

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

**Date:** April 6, 2017

**Present:** Rick Rapp (Chair), Debra Bajouwa, Mike Vincent, Todd Schwendeman, Emily Vincent, James Cooke (Town Board Liaison), Kathy Brown (Secretary), Tim Lippert (Building and Zoning Administrator) and other interested citizens.

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

**Minutes:** The minutes from the March 16, 2017 meeting were reviewed. Mr. Vincent moved to approve the minutes as amended. Ms. Bajouwa seconded and the motion passed, 4-0 with Mr. Rapp abstaining.

**Old Business:**

**Subdivision: Mariana Crosier – Filkins Hill Rd. SBL# 91.-1-30.11:** The applicant would like to subdivide an 80-acre parcel into three: two five-acre lots and the remaining land being approximately 70 acres. The Board reviewed the Town code Article 2, Sec. 170. Mr. Rapp said he'd received and read into the record an email from Town Attorney Conboy regarding the Town code definitions of minor and major subdivisions. At issue is whether the proposed subdivision would be considered minor or major. Mr. Rapp said that both he and Attorney Conboy feel that conditions of a minor subdivision are met. Mr. Vincent said he didn't see any contradictions. He and Ms. Vincent conducted a site visit and saw evidence of trees being cut. Ms. Bajouwa said that according to NYS subdivision laws if an original parcel is ultimately subdivided over time into five or more lots, the fifth lot would trigger a major subdivision. Mr. Rapp said that the Town has not adopted the NYS subdivision law as written and uses its own code regulations. Mr. Schwendeman suggested sending the minor/major subdivision issue to the Town Board for further clarification. Ms. Vincent moved to proceed with the application as a minor subdivision. Mr. Schwendeman seconded the motion and the motion passed, 4-1 with Ms. Bajouwa voting against.

**Site-Plan Review for co-location of antennas on existing tower: T-Mobile, 496 Long Rd., East Berne, SBL #80.-2-431.** The Board discussed an application from T-Mobile to co-locate cell phone antennas on an existing tower on Long Rd. owned by American Tower. Mr. Rapp asked that Allen Hinkley, a representative of T-Mobile, submit an EAF Long Form as the application is considered a Type 1 action by SEQRA. Mr. Hinkley stated that a long form was submitted with the original Verizon application for the site and that a condition of that approval was that the tower would be constructed to accommodate two additional carriers. Mr. Rapp said that the long form is now necessary because NYS SEQRA requirements have changed since the Verizon application was approved and that the Town has to comply with NY State. Mr. Rapp stated he would again check with the Town Attorney regarding the correct EAF form. Mr. Vincent and Ms. Vincent conducted a site visit to the property and said they'd seen trash and possible "hazardous waste," including old batteries, along the access road. Mr. Hinkley said he'd contact American Tower about debris. Mr. Hinkley passed out a Public Notice from the FCC detailing a portion of the Middle Class Tax Relief and Job Creation Act of 2012 affecting cell phone towers (see attached).

**New Business:**

**Historic Review, accessory structure/shed: Guarino – 1655 Helderberg Trail.** Ian Guarino submitted an application to erect a shed (12'x24'x10') on property in the TN/MU1 district. Mr. Guarino supplied a letter from the owner of the property, Stephen Wray, permitting Guarino to erect

a shed/garage. The current garage is unusable due to water damage. Mr. Vincent said that the shared driveway often washes out across Helderberg Trail and that the property owner should consider diverting the water. Randy Bashwinger, the Town Highway Superintendent, said that he'd spoken with NYS Dept. of Transportation and they plan to fix the problem by installing a new catch basin and culvert. Mr. Vincent asked applicant to provide a materials spec list and more detailed pictures. Members will conduct individual site visits prior to next meeting.

**Site Plan, Special Use Permit, Historic Review: Fox Creek Market/Cecunjanin – 1634 Helderberg Trail.** Ardi Cecunjanin submitted an application to expand the store/restaurant by adding a dining area upstairs, a deck off the second floor and additional parking. He said that the proposed store/restaurant could hold up to 150 people according to an engineer's report. Several Board members stated that the idea was a positive one and needed in the Town, but voiced concern regarding adequate parking. Mr. Cecunjanin said he owns the lot next door and would clear out between the two buildings and create 7 new spots. Total, he said, would be 18-20 spots including public parking in the Town Park below the market. Ms. Bajouwa said that according to zoning regs, for each potential three customers, one parking spot is required as is one spot for every two employees. Mr. Cecunjanin said there are 17 spots currently. Mr. Lippert said he'd work with Mr. Cecunjanin to come up with the required number of spots necessary. Mr. Rapp said that the applicant needs to provide the Board with engineered plans including property dimensions, contour lines and definite measurements, building footprint and current and proposed parking spaces. Ms. Bajouwa said that the Board would also review the store's signage and make sure it is within Town code.

**Other:**

Mr. Rapp said the Board will review the NYS Unified Permit for small-scale solar at its next workshop meeting on April 20<sup>th</sup>.

Mr. Schwendeman asked that the Town provide electrical usage data from 2016 for consideration for the Clean Energies Grant Program.

Mr. Vincent suggested that the draft solar code be sent to the Town Planner for review. Budget will be checked for funds.

Ms. Vincent said that NYS DEC recommends solar panels be placed at least 100' from any waterway or body of water.

Ms. Vincent said that she had contacted the Albany Co. Soil and Water Conservation District about fill that was used to raise the ground level on the Robert property on Betts Lane. According to the office, the property is within a federal wetland and classified as an AT water body (reservoir) and that the depositing of fill within the wetland is not allowed. Mr. Vincent showed Board members pictures of standing water on the site. Ms. Vincent cited Town code 109-8 regarding fill being placed into a flood plain which is an infraction and should be enforced by the Town's Building and Zoning Administrator. She said that the NYS DEC had been contacted regarding the fill. A building permit has been issued for the site. Mr. Cooke will contact Tim Lippert regarding Town Code 109.13 Sec. F.

Mr. Vincent spoke about abandoned properties within the Town and the need for beautification.

A memo will be drafted to the ZBA regarding the Board's recommendation on the Robert variance.

There being no further business before the Board, Mr. Vincent moved to adjourn the meeting at 9:28 p.m. - seconded by Ms. Vincent - and the motion carried, 5-0.

Respectfully submitted,

Kathy Brown

Planning Board Secretary