

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 January 26, 2017 at 7:00 PM, in the Town Offices, 3265 Creek Road, Youngstown, NY 14174

**PRESENT:** Member Bryan Meigs, Member Terry Duffy, Member Irene Myers, Member Jackie Robinson, and Attorney Michael Dowd, Peter Jeffery and M. Wiepert.

**ABSENT:** Assessor, Susan Driscoll and Building Inspector, Roy Rogers.

Irene Myers called the meeting to order at 7:00 pm.

Irene Myers commented as everyone knows, Duffy has been appointed to fill the position on the Town Board.

Attorney Dowd stated that the Zoning Board was going to make a recommendation to the Town Board on their recommendation for the Chairman of the Zoning Board of Appeals. According to Roberts's rules of order, the Zoning Board makes a recommendation to the Town Board. Once the chairman is appointed, it comes back to the Zoning Board's next meeting. This Board makes a recommendation and then appoints a deputy.

Irene Myers asked for any input. Bryan Meigs made a recommendation that Irene Myers be appointed as Chairman and was seconded by Terry Duffy. All in Favor. Motion is Carried.

A letter will be sent to the Town Board that the Zoning Board made a recommendation of Irene Myers as the Chairman of the Zoning Board of Appeals.

Irene Myers is the Deputy tonight and will be acting as Chairman.

The question was raised about Air B&B. Attorney Dowd asked what the ZBA's recommendation. We know there is a neighbor dispute on Lake Road. Peter Jeffery asked that the Zoning Board would make a recommendation to the Town Board as well as the Planning Board's recommendation to the Town Board. The Planning Board will make their recommendation at February's meeting (first Thursday of February). He stated that notices were sent to the two neighbors

(Lynch and Nowacki) telling them of their meeting and they can as present their side of the story. Mr. Lynch made a presentation at their last meeting and gave a presentation. It was noted that it was attached to their minutes. Peter Jeffery stated that they put off their recommendation until the neighbor (Mr. Nowacki) was present. He was in Florida. He stated that he spoke to Mr. Nowacki this morning and he gave his side of the story. Peter Jeffery stated that he wanted to hear the Zoning Board's thoughts.

Attorney Dowd gave a brief discussion on the background of the Nowacki property. He stated that the property is across the street on the lake side. Mr. Nowacki fixed up the property and created single family houses and rents out for weekends (seasonal). Shortly the Lynch's were not happy with the traffic in and out. They wrote a letter to the Town Board. The Building Inspector stated nothing prohibited short term rentals. A letter was sent from their attorney (Lynch) threatening to sue the Town. According to Attorney Dowd, Air B&B's – short term rental regulations are coming up. There are many loop holes. The Lynch's made a point that there should be a way to control the number of people which are different every weekend. The Town Board asked for a recommendation from both the Planning Board and Zoning Board. Peter Jeffery stated that their original recommendation was to leave it the way it was. Why are we creating more regulations? Maybe should draw a careful set of rules and regulations. If you rent it out for more than 12 to 20 days a year, then you should come to the Town Hall and pay a fee. Bryan Meigs stated that there are a lot of people who live on the lake and rent out their houses. Attorney Dowd discussed that maybe there could be some kind of regulation between routine rent versus occasional rental but how do you police it. One complaint from the Lynch's was about a family with 15 kids and they were playing soccer.

Irene Myers stated we already have enough rules on the books to prevent stuff like that. If there is a noise problem, we have a noise ordinance. After all, we are a lake front community. Attorney Dowd commented that the hotel is an R Commercial Zone and before that is was a pre-existing in an Arr-100 Zoned District.

Attorney Dowd stated that there are three options. (1) Describe a seasonal rental (define it and it is a permitted in what zones). (2) Once the Town Board changes the Zoning regulations, it should wipe away the problem. You don't need a permit in these zones. (3) Create a permitted use – seasonal rental. Irene Myers asked Attorney Dowd what his thoughts were.

Attorney Dowd stated to create a definitive seasonal vacation rental; which is a permit use in this zone and list the specifications (put in the definition). Do you want to say it okay or do you want to make an extra step -- requiring a permit? Terry Duffy commented that there is \$350, 00 houses in my area. Peter Jeffery stated short term rental is not a bad thing. Peter Jeffery also discussed the different sides of the stories between Mr. Lynch and Mr. Nowacki. It was

commented that the houses are improved and that Mr. Lynch is the only one complaining about the neighbor.

Attorney Dowd commented about creating a definition. It is a permitted use. Terry Duffy commented about Larry Elia that he had a big meeting for the aquarium. It is a private residence and he rents out about  $\frac{3}{4}$  of the house.

Peter Jeffery commented about where the Lynch house was in relation to the Nowacki's house. M. Wiepert stated that it was put on the same website advertising a house and a motel. Now, there are two separate websites.

Irene Myers asked Peter Jeffery what his Board brought up. He stated that they talked about a number of scenarios – we did not do anything.

Attorney Dowd stated to make a clear definition. Peter Jeffery stated that we need some kind of definition without getting into a lot of regulations.

Attorney Dowd was asked to put together a proposal for both boards and we can make our recommendations. It was suggested that it should be allowed in all zones but Attorney Dowd stated not in an M-3. It should be limited to any area where residents are permitted.

Irene Myers asked Attorney Dowd to draft a recommendation to the Town Board and give it both to the Planning and Zoning Board for their recommendations.

Irene Myers asked if there were any additions or deletions to the December 2016 meeting. Jackie Robinson made a motion to approve the minutes as written and was seconded by Terry Duffy. All in Favor. Motion Carried.

A Motion was made by Bryan Meigs and seconded by Jackie Robinson to adjourn the meeting. The meeting was adjourned at 7:45 p.m. The next regular meeting will be held on **Thursday, February 23, 2017.**

Respectfully submitted,

Nancy Smithson, Secretary  
Town of Porter Zoning Board of Appeals