



# PLANNING BOARD TOWN OF PORTER

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*Approved July 1, 2021*

**Thursday, June 3, 2021**

The regular meeting of the Town of Porter Planning Board was called to order at 7:02 p.m. with the Pledge to the Flag.

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

## **Approve May 6, 2021, Planning Board minutes**

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

## **Public Hearing for Denise Blankenship/David Carpino, 1451 and 1453 Sunrise Lane, Youngstown, NY; Tax Map 32.16-1-2 and 32.16-1-3 for a Minor Subdivision.**

Mr. Carpino was present and provided an agent's letter authorizing him to speak on Ms. Blankenship's behalf.

A motion to open the public hearing was made by Member Tower and seconded by Member Fox. All in favor, motion carried.

Mr. Carpino stated that he and Ms. Blankenship have come to an agreement for him to purchase a portion of Ms. Blankenship's property that was originally a part of his land. He stated he has submitted the survey and required paperwork for this transaction.

Code Enforcer Jeffery displayed the subdivision and stated that nothing had changed from the Preliminary Subdivision. He stated that no Variances would be needed and this Subdivision would meet code.

Chairperson Collard asked for public comment but there was none. A motion to close the public hearing was made by Vice Chairperson Schulze and seconded by Member Fox. All in favor, motion carried.

With no further discussion a motion was made to approve the Subdivision as presented by Member Tower and seconded by Member Ross.

With no further discussion, roll was called.

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

**Public Hearing for Alexandra Withford, 1650 Braley Road, Youngstown; Tax Map ID 47.00-1-32.11 for a Dog Kennel/Shelter Site Plan.**

Chairperson Collard stated that Vice Chairperson Schulze would be managing this agenda item.

Ms. Withford was present and Vice Chairperson Schulze asked if she had gotten permission from the current property owners to apply for this Site Plan. She stated she had.

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

Vice Chairperson Schulze asked if there were any changes to the Site Plan and Ms. Withford stated there were none. Code Enforcer Jeffery stated that the Zoning Board of Appeals approved both requested Variances (one for a 4-foot fence in the front yard and one for dogs in the front yard). Code Enforcer Jeffery displayed the Site Plan with the fenced in areas highlighted.

Vice Chairperson Schulze asked if during the public hearing (ZBA) if there were any concerns about potential noise from the dogs barking and Code Enforcer Jeffery stated that none were raised. He also stated that there were no previous complaints and displayed the property to show that the neighbors were a significant distance from the proposed fenced in areas.

Vice Chairperson Schulze asked for public comment but there was none. A motion to close the public hearing was made by Member Tower and seconded by Member Fox. All in favor, motion carried.

With no further discussion, a motion was made to approve the Site Plan as presented for a Kennel and Training facility was made by Member Fox and seconded by Member Ross.

With no further discussion, roll was called.

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

Ms. Withford provided Secretary Freiermuth with her mailing address for approval paperwork.

**Recommendation to the Zoning Board of Appeals for Richard Ries (of E21 Ventures) and Mark Carella (landowner), east side of Creek Road (between Lockport Road and Cain Road) for a Use Variance for a 6.6-acre Solar Farm.**

Mr. Ries was present and stated he provided a letter of intent for his project (previously supplied to the Members via email). He stated that the homeowner, Mr. Carella, would like to build a house on this property as well as solar farm for the income to defer the cost of building. He stated that the type of solar panels that would be used are at the highest point approximately 2 feet off the ground and therefore are not visible from a distance. He continued that there would be natural screening around the farm which would be 1000 feet to the nearest neighbor.

Code Enforcer Jeffery stated that a Use Variance is the only option to move forward with this project as this property is in a Residential Agricultural (RA) zone and Solar Farms are only allowed in the Commercial District as per Town Code. Attorney Dowd stated that a Use Variance can only be granted under strict circumstances including a hardship that is not self-imposed. Mr. Ries stated that the landowner cannot develop the land without the income of a solar farm, but Attorney Dowd stated they can develop the land in other capacities.

Chairperson Collard stated that the Town Solar Committee spent a lengthy amount of time and research developing a solar law and did their due diligence to determine the best location for solar farms within the Town. He advised that the Planning Board would be very careful to make exceptions to the law – especially because it was recently adopted.

Mr. Ries asked if there would be a public hearing for a final determination from the ZBA and it was confirmed. Member Tower asked if Mr. Carella lives in Liverpool (as per his application) and Mr. Ries stated he does but would be moving back to the area.

Vice Chairperson Schulze stated that this property is the ideal location for this type of item, but he did not feel comfortable setting a precedent of allowing a Use Variance for Solar Farms outside of the Commercial District. Mr. Ries stated that if this farm was approved it would max out the substation and no further Solar Farms could be constructed in this zone. He continued that the Solar Farm would generate enough power for 300 community homes and after 25 years the panels could be removed and decommissioned.

Member Ross stated that he felt the decision was simple – there is not a hardship and therefore a Use Variance cannot be granted. Attorney Dowd stated that if a Use Variance was granted it could cause major problems generated from previous applicants – especially because the law was just changed, there are no hardships, and the situation is self-imposed. However, he stated that the Zoning Board of Appeals is their own Board and will make the final decision. The Planning Board only offers a recommendation to the ZBA.

Vice Chairperson Schulze asked how much of the Town is zoned RA and Code Enforcer Jeffery estimated it to be 75-80%.

A motion was made to recommend that the Zoning Board of Appeals not approve the Use Variance. The motion was made by Vice Chairperson Schulze and seconded by Member Ross.

With no further discussion, roll was called.

Chairperson Collard: Yes

Vice Chairperson Schulze: Yes

Member Fox: Yes

Member Tower: Yes

Member Tower stated that although he felt that this type of solar panel was a good concept because it was low to the ground, he would not recommend the variance.

Member Ross: Yes

Motion carried.

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

Code Enforcer Jeffery's stated he would email his report to the Members once completed.

A brief discussion ensued regarding the Airport on Braley Road and fuel storage. No action was taken.

### **Attorney Dowd's report**

Attorney Dowd had nothing further to report.

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

None.

With no further discussion, a motion to adjourn the meeting at 8:18 p.m. was made by Vice Chairperson Schulze and seconded by Member Tower. All in favor, motion carried.