson questioned if there was a residence – None. Terry Duffy questioned if there were any other activities beyond storage at this time. Mr. Garabedian – None.

Chairman Robinson stated that Mr. Garabedian stated he needed a special use permit. Mr. Garabedian stated there is a cottage on the property. I purchased the property in 2004. The cottage was built on the site many years ago. It was constructed on site. Chairman Robinson asked if it was livable. Attorney Dowd stated there was no discussion on the residence at the Planning Board meeting. He needs a variance. If you have people coming and going you need a variance.



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CEO Jeffery stated there is no single family residence on the assessors roll. I cannot say that there is a residence, and I am not aware of a residence there. You called it a cottage. I suspect it was used as an office.

Chairman Robinson stated the other issue is this can't be a place that people use their boat on the weekend and return it on the same day. Mr. Garabedian stated once they take the boat out it can't be used more than four times in that period. It will be written in the contract that access to the property only four times in that period.

Attorney Dowd commented on the limited number of times. There really should be hours of operation; limited activity. You need a variance and special use permit.

Chairman Robinson read the following two letters from neighbors.

Dated Wednesday, May 26, 2021

"Dear Members of the Town of Porter Zoning Board of Appeals:

My wife, Crystal, and I are homeowners at 3344 East Avenue. Our concern with the granting of a special use permit for motor vehicle storage INSIDE the horse barn and riding arena at 3360 East Avenue is that it will expand to include vehicles parked and stored OUTSIDE the barn and arena. If this permit is granted, we would expect the Town of Porter to hold the applicant to the restriction that only INSIDE storage would be used and to not ignore improper usage of the Special Permit.

Thank you.

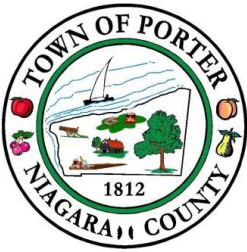
Victor & Crystal Szarejko'

Letter dated May 21, 2021 from Janis & Donald Dutko, 3338 East Avenue, Youngstown, NY 14174

"Re: Special Permit Application on 3369 East Avenue, Arthur Garabedian

Dear Sirs:

We are writing with comments on above request to change zoning for above property, which to our understanding has been agricultural/residential.



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We built our home 44 years ago when it was a mixture of farms and homes. As the farms faded, property went up for sale and residential took over, albeit the horse farm that Mr. Garabedian has rented out to various people over the course of many years. I wish I could say that any of the tenants have been good stewards to our neighborhood, but unfortunately, we have been plagued with much unpleasantness. Living just three doors down, most summers have plagued us with flies, terrible odors, and for 3 years piles of manure allowed to stack higher than 6 feet tall. Rather than disposing of the manure, or spreading it as the heat law requires, it was just piled in several places along the property. Constant complaints to the then Zoning Officer, left matters as they were for years. The number of horses being kept there, far exceeded the number they were permitted to have, yet nothing got done. Eventually the new Officer, Pete Jeffery got it taken care of. For more summers than we can remember, flies covered the outside of our homes, so that we could not sit outside ... and the odor was terrible. I believe that Mr. Garabedian should have been held accountable IF he was ever notified.

The property has fallen into horrible disrepair with grass not being cut, vines crawling up the buildings, broken fences, and painting not done. Who would want to board their horse there?

In our opinion the proposal to store leisure vehicles there does not belong in a residential area where one current home on the corner of East Avenue and Rte. 93 is on the market for \$475,000.00. Can I ask you...what would this do to the value of our homes? Would the Board Members want this to negatively affect the value of their homes? We simply ask you to put yourselves in our shoes.

Increased traffic is also a concern. As it is, because of East Avenue is a thru street, we deal with school buses and heavy construction vehicles already. To propose motor homes, boats and trailers and larger vehicles to travel down our road would only make our neighborhood busier and noisier.

You might ask yourselves if this is even a necessary business. Is there not already boat, trailer, motor home storage on Blairville Road at both Josh Stack's repair business and also the storage unit facility? Has the Board even read about



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the old K-Mart Store in the Town of Niagara that is being developed into this exact same storage facility. Why would we allow outsiders to use East Avenue as a parking spot for their leisure vehicles when it is not needed? This is far beyond what residents would have expected when we built our homes here.

At one time, East Avenue...that at one time was named Poverty Ridge Road...was a beautiful, serene road with farms, horses and homes. As long-time residents, we simply ask you to consider our quality of life, and the value of our homes. Keep East Avenue as it was....not a fix for someone's failing business venture.

With great respect,

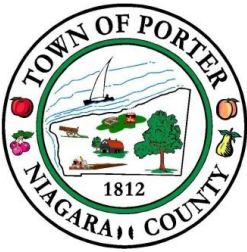
Janis & Donald Dutko"

Terry Duffy questioned the storage of fuel; fire safety and an issue with regards to assurance of liability. Mr. Garabedian stated that in the contract write up it is the responsibility of the boat owners to carry their own insurance. We are not responsible. It will be outlined in the agreement. Propane tanks cannot be on the property or area. We are taking all this into consideration. Each owner will be asked to carry their own insurance. We will look into liability insurance on our part.

Attorney Dowd stated you could require them to carry hazard insurance in the special use permit. Attorney Dowd asked if you have been in the building. The floor is not level. Mr. Garabedian stated it is level now. There has not been indoor riding in about eight years.

Chairman Robinson asked about the access to fire facilities. CEO Jeffery stated it would be considered a commercial building. The building would have to be brought into compliance under the present code.

CEO Jeffery stated I am unsure what work would have to be done.as I have not been in the building. There will be things that will have to be done to be in compliance. You have to provide a fire access road to the facility.



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Mr. Garabedian stated there is an access road 16 feet wide. There is a vinyl fence on each side. I could take it down that would allow better access. We have had people stealing fences from us. A couple of years ago, I received a call that someone set the fields on fire on the property. The fire was way in the back.

Chairman Robinson asked Mr. Garabedian if he would like to comment on the neighbors' concerns. Mr. Garabedian stated that he had guys come down today. I had the front property mowed. I asked that the property be mowed by the vinyl fence. We mowed right out to East Avenue.

CEO Jeffery stated the buildings are not maintained at this time. If the Board is going to consider granting the permit I need to go through the buildings to see if they are in code and property maintenance is a concern. Mow lawns 10" or less; roof and siding has to be maintained.

Chairman Robinson asked if we would table until next month to have CEO Jeffery go through the property. Attorney Dowd stated that he didn't know if you could have a storage facility with a dirt floor. I think Mr. Garabedian should speak to CEO Jeffery. It would be a good idea to table until CEO Jeffery can go through, and he sees what has to be done to update to code – more due diligence.

Chairman Robinson asked CEO Jeffery if he would agree to this as to whatever the code says and come back next month with more information. CEO Jeffery stated he can check with Mr. Garabedian and schedule a time. I have not been in the building. The building code has specific requirements. CEO Jeffery stated he will research if it needs a concrete floor.

Terry Duffy made a motion to table the application of Mr. Garabedian until the June 24, 2021 meeting and was seconded by Paul Brown. Roll Call Vote. Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes; Steve Zappy-yes and Chairman Robinson-yes. Table Application until June 24, 2021 meeting.

Chairman Robinson asked Mr. Garabedian to possibly reach out to Mr. Dutko regarding the letter. Mr. Garabedian stated that the previous owner had 60+ horses. He stated that he never knew about the pile of manure was there. He stated that the previous owner knew she was not allowed to have that many horses. Marshall Hibbard commented on doing due diligence on Mr. Garabedian





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to upkeep the property. Mr. Garabedian stated the previous rental destroyed the property. Mr. Dutko questioned the size of the vehicles and Mr. Garabedian stated he is looking at mostly boats and cars. Chairman Robinson asked if he had a relationship with Mr. Dutko.

CEO Jeffery asked Mr. Garabedian to call him next week to set up a date.

Chairman Robinson read the following;

**Application of Alexandra Whitford, 153 Riverdale Avenue, Tonawanda, NY 14207.** Under Article II, Section 200-8; and Article VIII, Section 200-108F(2), an area variance for having the fenced in training area in the front yard at 1650 Braley Road, Youngstown, NY Tax Map No. 47-00-1-32.11. Property is located in an RA Zoning District on the South Side of Braley Road between Youngstown-Lockport Road and Porter Center Road in said Town.

It was noted that Alexandra Whitford was present. She would like to clear section in front of the residence and fence in for training purposes. There is nothing behind the building that could be fenced in. I would like the fence to be four feet instead of three feet. The dogs will not stay in front of the property. My personal dogs when I am home and for training purposes under supervision. Terry Duffy questioned the number of dogs. Ms. Whitford stated she contacted the Health Department regarding the number of dogs. She based her information on square footage – so about 30 dogs but would like to make allowable 50 dogs. She stated that she could board 20 on property and additional kennels on the inside of the property – room off to the side; thirty dogs to be completely full. She stated there will be daily training opportunities that people could do and boarding for just overnight stays. Attorney Dowd questioned where the boarding dogs will stay. Ms. Whitford that she would remove the gate section and have my training dogs there. The training dogs will be in the training rooms. Chairman Robinson asked if she was going to live there. She also stated that no one will be housed outside and there are twenty kennels. She the twenty dogs will be housed in the kennels and the other 15 will be stored overnight in crates. All will be inside. No one will be outside overnight.



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

Chairman Robinson asked how big is the property – 10.5 acres. She asked if Ms. Whitford can put this training area in the back. Ms. Whitford stated time wise she was planning on moving within the week after she closes. There is a small area behind the house. I don't have the cost to clear the additional property. Marshall Hibbard commented that there is parking on the kennel side and a small part by the personal residence. Ms. Whitford explained where the fencing is going to be – two separate areas.

CEO Jeffery stated that he had no complaints previously on the dog kennel. There was a discussion among the Board members about where the fencing would be and access to the home. Ms. Whitford stated that she has not heard from anybody.

Chairman Robinson read the requirements for an area variance.

“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.





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- (b) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

There was a question raised about how far back is the house. CEO Jeffery stated about 100' off the road. The Board discussed the setback requirements of the fence; only one house on one side; asked about the type of fence – chain link. CEO Jeffery showed a diagram to the Board explaining the area. There was a question on where the power lines were; property line set backs; no dogs in the training area unless attended to; dogs will be housed indoors overnight; CEO Jeffery stated the June meeting of the Planning Board will do a site plan for the kennel.

Terry Duffy made the following motion for the Application of Alexandra Whitford for a fenced in front yard training area. (1) Distance from the front property line 30'; (2) Chain-link fence (black or green); (3) no dogs left unattended in training area; (4) dogs will be indoors during the night and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes-; Marshall Hibbard-yes; Steve Zappy-yes; Chairman Robinson-yes; All in Favor. Motion Carried for a fenced in training area in the front yard.

Terry Duffy made the following motion for the application of Alexandra Whitford for a four foot (4') in height chain-link fence in the front yard training area and was seconded by Paul Brown. Roll Call Vote: Paul Brown-yes; Terry Duffy-yes; Marshall Hibbard-yes and Steve Zappy-yes. All in Favor. Motion Carried

Attorney Dowd – no discussion

CEO Jeffery. He stated he is trying to get in touch with the skydiver owners as they are advertising a summer festival posted on line. He also stated that a fuel truck showed up. He is trying to schedule an appointment between Chairman Robinson and CEO Jeffery and the owners.



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**A motion was made to adjourn the meeting at 8:25 pm by Member Terry Duffy was seconded by Member Marshall Hibbard. The next meeting is scheduled for Thursday, June 24, 2021.**

**Sincerely,**

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