



PLANNING BOARD TOWN OF PORTER

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Approved August 3, 2018

Thursday, July 6, 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

Absent: Member John Bis,

Announce Chairperson, new Member appointment; appoint Vice Chairperson

Member Collard stated that Peter Jeffery was appointed by the Town Board as the Town Code Enforcement Officer; therefore, he was appointed Chairperson of the Planning Board. A motion was made by Chairperson Collard and seconded by Member Tower to appoint Member Fox as the Vice Chairperson. Motion carried.

Approval of the minutes from the Planning Board Meeting on June 1, 2017

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

Public Hearing of Minor Subdivision for Niagara River Properties (Tom Dugan, Paul Anthony), 3695 River Road, Tax Map ID 59.00-1-9

Chairperson Collard opened the public hearing and asked Mr. Dugan and Mr. Anthony to explain the subdivision to the audience members. Mr. Dugan stated that they owned 58 acres on the south side of Youngstown Estates and were asked by two residents at the end of Glengrove Drive to subdivide a portion of that large parcel so as to extend the resident's parcel. A map was displayed by Assessor Driscoll while Mr. Dugan pointed to the affected area.

Helene Cole from Walnut Lane asked where the subdivision was taking place. Mr. Anthony stated Glengrove Drive and Mr. Dugan stated that only two subdivisions were taking place this evening. She asked if the subdivision would affect the drainage on Walnut Lane as there were recent issues with drainage. Mr. Dugan stated the the subdivision would not affect drainage. Code Enforcement Officer Jeffery displayed a map to show the subdivision (this map was mailed to all residents within 500 feet of the parcel along with the legal description).

Member Tower verified that once the property was subdivided and purchased by Mr. and Mrs. Vanstrom and Mr. Christensen that both parties would merge the new parcel with their existing property. Attorney Dowd stated that this subdivision was contingent on the merge.

Chairperson Collard asked if any other audience members had questions or concerns. There were none. A motion was made to close the public hearing by Member Fox and seconded by Member Tower. Motion carried.

Chairperson Collard stated that a letter was received from GHD Consulting Services Inc. stating: “Based upon our review of available information, the proposed subdivision does not appear to adversely impact Town drainage facilities located within or near Youngstown Estates. Furthermore, it is recommended that the Highway Superintendent review the request to confirm our conclusion.”

Chairperson Collard read an email addressed to Secretary Freiermuth from Town Highway Superintendent Hillman stating: “I have reviewed the information regarding the proposed subdivision request. The Town does not have any drainage facilities in the area proposed.”

Member Fox 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 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.

A motion to approve the subdivision as presented 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.

Recommendation to the Zoning Board of Appeals for Area Variance for Brett J. Waterson, 3666 Creek Road, Tax Map ID 62.00-2-67.

Code Enforcer Jeffery explained that Mr. Waterson was issued a building permit earlier in the year based upon his site plans, but it was later discovered that the side yard setback was below the required amount as his property is a substandard lot. The side yard setback should be 11.25 feet however it was estimated that it was only 7.5 feet therefore a variance is required. Now retired Code Enforcer Rogers sent Mr. Waterson a letter dated May 31, 2017 stating the issue and offered that Mr. Waterson could either cut back the overhang or request a variance.

Mr. Waterson displayed his plans and stated that the area in question is a covered porch with no foundation. The overhang of the porch extends the setback. Attorney Dowd stated that it seems that the elevation plan did not have the measurements showing the setback, hence the permit was issued.

Neighbors Susan and Paul Koroschetz were in attendance and provided photographs of the overhang in relation to their property line. They stated they felt that the overhang was encroaching on their property and did not agree that a variance should be issued. Attorney Dowd stated that the Planning Board is making a recommendation to the Zoning Board of Appeals on the variance, but is not the decision maker. He also stated that this was not a public hearing and a disagreement of neighbors would not be permitted during this meeting.

Ms. Koroschetz stated that there is a glass sliding door on the second level however, currently there is no deck for this door. She stated that if a deck was built it would be a privacy concern because the deck would encroach on her property. Code Enforcer Jeffery stated that the door needs to be secured or a railing or deck must be installed for safety. Ms. Koroschetz stated that the deck was not in the original plans. Mr. Waterson stated that the door was installed to get building materials upstairs easier. Mr. Koroschetz asked Mr. Waterson what was the purpose of the overhang. Mr. Waterson stated it was to extend the roof line.

Attorney Dowd stated that the neighbor concerns would be taken into consideration, but also stated that currently the overhang is in violation. He stated that there are guidelines that need to be taken into consideration when granting (or denying) an area variance.

Chairperson Collard asked Code Enforcer Jeffery for his recommendation. Code Enforcer Jeffery stated that Mr. Waterson should comply with the code and cut back the roof line to 11.25 feet off the property line. He also stated that if the plans were submitted at this point, he would recommend that a drainage plan be submitted. Mr. Koroschetz stated he was also concerned about drainage as the roofline extends past the french drains installed by Mr. Waterson. Attorney Dowd stated that it could be a stipulation of the variance that gutters be installed on the roof.

Mr. Waterson stated that his property is 68 feet wide, but 75 feet wide at the road and questioned how far off the property line the roofline had to be. Attorney Dowd stated it needed to follow the road width, which Assessor Driscoll stated was 76 feet according to the tax map. Code Enforcer Jeffery stated that because it is a substandard lot, the standard setback of 15 feet is reduced to 11.25 feet.

Attorney Dowd read page 140 from the Town of Porter Zoning Law that stated the considerations of an area variance. He stated that the Zoning Board would address each item for the variance. He stated that the Planning Board could recommend conditions be imposed if a recommendation was made to approve the variance. Attorney Dowd asked what could be done to lessen the impact on the neighbors. Code Enforcer Jeffery stated that a triangle could be cut off the roofline to bring it into compliance and gutters could be installed. Attorney Dowd also stated that it could be a condition that a second-floor deck not be constructed in the future.

Ms. Koroschetz stated that if Mr. Waterson was in compliance, she would not complain about the encroachment because it was legal. She again stated that she felt her privacy was being reduced with the current construction placement.

A motion to recommend that the Zoning Board of Appeal approve the variance with the conditions that gutters with leaders draining away from the neighboring properties be installed as well as no future deck construction be allowed on the second floor 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: No

Attorney Dowd stated that because the Planning Board did not have a consensus of the three present members, there could be NO recommendation to the Zoning Board at this time.

Recommendation to the Zoning Board of Appeals for Area Variance for Paul Korman, 3327 East Avenue, Tax Map ID 45.00-1-87

Code Enforcer Jeffery stated that Mr. Korman has a 120 x 200-foot-wide parcel that he is planning to build his home on at the north end of East Avenue. There is a “paper road” that directly north of his property. The road has a possible easement and therefore a variance is requested to allow Mr. Korman to build his ranch home 45 feet from the road. The setback for a corner lot is 60 feet, so he is requesting a 15-foot variance. It was stated that the house north of this road was granted the same variance 6 or 7 years ago. The building permit has not been issued yet because the variance is needed.

Attorney Dowd stated that although this is a 25% variance request, it is not unreasonable as precedence has been set with the northern built home. Attorney Dowd also stated that the “paper street” is not a dedicated road and was unsure if it is an easement for the Town. Code Enforcer Jeffery thought that perhaps it was an easement through the County. Attorney Dowd stated that he would further research the deed to check ingress and egress. Attorney Dowd stated that the variance may not be needed depending on what he finds.

A motion was made to recommend to the Zoning Board of Approvals that the variance (if needed) be approved 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 to the Zoning Board of Appeals for Area Variance for Michael McGraw, 2165 Lake Road, Tax Map ID 33.08-1-33

Michael McGraw was asked to present his application. Mr. McGraw stated that he was looking to get a variance on his west lot line of 7 feet to build a garage. He presented his plans that showed a 24x36 foot garage and a 50 x 24 foot addition. The garage as presented would be 8 feet from the lot line but should be 15 feet, hence the variance request of 7 feet. He stated his garage would be back to the back of his

neighbors, who received a similar variance approximately 4 years ago. Code Enforcer Jeffery stated that the distance between the two garages would be approximately 14-15 feet.

Attorney Dowd stated that the Planning Board needed to take into consideration the safety perspective with the distance between the two structures in case of an emergency.

Code Enforcer Jeffery stated that there was no input from Mr. McGraw's neighbors (not a public hearing). Attorney Dowd asked if there were other options for the building and addition. Mr. McGraw stated that he tried other design/layout options, but felt this worked the best. The 2-car garage with walkthrough needs to be at least 24 feet wide.

Attorney Dowd informed the Planning Board that they could make a recommendation to approve the variance if there are no complaints from the neighbors and if the safety aspect is addressed for emergency vehicles. Code Enforcer Jeffery stated that in case of an emergency, there is a 30-foot clearance on the opposite side to consider.

Assessor Driscoll displayed an updated image of Mr. McGraw's home and property as well as his neighbors. Attorney Dowd stated that the corners of the garages may be staggered which would improve clearance space.

A motion was made by Member Tower and seconded by Member Fox to recommend to the Zoning Board that the approve the variance as presented provided:

1. Distance between the neighboring structure and potential structure will allow enough room for emergency access / fire protection.
2. There is no dissension from the neighbors.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Absent

Member Tower: Yes

Motion Carried.

Assessor Merge for John S. Hooker, 1635 Lake Road, Youngstown, Tax Map IDs 33.13-1-6 and 33.13-1-7

Code Enforcer Jeffery stated that Assessor Driscoll discovered that on the Hooker properties there is a duplex on one parcel and a cottage on the other and therefore the merge cannot be completed this evening.

Assessor Merge for Brian Napoleon, 969 Lake Road, Youngstown, Tax Map IDs 32.18-1-10 and 32.18-1-11

Assessor Driscoll stated that Mr. Napoleon has a home on one parcel and a garage on the second parcel and would like to merge the parcels. Attorney Dowd stated that because there is an accessory structure on the second parcel the two should be merged. Member Tower asked if there only one living quarter (on the two parcels) and Assessor Driscoll verified there was only one home.

A motion was made to approve the Assessor Merge as presented by Chairperson Collad 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

Code Enforcer Jeffery stated that the Town is looking for a temporary part time clerk due to a short term medical leave.

Code Enforcer Jeffery's report

Code Enforcer Jeffery submitted a permit report, a complaint report and a monthly report. He stated there were a number of complaints including an unsafe building on Lockport Road, which is the barn that was discussed a few months ago because it appears to be "falling over".

Code Enforcer Jeffery stated that a complaint was filed for Mr. McCabe's property regarding servicing boats on the property. He stated he gave Mr. McCabe until July 1 to remove the boats from the property.

Chairperson Collard asked about an unsafe building on Porter Center and Code Enforcer Jeffery stated it was an illegal duplex house that was on the market from Niagara County and auctioned off on June 22. He was unsure if it sold, but stated that the home was full of black mold. He stated he would call Niagara County to find out if the property sold at the auction.

Chairperson Collard stated that the monthly report compiled by Code Enforcer Jeffery proves the amount of work that is done each month and commended him for the work.

Member Tower asked if a new Planning Board member had been drafted. Chairperson Collard stated that the Town Board decided to advertise the position. He stated that a Ransomville representative was needed on the Planning Board.

Attorney Dowd report

Attorney Dowd stated that Bailey Brother's pled guilty and paid a fine to one count of violating the code enforcement administration section and were fined an additional charge with conditions to stop operation on Parker Road and to present the Planning Board with a site plan for the August meeting to avoid a larger fine. Attorney Dowd stated that the business is allowed to use the existing fuel tank on Parker road to fuel their vehicles for one year under the conditional agreement. However, the Planning Board may decide that fueling on Parker Road is not permitted when the site plan is discussed and they will need to comply for be fined for further violation.

Otherwise, he had nothing further to report.

A motion was made to close the meeting at 8:52 p.m. by Member Tower and seconded by Member Fox. Motion carried.