



# PLANNING BOARD TOWN OF PORTER

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*Approved October 1, 2020*

**Thursday, September 3 2020**

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 Jeffrey Schulze, Member Robert Tower, Member Ryan Ross, Member Mark Fox, Code Enforcer Peter Jeffery, Attorney Michael Dowd, Planning Board Secretary Amy Freiermuth

Chairperson Collard introduced the Members, Code Enforcer Jeffery and Secretary Freiermuth.

## **Approval of the minutes from August 6, 2020 Planning Board meeting**

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

## **Public hearing/Site Plan James and Nicole Dabney, 3140 Ransomville Road, Ransomville; Tax Map 48.00-1-5.2 for a Farm Market**

James and Nicole Dabney (owners of record) as well as Cindy Jolbert (Nicole's mother, business owner) were present.

Chairperson Collard, Code Enforcer Jeffery and Secretary Freiermuth held a brief discussion explaining that the preliminary sketch plan was not approved in August because there was a possibility that the operation would qualify as a start-up farm and would require a different process. Ms. Jolbert stated she was not going to go qualify as a start-up farm. Therefore it was explained that the Board needs to make a decision on the preliminary Sketch Plan as presented in August.

A motion to approve the Sketch Plan as presented was made by Vice Chairperson Schulze 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.

A motion to open the public hearing was made by Member Tower and seconded by Member Ross. All in favor, motion carried.

Ms. Jolbert stated she submitted a copy of her business plan that illustrates what they would like to do with the property for year round business including the possibility of hydroponic growing. Anticipated opening date would be spring 2021. Code Enforcer Jeffery stated that the site plan does show parking spaces and further development drawings were distributed to the Members.

Vice Chairperson Schulze asked Ms. Joblbert if there were any changes from the previous month's presentation and she stated that although they do plan to offer after-market hour classes nothing physically changed.

Chairperson Collard asked if anyone from the public wished to speak. With no comment, a motion to close the public hearing was made by Vice Chairperson Schulze and seconded by Member Fox. All in favor, motion carried.

Code Enforcer Jeffery stated that he had one neighbor contact him with questions about the proposal but once it was explained, the neighbor was fine with the plan and there was no negative input received.

A motion to approve the Site Plan as presented was made by Vice Chairperson Schulze 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.

Attorney Dowd arrived.

**Sketch Plan review for Jill Coleman, (former) Stevenson Elementary School facility, 3745 Ransomville Road, Ransomville; Tax Map 62.18-1-8 for a NYS Licensed Child Care Center.**

Ms. Coleman was present and distributed an illustration of the classroom structure of her proposed daycare. She stated that the parking lot already exists for the school with ample parking. She is currently working with the bank on financing.

Vice Chairperson Schulze asked Ms. Coleman if she was really planning to have 272 kids at the school and she stated that New York State would allow that many with her maximum capacity. She stated that her waiting list is growing every day.

Code Enforcer Jeffery stated that Ms. Coleman has provided a letter from Wilson Central School District stating that they are in negotiations for the sale and therefore she is able to move forward with the Planning Board on her Site Plan. Attorney Dowd agreed that the letter would suffice to keep the process moving forward. He stated that the final determination from the board could establish a condition that Ms. Coleman obtain the property as proposed.

Vice Chairperson Schulze asked if Ms. Coleman would add 8 exterior doors to the school. Ms. Coleman said she would for fire safety as the rescue windows are not adequate in the infant and toddler rooms. Vice Chairperson Schulze asked if there were many other challenges that she will face and Ms. Coleman stated that because this property was formally a school, the work should be limited. She did state she will need to install carpeting in the rooms, but the fire/security is good. She stated she will install a wall to block the daycare area from the office spaces for rent. Her daycare will operate Monday through Friday from 5:00 a.m. until 6:30 p.m. She also informed the Board that the groundskeeper kept the property as a functioning school so there is nothing structurally wrong and she has had an inspection and was told it was good.

Member Ross asked if the playground will remain closed to the public. Ms. Coleman confirmed that for insurance reasons, the playground would be for the day care use only.

Code Enforcer Jeffery asked Ms. Coleman if she would be using the exterior grounds and she stated she would and intends to fence in an area for the children even though NYS does not require a fence.

Member Tower stated he felt that a day care will be great for Ransomville and Member Fox stated that he agrees is a good use of the building.

Vice Chairperson Schulze asked if Ms. Coleman had any possible renters and she stated that by word-of-mouth she already has 2 individuals interested.

Code Enforcer Jeffery stated that as she moves forward they will work together on building code for the doors, egress, fire, etc.

A motion to approve the Preliminary Site Plan as presented was made by Member Ross and seconded by Vice Chairperson Schulze.

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.

Code Enforcer Jeffery stated that October would be the public hearing for the Site Plan.

**Recommendation to the Zoning Board of Appeals for William Fox, 913 Lockport Road, Youngstown; Tax Map 46.03-1-13 for an Area Variance on fence height.**

Member Fox stated that for personal reasons he would be abstaining from decision making on this agenda item.

William Fox was present. Code Enforcer Jeffery displayed on screen Mr. Fox's property and explained that the owner of the corner property lot (next to Mr. Fox) is clearing the property. Chairperson Collard stated that the corner lot is now very exposed after being cleared.

Mr. Fox explained that he understands the lot is being cleared for a proposed solar farm. He is requesting a variance for an 8-foot tall fence because the grade difference in his yard from front to back. He currently has a 5 foot fence in his backyard, but with the created clearing to the north it offers no privacy. With the clearing on the corner to the east of his property and the pitch of his property and the corner parcel, the damper created from the trees, etc., is gone and the noise and light pollution from the vehicles traveling on the road is now problematic.

Chairperson Collard verified that Mr. Fox was looking to install an 8-foot fence in both the back of his house and on the east side of his home. Code Enforcer Jeffery stated that on the east side of the home the fence would run to the front property line but it should not inhibit site lines as previously the property was heavily wooded.

Vice Chairperson Schulze asked if 8-foot tall fences have been approved in the past and Attorney Dowd confirmed that when there is a grade issue (as is the case here), a variance was typically approved based on the circumstances.

Member Tower stated that the solar farm has not been approved and may not happen – he stated the status is unknown. Mr. Fox agreed, but stated that because of the clearing that has occurred, there is currently a 40x200 foot pile of brush that needs to be removed. Attorney Dowd agreed that the brush needs to be disposed of as it is a problem and not allowable. Code Enforcer Jeffery stated that the solar farm plans submitted to him are not up to code (lot coverage can only be 25% and the plans submitted were significantly more) and currently there is a moratorium on solar farms in the Town.

Chairperson Collard stated that he sees no issue with the variance and asked what type of fence would be installed. Mr. Fox stated it would be chain link with privacy slats. Code Enforcer Jeffery asked what the opacity of the fence would be and Mr. Fox explained it about 80% opaque but can be "seen through" at a distance. Code Enforcer Jeffery asked Mr. Fox if it would be a significant impact to him if the fence from the front of his porch to his front property line was 6-foot rather than 8-foot. Attorney Dowd stated that because the grade in front of the house was not as extreme this would reduce the variance request and was a logical ask. Mr. Fox stated he did not have an issue with this.

A motion was made to recommend that the Zoning Board of Appeals approve the variance for a 6-foot high fence from the front property line to the front of the porch and an 8-foot high fence from the porch to the rear of the property, including the rear property line. The motion was made by Member Tower and seconded by Member Ross.

With no further discussion, roll was called:

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

Motion Carried.

**Recommendation to the Zoning Board of Appeals for Robert Kudel, Bandana's Bar and Grill, 930 Lake Road, Youngstown; Tax Map 46.03-1-13 for an Area Variance on a fence.**

Melissa Kudel was present. Member Fox stated that for professional reasons he would be abstaining from decision making on this agenda item.

Mrs. Kudel explained that due to Covid regulations, Bandana's installed outdoor seating so that more patrons could safely return to dining at their restaurant. A fence was installed around the perimeter of the outdoor seating for safety reasons. Code Enforcer Jeffery stated that the Kudel's did contact both him and Supervisor Johnston prior to installing the fence. They were given permission to proceed, but were informed that when the time allowed, they would need to get formal approval from the Planning and Zoning Boards. Code Enforcer Jeffery stated the fence was not imposing and a photograph was provided to the Members.

A motion was made to recommend that the Zoning Board of Appeals approve the Area Variance as presented was made by Member Tower and seconded by Member Ross.

With no further discussion, roll was called:

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

Motion Carried.

**Sketch Plan Review for Minor Subdivision for John and Sandra Mies/Ken Young, vacant parcel on Creek Road (between Mies/Young), Youngstown; Tax Map 60.00-3-18.12**

Code Enforcer Jeffery stated that this application was added to the agenda after distribution. He informed the Board that after meeting with Mr. Mies (who was present) that the application was revised and being presented for discussion. He stated that the subdivided parcel would now be 164 feet wide by 410 feet deep and would be subdivided from Ken Young's property. Code Enforcer Jeffery stated that this parcel would be larger than minimum lot size and follows current Town Codes without the need for a variance.

Member Fox stated that this would be a buildable lot if desired in the future and that Mr. Young still has access to his larger parcel (behind the proposed subdivided lot).

A motion to approve the Sketch Plan for Minor Subdivision as presented was made by Vice Chairperson Schulze 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.

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

Attorney Dowd had nothing further to report.

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

Code Enforcer Jeffery's stated he did not have a completed report for August, but would email it to the Members when it was done.

A brief discussion occurred regarding the skydiving operation and a special event held by the owners. Code Enforcer Jeffery explained that there were numerous complaints about a 4 day approved event and was looking for suggestions on future events to mitigate the complaints.

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

None.

With no further discussion, a motion to adjourn the meeting at 8:26 p.m. was made by Member Tower and seconded by Member Fox. All in favor, motion carried.