



# PLANNING BOARD TOWN OF PORTER

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*Approved October 7, 2021*

**Thursday, September 2, 2021**

The regular meeting of the Town of Porter Planning Board was called to order at 7:01 p.m. with the Pledge to the Flag.

Present: Chairperson J. Anthony Collard, Vice Chairperson Jeffrey Schulze, Member Mark Fox, Member Robert Tower, Member Ryan Ross, Attorney Michael Dowd, Planning Board Secretary Amy Freiermuth, Selah Lowery for Code Enforcer Jeffery

Excused: Code Enforcer Peter Jeffery

Chairperson Collard introduced the Members and Secretary Freiermuth.

## **Approve August 5, 2021, Planning Board minutes**

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

## **Sketch Plan Review and Referral Recommendation to the Zoning Board of Appeals for Steve Schmoyer/Willow Beach Campsite, 1809 Lake Road Ransomville, Tax Map 33.10-1-11 for a Special Use Permit Renewal.**

Steve Schmoyer was present. He stated he would like to renew his Special Use Permit with no changes.

Prior to the meeting, Code Enforcer Jeffery provided the Members with a recommendation on the renewal. Chairperson Collard read the recommendation.

Mr. Schmoyer stated that there is no year-round use of the sites and that the dates he has opened the campsite is May 15 – October 15. He would like those to stay the same.

The Members agreed that the Zoning Board and Mr. Schmoyer can discuss what dates make the most sense for the renewal.

A motion was made to recommend that the Zoning Board of Appeals approve the renewal of the Special Use Permit with the recommendations made on September 1, 2021, from Code Enforcer Jeffery. The motion was made by Member Fox and seconded by Member Tower.

With no further discussion, roll was called.

Chairperson Collard: Yes  
Vice Chairperson Schulze: Yes  
Member Fox: Yes  
Member Tower: Yes  
Member Ross: Yes  
Motion carried.

**Recommendation to the Town Board for Larry Weibert, Creek Road Extension, Youngstown; Tax Maps 45.00-1-20; 45.00-1-22.111; 45.00-1-23.2 for a Zoning Map Amendment from Rural Agricultural to Rural Commercial.**

Larry Weibert was present. He explained that his business has grown over the years and that as he looks to future development, he is looking to expand his business with additional buildings for storage of vehicles and equipment. He stated that being in a Rural Agricultural (RA) Zone limits what he can do under a Special Use Permit but feels if the Zoning was changed to Rural Commercial (RC) his future use would be allowed.

Attorney Dowd stated that the Planning Board needs to make a recommendation to the Town Board as per Village Code for this rezoning. Prior to the meeting, Code Enforcer Jeffery provided the Members with a recommendation on the renewal. Chairperson Collard read the recommendation.

Mr. Weibert stated that the only other property owner on the street is Mrs. Greene who has cattle on the land adjacent to his. Attorney Dowd stated that the Town Board will hold a public hearing notifying all of the adjoining neighbors within 500 feet.

Vice Chairperson Schulze stated that the proposed use makes sense but feels that the individuals who will be affected the most are those on North Creek Road. He suggested that the recommendation includes that these residents be notified as well because any additional traffic would be on their street.

Member Tower stated he would abstain from the decision as he lives within close proximity to the property.

With no further discussion, a motion was made for the Planning Board to recommend that the Town Board notify residents of North Creek Road (in addition to required notification for public hearing) to allow said residents to voice approval or concerns. If no major objections are made during the public hearing, the Planning Board recommends approval of the Zoning Map Amendment change of the parcels from Rural Agricultural to Rural Commercial. The motion was made by Vice Chairperson Schulze and second by Member Fox.

With no further discussion, roll was called.

Chairperson Collard: Yes  
Vice Chairperson Schulze: Yes  
Member Fox: Yes  
Member Tower: Abstained

Member Ross: Yes

Motion carried.

Chairperson Collard stated that Vice Chairperson Schulze would lead the next two agenda items.

**Recommendation to the Zoning Board of Appeals for Scott Macvie, 1225 Balmer Road, Youngstown; Tax Map 60.00-2-29.4 for Renewal of a Special Use Permit for the Distribution and Storage of Propane.**

Scott Macvie was present and stated he would like to renew his Special Use Permit for his 18,000-gallon propane tank. He did state he would like to extend the length of the permit to 10 years.

Chairperson Collard stated that the area is well kept and the fence surrounding the tank is in good shape. The Members agreed that 10 years seemed reasonable and that there did not appear to be any issues.

A motion was made to recommend that the Zoning Board Appeals approve the renewal of the Special Use Permit as previously issued with the suggested permit timeframe of 10 years. The motion was made by Member Fox and seconded by Member Tower.

With no further discussion, roll was called.

Chairperson Collard: Yes

Vice Chairperson Schulze: Yes

Member Fox: Yes

Member Tower: Yes

Member Ross: Yes

Motion carried.

**Sketch Plan Review and Recommendation to the Zoning Board of Appeals for Robert Seyler, 1669 Lake Road, Youngstown for an Area Variance for a pole barn side yard setback to be reduced to 10 feet (15-feet required).**

Robert Seyler was present and explained that he and his son were in the process of building onto an existing pole barn when Code Enforcer Jeffery informed them that the construction could not be as close to the property line without a variance. Therefore, he is asking for a Variance to allow a 10-foot setback (rather than the required 15 feet).

Vice Chairperson Schulze asked what the final use would include and Mr. Seyler stated he planned to store his boat under the roof.

Member Tower asked what the overhang would measure to the property line and wanted to verify that Mr. Seyler understood that the Variance includes the setback from the further part of the building. He stated he understood.

A motion was made to recommend to the Zoning Board of Appeals that the 10-foot setback Variance be approved using the furthest point of the building (including the eaves) to the property line. The motion was made by Member Tower and seconded by Member Fox.

With no further discussion, roll was called.

Chairperson Collard: Yes

Vice Chairperson Schulze: Yes

Member Fox: Yes

Member Tower: Yes

Member Ross: Yes

Motion carried.

**Sketch Plan Review and Referral Recommendation to the Zoning Board of Appeals for Art Garabedian, 3360 East Avenue, Youngstown; Tax Map 45.00-1-42.2 for Lakeview Animal Sanctuary Use Variance for an Animal Shelter in a Low-Density Residential zone**

Art Garabedian was present along with Lakeview Animal Sanctuary Member Shannon Pearson who was also present prior to the meeting when the Members stopped at the property to view the arrangements. Mr. Garabedian explained that the property was used as a horse stable in the past and he would like to allow Lakeview Animal Sanctuary to use the entire property and is removing his application for a horse stable.

Prior to the meeting, Code Enforcer Jeffery provided the Members with multiple items to consider about this application. The main consideration is that there is nothing in the code for an animal sanctuary and therefore a Use Variance would be needed first and foremost.

Chairperson Collard asked Attorney Dowd for the Board to go into Executive Session with a request for his legal opinion on the Use Variance. A motion to enter Executive Session was made by Vice Chairperson Schulze and seconded by Member Tower. All in favor, motion carried.

A motion was made to adjourn Executive Session and resume the Board meeting by Member Tower and seconded by Member Ross. Attorney Dowd stated that no action was taken during the Executive Session.

Attorney Dowd stated that the code provision for Keeping of Animals in a Rural Agricultural zone is ok, however, this use is an accessory use in Low Density Residential (LDR). Because this property is zoned LDR, a Use Variance is required prior to Site Plan approval.

The Members and Attorney Dowd discussed Chapter 200, Section 200-108 of the Town Code, Use Variance and felt that Mr. Garabedian has not proven hardship for a Use Variance. Attorney Dowd stated that Mr. Garabedian should consider hiring both a lawyer and accountant to represent him at the Zoning Board of Appeals meeting to address the requirements of the Code. Lakeview President Anthony Crowley stated that the hardship falls on Lakeview, but Attorney Dowd stated it falls on the property owner.

Member Ross stated that although the use is a great idea, if the hardship cannot be proven the Use Variance cannot be issued. The Members agreed that the work of Lakeview Animal Sanctuary seems worthy, but the

Code must be followed and they can only make a recommendation to the ZBA based upon what is required in the Code. Member Tower stated that the concept is well received but must occur in the right zoning district.

A motion was made to recommend to the Zoning Board of Appeals that the Use Variance be denied as the applicant has not proven hardship under Chapter 200, Section 200-108 of the Town Code for a Use Variance.

Chairperson Collard stated that the Planning Board had done their due diligence and the recommendation will go to the ZBA but is not the final determination as the ZBA holds that decision.

With no further discussion, roll was called.

Chairperson Collard: Yes

Vice Chairperson Schulze: Yes

Member Fox: Yes

Member Tower: Yes

Member Ross: Yes

Motion carried

Attorney Dowd stated that if Mr. Garabedian is able to prove the hardship and a Use Variance is granted, the Site Plan of Lakeview Animal Sanctuary would come back to the Planning Board for a decision.

#### **Attorney Dowd's report**

Attorney Dowd had nothing further to report.

#### **Code Enforcer Jeffery's report**

Code Enforcer Jeffery's was absent.

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

None.

With no further discussion, a motion to adjourn the meeting at 9:03 p.m. was made by Member Tower and seconded by Member Fox. All in favor, motion carried.