



PLANNING BOARD TOWN OF PORTER

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Thursday, July 7, 2016

The Planning Board meeting was called to order at 7:03 p.m. with the Pledge of Allegiance.

Present: Chairperson Jeffery, Vice Chairperson Anthony Collard, Member John Bis, Member Mark Fox, Member Robert Tower, Attorney Michael Dowd, Code Enforcer Roy Rogers, Assessor Susan Driscoll

Approval of minutes from the June 2, 2016 Planning Board meeting

A draft copy of the minutes and completed SEQR for the McCabe application was emailed to all Planning Board members. Motion made to approve the minutes as presented by Member Collard and seconded by Member Fox. Motion approved.

Zoning Board recommendation for variances for Paul Dolan, 3705 River Road, Youngstown

Chairperson Jeffery asked Mr. Dolan to present his application. Mr. Dolan stated that he would like to build a pole barn in line with his home on River Road. Chairperson Jeffery stated that there is side yard setback of ten (10) feet. Mr. Dolan stated he would like to construct the barn close to the property line – approx. three (3) feet and therefore is requesting a variance for seven (7) feet.

Chairperson Jeffery stated the applicant is also requesting an area variance for square footage of an accessory structure greater than the residence. He asked Mr. Dolan why he wanted the barn so close to the property line. Mr. Dolan stated that he would like the barn in line with the house and hidden behind the tree line towards the back of his property. He stated that the distance from the house to the proposed barn is approx. 120 feet.

Attorney Dowd asked about the shed on the property. Mr. Dolan stated that it would be removed once the pole barn was built. He also stated that barn will be 40 x 72 and that the land next to the back portion of his property is currently vacant. Member Tower asked if the barn could be moved within the lot to not need the variance. Mr. Dolan stated that it could be. Attorney Dowd stated that if the adjacent property were subdivided, it would make sense for a home to be built near Mr. Dolan's property line because of the layout of the property.

Chairperson Jeffery stated that according to the application the barn would be 600 feet over the size of the existing home. Mr. Dolan stated that the walls would be fourteen (14) feet high, and the building would be about twenty (20) feet tall. Chairperson Jeffery stated that the maximum height is twenty-five

(25) feet for an accessory structure. Mr. Dolan was asked what he would be using the barn for. He informed the Planning Board he would be storing his Airstream trailer, his cars, his two trucks and there would be an area for a woodshop. The barn would not be used for operating a business. He stated that all vehicles are currently stored outside and he would like them to be stored in the barn.

Member Collard asked if the barn was too excessive as it is almost $\frac{1}{4}$ more square footage than the house. Member Fox stated that he felt the building was too large to be only three (3) feet from the property line. Chairperson Jeffery stated that the property is 116 feet wide and therefore the barn could be moved to fit within the required side yard setback.

Chairperson Jeffery asked if a 2100-foot barn would suffice for his storage needs (no variance would be needed). Mr. Dolan stated it would not be adequate for his storage. Member Fox stated he didn't have an issue with the size of the barn, but did feel that the minimum side yard setback was necessary. Member Collard stated he was a little concerned about the size, but agreed with Member Fox about the side yard setback.

Attorney Dowd stated a good way to look at it was to figure out the percentage of a variance needed. The side yard setback is a 70% variance going from ten (10) feet down to three (3) feet. Member Bis stated that he was ok with the size of the building and felt that the property had enough room to move the barn to fit within the Code as long as the aesthetics fit within the neighborhood. Member Tower agreed and stated that the size of the building would only be obvious from the air because of the location and tree line.

A motion was made to recommend to the Zoning Board of Appeals that the side yard setback variance be denied and the variance for accessory structure greater than the primary residence be approved. The motion was made by Member Fox and seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Zoning Board recommendation for Special Use Permit Renewal for Joshua Stack, 786 Blairville Road, Youngstown

Chairperson Jeffery stated that Mr. Stack needed to renew his Special Use Permit and asked Mr. Stack if there were any parameters that he would like modified from the previous permit. Mr. Stack stated he would like to sell "nice" boats in the front of the current berm. Otherwise he would remove a portion of the berm and put in stone so that the boats could be easily accessible for viewing.

Chairperson Jeffery read the terms and conditions of Mr. Stack's Special Use Permit.

1. *The permit shall expire five (5) year from the below date.*

Mr. Stack had no issues with the timeframe.

2. *Hours of Operation shall be: Monday through Friday 8:30 a.m. until 8:00p.m., Saturday 9:00 a.m. until 1:00 p.m.*

Mr. Stack asked if the Saturday business hours could more closely represent a typical business with hours of 8:30 a.m. to 5:00 p.m.

3. *Emergency services boat towing twenty four (24) hours a day, seven (7) days a week.*

4. *Maximum number of boats for services not to exceed ten (10).*

Mr. Stack stated he would like to service up to 25 boats.

5. *Maximum number of boats outside for storage not to exceed thirty seven (37). Storage is from September through June 1.*

Mr. Stack stated he would like to store double that amount at 80 boats.

Chairperson Jeffery read the remaining conditions and Mr. Stack asked for no further changes.

Chairperson Jeffery asked how large the lot was. Mr. Stack stated it was 1.7 acres. He also stated that he noticed that many of the trees on the berm were dying. Mr. Stack agreed and stated that only seven (7) or eight (8) of the twenty-five (25) trees planted were still alive.

Member Collard stated that he stopped to talk to Mr. Stack and currently there are boats in the front of the property for sale. He stated that there have been no recent complains and Code Enforcer Rogers agreed. Member Collard stated that in the off-season the boats are all wrapped and organized. He said that it is an improvement on the property from the previous use. Chairperson Jeffery stated that the business is located in a rural commercial district and therefore is in the correct location. He felt that Mr. Stack's business is the type of business that the Town would like to promote, however, he did feel that the berm needs better maintenance (water, new trees). Mr. Stack stated that he might propose cutting down a portion of the berm for the sale of boats. Chairperson Jeffery stated that he did not have an issue with the boats being sold in front of the berm, if the berm was maintained. Member Fox stated that he did not have an issue with boats being sold in front of the berms and felt that it was appropriate that 5 boats be the limit.

A motion was made to recommend to the Zoning Board that the Special Use Permit be approved for five (5) years with the requested changes of Saturday business hours being 8:30 a.m. – 5:00 p.m; Servicing of 25 boats; Off-season storage of 80 boats; and Sales of up to five (5) boats in the front of the property. The motion was made by Member Collard and seconded by Member Fox.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Preliminary Review of Minor Subdivision for Cleland Truesdale, 3249 Lutts Road, Youngstown

Chairperson Jeffery stated that Mr. Truesdale was here to present his preliminary review for subdivision this evening.

Mr. Truesdale stated that he would like to subdivide a portion of farmland from a large lot and use that portion to join it to another lot that contains his home. Mr. Truesdale presented five (5) signed surveys, an aerial photograph and a legal description for publication.

Chairperson Jeffery stated that the property is zoned RA (rural agricultural) and therefore the minimum lot frontage is 125 feet. The current property exceeds that amount and therefore does not cause any issues with unusable lots.

Attorney Dowd stated that the plan made sense and recommend that it be completed.

Chairperson Jeffery stated that the final review would occur at the next Planning Board meeting. In the meantime Mr. Truesdale would need to complete Part I of the SEQR.

A motion was made to approve the preliminary review of Minor Subdivision for Mr. Truesdale by Member Bis and Seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Preliminary Review of Minor Subdivision for Thomas Bradley, 3046 Ransomville Road, Ransomville

Chairperson Jeffery stated that Mr. Bradley's property is located in a RA zone and asked Mr. Bradley to approach the board to explain what he is proposing. Mr. Bradley stated that between his business and his family, he would like to join and subdivide the land on Ransomville Road. Chairperson Jeffery explained that currently there are two buildings on the property that are a part of Bradley Brothers Trucking — a shop and a storage building. There are two parcels of land. One is 150 feet wide by 746 feet deep. The second lot is 341 feet wide and 746 feet deep. He explained that Mr. Bradley would like to join the two parcels together, but also explained that this cannot be done by an assessor merge because one parcel is deeded to the business and the other to Mr. Bradley. The business has a Special Use Permit and Mr. Bradley stated the Permit would stay with the business and the shop, which would be subdivided from the joined parcel. Mr. Bradley has retired from the business. Mr. Bradley stated that he would keep the parcel with the storage building and may eventually build a home on that parcel.

Attorney Dowd stated the only concern was the side yard set back which would need to be at least fifteen (15) feet for the residential lot and the business lot (falling under “other use”) would need a fifty (50) foot setback. Mr. Bradley stated that would not be an issue.

Chairperson Jeffery explained to Mr. Bradley to proceed with a public hearing he would need to provide the Planning Board with five (5) stamped surveys, a legal description and to complete Part I of the SEQR. Secretary Freiermuth provided the subdivision checklist to Mr. Bradley.

A motion was made to approve the Preliminary Review of Minor Subdivision by Member Collard and seconded by Member Bis.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Yes

Member Bis: Yes

Member Tower: Yes

Motion Carried.

Preliminary Site Plan Review for dock for Mark and Rosemary Lahey, 3895 River Road, Youngstown

Chairperson Jeffery stated that the Lahey’s are requesting a Site Plan Review and Special Use Permit for a dock at their property, which is zoned waterfront residential. Prior to the meeting Mr. Lahey submitted a DEC letter, Army Corp of Engineering letter and a drawing of his proposal. He stated he has owns a home on the East side of River Road and owns over 150 feet width of road front property.

Code Enforcer Rogers explained that two public hearings would be needed to complete this process — one for the Planning Board for the Site Plan Review and one for the Zoning Board for the Special Use Permit.

Mr. Lahey explained that the property he owned is next door to the property that Christopher Guard is proposing to subdivide. He stated he would like to build one (1) twenty foot (20 foot) dock that will be removed in the wintertime. He stated that only the concrete anchors would stay in the ground during the winter. The floating dock is removed by Mr. Stack and stored when not in use.

Chairperson Jeffery stated he did not see any issues and stated that is seems that Mr. Lahey has completed the work he needed to with the DEC and Army Corps of Engineers. Code Enforcer Rogers stated that he felt that the drawing submitted by Mr. Lahey was sufficient. Chairperson Jeffery asked if Mr. Lahey could supply a site survey (a copy of which could be supplied by Assessor Driscoll) to show his property measurements and approximate measurements of where the dock would be located.

Chairperson Jeffery stated that Mr. Lahey would need to complete a SEQR form and once returned, a public hearing could be scheduled.

New Business

Recommendation to the Zoning Board for Use Variance for Bailey Baker Trust, 2432 Parker Road, Ransomville

Chairperson Jeffery stated that the Bailey Brother's Landscaping (under Bailey Baker Trust) have turned in an application for a Zoning Use Variance for their Parker Road location (which is zoned RA). He stated that although the application was turned in in June, he and Secretary Freiermuth did not receive the application until today.

Chairperson Jeffery stated Bailey Brothers has turned into a significant business. He stated that he believed that the father (of the men who own the business) owns property on Balmer Road where the property is zoned commercial. In months prior, the business was going to relocate to Balmer Road from Parker Road. However, they have since requested the Use Variance and it is assumed they are no longer moving to Balmer Road.

Code Enforcer Rogers stated that he informed Mr. Bailey that it is hard to get a Use Variance approved because of the requirements. He also stated that although there are currently violations against the Parker Road business, because there is an open application, the enforcement of the violations couldn't be pursued at this time. Chairperson Jeffery stated that there are neighbors that have an issue with the dump trucks on the road in addition to the other traffic and activity because of the business.

Chairperson Jeffery stated that the Planning Board could ask that the Zoning Board not take any action until August so that the Planning Board could further review the application. Attorney Dowd stated that the Planning Board could make a recommendation to the Zoning Board for the Use Variance for the July meeting. If the Variance were granted the Zoning Board could require that the Planning Board would need to complete a Site Plan Review for the business in August. If the variance were not granted, then the Site Plan Review would not be needed, as the business is not an acceptable use for the property. Chairperson Jeffery stated that it made sense to make a recommendation to the Zoning Board for the July meeting.

Member Tower stated that he fielded a complaint from somebody who owns commercial land on Balmer Road. He stated that this person paid for the commercial property and felt that it was unfair that Bailey Brother's Landscaping is operating a large-scale business in an RA zone, which is much less expensive.

A motion was made to make a recommendation to the Zoning Board to deny the Use Variance by Member Bis and seconded by Member Tower.

With no further discussion, roll was called:

Chairperson Jeffery: Yes

Member Collard: Yes

Member Fox: Yes
Member Bis: Yes
Member Tower: Yes
Motion Carried.

Attorney Dowd stated that the minutes should reflect that a full discussion of the Planning Board occurred about this property and that many of the board members have had members of the public approach them regarding issues with the business location. He stated that Code Enforcer Rogers has had complaints and has tried to abate the activity at the Parker Road location for over a year. Therefore the Planning Board feels that it has the knowledge to make this decision without having to make further inquiry with the applicant.

Assessor Driscoll asked if the Zoning Board should be taking this application to public hearing at the July meeting. Attorney Dowd stated that it should be a public hearing at the next Zoning Board meeting.

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A brief discussion took place regarding the procedure for notifying applicants of attendance at the Planning Board for Zoning Board recommendations. No formal decision was made.

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Member Collard stated that he attended the June Zoning Board meeting where it was publically stated that the Planning Board did not provide a recommendation to the Zoning Board for an application on their agenda. Secretary Freiermuth confirmed that the recommendation was provided to the Zoning Board Chairperson and Secretary Smithson via email (Secretary Freiermuth's record confirm it was emailed on June 6, 2016 at 5:13 p.m.).

Code Enforcer Rogers' report

Code Enforcer Rogers provided the Members with a copy of his report for June. He stated that Michael Welch would be applying for a Variance request for his twenty-six (26) foot boat and additional three (3) feet from trailer (Code allows a twenty-five (25) foot boat/trailer).

Code Enforcer Rogers stated that most of the permits applied for in June included swimming pools.

Chairperson Jeffery asked about the pond construction on Ransomville Road. Code Enforcer Rogers stated that a second notice of violation has been issued and the owner has ten (10) days in which to apply for a permit. If the owner does not apply for the permit, the Town can take the owner of the property to court.

Chairperson Jeffery stated that there are a number of abandoned homes in the Town and that he hopes the new "Zombie" law will help to rectify the lack of property maintenance.

Attorney Dowd's report

Attorney Dowd stated that Mr. Freck has filed an Article 78 against the Town of Porter, The Planning Board and the Zoning Board regarding the Fleckenstein Trust aquaculture approval. The case is being heard in Erie County. He stated that a record has been compiled with the Town Clerk for the Court using the files from the Planning and Zoning Boards.

A motion to adjourn the meeting was made at 8:50 p.m. by Member Collard and seconded by Member Bis. Motion carried.