



PLANNING BOARD TOWN OF PORTER

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Approved November 1, 2018

Thursday, October 4, 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 G. Edward “Jipp” Ortiz, Member Robert Tower, Code Enforcement Officer Peter Jeffery, Attorney Michael Dowd, Town Assessor Susan Driscoll, Secretary Amy Freiermuth

Absent: Member Jeffrey Schulze

Chairperson Collard introduced the Planning Board Members, Secretary Amy Freiermuth, Code Enforcement Officer Peter Jeffery, Assessor Susan Driscoll and Attorney Michael Dowd to the audience.

Approval of the minutes from the September 6, 2018 Planning Board meeting

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

Sketch Plan Review for (2) Minor Subdivision(s) for Dan Tower, 1647 Youngstown-Wilson Road, Youngstown; Tax Map ID 47.00-1-1 and 33.00-1-34

Dan and Iris Tower and David Kent, broker for the property, were present. Mr. Kent presented copies of the proposed subdivision and stated that Mr. and Mrs. Tower have decided to auction their land and the farm that they currently owned. He explained that there are two parcels to be subdivided – one on each side of Youngstown-Wilson Road.

The north parcel has a home and storage buildings that once subdivided will be approximately 70 acres. Next to this parcel is a small house and property that is not owned by Mr. Tower and is not included in the subdivision. East of this parcel are 4 acres that may be subdivided with the balance of the land. The third parcel that would include 200 feet of road frontage adjacent to the 4 acres.

The second parcel to be subdivided is on the south side of the road with road frontage on Braley Road. It would include the separation of an 8.6 acre parcel and a 6.22 acre parcel.

Code Enforcer Jeffery stated that all divided parcels meet the minimum road frontage as required by Town Code.

Mr. Kent stated that there is a possibility that the land will be purchased by one owner and that the subdivision may not be needed. He said that the auction for the property is currently listed to sell as

subdivided subject to Planning Board approval. He stated that he did not want to divide the land prior to the sale as it may be unnecessary.

Attorney Dowd stated that if they did subdivide the land, they have 6 months in which to file the deed with Niagara County. If it is not filed within that timeframe, the land will remain as one parcel. Code Enforcer Jeffery added that if the land was subdivided prior to the sale, the owner could request an Assessor Merge as long as the deed(s) are named to the same party.

Mr. Kent stated that the sale is currently scheduled for November 8 and that if necessary they would seek final approval for the subdivision at the December meeting. Member Tower stated he felt this was a reasonable plan.

A motion was made to approve the Preliminary Subdivision for Tax Map 33.00-1-34 as presented was by Member Ortiz and seconded by Vice Chairperson Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Absent

Motion Carried.

A motion was made to approve the Preliminary Subdivision for Tax Map 47.00-1-1 as presented was by Member Ortiz and seconded by Vice Chairperson Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Absent

Motion Carried.

Mr. Kent stated that he would know after the sale what needed to be subdivided and if needed, he would gather everything required for the public hearing. He informed the Members that if they were interested in his process, the listing would be on his website at williamkentinc.com. Code Enforcer Jeffery stated that final prints, legal descriptions, etc., would be required prior to scheduling the public hearing and that Mr. Kent could contact him for further information if needed.

Sketch Plan Review for Minor Subdivision for Tom and Susan Walker, 3630 Lutts Road, Youngstown; Tax Map ID 60.00-2-25.112

Tom Walker (father) and Jason and Karen Walker (son and wife) were present.

Code Enforcer Jeffery stated that the applicant started to build a home without the proper permits or subdivision and they are now trying to put everything back on track. Town Code does not allow for two residences on one parcel and therefore the Walker's need to formally subdivide the parcel of land from a larger piece. The subdivided property deed has already been filed with Niagara County, but the applicant must go through the Town to rectify the situation.

Code Enforcer Jeffery stated that the parcel being subdivided will have 204 feet of road frontage on Lutts Road and a depth of approx. 475 feet. The original parcel has road frontage on Cain Road and will be 1484 feet deep once subdivided. Mr. Jason Walker stated there are no intentions to divide the land any further.

Code Enforcer Jeffery stated that the parcel is wetland limited, but Mr. Walker has come to an agreement with the DEC. Mr. Walker stated there are 8 monuments – 4-inch-wide posts that are 18 inches above the ground – to map the outline of the wetland. He has restored and replanted trees as required by the DEC. Code Enforcer Jeffery stated that there is also a covenant required to be recorded on the deed that the parcel is a wetland.

Chairperson Collard asked about the status of the house. Mr. Walker stated the exterior is in good shape, but the interior work was stopped. He stated that framing needs to be finished. Code Enforcer Jeffery stated that the footing conditions of the house are being verified as they were constructed without his inspection. Chairperson Collard asked Mr. Walker if Code Enforcer Jeffery will have full access to the house while being built (to complete inspections) and he stated yes.

Code Enforcer Jeffery stated that the minimum requirements for the subdivision have been met and at this time the Planning Board is only in need of addressing the subdivision. He stated he has everything needed for the public hearing to take place in November except for Part I of the SEQR but informed Mr. Walker that he could turn that in at least 10 days prior to the meeting.

A motion was made to approve the Preliminary Subdivision as presented was by Member Tower and seconded by Member Ortiz.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Fox: Yes

Member Tower: Yes

Member Ortiz: Yes

Member Schulze: Absent

Motion Carried.

Chairperson Collard noted that Reeve Tower was in the audience and asked if he would like to address the board. Mr. Tower asked how the County can record a deed without the approval of the Town. Attorney Dowd explained that the County Clerk's Office employees cannot offer legal advice and the applicant must check a box stating if the municipality requires approval. If the applicant checks no, then the deed is recorded. He continued that in the Village of Youngstown, two neighbors do not need to go before the Planning Board for a subdivision for exchange of land if no additional parcels are created and the new

parcels meet minimum standards. Attorney Dowd stated that each municipality has different codes regarding subdivisions.

Code Enforcer Jeffery's report

Code Enforcer Jeffery's report was distributed. A brief discussion of some of the items ensued.

Code Enforcer Jeffery stated that during his tenure, there have been 14 cases where a code violation ended up in court. Of those, 7 of the cases were dismissed because the resident worked with the Code Enforcer Jeffery to resolve the violation. He stated that if the case is not resolved, the court can issue fines, jail time and/or misdemeanor charges.

Code Enforcer Jeffery stated he emailed a chart to the Members on September 26 with suggested revisions to the current requirements for Special Use Permits and Site Plans. He informed the board that he and Chairperson Collard spent a significant amount of time discussing options and felt that it made sense to propose a process for a "minor condition" and a second process for a "major condition". He asked that the Members review his email as a starting point for discussion in November. Secretary Freiermuth informed Code Enforcer Jeffery that she had not received the email and he stated he would resend the package.

Correspondence / New / Old / Miscellaneous Business

Assessor Driscoll reminded the Members that on November 15 at 6:00 p.m. a training session is going to be held for both Planning and Zoning Boards with the topic focusing on solar. This training will qualify as the required 4-hour annual training required by NYS.

Attorney Dowd's report

Attorney Dowd stated that the local law suggested changes that the Planning and Zoning Board approved were presented to the Town Board and he anticipates the public hearing to be held in November.

With no further discussion, a motion to adjourn the meeting at 7:52 p.m. was made by Member Tower and seconded by Member Ortiz. All in favor, motion carried.