

**TOWN OF BENTON  
ZONING BOARD OF APPEALS MEETING  
MARCH 4, 2020**

PRESENT: Dwight James; Tom Davie; Steve Vaughan; Rich Meyer, and Dewey Hauman.

Others Present: Glenn Quackenbush, Town Councilman; Richard Harper, Town Councilman; Tom Fulkrod, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

Followed by introductions, James brought the meeting to order at 7:00 p.m.

**MINUTES APPROVAL:**

Meyer made a motion to approve the minutes of the February 4, 2020 ZBA meeting as presented. Vaughan seconded the motion. All in favor.

**APPEAL #24SUP-20:** Application for a Special Use Permit request from Nelson Weaver of 338 Route 14A, Penn Yan, NY 14527 to place a 4' X 8' sign on Elam Fox Property located at 356 Pre-Emption Road, Penn Yan, NY (Tax Map: 8.04-1-11) AR 1 District.

Weaver stated this is a two-sided directional sign that will have his logo on it, with an arrow on it. The sign will be located just off the right-of-way. It was brought to his attention after the last meeting that Pre-Emption is heavily travelled and it is the main route off the Thruway to get to Penn Yan, via GPS. James indicated that it would have to be moved back out of everybody's way. Weaver noted that he will have to go and mow or trim around the sign a few times a year to keep the tall weeds from overtaking it. No correspondence was received from neighbors.

Hauman asked how far the sign would be from the property line. Weaver noted his intent was to put it just on the property line. It did not sound like the nearest neighbor had any problems with the sign; he just did not want to have to mow around it.

James closed the Public Hearing.

**APPEAL #18AV-20:** Application for an Area Variance from Harold Zimmerman of 2049 Havens Corners Road, Penn Yan, NY 14527 to place a 40' X 66' barn in front of the existing house. (Tax Map: 28.01-1-21) AR 1 District.

Fulkrod noted that it is 24 ft. starting from the front edge of the house. There is a main tile that runs from the upper form that runs directly behind where he is looking at starting this. If he were to back it up, he would have to change that whole tile all the way across the property which would obviously be a lot of work and he would be changing the whole ditch line.

Fulkrod stated that the first 22 ft. will be a shop and the 2<sup>nd</sup> 24 ft. is the garage and the 3<sup>rd</sup> 20 ft. is a horse stable and the second and third stations will have a large lean-too. No neighbors were present, and no correspondence was received from the neighbors.

Harper was asked if any of this would be used for a business. Fulkrod stated it would not be used for a business. Harper then indicated that If it were to be used for a business, he would prefer this to all

come in at once. Fulkrod noted that every time a farm exempt application comes in, he explains to the applicant that if they have these built and they are farm exempt, without expectations they will not be allowed to go ahead without an engineer coming in.

James closed the Public Hearing.

**APPEAL #25SUP-20:** Application for a Special Use Permit request from David Sauder of 1171 Route 14A, Penn Yan, NY 14527 for a small midsize construction equipment and sand blasting business. (Property currently has a SUP for sale and repair of lawn and garden tractors). (Tax Map #27.04-1-6) AR1 District.

Sauder explained that in the old lawnmower shop he has been powder coating and sandblasting, as well as in the greenhouse out back. In the old mower shop he has an oven in there with a powder coating booth. He stated that powder coating is a dry powder, like dust, that you blow with a power coating gun onto the part. It is electrostatically charged, so it attracts to the bare metal and once it is coated it goes into an oven to bake, just like cookies. It comes out of the oven and comes off considered pure.

James asked Sauder if he can do pieces the size of the table. Sauder noted that the oven is 8 ft. wide, 8 ft. tall and 20 ft. long. He can do car frames, truck frames. Sandblasting is the surface preparation for that. James asked if the light that is placed to be used for equipment display. Sauder said it would be used for the equipment display to make things more visible and for security. James indicated he would like to see the permit for the lights to make sure it is dark sky compliant. Fulkrod noted they are down and the amount of coverage where it goes out is very limited. The Planning Board addressed this, and he has a lot of documentation about the lights that explains everything.

James stated that they did not do a SEQR on this and asked if we should request them to do a SEQR because of the sandblasting. Harper indicated that they have been doing this for a while, but it has never been a permitted use, so it should be treated as a totally new permit. James noted his thoughts are that we should do a SEQR because there is potential that it could be contested down the road. He then noted we should probably table this until a SEQR is done and he can bring it back to the next meeting.

James asked Sauder where he is going to park the equipment. Sauder indicated that the equipment he plans to display on the raised area and down on the side to the north of the lawnmower shop he will put small stuff like buckets and attachments. The large stuff he will put out in front of the pine trees on the raised area. He has no quantities in mind, but probably 8 to 10. James asked Sauder if he would be against limiting it to no equipment displayed in front of the building other than the raised berm.

James closed the Public Hearing.

**APPEAL #24SUP-20:** Application for a Special Use Permit request from Nelson Weaver of 338 Route 14A, Penn Yan, NY 14527 to place a 4' X 8' sign on Elam Fox Property located at 356 Pre-Emption Road, Penn Yan, NY (Tax Map: 8.04-1-11) AR 1 District.

Meyer made a motion to approve this application with a setback from the road off the right-of-way and for safety of the property next door. Davie seconded the motion.

The Board was polled:

James: Yes

Davie: Yes  
Vaughan: Yes  
Meyer: Yes  
Hauman: Yes

**APPEAL #18AV-20:** Application for an Area Variance from Harold Zimmerman of 2049 Havens Corners Road, Penn Yan, NY 14527 to place a 40' X 66' barn in front of the existing house. (Tax Map: 28.01-1-21) AR 1 District.

The Board went through the test questions for an Area Variance.

Davie made a motion to approve the application as presented. Vaughan seconded the motion.

The Board was polled:

James: Yes  
Davie: Yes  
Vaughan: Yes  
Meyer: Yes  
Hauman: Yes

**APPEAL #25SUP-20:** Application for a Special Use Permit request from David Sauder of 1171 Route 14A, Penn Yan, NY 14527 for a small midsize construction equipment and sand blasting business. (Property currently has a SUP for sale and repair of lawn and garden tractors). (Tax Map #27.04-1-6) AR1 District.

James made a motion to table this application until we receive an updated SEQR. Meyer seconded the motion.

The Board was polled:

James: Yes  
Davie: Yes  
Vaughan: Yes  
Meyer: Yes  
Hauman: Yes

**OTHER BUSINESS:**

Fulkrod stated that the application for the railway will be coming to the Board next month. Many neighbors have already come in and spoke their concerns. The permit was pulled last year after going through the Town and County Planning Boards. Tom told her she would need to start the application process over again because she pulled it and it was not tabled. He noted that there will be a lot of questions that will come with that because a lot of work needs to be done to the rails, parking, farmland, trash, etc. It was mentioned that the Board would like to see a release of the agreement between her and the Finger Lakes Railway.

Fulkrod then stated there has been a lot of talk around the church on Thistle Street, which is considered site plan approved. There have been a lot of questions and thoughts around it. There was never a stop

work order. A letter was sent from the Army Corp of Engineer stating they think this is a federal wetland. The Army Corp of Engineers came yesterday, went over the site plan, and went over everything that has been done so far. They took soil samples and told him they would give him a call and have a preliminary answer by yesterday and a definite answer by Friday. He noted that the answer that was given to him was that this was between the Army Corp of Engineers and the owner of the property and that he would need to take it up with the owner to get documentation stating that the Army Corp of Engineers are going to let them build. They told Fulkrod that they do believe that they will be able to let them build there, but they could not give the Town of Benton any documentation stating that. Fulkrod noted that hopefully by Friday he will know something.

Harper noted that there is a land use training coming up in April, which is a 3-hour class. He will get the information out to everyone.

**ADJOURNMENT:**

Vaughan made a motion to adjourn this meeting at 7:45 p.m. Meyer seconded the motion. All in favor.

Respectfully submitted,

*Karen M. Ellis*

Karen Ellis  
Recording Secretary