



PLANNING BOARD TOWN OF PORTER

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Approved April 5, 2018

Thursday, March 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 John Bis, Member G. Edward "Jipp" Ortiz, Attorney Michael Dowd, Code Enforcement Officer Peter Jeffery, Town Assessor Susan Driscoll, Secretary Amy Freiermuth

Absent: Member Robert Tower

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

Approval of the minutes from the February 1, 2018 Planning Board meeting

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

Public Hearing for Minor Subdivision for Cyrus Ardalan, 3677 Porter Center Road, Ransomville; Tax Map ID 61.00-1-29

Code Enforcer Jeffery stated that Mr. Ardalan has applied for a minor subdivision on Porter Center Road. He was granted a variance from the Zoning Board of Appeals (as required by the Planning Board in order to complete the subdivision). Code Enforcer Jeffery stated that Mr. Ardalan has supplied his legal description, his stamped surveys, his SEQR Part I and his application is complete.

Member Ortiz asked Code Enforcer Jeffery if the plans had changed from the original submission. Code Enforcer Jeffery stated that there is an L shaped parcel that will surround the parcel that is subdivided. There is a small piece of land that will allow the two larger parcels on either side to join. Code Enforcer Jeffery stated all of Mr. Ardalan's documentation is good.

Member Ortiz read the Engineer letter from GHD (as filed). The letter stated . . . "the proposed site plan acceptable and in general conformance with engineering practices."

Vice Chairperson 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 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: Absent

Member Ortiz: Yes

Motion Carried.

Chairperson Collard opened the public hearing by reading the public hearing notice:

NOTICE IS HEREBY GIVEN THAT, pursuant to Section 35 of the Town of Porter Zoning Law a public hearing will be held by the Planning Board of the Town of Porter, 3265 Creek Road, Youngstown, New York on Thursday, March 1, 2018 at 7:00 p.m. for the purpose of considering and hearing all interested persons concerning the following:

APPLICATION OF CYRUS ARDALAN, 3677 Porter Center Road, Ransomville, New York; Tax Map ID 61.00-1-29.11 for minor subdivision. Legal description of the above Minor Subdivision is available electronically via request at: porterplanningboard@gmail.com

Applicant(s) must be present.

Chairperson Collard asked if there were any comments from the public. Thomas Freck from 1820 Balmer Road stated that Mr. Ardalan is an excellent neighbor who leases his property to a farmer who obeys all conservation laws. He stated that he is glad to have them (in the neighborhood).

With no further comments, a motion to close the public hearing was made by Member Ortiz and seconded by Member Bis. All in favor, motion carried.

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

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Bis: Yes

Member Tower: Absent

Member Ortiz: Yes

Motion Carried.

Attorney Dowd informed Mr. Ardalan that he has six months in which to file the deeds for the subdivision with Niagara County.

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 at the February Planning Board meeting. Code Enforcer Jeffery stated that he has an existing recreational pond which requires a Site Plan and Special Use Permit. He has already been issued a side yard setback variance.

The public hearing was left open from February. Chairperson Collard asked if anybody from the public had any comments. With none, a motion was made to close the public hearing by Member Ortiz and seconded by Vice Chairperson Fox. All in favor, motion carried.

Vice Chairperson Fox read the Engineer letter from GHD (as filed). The letter stated . . . “the proposed recreational pond meets the requirements of the Town Code . . .” Code Enforcer Jeffery stated that Town Code does not require a landscape plan.

A motion was made to approve the Site Plan as presented 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: Absent

Member Ortiz: Yes

Motion Carried.

A motion was made to recommend to the Zoning Board that the Special Use Permit be approved 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: Absent

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 from the February Planning Board meeting. The public hearing was still open from that meeting.

Code Enforcer Jeffery stated that Mr. Kent claims to have a contract with Josh Stack (former owner of Boat Works) to operate the business, but a copy of the contract has not been supplied. Although Mr. Stack had a Special Use Permit, it is not transferrable. Code Enforcer Jeffery read the original Special Use Permit that was issued to Mr. Stack in June of 2013.

Mr. Kent stated that the Special Use Permit issued more recently included storage of 80 boats, service of 25 boats, 5 boats for sale in the front of the property and 8:30-5:00 hours on Saturday. Mr. Kent stated he will not be doing any sales but would like to store 80 boats. He also stated he will be adding to the berm in the front of the property.

Attorney Dowd asked if this plan included the parcel adjacent to the parcel where the business is currently located. Mr. Stack had access to and used both parcels. Mr. Kent stated that this plan is only for the one large parcel. Code Enforcer Jeffery stated that there should be enough room as indicated by the drawings

submitted. Vice Chairperson Fox asked if all of the boats in storage will be transported by trailer and Mr. Kent stated yes.

Chairperson Collard asked what would be happening with the junk boats that were scattered throughout the property. Mr. Kent stated he needs to rent a dumpster to dispose of all of them. He stated that there were 12 boats originally and there are approximately 7 remaining. Code Enforcer Jeffery stated that he would work with Mr. Kent on a timeframe in which to dispose of the remaining boats. Mr. Kent also stated that he has already disposed of 49 barrels with unknown contents through an environmental disposal company, which was an unanticipated expense.

Member Ortiz read the Engineer letter from GHD (as filed). The letter stated "We find the proposed revised site plan acceptable and in general conformance with engineering practices."

Chairperson Collard asked if there were any comments from the public. There were none.

Attorney Dowd stated that because this is a Type II action, a SEQR is not required for the Site Plan.

Attorney Dowd stated that a letter is needed from Mr. Stack to prove that Mr. Kent has legal authority to use the property for his business. Mr. Kent stated that he owns the DBA the Boat Works in his name and has contacted Mr. Stack for a copy of the contract.

Attorney Dowd stated the Planning Board needs to make a recommendation on the Special Use Permit to the Zoning Board of Appeals. He stated that they Board could suggest a 5-year permit as that is what was approved for Mr. Stack. Although he stated that the land lease needs to be for at least five years as well. He stated that the approval could be contingent on the proof of the land lease.

A motion to close the public hearing was made by Member Bis and seconded by Member Ortiz. All in favor, motion carried.

A motion to approve the Site Plan as presented by made by Member Ortiz 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: Absent

Member Ortiz: Yes

Motion Carried.

A motion was made by Member Ortiz to recommend to the Zoning Board of Appeals approval of the Special Use Permit with the following conditions:

1. Submittal of a land contract/lease to prove legal authority to the business property
2. 5-year permit is suggested if the land lease is at least 5 years. If the lease is for a shorter time frame, the Special Use Permit should be equal.
3. No sales of boats
4. Storage of 80 boats allowed
5. Business hours as requested by the applicant.

A second to the motion was made by Vice Chairperson Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes
Vice Chairperson Fox: Yes
Member Bis: Yes
Member Tower: Absent
Member Ortiz: Yes
Motion Carried.

Discussion with Dave Decarle regarding possible development/subdivision at 1786 Balmer Road.

Code Enforcer Jeffery explained that Mr. Decarle may be interested in purchasing the former Nike Site on Balmer Road / Porter Center Road for possible subdivision / development and wanted to talk to the Planning Board about acceptable uses. He stated that he has given Mr. Decarle the permitted use table for that area, but did explain that there may be wetlands on the property that will limit the development in certain areas.

Mr. Decarle stated that he has thought about an automotive repair shop, a recreational park for RVs and windmills. Attorney Dowd stated that these are three very different ideas. They could require a Site Plan or Special Use Permit but to discuss the details of each would be lengthy. Code Enforcer Jeffery stated that Mr. Decarle will need to look at the permitted use table. Attorney Dowd stated that Mr. Decarle should look at the study on environmental concerns for the property. Code Enforcer Jeffery also stated that there should be DEC data available, as well as researching the federal and state wetlands as any development would require approval from various agencies in addition to the Town. Attorney Dowd stated that Mr. Decarle should hire a biologist before he plans anything further. He stated that just because the land may be dry when he walks the property does not mean that it is not a wetland. The plants, trees, etc., determine if the area is a wetland. There must be a 100-ft. buffer around the wetland from any development.

Mr. Decarle stated that the property has great industrial use and if it conforms to all codes would like to subdivide it. Mr. Decarle clarified that by recreation park he is referring an ATV track or park (not an RV camping park). Code Enforcer Jeffery stated that there would be no land lock issues, but must comply with all codes.

Request from Chris Guard, 3881 River Road, Youngstown; Tax Map 59.00-1-13.1 for extension on submittal of Preliminary Plat for Major Subdivision/Site Plan.

Mr. Guard and Dave Sutton, his architect approached the board. Mr. Sutton stated that they would like an extension on the approval of the preliminary of the Major Subdivision. He stated that it has been six months since the initial approval, but they do not have the Preliminary Plat complete. They intend to have it completed by April. Mr. Guard stated that the plat is currently in the hands of his engineer.

Vice Chairperson Fox stated it makes sense to grant a 6-month extension. A motion was made by Vice Chairperson Fox and seconded by Member Ortiz to approve a 6-month extension.

With no further discussion, roll was called:

Chairperson Collard: Yes
Vice Chairperson Fox: Yes
Member Bis: Yes
Member Tower: Absent
Member Ortiz: Yes
Motion Carried.

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. Code Enforcer Jeffery stated that he is trying to process all complaints in a timely manner. He is also stated that he is working on establishing a procedure for Fire Safety Inspections along with a schedule.

Attorney Dowd report

Attorney Dowd had nothing further to report.

A motion to adjourn the meeting at 8:16 p.m. was made by Member Bis and seconded by Member Ortiz. All in favor, motion carried.