



PLANNING BOARD TOWN OF PORTER

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Approved May 3, 2018

Thursday, April 5, 2018.

The regular meeting of the Town of Porter Planning Board was called to order at 7:00 p.m. with the Pledge to the Flag.

Present: Chairperson J. Anthony Collard, Vice Chairperson Mark Fox, Member John Bis, Member Robert Tower, Member G. Edward "Jipp" Ortiz, Attorney Michael Dowd, Town Assessor Susan Driscoll, Secretary Amy Freiermuth

Absent: Code Enforcement Officer Peter Jeffery

Chairperson Collard introduced the Planning Board members, Attorney Dowd and Assessor Driscoll to the audience. He stated that Code Enforcement Officer Peter Jeffery was absent.

Approval of the minutes from the March 1, 2018 Planning Board meeting

A motion was made to approve the minutes as presented by Member Bis and seconded by Vice Chairperson Fox. All in favor, motion carried.

Preliminary Site Plan Review for Niagara River Properties LLC (Tom Dugan), 3695 Lower River Road, Youngstown, NY. Tax Map #59.00-1-9 for a deck and dock with connecting stairs.

Tom Dugan approached the board and explained that he would like to install a floating dock and was at the meeting to present his site plan. He stated that he has received approval from the DEC for the project.

Chairperson Collard stated that Niagara River Properties owns the land on River Road where the dock would be located. Mr. Dugan and his wife will have a lease from Niagara River Properties for use of the riverfront property for the dock. Mr. Dugan stated that his property on Dansworth borders the 58 acres that he and Paul Anthony own (as Niagara River Properties). He stated that he has applied for a variance for the dock because there is no home built on the property that will host the dock. The Zoning Board of Appeals had the public hearing for the variance in March but did not make a determination at that time as the Planning Board had not approved the Site Plan. A Special Use Permit will also need to be issued from the Zoning Board of Appeals.

Member Ortiz stated that if the variance is granted and the dock is installed, he would be concerned if the partnership failed. Attorney Dowd stated that if Mr. Dugan sold his house or the lease was terminated, the Special Use Permit would also be terminated. He suggested that the Permit be concurrent with the lease and not any longer than the lease. Attorney Dowd also stated that the dock is not permanent so it could be removed if necessary. Mr. Anthony stated that lease is for ten years. Attorney Dowd also stated that there can be no parking on the east side of the road. Mr. Dugan stated that if guests were to use the dock, they would either park on the 58 acres (there is an area where parking could be accommodated) or at his house.

Member Ortiz stated that this was a unique concept, but it seemed to work. Attorney Dowd stated that the Planning Board will need to make a recommendation to the ZBA for the Variance and the Special Use Permit once the Site Plan is approved after the public hearing in May.

A motion to approve the Preliminary Site Plan as presented was made by Member Tower and Seconded by Member Ortiz.

With no further discussion, roll was called:

Chairperson Collard: Yes
Vice Chairperson Fox: Yes
Member Bis: Yes
Member Tower: Yes
Member Ortiz: Yes
Motion Carried.

Member Fox asked if the recommendation to the ZBA should be made this evening so that they can make a decision on the variance at the end of April. He stated that the decision could be made contingent on the Site Plan being approved. Attorney Dowd stated that the Planning Board should not make the recommendation without having the public hearing. Chairperson Collard asked ZBA Chairperson Robinson (who was in the audience) how the ZBA public hearing went. She stated that there was a letter from a neighbor who was concerned about being able to dock his boat once the new dock was installed. Mr. Dugan stated he has tried to contact his neighbor, but they are out of town. He stated he was going to work with the neighbor to work out any concerns.

Member Ortiz stated he is uncomfortable with rushing a recommendation to the ZBA and feels the Planning Board needs to hear the public comments and approve the Site Plan prior to making any recommendation. Attorney Dowd stated that the ZBA cannot approve the Special Use Permit without the Site Plan approval. The public hearing for the Site Plan will be scheduled for May.

Preliminary Sketch Plan for Minor Subdivision for Jeffery Skellen, 3197 Porter Center Road, Youngstown; Tax Map ID 47.00-1-77.

Chairperson Collard stated that the following two agenda items were related and Mr. Skellen's application was going to be heard first.

Mr. Skellen approached the Planning Board and stated that E&R Horizons would like to purchase a strip of land that is 4 feet wide by 513 feet deep on the north end of his property hence the request for the subdivision.

Mr. Skellen's subdivision application is to "divide off a strip of land to make adjacent 2 family property a better condition." E&R Horizons owns the adjacent parcel to Mr. Skellen where a 2-family home is built. Chairperson Collard read the Meeting/Activities Notes from Code Enforcement Officer Jeffery (as filed).

Member Tower stated that even if E&R Horizons purchases the potential subdivided 4 feet from Mr. Skellen, they will still need a variance because the lot would be substandard and the side yard setback would not be 15-feet as required by Code. Member Tower asked Mr. Skellen why he didn't sell E&R Horizons the required 7 feet so they would not need a variance. Mr. Skellen stated he offered them 8-10 feet, but they only wanted to purchase 4 feet.

Attorney Dowd stated that a variance would be required prior to the subdivision being approved to allow the substandard lot size. He stated that if the ZBA did not approve the variance, then the subdivision would

a mute point. Angiolina Passucci, representing E&R Horizons, stated that they would prefer to not purchase the additional footage due to finances and would rather have the variance.

Attorney Dowd stated that the construction of a two-family home was built without permits in 2001. The new owners (E&R Horizons) are working with Code Enforcer Jeffery to remedy the situation. He also stated that the Planning Board will need to make a recommendation to the ZBA for the variance, but with no current application for a variance, no recommendation can be made.

Member Ortiz stated he would prefer that the lot be made legal without the need for a variance. Therefore, he recommends that E&R Horizons purchase a 7-foot wide parcel from Mr. Skellen. He stated that if this cannot happen, then he would suggest recommendation of the variance to remedy the situation (once the application is received).

A motion was made to approve the Preliminary Subdivision Approval with the preference that E&R Horizons purchase enough land to create a legal lot. If the full 7 feet is not purchased (to make the lot legal), then the Preliminary Subdivision Approval is approved subject to the Variance being granted by the Zoning Board of Appeals. The motion was made by Member Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Preliminary Site Plan Review for E&R Horizons LLC, 3231 Porter Center Road, Youngstown; Tax Map ID 47-00.1.76 for 2 Family Residence with a Special Use Permit.

Chairperson Collard stated that E&R Horizons needs approval of a Site Plan for their 2-family home in order to be granted a Special Use Permit from the ZBA. He continued by reading the Meeting/Activities Notes from Code Enforcement Officer Jeffery (as filed). Member Fox stated that Code Enforcer Jeffery recommends a 7-foot subdivision to get to a 15-foot side yard setback.

Ms. Passucci (representing E&R Horizons) presented drawings to the Planning Board to show the improvements that are being made to the house and deck. She stated that window sizes have changed (from the original home) and that they have replaced drywall so that mold could be removed from inside.

Member Tower stated that it may be difficult for the ZBA to grant a variance for the substandard lot because the seller is willing to subdivide the additional property to remedy the need for the variance. Member Ortiz stated that it all comes down to economics. Attorney Dowd stated that if the variance is not granted, the Site Plan would be mute as well (as with the subdivision).

Member Ortiz asked what the Planning Board was voting on this evening and was informed it was the Preliminary Site Plan. The public hearing for the Site Plan would be scheduled for May provided the variance was approved.

A motion was made to approve the Preliminary Site Plan with the preference that E&R Horizons purchase enough land to create a legal lot. If the full 7 feet is not purchased (to make the lot legal), then the Preliminary Site Plan is approved subject to a Variance being granted by the Zoning Board of Appeals. The motion was made by Member Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Secretary Freiermuth provided Ms. Passucci with the checklist for minor subdivisions as there are pieces needed before a Public Hearing can be scheduled.

Discussion with Architect Kendall Grapes regarding potential nano-brewery on Dickersonville Road.

Code Enforcer Jeffery requested that the Planning Board discuss whether a nano-brewery is similar to a winery within the Permitted Use Table.

Architect Kendall Grapes stated that she was present with her clients Jennifer Raymond and Bob Pepperday to present their ideas for a nano-brewery on Dickersonville Road south of Balmer Road.

Chairperson Collard read the Meeting/Activities Notes from Code Enforcement Officer Jeffery (as filed). Attorney Dowd stated that the question is if a nano-brewery is similar to a winery in use.

Member Tower asked how large the parcel where the brewery would be located. Ms. Grapes stated it is 5.6 acres and presented a survey and preliminary drawings showing the placement of the building.

Attorney Dowd asked if the building would include a bar or tavern as they are not permitted uses. Mr. Pepperday stated that the brewery would only include brewing the product, tastings and sales – similar to a winery. He continued that there are two classifications of brewery including traditional and farm brewery where the ingredients are sourced from New York State. He stated they intend to have a farm brewery, but they do not intend to grow/farm the products themselves. He stated that his land is not suitable to grow the ingredients necessary to brew and is actually located in a flood plain. Mr. Pepperday stated that there is ample room for the building on the land and the function of the brewery is similar to that of a winery. He stated that growing the ingredients would be more similar to a vineyard. Ms. Raymond stated that there will not be a restaurant on the property but they would provide tastings and sales with a farm brewery license. They do not plan to grown ingredients in the future. They would have hours similar to a winery for tastings. Mr. Pepperday stated that they would more likely fall into a micro-brewery category. He stated a nano-brewery is 3 barrels or less whereas a micro-brewery is 3 barrels or more. Attorney Dowd stated that specifications could be included in the Special Use Permit.

Member Tower asked how much road frontage was on the parcel and was told they have 175-feet of road frontage and 231-feet wide in the rear of the property with a total of 5.6 acres. Ms. Grapes stated they would not encroach on their neighbor's property. Currently the building is proposed as 117x107 feet but it could change as the plans evolve.

Ms. Raymond stated they liked the property when they saw it and would keep it wooded to allow it to be a "destination". She lives 4 lots down the road. Mr. Pepperday stated that in speaking with some of their neighbors they were given either a positive or indifferent opinion, but no negative indications. Ms. Grapes stated that there are other breweries similar to this project that have been very successful.

Member Fox stated that the concept seemed ok, but wondered if the property was large enough and if the neighbors were going to be ok with the project. He stated that he felt that their opinions would have a large impact on if the project was approved. He felt that it would be wise of Ms. Raymond and Mr. Pepperday to knock on doors before further investment on the project.

Christopher Budde approached the Planning Board and introduced himself. He stated that he owns Bottled and Brewed in Lewiston and work previously for Blackbird Ciderworks. He stated that this project could be a potential place of employment for many people. He stated that the Tree House in Massachusetts is a similar project that has earned national rankings for their beer. He feels that the project could be a great way to tie Porter into the beer world especially because Mr. Raymond and Mr. Pepperday intend to produce fruit beers using ingredients from local farmers and barrels from local wineries.

The overall conscience of the Planning Board was positive.

Assessor Merge for James A. and Phila J. Ibaugh Family Trust III, 2169 Lockport Road, Ransomville; Tax Map ID(s) 61.00-1-6.2, 61.00-1-6.11 and 61.00-1-6.12

Chairperson Collard stated that there is an Assessor Merge on the agenda, but Member Bis asked if the Assessor could do the merge without the Planning Board making a recommendation. Chairperson Collard asked Attorney Dowd if the Planning Board had to be involved. Attorney Dowd stated that the Planning Board does not have to make a recommendation and Assessor Driscoll stated that in the past the Chairperson asked that all merges come to the Planning Board as a courtesy. Attorney Dowd stated that the Planning Board cannot deny a merge and that one being on the agenda is for informational purposes only. Member Bis suggested that instead of the Planning Board including a merge on their agenda that Assessor Driscoll could provide the Planning Board with a report of any merges that occur throughout the month. Member Ortiz agreed stating that this way the Board would know what properties were merged in case of future projects.

Discussion on Potential Zoning Law Amendments:

Section 165 — Amend the Subdivision Regulations: Subdivisions which include new roads should be required to include, at developer's expense, traffic control signage.

Chairperson Collard read the Meeting/Activities Notes from Code Enforcement Officer Jeffery (as filed) and summarized that with this code change the developer would be responsible for the production and installation of signs at their expense.

Member Ortiz says it makes sense that this be included in the requirements and asked if Attorney Dowd would come up with the language to add to the code. Attorney Dowd confirmed he would provide a draft.

Section 200-7 — Permitted uses table — Interior Storage of Vehicles/Boats/Equipment

Chairperson Collard read the Meeting/Activities Notes from Code Enforcement Officer Jeffery (as filed).

Member Ortiz stated that he didn't feel it was appropriate to change the code because of 1 property in question and did not agree with requiring a Special Use Permit for seasonal storage.

Chairperson Collard stated that Code Enforcer Jeffery's notes indicated that a definition be included in the Permitted Use Table to include:

- Interior Seasonal Storage

- Interior Business Equipment Storage
- Interior Accessory Storage

Member Fox stated that if there is business equipment being moved into and out of a building that it isn't storage but running a business.

Chairperson Collard stated that the Planning Board could have further discussions on this topic in May when Code Enforcer Jeffery was present.

Zoning Board of Appeals Chairperson Robinson stated that the ZBA took quite a bit of time at their last meeting discussing this topic. She asked if it made sense for each member to email a response to Code Enforcer Jeffery so that he could adjust his notes based on the response prior to the next meeting. She stated that this would save time and energy. Member Ortiz stated he feels that the Planning Board should review all the draft language for any code changes prior to being presented to the Town Board.

Correspondence / New / Old / Miscellaneous Business

Nothing further to report.

Code Enforcer Jeffery's report

Code Enforcer Jeffery's report was distributed. A brief discussion of some of the items ensued, but with Code Enforcer Jeffery absent, there were few questions.

Attorney Dowd report

Attorney Dowd stated that during the last Town Board meeting there was a discussion on secondary access roads for Youngstown Estates and Collingwood. During a recent storm, a large tree fell across the access road and could have caused issues if it had not been removed quickly. He stated that the Town will not pay for a secondary access road, but it was a topic of discussion that will most likely continue.

Attorney Dowd had nothing further to report.

A motion to adjourn the meeting at 9:03 p.m. was made by Member Ortiz and seconded by Member Bis. All in favor, motion carried.