

**TOWN OF BENNINGTON**  
**PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT**  
Minutes of the Meeting- December 3, 2012

Present	David McKenzie, Planning Board Chairman Jeffrey Rose, Planning Board Ex-Officio Sam Cohen, Planning Board and ZBA member Peter Martel, ZBA Chairperson Christopher Clough, ZBA Vice Chairperson Steven Osienski, ZBA member Melissa Clark, ZBA alternate
Guests	Holly Trow Donald Trow

David McKenzie called the Public Hearing for Taste of Texas to order at 7:07 p.m. Peter Martel noted that he would be recused from the Hearing. Melissa Clark was made a voting member of the Zoning Board of Adjustment for the purpose of the Public Hearing.

Chairman McKenzie introduced the members of the Planning Board and Vice Chairperson Clough introduced the members of the ZBA. The applicant was given the option of proceeding with the hearing with the present board members or waiting for there to be a full board for both Planning Board and ZBA. It was noted that Sam Cohen is a member of both the Planning Board and the ZBA and will hear the case for both boards.

The Planning Board reviewed the application with the applicant. There was a question about the distance of the setback from the road. The right of way from the road measures 50 feet from the center of the road. The proposed plan does not fulfill the setback requirement.

Holly Trow presented the proposed plans for the Taste of Texas. It was noted that the applicant is looking to finish the temporary shelter that is over a hot dog stand so that it may be open as more of a year round business. The stand will be either sold or leased to provided income for the owner. The business is a self-contained unit that will have very little impact on the environment. It is also proposed that a port-a-potty be used. It was noted that a restroom is not required by the State for a take out business. The business hours are set at 10 a.m. to sunset.

The variances requested are as follows: Article X section 5- Water Resource Protection Zone, lot size and inadequate frontage, Article VII section c- set back, Article VII section c- lot size, Article VII section c- multi use, Article VI section d, 2- permitted uses. It was noted that the abutters had been notified, but none were present. There were no public comments. The Hearing was turned over to the ZBA for requests of variances.

Vice Chairperson Clough began the process of reviewing the application of the variances by reading the applications.

Article VI d, 2- not a permitted use in the Rural/ Agricultural District. The business has been there since 2009 without public complaint though the town did not permit it.

Article VII c- lot size. The lot frontage is 236 feet. Peter Martel noted that the variance should be amended to Article X, 5- lot size and frontage. The reason for restrictions in the Water Resource Protection Zone is to protect the aquifer and prevent effluence into the land. The proposed unit is self-containing and not adding any water to the land. It was noted that the interpretation of Article X. 5 is that there are some acceptable business uses in the Water Resource Protection Zone.

Article VII c- setbacks. The required setback is 50 feet. The proposed structure has a setback of 2 feet. The adjacent structures on the property are located close to the road. It was noted that the current driveway used to be the road.

Article VII c- multiple use. The property already supports a multiple use though it has not been a permitted multiple use. It was noted that multiple use is not listed in Article VII c and it was questioned if a variance is required. A single-family dwelling requires 2 acres of land and a second use doubles the acreage requirement.

Article X 5- density and use. Some commercial uses are permitted in the Water Resource Protection Zone. This is a completely self-contained unit with no effect on the aquifer.

The ZBA and the Planning Board will continue the Joint Public Hearing on December 17, 2012 at 7:00 p.m. at the Bennington Town Hall.

There being no other business at hand, the meeting was adjourned at 9:07 p.m.

Respectfully Submitted by

Debra Belcher  
Planning Board and Zoning Board of Adjustment Recording Secretary