



# PLANNING BOARD TOWN OF PORTER

3265 Creek Road • Youngstown, New York 14174 • (716) 745-3730 • Fax (716) 745-9022

*Approved September 7, 2017*

**Thursday, August 3, 2017.**

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, Member Mark Fox, Member Robert Tower, Attorney Michael Dowd, Code Enforcement Officer Peter Jeffery, Town Assessor Susan Driscoll  
Absent: Member John Bis

Chairperson Collard introduced the Planning Board and Town staff to the audience.

## **Approval of the minutes from the Planning Board Meeting on July 6, 2017**

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

## **Recommendation for the Zoning Board of Appeals for Area Variance for Millard and Elizabeth Smallwood, 2295 Old Lake Road, Ransomville, Tax Map ID 21.17-1-1**

Chairperson Collard asked the Smallwood's to explain the project. Mrs. Smallwood stated that she recently retired and would like to move her aging parents into their home on Old Lake Road. They would like to build a first-floor bedroom and living space that would be 300 square feet. Mrs. Smallwood supplied the Planning Board with photographs showing the measurements of the proposed addition and stated she would like the addition to look as though it is a part of the existing home. There is currently a 6 x 27 foot front room that they would like to expand an additional 20 feet which would be 34 feet from the road. Because of the layout of the house, this expansion would allow her parents some privacy, but it will not be a separate living space as there is no kitchen. Mrs. Smallwood stated that she spoke with all but one resident on Old Lake Road who all signed a petition in support of the addition. The one neighbor she did not speak with is seasonal and has not been in the area.

Chairperson Jeffery stated that he spoke with the Smallwood's to see if there were other options than needing the variance for front yard setback. The current septic system is located directly west of the house and in order to build the addition there, the tank would need to be moved – which is very expensive. There is not enough room on the east side of the house, so the best option is as proposed. He stated he spoke informally with the Zoning Board of Appeals members prior to the application being submitted and felt that it would benefit the Smallwood's to apply for the variance. He stated that front yard setback should be 60 feet. Currently the home is 58 feet from the pavement of the road and 25 ½ feet from their property line. Member Tower stated that Old Lake Road is not busy as it is only the residents who use the road.

Member Fox stated that he had no issues with recommending the variance especially because the neighbors are OK with the proposal – specifically the neighbors closest to the home.

Chairperson Collard asked if anybody in the public would like to comment. There was no discussion.

A motion was made to recommend to the Zoning Board of Appeals that they approve the area variance as presented by Member Fox and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Absent

Member Tower: Yes

Motion Carried.

**Recommendation for the Zoning Board of Appeals for NOCO Energy Corp., for Special Use Permit renewal, 2799 Ransomville Road, Ransomville, Tax Map ID 34.00-1-27.21**

Patrick Cluckey from NOCO stepped forward to explain to the board that he is looking to renew his Special Use Permit with no changes from the previous permit.

Code Enforcer Jeffery stated he reviewed the files prior to the meeting and found no complaints or concerns.

Attorney Dowd asked Mr. Cluckey how long the current lease is for. Mr. Cluckey stated it was currently year to year, but that NOCO was working with Mr. Baker (land owner) to create a longer lease. Originally it was a 10-year lease. Attorney Dowd stated that the permit should not be issued for longer than the lease and that the duration of the lease should be a consideration of the timeframe for the Special Use Permit. Member Fox stated that if the lease is not renewed and NOCO moves from that location the Permit becomes invalid.

Chairperson Collard asked if anybody in the public would like to comment. There was no discussion.

A motion was made to recommend to the Zoning Board of Appeals that the NOCO Special Use Permit be approved with consideration on the lease time-frame by Member Tower and seconded by Member Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Absent

Member Tower: Yes

Motion Carried.

**Preliminary Site Plan Review for R.C. Bailey and Carol L. Baily, 2432 Balmer Road, Ransomville, Tax Map ID 62.00-1-35**

Mr. Joe Barrick introduced himself to the Planning Board and indicated that he is the business consultant and real estate developer for Bailey Brothers. He will be assisting Bailey Brothers with this project. He stated that prior to June 15, 2017, Bailey Brothers were leasing land on Parker Road from R.C. and Carol Bailey and had been that location for business purposes. Since this date, they have shifted the primary

operation to Balmer Road. The company would like to expand their operation and plan to do so in four phases as detailed on a provided preliminary sketch plan outline.

Mr. Barrick stated that Phase I includes rehabbing an 40x30 building and is estimated to be completed by year end. Phase II includes the fuel operations being moved to Balmer Road. Currently the fuel is coming from the Parker Road location. Permits may be needed for electric for Phase II with an estimated time frame of completion by year end. Phase III includes bringing in additional utilities including electric, water, gas and if needed sewer. Anticipated completion is spring or summer of 2018. Phase IV would occur during the same timeframe as Phase III and will include the construction of a 100 x 50-foot building.

Attorney Dowd stated that the list of requirements from the Planning Board can range from what is currently provide to a very detailed description – it all depends on what the Planning Board feels is needed prior to the public hearing. He stated that Phase II (fuel operations moving to Balmer) should decrease traffic on Parker Road helping to ease the concerns of the residents on that street. Attorney Dowd stated that the sketch plan does not require a SEQOR.

Code Enforcer Jeffery stated that he met with Mr. Barrick as well as Mr. Shawn Bailey on the Balmer Road site and reviewed the general plans. He stated the main plan is to move the entire business to Balmer Road. He reviewed the proposed plans and measurements, and as it stands, there will be no variances needed for setbacks. Code Enforcer Jeffery stated that the area is in a flood plain and will need to address that as building permits are issued. He stated he would work with the Army Corps of Engineers to verify everything complies with the requirement for flood plains. Mr. Barrick stated that if Bailey Brother's applied for financing for the building that the insurance policy would include flood insurance. If paid for with cash, the flood plain would not be a factor.

Code Enforcer Jeffery stated that as each phase is implemented, plans will be provided to address design, parking, buffering, etc. Attorney Dowd stated that the Town Engineer will also provide an opinion on drainage for the site plan once drawings are submitted. All details will be a part of the public hearing. Attorney Dowd stated that as per the court ruling, Bailey Brothers has until June of 2018 to move the fuel operations to Balmer Road, but was pleased to hear that year end is a more realistic timeframe. Mr. Barrick stated that the sooner, the better as it is much more convenient for the business to have everything at one location.

Code Enforcer Jeffery stated that the main concerns from the Parker Road residents seem to be the storage of materials (including chemicals, salt, mulch, etc) and fueling. The materials being used for the business have been moved to Balmer Road so that should eliminate some traffic and concerns. He stated that Parker Road is zoned Rural Agricultural and there is an active farm on the property owned by the Bailey family. Some of the equipment is shared with Bailey Brothers as needed. Also, in the past, lumber has been for sale on the Parker Road site. This is an acceptable use within an RA zone with a permit. Mr. Barrick stated that if wood is sold it will be at a very low volume.

Chairperson Collard asked if anybody in the public would like to comment. A neighbor asked how many deliveries were made on Parker Road this week. Attorney Dowd stated that there are no deliveries allowed to Bailey Brothers on Parker Road. They can fuel their vehicles on Parker Road until Phase II is complete. If neighbors are finding deliveries being made, they can call the Code Enforcement Officer and file a complaint. Chairperson Collard stated that this was not a public hearing and Attorney Dowd stated that the Planning Board did not have to vote this evening on the preliminary site plan. The next step will be for Bailey Brothers to submit solid plans to the Code Enforcement Officer for review.

**Assessor Merge for Shirley and Frederick Teeter, 2383 Braley Road, Ransomville, Tax Map IDs 48.00-1-30.22 and 48.00-1-30.12**

Mrs. Shirley Teeter informed the Planning Board that she owns a house on the south side of Braley Road and would like to merge this property with the parcel across the street from the house. The parcel with the house cannot be sold without the parcel across the street because there is a 2-car garage on the parcel on the north side of the road. Mrs. Teeter stated that this merge should have happened in the past as it would have been much easier (one tax bill, etc.). Attorney Dowd stated that the deeds for both parcels are in identical names and therefore there are no issues with the merge.

A motion to approve the Assessor Merge was made by Member Fox and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Absent

Member Tower: Yes

Motion Carried.

**Preliminary Site Plan Review for Ralph McCormick and Shirley Teeter, 2402 Braley Road, Ransomville, Tax Map ID 48.00-1-30.11**

Mrs. Shirley Teeter stated that she would like to remove 2.23 acres out of a larger parcel via a subdivision.

Chairperson Jeffery stated that there is a house and garage (with apartment above) on one parcel and a barn on the second parcel. Attorney Dowd asked if the parcel with the garage is being cropped. Mrs. Teeter said that currently they are growing soy bean on the parcel. Attorney Dowd stated that because the land is being farmed, it is OK for the barn to be on the parcel without an accompanying home. When asked about the apartment above the garage, Mrs. Teeter stated that it has not been rented out in at least 12 years. Attorney Dowd stated that this exact subdivision was approved in 2006, but the deed was never recorded with the county.

Chairperson Collard asked about the arrangement of the house and garage. Mrs. Teeter stated that the house is 2 apartments and the garage is empty — nobody living there. She stated there may have been a kitchen or bathroom in the apartment (she was not sure) and that it has been vacant for 12-15 years.

Chairperson Jeffery stated that if the home is a two-family dwelling, a permit may be required unless it is grandfathered.

Secretary Freiermuth stated that materials have been provided for the public hearing including the legal description and stamped survey. Assessor Driscoll stated that she was working with the Town Engineer to determine if the drainage approved for the subdivision in 2006 would still be applicable.

A motion to approve the preliminary subdivision was made by Member Tower and seconded by Member Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Absent

Member Tower: Yes

Motion Carried.

### **New / Old / Miscellaneous Business**

Mrs. Suzanne Sheers approached the board and stated that she owns a vacant lot on Creek Road that is currently 125 x 250 feet. She has a potential buyer for the lot, but would like to extend the lot by 50 feet to make it 125 x 300 feet.

Chairperson Collard asked if it would land lock the property. Mrs. Shear stated it would not. Attorney Dowd asked Assessor Driscoll if this could be done through an Assessor Merge because the adjoining parcel is also in Mrs. Shear's name. Assessor Driscoll stated she didn't think it could be done as a merge as it is changing the parcel line. Code Enforcement Officer stated he thought it would fall under the requirements of a subdivision. Assessor Driscoll stated she would make a phone call the following day to determine what options are available and would contact Mrs. Shear to let her know the determination.

### **Code Enforcer Jeffery's report**

Code Enforcer Jeffery submitted a permit report, a complaint report and a monthly report. He stated that the complaint report is generated from phone calls from residents, formal complaints or from on-site inspections.

Code Enforcer Jeffery stated that Paul Korman was issued the variance from the Zoning Board and therefore a building permit has been issued for the home construction on East Avenue.

Code Enforcement Officer stated that Mr. Joshua Walker on Lutts Road has completed more work on the house he is constructing. This house is being built without a permit. The subdivision was not approved by the Planning Board because of suspected wetlands. The Planning Board recommended that Mr. Walker contact the DEC to determine where the wetlands are located. Code Enforcement Officer stated he will continue to follow through on this issue.

Code Enforcement Officer Jeffery stated that most property maintenance complaints were based on lawn and landscaping upkeep as well as debris on properties.

### **Attorney Dowd report**

Attorney Dowd had nothing further to report.

A motion was made to close the meeting at 8:28 p.m. by Member Tower and seconded by Member Fox. Motion carried.