

TOWN OF BENNINGTON  
PLANNING BOARD  
Minutes of the Meeting- February 4, 2013

Present        David McKenzie, Chairman  
                 Jeffrey Rose, Ex-Officio  
                 Sam Cohen  
                 Christopher Maple

Guests        Peter Martel  
                 Annie Leger  
                 Holly Mecheski

Chairman McKenzie called the meeting to order at 7:03 p.m.

The minutes of the January 14, 2013 meeting were reviewed and accepted as written.

The minutes of the January 28, 2013 meeting were reviewed and accepted as written.

Peter Martel presented the Board with a letter addressed to the Board Members and Applicants. A copy of the letter will be placed in the file as well as attached to the minutes.

The Board received a letter from Mr. Carrara, the Code Enforcement Officer concerning his findings on the Taste of Texas case. The letter will be placed in the file.

The Taste of Texas Hearing was called to order at 7:19 p.m. The Board reviewed the letter from Mr. Martel regarding his views on the Taste of Texas case and his part in it. The Board addressed Article VII- Non-conforming Uses. Peter Martel stated that if something has not been addressed or is missed as an oversight, it must still be addressed. Chairman McKenzie noted that he has spoken with Town Counsel and was told that the Board may proceed as the use variance was granted through the minutes. It was noted that Article VII-J –Non-conforming Use had not been identified. The present use existed before zoning. Sam Cohen stated that the ZBA has said that the use of the property for a food business is a granted use.

Chairman McKenzie addressed the issue of parking. Article VIII- Off Street Parking implies that delivery or parking is to be out of the State right of way. Holly Mecheski presented an enlarged site map showing the proposed three parking spaces. It was noted that two parking spaces should be provided per three anticipated customers and employees. Peter Martel stated that per the DOT you can not use the State right of way. Chairman McKenzie noted that it is not within the Planning Board's power to grant parking in the State right of way. Ms. Mecheski made adjustments to the proposed parking area. Jeffrey Rose suggested that a section of fence could be put up with a sign to designate the parking area.

Sam Cohen addressed the letter submitted by Peter Martel. It was noted that Mr. Cohen is both a Planning Board member and a ZBA member. Mr. Martel noted that if the ZBA overturns a decision made by the Planning Board, Mr. Cohen would be involved in changing a decision

helped make. It was noted that Mr. Martel worked with the applicants to help identify any needed variances and that it was suggested that a multiple use variance would be needed. Sam Cohen stated that as multiple use is not in the Zoning Ordinance, no variance would be required.

Chairman McKenzie reiterated that the applicant is applying for a drive-up food business from a trailer, which is semi-permanently located. It was noted that the applicant is not requesting an area for tables, though it was noted that there has been a picnic table there in the past. Chairman McKenzie expressed a concern about the long-term use of a port-a-potty. Ms. Mecheski noted that the port-a-potty is primarily for the use of the person running the business. It will be located in the back, somewhat out of the public view.

Chairman McKenzie stated that if the application were approved, there would be conditions attached to it. A short review was done of the possible conditions such as external lighting, business hours, and sign location. It was suggested that the parking area be identified. It was noted that the Code Enforcement Officer stated that when you grant a site plan, it is permanent. The LGC agreed with the ZBA who attached a stipulation to re-visit the application in a number of years. If the business were to continue, they would need to re-apply. The project was presented as temporary and the ZBA approved it as such.

A photocopy was made of the plat to make it a permanent document.

Christopher Maple asked if the business would be open during times of fireworks.

Chairman McKenzie made a motion to approve the site plan with the following conditions-

- The only lighting will be accent lighting
- Hours of operation will be limited to 10 a.m. to sunset
- Business shall comply with the Town of Bennington sign regulations
- Zoning variances granted are as temporary and will be renewed after 5 years from December 27, 2012

Christopher Maple seconded the motion. There was no discussion. The site plan was approved with conditions with three affirmative votes (David McKenzie, Christopher Maple, and Sam Cohen) and one abstention (Jeffrey Rose). Chairman McKenzie noted that if there were any costs for the Registry of Deeds, the applicant would be required to pay said fees. The Public Hearing was closed at 8:39 p.m.

Chairman McKenzie reminded the Board that the Deliberative Session would be held at Pierce School on February 5, 2013 at 7:00 p.m. Sam Cohen inquired about the sign ordinance changes. There will be three changes requested, but the Board will need to address the sign ordinance further. The Board discussed possible plans that they would be working on. It was noted that the Board needs to address multiple use, density in the Water Resource Protection Zone, the sign ordinance, as well as the Master Plan, and the Multi Family Housing Ordinance. It was suggested that the Board invite John Cronin to the meetings for further input.

Sam Cohen addressed Peter Martel and the members of the Planning Board noting that he violently objects to the politically motivated attack on his person from Mr. Martel.

Chairman McKenzie reminded the Board members that the next Planning Board meeting would be held on February 25, 2013. As there was no other business at hand, the meeting was adjourned at 9:03 p.m.

Respectfully Submitted by

Debra Belcher  
Planning Board Recording Secretary