



PLANNING BOARD TOWN OF PORTER

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Approved September 6, 2018

Thursday, August 2, 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 Robert Tower, Member G. Edward "Jipp" Ortiz, Member Jeffrey Schulze, Code Enforcement Officer Peter Jeffery, Attorney Michael Dowd, Town Assessor Susan Driscoll, Secretary Amy Freiermuth

Chairperson Collard read a touching tribute to Member John Bis who passed away last week. John was a valued member of the Planning Board and a longtime volunteer for the Town of Porter. He will be remembered.

Chairperson Collard introduced the Planning Board Members including new Member Jeffrey Schulze, and secretary Freiermuth to the audience.

Approval of the minutes from the July 5, 2018 Planning Board meeting

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

Chairperson Collard stated he was moving agenda item #6 to the first application to be heard this evening.

Preliminary Site Plan review for Thomas and Patricia England, 3699 River Road, Youngstown; Tax Map # 59.14-1-17 for a dock, landing and stairs.

Code Enforcer Jeffery stated that Mr. and Mrs. England purchased their home last year with a deck and pier already installed. The Army Corps of Engineers had approved the pier prior to it being built, but there was no Special Use Permit for the dock from the prior owner. This application was tabled from the July meeting as the applicant was absent.

Thomas England provided a survey of the property as well as a drawing of the dock and documentation from Army Corps of Engineers approving the construction of the deck. He stated that the structure was built in 2002. Code Enforcer Jeffery stated that there are no code violations with the construction and did not see any issues with the application. He also stated he did not anticipate any issues in usage with this dock and the dock that the neighbor (Niagara River Properties) is building.

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

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Yes

Motion Carried.

Attorney Dowd stated that the England's should have the Army Corps permit transferred to them for the dock. Mr. England stated he has already done so.

Public Hearing for Final Site Plan Review for E&R Horizons LLC, 3231 Porter Center Road, Youngstown; Tax Map ID 47-00.1.76 for 2 Family Residence. Recommendation to the Zoning Board of Appeals for a Special Use Permit for the 2 Family Residence.

A motion open the public hearing was made by Member Ortiz and seconded by Vice Chairperson Fox.

Angiolina Passucci and Ralph Lorgio, Attorney for E&R Horizons, were in attendance. Attorney Lorgio informed the Planning Board that he is representing E&R Horizons who purchase the property as a foreclosure. He stated that the home had been used as a two-family home since 2005 and a Special Use Permit is needed to rectify the code violation. He stated that they went before the Zoning Board of Appeals and a variance was granted with the following conditions:

- Removal of the north driveway encroaching on the neighbor's (Mr. Skellen) property.
- Submit and implement (once approved) a drainage plan to the Town Code Enforcement Officer.
- Construction of a fence on the north property boundary line

Attorney Lorgio stated the Site Plan does not change from the existing buildings on the property. He stated that the frame garage will become a carport with a pathway to the rear garage (by removal of walls).

Code Enforcer Jeffery stated he has meet with the owner and is working with them regarding the drainage plan. He stated that all roof drains, sump pump and downspouts will use the grades towards the rear of the property to drain.

Chairperson Collard asked if any members of the public wished to speak. Jeff Skellen stated he is the neighbor to the north and asked if the Planning Board would consider requiring the fence run the entire length of the property rather than just a portion. He stated he has noticed grass cuttings on his side of the property line and feels that a fence would deter that from happening. He also wanted to verify that the drainage pipes that are currently on his property from the previous owner would be removed.

Code Enforcer Jeffery stated that the drainage items would be removed from his parcel and that all new drainage is included in the plan. He stated that he did not have a detailed discussion on the logistics of the fence with the owner. Attorney Dowd stated that fence specifications cannot be a part of the requirements for this Site Plan. Code Enforcer Jeffery stated that if Mr. Skellen has an issue, it is his job to follow up on the complaint. Vice Chairperson Fox stated that a longer fence should not be required to resolve a code issue.

Lee Wills, the south side neighbor, stated that the fence that is currently on his property line is in poor shape and he wondered if it could be removed or fixed. He also stated that he is having drainage issues on his property and wonders if it is from incorrect drainage on this property. Code Enforcer Jeffery stated that the drainage will be rerouted with the new plan and will not drain onto Mr. Wills' property. He stated that he has informed the property owner that the fence on the south side either needs to be repaired, replaced or removed. Chairperson Collard asked if these items affect the Site Plan and Code Enforcer Jeffery stated they are property maintenance issues that he will/has address(ed).

Karen Nowack, the south side neighbor to Mr. Wills, stated that she is concerned about the house being unsecured as she has noticed doors left open all night long and wonders if this is a security concern for the neighborhood. Code Enforcer Jeffery stated that it is the owner's choice if they want to leave their doors open (there is no code against it). Attorney Dowd stated that the house will not be abandoned and anticipates that the owners are doing the work on the home so that they can attract tenants on both sides in the future.

Mr. Lorgio stated that he has represented E&R Horizons LLC for many years and has never had a maintenance violation on a property. He stated he intends to address the security issues as he did not realize it was a concern. Attorney Dowd stated that once tenants move in, he assumes the home will be secured as well.

A motion to close the public hearing was made by Vice Chairperson Fox and seconded by Member Ortiz. All in favor, motion carried.

Member Tower asked Code Enforcer Jeffery if there would be any reason to not approve this as a two-family home. Code Enforcer Jeffery stated no and that in fact a lot of work has been done to the home to improve the property. He stated that he has inspected the separation of the units and is satisfied. He also stated that the Certificate of Occupancy will not be issued until everything meets code.

Mr. Skellen asked if the entire north driveway could be removed (rather than just the portion encroaching his property) and Code Enforcer Jeffery stated that a portion of the driveway will be removed as required by the new drainage. He stated that all access to the rear of the property will occur on the south side of the property, however he cannot tell E&R Horizons to remove the entire driveway.

A motion to approve the Site Plan as presented 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 Tower: Yes
Member Ortiz: Yes
Member Schulze: Yes
Motion Carried.

A motion to recommend to the Zoning Board of Appeals approval of a Special Use Permit for a two-family residence was made by Member Ortiz and seconded by Vice Chairperson Fox.

With no further discussion, roll was called:

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

Public Hearing for Preliminary Plat Review for Runaway Bay Subdivision, 3881 River Road, Youngstown; Tax Map ID 59.00-1-13.1

A motion was made to open the public hearing by Vice Chairperson Fox and seconded by Member Ortiz.

Attorney Sean Hopkins was in attendance and spoke on behalf of Runaway Bay Subdivision. He introduced Andrew Romanowski and David Sutton as part of his team for this project. Attorney Hopkins stated that on May 3, 2018, the Planning Board approved a waiver to allow a cul-de-sac as well as a wavier to the 100-foot buffer for the wetland. At that time, the Planning Board made a resolution to seek lead agency status. He continued that on June 20, Greg Keyser with GHD (Town Engineer firm) issued a letter requesting lead status for the Planning Board and all applicable parties had 30 days to object. There were no objections, so Attorney Hopkins asked if the Planning Board could adopt lead agency status at tonight's meeting. He also stated that there were comments from some of the agencies that responded and Runaway Bay will address those comments to complete the SEQR process. The responses / comments are available for viewing in the file if requested. He suggested that the final SEQR be completed in September (to allow response time from Runaway Bay) and to keep the public hearing open in case members of the public had additional questions / comments in September. Chairperson Collard asked if Runaway Bay will address the comments / questions presented in a letter from GHD (on file) and Attorney Hopkins stated that they will address each comment.

Attorney Hopkins also stated that the Niagara County Planning Board had reviewed the Preliminary Plat and made a positive recommendation.

Code Enforcer Jeffery stated that he is the "middle man" with all the paperwork and that Dave Britton from GHD is the "main player" and must be satisfied for the process to move forward. Mr. Britton stated that he noticed that a lot of fill will be needed and requested that it was all brought in at one time rather than at various times throughout the process. Mr. Rumanowski stated that a cut / fill summary will be prepared. Attorney Hopkins stated he anticipates a wetland report within the next few weeks to resolve any questions about the wetlands.

Attorney Dowd asked if Runaway Bay was the “burden property” to the railroad easement and Attorney Hopkins stated it was. Attorney Dowd explained that if the project did not move forward, the road can be used by area residents (as currently being done), but they are not required to improve the road or to allow utility access (as they would be if the project is approved). Attorney Dowd stated the easement allows access only and verified with Mr. Tan (on the agenda for a subdivision) that he understood that any utility lines, etc., would be the responsibility of the owner on their own property in the meantime.

Code Enforcer Jeffery stated that the fire company responded with a request for a fire hydrant on both sides of the cul-de-sac. Supervisor Hillman informed Code Enforcer Jeffery that the center of the cul-de-sac was not preferred because the water lines would need to cross pavement making it tough for ingress and egress if needed. Attorney Hopkins stated they would respond to this request for September.

Neighbor Kathleen Naska stated that she is the fourth house in the back of the ingress / egress road. She asked if the road will become a public road if the project moves forward and Attorney Hopkins verified it would. He stated that fire code requires that secondary access is needed if there are more than 30 lots. He stated that at this time, they are planning the first 20 lots and are not planning secondary access at this point.

Neighbor Carina Weber stated her house is the middle home on the ingress / egress road. She asked if a crude overlay was available for viewing. Attorney Hopkins stated he would email her the plans and answer any questions she may have. Ms. Naska asked when they intended the project to move forward and Attorney Hopkins stated it would not be until spring of next year.

Chairperson Collard asked if the board had any comments and there were none. He announced that the public hearing would be kept open until September.

A motion for the Town of Porter Planning Board to become lead agency 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 Tower: Yes

Member Ortiz: Yes

Member Schulze: Yes

Motion Carried.

Preliminary Site Plan Review for Bart Candino, 2315 Braley Road (rear lot of Track Vision LLC., 2401 Braley Road), Ransomville; Tax Map ID 48.00-1-35

Bart Candino and his business partner Brian Curry were present and explained that they would like to operate a remote-controlled car track on property owned by Track Vision LLC (Ransomville Speedway) to run May through mid-October. The area will be 130 feet by 175 feet in the east corner of Braley Road. Mr. Curry explained there will be a storage container on site for water (for the track), but no run power will be at this portion of the track. Generators will be utilized for the computers / scoring system. Patrons will use the restrooms at the Speedway and operations will cease at dusk. Mr. Curry explained there is a lease agreement for one year with Track Vision LLC.

Attorney Dowd stated that a Special Use Permit is typically the same length of the lease and recommends that if the lease is only for 2018, that the Special Use Permit have the same timeframe. Member Ortiz asked if Track Vision LLC has given permission to Mr. Candino to use the track. A copy of the Property Rental Agreement was provided (with the application). Code Enforcer Jeffery provided a color photograph of the current conditions at the race track (to show location of the RC track).

Member Schulze asked if there would be lights or an announcer. Mr. Curry stated there would be a PA system but no lights. Member Schulze asked if noise would be an issue for the local residents. Mr. Curry stated that the loudest division is a nitro car and the noise is a little louder than a weed wacker. He stated those races are only 8 minutes long and that there would only be two per day. He also stated that all racing would be done by dusk. The generator noise would be reduced as there are tree line separators from the neighboring property. The generator is used for the software and PA system and will also be turned off once the races are done for the day.

Attorney Dowd stated this was a creative idea and the lease is pretty straight forward. He did recommend that the Planning Board have written documentation from Track Vision LLC stating it was OK for Mr. Candino and Mr. Curry to seek the permit. He also stated that if the lease is year to year, an annual renewal of Special Use Permit could be tough. Code Enforcer Jeffery stated that typically a Special Use Permit is good for one year upon the initial application so the timeframe could be addressed after that year. Mr. Curry stated that the lease and business venture is on a trial basis with Track Vision.

Mr. Curry explained that the sport is a participant activity not really a spectator sport. There will be no food or beverages available for sale. Participants will bring 10x10 pop up tents, chairs and tables that will be removed when they leave. Code Enforcer Jeffery stated that he has seen advertising for special events in magazines and stated that there is the potential for larger crowds. However, he stated that with a one year permit, they could build their business and then modify the permit if needed after the first year.

Attorney Dowd again stated that the applicant needs a letter from Track Vision stating that they can apply for the Special Use Permit on the property owner's behalf.

Member Schulze stated that this seemed like a low risk venture and a good idea.

A motion to approve the Preliminary Site Plan on the condition that a letter be supplied from Track Vision LLC stating that Mr. Candino has the legal authority to request a Special Use Permit on their property was made by Member Ortiz and seconded by Member Schulze.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Yes

Motion Carried.

Attorney Dowd stated that the public hearing for this Site Plan will occur in September along with the recommendation to the Zoning Board of Appeals for the Special Use Permit.

Ms. Weber and Ms. Naska spoke up and wondered if they could ask another question. Chairperson Collard agreed. Ms. Weber asked if once Runaway Bay becomes a subdivision if their address will change. They

are currently 3881A and 3881B River Road. Code Enforcer Jeffery stated it would and he said that currently the road is set to be named Dockside Drive.

Pre-application for Minor Subdivision for Joshia Tan, 3881 River Road, Youngstown; Tax Map ID 59.00-1-13.2

Mr. Tan, 3881 River Road (no letter in his address) stated he would like to subdivide his parcel into two lots. Code Enforcer Jeffery stated that initially he was concerned that the second parcel would be landlocked, but because of the access easement, they will have ingress / egress to the parcel. He stated however that this easement is not a utility easement until it becomes a Town road. Mr. Tan stated he understood and did not have an issue with this detail.

Member Tower asked if Mr. Tan could create an easement on the property for utilities and Attorney Dowd stated it was possible. Mr. Tan stated he plans to keep both lots with the intention that in the future his parents may build a home on the second lot. Mr. Tan's father stated he would like to stay near his son and this is a great way to do so.

A motion to approve the Preliminary Subdivision as presented was made by Member Ortiz and seconded by Vice Chairperson Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Yes

Motion Carried.

Mr. Sutton, the architect for Runaway Subdivision stated that depending on the timeframe that Mr. Tan was thinking for construction of the second home, he thought that the two parties could work together to benefit each other.

Attorney Dowd's report

Attorney Dowd had nothing further to report.

Code Enforcer Jeffery's report

Code Enforcer Jeffery's report was distributed. He stated he has been very busy this season with many swimming pools. A brief discussion of some of the items ensued. He stated he has been in court to follow up on complaints that were not addressed as requested.

Code Enforcer Jeffery stated he presented the first 4 topics of Code Amendment suggestions to Supervisor Johnston and stated that he has not moved forward with topic #5 (Special Use Permit procedure). A brief discussion occurred on the current procedure and Code Enforcer Jeffery's suggested procedure, but it was decided that further discussion was needed. Attorney Dowd stated he would also revisit the Special Use Permit and Site Plan procedure to determine if there was a way in which to streamline the process.

Correspondence / New / Old / Miscellaneous Business

Assessor Driscoll stated that she recently sent an email out with information on community solar farms. She stated that currently the code does not allow commercial solar farms, but the Boards (Planning, Zoning and Town) should think about the future of solar. She stated that there is a proposed 900-acre farm in Cambria and she is finding they are becoming more common to protect our resources. Code Enforcer Jeffery stated that a solar farm may be a good use on Brownfield sites and perhaps they should be allowed in industrial zoned areas.

With no further discussion, a motion to adjourn the meeting at 8:57 p.m. was made by Member Ortiz and seconded by Vice Chairperson Fox. All in favor, motion carried.