

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

Date: August 23, 2006

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

Peter Vance called the meeting to order, and introductions were made to the public.

The zoning board of appeals began with a regular meeting to discuss the differences between a special use permit and a use variance.

- home occupation being the biggest issue concerning the board at this time
 - J.F.-read from the zoning book in regards to home occupation
 - J.C.-also read from the new zoning books, on home occupation rules
- Zoning rules apply to special use permits if the property is 25% use or 500 sq ft of home or any other structure
- If the application is special uses permit the planning board must decide upon the application
- Dibble property is in a Medium Density residential area
- Dibble car repair shop would be conducted in a 1200sq ft adjacent building, therefore the special use permit is not applicable, and the use variance application shall be reviewed

Mr. and Mrs. Dibble called to the meeting table for review and discussion of the use variance application. Per Mr. Vance's direction all comments by the Dibble's or the public should be addressed only to the board.

Mr. Vance stated the definition of a use variance. Mr. Vance questioned if the adjacent landowners were informed by certified mail, all landowners were informed and the town received back the official copy of receipt, per the zoning board secretary Andrea G. Cornwell. The town also received two letters from adjacent landowners in opposition of the application. The said letters were received from Joe Primiano; and Mr. and Mrs. Clemmer; the letters were read out loud by the chairman Mr. Vance.

The zoning board had the following questions/comments in regard to the application:

- Does Mr. Dibble have a state license to run an automotive repair shop?
 - Mr. Dibble – he has not applied for the license due to the fact that he is required to have a variance first
- J.F.- Will Mr. Dibble be doing NYS inspections?
 - Mr. Dibble- no just minor repairs
- P.V.- Per zoning no permitted use in medium density residential area.
- J.F.-Wanted it stated that two neighbors did voice a negative response to the application.
- P.V.- Does Mr. Dibble have any positive feed back from neighbors?
 - Mr. Dibble – Ms. Helen Proper is in the audience, Ms. Proper stated that she has no objections and that she is the closet neighbor, and that Mr. Dibble will adhere to any stipulations that are set forth, that he honors his word.
- J.F.-Are the hours of operation to include 6 days of week?
 - Mr. Dibble- the hours could fall into a six-day week, but will be by appointment, to the time that he retires from his full time job

-W.K.-Stated the gun club is next door, he would imagine that would create more noise than a car repair shop. The appearance of the property is currently attractive and well maintained by the Dibbles. Would it be possible to review the permit of use after one year or if stipulations are set can a permit be revoked?

-Board is in agreement that the application can be reviewed in one year, can be revoked if in violation of permit

-J.C.- can there be time limitations set on a use variance?

-Board is in agreement that the use variance can have a time limit.

-W.K.- if the board approves with stipulations they will need to be reasonable and reviewed at some point.

-P.V.-Any other questions or discussion, or a motion at this time?

A motion to approve the use variance was made by John Cars ten (J.C.) and seconded by Terry Adams (T.A.). All in favor, yes.

-The use variance shall have the following stipulations:

- 1) No activity after the 6 pm hour
- 2) No more than 5 customer vehicles at any given time
- 3) A public hearing shall occur one year from now for review of reissue of use variance
- 4) A license shall be obtained by Mr. Dibble through NYS to operate a repair shop
- 5) The applicant shall try to adhere to the best of his abilities Section c item 8 &9
(See attached)

The secretary shall prepare a letter of approval for the Dibble's and forward it to the building department, per the chairman of the zoning board, and the town clerk.

The minutes from the previous meeting were reviewed and approved.

No other business before the zoning board at this time.

The meeting was adjourned by Peter Vance.