

Chairman Spira called the regular meeting of the Town of Porter Planning Board to order on Thursday, September 3, 2009 at 7:00 p.m. All present. The agenda for tonight's meeting was read aloud.

### **APPROVE MINUTES OF AUGUST 6, 2009 MEETING**

Chairman Spira read over the minutes of the August 6, 2009 Planning Board meeting. It is noted that Tim Toohey is not representing Niagara Wind Energy as their attorney. Also, on page 2 the word farm should be corrected. Anthony Collard made a motion to approve the amended motion to the Joseph and Kelly Fleckenstein request. Jipp Ortiz seconded the motion. All in favor; motion unanimously carried.

### **MC INTYRE RESIGNATION**

Chairman Spira announced, with regret, that James McIntyre has submitted his resignation from the Planning Board. The Planning Board will send a letter to Mr. McIntyre thanking him for his many years of service to the town. He is always welcome to return to the Planning Board and will be sorely missed by all. His knowledge and dedication has been of great value over the years.

### **HELENA MADRA SUBDIVISION REQUEST**

F. Warren Kahn came before the Planning Board tonight to represent Helena Madra and Gary Reid in their request to subdivide property. Mr. Kahn is representing both parties in this attempt to subdivide a parcel from Mr. Reid and attach it to Ms. Madra's property. There is a garage that is on a piece of property that is being subdivided. The parcel with the garage will be attached to Ms. Madra's property. Susan Driscoll showed what is being requested on the overhead screen. This is a request to cut one parcel in half (Reid) and attach it with the property of Ms. Madera. Anthony Collard made a motion to approve this sketch plan as presented. Donald McCollum seconded the motion. All in favor; motion unanimously carried.

The surveys are not sufficient for a Public Hearing to proceed. Roy Rogers, code enforcer, will contact F. Warren Kahn regarding this matter. A new survey will be necessary.

## **SANTO CANDELLA SUBDIVISION REQUEST**

Santo Candella has subdivided a substandard parcel and sold it to Mr. Palermo. This subdivision was done without Planning Board approval. Mr. Candella also sold a parcel to Mr. Bryk without Planning Board approval. Mr. Candella is required to file an application with Roy Rogers to subdivide the parcel that the deed has already been filed for. This will be one Public Hearing to subdivide one parcel from Santo Candella and attach the subdivided parcel to Mr. Palermo's property.

- Santo Candella will submit an application including surveys and deed description, to the Code Enforcer requesting to subdivide the large parcel.
- The second subdivision will be a request of Mr. Palermo to attach the parcel being subdivided from Mr. Candella to Mr. Palermo's property.
- A new survey will be required.

The lot being created by the subdivision Mr. Candella is doing will result in a substandard lot. However, the substandard lot will immediately be attached to the property of Mr. Palermo.

John Palermo's application needs to be amended to indicate the piece being combined with his property. Approximately 0.45 acres will be attached to Mr. Palermo's property. Anthony Collard made a motion to approve this sketch plan as presented. Jipp Ortiz seconded the motion. All in favor; motion unanimously carried.

## **ZONING BOARD OF APPEALS REFERRALS**

### **Application of Marc J. Fita, 149 Lake Road, Youngstown, NY 14174.**

A Variance is requested under Sections 503.3A, 705 and 710 to construct a six and a half foot fence (6-1/2') approximately 65 feet in his back yard to the rear property line. Section 503.3 states "Maximum Height Residential District four (4') feet. Thus, a variance of two and a half feet (2-1/2') is requested. Property is located in an ARR-100 District between Tower Road and Murphy's Corner Road in said Town.

Mr. Fita came before the Planning Board to request a 2.5 foot variance to construct a 6.5 foot fence on his property. He presented a drawing showing the concept he is asking for. There is currently a fence on the neighbor's property that is 65 feet long. The neighbor is keeping up the maintenance on the existing fence. Mr. Fita is requesting a continuation of the fence to be on his property. Although the two fences will not meet, and there will be a small break in the fence, Mr. Fita intends to make the fence appealing and comparable with the existing fence on the neighbor's property. The purpose of the fence is privacy. There is a six to fourteen inch difference between the existing fence and the fence Mr. Fita is requesting. This property is located on the north side of Lake Road, but is a significant distance from the lake.

The Planning Board's concern is that the height of the two fences will not match. The Planning Board recommends that the Zoning Board of Appeals approve this request providing the owner conforms with the same height of the existing fence of the neighbor.

**Application of Dawn Walker, 1495 Lockport Road, Youngstown, NY 14174.**

A Variance is requested under Sections 503.3A, 705 and 710 to construct a five foot front yard fence (5'). Section 503.3A states "Maximum Height Residential District front yard three (3') feet. Thus, a variance of two feet (2') is requested. Property is located in an ARR-100 District between Lutts and Tower Road in said Town.

This requires a two foot variance because the request is for the front yard. This is a request for four acres to be contained by a coral fence. A three-foot variance is needed for the fence to be in the front yard. The Planning Board recommends that the Zoning Board of Appeals APPROVE this request providing the neighbors do not object.

**Dale and Terisa Casel**, 1139 Cain Road, Youngstown, own tax map no. 60.00-1-35 and 60.00-1-34. There is a house that has been built on the property line. They must come before the Planning Board to request a subdivision to combine the two lots into one in as much as the house is on the lot line. The secretary will send a letter requesting Mr. & Mrs. Casel contact the code enforcer regarding this matter.

**CODE ENFORCER REPORT**

Roy Rogers submitted three reports regarding activity that occurred during the month of August.

**ATTORNEY DOWD REPORT**

Michael Dowd reported on the progress of the request for Wind Energy in the town. Mr. Dowd believes that the Planning Board is required to forward any request to the Zoning Board of Appeals for a variance when a wind energy tower is being requested.

NYCERTA is the governing body regarding wind energy. Mr. Dowd clarified what is required for wind energy in the town and will present a segment at the training session that will be held September 24, 2009 from 6:30 p.m. until 10:30 p.m.

Mr. Dowd also reported on the status of the approval of the new zoning law on the town board level. The town board is still waiting for Peter Smith as well as the east Porter re-zoning. Supervisor Wiepert would like to get this project done by January 1, 2010. This is probably an unrealistic goal.

With no further business to come before the Planning Board, Jipp Ortiz made a motion to adjourn the meeting. Anthony Collard seconded the motion. All in favor; motion carried. Meeting adjourned at 8:40 p.m.

Respectfully submitted,  
Pamela F. Parker, Secretary  
Town of Porter Planning Board