

Town of Portland Planning Board minutes for April 2021

On April 27, 2021, at 7:30pm, Chairman Harold Smith called the scheduled Town of Portland, NY, planning board meeting to order, leading board members Bob Patterson, Dale Carlson, Daniel Larish, Code Enforcement Officer (CEO) Wendy Spinuzza and guests (see sign in sheet) in the United States Pledge of Allegiance. Board member David McIntyre was absent.

Mr. Patterson made a motion and second by Mr. Carlson to approve the March 2021 meeting minutes as recorded. Carried (4-0-0).

7:32pm Chairman Smith called the meeting into a public hearing session, addressing a special use permit for a six foot high fence to be located on property at 6601 Patty Lane, Town of Portland, NY. The owner Dale Schrantz addressed / explained the request for the six foot fence variance, providing the board with a diagram of the fencing location. Chairman Smith asked the guests in attendance if they had any concerns or comments. No one asked to speak. Motion by Mr. Carlson and second by Mr. Larish to approve the special variance request. Carried (4-0-0).

Also, a motion by Mr. Carlson and second by Mr. Patterson to approve the six foot fence. Carried (4-0-0).

7:38pm Chairman declared the public hearing closed and reverted back to the scheduled agenda.

CEO Spinuzza provided the board with copies of the March 2021 Building permits and Violation notices and actions. Motion by Mr. Larish and second by Mr. Patterson to accept the CEO reports. Motion carried (4-0-0).

Old Business:

a. Airbnb complaints

-Mr. Mike Kohler, property owner of 6002 Route # 5, Portland NY and a resident of Allegheny County, (PA ?) addressed the planning board regarding the R1-2 zoning for short term rents. Mr. Kohler stated that the next door owner was using the property as a short term rental unit through Airbnb and other like business websites. Mr. Kohler stated he had the following complaints (German Shepard dog that almost bit him, loud noise, large parties, number of overnight occupants - 12 adults, with four people

sleeping in a shed, "Airbnb guests" cutting through his property to get to Lake Erie/ Beach. Mr. Kohler also stated that there is an unknown liquid(s) coming from a black pipe on the next door property that is being discharged into Lake Erie. Mr. Kohler stated that the property owners are in violation of "State Laws".

Chairman Smith ask the audience/ guests for further comments on what Mr. Kohler presented.

-Mrs. Lauren Ritten, neighbor and owner of the property for which Mr. Kohler cited in his complaints rebuttal the above allegations, stating that the German Shepard dog was a "service dog" and that she does not allow dogs without prior approval, agreements, "this is first i am hearing about noise", large parties must be approved, the largest booking included 6 adults and 6 children, never has there been 12 Adults staying over night, Mrs. Ritten stated her attorney told her that her property deed includes access to Lake Erie through Mr. Kohler property, Chautauqua County Health Department inspected the "black pipe" and ran water through her kitchen / bathroom pipes and found no problem or issues with the drainage pipe or house systems.

Mrs. Ritten stated that "their" rules on Airbnb are very clear and she takes pride in herring/grading that "they" have earned from Airbnb and stated that "they" are in compliance with all know laws.

- Chairman Smith spoke about his frustration with short term Airbnb rentals and the calls / complaints he receives as Chairman of the Planning Board.
- Mr. Patterson asked about the size of the septic tank and how many people is it rated for? Mr. Ritten stated that the Chautauqua County Health Department approved the septic system as a "4 bedroom-system" , not by number of users.
- Mr. Larish asked Mr. Kohler what state laws have been "broken" - Mr. Kohler cited NYS Department of Transportation 310.2 and 100.3 - " less than 30 days" - without further specifics as to what the above laws are.
- Mr. Carlson stated that he has heavy researched the Town, County and State regulations, rules and laws regarding Airbnb / short term rental properties, but has not read or seen 310.2 or 100.3 - Mr. Carlson did state that the only regulations / rules / law that is required for Airbnb type rentals pertains to the Chautauqua County " bed tax".

Chairman Smith asked for additional comments from the Audience/ guest - a couple of individuals who identified as Owners of property using Airbnb services spoke highly of Mrs. Ritten and her property - pointing out " super host " rating/ status on Airbnb. One guest spoke of the local / county benefits of tourism and out of town family's who use the Airbnb services.

Chairman Smith closed the discussions, stating " the Planning Board is not a court of law" and that these issues appear to be "civil matters". " Please try to get along".

b. Solar sites:

Route 20 solar site checked-in with CEO

" Nothing on Felton road"

New Business:

a. Dale Schrantz fence- request special use permit - see above.

b. R2 vacant lot with seasonal use (camper) - CEO receiving inquiries/ calls on property / lots regarding RV/ Campers usage. The board reviewed with CEO Spinuzza what Town Codes could be needed / approving RV / Campers on improved / unimproved property / lots. The board agreed that there are no specific permitting or zoning requirements. Chairman Smith suggested that CEO field each request individual and what the property owner / RV user's improvements will be - Electric, Septic / sewer hook-up, seasonal or year round.

c. Subdivision of Frame property Route 5 - Motion by Mr. Larish and second by Mr. Carlson to approve the applicants request for sub division of property known as Don Frame Trucking" 5485 NYS Route 5, Town of Portland, NY. The sub-divide was noted on the Rodgers Land Surveying Map as a 9+ acres split. See Rogers Survey map and attached description of the property and Right of ways / easements. Motion Carried (4-0-0).

Other Businesses:

Mr. Larish thanked the board and CEO Spinuzza for taking the March 2021 minutes

Mr. Patterson reminded Chairman Smith that the Planning Board needs to request two alternate members.

Adjourn:

Motion by Mr. Patterson and second by Mr. Carlson to adjourn at 8:53pm. Motion carried (4-0-0)