

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

Date: October 1, 2020

Present: Mike Vincent, Planning Board Chair, Mark Sengenberger, Emily Vincent, Cathy Shultes (Planning Board Secretary), Mat Harris (Town Councilmember, Liaison) and other interested citizens.

Regular Meeting:

- Mike Vincent, Planning Board Chair called the meeting to order at 7:00 pm.
- Review of Minutes from September 3, 2020.
 1. ***Motion:*** Mark Sengenberger made a motion, seconded by Emily Vincent to accept the minutes from September 3, 2020 as amended. Motion carried with the following members voting aye: Mike Vincent, Mark Sengenberger and Emily Vincent.

New Business:

- **Subdivision Preview for Robert Smith**
205 Pinnacle Rd. Voorheesville, NY 12186
SBL: 92.-2-23
 1. Mr. Smith reviewed his plans for subdivision and will require a variance for Road Frontage.
 2. Upon unofficial review, the Planning Board members recommended that he move forward with the application process for official Planning Board review.
- **Lot Line Preview for Donald and Linda McDermott**
1056 Huntersland Road
Middleburgh, NY 12122
SBL: 112.-1-10
 1. Mr. McDermott would like to move the property line from the center of his lawn to the right of way located on the neighboring property (SBL 112.-1-8.3, owned by his daughter-in-law, Brenda McDermott). He would like to make his property coincide with how it is reflected on the tax map, (which currently is incorrect).
 2. Applications will be forwarded to Mr. McDermott.

Old Business:

- **Subdivision application for Bernard and Cathy Borelli**
1040 Huntersland Road, Middleburgh, NY 12122
SBL: 112.-1-9.1
 1. ***Motion:*** Emily Vincent made a motion, seconded by Mark Sengenberger to approve the Cook Hill Road property to be counted as road frontage for Lot 1, where the original house is located. Motion carried with the following members voting aye: Mike Vincent, Mark Sengenberger and Emily Vincent.
 2. ***Motion:*** Emily Vincent made a motion, seconded by Mark Sengenberger to forward the application to the ZBA for Lot 2, requesting a 116-foot Variance for the building line, with the proposed new house remaining in the original location. Motion carried with the following members voting aye: Mike Vincent, Mark Sengenberger and Emily Vincent.

- **Subdivision application for Michael and Tina Weis**

501 Canaday Hill Road, Berne, NY 12023

SBL: 78.-2-20

1. **Motion:** *Emily Vincent made a motion, seconded by Mark Sengenberger to approve the Subdivision Application for Michael and Tina Weis. Motion carried with the following members voting aye: Mike Vincent, Mark Sengenberger and Emily Vincent.*
2. The original documents are on file and will be signed/finalized at a later date.
3. The Albany County Health Department document regarding water is on file, so they are able to apply for a building permit.
4. The EAF for Part 2 & 3 was completed by the Planning Board as the lead agency.

- **MidTel Communications (regarding the building located at the Berne Firehouse)**

129 Canaday Hill Rd, Berne, NY 12023

SBL: 78.-3-16.2

1. The trees have been planted, and still need to be staked.
2. The planting of the shrubs has been delayed, first delay was due to availability; and now a second delay with National Grid needing to complete additional work.
3. Mark Sengenberger will continue to monitor the project and report back with updates.

- **Referral from ZBA / Special Use Permit – Grippy Mine**

138 Cole Hill Road, East Berne, NY 12059

SBL: 115.-1-17 and 115.-1-18

Emily Vincent spoke about the Grippy Mine and the site visit:

1. They have been operating without a permit from the Town for 3 years.
2. They have maintained DEC processes including an inspection in January 2020.
3. Included in the SUP conditions from June 2014:
 - a. Allowable sounds levels - the levels in the previous SUP were 85 at the source and 58 at 50 feet or less. I am not sure who documented the readings that were provided in the application. Sound level readings can easily be taken on site and if CEO does not have a meter the town should procure one for his use. Please find attached the sound levels document that was provided to me at the meeting and note that the handwritten numbers deviate from the diagram: what he is calling 15 meters, the diagram notes as 10 meters. Also note that not all the handwritten dB readings on the attached diagram are the same as on the diagram that was previously provided in our packet.
 - b. There are some stipulations from NYS that I would also call your attention to in regard to the seismic activity recording that needs to be done whenever blasting is used at the mine (Notification of Upcoming Blasting Event and Monitoring by Seismograph, specific details are listed on SUP conditions from June 2014).
 - c. **The Planning Board Recommendations to the ZBA Include the Following:**
 1. An annual inspection needs to be completed each year in April by the Town Engineer and a written report submitted to the Town of Berne Code Enforcement Officer.
 2. They agree to operate the quarry in a manner not to negatively impact the adjacent properties.
 3. The six-foot perimeter fence and all access gates shall be maintained.
 4. A 100-foot setback shall be maintained.
 5. Only one entrance and exit will be used; Grippy Lane shall not be used.
 6. All vehicles shall be operated in strict conformance with NYSDOT requirements.
 7. The depth of stone removal shall not exceed the levels and limits shown on the life of mine drawings.

8. The May 2020 report from Lamont Engineer indicated that minimal work had been completed. Minimal is not quantitative and a measurement is requested
9. Sound levels shall be controlled at all times by use of adequate mufflers and through good equipment maintenance.
 - a. *Standard blasting reports in compliance with the Office of Surface Mining Reclamation and Enforcement (OSMRE) regulations, including blast design records, blast logs and seismograph records shall be maintained by the applicant in a secure location and shall be provided to the Town of Berne upon request within 15 calendar days. All documentation must be clear and in writing that is readily legible; otherwise, the applicant shall provide originals and/or typed reports.*
10. Monitoring of decibel levels will take place to maintain 85 db at the source and 68 db or less at 50 ft distance or the DEC guideline at the property line.
11. Effective practices shall be used to control dust and mud and to prevent spillage of loads. Any accumulation of material on the entrance road or the highway shall be immediately addressed. Water shall be used for dust control.
12. Effective erosion and sediment control practices shall be used and stormwater facilities shall be maintained to prevent pollutants from leaving the site.
13. Work hours shall be 7:00am to 6:00pm, Monday through Friday, and there will be maintenance allowed on Saturdays between 7am and 12pm.
14. Blasting shall occur between the hours of 10am and 5pm, Monday through Friday. Blasting will be limited to a maximum of four times per month. A licensed and blasting company shall be used.
15. Notification of Upcoming Blasting Event – the applicant shall maintain a list of residents and business owners and who so request to be notified prior to each blast event. The Town of Berne shall also be included to receive written notification. These requestors shall be within ½ mile of the blasting site unless special circumstances warrant extending this requirement. The applicant shall notify these residents and business owners (and the Town of Berne) by letter, a minimum of two days prior to each blast. The notice shall include the expected date and time of the next blast and also the alternate date and time should weather or other conditions warrant postponement of the blast. The exact time of the blast does not have to be specified – a time period is acceptable. Each notice shall identify the name and phone number of a contact person who represent the applicant that residents or business owners may contact to answer questions or to file a complaint. The applicant shall add additional names of residents or business to the list upon the request of any party and shall provide a copy of the said list to the Town of Berne upon request.
 - a. *Please note that the Town of Berne is requiring that we receive a written notification prior to each blast event. The Town of Berne notification may be sent to the Town of Berne, Code Enforcement Office, PO Box 57, Berne, NY 12023.*
 - b. *For our review, please forward a copy of the latest correspondence.*
16. The escrow account shall be maintained at \$10,000. Currently the account balance is approximately \$6,000 and will need to be brought up to date.
17. If the Town of Berne receives continual substantiated noise complaints regarding the crusher operation, it reserves the right to require additional mitigation regarding crushing operations if deemed necessary.
18. The applicant shall contact Albany County Department of Public Works for review for design of highway access, assessment of road capacity, and drainage as it relates to larger truck size, and increased trips due to increased operating hours
19. The applicant shall submit updated mine cross sections and profiles 180 days prior to the end of the permit to show the areas that have been affected since the last

- submission. The applicant will indicate whether any area is ready for reclamation activities to begin.
20. The applicant shall provide a containment unit underneath every motor oil and/or chemicals storage unit(s) located onsite.
 21. The applicant is required to maintain a valid and ongoing NYS DEC mining permit at all times.
 - a. *The last conversation with DEC, the escrow account was not current.*

Other

- **Application and Process for Lot Line Adjustments**

1. There is no provision in Town Code regarding Lot Line Adjustments – they have been processed as a minor subdivision permit.
2. Mark Sengenberger will draft a new application packet (something in between minor subdivision application and the original lot line adjustment application).
3. Mark Sengenberger suggested that a statement be drafted for the Town Code, perhaps looking at square footage involved to identify the difference between a minor subdivision and a lot line adjustment.

- **Application for Home Occupation**

1. The Planning Board reviewed the Application packet for Home Occupations that Mark Sengenberger drafted.
2. Next step is to forward to the Town Attorney and the Town Board for review and comment.

- Battery Energy Storage – on October 7, 2020 there will be a Public Hearing on the Small-Scale Battery Energy Storage Law.

Adjourn

Motion: Mark Sengenberger made a motion, seconded by Emily Vincent to adjourn the meeting at 8:55pm. Motion carried with the following members voting aye: Mike Vincent, Mark Sengenberger, and Emily Vincent.

Respectfully submitted,
Cathy Shultes, Administrative Assistant