

DRAFT
BENTON PLANNING BOARD MEETING
JULY 27, 2021

PRESENT: Tom Rood; Tom Goodall; Rich Meyer; Steve Hullings, and Jerry Stape.

Also Present: Michael Horning; Glenn Quackenbush, Town Councilman; Dick Harper, Town Councilman; Marlene Exner; Tom Fulkrod, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

MINUTES APPROVAL:

Meyer made a motion to approve the minutes from the June 22, 2021 meeting with the following correction: Under Appeal #68SUP-21, Rood made the motion to accept this project, not Goodall.

Stape seconded the motion. All in favor.

APPEAL #94SUB-21: Anna Marie Black of 564 State Route 14, Penn Yan for a subdivision to split a 3-acre lot into two lots, 1.18 and a 1.89.

Rood indicated he remembers when this came in front of the Board some time ago. They had recommended at that time to change the lot size because if they ever wanted to sub-divide in the future they would be able to do that. The way the original property was divided they wouldn't have enough land to sub-divide it according to our zoning. Now it appears they want to sub-divide it, so we saved a lot of headache by asking them to do that.

Fulkrod noted this meets all criteria; they let him place the markers where they needed to in order to make it meet the criteria.

Rood made a motion to accept this application. Meyer seconded the motion. All in favor.

APPEAL #103SPR-21: Michael Horning of 2855 Ferguson Corners Road, Penn Yan to build a roadside stand.

Fulkrod noted that the only thing that has been brought up on this is that if this is where he says the stand is going, this is where it is going to go. On the special use permit for the sheds, this Board voted that he keep the sheds a certain way and he has been good about sticking by that. There was one discussion a few weeks ago where the buildings were turned a few different ways. Once this Board sets things forward that is the way they have to be, unless he comes back in and asks if he could move them. Michael agreed that he should have come in and asked for clarification on it. He noted that dependent on where the doors are on the buildings, it makes more sense on how to display them.

Meyer noted his only concern was making sure of where the stand sets because we don't want people stopping on that curve. He suggested putting a sign up for parking to please pull ahead. Stape stated that 75 ft. from the center of the road should be good enough. Horning said there is enough of a driveway there that most people can turn around if they don't know how to back around.

Stape asked if there will be a sign on it. Horning said the sign would be attached to the shed itself, not set permanently in the ground. The only temporary kind of signs they may have would be a picture of a tomato or other vegetable that just pushes into the ground. The stand will be 50" wide and 128" long.

Hullings made a motion to approve this Site Plan Review with a stipulation of putting a sign up at end of the driveway stating that there is no parking on the road. Meyer seconded the motion. All in favor.

OTHER BUSINESS:

The Board had discussion on septic systems. Rood noted that after August 8th, he should have time to go around and get some zoning ordinances from the surrounding towns so we have something to look at. Two issues that this Board needs to work on is on the short-term rentals and the septic systems. Ferguson indicated that he had also mentioned a while ago something about our fire and safety inspections, the Town of Benton and our zoning laws require these to be done every two years for every business and he had asked this Board to amend that to every three years like the state does.

Harper noted he would like to bring up the subject of towers and public utilities.

Fulkrod noted that with short-term rentals, most towns have laws to where you go in and inspect AIRBnBs to make sure they are safe. We don't have anything and it sort of sets up a liability to where we are not checking these cottages and short term rentals for the state mandated things, because we don't have anything in our zoning laws telling us that we are supposed to go in and check these things. If you rent a single house out long term, the Town cannot set up an ordinance to go check it, but when it is a short-term rental or anything under a month at a time, we can set up an ordinance to go once a year to make them get a permit to run it as a business.

The County is looking at putting in a communications tower off Johnson Road. The landowner would like to sell them a flag lot. The county is in the process of upgrading all of the towers through the county for microwave, UHF, and VHF for fire police EMS. As part of the overall process of updating, they are looking at putting up three new towers; one would be in Benton off Johnson Road. The land purchase is not yet finalized, so we cannot go into detail. The county has already gone out to the two other townships and advised them as to what is going on. We looked at the zoning laws and there are concerns around the way the laws are written with public services. The cell towers actually fall into two different definitions; a public utility where you can put it and the other one is an essential utility service. Harper noted that this Board would need to look at this.

Fulkrod noted that with subdivisions, this Board would have to pass it as an area variance in order to have it. Harper said the county could go out and purchase a 200 X 200 piece of property, which is an option for us; although that takes the property off the tax rolls. The county doesn't need a 200 X 200 area. We have hired engineers and have discussed fall zones. Do we prefer to have a 200 X 200 piece of property or would we rather leave a part of that property in the farmer's hands and let him continue to work that property. Where the property is at, there's some trees. You could easily put an access road in. He would prefer to not have it up towards the road. It would have two sides with trees and on the other side he would be farming. Fulkrod said they are suggesting an 80 X 80 square lot at the end of this driveway making it a flag lot. If it is a 250 ft. tower, there has to be a fall zone of twice that height. Harper said he was not seeing anything in our zoning about fall zones except for wind towers. Harper said there is some urgency to this whole project. With property being purchased, it will wind up going through way more of a SEQR and an environmental review because it is using governmental funds and FCC requirements. SUNY Binghamton would need to be hired to come in and dig test holes every 50 ft. looking for artifacts, etc. There will need to be a sign-off by the state. Because we are putting a tower on it, the county would have to be lead agency. We are trying to get off some other towers. The one

tower we have to get off is by June 30th of next year. It has put a tight crunch on this project. They are trying to do a coordinated review of all these pieces of property, so they aren't necessarily bringing people up and dealing with them piece meal. Ultimately, they want to package them all together. Getting the property and getting the environmental review is kind of key so this whole discussion has some urgency behind it as well. The proposed height for that one is 150ish ft. It doesn't require any lighting until you go over 200 ft. Any of the towers they are looking to put up are under 200 ft. Fulkrod said that is what we must work on with the State. Harper stated that if this Board feels that a flag lot could be allowed for this application, then that is what we would pursue. Fulkrod noted that is why he brought this up, so Harper could take this back to the legislation if they felt they would allow this application.

Rood stated that if the state has a minimum lot size that they have to have, that is what we should be looking at.

Harper asked if this Board would agree if the county purchased a 100 X 100 piece of property and add maybe a 100 ft. easement around that. Members of the Board indicated they would go along with that.

Harper stated that we could potentially carve out a 200 X 200 piece of the property. This lot is landlocked. We would have an easement or we would purchase the land from the road more than likely. When they do the towers, they actually bury the electrical. We would position it so he couldn't plop. Overall, the way that is worded right now, we are not doing many of those things and not sure if this Board wants to do many of those things. At some point, we need to look at this. Rood noted we are flexible to go with whatever they come up with.

Rood stated that we need to be thinking about our training as well. Fulkrod asked how everyone is doing with the sexual harassment training. Harper noted that this is a state requirement. If it has been taken somewhere else, it doesn't need to be taken again. You would just need to produce the certificate.

ADJOURNMENT:

Meyer made a motion to adjourn the meeting at 7:40 p.m. Goodall seconded the motion. All in favor.

Respectfully submitted,

Karen Ellis
Recording Secretary