

7-09-2017

My name is Mark Lynch and I am here this evening with my sister Pat.

In recognition of Porter's Zoning Law Article VII, §98 A. 1, we are appearing tonight with the request that you reverse the January 2016<sup>th</sup> ruling by the previous CEO Roy Rogers that declares "The properties at 2085 and 2087 Lake Road are...single family residences and not commercial property"

There is no question that the three buildings on these properties have been employed exclusively since 2013 as part of a for profit commercial enterprise that continues to provide short term and overnight sleeping accommodations to tourists and the traveling public that are transient -not permanent.

The Town's zoning code defines a single-family dwelling as a building or portion of a building used exclusively for residential occupancy by a person or persons who are permanent and not transient.

Porter's zoning code defines a motel as a building or group of buildings designed and used primarily for providing temporary accommodations for tourists and the traveling public with parking spaces adjacent to the accommodations.

The operation of a Motel in the waterfront Residential district is expressly prohibited. It is clear from the plain reading of the Town of Porter Law that the intent in establishing the Waterfront Residential District was to protect homeowners by limiting uses primarily to single family dwellings.

These are the facts. In 2012 Waldemar and Christina Nowacki, owners of the Lakeview Motel, purchased the two properties listed above and began immediate, extensive and- costly- renovations of the three buildings on these two parcels. Fact- Upon completion of these renovations the Nowacki's have openly used these buildings as part of their commercial conglomerate known as Lakeview Motel and Cottages. Regardless of their investment, it is a fact that the operation of this commercial enterprise in Porter's Waterfront Residential Zone is not permitted.

Fact- These properties are owned by a business corporation, Lakeside Cottages Inc. Fact- A corporation in New York State is a legal entity set up to allow lawful for-profit business activity. Lakeside Cottages aka Lakeside Homes aka Lakeside Home Rentals, are marketed, maintained and managed as temporary accommodations for the traveling public. The management office where customers check in and check out and where they are promised a complimentary continental breakfast has a big sign which proclaims "Lakeview Motel"; The CEO of Lakeside Cottages Inc. has publicly acknowledged that the properties are available to visitors on a daily and weekly basis. She is quoted in the press that she and her husband are engaged in the business of short term rentals on their lakeside properties. In that same news article Christina Nowacki is quoted saying "are we doing something that everyone else is doing on the Lake? Absolutely we are." We are here tonight to focus only on their commercial enterprise that has been allowed to fester in our Waterfront Residential Zone in direct conflict with Porter's Town Code.

Recently the Nowacki's have gone to great lengths to create a "virtual distance" between their business interests on either side of Lake Road. One can almost lose sight of their Lakeside vacation homes on their website. Do not be fooled by their sleight of hand. The Nowackis are openly employing a total of four buildings located in a waterfront residential zone for commercial profit. At no time since their completion have these buildings provided anything but temporary accommodations for tourists and the



traveling public. In fact, they fit Porter's exact definition of a motel. In fact, they do not fit Porter's definition of a single-family home.

There are three factors which will lead you to reverse Roy Rogers decision and declare that these properties are being used in commercial activity

- 1) The definitions employed in the Town of Porter's zoning laws specifically define the usage and subsequent attributes that constitute exactly what is a motel and exactly what is a single-family home.
- 2) All three structures on the properties at 2087 and 2085 Lake Road along with a fourth building at 2053 Lake Road have been used exclusively since their reconstruction for commercial profit by providing temporary and overnight accommodations to tourist and the traveling public. At no time since their reconstruction have they served as a permanent residence for anyone .
- 3) The property owners have openly and admittedly created a corporation. A corporation is a legal entity. New York Business Corporation Law defines it as a for profit entity that can be formed for any lawful business purpose or purposes (per Article 1 section 102 and Article 2 section 201). The owners of Lakeside Cottages, Inc. define, market, operate and maintain these properties (for almost five seasons now) as temporary accommodations for a transient-not permanent-cliental and provide complete access to the lakeshore for all Lakeview Motel guests from across the street. A recent addition to the Motel web site promises boat rides and rentals in upcoming seasons. This leaves us fearful of what further commercial assault they have planned for our once peaceful waterfront residential neighborhood

We are here tonight in front of you because New York State Law mandates that you are the citizens appointed to consider and rule on our request to reverse Mr. Rogers' ruling and officially recognize that these buildings are being used as commercial properties. New York State law instructs you to consider only the facts and the law. You are prohibited to interject your feelings of what the law might be or should be and are required to employ the law as it is written today.

Our efforts to end this commercial assault in our neighborhood began with a meeting in Mr. Wiepert's office three years ago. Our journey over the last three years has impressed us with the simple facts that there are town laws and law breakers and officials in our town who have refused to enforce our laws letting the law breakers thrive. At the August 8<sup>th</sup> 2016 Town Board meeting where we made the board aware of the commercial, short-term nature of these rentals, Mr. Dowd's immediate reaction was "certainly if this might be transient stuff, the hotel guests, it is not permitted... we need to address it." On September 28<sup>th</sup>, 2016 at the invitation of Mr. Dowd we met with Mr. Wiepert, Rogers and Dowd and provided them with 81 pages of evidence, requested by Mr. Dowd, that definitively documented the extensive short term, transient cliental that stayed at these properties during the 2016 season. At the end of that meeting-and in a clear reversal of his initial judgement Mr. Dowd made it clear to us that the town would take no action to close this commercial activity down. Dowd said that we could sue Lakeside Inc. if we wanted.

We were forced to seek professional counsel outside of our town of Porter. We have obtained legal advice from experts in zoning law and enforcement. They confirmed our impressions that something unseemly was indeed evident. They advised us on how to go about putting our story together. Over the last two years we have studied our town code-collected evidence and compiled documentation from the town records all in an effort to document our experience.

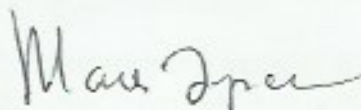
I am sad that the lack of action on the part of Town officials has forced us to reach outside of our small community. We are somewhat heartened to know that outside of this town there is a process available for us to address our grievances with the town. We have handed the collected evidence to the proper outside authorities for further investigation. It is a relief to know that what goes on inside this room tonight is being watched by higher authorities who are very much interested in the simple rule of law.

I leave you with this quote employed by Mr. Jeffrey when addressing his planning board. "With integrity, you have nothing to fear, since you have nothing to hide. With integrity, you will do the right thing, so you will have no guilt."

Peter Jeffrey further instructed his planning board last year as they began deliberation on similar zoning conflicts in the town and I quote "facts and the law are the primary elements ...to use in deciding our action".

#### Facts and the Law

We are leaving you with the compilation of facts and the applicable town Law gathered at the request of Mr. Dowd and Mr., Wiepert using methods prescribed to us by our attorney.

A handwritten signature in dark ink, appearing to read "Max J. J. J." with a stylized, cursive flourish at the end.