

TOWN OF BENTON
ZONING BOARD OF APPEALS MEETING
NOVEMBER 5, 2019

PRESENT: Dwight James; Tom Davie; Steven Vaughan; Rich Meyer, and Dewy Haufman.

Also Present: Joe DeGeorge; Steve and Gail Knapton; Bea Ross-Mulford; Rebecca Flynn Ames; Lewis and Doris Martin; Eli Hoover; Lamar Sauder; Karen Deucette, Veterinarian from Wayne, NY; Glenn Quackenbush, Town Councilman; Jayson Hoover, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

James called the meeting to order at 7:05 p.m. followed by introductions.

APPROVAL OF MINUTES: Vaughan made a motion to approve the minutes of October 1, 2019 as presented. Davie seconded the motion. All in favor.

APPEAL #101-SUP-19: Application for a Special Use Permit request from Benton Ridge Small Engine, Corner of Lovejoy and Rasmussen Rd (1) to Relocate existing business from 1330 Rte. 14A to the corner of Lovejoy & Rasmussen Rds. in a new building. (2) Relocate existing sign 4' X 8' to southwest corner of Route 14A and Rasmussen Road. (AR1 District). (17.01-1-10).

Lamar presented his site plan with the elevation use. James asked what the greenhouse would be used for. Lamar indicated it would be for storage of lawn mowers and it is non-agricultural. It would be for winter storage as well as stock. James asked about the two display areas and how many mowers he would fit into these areas. Lamar estimated roughly 35-40 mowers. He then stated there would be five of the motion sensing dark light compliant lights for the rear and side. It will strictly just light up the porch area. There will be a pole light that will also be dark sky compliant and dusk-to-dawn.

James asked if there were any neighbors present that would like to speak about this application. Dewey Hauman indicated that he was the only neighbor present from directly across over the entire length of the Lovejoy Road. He stated he is impressed by the fact that they have taken the seriousness of this request and put it into drawings that this Board can work from. Coming from engineering, that means a lot to see the drawings with the stakes in the ground. There could be changes at this meeting that might be reflected on these drawings, but it is a good start. He then mentioned that Lamar's family has always been good neighbors, so when it comes to vote he will be abstaining because he doesn't want anyone to take any wrong opinions walking out of here. As of right now, what he sees at the table is impressive to him.

Vaughan stated that when Lamar first started the business, the big issue was that it was a commercial business going into an Ag-Residential and since there was already a repair shop there, we found that it was a change in the use of the property. He noted his one concern, going forward, is that this is a commercial business; it is not agriculture. We are taking Ag production ground to put in a commercial business. He asked if we have any actual zoned commercial ground in Benton. Hoover stated we have an AR-B district, which is located around the village and it comes out to Clark Road and goes west to Lovejoy, and east to Pre-Emption. The rest of our Ag-Res District is just that, although within that Ag-Residential District via special use permits there is allowed businesses, and this happens to be one of them. It's not necessarily zoned commercial, but there are commercial activities allowed via special use permit.

James closed the public hearing on Appeal #101-SUP-19.

APPEAL #102-SUP-19: Application for a Special Use Permit request from Lewis and Doris Martin of 2003 Loree Road, Penn Yan, NY to operate a commercial kennel with a maximum of 10 adult dogs. (AR1 District). (18.01-1-10.2)

Doris Martin asked the Board if they have a paper showing how the dens would look. James noted his question is would each dog have one of these or is it just for birthing? Doris noted there would be a den for each dog, and they will have in-floor heat and air conditioning with fans blowing to the den. They will have outside runs. James asked if the building would be air conditioned as well. Doris said there will be air conditioning in the building with a fan blowing in the fresh air. Hauman asked the Martins if they have drawings or site plan layouts other than what they handed out. Doris noted what they presented was what they have.

James asked the public for their input. Joe DeGeorge of the Humane Society spoke in regard to puppy mills and running a proper kennel. He gave suggestions to the Board about putting limits on the number of dogs the Martin's would be allowed to have, as well as setting size limits on the kennels and the enclosures. He then suggested that Inspection requirements be set. DeGeorge reported that the local Humane Society has really seen some of the tragic things of animals that have come through their shelter because of the inability of people who get into this business. They are taking it to make money, but when they are doing it with a companion animal such as this, it makes it tough for the people who are trying to take care of them after the fact. He then asked the Board to air on caution with this. He indicated he is sure the Martin's are honorable people, but the Humane Society also sees the other side of what happens with dogs.

Karen Deucette indicated she had sent a letter to the Board with her concerns. She noted she has a private practice and has worked with the Finger Lakes SPCA. She said she totally agrees with everything Mr. DeGeorge stated. In the last 12 to 24 months they have had several cases of "mopping up the mess" when these businesses go south. She read over information that was detailed in her letter about the over breeding of these dogs, as well as the spread of infectious diseases.

Two members of the "Bailing out Benji" committee also spoke in opposition of the breeding operation, one of which suggested the Town put in a moratorium.

James asked if there were neighbors present that would like to speak. Gail Knapton stated there are too many puppy mills already in Yates County, as well as too many homeless dogs. Why are we bringing more breeding in? She then asked if they are going to breed the four dogs that they already have. She sees those dogs in the road and in their yard every day. She noted that to her that is an irresponsible dog owner who lets their dogs roam free range. If these four dogs can't be kept home, how will they be caring for 10 more, not including the puppies.

James asked the Martin's if they have a kennel license. The answer was no. James then asked the Martins if they have a pet dealer license. The answer was no. It was then asked if they would be selling retail and wholesale. The Martin's replied that they possibly would do both. The dogs are presently licensed. With the deceased dog disposal, the Martin's indicated they would bury them. Eastview Vet will be coming in regularly. Meyers asked what happens to the puppies that aren't sold which would put them over the limit. Doris said they haven't run into that problem yet. James asked out of the 10 dogs

that they propose, how many are female and how many are males. Doris said there probably will be 8 females and 2 males.

Steve Knapton noted that he is concerned that some things will slide and not be attended to religiously. It is an everyday thing that needs to happen; they have to feed and clean up after them and make sure they have water. James asked the Martin's if they are proposing to handle this business themselves, or will they have to hire employees. Doris Martin said they would employ someone if they were to go away for the day. They would take care of them in the morning and then they will have an employee come in and do the chores in the evening.

Hauman mentioned that the 4 ft. X 5 ft. enclosure for the dogs seems fairly small. Are all of the puppies going to try and stay in that 4 ft. X 5 ft. enclosure if it is too cold outside?

James closed the public hearing on Appeal #102-SUP-19.

APPEAL #103-SUP-19: Application for a Special Use Permit request from Lewis and Doris Martin of 2003 Loree Road, Penn Yan, NY to operate an appliance and furniture store/warehouse. (AR1 District) (18.01-1-10.2)

Lewis Martin indicated that they purchase used appliances and then resell them. They will have a 4 X 12 showroom and it will all be in the warehouse in the building in the back. The hours will be by appointment. The parking will be in front of the building, and there will be 30 X 30 in the lane along the side which he plans to extend if they need more; it is a 10 ft. laneway and the tractor trailers can back in. Davie asked how they will get rid of the appliances that they can't rebuild. Will they have a dumpster, or will they part them out? Lewis indicated he would part them out, as well as have a dumpster that would be emptied once a month.

James closed the public hearing on Appeal #103-SUP-19.

APPEAL #105-AV-19: Application for (2) Area Variances from Jacques Coutlee of 1810 North Main Street, Penn Yan. This application was pulled.

APPEAL #106-AV-19: Application from Elvin Hoover of 1019 Briggs Road, Penn Yan, NY for (2) variances. (1) Locate accessory building in front of primary structure. (2) Locate building within the required front yard setback. (AR1 District) (48.01-1-15)

James reported Elvin wants to build an accessory building of 30 X 48 and it has a roof overhang. Elvin stated that this would be plus the roof overhang. He wants to set it closer to the road than it is right now. He wants to set it in the side yard in front of the house. Elvin said it would be closer to the road than the set back is right now.

James asked why he wants to put it in the side yard versus moving it back so its flush to the garage. Elvin said it is because of the layout. The doors will be facing towards the south, so the distance he has is pretty tight compared to where the house is. He noted it would be nice if he could put it closer to the road. James asked if the 67 ft. means its from the garage to the property line. Elvin said that is approximate. James asked if the septic system is in the back yard as well. Elvin said it is around the side of the house in the back.

James asked if any neighbors were present and then asked if we had received any correspondence. There was none.

Davie asked Elvin if he would be using the shed for storage. Elvin said it would be like a garage.

James closed the public hearing on Appeal #106-AV-19.

James stated that at this point the public comments are closed. We will bring these applications up and, as stated earlier in the meeting, we have three options; we can deny, we can approve, or we can table so that everyone would get a chance to think about what has been gone through here tonight or maybe the Board will need more information. All this may not be resolved tonight.

APPEAL #101-SUP-19: Application for a Special Use Permit request from Benton Ridge Small Engine, Corner of Lovejoy and Rasmussen Rd (1) to Relocate existing business from 1330 Rte. 14A to the corner of Lovejoy & Rasmussen Rds. in a new building. (2) Relocate existing sign 4' X 8' to southwest corner of Route 14A and Rasmussen Road. (AR1 District). (17.01-1-10).

James indicated we talked earlier of having about 35 units on display and asked the Board if that is what we agreed on; 12 per row. Davie asked if 35 to 40 would be doable. We would rather he have more than enough down on paper so that he would not be in violation. Sauder asked to put down at least 50.

James asked Sauder if he knows that he will need to get a stormwater permit because he is disturbing more than two-acres. It was explained that someone would have to come in and make sure the surface water doesn't interfere with the neighbors. Sauder stated that Bill Groves is already on the case with this.

James asked for the Board's thoughts on this application. Meyers noted that this is well planned out and designed.

Meyers made a motion that we accept Application #101-SUP-19. Davie seconded the motion with a notation that no more than 50 units for both displays at one time.

The Board was polled:

James: Yes

Davie: Yes

Steven: Yes

Meyer: Yes

Dewy: Abstained

James told Sauder that he would now be working with Jayson from here on in, or possibly someone new. Once he hears back from Bill Groves he can get started. Sauder indicated that they possibly will not be starting until April now.

APPEAL #106-AV-19: Application from Elvin Hoover of 1019 Briggs Road, Penn Yan, NY for (2) variances. (1) Locate accessory building in front of primary structure. (2) Locate building within the required front yard setback. (AR1 District) (48.01-1-15)

James asked the Board if there was any more discussion amongst the Board on this application.

Davie asked if there are still trees there. James stated it is higher there, so its almost like a bank. It won't jump right out at you. The shed will be kind of hidden unless he clear cuts all that between the house and the road. There are other sheds in the area that we have issued variances to.

Vaughan made a motion to accept Application #106-AV-19. Davie seconded the motion.

The Board was polled:

James: Yes
Davie: Yes
Steven: Yes
Meyer: Yes
Dewy: Yes

APPEAL #102-SUP-19: Application for a Special Use Permit request from Lewis and Doris Martin of 2003 Loree Road, Penn Yan, NY to operate a commercial kennel with a maximum of 10 adult dogs. (AR1 District). (18.01-1-10.2)

James stated that he doesn't usually make motions, but he would personally like to see more detail on the set-up of this operation. He asked the Martin's if there is any way they could get us a scaled drawing of how everything will be set up in the building; something with dimensions, etc. He noted that there is a lot of concern. Davie stated he would also like the measurements of how long the runs are per length and per width and also how big it is inside. James asked if the dogs would be able to come and go into another area or is the whelping den it. Martin indicated that the dogs will not stay in the whelping den the entire time. Davie noted he would also like to know what will be put down on the runs; dirt, gravel, or cement? Lewis replied they would be using wash stone on the ground. Hauman asked if that area would be covered by some kind of canopy. Lewis noted it would be definitely enclosed with garage door panels instead of the wire mesh.

James made a motion to table this application for more information. Davie seconded the motion.

The Board was polled:

James: Yes
Davie: Yes
Steven: Yes
Meyer: Yes
Dewy: Yes

James noted he wants the Martin's to keep moving, but everyone here has a lot of questions and he would like to get them all answered if we could. We would need a scaled drawing of the entire operation, such as the dog runs and the whelping dens. He asked that some notes be included on the heating and cooling. This could be done on graph paper. James indicated that there's too much gray area and we want to make sure everyone is under full understanding before we move forward.

APPEAL #103-SUP-19: Application for a Special Use Permit request from Lewis and Doris Martin of 2003 Loree Road, Penn Yan, NY to operate an appliance and furniture store/warehouse. (AR1 District) (18.01-1-10.2)

James noted he would like more detail, but this would be a small enough operation. Davie said his main concern is of the stuff that can't be fixed accumulating and piling up. In that building there should be a place for the parts, a tank and a dumpster where things can be disposed of. It needs to be kept clean. Hauman asked if the drawings could show where the appliance area is. It was then asked if there would be a wall between the dog business and the appliance store. The answer was yes.

Davie made a motion to table this application for more information. Meyer seconded the motion.

The Board was polled:

James: Yes
Davie: Yes
Steven: Yes
Meyer: Yes
Dewy: Yes

James reported that we are not shutting everyone down and we are not approving anything; it just means we want more information. We have been given a lot of good information tonight by everyone, so we all want time to think this through and look at what they come back to us with.

James stated that the next meeting will be on December 3rd. Hoover will have the information to everyone a week ahead of the meeting.

ADJOURNMENT:

Vaughan made a motion to adjourn the meeting at 8:25 p.m.

Respectfully submitted,

Karen M. Ellis

Karen M. Ellis
Recording Secretary