

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

Date: May 5, 2016

Present: Richard Rapp (Chair), Mike Vincent, Debra Bajouwa, Todd Schwendeman, Gerald Larghe, Wayne Emory (Board Liaison), Kathy Brown (Secretary)

Guests: Joseph Hammond, Steve Elsbree, Bob Spinelli, Ralph Mariani, Erika Robert, Mike Robert, Rob Stout, Brian Bunzy, Bob Mohr, Tom Garry, Homer Warner, Joanne Darcy Crum, Subbas Rei, Barbara Jansen

Public Hearing – Minor Subdivision, Homer Warner, 166 Warners Lake Rd.: Mr. Rapp called the public hearing to order at 7:00 PM. The applicant intends to subdivide a 43.65 acre parcel at the north end of Warner’s Lake, formerly known as The Warner Farm into two lots; lot #1 being 37.99 acres and lot #2 being 5.66 acres. All notices were sent and published in the *Altamont Enterprise* and property owners with properties abutting this lot were notified via certified mail. No written correspondence from adjacent land owners was received. Mr. Rapp noted the requested revisions to the plat regarding proximity to agriculture and that the lot is considered “unbuildable” until approval of septic by Albany Co. Mr. Vincent reminded the applicant that a portion of lot #2 is being used to access an adjoining property. There being no additional public comment, Ms. Bajouwa moved to close the public hearing. Mr. Schwendeman seconded and the hearing closed at 7:12 PM on a vote of 5-0. Both Mr. Rapp and Ms. Bajouwa submitted site reviews into the record. The Board reviewed the application under the State Environmental Quality Review Act as a Type II Action. There was no report from the Conservation Board on the application.

Mr. Vincent moved to approve the application for the Warner subdivision as proposed. Mr. Schwendeman seconded and the motion passed, 5-0.

Regular Meeting of May 5, 2016

Mr. Rapp called the meeting to order at 7:20 p.m.

Minutes: The minutes from the April 21, 2016 meeting were reviewed. Ms. Bajouwa moved to approve the minutes. Mr. Vincent seconded and the minutes passed, 5-0.

Old Business:

Site Plan Review/Special Use Permit for senior housing facility at 1209 Helderberg Tr. - Ritter /Pine Park: Applicant was not present. Mr. Rapp stated that he is currently awaiting a response from the Town Attorney regarding clarification of zoning regulations related to the application.

Minor subdivision, 792 Helderberg Tr. -Proposed East Berne Fire House and Fire Training Center: Mr. Hammond told the Board that the project is on hold due to issues relating to the septic system. Mr. Vincent asked that a presentation about the project be made to the Berne Fire Company.

Robert Appeal, 53 and 61 Betts Lane: Mr. Stout stated that the septic system for 53 Betts was approved by Albany Co. Health Dept. and that the applicant had sent in a check to the Town requesting a building permit. He said that when the permit is issued, the appeal pertaining to 53 Betts will be withdrawn. Mr. Stout told the Board that Albany Co. Health Dept “signed off” on the water/septic at 61 Betts. He then requested that the Board consider the building at 61 Betts not as a seasonal dwelling but as an accessory structure as its use would be less intense than a seasonal dwelling and it would be “subordinate” to the primary house. Ms. Bajouwa posited that if the building was allowed as an “accessory structure”, according to Town code, there would be nothing stopping

the applicant from building an unlimited number of similar buildings on the property and this could set a precedent in the Town. She also questioned the Town's ability to police how often a "seasonal dwelling" was occupied and whether the use was in compliance with zoning regulations. Mr. Stout suggested that the Roberts might consider either removing elements of a kitchen to make it considered not a "dwelling" or possibly connecting the building to a new house via a breezeway. Mr. Rapp stated that he regards the building as more of a seasonal dwelling rather than an accessory structure, due to its construction and use. He also mentioned that the building currently exceeds the maximum height of an accessory structure, and that if allowed to be considered as such, the applicant would have to obtain a height area variance. Board members reviewed section 190-74A and 190-75 for word use and definitions. Board members agreed that the building resembles a "seasonal dwelling" more than an "accessory structure."

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

Representatives from Albany County updated the Board on its consideration of three alternate sites for the communication tower. Tom Kaliss from Motorola provided analysis of those sites and told Board members that they lacked sufficient coverage to be considered viable. A representative from Albany Co. said that the visual assessment was still being finalized. The visual, line-of-sight profiles were handed out to Board members and reviewed. Mr. Kaliss also told the Board that after review of connectivity between existing towers and the proposed tower, the radio antennae height can be lowered from 180' to 160' without sacrificing coverage. Mr. Rapp suggested that the 20' difference would not make a significant difference visually. Co-location would still be available as the tower would be constructed to the full 180' height, according to Mr. Mariani. Mr. Elsbree said that the County is still updating its report to include the 160' height. Mr. Schwendeman requested that the applicant re-submit a new application based on the 160' height. The applicant agreed. The application will be sent to the Albany County Planning Board for review at its next meeting.

New Business:

Pre-application for Minor Subdivision, Bob Mohr – 162 Sickle Hill Rd.: Mr. Mohr is seeking to subdivide a 55-acre parcel from his 115 acre property. He stated that there is already a separate deed for the parcel to be subdivided and asked if the requirement for a survey be waived. The Board declined to waive the survey requirement.

Pre-application for Minor Subdivision, Glenn Willsie – 651 Helderberg Tr.: The applicant wishes to subdivide the current parcel consisting 90+/- acres into two lots; consisting of 17+/- acres and 73+/- acres respectively. Mr. Larghe moved to send the application to public hearing on June 2, 2016. Ms. Bajouwa seconded and the motion passed, 5-0.

Other Business:

Kathy will email Board members with the special use permit conditions for the Evangel Church property on Helderberg Tr.

Mr. Schwendeman will provide Board members with model solar zoning regulations.

There being no further business before the Board, Mr. Schwendeman moved to adjourn the meeting at 9:20 p.m., seconded by Mr. Vincent, and the motion carried, 5-0.

Respectfully submitted,

Kathy Brown
Planning Board Secretary