

# DRAFT...DRAFT...DRAFT

Chairman Ortiz called the regular meeting of the Town of Porter Planning Board to order at 7:00 p.m., Thursday, October 01, 2015. All members were present. Chairman Ortiz welcomed everyone and added the Randy & Judy Cline Assessor Merge to the agenda.

## **APPROVE SEPTEMBER 3, 2015 PLANNING BOARD MINUTES**

Chairman Ortiz read over the minutes of the September 3, 2015 Planning Board meeting. John Bis noted the work session began at 6:00 p.m., not 6:30 p.m. as stated in the minutes. John Bis made a motion to approve the amended minutes, Peter Jeffrey seconded the motion. With all in favor the minutes were approved as amended.

## **ASSESSOR MERGE JOHN AND ROSEMARY BIS, 959 AND 957 LAKE RD, YOUNGSTOWN**

Susan Driscoll displayed this request on the overhead projector. There was a house on each parcel; however the vacant house has been torn down. There is a shed in the back. There is a utility right-of-way that goes through the lot. The power company comes through there every so often to trim trees, etc. The Planning Board recommends that the Assessor merge these two parcels.

## **ASSESSOR MERGE RANDY AND JUDY CLINE SBL#S 21.18-1-39 AND 1-40. 2531 AND 2539 LAKE RD, RANSOMVILLE, NY**

Susan Driscoll displayed this request on the overhead projector. Both parcels are owned by the same person. The addresses are 2531 Lake Road and 2939 Lake Road, Ransomville. The parcel is located near the intersection of Ransomville Road. A house was torn down on the site several years ago. The lots appear to be standard size. Both lots have 100 foot frontage. The Planning Board recommends that the Assessor merge these two parcels.

**ZONING BOARD OF APPEALS REFERRAL: CHRISTOPHER GUARD, 3881 RIVER RD., YOUNGSTOWN, NY FOR AN AREA VARIANCE TO CONSTRUCT RIVER DOCK AS ACCESSORY STRUCTURE BEFORE PRIMARY STRUCTURE IS BUILT.**

This is a request for an area variance to build docks along the river before the homes are built on the other side of River Road. The town law does not allow accessory buildings to be built before the primary structure is built. Mr. Guard came before the Planning Board to explain this request. He stated that it is a beautiful area on the river that he hopes to put docks in and the intention is to build two houses in the near future. The variance to build the docks is being requested because Mr. Guard feels that he is three years away from actually building the house. They would like to put the docks in next year and begin using it then; therefore a variance is being requested. There is a Corp of Engineers permit that has been granted to the current owners to build a 1200 square foot of dock surface; that is much larger than the size of the dock they intend to build. Mr. Guard is looking to put in eight slips along the river and a small boat house to store boating equipment. There is a roadway off River Road that goes to the river. A car can be driven down the road if necessary. Mr. Rogers stated that the Planning Board is being asked to give a recommendation on this request. The Zoning Board will make the final decision.

Mr. Dowd stated that two variances will be needed. One is to build docks in advance of a primary structure. The other is to build a dock that can handle more boats than the four allowed by law. Mr. Dowd suggested that if they are building two houses, why not subdivide the property in advance of requesting the boat dock variance. Mr. Guard intends to subdivide the 100 acre lot in order to build two houses on the site. A variance might not be needed if the subdivision can be done in such a way that there are two lots on the east and each lot has access to the two lots on the west, therefore, each lot would get four docks and a variance would not be required.

The parcel has 335 feet of frontage on River Road. Perhaps the subdivision should be done first. Once it has been established how the lots are broken down, the variance for the dock would more likely be approved.

The request before the Planning Board tonight is an area variance to construct a river dock as an accessory structure before the primary structure is built. Mr. Guard stated there is a time restraint because the corp. permit expires in February. Construction would have to be started before February. The corp. permit is transferred with the property. Parking is located below along the river, not on River Road.

Chairman Ortiz feels the Planning Board should make a recommendation the dock can be built prior to the house being built. A time restriction should be put in place. The Planning Board feels three years to build the house is acceptable. This action requires a building permit from the town. The condition on the variance would be if, at the end of three years construction on a home has not been started, the docks must be removed. It

was asked if three years is the standard time allowed. There is no standard time allowed in the zoning law.

Chairman Ortiz recommends the Zoning Board of Appeals grant the building permit for the construction of four docks with the stipulation that a maximum of three years be allowed for the start of the house construction. Anthony Collard made a motion to accept the recommendation. Mark Fox seconded the motion. With all in favor the motion was unanimously carried. In the future if a subdivision is requested by Mr. Guard, the Planning Board will look at that request then. Mr. Guard has a contract on the property at the present time. This recommendation is contingent upon Mr. Guard owning the property.

### **SCOTT MACVIE SUBDIVISION UPDATE**

Michael Dowd refreshed the Planning Board on the recent subdivision of property that occurred between Scott Macvie and David Webb. The Planning Board has indicated that there is a serious concern that the property as it is laid out now would not give Mr. Macvie access to his house by ownership of the land if he were to sell off the big lot and only have access off of Balmer Road through a right-of-way. The Planning Board wants to be sure Mr. Macvie has access off of Lutts Road. Rather than a right-of-way, Mr. Dowd recommends the 66' on Lutts Road be cut in half and create a 33' wide access going all the way back to Macvie's house and the other 33' would service the land between the Webb property and his property instead of a right-of-way. There will be two flag lots created.

Mr. Dowd suggests that rather than a new subdivision, this can be done through an assessor merge so that Macvie can attach the 33' strip from Lutts Road to his house and another 33' would stay with the balance of the property he owns behind Mr. Webb. Although the town does not like to create flag lots this is the best solution. Mr. Fox made a motion to approve this as an assessor merge that will rectify the problem of the two lots by doing away with the 66' right-of-way and creating two 33' strips. John Bis seconded the motion. With all in favor the motion was unanimously carried.

### **DISCUSS PLANNING BOARD RECOMMENDATIONS ON CHANGING THE LAW THAT INCLUDED SALES AND SERVICE OF GARDEN/FARM EQUIPMENT IN AN RA DISTRICT AS REQUESTED BY TOWN BOARD**

The Planning Board met earlier tonight to discuss the best way to move forward on this request. The Planning Board does not want to be reactionary to any one issue but to make a change for the betterment of the whole community. Mr. Bis recommends that the Planning Board come up with a formal document outlining what we think is in the best interest of the town. The Planning Board will then hold an informational session open to the public to discuss the possible changes regarding this issue. The Town Board will hold a Public Hearing in order to change the law.

Perhaps the Planning Board can compile their thoughts and get them together to have a document assembled as a recommendation. Mr. Dowd suggested that perhaps this can be addressed if it is a home occupation. The Planning Board does not want a commercial operation to be allowed in an RA district. Mr. Dowd stated a resolution has been passed by the Town Board that no one can put in application for this type of activity.

Chairman Ortiz decided to allow some public comment on this matter. Mr. Dean, Ms. Myers, Mr. Sutor and Mr. Tower expressed their opinions on this matter. Mr. Tower is concerned about Lake Road rentals and in appropriate actions of the renters. Does the town have any leverage over the rentals? The town really does not have jurisdiction, however,

Chairman Ortiz and the Planning Board are not going to change the law; rather make a recommendation of what we think the general feeling is. The Planning Board has been listening to this matter for a long time now. Chairman Ortiz feels the Zoning Board of Appeals should be involved in this as well.

Chairman Ortiz would like everyone on the Planning Board to look over the old law and compare it with the changes that have been made to the new law. Copies of the old law were made available to all the Planning Board members. All Planning Board members are asked to send their recommendations to Chairman Ortiz as soon as possible (before October 12) and the ideas will be compiled and a recommendation will be suggested for adoption after the public comment session.

Chairman Ortiz reminded everyone that this request from the Town Board relates to making a change in the town law. This request is to change the zoning code. Attorney Dowd will represent the town in this matter. The recommendation made by the Planning Board will be presented at a Planning Board meeting in the future.

### **CODE ENFORCER REPORT (ROGERS)**

Code Enforcer Rogers submitted his reports for September. He commented that the CWM application for Site Review has been received. The permits for Dollar General have been given. They are moving right along and are looking for November as a completion date.

There is a house on Lake Road that construction has been started without a permit. Mr. Rogers stated that the permit should be issued next week. Mr. Rogers is struggling with the issuance of the permit. The house is on the south side of Lake Road just off of Ransomville Road.

Regarding the change in the zoning law, Mr. Rogers would like to add his comments on this matter. Mr. Rogers will make sure the board members get a copy of the letter he sent to the Town Board on this matter. Mr. Jeffrey recommends the Planning Board send a copy of the recommendation that is being compiled concerning the change in

zoning law to Mr. Rogers in order to get his feed back. The Planning Board respects his opinion and the knowledge he brings to this matter. If the recommendations are not compiled in order to be presented at the November meeting, it will go on the agenda for a meeting as soon as possible.

**ATTORNEY REPORT (DOWD) – DISCUSS TIMELINE AND STATUS OF CWM APPLICATION**

Attorney Dowd reported that CWM Site Plan application has been submitted. The town is working with Jason Brydges, the engineer representing CWM. They are very close to submitting a complete application with some caveats, one being traffic issues and the possibility they will have to seek a variance on some of the set backs. There will be a request for a variance from 150 foot buffer to 50 foot buffer. Probably by December a complete application will be submitted to this board. The Planning Board will have to sink its teeth into the request for CWM's request for a new permit to expand the facility.

With no further business to come before the Planning Board Anthony Collard made a motion to adjourn the meeting. Peter Jeffrey seconded the motion. With all in favor the motion was unanimously carried and meeting adjourned at 8:30 p.m.

Respectfully submitted,

Pamela F. Parker, Secretary  
Town of Porter Planning Board