

**DRAFT**  
**TOWN OF BENTON ZBA MEETING**  
**MAY 5, 2015**

**PRESENT:** Dwight James; Tom Davie; Rich Meyer; Jim Willson; Steven Vaughan, and Tom Goodall.

Also Present: Amos Martin; Janet DeBrine; Morris Morse; Dick Harper, Town Councilman; Glenn Quackenbush, Town Councilman; Jayson Hoover, Code Enforcement Officer, and Karen Phillips, Recording Secretary.

James called the meeting to order at 7:00 p.m. with introductions.

**MINUTES APPROVAL:** Willson made a motion to approve the April 7, 2015 meeting minutes. Vaughan seconded the motion. All in favor.

**APPLICATION 23-SUP-15** – Application from Amos Martin of 1407 Pre-Emption Road, Penn Yan. Location of the Special Use Permit is 1408 Pre-Emption Road, Penn Yan. Applicant requests special use permit to relocate business from 1407 Pre-Emption to 1408 Pre-Emption Road and construct a new 40' X 80' building with (2) two display areas. AR1 District. (Tax Map # 38.01-1-2)

James asked Martin where the barns will be placed. Martin stated one would be alongside the driveway and the 3<sup>rd</sup> one will be on the left front of the home. Farm machinery will be displayed there.

Hoover stated that the recommendation from the Town Planning Board was to maintain that display area #3, but limit it to two pieces of equipment and then add display area #4 which would be 20 X 80 also; it would be a mirror of #2 on the north side of the driveway. One reason is to kind of keep the display closer together and also if the display is a bit larger it would create better access for the trucks to turn around in there. There were no problems with the county on this.

Willson asked if only one sign is proposed. Martin indicated it is only one sign, but double sided and it will be located right at the end of the driveway so that way people can see it from both sides of the road. There is a plan that there will be a turn-around in the driveway, so they don't pull back out into the road. They will be about 40 ft. off the road; 33 ft. off the center-line.

Public hearing closed.

**APPLICATION #27AV-15** – Daniel DeBrine of 2987 Ferguson Corners Road, Penn Yan requests an area variance to replace existing canvas shed with a steel building which does not meet front yard setbacks. AR1 District. (Tax Map #6.02-1-25)

Hoover distributed a map of the approximate location to members of the Board. The right-of-way on that road is 25' off of the center line. The closest corner will be 4 ft. off the right-of-way. Hoover noted that the map is a bit different from the dimensions he came up with. It is further back than on the drawing Mr. DeBrine drew up.

James noted that the County Planning Board voted 7-2 on a motion to deny the application; therefore if we are to approve it we are to have a super-majority of our Board. The shed will be used to park their vehicles. They have a cut-off area where she parks her vehicle. James asked if she could access the back of the property and Mrs. DeBrine said it all belongs to the Tomion's and in order to access the house from the back of the property she would have to drive across Tomion's. Davie noted that there are also high banks there. Mrs. DeBrine noted that when the Town took out the hill, they took out their upper driveway so they have no way to access the back of the property anymore. Vaughan noted it almost looks like they have a driveway from the picture, because he can see tracks where they go around to the back of the property. Mrs. DeBrine said there is a cut-off there, but that is her leach field for her sewage so they can't drive on that too often. James asked if the shed will just have a roof with the sides open. DeBrine noted that the front and back will be open, but the sides will not be, much like the canvas one that is there now. Mrs. DeBrine noted that she parks down there mainly because her husband is a truck driver and if she's going to be driving in and out, it's easier to take out that little bit.

Vaughan asked if there was any indication for why the county did not approve this application and Hoover indicated there was a motion to deny approval because the setback request was excessive. Vaughan noted the front setback is supposed to be 80 ft. and they are only going to be 12 ft. off the right-of-way.

There being no questions or a comment from the Board, the public hearing was closed.

#### **FINAL DECISIONS:**

**APPLICATION 23-SUP-15** – Application from Amos Martin of 1407 Pre-Emption Road, Penn Yan. Location of the Special Use Permit is 1408 re-Emption Road, Penn Yan. Applicant requests special use permit to relocate business from 1407 Pre-Emption to 1408 Pre-Emption Road and construct a new 40' X 80' building with (2) two display areas. AR1 District. (Tax Map # 38.01-1-2).

Vaughan made a motion to make the Town of Benton ZBA the lead agency on the SEQR. Willson seconded the motion. All in favor.

Willson made a motion that the Board has determined that based on the information or analysis above any supporting documentation that the proposed action would not result in any significant adverse or environmental impacts. Meyer seconded the motion. All in favor.

Willson then made a motion to approve this special use permit including the guidelines from the town planning board that the area designated as #3 on the south side of the existing structure, given the two pieces of equipment on display and that the appropriate area to be newly labeled #4 opposite #2 on the north side of the driveway including a 20 X 80 display area be added. Vaughan seconded the motion.

The Board was polled: James – yes; Davie – yes; Meyer – yes; Willson – yes; Vaughan – yes.

**APPLICATION #27AV-15** – Daniel DeBrine of 2987 Ferguson Corners Road, Penn Yan requests an area variance to replace existing canvas shed with a steel building which does not meet front yard setbacks. AR1 District. (Tax Map #6.02-1-25).

The Board went through the test questions for the area variance.

Willson asked how this structure would be secured or anchored down. Mrs. DeBrine stated they are going to cement it down so that it doesn't move and the new one would not stick out any further than the canvas one that is currently there. It will only be a foot wider. The DeBrine's have been at this property since 1989 and they created the existing canvas shed five or six years ago. James asked if there are any options to go with something that is not as deep. Mrs. DeBrine said they were just going by the sizes on the brochure and to turn it the other way she would have a problem parking because the hole isn't big enough. Meyer asked if there have been any problems with the plow trucks. DeBrine said she has had no problems, but right now there's a distance between the road and the shed right now. James asked Mrs. DeBrine if she had ever approached the county about giving her new access to the rear of the property. DeBrine said that because they took out the marker of the property edge they inquired as to where it actually is to put the driveway back in. They wandered around and said they couldn't find it and she didn't hear anything else. It was deemed to be dangerous to come off of it. James said it is a bad area where it came off from before and didn't know if they could do something off the other road, but it's quite steep.

Meyer proposed we table this application until we get more information back from Jayson and maybe from the County Planning Board. Hoover asked if 12 or 5' is going to make a difference. It is going to be close anyway if its 12 or 5. Willson noted that where he is struggling is that on one hand there has been a structure there; even a more temporary type going to a more permanent type in concrete and it is 85% which is a very substantial request. Davie noted that the biggest thing everyone has a problem with is the setback. James said every variance is taken on a case by case basis and we are not going to set precedence by the next guy that comes in because of the fact of the topography and things like that. Davie said this building is a little bit bigger than the one that has been there, but there have been no issues with people not seeing around it or backing out. All they want to do is update it and make it look better.

Hoover stated that depending on which way the Board votes, to alleviate the 12 or 5 ft. issue, the motion could be tailored such that the new building does not encroach towards the right-of-way any further than what the existing building does and then it wouldn't matter.

Davie made a motion that we accept this, but that the new building does not encroach any further than the existing building; the measurements will pretty much stay within the same dimensions. Willson seconded the motion. All in favor.

The Board was polled: James – yes; Davie – yes; Meyer – yes; Willson – yes; Vaughan – yes.

**NEW BUSINESS:**

1. Hoover distributed the new Towns and Topics to the Board.
2. Hoover noted he does not believe there are any trainings coming up, but if one does he will let everyone know. James suggested trying to put together a program and include a few towns and share the expenses.

**ADJOURNMENT:**

Vaughan made a motion to adjourn the meeting at 7:50. Davie seconded the motion. All in favor.

Respectfully submitted,

Karen Phillips  
Recording Secretary