



## PLANNING BOARD TOWN OF PORTER

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*Approved at the Planning Board meeting on September 1, 2016*

**Thursday, August 4, 2016.**

The regular meeting of the Town of Porter Planning Board was called to order at 7:12 p.m. with the Pledge to the Flag.

Present: Chairperson Peter Jeffery, Vice Chairperson Anthony Collard, Member John Bis, Code Enforcer Roy Rogers, Assessor Susan Driscoll, Attorney Michael Dowd. Arrived late: Member Robert Tower.  
Absent: Member Mark Fox.

### **Approval of the minutes from the Planning Board meeting on July 7, 2016**

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

### **Site Plan Review for Mark and Rosemary Lahey, 3895 River Road, Youngstown**

Chairperson Jeffery read the public hearing notice for the Lahey application and stated that the Planning Board was doing the Site Plan Review for the dock. In July, the sketch plan was submitted and reviewed by the Planning Board.

Chairperson Jeffery asked if any members of the public had any comments. No residents came forward. A motion was made to close the public hearing by Member Collard and seconded by Member Bis. All in favor, motion carried.

Chairperson Jeffery stated that Mr. Lahey had approval from both the DEC and the Army Corps of Engineers. Attorney Dowd asked if the application was for less than four (4) slips and had a minimum of at least 100 feet. Mr. Lahey stated the application was for one (1) slip and he had 157 feet of frontage.

Chairperson Jeffery stated that a SEQR was not needed for this Site Plan Review. The placement of the dock was shown on the tax map being placed 43 feet from the north property line and 114 feet from the south property line.

Member Collard asked if any parking would occur on the river side of the road. Mr. Lahey stated that any guests would park in his driveway and use the pathway that goes down to the slip. Attorney Dowd did state that the Zoning Board of Appeals could make it a condition of the Special Use Permit that parking only be permitted on the East side of the road.

Motion to approve the Site Plan as presented was made by Member Collard and Seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes  
Member Fox: Absent  
Member Bis: Yes  
Member Tower: Absent  
Motion Carried.

### **Zoning Board recommendation for Michael Welch, 425 Hawthorne Place, Youngstown**

Chairperson Jeffery read the application of Mr. Welch: “request for variance to park my boat in the driveway in front of my house. The boat is 26 feet long so I would like to request a variance for the additional 1 foot beyond the 25 foot limit.”

Mr. Welch stated that he has lived in Youngstown for five (5) years and has had his boat in his driveway for the same amount of time. He felt that the one (1) foot variance was very small and would have little impact on the neighborhood.

Code Enforcer Rogers stated that because a complaint was made, he had to follow through with Mr. Welch to apply for a variance. Mr. Welch stated that the boat is only outside during the summer months as allowed per Town Code.

Attorney Dowd suggested the Planning Board consider how large a variance is needed – approximately three (3) %. He asked the board to determine if the variance would cause a negative impact to the neighborhood. Mr. Welch stated that the boat is parked in front of his garage which is to the left and receded from the main entrance of his home. Member Bis verified that the boat was stored offsite after October 31. Mr. Welch confirmed.

A motion was made to recommend to the Zoning Board that the variance be approved by Member Bis and seconded by Member Collard.

With no further discussion, roll was called:  
Chairperson Jeffery: Yes  
Member Collard: Yes  
Member Fox: Absent  
Member Bis: Yes  
Member Tower: Absent  
Motion Carried.

### **Preliminary Review of Minor Subdivision for Stephen Pacia, 2525 Lake Road, Youngstown**

Mr. Pacia was asked to approach the board and to explain his minor subdivision. Mr. Pacia stated that he owns property on Lake Road and was contacted by a potential buyer to the neighboring lot who was interested in purchasing a piece of his property to adjoin the lots for building. The subdivision would be 100 feet of road (and Lake) frontage by 420 feet in length on the East side of the property. Chairperson Jeffery stated that this lot would be almost double the minimum required for a building lot.

Mr. Pacia stated that currently the land is vacant except for a shed located in the back corner that was erected prior to his purchase of the property. A home was previously on the property but it was removed.

Attorney Dowd asked about the Right of Way on the property. Mr. Pacia stated that the property used to be five (5) parcels, but was merged into his current parcel. Attorney Dowd stated that he would need to review the deed to verify that only the single lot benefited from the Right of Way. If neighboring lots benefit from the Right of Way, there could be potential issues. Mr. Pacia stated that he only receives one (1) tax bill for the property. Attorney Dowd stated that combining the tax bills does not extinguish the Right of Way. He asked Mr. Pacia to have his attorney call him to discuss the details and confirm that the Right of Way would not be a future issue.

A motion was made to approve the Preliminary Subdivision application with the condition that the Right of Way does not affect neighboring properties by Member Bis and seconded by Member Collard.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Absent

Motion Carried.

### **Minor Subdivision for Cleland Truesdale, 3249 Lutts Road, Youngstown**

Chairperson Jeffery read the public hearing notice for the application of Mr. Truesdale.

Member Tower arrived to the meeting.

Chairperson Jeffery asked if any members of the public had any comments. No residents came forward. A motion was made to close the public hearing by Member Collard and seconded by Member Bis. All in favor, motion carried.

Chairperson Jeffery stated that the Town Engineer had reviewed the files and had no comment on the subdivision.

Chairperson Jeffery 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 Collard.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Yes

Motion Carried.

A motion was made to approve the minor subdivision by Member Collard and seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Chairperson Jeffery informed Mr. Truesdale that he has six (6) months to record the deed of the subdivision to the County Clerk.

### **Minor Subdivision for David DeCarle, Lake Road, Ransomville**

Chairperson Jeffery read the public hearing notice for the application of Mr. DeCarle. He stated that the preliminary subdivision was presented in July.

A letter from the Town Engineer dated July 28, 2016 was read into the record (as attached).

Chairperson Jeffery stated that a valid concern was raised from the engineer in regards to the drainage ditch running through the property.

Mr. DeCarle explained that if homes were built on the lots, the plan would include a septic system and holding tank as opposed to sewers.

Chairperson Jeffery stated that septic systems must be designed and approved by Niagara County Health Department. He stated that the depth of Sub Lot #1 is 200 feet, however asked what the dimension is from the ditch to the back of the property. He stated that the ditch is at an angle on the property so it is hard to determine from the drawing provided. Attorney Dowd stated that there did not seem to be a lot of room for a house and leach line with the ditch. He suggested that Mr. DeCarle present his plans to the county to verify that the property would allow building a home, installing a septic system and still fall within the setback requirements. He stated that an engineer could also verify with a written letter and updated survey.

Resident Dave Panoessa asked what type of home would be built on the property. He is concerned that the area will become too congested and enjoys the current rural setting. Resident Joseph Naab agreed and stated that he had heard that the intention was to build duplexes on the property and was concerned that his property would become a shortcut to the Lake.

Attorney Dowd stated that the Planning Board is only approving the subdivision this evening and as long as a home is appropriately sized for the lot and meets code requirements, the Planning Board does not oversee home construction. Chairperson Jeffery agreed that the owner can build as the lot allows. He continued that a duplex can only be constructed with a Special Use Permit which allows for the Zoning Board of Appeals to review and stipulate more requirements for building. Residents within 500 feet would be notified of a public hearing for a Special Use Permit. Mr. DeCarle stated that he only intended single family homes would be built. Attorney Dowd did stated that an apartment building would not be permitted on the lots.

With no further comment, a motion to close the public hearing was made by Member Bis and seconded by Member Tower.

Chairperson Jeffery asked attorney Dowd what the next step should be considering the drainage easement as suggested by the Town Engineer. Attorney Dowd stated that the Planning Board should complete the SEQR and if appropriate, the Planning Board can approve the subdivision with conditions to include an easement for ten (10) feet on either side of center for the ditch, an updated survey and a letter from an engineer or Niagara County specific to Sub Lot #1 availability for future construction.

Chairperson Jeffery 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 to issue a negative declaration on the SEQR was made by Member Collard and seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Yes

Motion Carried.

A motion was made to approve the subdivision with the following conditions:

1. New stamped surveys to be provided to the Town that include an easement for the Town to the drainage ditch.
2. A letter from an engineer or Niagara County indicating the availability of potential home construction on Sub Lot #1.

The motion was made by Chairperson Jeffery and seconded by Member Collard.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Attorney Dowd stated that once the conditions were completed Mr. DeCarle would have six (6) months in which to register the Deed with the County.

## **Zoning Board recommendation for variance for Alison Dorries and Scotty Jones, 3735 Lower River Road, Youngstown**

Ms. Alison Dorries and Mr. Scotty Jones were asked to present their project to the Planning Board. Mr. Jones stated they purchased the home and property in May of 2015 and have made numerous improvements on the property since that time. They would like to build a barn and to have two (2) horses on their land for personal use. The barn they would like to build would be constructed on a portion of concrete pad that was on the property prior to their purchase that is currently an eye sore. They are requesting a variance for a setback.

Mr. Jones and Ms. Dorries presented a document to the Planning Board. The full document is on file at the Town Hall. The highlights included:

“We are seeking to keep two horses on the property, build fences and a small barn. An area variance is requested to site a small barn on a portion of an existing unfinished concrete foundation structure.”

A barn will be built on the corner of the existing concrete pad – which would require a ten (10) foot variance to the North and a twenty-five (25) foot variance to the South. “In fact, the actual distance from the barn site to the nearest neighboring house is greater than 300 ft.”

“We are asking for a total of 35 feet of variance from the four 100 foot setbacks — which is only asking for a 8.8% variance from requirements.”

Mr. Jones stated that most of his neighbors are in support of their plans, however, one neighbor has concerns regarding the manure smell and resale value of their home/property. Mr. Jones felt that the amount of improvements will outweigh the concerns and that he has always been and is more than willing to continue working with his neighbors to address the concerns.

Mr. Jones stated that in speaking with a local real estate agent there should not be a significant impact on the property values. This agent will be present at the Zoning Board of Appeals meeting to confirm.

Any manure will be removed from the property to reduce any negative impact to the neighborhood. Chairperson Jeffery asked how the manure would be stored and how long until it was removed. Mr. Jones stated it would be stored in an eight (8) foot by four (4) foot trailer with a cover for approximately three (3) weeks (capacity). It will be disposed of through an agreement with Modern.

Member Bis felt it was appropriate to hear from Mr. and Mr. Serchia (neighbors of Ms. Dorries and Mr. Jones). Ms. Serchia stated that she was concerned about living next door to horses because of potential decrease in property value. She is also concerned about the possibility of more horses living on the property and the smell from the waste. She stated that Mr. Jones and Ms. Dorries have been wonderful neighbors.

Chairperson Jeffery stated that because manure would not be spread, the odor should be at a minimum. He also stated that the recommendation to the Zoning Board can include the stipulation that only two(2) horses are permitted. Mr. Jones stated he did not have an issue with the limited number, but did state that according to Town Code for the property size he owns, he could have up to nine (9) horses.

Member Collard asked where the horses will be ridden. Mr. Jones stated he plans to ride the horses behind the easement on his property and to enjoy the eight (8) acres he owns. No arena is planned and he and Ms. Dorries will trailer the horses to other areas to ride as needed.

A motion was made to recommend to the Zoning Board of Appeals that the variance be granted with the following conditions:

1. Manure to be removed and disposed of off-site
2. No more than two (2) horses permitted
3. Pasture of horses to the East (behind) of the barn

The motion was made by Member Bis and seconded by Member Collard.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Absent

Member Bis: Yes

Member Tower: Yes

Motion Carried.

### **New Business**

Resident Mrs. Dean approached the Planning Board and stated she had a few questions regarding the potential law change for local law 71-2014. She asked to see a copy of the proposed law change, but Chairperson Jeffery informed her that the law would be modified through the Town of Porter, not the Planning Board and therefore a copy was not available this evening. The paperwork with the recommendation from the Planning Board to the Town Board was provided to the Dean's under a FOIL request previously.

### **Code Enforcer Rogers report**

Code Enforcer Rogers submitted his July report. He stated that 999 Balmer Road continues to improve the property and recently installed a structure to enclose the mailboxes from the weather.

### **Attorney Dowd report**

Attorney Dowd stated that he would be going to court on Friday for the Article 78 filed against the Town. No other items were reported.

A motion was made to close the meeting at 9:22 p.m by Member Bis and seconded by Member Collard. Motion carried.