

Chairman Spira called the regular meeting of the Town of Porter Planning Board to order on **Thursday, August 6, 2009**. Donald McCollum and James McIntyre were absent. Chairman Spira read over the agenda for tonight's meeting.

APPROVE JULY 2, 2009 MINUTES

Anthony Collard made a motion to approve the minutes of the July 2, 2009 Planning Board meeting as presented. Jipp Ortiz seconded the motion. All in favor; motion carried.

GOERGE BROWN PUBLIC HEARING

Chairman Spira read the following Notice of Public Hearing

Subdivision request of George Brown, 4731 Lower River Road, Lewiston, to combine his property at 1806 Youngstown-Wilson Road. Beginning at a point on the southerly line of Youngstown-Wilson Road, at a distance of 300.00 feet southwesterly measured along the said southerly line of Youngstown-Wilson Road from its intersection with the east line of Lot 11 and also the east line of lands conveyed to David G. Canfield and Kittie L. Canfield, his wife, by deed recorded in the Niagara County Clerk's Office in Liber 523 of Deeds at page 573; thence continuing southwesterly along the southerly line of Youngstown-Wilson Road, a distance of 297.85 feet to a point; thence southerly at an exterior angle of 71 degrees, 42 minutes 34 seconds with said southerly line of said road a distance of 600 feet to a point; thence southeasterly at an interior angle of 107 degrees 7 minutes 26 seconds with the last mentioned course a distance of 600.55 feet to a point in said east line of Lot 11; thence northerly at an interior angle of 72 degrees 52 minutes 34 seconds with the last mentioned course and along said east line of Lot 11 a distance of 650 feet to a point ; thence southwesterly at an interior angle of 73 degrees 25 minutes 51 seconds with the last mentioned course and along the line which is parallel to said southerly line of said road a distance of 305.26 feet to a point; thence northerly along the line which is parallel to the second course herein described a distance of 302.54 feet to the principal point of beginning. Together with, and including, all the right, title and interest of the first party, if any, to the center line of Youngstown-Wilson Road. This is a request to combine tax map no. 47.00-1-5 and 47.00-1-42.

There was no one present to represent this action, however, Chairman Spira went ahead and opened the Public Hearing. Susan Driscoll presented the current map on the overhead screen, explaining what is getting acted on tonight. This is a request to combine two lots owned by Mr. Brown. William Tower, Zoning Board of Appeals chairman, spoke about the fact that there is a trailer on the property as well as a large accumulation of unsightly junk.

Anthony Collard made a motion to adjourn this Public Hearing for thirty days. Jipp Ortiz seconded the motion. All in favor; motion carried.

ZONING BOARD OF APPEALS REFERRALS

Tonight there are two referrals for wind towers from Judy Fleckenstein and Joe and Kelly Fleckenstein. According to Mr. Tower, a farm exemption form needs to be provided to document \$10,000 in income and expense. This needs to be on the Schedule F of the Income Tax form.

Chairman Spira met with Tom Fleckenstein and Tim Toohey last week regarding a letter from Thomas Fleckenstein, Niagara Wind Developers, regarding wind power in the town of Porter. Chairman Spira questioned what the responsibility of the Planning Board is regarding the installation of windtowers in the town. There is a height limitation of 100 feet.

Chairman Spira introduced Tim Toohey, consultant and attorney representing Niagara Wind Developers for his input. He explained what has been done so far regarding wind towers in the town. A building permit is necessary in order to build a wind tower in the town. The tower Niagara wind Developers is requesting will require a twenty (20) foot variance because it exceeds the 100 feet height allowance. The wind tower will provide power for farm equipment. Both of the applications tonight are located in agricultural district.

Chairman Spira read from the local law affecting small wind energy. A special use permit and a variance is necessary to build a wind tower in the town. Attorney Dowd said that, fundamentally, the proof of farm status needs to be submitted. Three grants are being solicited for this use, however, you must be a farm operation in order to qualify. Any excess power will be sold back to the power company according to New York State law. The farmer must provide documentation that the farm will use one hundred ten (110%) percent of the power. Quarterly, the applicant must rectify in order to qualify for the grant.

JOSEPH AND KELLY FLECKENSTIEN, 2332 Balmer Road, Ransomville, are requesting a special use permit and an area variance in order to erect a wind tower on their property. A map of the area was presented that had the tower site clearly indicated. The set back is 180 feet (this is one and one-half times the height of the tower as required). The placement more than meets the regulations.

The Planning Board as a whole does not have any problems with this request. Chairman Spira read the Zoning Law pg 112 regarding wind towers and guidelines that were submitted by Tim Toohey regarding Wind Energy Conversation Systems. The Planning Board has to receive documentation that this is a farm operation.

JUDITH FLECKENSTEIN (TRUSTEE), 1953 Balmer Road, Youngstown, is requesting a special use permit and an area variance in order to erect a wind tower on her property. The property is 109 acres and a tower is an accessory to the dwelling. The tower is set back 190 feet (this is one and one-half the height of the tower as required). A Schedule F from 2008 income tax needs to be submitted in order to prove a farm operation.

The planning Board recommends approval of the Joseph and Kelly Fleckenstein wind tower request and the Judith Fleckenstein wind tower request with the following:

Approve site plan so that a building permit can be issued contingent upon satisfaction of proof that both qualify as a farm operation.

A certificate stating that the tower will not exceed the one hundred ten (110%) percent requirement allowed by law from the applicant.

George Spira made a motion to recommend approval of both Joseph and Kelly Fleckenstein wind tower request and the Judith Fleckenstein wind tower request with the above conditions. Anthony Collard seconded the motion. All in favor; motion unanimously carried.

LARRY FUNK is requesting a variance for side set back to build a garage 14' X 24' at 1483 Sunset Lane, Youngstown. A seven foot variance is needed in order to build an attached garage. The Planning Board recommends that the Zoning Board of Appeals **APPROVE** this request for a variance set back providing the neighbors do not object.

JOHN PALERMO, 619 Blairville Road, Youngstown, came before the Planning Board. He owns a parcel 193' X 101'. This is a substandard lot and a variance is being requested. Chairman Spira read the March 5, 2009 Planning Board minutes regarding this request. It appears that Blairville Estates owned the property and has subdivided a substandard lot without Planning Board approval. This is not the first time that this developer has created a substandard lot. Mr. Candella needs to come before the Planning Board to straighten this matter out. A letter will be sent to Santo Candella requiring him to come before the Planning Board in as much as he has created a substandard lot.

GEORGE BROWN PUBLIC HEARING (reconvened)

George Brown arrived at the Planning Board meeting and Chairman Spira re-opened the Public Hearing. Chairman Spira re-read the Public Hearing Notice. This is a request to combine two parcels 7.24 acres and 0.9 acres. This will

result in approximately 8.25 acres. Mr. Brown would like to build a pole barn on the site to store his materials. He anticipates building the barn this summer. Two graders are on the property. There is a trailer parked on the property. This is an unsightly situation. With no further comments from the Planning Board Anthony Collard made a motion to close the Public Hearing portion of the meeting. Jipp Ortiz seconded the motion. All in favor; motion carried.

Chairman Spira read a letter from CRAWorld Associates and approval with respect to town drainage concerns was given.

The Short Environmental Assessment form was discussed and Chairman Spira completed the back section on behalf of the Planning Board. Jipp Ortiz made a motion that, based on the documentation provided and analysis, the proposed action will not result in any significant adverse environmental impacts. Anthony Collard seconded the motion. All in favor; motion unanimously carried.

Anthony Collard made a motion to approve this request to combine two lots into one. Jipp Ortiz seconded the motion. A roll call vote resulted in the following: Jipp Ortiz, yes; Anthony Collard, yes; Chairman Spira, yes. Motion unanimously carried.

It was decided that Thursday, September 17 from 6:00 p.m. until 10:00 p.m. a training session for Zoning Board of Appeals members and Planning Board members will be held at the town hall. All members are encouraged to attend in as much as this training session will fulfill the training requirements set forth by the state for the year.

PLEASE NOTE: THE DATE HAS BEEN CHANGED TO SEPTEMBER 24, 2009

CODE ENFORCER REPORT

Code Enforcer Roy Rogers submitted his three reports for July.

ATTORNEY DOWD REPORT

Attorney Dowd will research the commercial wind energy law that has been discussed tonight.

CRAWorld REPORT

Christian Amico, engineer for CRAWorld reported that Supervisor Wiepert has requested CRAWorld get Youngstown Estates drainage underway. Old Lake Road drainage plan is still an issue. The Town Board has not approved any funding for that project.

Anthony Collard reported that the Zoning Committee is almost finished with the project. The zoning changes in Ransomville are holding up the process. Perhaps the Ransomville members of the committee need to write the zoning for the Ransomville area soon.

Chariman Spira announced that James McIntyre has resigned from the Planning Board.

With no further business to come before the Planning Board Anthony Collard made a motion to adjourn the meeting. Jipp Ortiz seconded the motion. All in favor; meeting adjourned at 9:00 p.m.

Respectfully submitted,

Pamela F. Parker, Secretary

Town of Porter Planning Board