

**TOWN OF BERNE
PLANNING BOARD
P.O. Box 57
Berne, New York 12023**

PUBLIC HEARING

Date: October 18, 2007

Present: Gerard Chartier, Chairman; Timothy Lippert, Alan Rockmore and Michael Vincent, Planning Board Members; Carol Crouse, Town Board Liaison.

Guests: Robert Anderson; Carolyn Anderson; David Clark; Holly Clark; Ben Gannett; Robert Crevatas; Judy Petrosillo; Thomas Petrosillo; Timothy Gerard; Glen Paris; Edward Hampton; Mark Raven.

Anderson – 260 Willsie Road, Parcel ID No.102-2-16.2

Mr. Anderson wishes to subdivide his current 28.79 acres as follows: Lot 1 at 10.17 acres, lot 2 at 8.60, and lot 3 at 10.02 acres.

Mr. Rockmore questioned Mr. Robert Anderson, representative for Mr. Donald Anderson, on his compliance with the Town of Berne requirements for road construction. Mr. Anderson stated that, when the lots are developed, the road will be built to the specifications.

Mr. Chartier stated that the Conservation Board (CB) report indicated that a change in land use would occur, with farm land being used for housing. Mr. Lippert questioned if the property was in an agricultural district, adding that, if it is, a form would need to be completed indicating such. Mr. Vincent stated that the construction of homes on the property could affect the adjacent properties. Mr. Vincent added that, if the property lies between two active farms, construction of housing prevents farming, access, haying, etc. Mr. Vincent questioned if Mr. Donald Robertson receives a subsidy to forego crops, to which Mr. Robert Anderson replied, "No".

Mr. Rockmore questioned who would determine if the property would require a change in land use. Mr. Lippert replied that the Planning Board (PB) would review during the approval process. Mr. Chartier stated that the issue would have to be reviewed.

Mr. Chartier questioned if there were any concerns from the Albany County Department of Health (ACDOH), adding that fill systems may be required. Mr. Anderson stated that fill systems would be required for lot 2 and lot 3, adding that lot 1 would employ a perk system. Mr. Petrosillo questioned Mr. Anderson if lot 1 perked, to which Mr. Anderson replied, "Yes". Mr. Petrosillo questioned if the ACDOH approved a perk system for lot 1. Mr. Chartier read from the ACDOH letter dated July 6, 2007, adding that he did not agree with Mr. Anderson's assessment of lot 1. Mr. Chartier stated that, per the ACDOH letter, all three lots would require a fill system. Mr. Anderson replied, "I stand corrected".

Mr. Chartier stated that the ACDOH letter contains specific notes for lot 2 and lot 3.

Mr. Chartier stated that correspondence was received from the Berne Fire District Board of Commissioners dated October 8, 2007 and the Helderberg Ambulance dated October 1, 2007. Mr. Chartier stated that both letters contain the same information and questions on the construction of a private road. Mr. Chartier proceeded to review each item as follows:

Item 1. – Maintenance.

Mr. Anderson stated that the road would be built to Town specifications, adding that it was his understanding a right of way would be required by the Town. Mr. Anderson questioned if that meant the Town would complete the maintenance. Mr. Rockmore stated that a 50 foot width would be dedicated to the Town as a right of way, which does not mean that the Town would take over the road.

Mr. Anderson stated that the owners of lot 1 would complete the maintenance. Mr. Chartier stated that the requirement "must be crystal clear". Mr. Anderson stated that the item would be included in the deeds.

Ms. Petrosillo questioned the setbacks on the road to the adjacent property. Mr. Chartier questioned if the road followed the existing farm road, to which the reply was "Yes". Mr. Chartier added, at the road's closest distance, the right of way is at the property boundary. Mr. Chartier questioned if the road followed a tree line, to which Mr. Anderson replied that it followed a stone wall.

Anderson (Continued)

Item 2. – Snow and ice removal.

Mr. Chartier stated that this issue would be addressed as part of the maintenance.

Item 3. – Construction standards.

Mr. Chartier stated that Town specifications were forwarded to the applicant, adding that inspection and approval of the private road by the Town must be completed prior to the issuance of any building permits. Mr. Anderson questioned if the road must be installed if only lot 1 is developed, adding that there will be access via the existing tractor road.

Item 4. – Maintenance agreement.

Mr. Anderson stated that maintenance requirements will be included in the deeds.

Item 5 – Town of Berne responsibilities if road not maintained.

Mr. Chartier questioned what actions would be taken if the road is not accessible. Mr. Anderson replied “It will have to be”. Mr. Chartier questioned if Mr. Vincent had any comments, to which he replied, “No”.

Mr. Chartier questioned the policy as it applies to road access during an emergency, citing as an example, a heavy snowstorm. Mr. Rockmore questioned who would clear the road during an emergency. Mr. Vincent requested that Mr. David Clark, Fire Chief, respond. Mr. Clark stated that the situation would be no different than if it were a driveway. Mr. Vincent stated that there is a hierarchy of notification, including state, county and local entities. Mr. Hampton stated that the property is on a county road. Ms. Anderson stated that if the residents do not clear an access, “we’re out of luck”, adding that it is not the Town’s responsibility. Mr. Vincent replied that, in an emergency, it is the responsibility of the emergency crews to gain access.

Mr. Chartier stated that the intent is to construct three houses. Mr. Vincent questioned if the power lines would be above or below ground. Mr. Anderson replied that he is only handling the subdivision request at this time, with the power line issue to be addressed at time of construction.

Mr. Chartier questioned if the lots would remain in the family, to which Mr. Anderson replied, “Yes”, adding that they “plan on living there”. Mr. Vincent stated that the concerns of the PB are for any future purchase of what would become sellable lots, adding that health and safety must be assured.

Ms. Anderson questioned if there would be any further subdivision of the property. Mr. Chartier replied that, once a building is constructed, further subdivision would not be allowed. Ms. Anderson questioned if the property could be subdivided prior to any construction, to which Mr. Chartier replied that it is possible. Mr. Anderson stated it is “not our intention”, adding that they wish to keep the property in the family.

Mr. Chartier polled the Board members for questions. Mr. Rockmore questioned if there was any correspondence from adjacent landowners, to which the reply was “No”.

Ms. Petrosillo, an adjacent landowner, stated that they were aware someone would build on the property eventually. Ms. Petrosillo added that, when they purchased their property, there were four houses on 80 acres of agricultural land. Ms. Petrosillo stated that, with a new road, the potential is to have 12 to 20 houses. Ms. Petrosillo stated that she did not know “you could just put a road in”, which adds new road frontage and “now, a subdivision”. Ms. Petrosillo added that the issue is “a little distressing” and not considered when they bought the property. Mr. Anderson stated that the family wishes to subdivide the property so that Donald Anderson, who is disabled, can be taken care of in his home by adjacent family members.

Ms. Anderson stated that the change in land use could impact hunting and other recreational activities, to which Mr. Anderson replied, “I understand”. Ms. Anderson added that there would be an adverse effect to property values. Mr. Anderson disagreed, adding that values would increase. Ms. Anderson stated that they bought their property for the expanse of fields and woods, adding that they had hoped to add a stable and horses. Ms. Anderson questioned if this subdivision would impact her ability to obtain a building permit. Mr. Chartier replied, “No”, adding that the zoning would not change. Mr. Chartier stated that the zone is Residential/Agriculture/Forestry (RAF), which has a 5 acre minimum lot size.

Anderson (Continued)

Mr. Lippert questioned if the purpose of the subdivision is for the relatives to live close to each other, to which Mr. Anderson replied, "Yes", adding that his brother, Donald Anderson, is disabled and both men are single. Mr. Lippert questioned if the Andersons wished to maintain their privacy, to which Mr. Anderson replied, "Yes". Mr. Lippert stated that two houses could be placed on one lot, adding that, if the family members are the caregivers, they would benefit from the close proximity. Mr. Vincent cited as an example an in-law apartment. Mr. Chartier stated that John Crosier, in his tenure as Chairman of the PB, interpreted two structures on one lot as that which allows a line drawn between the buildings to result in two conforming lots. Mr. Lippert stated, "That's good", adding that location of the houses could allow for a greater amount of agricultural land. Mr. Lippert stated that constructing two houses rather than three could reduce building costs. Mr. Chartier replied, "I don't know how I feel about your suggestion", adding, "It's feasible".

Mr. Lippert suggested consideration of a conservation subdivision. Mr. Chartier cited the Dyer property, adding that the caretaker resides in the barn. Mr. Lippert questioned if the barn was a reuse of an existing structure, to which Mr. Chartier replied that the barn was new to the property. Mr. Chartier stated that a conservation subdivision was suggested in the past, adding that, when the issue of the private road was brought up, the applicant "backed off". Mr. Anderson stated that a proper road would be constructed.

Mr. Petrosillo questioned the definition of a minor subdivision. Mr. Chartier replied that a minor subdivision consisted of four or fewer lots, including the original lot.

Mr. Chartier stated that, considering the outstanding issue of the agricultural district, the public hearing could be closed and the issue discussed at the next meeting. Mr. Lippert suggested that the public hearing remain open so that questions could be discussed.

Mr. Chartier stated that, as to the private road, the construction must be completed prior to the issuance of building permits, with the approval of the subdivision based on that criteria. Mr. Anderson stated that construction would not begin on the second and third lots until the road is constructed, adding that access is available to lot 1. Mr. Chartier stated that forgoing road construction prevents building on lots 2 and 3. Mr. Lippert stated that such stipulations prevent infrastructure on vacant land, which would change the character of that land. Mr. Lippert questioned if access to lot 1 should be allowed with approval by the Town. Mr. Chartier replied that such access must be shown on the site plan, directing Mr. Anderson to discuss the issue with his engineer. Mr. Vincent suggested an amendment to the drawing to show the road to lot 1.

Mr. Rockmore questioned Mr. Anderson, if the subdivision is approved and a building permit obtained, will he install a driveway. Mr. Anderson replied that a shale drive is present. Mr. Rockmore questioned if the shale drive would be extended when houses are constructed on lots 2 and 3. Mr. Anderson replied, "No", adding that a road would be built. Mr. Chartier stated that, if only lot 1 is developed, a driveway or road would be sufficient. Mr. Lippert commented that, if it is a number of years before lots 2 and 3 are built upon, why is a 50 foot road required "in the front yard". Mr. Vincent stated that, if the entire road is constructed rather than a portion, the cost may be better. Mr. Rockmore stated that a "semi-guarantee" would be required for a road on the second and third lots.

Mr. Lippert stated that the road should also be moved back from the property line. Mr. Chartier questioned if the distance should be 10 feet, to which Mr. Vincent replied, "20 feet sticks in my head". Mr. Lippert stated that the right of way could be relocated, with the utilities placed in the right of way, adding the suggestion of underground utilities. Mr. Chartier questioned if the 10 foot dimension should be from the property line to the easement. Mr. Lippert questioned if the setback was at the power lines. Mr. Chartier replied that trees are located at the property line.

Mr. Chartier polled the members for recommendations. Mr. Rockmore suggested that the public hearing remain open so that the agriculture aspect can be investigated. Mr. Rockmore questioned if the road should be moved 10 foot from the property, to which the reply was "Yes". Mr. Chartier requested that Mr. Anderson discuss the distance with his engineer.

Anderson (Continued)

Mr. Lippert questioned the need to determine which forms are required when downsizing agricultural land. Mr. Chartier stated that he would discuss the issue with Tom Dellarocca of the Albany County Soil and Water Conservation District. Mr. Anderson questioned the implications if agricultural land is reduced in size. Mr. Lippert stated that there may be a fee. Mr. Petrosillo questioned if there would be tax implications, to which Mr. Lippert replied that there may be a penalty. Ms. Anderson stated that the property may be taxed at a higher rate.

Mr. Chartier stated that the public hearing will continue at the next PB meeting on November 1, 2007.

Mr. Vincent suggested that Mr. Anderson discuss the utilities location with his engineer.

Mr. Chartier stated that Mr. Anderson discussed a three point turn radius for the road. Mr. Vincent presented an unofficial drawing from Mr. Clark which indicated a turning radius of 80 feet for a fire truck and 66 feet for a school bus.