



# PLANNING BOARD TOWN OF PORTER

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*Approved April 6, 2017*

**Thursday, March 2, 2017.**

The regular meeting of the Town of Porter Planning Board was called to order at 7:05 p.m. with the Pledge to the Flag.

Present: Chairperson Peter Jeffery, Vice Chairperson Anthony Collard, Member Mark Fox, Member John Bis, Assessor Susan Driscoll, Attorney Michael Dowd (arrived late).

Absent: Member Robert Tower, Code Enforcer Roy Rogers

## **Approval of the minutes from the Planning Board Meeting on February 2, 2017**

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

## **Public Hearing/Minor Subdivision for Tom O'Connor, Lake Road, Ransomville, Tax Map ID: 33.08-1-47**

Chairperson Jeffery announced that due to a potential conflict of interest with this subdivision he was going to abstain from voting. He stated that his mother owns property across the street from the subdivision and may purchase a subdivided parcel from Mr. O'Connor. Vice Chairperson Anthony Collard presided over the meeting.

Member Collard stated that the public hearing was still open (from the February meeting) and asked if any members of the public would like to say anything regarding the project. No comments were made.

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

Member Collard read a letter received by Miskell & Moxham, the attorney for Mr. O'Connor (submitted).

Attorney Dowd arrived to the meeting and stated that he spoke with one of his resources who stated that any resident that has a home fronting the road has access to Lake Avenue as there is no land lock. The subdivided parcels will exceed minimum lot size. He stated that the Town is not obligated to take over the care and maintenance of the road. Member Bis asked if utilities and fire hydrants were already installed. Chairperson Jeffery stated that they were.

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

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

With no further discussion, roll was called:

Chairperson Jeffery: Abstain

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Absent

Motion Carried.

Attorney Dowd asked if the Town Engineer had provided a recommendation on drainage. Secretary Freiermuth read “Based upon our review of available information, the proposed subdivision will not have an adverse impact on Town drainage facilities.” from the letter provided by the Engineer. Attorney Dowd stated that a smaller lot may require a letter for septic system preapproval be received from an Engineer. However, he stated that because of the large lot size, this letter could be waived by the Planning Board.

A motion was made to waive the requirement of an engineer letter for septic preapproval by Member Bis and seconded by Member Fox. All in favor, motion carried.

Attorney Dowd stated that when an applicant requests a building permit that the septic system design through the County is a part of the approval process for a new home.

A motion to approve the subdivision was presented by made by Member Bis and seconded by Member Fox.

With no further discussion, roll was called:

Chairperson Jeffery: Abstain

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Absent

Motion Carried.

Chairperson Jeffery presided over the meeting.

**Preliminary Review of Minor Subdivision for Jackek Mazur, 2417 and 2419 Lake Road, Ransomville, Tax Map ID: 21.17-1-47 and 21.17-1-48**

Mr. Mazur explained that he is the sole owner of both 2417 and 2419 Lake Road. He stated there is one house on each property but the houses are only about eight feet apart. He is thinking about building an addition to join the two houses to make them one.

Chairperson Jeffery stated that one parcel of land cannot hold two single family homes according to the Town Zoning laws. He also stated that one single family home cannot be on two parcels of land. Attorney Dowd stated that Mr. Mazur cannot have two homes on one parcel and that it must be a single-family residence unless provisions have been made for an in-law apartment.

Attorney Dowd asked how the houses were configured for sanity sewer/septic. Mr. Mazur stated that each house has a separate septic system. He stated that the system on the western is north of the house (on the Lake side). The system on the eastern property is directly on the property line.

Member Bis asked if both houses were single story. Mr. Mazur stated they were single story and perhaps eight feet apart. Combined footage was about 2800 sq. feet. He stated that the houses were not winterized, but winterizing the houses is a consideration if they are combined. The house is currently his vacation home with no tenants but Mr. Mazur is thinking of moving to this property on a full-time basis.

Attorney Dowd stated that the two lots must be combined into one parcel if the houses are joined. He stated that the addition work could be done and then the deed filed for an accessor merge to join the two lots. Chairperson Jeffery asked if there should be a conditional approval based upon a reasonable timeframe in which the addition happens to ensure that this does not become a single parcel with two homes (against code).

Member Bis asked why Mr. Mazur wanted to combine the property. Mr. Mazur stated it would simplify things including his taxes.

Attorney Dowd stated that Code Enforcer Rogers would need to approve plans for the single-family residence to avoid any potential rentals as a duplex. Chairperson Jeffery agreed that an assessor merge made the most sense.

Assessor Driscoll asked how Code Enforcer Rogers could issue a building permit for two properties.

Attorney Dowd stated that conceptionally Mr. Mazur's plan to combine the houses works, however, it is a matter of determining the best method. He stated that Mr. Mazur needs to determine if indeed this is what he wants to do with the property and if so to present his plans to Code Enforcement Officer Rogers for a building permit. Conditions and timeframes can be determined during the building permit process and then if applicable, an assessor merge can occur.

### **Discussion on recommendation to the Town Board regarding Transient Housing/Airbnb Regulations**

Attorney Dowd distributed a draft short term rental definition to the Planning Board members for review. He stated that the definition was simple as requested. Chairperson Jeffery and Member Collard stated that the draft covered the definition and the simplicity was what the Board was looking for.

Attorney Dowd stated that the Planning Board should discuss what zones short term housing would be allowed. Member Bis asked why the definition limited the occupancy to not exceed nine people. Attorney Dowd stated that the Planning Board could change the number. Member Bis felt that two people per bedroom was fair.

Chairperson Jeffery stated that the Niagara County Health Department approves septic systems based upon the size of a home, but he is not aware of occupancy limitations when a Certificate of Occupancy is granted.

Member Bis asked how the occupancy would be enforced. Attorney Dowd stated that a complainant can call Code Enforcer Rogers.

Chairperson Jeffery stated that this definition would apply to the entire Town. He stated that a large home on the Lake may have bedrooms that will allow for more than 9 people. Attorney Dowd stated that the

wording could be “not to exceed two people per bedroom plus two additional occupants.” Chairperson Jeffery felt this was a good solution.

Attorney Dowd asked where short term rentals should be permitted. He stated that perhaps some of the old cottages on the Lake may be repaired to be rented so this could be an improvement overall. He suggested that short term rentals be permitted in any district where a single-family residence is permitted. All the members agreed.

The recommendation from the Planning Board of the addition of a definition for short term housing to the Town Board will read:

*Occupancy of a single-family residential premises for a term of no more than two weeks, on two or more occasions during any six-month period. Occupancy shall not exceed two persons for each bedroom, plus two additional occupants. Onsite parking as otherwise required by the Town of Porter Zoning Law shall be provided. Short Term Rentals are permitted in any district where a single-family residence is permitted.*

Attorney Dowd stated that because this is a recommendation to the Town Board, it does not need to be voted on by the Planning Board.

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

Assessor Driscoll stated that in Code Enforcer Rogers’ absence, she received a request for area variance to build an addition on a home where the septic tank is in the back yard and too close to the house.

Attorney Dowd stated that because Code Enforcer Rogers has not denied a building permit, the Planning Board cannot make a recommendation on a variance application that does not exist. He stated that Code Enforcement Officer Rogers may allow the setback based upon property calculations as the Zoning Law allows.

### **Attorney Dowd report**

Nothing to report.

### **Code Enforcer Rogers’ report**

Absent. Distributed by Assessor Driscoll. Assessor Driscoll stated she received a phone call from Michelle Milanovich regarding the subdivision letter she received for her property at 1575 Lake Road. Assessor Driscoll indicated that Ms. Milanovich was upset that procedure was not followed and was concerned that her property was “illegal.” Chairperson Jeffery stated he would reach out to her to explain the process.

A motion was made to close the meeting 8:18 p.m by Member Bis and seconded by Chairperson Jeffery. Motion carried.