

PLANNING BOARD  
TOWN OF BERNE  
PO Box 57  
Berne, NY 12023

**Date:** March 3, 2016

**Present:** Richard Rapp (Chair), Mike Vincent, Debra Bajouwa, Gerald Larghe, Wayne Emory (Board Liaison), William Conboy III (Assistant Town Attorney), Kathy Brown (Secretary)

**Guests:** Jennifer Wright, Michael Robert, Robert Stout, Erika Robert, Homer Warner, Scott Duncan, Tim Lippert

Mr. Rapp called the meeting to order at 7:00 p.m.

**Minutes:** The minutes from the February 4, 2016 meeting were reviewed. Mr. Vincent moved to approve the minutes, as amended. Ms. Bajouwa seconded and the minutes passed, 4-0.

**Old Business:**

**Special Use Permit, Albany County Communications Tower, Jansen Lane:**

Board members discussed the crane visibility test conducted by Albany County on February 6, 2016. Board members reviewed photographs provided by Albany County of the proposed site from different locations within the town. Some members said that the pictures were not representative of what they actually saw during the test itself. Mr. Vincent suggested that the Conservation Board be invited to the public informational meeting scheduled for March 17<sup>th</sup> at 7:00 P.M. The applicant will be contacted and asked to provide a location key for the photographs. Mr. Vincent stated that the applicant was given a list of scenic vistas to include in the photographs taken.

**New Business:**

**Application for sign, Berne-Knox-Westerlo Central School:** Ms. Wright spoke on behalf of the BKW Schools and requested that the school be granted a building permit to replace the existing sign with a lighted, LED sign of the same size. The applicant agreed to limit message changes to one per day and that the sign will not be illuminated/active after 10:00 PM. Ms. Bajouwa moved to approve the sign replacement with the preceding conditions. Mr. Vincent seconded and the motion passed, 4-0 in favor.

**Robert Building Permit Appeal, 53 and 61 Betts Lane:** Town Zoning and Building Administrator Mr. Lippert reported to the Board the timeline of his investigation which resulted in the denial of a building permit for 61 Betts Lane (see attached) based on his conclusion that the building in question exceeded the scope of a "woodshed" which the original permit stated. The Board discussed whether there is a functioning septic system. Mr. Stout, an attorney for Whiteman, Osterman & Hanna, spoke on behalf of his client, Mr. Robert. He stated that they are appealing the denial of a renewal of the conditional permit for the existing structure at 61 Betts Lane and the refusal of the Town to grant a building permit to construct a main house at 61 Betts Lane (see attached). He stated that the existing structure at 61 Betts Lane will be used as a guest house and should be considered an "accessory building." Mr. Stout cited several properties within the Town on which an "accessory structure" has been allowed for a similar use. Ms. Bajouwa discussed that 61 Betts Lane is within an MDR zone and that the properties mentioned are within RAF which allow more than one family dwelling based upon acreage. She discussed definitions of "accessory" buildings and the use of "dwellings" in the Town Code as being in the plural, and non-ambiguous. Ms. Bajouwa cited a letter from Ms. Robert who described the building as what Ms. Bajouwa determined to be a "seasonal dwelling" according to Town Code.

Mr. Stout stated that Mr. Robert requested a building permit to remodel an existing house and upgrade a septic system on 53 Betts Lane and was denied by Mr. Lippert due to the outstanding

violation on 61 Betts Lane. He asked the Board to consider allowing the permit because the two properties are separate projects. Mr. Rapp asked the applicant whether the septic system has been brought to code according to Albany Co. Health Dept. The Board agreed that the applicant can go ahead and work on improving/upgrading the septic system at 53 Betts without a permit from the Town.

**Pre-application Meeting for Subdivision, Homer Warner, Warner's Lake Rd.:** The applicant wishes to subdivide off approximately 5.6 acres of a parcel at the north end of Warner's Lake, formerly known as The Warner Farm. The applicant will come before the Board at a subsequent meeting with an updated survey map and application.

**Other Business:**

Mr. Rapp spoke to the Board about solar power companies contacting Town residents about leasing their land. The Board discussed both residential and industrial solar.

There being no further business before the Board, Mr. Larghe moved to adjourn the meeting at 9:05 p.m., seconded by Mr. Bajouwa, and the motion carried, 4-0.

Respectfully submitted,

Kathy Brown  
Planning Board Secretary