

**Zoning Board of Appeals  
Town of Berne  
Berne, NY 12023**

Date: November 16, 2016

Present: Ronald Jordan (Chair), George Christian, Phyllis Johnson, Bill Conboy (Town Attorney), Wayne Emory (Town Board Liaison), Kathy Brown (Secretary)

Guests: Debra Bajouwa, Michael Robert, Robert Stout

Mr. Jordan called the meeting to order at 7:00PM.

Review of Minutes: The Board reviewed the minutes from May 18, 2016. Ms. Johnson moved to approve the minutes. Mr. Christian seconded and the motion passed, 3-0. The Board reviewed the minutes from July 20, 2016. Mr. Christian moved to approve the minutes. Ms. Johnson seconded and the motion passed, 3-0.

Old Business:

**Building permit denial for Michael and Erika Robert, 61 Betts Lane, Berne, NY # 70.13-1-34:** Mr. Stout reminded the Board that the applicants are seeking a building permit for the construction of a new house and a permit renewal for an existing structure on the property. He stated that the Roberts would be willing to remove the “kitchen” in the existing structure in order to have the building considered “transient occupancy” according to NY State Residential Code. He stated this would allow it to be a “guest house for time-to-time occupancy” or an accessory structure subordinate to the proposed main house. This would prevent setting precedent for allowing the creation of two “dwellings” on one lot, said Mr. Stout.

Mr. Jordan said that he did not believe that a guest house was a “customarily” common accessory structure within the zone. He also stated that he was concerned with the possible density issues in the future if the structure was deemed a guest house.

Board members agreed that the information submitted earlier in the day by the applicant needed more time for review. Mr. Stout agreed to extend the approval window for the appeal to allow for the Board to review the material.

Mr. Jordan reminded Mr. Stout of the 2013 permit conditions. Mr. Stout said that the foundation still needs to be insulated and inspected and that the steepness of the stairs needs to be addressed. Mr. Jordan read Town of Berne Zoning Code 190-60 regarding majority vote.

Ms. Johnson said that it would be hard to enforce the “transient nature” of a building.

Mr. Christian asked that the appeal be extended until the ZBA January meeting on the 18<sup>th</sup> to allow for review of the recently submitted material. Mr. Stout said the applicant would agree to the extension. Mr. Conboy agreed to that the postponement was fair and allowed time to discuss possible

resolutions.

Mr. Christian moved to adjourn without any final decision until January meeting. Ms. Johnson seconded and the motion passed, 3-0.

New Business:

**Froman/Smith Area Variance – Willsey Rd.:** The variance will be reviewed again at the January 18<sup>th</sup> meeting with a possible public hearing on February 15, 2016. The NYS Department of Transportation will be notified.

Other Business:

Ms. Bajouwa told Mr. Jordan that the Planning Board could not proceed on the Robert area variance because there was no determination yet from the ZBA as to what type of building the variance was for.

Motion to adjourn by Mr. Christian, 2<sup>nd</sup> by Ms. Johnson. Motion passed, 3-0.

Next meeting to be held on January 18, 2017.

Respectfully submitted,

Kathy Brown