



PLANNING BOARD TOWN OF PORTER

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

Thursday, July 7, 2022

The regular meeting of the Town of Porter Planning Board was called to order at 7:01 p.m. with the Pledge to the Flag.

Present: Chairperson Jeffrey Schulze, Vice Chairperson Mark Fox, Member J. Anthony Collard, Member Robert Tower, Member Ryan Ross, Code Enforcer Peter Jeffery, Attorney Michael Dowd, Planning Board Secretary Amy Freiermuth

Chairperson Schulze reminded the Members and audience that side conversations are not acceptable during the meeting.

Recommendation to the Zoning Board of Appeals for Andrew Romanowski, vacant land on River Road, Tax Map 73.10-1-8 for a Variance to construct a single-family dwelling on the west side of River Road in the Niagara River environmental overlay district.

Mr. Romanowski was not present.

Sketch Plan Review for Fetzner/Truesdale, 1237 Lockport Road, Youngstown, for a Minor Subdivision.

Jeremy and Anika Fetzner and Cliff Truesdale were present.

Mr. Fetzner explained that he would like to purchase property from Mr. Truesdale to clean up property lines along the ditch on Mr. Truesdale's property. He stated that Mr. Truesdale cannot farm it (because of the ditch), but they would be able to expand their garden. The parcel was displayed by Code Enforcer Jeffery.

Member Ross asked if the irregular shape was a concern and Code Enforcer Jeffery explained that there are no code regulations that state the shape must be square. He stated that this makes sense because of the ditch and what can/cannot be farmed. Vice Chairperson Fox and Tower both agreed that this division makes sense.

With no further questions or discussion, a motion was made approve the Sketch Plan as presented by Vice Chairperson Fox and seconded by Member Collard.

With no further discussion, roll was called.

Chairperson Schulze: Yes
Vice Chairperson Fox: Yes
Member Collard: Yes
Member Tower: Yes
Member Ross: Yes
Motion carried.

Mrs. Fetzner stated that they would be unavailable at the August meeting but stated that Mr. Truesdale had permission to speak on their behalf.

Recommendation to the Zoning Board of Appeals for Lynn Bahringer, 3957 River Road, Youngstown for a retroactive Special Use Permit for a Home Occupation and an Area Variance for a sign larger than allowed sign.

Lynn Bahringer was present and is requesting a Special Use Permit and an Area Variance for a sign larger than allowed. Code Enforcer Jeffery stated that Ms. Bahringer had a Special Use Permit when she lived on Orchard Drive in 2001 that was issued for five years. It has since expired and she has moved.

Ms. Bahringer stated she makes and sells candles, crystal jewelry and does Reiki treatments. She provided photographs of her property to illustrate where she is conducting business and where she would like to move her sign (from its current location).

Code Enforcer Jeffery stated this use came to light because of the sign that Ms. Bahringer has displayed outside of her home. The maximum sign size per code is 1x2 foot, while hers is 4x3 feet.

Ms. Bahringer stated that she has maybe one or two customers at her house a month as most of her business is online. She said she will be opening a retail store in Lewiston. She stated she will not sell products out of her house but will make them there. She said she would like to move her sign in front of her garage, 75 feet back from the road.

Chairperson Schulze stated that he would like to handle each request one at a time. The Special Use Permit is for a home-based business with no employees (Ms. Bahringer confirmed) and no traffic changes. The Members agreed this fits a Home Occupation. Ms. Bahringer stated that deliveries would be approximately two times a week.

A motion was made to recommend that the Zoning Board of Appeals approve the Special Use Permit for a Home-Based Occupation. The motion was made by Member Tower and seconded by Member Ross.

With no further discussion, roll was called.

Chairperson Schulze: Yes
Vice Chairperson Fox: Yes
Member Collard: Yes
Member Tower: Yes

Member Ross: Yes

Motion carried.

Chairperson Schulze stated that the sign allowance in the Town is 1x2 feet equaling two square feet. Whereas Ms. Bahringer has created a sign that is 3x4 (12 square feet) over six times what is allowed. The Members agreed that this is a significant difference regardless of the location. Ms. Bahringer stated that the sign size in comparison to the size of the house is appropriate. Code Enforcer Jeffery stated that the intent on the size of the sign as per Code is to keep with the character of a residential neighborhood. The Members agreed that the Code should be followed without a Variance for this application.

Member Collard did point out that the sign is very nice looking.

A motion was made to recommend that the Zoning Board of Appeals not approve the Area Variance for the sign size. The motion was made by Vice Chairperson Fox and seconded by Member Collard.

With no further discussion, roll was called.

Chairperson Schulze: Yes

Vice Chairperson Fox: Yes

Member Collard: Yes

Member Tower: Yes

Member Ross: Yes

Motion carried.

Sketch Plan Review for Armand and Jane Cerrone Estate, 615 Lake Road, Youngstown for a Minor Subdivision.

Armand Cerrone was present. Attorney Dowd stated that he feels that this Subdivision can be exempt from the Code/process as the transfer is from one lot to a neighboring parcel as long as the Code is met for setbacks, etc. He stated that under Chapter 165 modifications and waivers for improvements are allows to expedite the process without a final Site Plan and Public Hearing. He claims that because there is no new lot created, there is no reason for objections. Code Enforcer Jeffery stated that the Town wants to ensure that no substandard conditions are created or violations are on a property before a Subdivision and that the required merge is completed. He stated that the legal description and survey for this application have been submitted and meet the requirements.

Attorney Dowd stated that the Site Plan review can be used to make the final decision without a public hearing as the Board is allowed to make exceptions. Chairperson Schulze stated that he didn't feel it was fair to bring this application forward in this manner without a discussion beforehand.

A motion was made to approve the Minor Subdivision as presented using an expedited method whereas the Sketch Plan is the Final Site Plan and is complete without a Public Hearing. The motion was made by Vice Chairperson Fox and seconded by Member Tower.

With no further discussion, roll was called.

Chairperson Schulze: Abstain
Vice Chairperson Fox: Yes
Member Collard: Yes
Member Tower: Yes
Member Ross: Yes
Motion carried.

Sketch Plan and Recommendation to the Zoning Board of Appeals for MoMo Electric/Paul Pinkney, 3449 Porter Center Road, Ransomville for renewal of a Special Use Permit.

Paul Pinkney was absent.

Chairperson Schulze stated that Tom Tower was in the audience and asked to hear if he had anything to add. Mr. Tower stated that he was a part of the committee who created the Niagara River Overlay District that was established in 1973. He stated that at that time Lower River Environmental prohibited any structure on the high bank to avoid the look of Lewiston. The intention was to allow a strip of River Road from Lewiston to Youngstown to showcase a beautiful, scenic view for 5 miles. He stated that the Town has suffered a lot of chemical abuse and that this view is the last piece of beauty in the Town. If the view is lost, once it is gone it cannot be regained.

Chairperson Schulze stated that Mr. Tower offered very valuable insight as to why the district was created without having a personal interest in the current application. Mr. Tower stated that the view belongs to the public, not “the guy with the most money.” He stated that we are all a part of the community and once there is one exception, the floodgates will open.

Discussion on the filing requirements and surveying requirements of the Subdivision Regulations.

Attorney Dowd stated that in many other Towns the process of Subdivision between neighboring parcels without creating a new lot does not require a public hearing and survey because of the cost to the applicant. He explained that the survey is not required at the County Clerk’s Office and the Deed is recorded with the tax map showing the division line as per a legal description. He feels that the local law should be changed to reflect a simplified process whereas a Subdivision approval is not required and that a Final Plat does not need to be created in such instances.

Code Enforcer Jeffery stated that there are some conditions that must be met within the expedited process and the Town should still have oversight as the Assessor does with Merges. He stated that the legal description would need to be provided and a Merge must be required. Zoning Board of Appeals Member Paul Brown was in attendance and stated that he is trying to divide a parcel to decrease the size of a neighboring lot that belongs to his sister and to increase his parcel. He stated it would cost him \$1700 to draw a 250-foot line between the two parcels on the survey as the Code currently reads.

Attorney Dowd stated he will draft suggestions to amend the local law and Code Enforcer Jeffery stated he would speak to the Assessor for any possible concerns she may have. Chairperson Schulze asked if without a Public Hearing does it look like the Town is trying to sneak it through without notice.

Code Enforcer Jeffery's report

Code Enforcer Jeffery stated he emailed his report to the Members earlier in the day.

Attorney Dowd's report

Attorney Dowd had nothing further to report.

Correspondence / New / Old / Miscellaneous Business

Member Tower asked about the status of the Animal Sanctuary on East Avenue. Code Enforcer Jeffery stated he informed Mr. Garabedian that he could not attend the meeting tonight for any discussion on his application as there are still animals on his property. He stated that an Open Notice of Violation has been issued to Mr. Garabedian. Chairperson Schulze reinforced the Board will not entertain this agenda item if violations exist.

With no further discussion, a motion to adjourn the meeting at 8:25 p.m. was made by Member Tower and seconded by Member Fox. All in favor, motion carried.