

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

Date: June 19, 2019

Present:

ZBA Members: Ron Jordan, Chair, Denise Manning, Donald Bauer, Richard Otto, Cathy Shultes (ZBA Secretary), Dawn Jordan (Town Councilmember / Board Liaison)

Guests: Mike Vincent (Planning Board), Evan O'Donnell, Melissa Mosby, Brian Gibbs, Mike Collins, Dan Sulzer, Lewis Beckman, Jim Becker and other interested citizens.

Regular Meeting:

- Ron Jordan called the meeting to order at 7:00pm.
 - Review of Minutes:
 1. **Motion:** *Donald Bauer made a motion, seconded by Denise Manning to accept the minutes from February 20, 2019. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer, and Richard Otto.*
 2. **Motion:** Donald Bauer made a motion, seconded by Denise Manning to accept the minutes from April 17, 2019. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer, and Richard Otto.
 3. **Motion:** Donald Bauer made a motion, seconded by Denise Manning to accept the minutes from May 15, 2019. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer, and Richard Otto.
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Old Business:

- **(Resumed from May 15, 2019) Schimpf, Phoebe and O'Donnell, Evan Property: SBL # 921.-2-20.1 / 119 Pinnacle Road, East Berne, NY 12059 – Variances on proposed 6+ Acre Subdivision**
 1. Using the ZBA Area Variance Decision Worksheet, the ZBA discussed the Area Variance application on a proposed subdivided, undersized lot located on Helderberg Lake:
 - a. The applicant(s) requested 5 variances:
 - i. Front setback of 30' (57%)
 - ii. Requesting Side 1 setback of 70' (42%)
 - iii. Side 2 setback 45' (40%)
 - iv. Road Frontage 152' (50%)
 - v. Building Lot Width 173' (58%)

- b. The proposed home would be similar to existing homes in the area, but as other residents stated, it would/could be detrimental to nearby properties.
- c. The applicant(s) already owns/resides in a residence on this parcel of land, across the road, with full access to the lake.
- d. The requested variances are too substantial (one variance is 58%).
- e. As to the impact to the area, yes, the physical aspects of the area would change, but from testimony and reports it appears the environmental impact could be kept to a minimum.
- f. The applicant(s) knew in advance that this request was not allowed under Town Code.

2. *Don Bauer made a motion, seconded by Richard Otto to deny the 5 Area Variances. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto.*

- **Public Hearing - Helderberg Christian School: SBL: 80.-2-25 / 96 Main Street, East Berne, NY 12059**

- 1. *Richard Otto made a motion seconded by Denise Manning to open the Public Hearing for the Special Use Permit. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto.*
- 2. Per an August 22, 2018 correspondence from the Building and Zoning Administrator, Chance Townsend – the following points and documentation were requested:
 - a. Code of the Town of Berne 87-11(B) / Annual Fire and Safety Inspection
 - i. Albany Fire completed a fire inspection. Another inspection is due in September, and HCS is hoping to locate someone who can complete all the sections as required by the documentation. HCS is a private school vs a public school, so different regulations apply.
 - ii. Mr. Collins provided a copy of the report from Albany Fire.
 - b. Annual Testing of the Potable Water Supply
 - i. Mr. Collins from the HCS has been in contact with Tom Brady (NYS) regarding the water, and the State will be coming in for their annual inspection in September.
 - ii. Mr. Collins will request a copy of the most recent report and email to Building and Zoning (Cathy).
 - iii. Currently Mr. Collins maintains a daily water log for chlorination (a copy of the report has been provided).
 - c. As-Built, with an analysis that shows all work complies with the Uniform code per the State of New York. The documents must be stamped by a certified engineer or designer
 - i. This documentation is not complete in the Town's files. HCS will work to provide the requested documentation.
 - ii. It has been suggested to have the Town Engineer review the available documents and do a Site Visit and make a recommendation.

- iii. HCS will provide documentation of the floor plans, including joists and load.
 - d. Public comment included:
 - i. Inquiries about the enrollment population (30 to 40 students) and exits, and it was stated they were glad to hear that engineering firm would be looking at the occupancy of the building vs the spaces, exits, stairways and that kind of thing.
 - ii. Parking was discussed. They use Federal land (by the PO), and they maintain the plowing in the winter.
 - e. *Richard Otto made a motion, seconded by Donald Bauer to close the Public Hearing. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto.*
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New Business

Brian Gibbs, SBL# 115.-1-29 / 105 Watertrough Road, Berne, NY 12023

- Area Variance Application: request front set-back of 20' side set-back (East side) and a 75' for a prefab storage building.
 1. Request will be sent to the Planning Board to complete a site visit and make a recommendation,
 2. *Denise Manning made a motion, seconded by Donald Bauer to request the Planning Board to complete Site Visits and make a recommendation. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto*
 3. The date of July 24, 2019 has been set for the Public Hearing

MidTel, SBL # 78.-3-16.2 / 129 Canaday Hill Rd, Berne, NY 12023 (Behind the Berne Fire House)

- Use Variance Application to construct and operate a fiber optic based broadband network to service Berne and the surrounding communities. MidTel received three grants under the Governor's 3 million dollar Broadband grant to bring service to rural unserved areas in the State. The Berne area is part of Phase 3 and there is a deadline of 12/31/19 for the main line work to be up and able to serve customers.
 1. Request will be sent to the Planning Board to complete a site visit and make a recommendation,
 2. *Denise Manning made a motion, seconded by Donald Bauer to request the Planning Board to complete Site Visits and make a recommendation. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto*
 3. We will need a survey to send to Albany County on or before July 8, 2019 – Jim Becker will provide electronically

4. The Public Hearing will be scheduled for July 24, 2019.
5. The EAF Part 1 was completed by Jim Becker, Parts 2 & 3 were completed by Ronald Jordan.
6. *Richard Otto made a motion, seconded by Donald Bauer to accept the EAF. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto*

Daniel and Melissa Mosbey, SBL #: 79.1-1-33 / 1647 Helderberg Trail, Berne, NY 12023

- While not on the Agenda, Melissa Mosbey attended the meeting to inquire about a variance to install a pool on the property, in the same location where the previous owners had a pool. The pool was originally scheduled to be installed in June, and has been postponed awaiting the Variance approval.
 1. The application for the Building Permit was just submitted today.
 2. The application will need to complete the Variance tomorrow and Part 1 of the EAF.
 3. This will be sent to Albany County for their July review.
 4. Todd Schwendeman from the Planning Board agreed to have the Site Visit completed and a recommendation available for the July 24, 2019 ZBA meeting.
 5. We will move forward with scheduling the Public Hearing for July 24, 2019.

Adjourn:

- *Denise Manning made a motion, seconded by Donald Bauer to adjourn the meeting at 8:00pm. Motion carried with the following members voting aye: Ron Jordan, Denise Manning, Donald Bauer and Richard Otto*

Respectfully Submitted,

Cathy Shultes, Administrative Assistant