



PLANNING BOARD
TOWN OF PORTER

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Approved April 4, 2018

Thursday, March 14, 2019

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 G. Edward “Jipp” Ortiz, Member Robert Tower, Member Jeffrey Schulze, Code Enforcement Officer Peter Jeffery, Attorney Michael Dowd, Secretary Amy Freiermuth

Excused: Member Mark Fox

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

Approval of the minutes from the February 7, 2019 Planning Board meeting

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

Public Hearing on Site Plan for Evan Jones Mathewson, 2426 Youngstown-Lockport Road, Ransomville; Tax Map ID 62.00-1-151.12 for Home Occupation – firearm coating business.

Chairperson Collard read the above agenda item and opened the public hearing. He asked applicant Evan Mathewson to explain what he intended to do with his home occupation. Mr. Mathewson explained that he would like to have a firearms coating business using a Cerakote® type product. He would apply the colorant in his garage and once the firearm was coated, it would be put into a household oven and baked to cure the color.

Resident Anna McCollum asked if the process involves heat that could cause a fire hazard. Mr. Mathewson said that the heat in the oven is only about 180-200 degrees. He explained that he sandblasts the piece to be colored, applies the coating and cures it in a nothing more than a household oven. He said that he can color many items – not just firearms and the odor is very low. Ms. McCollum asked if there was going to be an increase in traffic and Mr. Mathewson stated that he intends to do most of his business mail order and all other will be individual meetings, so traffic will not increase any more than normal day to day.

Chairperson Collard stated that the Planning Board had a lengthy discussion with Mr. Mathewson in February where he explained the process and his intentions.

With no further comment, a motion to close the public hearing was made by Vice Chairperson Ortiz and seconded by Member Schulze. All in favor, motion carried.

Chairperson Collard asked the board members if they had any further questions. There were none.

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

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Ortiz: Yes

Member Fox: Absent

Member Tower: Yes

Member Schulze: Yes

Motion Carried.

A motion to recommend to the Zoning Board of Appeals that the Special Use Permit be approved was made by Vice Chairperson Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Ortiz: Yes

Member Fox: Absent

Member Tower: Yes

Member Schulze: Yes

Motion Carried.

Public Hearing on Site Plan for Jason Berger, Thomas Neilson and John Huber, 1698 Braley Road, Youngstown, Tax Map ID 47.00-1-30 for a Private Owned, Public Use Airstrip. Preliminary Site Plan Review for Commercial Recreational Facility (Skydiving/Parachute operation) for same applicants. Recommendation to the Zoning Board of Appeals for Special Use Permit for above (2) applications.

Chairperson Collard read the above agenda item and opened the public hearing. He asked if anybody from the audience wished to comment. Ms. McCollum asked where the airstrip was located and was shown on an aerial map by Code Enforcer Jeffery. She asked if they could be flying over her home but was informed that her property was too far away from the airstrip and that nobody owns the airspace above her home so if they wanted to fly over her house they could.

Irene Myers asked if the property has been used as an airstrip in the past and was informed it was, but it was a private airstrip in the past. Ms. McCollum asked if there would be noise and was told it would be very

little noise because if their plane did fly over her house it would be 10,000-12,000 feet in the air. Mr. Berger stated that the airstrip they have been flying out of is 11 miles east of this location and has not caused noise issues with residents in that area.

Mr. Berger explained that they intend to take off and view the Falls and then return to skydive landing back at the airstrip. He stated that they purchased a 3-blade propeller plane which is more quiet than a 2-blade propeller plane.

Member Tower asked that he explain the public airport concept to the audience. Mr. Berger explained that they are applying for a private owned, public use airport which means that any plane can land without having to call the owner first. The likelihood that someone would land without informing the owners first is limited, but could happen in an emergency situation. He stated that they would not have planes landing “all the time.” Ms. McCollum asked who is liable for the planes and property and was informed that the FAA (Federal Aviation Administration) will oversee the airstrip as they do with all airstrips. If there was a problem with the strip, Member Schulze stated that a “notice to airman” would be issued to inform pilots of the issue. Mr. Berger stated they only expect 1 or 2 people a year that would land on the airstrip. He stated that if they do land without prior permission, they cannot disembark the airplane as the airstrip is private property.

Code Enforcer Jeffery stated that the Site Plan did include a building that would be used for training as well as a hanger for the aircraft.

Mr. Berger was asked how much room is needed for skydiving and he stated that the jumpers can land within a 30 foot diameter circle.

Code Enforcer Jeffery continued that the driveway does have fire access as per Town Code requirements.

Attorney Dowd stated that the Zoning Board will need to issue a Special Use Permit and wondered if a license is required for operation. Mr. Neilson stated that they are members of the United States Parachute Association and must follow certain regulations of the FAA including portions 105 and 65. Mr. Huber added that they have a million dollar trip and fall insurance policy. Attorney Dowd stated that if there are State and Federal regulations/insurances that are needed, they should be included under the conditions of the Special Use Permit.

With no further audience comments, a motion to close the public hearing was made by Vice Chairperson Ortiz and seconded by Member Schulze. All in favor, motion carried.

Chairperson Collard stated that the Planning Board had 4 actions they have to make for this application.

A motion to approve the Site Plan for a Private Owned, Public Use Airstrip was made by Vice Chairperson Ortiz and seconded by Member Schulze.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Ortiz: Yes

Member Fox: Absent
Member Tower: Yes
Member Schulze: Yes

Motion Carried.

A motion to recommend that the Zoning Board of Appeals issue a Special Use Permit for a Private Owned, Public Use Airstrip was made by Member Schulze and seconded by Vice Chairperson Ortiz.

Resident Matthew Deering arrived to the meeting. He apologized for being late, but asked if he could ask a few questions. Chairperson Collard agreed.

Mr. Deering stated that the airstrip was not functioning and wanted to know what the value of his property would be if the airstrip was being used. Mr. Berger stated that the airstrip was not being used due to health issues from the former owner, but was maintained the entire time. Mr. Neilson stated that they could not predict the value of his home because of the airstrip and stated that they did not anticipate a lot of “outside” planes landing.

Code Enforcer Jeffery stated that the Zoning law is in place to help guide the board in making their decision. He stated that the applicants must follow all FAA rules. Mr. Berger stated that the planes will be 1000 feet off the ground by the time they reach the end of the airstrip. He stated that he cannot predict property values because of the airstrip, but reinforced that unknown air traffic in and out will be limited.

Resident Eric Heuser stated that his home is on the 10 acres of property “carved” out of the applicants property. He knew when he purchased the property that the airstrip was there and he still purchased the property. He stated that traffic and noise have never been an issue in the past and stated that in his opinion an active airstrip will not detract from the value of his home.

Mr. Huber stated that in all of his years of flying, the only time he heard of complaints from a property owner about an airstrip was when the real estate agent did not disclose to the potential buyer of the airstrip. He said that he felt it was more about honesty of the agent and the potential buyer being able to make an informed decision knowing about the airstrip.

Chairperson Collard stated that the motion would be recast. Therefore, a motion to recommend that the Zoning Board of Appeals approve a Special Use Permit for a Private Owned, Public Use Airstrip was made by Vice Chairperson Ortiz and seconded by Member Schulze.

With no further discussion, roll was called:

Chairperson Collard: Yes
Vice Chairperson Ortiz: Yes
Member Fox: Absent
Member Tower: Yes
Member Schulze: Yes

Motion Carried.

Member Tower asked if the applicants planned to have guests stay in the house on the property. Mr. Neilson stated they were planning to use the house as an Airbnb. Attorney Dowd stated that this is an allowed use in the Town without a permit required.

A motion to approve the Site Plan for a Commercial Recreational Facility (Skydiving/Parachute Operation) was made by Vice Chairperson Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Ortiz: Yes

Member Fox: Absent

Member Tower: Yes

Member Schulze: Yes

Motion Carried.

Attorney Dowd stated that for the recommendation the Planning Board could stipulate that the applicant comply with state and federal regulations as needed for this type of business. He also indicated that any specifics could also be recommended, such as hours of operation. Vice Chairperson Ortiz stated that he felt that the Zoning Board of Appeals could include any specifics they feel are needed as the permitting agency.

A motion to recommend that the Zoning Board of Appeals approve a Special Use Permit for a Commercial Recreational Facility (Skydiving/Parachute Operation) was made by Vice Chairperson Ortiz and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Collard: Yes

Vice Chairperson Ortiz: Yes

Member Fox: Absent

Member Tower: Yes

Member Schulze: Yes

Motion Carried.

Update on submittal of Preliminary Plat from Runaway Bay Subdivision, 3881 River Road, Youngstown; Tax Map ID 59.00-1-13.1

Architect David Sutton from Sutton Architecture spoke on behalf of Runaway Bay. Also in attendance was Engineer Anthony Pandolfe from Carmina Wood Morris and Engineer David Britton from GHD (representing the Town).

Engineer Sutton stated that the full engineer drawing has been submitted to the Town and GHD. He stated that the Army Corps and DEC are “on board” regarding the wetlands and dock and everything is in process, but they need a negative declaration on the SEQR to move forward. The Planning Board is the lead agency

and he would like to get the SEQR on the agenda so a determination can be made. Engineer Sutton stated that all information for completion from the applicant has been submitted.

Engineer Britton stated that in the June 2018 the Preliminary Plat was submitted and in February 2019 an updated Plat with requested modifications was submitted. He stated that everything is in good shape and that the Planning Board can move forward with the long form SEQR process and decision on the Preliminary Plat. He stated that he will help the Planning Board with the process and work through the impacts of sewer, fire, fill that needs to be brought onsite, etc.

Engineer Sutton stated that Ducks Unlimited is still planning to purchase the rear property and has no intentions of developing the land. He stated they are planning on using the property as a conservation area to preserve wetlands and promote the natural environment. Chairperson Collard asked if this would be a sale of land to Ducks Unlimited and Engineer Sutton stated that yes, it would be a transfer of ownership.

Code Enforcer Jeffery stated the only outstanding question he had was on the greenspace designation as required by code. He stated that 10% of the property owned by Runaway Bay must be open parkland and he was unsure where that land was on the plat. Engineer Sutton stated that he thought the HOA land would cover the 10% and that there may be a pathway in the back that is not developed that will also qualify. Code Enforcer Jeffery reinforced that this needs to be sorted out by the April meeting in order for a decision to be made. Engineer Sutton stated that currently there are approximately 17.6 acres that will be developed and 7.7 acres that will be undeveloped but they can map it out to show the specific 10%.

Chairperson Collard asked the Planning Board Members if they had any questions or comments. Vice Chairperson Ortiz stated he is pleased about the Ducks Unlimited plan and hopes that the land will allow for walking paths. Engineer Sutton stated he cannot make promises on behalf of Ducks Unlimited but the parcel is “carved out” specifically for them with a 66 foot easement to the property as well as a public road to that easement as included in the subdivision. Chairperson Collard asked if Ducks Unlimited is a non-profit organization. Code Enforcer Jeffery stated they are, but that they still need to adhere to Town Code. Member Tower asked if they will pay taxes due to their non-profit status. Attorney Dowd stated if they are a 501C-3 they will not, however with the development of 23 homes, the tax base within the Town will increase.

Code Enforcer Jeffery stated that Town Highway Superintendent Scott Hillman has provided a few questions about hydrants, water valves, etc., that will be passed along to the applicant through Engineer Britton.

Secretary Freiermuth reminded the Board that the public hearing on this Preliminary Plat was opened in August 2018 (and still open). Attorney Dowd suggested that the notice be published again as well as mailing out the notices to the property owners within 500 feet so that further comments can be made if desired.

Attorney Dowd's report

Attorney Dowd had nothing further to report.

Correspondence / New / Old / Miscellaneous Business

Attorney Dowd stated that he received correspondence from Waste Management asking if Code Enforcer Jeffery had determined if the application submitted was complete. Michael Mahaer from Waste Management and Steven Ricca from Bond Schoeneck & King Attorneys were present. Attorney Dowd stated that a decision on the completion of the application had not been made to date and that he and Code Enforcer Jeffery needed to discuss the determination before it was issued. Attorney Dowd stated that an update on the determination could be added to the April agenda.

Code Enforcer Jeffery distributed a draft proposal of a “Solar Energy Systems” local law that is being developed by a newly formed committee. He stated that the committee used the NYSERDA model as a base with specifications to the Town of Porter. He stated that there will be three tiers of solar energy: residential roof mount, smaller ground mount (2500 sq. feet or less) and larger than 2500 sq. feet that will have constraints for installation (including screening, etc.). He stated that any feedback is welcome and that a second draft is already in the works.

Discussion on potential Zoning Law amendments with Code Enforcement Officer Peter Jeffery.

Code Enforcer Jeffery collected the spreadsheet previously distributed to the Members so that he could compile the results for discussion and summary review. Chairperson Collard thanked Code Enforcer Jeffery for his work on this project.

Code Enforcer Jeffery’s report

Code Enforcer Jeffery stated that there is a training session coming up from the Buffalo Niagara Waterkeepers if any Member is interested in attending.

Code Enforcer Jeffery’s report was distributed. A brief discussion of some of the items ensued.

Chairperson Collard asked about the status of Thomas Fleckenstein’s windmills. Code Enforcer Jeffery stated that the large windmill is installed and online. The three smaller windmills are no longer online and he is waiting for a schedule of their removal (weather dependent).

With no further discussion, a motion was made to adjourn the meeting at 8:32 p.m. by Member Tower and seconded by Vice Chairperson Ortiz. All in favor, motion carried.