

**DRAFT
TOWN OF BENTON
ZONING BOARD OF APPEALS MEETING
JUNE 7, 2022**

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

Also Present: Nathan Horning; Kenneth Zimmerman; 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:

Last month's meeting minutes are not ready to be voted on. They will be acted on next month.

APPEAL #166AV-21 – Sunny Havens Mennonite School on Havens Corners Road, Penn Yan, NY 14527.

The school would like to build a horse enclosure, basically closer to the lot line than our zoning allows.

Horning stated they just want a three-sided shed and the members had looked at it several times and in different ways and they keep coming up with the same spot and the same distance. They would stay one foot off the boundary line just to make sure they are not going over. They are confident they know where the line is, and they have provided a paper to the Board. The landowner across the lot line is one of the school parents and she is okay with this. There was a request by the Board about other positions. They considered that and it still comes back to hoping the Board will accept their original proposal. They had a good feeling after the Board went out to see why the school doesn't want it anywhere else on the property. The one side the Board had suggested was too close to the center entrance and the other area is right near the playground. They are hoping the Board understands. Hauman asked if it is possible to shift the driveway over a little bit in that location. Horning said they talked about it, but something came up that axed it. James said the only concern that someone brought up was that maybe the driveway would interfere with the ball field. Horning agreed that would be getting into the ball field. Zimmerman said he does not know where the water lines go, but he is assuming it goes somewhere along the driveway. Hauman said he believes that at one point there was some discussion about the fire truck entering the driveway to get up to the school or the ambulance that it wouldn't cause any obstruction.

Davie asked if the tree would be taken down. Horning noted that the one will be a hazard anyway, so that tree is coming down to prevent it from falling onto the shed.

James asked if they know the exact location of the property line and if they have a marker. Horning said its very, very close. James said he has seen buildings built two foot over when the owner said it was very, very close. Horning indicated that the landowner provided them a spot where the pins and things were. Fulkrod also indicated that his Pictometry picks up and lines up with the fence where she is saying

the line is. Fulkrod then noted that this Board granted a variance of 5 ft. for a garage a few years ago and it was just pinned this week and the pins were not where the landowner said, so now it makes things sticky. James said that is the ownness of the landowner to find out where it needs to be. All we say is 5 ft. from the property line and not 5 ft. from where the owner thinks it is. If we find out that if it is built a foot over onto them, they would have to do something. Horning said they would have to take responsibility for that, and it would be corrected.

Meyers asked if there is any possibility that the landowner would donate a piece of the land? Horning noted they covered all that before.

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

Meyers asked if we are setting a precedent for this. James stated that each application is an unusual circumstance which is what this Board needs to look at. If you choose to grant the variance, you should put in the motion the reason for granting it. If not, then it should not be granted.

Quackenbush asked about the roof line and if the overhang for the water goes over into the neighbor's property. If you have a one-foot overhang the building will have to be two foot off that property line. When he says one foot, it means the furthest point out of the building.

Fulkrod said that even if they built it a foot off (even at 3 ft. off), they would have to put gutters on the back side, because they cannot legally dispense water directly onto the neighbor's yard. James said the only thing they would have to be concerned about would be future neighbors in that event. They had a same situation down on Rt. 54 where the neighbors came in and told the Board that they were flooding out their lot.

Meyer made a motion that we approve Appeal #166AV21 with the stipulation that it be a maximum of 12 ft. wide, which would give them an extra 3 ft. from the property line. The pins need to be positioned where the shed will be. A letter from the neighbor needs to be sent to the Board giving her approval. The tree next to the shed will need to be removed.

The three reasons we are granting this is because of visibility for the school is because it has been brought up that if you slide the building over, someone could come up onto the school without being seen. Putting the shed in the middle of the ballfield would be tough and putting it behind the building, you have the outhouses, etc. out there. This shed will also be a place to keep the animals out of the weather.

Hauman seconded the motion.

The Board was polled:

James: yes

Davie: yes

Meyer: yes

Hauman: yes

ADJOURNMENT:

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

Respectfully submitted,

Karen Ellis
Recording Secretary