

**TOWN OF BERNE
ZONING BOARD OF APPEALS
P.O. Box 57
Berne, New York 12023
PUBLIC HEARING MEETING**

Date: April 18, 2007

Present: James Fallon (J.F.); Terry Adams (T.A.); John Carsten (J.C); Werner Knopp (W.K); Killen Cirella (K.C.); Carol Crouse, Town Board Liaison

James Fallon chair person of the zoning board of appeals called the meeting to order. The minutes from the previous meeting of 08/23/2006, were reviewed and accepted. A motion to accept the minutes was made by T.A., seconded by W.K.; all were in favor of the minutes as read by the chairman.

SPECIAL USE PERMIT

Peter Rufa – 1753 Helderberg Trail, Berne, NY (Parcel Id No. 78.2-1-21)

Application information provided to the zba:

The applicant intends to operate an eat-in /take-out pizzeria and ice cream shop. The applicant hopes to operate his business between the hours of 11 am – 8 pm Wednesday through Saturday. The applicant does not intend to sell alcohol or tobacco products. The applicant does not intend to provide outside eating areas, so as not to encourage loitering. A well will be drilled on site- but intends to hook into the Town of Berne Sewer System, when constructed, therefore operation of business would not commence until that time.

Public hearing called to order by James Fallon.

J.F. review the file for a few moments until the applicant arrives.

- J.F. - 1) the applicant does not intend to have a drive thru
- 2) Property is located in a medium density residential area
- 3) is this property in the historical district?
- 4) If so it would fall into additional zoning guidelines based on Hamlet Design Guidelines?

Introduction of the board members were made to the applicant.

Questions for applicant:

W.K. Please state nature of business?

Rufa- To operate a eat in or take out pizzeria and ice cream shop between the hours of 4pm -8pm Tuesday – Saturday.

W.K. - How many booths, table and employees? This would impact the amount of parking required.

Peter 8 booths, 3 tables, 4 employees

W.K. (3 people per parking place and proposed 20 parking spots) You would have enough parking.

J.F. read the requirements from the zoning law on page 58. (See attached)

J.F. Where notices sent to the adjacent landowners? Yes per the secretary the adjacent landowners were notified by certified mail. No information has been received at this time.

J.F. Was the application received in writing with appropriate fee's collected? Yes per the secretary the application was filled out and fee received.

J.F. Is there a sketch of the plan for the property? Yes there was a preliminary sketch received by the planning board. The planning board reviewed and asked for additional information from the applicant. The applicant provided additional sketches of the site and a written memo from the attorney in regards to sketch.

J.F. Is there a site plan as described on page 49 of zoning ordinance?

Rufa – I have not gone to an architect at this time. I can do that but I wanted to know that idea was feasible before I spent that kind of money.

J.F. The proposed site plan approval process is for the convenience of the applicant in order to make sure plans are understood by both boards.

J.F. read the site plan approval section from page 49 of the zoning ordinance.

J.F. We have determined that this is in the historical district. Therefore the hamlet design guidelines need to be met for this property. A sketch of the location of the property in relation to the adjoin lots is needed. This would give us guidelines of where the building sits in respect to property lines and where proposed plans are in relation to existing properties.

W.K. Do we have a sketch location that we can show the applicant?

Secretary- I obtained a copy of Mr. Rufa's former application. In this file is an example of the sketch location from that time. Mr. Rufa reviewed the example.

J.F. Does the applicant propose to do with parking area? Will there be an undisturbed areas on the site?

Rufa – the site will have a shale parking area. There is a large dip in the property currently where the culvert pipe is located.

J.C. You intend to remove the culvert pipe to help with drainage?

Rufa Yes - The existing drain on the property will need to be removed and updated.

W.K.- Did the conservation board do a site visit?

Secretary – yes a copy has been handed out.

J.F. Read the copy of the conservation board's site review into record.

Rufa – I took a sample of one of the interior ceiling tiles and had it tested for asbestos. The test came back ok, nothing was found. I also had the soil tested by Adirondack Environmental Services, this test was also ok and found nothing.

W.K. Could you point out where you took the soil samples for us?

Rufa – back behind the building next to the shed area, in front of the building also.

J.F.. It appears that the application is incomplete at this time?

J.C. I make a motion to table the application at this time, to give the applicant more time to comply with application requirements.

Motion seconded by T.A..

Discussion of motion: W.K.- I think if we table the application then we need to give Mr. Rufa and idea of what he needs to do exactly before he comes back to us.

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J.F. I think the secretary can give Mr. Rufa a copy of the zoning ordinance. He can go through that with his attorney step by step and meet each individual requirement.
Secretary – gave a copy of the zoning ordinance to the applicant.

Vote: All in favor of tabling the application at this time, to give the applicant more time to comply with application requirements?
Vote all in favor (five yes votes)

Gerry Chartier - Introduction of Mike Vincent (Planning Board), Carol Crouse (Town Board), himself the Chair person of the Planning board.
Advised Mr. Rufa that there is a planning board meeting tomorrow at 7:30 pm if he would like to attend that meeting and we will go over the site plan process.

Gerry Chartier - That a dual tracking between both boards was requested on this file by the request of applicant and the attorney for the applicant.

J.F.- the planning board agreed to that. But the zoning board did not agree to dual track. We do not have enough information at this time to review or to even make a decision on this application.

Gerry Chariter- The Roof line of the building is of historic value and should remain the same. The windows, doors, and general layout should also stay the same if possible. All of these things can be discussed with the planning board.

J.F. Any more discussion?

A motion for adjournment was made by J.C, and seconded by W.K., all were in favor. Meeting adjourned.

Submitted by:

Andrea G. Cornwell