

DRAFT
TOWN OF BENTON PLANNING BOARD MEETING
JUNE 28, 2022

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

Also Present: Roy Sensenig; David Horst; Nelson Horning; Bob Clark; Dick Harper, Town Councilman; Tom Fulkrod, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

Rood began the meeting at 7:00 p.m. followed by introductions.

MEETING MINUTES APPROVAL:

Stape made a motion to approve the minutes of the May 24, 2022 meeting. Goodall seconded the motion. All in favor.

APPLICATION #70SUP-22: Titus Zimmerman of 780 Ridge Road, Penn Yan is requesting a special use permit at 1227 Angus Road, Penn Yan for building a small HIP Camp area of three sites plus the cabin, with a maximum of two cars per site and four people per site.

Rood stated that he and Tom met with Zimmerman a few weeks ago. It looks like if he stays under four units on that property he does not have to jump through the hoop on a lot of things. The minute he puts in a fifth unit, he's in big trouble and he would have to do a lot of work there to make it right. If we approve this with the cabin he has and he only allows a maximum of three units besides tents, campers, etc. so that there's no more than four and Tom recommended two cars per camper we could approve that pretty much as it stands. As soon as he tries to go to a 5th one then it really gets involved. There is a well on the site. He will have that tested and certified. The outhouse is legal, so he is doing all the things he has to do to make it work.

Rood made a motion that we accept the permit with a provisional that he knows he can have no more than a combination of any kind of four units there, whether it's a camper or tents, etc. and a maximum of two cars per site. Hullings asked if each site has a specific size. Rood said that if he stays under five sites, we really don't have a regulation. Fulkrod stated they did tell him that he would have to mark off four spots so there isn't an issue with them. The cabin will be one, so basically, he must mark out three. The cabin is a more common space.

Meyer indicated that as a Planning Board member, he doesn't appreciate things being done before they come to us and, as usual, with the septic and the whole procedure. The Planning Board didn't talk about it being done ahead of time and there was no permit done on that septic until it was found that it was there. We would like to let people know that we like things brought to the Planning Board's attention before they do things. Rood stated that it would be wonderful if they would do that. We are trying to get the word out and we are here to help them to make sure they don't get in trouble down the road because they didn't come to us first. That message has been given to several people already. Meyer asked if we have codes for this situation. Fulkrod stated that there are codes for large campgrounds, but no stipulation on numbers.

Meyer put in an amendment that we accept this with the stipulation that it meets our code. Fulkrod said that is why we would have to adopt a miniature campground code because our entire code is based around a 10-acre campsite or larger. There is nothing that he is asking for that in any way fits the realms

of our current zoning laws for a campground because our zoning laws were built one way for a large campground.

Fulkrod noted that he 100% agrees with Mr. Meyer. He found out about this by seeing it on the website. He put the building in without him knowing and he put the septic and the outhouse in without a permit. Those conversations have been had, but it should be in the notes that this was done ahead of time, but this is the direction they decided to go because we did rectify it and take care of it on the town's side of things on how things have to happen when people do these things before they get permits.

Rood stated that he doesn't see a big issue with this. We talked about writing a zoning law and Tom has a few other things he would like to have us do. We can put it on the agenda to spend time writing a law for it, as well as for the apartment and the minor septic systems he wants to do. Because of the legal aspect of how much it costs to do this, it is best to bundle these things together for the time. Rood then noted that we need to bring the comprehensive plan up to date and the town Board has authorized us to do that. It has been 12 or 13 years since it was originally written.

Fulkrod noted that he has had them rented on Memorial Day weekend and one other weekend. He does not see something that will be rented a lot because most people are looking for amenities. There is nothing there but pump water and an outhouse. There is no power and you can't run generators at nighttime. It is only on HipCamp.com. It's a very rustic backwoods camp thing where people are just looking for places to camp. It's not a KOA or a campground. It's basically someone's back yard corner lot that you can put a tent on and camp for a couple of days. There is a state limit of how many days you can stay. You can't do a month at a time and let people stay there for these types of sites. Stape said that if they are getting money for it, that's a different ball game.

This is Ag property with a commercial business going in there.

Rood made a motion to accept this application as written. Hullings seconded the motion. 4 members voted yes with Rich Meyer voting no.

APPLICATION #68SUP-22: Finger Lakes Clothing Center, 2801 Ferguson Corners Road, Penn Yan for a special use permit for a proposed building use to have a facility to collect, sort, bag, and ship good used and new clothing.

Fulkrod noted that Mr. Hullings surveyed this property and Mr. Meyer lives across the road from it. Rood indicated he has one issue with this site. He is concerned about the height of the Spectrum cable; it is low. Stape noted that those cables are supposed to be 13'6", so trucks need to be under that. Fulkrod noted the site would have to be fixed if this is approved, Spectrum would have to move their line to make it accessible. Rood noted that the driveway is already in. It is a steep driveway, and it is nowhere near the curve. Fulkrod stated that there were a lot of conversations at the county that were brought up. They did go over the fact of how far back the building will be and how much sight will be seen both ways. The sight distance to the East is 962 ft. and to the west it is 800 ft. The parking lot was made really large because large trucks will be pulling in there and they will be pulling in and driving back out, so they won't be backing out into the road. Fulkrod noted it is his job to present this and it is the Board's job to put stipulations on it or to tell the ZBA on why or why not it should have it, but we must have reasons why. If we are going to be negative about this, we must give a reason why we think it's not good.

Hullings stated that he voted this down at the County Planning Board. He noted he was overruled but that was fine. His concerns were that yes, it's not on the curve, but it is still on the straight-of-way.

There will be tractor trailers going into there too and that a lot of this business will be going on in the wintertime. There have been a lot of accidents on that road due to negligence. Even though it's on the straight away, Hullings doesn't think it's a very safe place and then there is the whole idea that it's a very large building and you're putting a commercial business in an Ag district. There are places in the Village that are vacant. This is a distribution center and can it be put somewhere else other than eating up our agricultural land.

The owners explained that they may have a tractor trailer there four times a year. It won't be like a milk truck. The accidents usually start around the corner and exit out into the field. Fulkrod asked how large of an area the clothes would be collected from. It was noted that the clothes are coming right now from Jefferson County, about 4 hours away, and they are bringing them in a pick-up with an enclosed trailer. That was part of the reason for making the driveway. The clothes will go to the shipping point, come through Pennsylvania and from there they are put into the shipping centers and going to the Port of Baltimore where they are distributed. In the US there's a high abundance of clothes. The needs are in most areas of conflict. Fulkrod noted that there was a lot of discussion at the Yates County Planning Board and they talked about what this is going to do, in that it's a positive thing. That wasn't everyone's feelings, but it is sort of where we ended on the goodness that this is creating. Hullings stated he is not saying this isn't a good thing, it just needs to go somewhere else. We can't let the sentimental emotions of what is going on here affect our judgment and decision.

Sensenig said they would be willing to put up a landscape barrier. Meyer said it would be better if it was open, because as coming off the curve down the hill, we don't need a distraction.

Rood said that apparently this is going to be an interesting situation and asked Bob Clark if he would like to comment. Bob said he would like to know who will own this building and property. It was noted that the Finger Lakes Clothing Center Inc., a New York corporation will own the property and the building. The one building will be 120' X 60' and then there will be a 16' X 16' building. There will be no sales or money handled at all. The clothes are donated to the collection center. The building will belong to the corporation with a group of members. There's five members and that corporation will own it and pay the taxes. All five board members of the corporation will not be pulling a salary. It is a volunteer position. Fulkrod noted that the subdivision was approved two months ago; he is donating this land to this corporation. The land will be owned by Finger Lakes Clothing Inc., the building will be owned by Finger Lakes Clothing Inc. There are businesses like this out there. It will be non-profit so no one will own it. It is zoned agricultural residential at this point, but because it is a non-for-profit situation, you don't have to change the zoning to commercial. Fulkrod noted even if it was a commercial unit and making money, our zoning laws allow it. Everything is allowed in AR1 that is allowed in AR-B or hamlet center. It is just allowed with different stipulations. Hullings noted his concerns are that we are going to turn our commercial grounds into just commercial buildings.

Clark noted that regarding the road traffic, within a week and a half he had three people in his yard; two towards the pond and one in his yard and it wasn't slippery. A week or so before that someone drove through his field. Clark said the Town was concerned about that area and they went to the County and the county was concerned about it. The State supposedly came out and did a survey and watched it and they recommended that no speed changes were needed. Fulkrod noted that the Town put in a recommendation, and it went to the county and the county recommended it. They looked at the accidents and there were three different recommendations brought up to the State. This is a county road and they asked to have it lowered to 35.

Clark noted that in his case he doesn't believe there is any legal aspect that he can adjust, but he is not crazy about seeing the big building across the road. There is just a little bit of a dangerous situation with people coming in and out of there from the East coming up over the knoll.

Fulkrod noted that it meets all our zoning laws and meets what we are allowed to do, but the Board can put stipulations on how it is built, and they can put recommendations to the ZBA on what they see, but it meets our regulations so if we give reasons of why we don't want it, we must give real reasons.

Tomion asked Fulkrod what he would propose that could possibly be different if they can't choose to say they don't want it unless they have a reason. Fulkrod said this meets our zoning laws and if there is a reason why the Board thinks this needs to be looked at differently or look at our zoning laws differently, please state why. Hullings asked what our comprehensive plan says. Rood said he can't see anything in the comprehensive plan that would block this. He is looking at the soil types and the neighbors around the area and the aesthetic view of the area. Those are the three things we have the criteria on. The building isn't going to create any noise or nuisances or any type of thing.

Clark asked what the building would be made of. It will be wood framed and then the siding will be painted steel. It will look like a pole barn. They will have to drill a well and a septic. Hullings said they already did a perk test. Hullings said it looks like the leach field is going to be close to that ditch line. Fulkrod noted it will all have to be engineered and even if it's a not-for-profit it will need to meet the commercial rules so everything will have to be blueprinted and stamped.

Rood noted that as Tom pointed out, this can wind up in Albany, and we must make sure that if we are going to reject this, we must reject it on solid grounds. He noted he doesn't see anything in the comprehensive plan that we can fall back on to block this. Hullings asked about the aesthetics. Is it a minor issue? Rood said that in the comprehensive plan we have three vistas in the town that are of aesthetic values and that is not one of them. Where we really need to tighten things down on the comprehensive plan is with the definition of Ag. When he looked at revising that, he took that out of the USDA word for word and it is pretty good what it says. It defines what we call Ag land and it's definitive. The zoning law must fit the comprehensive plan. You can't have two separate definitions

Tomion said that as far as the safety of the road goes, the drivers need to be held accountable for driving like they do.

Rood said that just because he is chairman of the board doesn't mean his opinion means anything. He said he doesn't see anything in what we have discussed so far that would prevent him from voting for this project as presented. He has agreed to where everyone is coming from. He said he doesn't see anything in the comprehensive plan that would prevent him from voting the approval of this project. If we are going to vote no and disapprove, we need to have solid things behind us. If we go to Albany, the Judge will look for the same thing, he will look at the minutes of the meeting, the comprehensive plan and the zoning law. If the appellate court doesn't see anything there, they can overturn anything we do. Why make it difficult in the beginning? If we can't find anything negative on this project, then we should approve it.

Rood asked if there is any further discussion. Goodall asked if there will be a new pole out there to run electricity to the place. Fulkrod noted it is already there. There is no pole on parcel B. The power runs directly through there.

Rood made a motion to accept this application as presented. He then asked if anything needs to be changed. Hullings said he still feels there is a safety issue on that road, and he doesn't think it will have a positive impact on our town. Either our comprehensive plan or our zoning will need to be changed. It

sounds like this project does meet all the requirements, but it doesn't make it right. Rood noted that playing the devil's advocate, these people are going to hire a lawyer. We can't come up with anything other than a safety issue of the highway, and he is sure the state will shoot that down when they get an expert witness. Rood said he is thinking of what the pros and cons are ahead of time.

Harper said the Board needs to basically look at our zoning laws. Our zoning laws sitting here today are what they are, and we must follow them. If we don't like them, it is up to this Board to change it and put something in place, but it's too late for this Board. We must act on what is in the current zoning laws. We have allowed the Truss shop to go in with tractor trailers on Havens Corners. We have allowed the Dock repair place to have basically off-loading at times with trucks right on the road. We must watch out for what we might not like about this, and we have already done it in other areas, we are kind of being hypocritical and that could get us into trouble. That is where this Board will have to look and have to point to some things in the zoning laws that we don't like and be able to cite that for that reason. We need to understand that we are in an Ag district, but that doesn't stop commercialization. You can look at the county; the economic development just bought the whole McFetridge Farm and turned it into basically a business park.

Rood asked Tomion if she had any comments. Tomion said she doesn't really have any opinions other than road safety.

Stape said we are backed into the corner, and he doesn't see any way out. We don't need legal feels. Stape then seconded the motion.

Rood asked if there is any further discussion. Karen polled the Board:

Rood: Yes
Stape: Yes
Meyer: Yes
Goodall: Yes
Hullings: No

Motion was approved.

Fulkrod noted that the conversation will be brought to the ZBA. Owner said they would be open to neighbors in that area if they would like to have a voice on the building color or the roof or the siding. That is not set in stone. Fulkrod noted that is all stuff for the ZBA meeting, because he is sure there will be neighbors there. The ZBA is really the passing point of this.

Tomion stated that we keep talking about needing a conversation to talk about vacation rentals and campsites and septic. She asked if we should try to schedule one at a time to get going with this. It seems like we keep making this list and we haven't hit any of this. She said she could try to help. Fulkrod said he keeps using the excuse that Starkey doesn't have one either, but Starkey is about ready to adopt the septic plans. Rood said he would like to see what some of the surrounding towns have besides Torrey. Harper stated that from the Septic side, Soil and Water Conservation pretty much does all the municipalities on Keuka Lake. They wrote the laws and pretty much were adopted with maybe a few changes here and there for each township. Fulkrod noted that Colby is willing to come and help write ours if we want that. Harper said that we have Torreys which is probably very similar to every other township. We could make some modifications to it and keep it our own but the biggest issue when we looked at it originally before we hired Tom, one of the alternatives was to hire Soil and Water to do the watershed. They would not do it unless there were laws in place for it.

Tomion asked how we move forward as far as scheduling this into the next meeting agenda or is it a separate committee. Do we add it to the agenda at the meeting and everyone reads through Torrey's and makes an adjustment? Rood said that if we don't have a lot of business, we can probably set aside a half hour or an hour after the meeting to go through one of those. Fulkrod noted that if there is nothing or one thing on the agenda for next month, he will just add one of those three items to the agenda.

Stape suggested going on our own with this and if we run into a roadblock we ask for help. Harper suggested taking their document and revising it to meet what we want. Fulkrod noted that Torrey's is a good starting point, but the only thing we have is that when we start tweaking this, we can't tweak outside of New York State health law. NYS overrides everything. If we try to change something and it's in the health law, we are in trouble.

Harper then stated that Torrey also does a lot with short term rental properties. Rood said there's no reason why we can't do it, we just must do it.

Hullings said that a lot of people move from Lancaster County to New York because of the farmland. They had industrialized themselves out, so they moved to New York. If we are not careful, that is what will happen to us. We have had the largest community of Mennonites out in the country outside of Lancaster County. If we are not careful, we will industrialize ourselves out of here too.

Fulkrod noted that next month we will have Hayes Auction Barn on the agenda.

ADJOURNMENT: Rood made a motion to adjourn the meeting at 8:30 p.m. Meyer seconded the motion. All in favor.

Respectfully submitted,

Karen Ellis
Recording Secretary