



PLANNING BOARD **TOWN OF PORTER**

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Thursday, April 7, 2016.

The regular meeting of the Town of Porter Planning Board was called to order at 7:00 p.m.

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

Absent: Special Council Kyle Andrews

Member Tower was welcomed as a new member of the Planning Board.

Approval of minutes from the March 3, 2016 Planning Board meeting

Chairperson Jeffery read highlights of the minutes of the March 3, 2016 Planning Board meeting.

The highlights included approving the prior months minutes, an update on the McCabe application for Servicing of Garden/Farm Equipment, a Site Plan Review presentation from CWM regarding the questions from the Planning Board on RMU-2, a sketch plan for subdivision from Cyrus Ardalan at 2381 Youngstown Lockport Road, a Zoning Board recommendation for Keith Shaw's renewal on his special use permit, a brief discussion on the home occupation for Joshua Smith, Chairperson Jeffery's presentation on the Association of Towns was moved to this evenings agenda, and reports from Attorney Dowd and Code Enforcer Rogers.

With no additions or corrections Member Collard made a motion to approve the minutes as submitted. Member Bis seconded the motion. All in favor, motion carried.

Public Hearing for subdivision request of Cyrus Ardalan. 62.00-1-3, 2381 Youngstown Lockport Road, Ransomville

The floor was open for public comment. Mr. Ardalan has a 3.5 acre parcel that he would like to break off from an approximate 60 acre parcel on Youngstown Lockport Road. He will be selling the residential lot while maintaining the larger farm parcel.

Resident Brenda Bank asked what would be done with the remaining parcel. Mr. Ardalan stated that the area would be farmed with alfalfa and corn. Ms. Bank asked if the products farmed would be genetically modified. Mr. Ardalan stated yes.

Chairperson Jeffery asked if there were any other public comments. With none, a motion made by Member Bis and seconded by Member Fox to close the public portion of the hearing. All in favor, motion carried.

Member Collard asked Mr. Ardalan who would be farming the land. Mr. Ardalan stated that he would be farming the land and Lakeshore Dairy in Wilson would be harvesting the crops.

A letter was received from Conestoga Rovers, the Town Engineer, Christopher Amico. A copy of the letter was read by Chairperson Jeffery and will be entered into the minutes.

The short form of the State Environmental Quality Review (SEQR) was provided to each Board Member. Chairperson Jeffery asked each question in Part II and answered no to each question (completed form attached). A motion was made to issue a negative declaration of significant/adverse environmental impact by Member Bis and seconded by Member Fox.

With no further discussion, roll was called:

Member Fox: Yes

Member Collard: Yes

Chairperson Jeffery: Yes

Member Tower: Yes

Member Bis: Yes

Motion Carried.

Chairperson Jeffery verified that Mr. Ardalan provided legal descriptions in addition to the 5 surveys needed to complete the application. There were no further questions for Mr. Ardalan from the Board, so the motion to approve the subdivision was made by Member Bis and seconded by Member Collard.

Roll was called:

Member Fox: Yes

Member Collard: Yes

Chairperson Jeffery: Yes

Member Tower: Yes

Member Bis: Yes

Motion Carried.

Chairperson Jeffery stated that the agenda was going to be adjusted to accommodate audience members.

Subdivision request of Joanne Beatty — preliminary for 46.00-2-9 and 46.00-2-10.2 at 1570 Braley Road

Paul Beatty was in attendance to represent Joanne Beatty and their neighbor Robert Oberlander at 1570 Braley Road. The Beatty's are interested in purchasing 10-15 feet of property from Mr. Oberlander and asked if the subdivision would be something the Board would entertain. Mr. Beatty's land is very long and narrow and with the garage that he constructed, he would like to alleviate some parking issues on the side (he only had approx. 5 feet to the current property line).

Mr. Beatty currently owns 103 feet of frontage, which is considered a substandard lot size. It was stated that 22 additional feet of frontage would increase the lot to a standard size lot with 125 feet. Attorney Dowd stated that if Mr. Beatty decided to build anything further in the future on the substandard lot, the building would need to be decrease proportionally due to the setback requirements.

Mr. Beatty stated he didn't plan to build anything further, but would like more room to drive and park his vehicles on the side of the garage rather than the front. Currently he only has 5 feet and there is not enough room for parking.

Mr. Beatty stated that an agreement has not been drawn up yet with Mr. Oberlander because they wanted to see if the subdivision was possible first. Mr. Beatty also stated that the property purchase may not be the entire

length of the property and wanted to know if that would be an issue. Chairperson Jeffery stated he did not think it would be an issue because it will not land lock any property.

Member Collard stated that the property owner would need to complete the paperwork. Attorney Dowd stated that if the property owner did not want to or could not complete the paperwork, the owner could notarize authorization for Mr. Beatty to act on his behalf.

Chairperson Jeffery stated that because the subdivision is less than four parcels, it would qualify as a minor subdivision. He also stated that in concept what Mr. Beatty is asking for sounds reasonable.

Building Inspector Rogers stated that if the property is purchased it would need to be purchased by the same party that owns the Beatty's current property so that an assessor merge could be completed.

No formal action was taken.

Application of Joshua Smith — Site Plan Review for a home occupation in the sale and transfer of firearms, 3880 Dickersonville Road, Ransomville

The applicant (Joshua Smith) was not present at the meeting, however his father, Jeffrey and Mother, Suzanne came before the Board to present his idea. They stated that the business would occur at their residence and stated that Mr. Joshua Smith would like to run an online gun sales website. Mr. Joshua Smith does have his Federal Firearms License.

Chairperson Jeffery stated he thought that New York does not allow you to sell ammunition online, but Mr. Jeffrey Smith stated that he could sell ammunition online to FFL dealers. Mr. Jeffrey Smith stated he thought that Mr. Joshua Smith is more interested in selling firearms and may not be selling ammunition.

Attorney Dowd stated that the Board should look at the guidelines for a Home Occupation and that any required licenses be obtained for the home occupation.

Mr. Jeffrey Smith stated the business would be online and there would be very little traffic. There may be some transfers, but not a lot of face-to-face business. Member Collard verified that a weapon would be ordered and then released without a lot of stock. Mr. Jeffrey Smith stated that there would be limited stock and small arms (not "trailer truck loads").

Member Collard asked what Mr. Joshua Smith's experience with guns. Mr. Jeffrey Smith stated the Mr. Joshua Smith is in the Air Force Reserves and lives at the residence. Mr. Jeffrey Smith has been a hunter for 50 years.

Attorney Dowd stated that a home occupation has regulations that need to be adhered to including business hours, signage, stock and trade, vehicles/parking spots, etc. Code Enforcer Rogers stated he gave Mr. Joshua Smith the regulations.

Chairperson Jeffery stated that a sketch plan needs to be provided that shows the location of the house, dimensions, the driveways and potential parking spots. No storage will be allowed outside.

The Planning Board will do the Site Plan Review while the Zoning Board will provide the Special Use Permit. Neighbors within 500 feet will be notified and a public hearing will occur to review the Site Plan. Chairperson Jeffery stated that as much information as possible about the project will be helpful for the Board.

Update on Site Plan for Michael McCabe's application for Servicing of Garden/Farm Equipment, 34.00-1-5.22, 2384 Lake Road, Ransomville

Chairperson Jeffery spoke with Special Council Andrews early in the week and at that point there was no new information from Mr. McCabe or his attorney. A list of concerns had been submitted by Chairperson Jeffery to Attorney Andrews who submitted the information to Mr. McCabe's attorney. Chairperson Jeffery asked that the submission be committed as public record with this evening's meeting minutes (attached).

Code Enforcer Rogers informed Chairperson Jeffery later in the week that the Town Board successfully agreed to grant Mr. McCabe farm status. Code Enforcer Rogers stated that this was not how the normal process worked. There is a special committee that has been formed to grant/deny farm status. At the time the committee formed, it did not include the Town Board. The committee included the Chairperson of the Zoning and Planning Board, the Town Attorney, the Town Supervisor and the Code Enforcement Officer. This committee has been determining farm status and will still be going ahead with that process for Mr. McCabe. Resident Reeve Tower (please verify) asked if there was a public hearing involved in that process. Code Enforcer Rogers stated that there is no public hearing involved with determining farm status as it is not required. Resident Fredricka Dean stated that she had been told in the past that there was no committee to determine farm status.

Attorney Dowd stated that there are different processes based upon what a resident is looking for regarding a farm (not specific to Mr. McCabe). There is a farm assessment where they can apply for an assessment based on the farm for a reduction on their taxes. There is farm protection under agriculture and markets law, in addition to other benefits of being a farm. Code Enforcer Rogers has the ability to make the determination if a resident qualifies as a farm. To streamline the process and to allow input from numerous parties, Code Enforcer Rogers instituted the committee. Attorney Dowd did state that none of this has to do with the site plan application that is before the Planning Board because Mr. McCabe is looking to Service Garden/Farm Equipment. He stated that if Mr. McCabe is not allowed to do something on the farm, he needs to apply for a permit and if denied to not do that type of work.

Ms. Dean asked who was on the committee to determine farm status. Code Enforcer Rogers stated it was a group of advisors that includes himself, the Supervisor, the Chairperson of the Planning and Zoning Board and the Attorney. In the case of Mr. McCabe, Special Attorney Andrews is the legal representative. Chairperson Jeffery stated that this committee has met to determine farm status with other properties. This group is not specific to Mr. McCabe.

Ms. Dean asked if this was how the process was completed when Mr. McCabe was initially determined to be a farm. Code Enforcer Rogers stated that this group was formed subsequent to that determination because he made a farm determination and it was questioned, so he felt it would be best to have input from other parties. At this point Chairperson Jeffery stated that the job before the Planning Board for this evening was only to update on the status of the Site Plan. It was not to debate the farm status or how farm status is established.

Mr. Tower asked where he could find the duties and job descriptions for the town employees, specifically Code Enforcer Rogers. Chairperson Jeffery stated that the Code Enforcer responsibilities are clearly defined in the Zoning/Code Manual. Attorney Dowd stated that Civil Service also assigns the duties.

Member Collard asked if the group has made determinations on other farms. Code Enforcer Rogers stated that Mr. McCabe is the third determination in front of the group and that this is an ongoing process. The other two determinations are for Thomas Fleckenstein and Bryan White.

Member Bis asked what the status of the McCabe application is and if there is a time limitation for the Site Plan Review. Code Enforcer Rogers stated that because Mr. McCabe's attorney and engineer are out of town, he has

asked to adjourn the meeting with the Planning Board until they return. Chairperson Jeffery also stated that because the list of issues submitted from the Planning Board has not been addressed, the Board couldn't move forward with a determination. The agenda item for this evening was to update the Board on the status.

Ms. Dean asked how an application for a site plan could be considered when there are outstanding violations on the property. Chairperson Jeffery stated that the letter that was submitted to Mr. McCabe's attorney addressed those violations (letter is attached). He stated that the items proposed to date would be a cure to the violations. Chairperson Jeffery explained that what is before the Planning Board is not the same as what is pending in court. The Planning Board needs to determine if Mr. McCabe is able to perform Service of Farm/Garden equipment. It is apparent Mr. McCabe has been doing this, but if the site plan were approved, it would cure him of this violation. The Town Board and Planning Board are not giving Mr. McCabe permission for sand blasting and painting on the property under the Service of Farm/Garden Equipment. The Site Plan application is specifically for the Service of Farm and Garden Equipment and the Board legally has to follow through on this application.

Ms. Dean asked how the Planning Board could accept the application when the Town Board has a proposal to rescind the law. Chairperson Jeffery stated that because the law is currently on the books, the application process has to be completed as such. The Town Board has taken no action to rescind this law as of today.

New / Miscellaneous Business

Chairperson Jeffery stated that a new agenda item is going to be added for all future meetings as "New / Miscellaneous Business".

Chairperson Jeffery stated that he, Attorney Dowd, Zoning Chairperson Duffy, Code Enforcer Rogers and Supervisor Wiepert met in regards to the property adjacent to Youngstown Estates that is owned by Mr. Dugan who is looking for preliminary input about subdividing parcels from the large lot. Chairperson Jeffery stated this is a potential development that the Planning Board may see in the future.

Chairperson Jeffery stated the CWM site visit is scheduled for Saturday, April 9, 2016 at 12:30 p.m.

Member Collard asked how the Planning Board would complete the required annual training session. Attorney Dowd stated that he has not heard anything further from the other local boards regarding training so it was suggested that the Planning and Zoning Boards move forward setting up a training session for the Town. Four hours are needed, and therefore four topics could be covered.

Attorney Dowd stated that he has nothing further to report and excused himself from the meeting.

Chairperson Jeffery stated that when he went to the Association of Towns training sessions he took classes in site plan review, SEQRA, a case law class, managing public comment, comprehensive plan, signs. (Further discussion occurred later in the meeting.)

Code Enforcer Rogers presented his report. Member Collard asked about Bryan White's pole barn. Code Enforcer Rogers stated that Mr. White put up a pole barn on his property, but did not have a home built on the property, which is a violation unless you are classified as a farm. The aforementioned committee met and decided that Mr. White qualifies as a farm and therefore is no longer in violation of any codes.

Code Enforcer Rogers stated that the Balmer Road Mobile Home park is adding new homes (in place of homes that have been removed). There were four homes included in this report and an additional three homes are

expected next month. These homes are in addition to other homes that have been upgraded in the past few months. The management has improved the electrical distribution to the homes and is showing a commitment to the property and the property owners. Old trailers have been demolished and replaced with new trailers. Most are 2-3 bedroom rooms with about 1200 square feet measuring 70 x 16 feet.

Chairperson Jeffery asked about Ransomville Speedway to verify that there was a permit issued for the grandstand tower and the new office. Code Enforcer Rogers stated that a permit has been issued for the tower and that he would be making a site visit this week.

Chairperson Jeffery also asked about the status of Baily Brothers currently operating on Parker Road. Code Enforcer Rogers stated that they have until April 15, 2016 to move their operation to Balmer Road. Chairperson Jeffery stated that on their Facebook page they had pictures showing a new concrete slab (guessed at 25x60ft) and were getting their mulch ready at the Parker Road location. Code Enforcer Rogers stated they cannot continue their operations in a residential area (Parker Road) and it has been agreed that they will relocate to Balmer Road.

Member Tower asked if Ransomville Speedway operated under a Special Use Permit. Code Enforcer Rogers confirmed and stated that because the new owner bought the corporation and did not change the name, the Special Use Permit is transferred with the corporation. The Special Use Permit is up for renewal at the end of April.

Chairperson Jeffery stated that there have been general discussions about Planning Board procedures including the agenda and minutes. To allow for time for publishing and organization, it was suggested that all agenda items need to be submitted 10 days prior to the meeting. The agenda is published on the website and once published, should not be changed as it could confuse the public. Chairperson Jeffery stated that the Planning and Zoning Board can implement by-laws for procedures if needed. The agenda being published is a courtesy to our residents.

Chairperson Jeffery stated that Planning Board Secretary Amy Freiermuth would like to email the agenda, draft minutes and documentation 7 days prior to the meeting. This would replace the pieces that were mailed in the past. The paper documentation would be available at the meeting for each member. Member Bis stated that it may not always be practical to get on the agenda 10 days prior to the meeting. Chairperson Jeffery stated that perhaps the "New/ Miscellaneous Business" addition on the agenda would help with some of the smaller items not included on the agenda. New business could also be used for proactive planning ideas from the Planning Board as well.

Chairperson Jeffery asked Secretary Freiermuth about timing for referrals to the Zoning Board. The last month's minutes with the referral went to the Zoning Board, but not until the morning of the meeting and may not have been read. Therefore it was suggested that Secretary Freiermuth would send a letter to the Zoning Board with the recommendation (separate from the minutes).

A checklist is being developed by Secretary Freiermuth as well as Chairperson Jeffery for subdivisions to include timelines and a handout for both the Planning Board members and the general public. Member Bis stated that it would be good to include the timeframe for meetings, public notice deadlines, etc., and include a list of information needed for the process for the applicant. Both Assessor Driscoll and Code Enforcer Rogers felt it was a good idea and would help streamline the process.

Chairperson Jeffery said that although he didn't need to go into detail about his training session, he wanted to let the Planning Board he took the following classes:

- Managing public comments
- SEQR case law (as taught by a lawyer with different cases as examples)
- Site Plan Review
- Part I and II of filling out a SEQR
- Enforcement — Zoning
- Comprehensive Plan
- Signs
- Solar
- Cost of Roads (topic was more for Highway Dept.)
- A few other misc. classes

Member Collard said that perhaps some of the information that Chairperson Jeffery learned could be used in the annual training session. Member Bis stated that he was interested in learning more about Solar and Wind power on a commercial level so that the Town could be more proactive. Code Enforcer Rogers stated that there are limits of 1000 square feet for solar power. Chairperson Jeffery stated that the Planning Board could be proactive to amend or implement laws in the future. Assessor Driscoll stated that currently there are no laws to work with commercial solar farms.

A motion to adjourn the meeting was made by Member Tower and seconded by Chairperson Jeffery. All in favor, motion carried at 8:38 p.m.

Respectfully submitted



Amy Freiermuth, Secretary
Town of Porter Planning Board