



PLANNING BOARD TOWN OF PORTER

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Approved October 5, 2017

Thursday, September 7, 2017.

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, Member Mark Fox, Member Robert Tower, Member John Bis, Member G. Edward "Jipp" Ortiz, Attorney Michael Dowd, Code Enforcement Officer Peter Jeffery, Town Assessor Susan Driscoll

Chairperson Collard introduced Jipp Ortiz as the newly elected Planning Board member. He also introduced the Planning Board and Secretary to the audience.

Approval of the minutes from the Planning Board Meeting on August 3, 2017

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

Public Hearing of Minor Subdivision Ralph McCormick and Shirley Teeter, 2402 Braley Road, Ransomville; Tax Map ID 48.00-1-30.11

Mrs. Teeter explained that she would like to remove 2.23 acres from a larger parcel through a subdivision. The 2.23 acres includes a house and garage. The larger parcel will have a barn on it without a home, however because the land is farmed it should not be an issue. The property is on the west side of Creek Road on the north side of the road.

Chairperson Collard asked if any members of the public had any questions or comments. There were none. A motion to close the public hearing was made by Member Bis and seconded by Member Ortiz.

Chairperson Collard stated that the Town Engineer approved this subdivision request in 2005. Attorney Dowd stated that the subdivision was approved at that time, but the sale of the property did not happen so the deed was not recorded. The application and details are the exact same as they were in 2005. Chairperson Collard read a letter from the Town Engineer from 2005 that stated subdivision . . . "existing site drainage is in keeping with the adjoining property. Based upon our field observations and survey data furnished, we recommend approval of the requested subdivision with respect to Town drainage concerns." An email from the Engineer on August 4, 2017 read "no changes in environmental conditions. Good to go from our end." Attorney Dowd stated that although the name changed, the Engineering firm is the same.

Member Fox read each question to Part II of the SEQR. Each question was answered with "no or small impact will occur" with agreement from all present Planning Board Members.

A motion was made to issue a negative declaration for the SEQR by Member Ortiz and seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

A motion to approve the subdivision as presented was made by Member Bis and seconded by Member Ortiz.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Preliminary review of Site Plan for Lewis Robinson, (mailing: 3575 East Avenue, Youngstown); Tax Map ID 60.00-2-1.111

Mr. Robinson stated that he is building a house on East Avenue on a 43-acre parcel. He would like to build a recreational pond that is 1 acre in size and will use the excavated dirt as fill. He stated that Niagara County Soil & Water Conservation District has already given a positive recommendation on the project. He stated that there is a drainage ditch to the sides of the pond where there is already a natural “bowl” in the proposed location. The pond will be rectangular in shape and will have a pier in the middle.

Member Fox asked if the pond would be recreational and Mr. Robinson confirmed.

Code Enforcement Officer Jeffery stated he has done a framing inspection of the home and checked the zoning regulations with setback for the pond and everything is in order and in line with Town code.

Attorney Dowd stated that because this is a recreational pond, a special use permit must be approved. Therefore, a public hearing from the Zoning Board of Appeals will need to be scheduled. Secretary Freiermuth stated she believed it was on the agenda for the September ZBA meeting.

A motion to approve the Preliminary Site Plan was made by Member Tower and seconded by Member Fox.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Attorney Dowd stated the the Planning Board would need to approve the Site Plan in October and at that point would make a recommendation to the ZBA for the Special Use Permit.

Preliminary review of Site Plan for Charles Vanepps, (mailing: 2909 Ransomville Road, Ransomville); Tax Map ID 34.00-1-27.12

Mr. Vanepps presented drawings to show illustrate his Site Plan. He stated that the footing for his home was being dug tomorrow for his modular home at the corner of Youngstown Wilson Road and Ransomville Road. He would like to build a recreational pond to use on fill to raise his home. Code Enforcement Officer Jeffery stated that a portion of the pond had already been dug when a stop work order was issued because permits were not issued. Since that time, a building permit for the house has been issued.

Mr. Vanepps stated that Niagara County Soil & Water Conservation District has already given a positive recommendation and the grade plan shows the location of the pond and the elevation of the house being higher than the pond therefore creating drainage from the house towards the pond.

Code Enforcement Officer Jeffery stated that there are no setback issues for the location of the pond. Mr. Vanepps stated he had 30 acres of property. Code Enforcer Jeffery stated the pond can be a maximum of one acre.

Attorney Dowd stated that the same process should occur as with Mr. Robinson's application. He verified that there do need to be two public hearings — one for the Site Plan (from the Planning Board) and one for the Special Use Permit (from the ZBA). He stated that due to the timeframe and winter approaching, it may be logical to keep both applications on the agenda as a public hearing for the ZBA in September with a condition that the Special Use Permit be approved subject to the Planning Board approving the Site Plan at the October meeting. He stated that the Planning and Zoning Boards may want to make a recommendation to the Town Board to revisit the code and process for recreational ponds.

A motion to approve the Preliminary Site Plan was made by Member Bis and seconded by Member Ortiz.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Secretary Freiermuth informed Mr. Robinson that to be included on the October agenda the site plan drawings must be received 21 days prior to the meeting to allow enough time for the public hearing. All paperwork from Mr. Vanepps has been received, so he will be on the agenda in October.

New / Old / Miscellaneous Business

Recommendation to the Zoning Board of Appeals for a variance for William Sutor, 3333 East Avenue, Youngstown; Tap Map ID: 45.00-1-88

Code Enforcer Jeffery stated that there was a late addition to the agenda and Mr. Suitor from 3333 East Avenue was before the Planning Board to request a recommendation for the Zoning Board for a variance.

Mr. Suitor explained that he is currently building a home and would like to build an unattached 30x42 foot barn to store his truck and recreational vehicles. The current set back requirements are 25 feet from the back and 15 feet from the side. He is requesting 12 feet from the back and 12 feet from the side. Code Enforcer Jeffery stated that the barn square footage is not over the area allotment for the property. Mr. Suitor stated that house is 1616 sq. feet and the barn will be 1260 sq. feet (hence the accessory building is smaller than the house). He stated there are 30 feet from the house to the barn. He stated that currently there is no construction on the property behind his parcel. Mr. Suitor's neighbors are the Korman's who were recently approved for a variance for setback as well.

Chairperson Collard stated he thought that the barn was a large building, but that it is within code. He also stated that the neighbors are able to address concerns if they have any at the ZBA public hearing on this property. Attorney Dowd stated that the Planning Board can choose to recommend the variance as long as there are no concerns from the neighbors. He also read page 140 – Area Variance of the Zoning Manual: *In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:*

- i. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;*
- ii. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;*
- iii. Whether the requested area variance is substantial;*
- iv. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and*
- v. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.*

Attorney Dowd stated that the approval of the ZBA will be determined using those parameters.

Mr. Suitor has stated that he has spoken with the neighbors closest to him and they did not have concerns. Member Fox stated in the past he has spoken with Mr. Webster who owns the property to the rear of Mr. Suitor and at that time he had no plans to develop the property.

A motion to recommend to the Zoning Board of Appeals that the variance be approved as presented on the condition that provided there is no dissension from the neighbors at the Zoning Board public hearing was made by Member Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Member Ortiz: Yes

Motion Carried.

Revision on paperwork for Minor Subdivision for Matthew Deering (1751 Youngstown Lockport Road) and Wayne Carter (1737 Youngstown Lockport Road), Youngstown, Tax Map IDs 47.03-1-9.1 and 47.03-1-9.2

Chairperson Collard informed the Planning Board that he received a phone call regarding the Deering / Carter subdivision that was approved on June 1, 2017. He stated that the bank who was providing the loan required that Mrs. Deering's name be on the Planning Board decision paperwork. Secretary Freiermuth has revised and filed the paperwork as requested.

Code Enforcer Jeffery's report

Code Enforcement Officer Jeffery handed out his report. A brief explanation of some of the items listed ensued. He stated that there have been complaints and questions from residents who seem to want to "test the water" but he has had good success at resolving issues. He did state that "zombie houses" are a concern because often the name on the deed is not the current owner and it is hard to track down the financial institution that is responsible for the home. He stated that as complaints come in and are qualified he issues a warning letter informing the resident to comply in a set reasonable timeframe. If that does not happen, a notice of violation is issued. And lastly a legal document with an appearance ticket can be issued. Code Enforcer Jeffery stated he is working closely with Attorney Dowd for legal advice.

Member Tower asked what the status was on the house on Lutts Road that was being built without a building permit and previously came before the Planning Board for a subdivision (which was turned away due to wetland concerns). Code Enforcer Jeffery stated that according to a family member they have applied to the DEC for a wetland delineation. They have completed the roof on the house and were informed again that no further work is to be completed. Code Enforcer Jeffery stated that if they continue to work on the home they will be issued an appearance ticket to court.

Resident Anna McCullum asked what could be done about a zombie home near where she lives on Youngstown Lockport Road. Attorney Dowd and Code Enforcer Jeffery stated they were unsure who owned the property, but they would contact Niagara County to see if they had updated records for follow up.

Attorney Dowd report

Member Fox asked if Attorney Dowd and the Planning Board were planning to do an in-house training again this year. Chairperson Collard stated it was a good idea and that he would coordinate with Zoning Board Chairperson Myers for a November date.

A motion to close the meeting was made by 8:23 p.m. by Member Bis and seconded by Member Tower.