



PLANNING BOARD TOWN OF PORTER

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Approved March 1, 2018

Thursday, February 1, 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 John Bis, Member G. Edward “Jipp” Ortiz, Attorney Michael Dowd, Code Enforcement Officer Peter Jeffery

Absent: Town Assessor Susan Driscoll

Chairperson Collard introduced the Planning Board members, Attorney Dowd, Code Enforcer Jeffery and Secretary Freiermuth to the audience.

Approval of the minutes from the January 4, 2018 Planning Board meeting

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

Chairperson Collard stated that because some of the applicants were absent, the agenda would be shifted in case they arrived late.

Public Hearing for Minor Subdivision for Robert W. Edwards, 3582 Dickersonville Road, Ransomville; Tax Map ID 61.00-1-38.1.

Code Enforcer Jeffery explained that Mr. Edwards has one large parcel of land that extends to both sides of Dickersonville Road between Balmer and Youngstown Lockport Road. Mr. Edwards would like to subdivide the parcel into three lots with the intention to sell one of the parcels.

Chairperson Collard asked if the area was in a flood plain, including the creek that is on the property. Mr. Edwards explained that the house is not in a flood plain because it is on a “knoll” but that the area similar to a “moat” around the home is on a 500-year flood plain and the remaining property is on a 100-year flood plain. Code Enforcer Jeffery explained that the flood plain designation only affects the Town if the owner intends to build a home or structure. Code Enforcer Jeffery explained that flood insurance may be required, but that does not affect the ability to subdivide the property. He continued that if a building permit is issued in the future, there is an extra set of codes that applies to any construction in a flood zone. Code Enforcer Jeffery did state that a home already exists on the property.

Member Ortiz read the engineering letter from GHD regarding the subdivision (as filed with the application). Member Ortiz asked Mr. Edwards why there was a revision to the subdivision as stated in the letter. Mr. Edwards explained that there were three revisions due to inconsistent map measurements with

the neighbor's deed and to help square the property once divided. He stated that the survey the Planning Board has before them matches the legal description and is the subdivision he is requesting.

Member Tower read each question to Part II of the SEQR. Each question was answered with "no or small impact will occur" with agreement from all present Planning Board Members.

A motion was made to issue a negative declaration for the SEQR by Member Bis and seconded by Vice Chairperson Fox.

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.

Chairperson Collard opened the public hearing and asked if there were any comments from the public. With no response, a motion to close the public hearing was made by Member Tower and seconded by Vice Chairperson Fox. All in favor, motion carried.

With no further discussion, a motion to approve the Subdivision as presented was made by Member Bis and seconded by Vice Chairperson Fox.

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.

Attorney Dowd informed Mr. Edwards that he has six months in which to file the deeds for the subdivision with Niagara County. He explained that if Mr. Edwards intends to sell the property within this timeframe that the deed can be filed with the new owner rather than having to be filed twice.

Public Hearing for Site Plan Review for Andrew Giarrizzo, 2008 Lake Road, Youngstown; Tax Map ID 33.00-2-3.2 for existing Recreational Pond. Recommendation to the Zoning Board of Appeals for a Special Use Permit.

Applicant Giarrizzo was absent.

A motion to open the public hearing and to keep it open until the next Planning Board meeting was made by Member Bis 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.

Public Hearing for Site Plan Review for Derek Kent, 786 Blairville Road, Youngstown; Tax Map ID 59.00-2-51 for Marine Repair and Storage. Recommendation to the Zoning Board of Appeals for a Special Use Permit.

Applicant Kent was absent.

A motion to open the public hearing and to keep it open until the next Planning Board meeting was made by Member Bis and seconded by Vice Chairperson Fox.

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.

Assessor Merge for Edwin Dolansky, 1000 River Road; Tax Map IDs 59.14-1-2 and 59.14-1-3

Code Enforcer Jeffery displayed the tax map to the Members for reference. He explained that Mr. Dolansky would like to merge two parcels and that it will not cause the larger parcel to be landlocked.

A motion to approve the Assessor Merge as presented was made by Member Ortiz and seconded by Member Bis.

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

Assessor Merge for Kevin Udut, 3487 and 3489 Creek Road; Tax Map IDs 60.00-1-612 and 60.00-1-62.2

Code Enforcer Jeffery displayed the tax map to the Members for reference and explained that the parcels to be merged are on the east side of Creek road.

A motion to approve the Assessor Merge 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 Bis: Yes
Member Tower: Yes

Member Ortiz: Yes
Motion Carried

Follow-up on project for Judith Fleckenstein (life estate), 1953 Balmer Road, Ransomville; Tax Map ID 61.00-1-24 for Pond/Aquaculture facility

Code Enforcer Jeffery stated that Mr. Fleckenstein's lawyer sent a letter to the Town asking for an extension on the project. Attorney Dowd stated that a formal application for an extension is needed and at that point the process will be determined. Currently the variance for the pond is in default which means the application would need to go before the Zoning Board of Appeals. The Zoning Board may ask the Planning Board for a recommendation.

The Town is still waiting on a decision for the appeal of the lawsuit regarding the original application and approval. If the Town loses the appeal, the extension would be a moot point because the permit would not be allowed.

Zoning Board of Appeals Chairperson Jackie Robinson, who was in the audience, stated that Mr. Fleckenstein has stated that once the weather breaks he is ready to move forward with the project. Code Enforcer Jeffery stated that there are components available on site to build the greenhouse. He stated that the letter with detailed progress received from Mr. Fleckenstein's lawyer is accurate.

**Discussion/recommendation on updating Town Code regarding:
Timing of publication notices and public hearing(s) for Site Plan and Special Use Permit**

Code Enforcer Jeffery stated the Planning Board or Zoning Board of Appeals can make recommendations to the Town Board to change the code. He stated one area of discrepancies is the timeframe of public hearing notices. Secretary Freiermuth stated that she spent about 2 hours of time going through the Code Book to document the process that should be followed for public hearings and notices. She stated that the timeframe for publication and notification varies from 5 days to 20 days without consistency from one topic to the next. She also stated that in speaking with Zoning Board of Appeals Secretary Smithson, they felt that if the timeframe for each topic could be "no less than 10 days and no more than 20 days", it would allow some flexibility with the schedule for the Secretaries to complete the required tasks for publication and notice. Attorney Dowd stated that this timeframe is common for Town law.

Attorney Dowd stated that the Town Code requires a public hearing for Site Plan review as well as a public hearing for a Special Use Permit. This means that an applicant may be subject to two public hearings — one for the Site Plan (Planning Board) and one for the Special Use Permit (Zoning Board of Appeals). He stated that he would not recommend changing this requirement because it allows the public two chances to speak and also allows two Boards the ability to hear from the public.

Code Enforcer Jeffery asked if the SEQR should be done twice (at each public hearing). Attorney Dowd stated that the permitting agency is the party responsible for completing the SEQR. He did state that Type II actions do not need a SEQR, but after brief research he determined that Subdivisions and Special Use Permits do require one as they are considered "unlisted". Therefore, in the future, if the Planning Board has a Site Plan that is also going to the Zoning Board of Appeals for a Special Use Permit, the Zoning Board of Appeals will complete the SEQR as they are the permitting agency.

Code Enforcer Jeffery stated that he will verify the fee structure for applicants where two public hearings are required. He also stated he would discuss the same two topics with the Zoning Board of Appeals prior to making a recommendation to the Town Board on any potential changes.

Correspondence / New / Old / Miscellaneous Business

Nothing further to report.

Code Enforcer Jeffery's report

Code Enforcer Jeffery handed out his report. A brief explanation of some of the items ensued.

Attorney Dowd report

Attorney Dowd stated that Code Enforcer Jeffery has given him further information on the Derek Smith application for an addition to his home. At the Zoning Board of Appeals meeting, it was brought to the attention of the Board that there is possibly an easement on the Smith property to the Government property behind the Smith property. Attorney Dowd stated that Mr. Smith will need to prove if there is, or is not, an easement via an official survey.

Attorney Dowd had nothing further to report.

A motion to adjourn the meeting at 8:18 p.m. was made by Member Bis and seconded by Member Ortiz. All in favor, motion carried.