

Chairman Ortiz called the regular meeting of the Town of Porter Planning Board to order at 7:00 p.m. on Thursday, April 9, 2015. All members were present. Klye Andrews is the attorney for the Town of Porter tonight regarding the Site Plan review for Mr. McCabe. Chairman Ortiz welcomed everyone to tonight's meeting.

APPROVE MARCH 5, 2015 PLANNING BOARD MINUTES

Chairman Ortiz asked for additions or corrections to the March 5, 2015 Planning Board minutes. With no addition or corrections, Anthony Collard made a motion to approve the minutes. Peter Jeffrey seconded the motion. With all in favor the motion was unanimously carried.

PRELIMINARY REVIEW – MINOR SUBDIVISION – GERALD WIEPERT, 3518 RANSOMVILLE ROAD, RANSOMVILLE

Mr. Wiepert came forward to explain his intentions regarding this subdivision request. He has sold the house next to him that was owned by his uncle who just passed away. There is an area approximately 50' by 150' that Mr. Wiepert would like to combine to his property. This will increase the size of his property. This action will create a sub-standard lot; therefore the lot being created will need to be attached to Mr. Wiepert's property. The intended new property owners approve of this subdivision. There is a ditch that Mr. Wiepert will take responsibility for to keep clean. The house in the back has been sold.

This is a reasonable request that the Planning Board approves of. Peter Jeffrey made a motion to approve this preliminary subdivision request. John Bis seconded the motion. With all in favor the motion was unanimously carried. A Public Hearing will be scheduled when all the necessary documentation has been received by the Planning Board.

PRELIMINARY REVIEW – MINOR SUBDIVISION- SCOTT MACVIE

Mr. MacVie would like to cut off a piece of his land and sell it to Dave Webb and Rich Burns. Mr. MacVie did not have any drawings for the Planning Board to look at. Susan Driscoll displayed the area on the overhead projector. There is a 66 foot right-of-way, 1,500 feet to the west that goes to Mr. MacVie's house that will remain. Mr. Webb and Mr. Burns have a shop on Lutts Road. There is a 66 foot right-of-way on Mr. MacVie property that runs east/west. Mr. MacVie's access to his house is on Balmer Road. There is a fire hydrant on Balmer Road that would be used for his house. Mr. Webb and Mr. Burns plan to join the lot being subdivided to their property.

Mr. Dowd asked if Mr. MacVie would be opposed to erasing the south line in order to create a large single parcel. Mr. MacVie said no because he may want to subdivide this property in the future. By keeping the 66 foot right-of-way Mr. MacVie would be able to provide permanent ingress/egress for any future divisions. The Planning Board will need to look into the easement that is on the deed in order to determine the right-of-way.

Mr. Dowd suggests that the Planning Board give approval of the preliminary site plan approval for the new lot with the condition that Mr. MacVie provides a copy of the existing right-of-way guaranteeing access to any lots that would be west of the new line being created with this subdivision. There is concern that a land-locked parcel is being created.

Peter Jeffrey made a motion to approve a site plan that extends the west line north to the 66 right-of-way and sell it as long as the application shows appropriate right-of-way language for access off Lutts Road. John Bis seconded the motion. With all in favor the motion was unanimously carried.

PRELIMINARY SITE PLAN REVIEW: MICHAEL MC CABE TO SELL AND SERVICE GARDEN AND FARM EQUIPMENT AT 2384 LAKE RD, RANSOMVILLE

At the March meeting the Planning Board looked at a pre-submission application. At this point the Planning Board is looking to see that the site plan has been submitted to the town. The next step will be for the Planning Board to approve the site plan after approval from the Zoning Enforcer Roy Rogers. Mr. Rogers has only seen drafts of the site plan, tonight is the first time he has seen the final stamped plans. Mr. Rogers feels that from the preliminary drawings he has seen Mr. McCabe is on the right track.

Mr. Jeffrey asked if all of the buildings on the site are within the law. Permits issued, certificates of occupancy issued, etc. Mr. Rogers stated that all buildings have building permits. Certificates of occupancy to all buildings have not been given yet.

Mr. McCabe and a representative from ENSO came forward with six copies of the full size drawings signed and stamped. Mr. Jeffrey stated that set backs are not per the town code book. Therefore, he asked, how did Mr. McCabe get a building permit? Mr. Rogers stated that the set backs were established by the existing building. The building has to be consistent with any building on either side up to two hundred feet, so Mr. McCabe is consistent with the existing building. Mr. Jeffrey said that he believes the town code says if there is an existing building that exists prior to the code being adopted, that does not conform to the code that it is to be considered a nonconforming structure. Mr. Rogers did not make it formally a non-conforming structure.

Mr. Rogers said when road frontage is established, that is the minimum set back. It supersedes the town code set back within ten percent of an existing building. Mr. Jeffrey feels that set backs affect the neighborhood, so it is part of the Planning Board's responsibility. Should the Planning Board approve the site plan if it is not in compliance of the code?

Mr. Andrews read from the Zoning Law regarding the purpose of the site plan review. The role of the Planning Board is to approve a site plan review. That should be the focus tonight. The request is a permitted use subject to site plan review. Mr. McCabe is now just applying for this permitted use to sell and service garden and farm equipment.

Mr. Dean, a neighbor on Lake Road, feels that at some point in time the technical aspects of what has been happening here for a very long time need to be addressed. The Planning Board is required to approve the site plan review and should be made aware of what has been associated with the permitting process. Mr. Dean feels that a building permit should have never been issued in this situation until the site plan review process had been completed. Mr. Morgan Jones is concerned about a SEQRA form being submitted with this project as well as drainage plans and other items required by the law. He asked if at some point the neighbors are going to get a chance to look at the site plan. Chairman Ortiz said yes.

The first building permit was issued for a personal use. The application for the sale and service of garden and farm equipment has triggered a site plan review. When the intent of the property went from personal storage to the sale and service of garden and farm equipment site plan review was required.

Kyle Andrews reminded the Planning Board that the purpose of the meeting tonight is to approve the site plan. This is page 135 of the Zoning Law under procedures. At this point the certification of the site plan is completed by Zoning and Code Enforcement officer. The Code Enforcer needs to be given the opportunity to review the site plan for certification that has just been presented tonight. Mr. Andrews feels that at this point the Planning Board should accept the site plan and turn it over to the Code Enforcement Officer and within thirty days he can turn it over to the Planning Board. Mr. Rogers is going to go over the site plan and make sure it meets the criteria set forth in the zoning law.

Irene Myers asked why the Planning Board is involved with this. Mr. Jeffrey stated that on June 9, 2014 the town board adopted a law for the sale and service of farm and garden equipment in rural agriculture zones. The site plan is necessary because Mr. McCabe is now applying for that use.

Mr. Andrews recommended that it is premature for the Planning Board to take any more comments tonight. Mr. Rogers will work with Mr. McCabe. Ultimately the Planning Board will be voting on this. Tonight the Planning Board will accept the documents and give them to the Code Enforcer who will make sure they meet the criteria of the code book. Upon certification, the Planning Board will receive the plans and can then take action that will ultimately result in a Public Hearing.

Chairman Ortiz feels that this is not really a preliminary site plan review tonight because the Planning Board has just received it. Mr. Rogers would like the Planning Board to have input into this matter. Chairman Ortiz does not feel comfortable looking at this tonight because they have not had a chance to look at the documents.

Mr. McCabe said he hopes he has followed proper procedures in presenting the site plan tonight. After reading the town definition of a farm Mr. McCabe feels he qualifies as a farm in the town of Porter. He asked if that puts a different light on the situation. Mr. Jeffrey asked the lawyer whose job it is to determine the interpretation of the farm definition language. Mr. Andrews said that tonight the Planning Board has a request to review a site plan for the service and sales of farm and garden equipment. That is what the Planning Board should focus on tonight. Mr. McCabe asked if he should be applying as a farm. The consensus is that it will not make a difference. Mr. Rogers determined this was a farm three years ago based on the definition of a farm under the town's law page 161 and Mr. McCabe's evidence that he has provided had crops growing on the property since 2008.

There was discussion regarding the town's farm definition and the Ag & Markets rules.

Mr. Andrews recommends that the Planning Board accept the application and site plan for the sale and service of farm and garden equipment (which is an allowable use within this zone as recognized by the town board). Chairman Ortiz asked if this is certified as a "farm" does it

change the Planning Board's site plan. Mr. Andrews does not think it changes one thing. It is now up to the Code Enforcement Office to review the site plan and make sure everything is complete.

CODE ENFORCER REPORT

Code Enforcer Roy Rogers submitted his monthly reports for March, 2015. He outlined what he has been working on in March.

Mr. Dowd stated that Mr. Dean has formally gone to the Zoning Board of Appeals and filed an appeal that the ZBA has improperly issued a building permit. Mr. Dean wants the permit revoked.

Mr. Rogers said there are currently two violations on the McCabe property. One is he has taken dirt off of the property. Two is the farm pond is closer than 100 feet from the property line. There is an open complaint that industrial work is being done on the property. Mr. Rogers feels he can close the violations.

Mr. Rogers will not certify the site plan until the Planning Board has had a chance to review it. The Planning Board is entertaining the idea of holding a work session. If it is scheduled, notification will be posted on the bulletin board at the town hall as well as on the town's website. Kyle Andrews will be at the meeting. Notes will be taken as well. The Town Engineer will review this request regarding town drainage.

With no further questions to come before the Planning Board tonight, Anthony Collard made a motion to adjourn the meeting. Peter Jeffrey seconded the motion. Meeting adjourned at 8:25 p.m.

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