

PUBLIC HEARING MEETING

Date: July 9, 2007 **Started:** 7:05pm

Present: James Fallon (J.F.); Terry Adams (T.A.); John Carsten (J.C.); Warner Kopp (W.K.); and Carol Crouse, Town Board Liaison.

James Fallon chairperson of the Zoning Board of Appeals, called the meeting to order. Introduction of the board members were made to the applicants.

The minutes from the previous meeting of May 16, 2007, were reviewed and corrected. A motion was made by T.A. to accept the minutes as written, seconded by W.K.; the board voted all in favor; none oppose of the minutes being approved as corrected and read by the secretary.

Public hearing called to order by James Fallon.

J.F. The board has reviewed the applicant's folder.

W.K. Read the Planning Board and Conservation Board recommendations.

J.F. Were notices sent to the adjacent landowners? Yes, per the secretary the adjacent landowners were notified by certified mail. No responses but all received.

J.F. The zoning in that region is zoned for ordinance P+ that is allotted for that area with the question of Planning Board site review as rights are acceptable. Read the ordinance addressing zoning board of appeals for the special use permit found in Section E, with the applicants.

SPECIAL USE PERMIT

Heather Schwenk and Melanie Stempel – 67 Main Street, East Berne, NY

(Parcel Id No. 89.-2-9.1)

The applicants tend to operate a hair and tanning salon.

J.F. Please explain your business that you both are requesting to the board.

H.S. Hair salon, coloring/perming, trim/cut, tanning, and pedicure/manicures.

Questions from the Board

W.K. Is the salon going to operated by you?

M.S. Yes, we will rent out chairs as the business grows.

W.K. About the Planning Board site review, what has been done to follow those recommendations?

H.S. We haven't done anything as we were told that we needed a building permit. But that was only recently. We really don't know about opening a business. We know by what we are told by Planning Bd, and Pete Schaming recently told us that we needed a building permit. So, the only thing that we've done on the property is some electrical work and the owner Spencer put up the walls.

W.K. Is the owner responsible for the things that need to be done? The applicant wants to open the beauty salon and it should be the owner that needs to follow the instructions.

H.S. The owner is responsible and aware.

W.K. If we grant something and put in stipulations, will he follow the recommendations made by the Planning Board and if these steps are not taken, then the approval process is discontinued.

S.S. We were going to get involved in the improvements once we get final approval from the Town to move forward. Then the money will be put into the salon.

J.F. We are just trying to figure out what's been done so that we can set conditions and decide the outcomes.

H.S. We are still not sure if we need a building permit.

J.C. Yes, you should rely on the landlord to provide building improvements required for us to grant.

S.S. Do you need a building permit for interior work? I thought it was for exterior work.

J.F. The board is surprised that this has gone onto this level with these recommendations, that the Planning Board didn't hold it to this level before it got to this point. It is at this point, so we need to address these recommendations. Since they didn't hold it at the Planning Board's level it has been sent to us and we have to address it.

S.S. Why a building permit for interior work?

J.F. What has to happen is ultimately in the end which you'll need a visit from the inspectors. Then the inspectors will decide both code enforcement and building inspectors will decide what you need in order to bring this up to compliance. Sounds more like a tenant – landlord relationship here where the responsibility lies.

W.K. Did you sign a lease with the landlord?

H.S. No.

J.C. Do you have the space right now and control over it?

H.S. Yes, it's month to month.

J.C. Is it a partnership?

H.S. Yes, it's a partnership.

W.K. Is there a name to the business?

M.S. Destination Perfection and yes we have a DBA.

W.K. Have you talked to the landlord about the Planning Board issues?

H.S. The Planning Board told me to pass along this information to Spencer the landlord. She did tell him about it. He stated he plans on getting it fixed. This was back in May and I don't know if he's actually done anything.

J.F. Also, looks like you contacted the state, which is a big help with us.

W.K. What made you contact the state about the wastewater?

H.S. The very first meeting when we came to of the Planning Board, that was there concern about the creek out back and they thought the NYSDOH or the Conservation Dept would know the guidelines. So, we called them and the board received a letter from them.

J.F. Did you draw up the sketch of the property in question?

H.S. No, Spencer did. The tank that the Planning Board spoke about is the middle one and ours would be going into the far right for our end property.

J.F. So, the bad tank is the middle one.

H.S. Yes.

J.C. There is a house there too. Do you know if that is a separate tank?

H.S. That I do not know.

J.F. So you are stating the tank you would use is not the one that's in question of being unsafe?

H.S. The end property is our salon, it has a pipe in the basement and the end tank is for ours.

J.C. The site review done by the Planning Board indicates via the 4th paragraph that three recommendations are to install an out swing entry door, add a handi-cap accessible ramp, and determine the number of access points.

H.S. Peter told us that we didn't need another entry as its very small space that is under the allotted space for another entrance.

J.F. The Planning Board states that the tank for the beauty salon is on the right side of the building according to their site visit. According to your review of the sketch, the middle tank is the one that is bad.

H.S. When she spoke to Spencer about it, he said that the cover had come off and he put a piece of plywood over it. The top got lost or something. He stated that he planned on getting it fixed. He said there was nothing wrong with the tank itself, it didn't have a top on it.

J.F. The letter from the State of Conservation was reviewed. It was addressing her conditions, and sanitary wastewater.

So, where are the wells?

J.C. The wells are far back on the lot. He was in a contract to buy that property.

J.F. Do you know about the septic system?

J.C. There is a house there too. Don't know if the house is using the septic too. The well is adjacent to the creek.

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J.F. Sounds like the environmental position of this septic system is that it is false and type 2 which the DEC is the gentleman based on his letter that was sent.

STUCK

W.K. Did you receive a checklist from the Planning Board re: issues?

H.S. Not yet and yes, we wish to comply.

J.F. What about parking?

H.S. The Planning Board spoke about it being a big parking lot.

S.S. They have 50 feet from the building to the telephone pole.

I.F. What do you expect in this business? Turnover?

M.S. There really hasn't been one up here in our area.

J.F. Has the landlord determined where your customers will come from?

H.S. He really hasn't said anything like that. Spencer and my husband went to school together. Our families know one another very well. Spencer's father and my father grew up together. He's very easy going.

J.C. Did the landlord decide to make those changes that the Planning Board decided?

H.S. Yes.

J.F. It would have been nice to have the landlord present, but we can make expectations.

J.C. We can make the approval conditional.

W.K. Yes.

J.F. Would someone from the board like to make a motion?

J.C. Motion made for special use permit with conditions and those conditions shall be the conditions recommended by the Planning Board minutes:

1. To install an out swing entry door
2. To consider adding a handi-cap accessible ramp
3. Number of access points to be identified (building inspector to decide if another entry door is needed).

I make that conditional on their acceptance to the building inspector for recommendation.

W.K. Seconds the motion. All in favor, none oppose, approved with conditions.

H.S. I have a question about the door. She knows that it has to swing out, but does the door need to be a full glass door or another kind?

J.F. That's another territory and it's not our area. You will need to take that up with the building inspectors (Pete Schaming and Paul Jeffers).

S.S. The building inspectors could not give us any answers on any of this stuff.

J.F. It is their responsibility as town inspectors to decide that they fit to the requirements of the town on what you need.

S.S. We've asked these questions, neither of them would give us an answer.

J.F. That is something that you need to pursue with them. We will write up the conditions for the permit.

W.K. What type of door?

H.S. It can be a regular door that swings out?

S.S. The inspectors stated they needed to look things up and would never get back to us.

J.F. They will probably now that we are making up the conditions for you getting the permit. So the responsibility is going to lie on your landlord, and the responsibility on the town inspectors.

J.C. We are in agreement with your desire to open up a business and we think that's great. There are conditions and they've been spelled out by the Planning Board, possibly the building inspector and officer. And we are passing this onto them so they have to be happy with whatever takes place before you can operate this business.

J.F. Concern about the safety hazard, which I would like to talk about the septic tank.

J.C. Not sure we can survey that, it should be a zoning enforcement thing. It really doesn't affect this application.

W.K. Don't we need to know which septic tank serves this salon.

J.F. We are not sure if this one is in question is servicing this salon.

.A. We are not going to do a site inspection, are we?

J.F. We would like to know that this is addressed by the inspectors of the town to find out and then eliminate the safety hazard. We do have a recommendation here to the zba to have Peter Schaming contact them verbally on the square footage as it originally didn't require a second exit. Heather did you know anything about that needing square footage for second exit?

S.S. We gave Peter the size, the room is actually 30 x 24, not that big.

J.F. You'll need a certificate of occupancy from the building inspector that will have to sign off before you can open.

H.S. How do you apply for it?

J.F. You will have to have inspections from the inspector. He will tell you what you actually need in order to open your business.

T.A. It's very important if you are going to a bank or a lender who require that certificate.

J.C. Especially when you are moving a residence to a business.

J.F. The two inspectors noted that it needed to be insulated and sheet rocked for a building permit.

H.S. Right and it is.

J.F. Other recommendation to the zba noted to applicants that they will clarify with the building inspector to comment on this application. We didn't get any response.

Comments for the inspectors are:

1. Handi-cap access EDA facilities
2. Do they need to provide a change of use permit egress that a building permit is required? Supposedly the chairman of the Planning Board would talk to the building inspectors, fortunately they are not present here. But they did send a positive recommendation for us to address your special permit.
3. Planning Board has decided that the septic system is unsafe, the inspectors need to visit the site to determine whether it's a safety hazard and need to enforce this zoning area.

J.F. Had the secretary read back into the minutes the conditions and recommendations for the applicants and the board.

W.K. If that septic system serves the unit in question, it will affect this application. If it serves one of the apartments, it is cleared.

J.C. We don't pass judgment on system situations.

J.F. They need to understand what their conditions are. That the permit, we will vote in favor of granting the special use permit with the conditions. All in favor, none oppose, congratulations, your permit is approved with these conditions. Please understand that if its not used within a year, it is automatically revoked.

H.S. Does the landlord need to now go through the Planning Bd process to get the permit?

J.F. No, he just needs to go through the town inspectors.

J.C. The authority we give you with this permit will spell out the conditions and you can take that.

J.F. The inspectors have to go and inspect the property to make sure you are compliance with these detectors that they talked about on the checklist.

W.K. Have the landlord stop by Thursday night to see Pete Schaming to get the permit.

H.S. Peter said as soon as we got through the Zoning to go see him.

J.F. Okay, congratulations ladies. Good Luck on your business.

J.F. No further business tonight, I would like to make a motion to adjourn the hearing. Seconded by J.C., all in favor, none oppose, the hearing is adjourned at 8:15pm.

Respectfully submitted,

Audra J. Stempel, Secretary