

TOWN OF BENTON
ZONING BOARD OF APPEALS MEETING
10/6/2020

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

Also Present: Todd Lush; Tom Lush; Christian Thompson; Sara Thompson; Samuel Shirk; Glenn Quackenbush, Town Councilman; Dick Harper, Town Councilman; Tom Fulkrod, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

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

MINUTES APPROVAL: Davie made a motion to approve the minutes from the September meeting. Meyer seconded the motion. All in favor.

APPEAL #157 SD-20: Application for a Sub Division from Samuel and Lena Shirk of 677 Pre-Emption Road, Penn Yan, NY 14527. Location of the Sub Division is 805 Pre-Emption Road to move a lot line. (Tax Map #18.04-1-13, 18.04-1-1.111) AR 1 District.

Shirk stated he would be adjoining this to a field that is out there. Fulkrod noted that the field will adjoin to all the other fields that are around.

James asked if there are any neighbors in attendance that would like to speak for or against this. No one in attendance replied. Essentially, they want to try to subdivide off the parcel for the house and keep the rest for farmland. They will still be keeping 1.6 acres for that parcel. Shirk noted it was all one lot and they just wanted to buy the house, and he wanted to keep the fields so no one else would build a house in between.

James indicated that since this is a non-conforming lot, this is an area variance so he then went through the test questions.

APPEAL #161AV-20: Application for an Area Variance from Christian & Sarah Thompson of 165 Old State Road, Penn Yan, NY 14527. Location of the property is 447 Newlanders Cove, Penn Yan, NY 14527. For an Area Variance to build a new 24' X 24' dwelling on existing lot slightly less than 2' off the property line to the south and 10 X 7 off the property line to the north and 3 ft. 4" closer to the lake. The Site Plan Review for placement of the new building.

Mrs. Thompson noted they want to tear down what is there and get rid of the trailer and they would not be building anything on that area as the right-of-way. Their plan is to build the cottage in the area where the original house portion that is not the trailer and this would be 2 ½ story. It would not be much taller than the existing, so they would have the main floor and a loft. Mr. Thompson said that the existing structure is tiny, but they would like to get two bedrooms in the new house. To get that, they need to expand a little bit. They have a septic tank that sits to the north, which leaves them expanding to the south. That 24' X 24' gave them a bit of a breathing room, although is still tight, but that is all they had to work from if they can get the variance.

James asked them if they are aware that if they build that two feet from the property line that wall has to be a 2 hour rated firewall and they can have no windows or doors and no roof overhang on that side.

Mrs. Thompson stated they were not aware of that. Mr. Thompson said they would have no room for the overhang anyway. James noted that regardless, it has no bearing on what the Board comes up with tonight.

Mr. Lush, from the property to the South, welcomed Christian and Sarah to the Cove. He said it is close. Tom Swartelle had built down there and he looked at the edge of his building and how much wider the excavation was from the footer over and that was almost another 3 ft. He noted he is concerned about his terracing unless he was able to dig that out with a laser. His only concern is how that would be handled. Todd Lush, neighbor to the north, stated that 2 ft. is close. He said that he has been working with an engineer since January and asked if he would be able to build within 2 ft. of the line. They are close enough and it is tight down there. For that size of a building, they would need a 44 ft. lot. Tom noted that his garage is 24 ft. wide, so you can see that is quite a nice structure they want to put in there; it is quite big. Todd Lush noted that it's one thing to put it on paper, but a 3rd grader wearing a size 12 speaker doesn't fit if you're trying to shoehorn something in there that is quite big for a very small spot. If you look at the current structure, it takes up most of the space. There is not a lot of space. He then asked what the code was on how much coverage of the property he can have percentage wise building per area. Fulkrod said most of the properties down there cover 80% of the property, but the code is 25%. If you look at almost every property that is built on the lake down there, they average 80% and this is way under what they are asking, even though its going over the 25% of what they are set forth. Their blueprint of the total property would be about 50% if you take everything out to the lake frontage.

Todd Lush then stated that when they built their deck, they had to remain within the code. Are we setting some sort of precedence here where we are kind of going off the grid and putting things wherever they go? If they would like it closer, 3 ft. out, they could get away with that without losing much of their view.

Sarah Thompson reported that none of this that they have provided is set in stone. They do not have an engineered design and they do not have a blueprint. This is their best intent to figure out what might work with the size. They need to make sure that access to that is available and how they do that they will leave to the experts to decide. They will have to work around the septic system somehow.

James said it looks like they will have a basement, and then a main floor and then a loft above. The basement will be a walk-out and storage.

The Board went through the test questions for Area Variance #161AV-20.

Public Hearing was closed.

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James asked if there was any discussion amongst the Board on this application. The Planning Board has not had a chance to review this application. Meyer asked what the distance between the new line from the back corner to the garage is. James said there is 23 ft. there.

Hauman asked if the request is basically just to establish the two lot lines. James noted the request is to establish that triangular shaped lot. James indicated that will become part of the farmland that is there.

James made a motion to approve this application, as the lot created will be 1.592 acres; the house and property will meet all setbacks; the garage will meet all setbacks. The only lot line that will not exceed our requirements is the rear lot line. Vaughan seconded the motion. The Board was polled:

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

APPEAL #161AV-20: Application for an Area Variance from Christian & Sarah Thompson of 165 Old State Road, Penn Yan, NY 14527. Location of the property is 447 Newlanders Cove, Penn Yan, NY 14527. For an Area Variance to build a new 24' X 24' dwelling on existing lot slightly less than 2' off the property line to the south and 10 X 7 off the property line to the north and 3 ft. 4" closer to the lake. The Site Plan Review for placement of the new building.

James asked the Thompsons if they would want to consult with an engineer since they have many unanswered questions. He noted he does not want to grant something and then have them come back and say that is not what they wanted to do; that would be a waste of everyone's time. The footprint variance was what they were looking for.

Davie made a motion to table this application. Meyer seconded the motion. All in favor.

The Board was polled:

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

ADJOURNMENT: Davie made a motion to adjourn the meeting at 7:47. Vaughan seconded the motion. All in favor.

Respectfully submitted,

Karen M. Ellis

Karen Ellis
Recording Secretary