

DRAFT
TOWN OF BENTON PLANNING BOARD MEETING
DECEMBER 27, 2022

PRESENT: Tom Rood; Tom Goodall; Rich Meyer; Crystal Tomion, and Steve Hullings

Also Present: Marlene Exner; Arlene Wilson; Dewey Hauman; Chrles Franks; Mel Martin; Glenn Quackenbush, Town Councilman; Alan Tomion, Town Councilman; Tom Fulkrod, Code Enforcement Officer, and Karen Ellis, Recording Secretary.

Rood called the meeting to order at 7:00 p.m.

APPEAL #176SUP-22: Amos Stauffer requesting a Special Use permit for a Heavy Equipment Repair Shop and an Area Variance to build commercial repair shop in front of the house.

Fulkrod reported that Mr. Stauffer is seeking a special use permit from the Planning Board for a 40' X 60' heavy equipment repair shop. His father has one on Carroll Road and he would like to do the same thing at his shop on Route 14A. He has gotten his permit from NYS to put his driveway in. For the Zoning Board, he is also asking for an Area Variance because he would like to put the shop slightly ahead of the house which fits the contour of Route 14A. We already have a lot of businesses that have already done that. The Planning Board asked five years ago to do away with this in the zoning laws, but the ZBA said they still want to see these every single time, even though the Planning Board recommended to take it out.

Rood noted he has issues with this. The zoning law requires us to have plans of what is going on here. There's no dimensions or anything on these drawings. This is way away from the highway. In the future, we need to comply with what is written in our zoning law. We are supposed to have dimensions on these things, but there's nothing here. Fulkrod noted he has the house plans, but as far as the shop plans go, he doesn't have them in yet. He asked him to get them in right away, just in case the ZBA had a problem with the area variance side of it, so he knew he would have to readjust where he is putting things. This was done right after he bought the property. Obviously, the house is going in and that doesn't need to be referred by anyone other than himself. The shop site plan has to be approved by the ZBA and the special permit for what he is using it for has to be approved by the Planning Board. All this Board is approving is the fact that he would like to have a heavy equipment repair shop out of a 40 X 60' shop. Hullings suggested that if the shop is going to be there, we need to put some type of an arborvitae barrier so that it is not hindering the Bed and Breakfast guests, not to mention the oil and stuff that will be in the shop. Fulkrod noted that under the site plan, this Board has full right to make a recommendation to the Zoning Board that they would like a barrier to put up. Hullings noted that Franks of Los Gatos Bed and Breakfast is south of this and if he has guests at the back of his deck, he is going to look at it diagonally and he will see an ugly shop there. He suggests that we, as a Planning Board, need to have them put in an arborvitae barrier so that it is not hindering his guests, not to mention being oil and stuff that will be in the shop and getting into his pond. Franks indicated that there is a natural spring that runs all the way across his property and comes up on one side and doubles out. Sometimes he has a 5' ft. like river going across his property. He does have concerns with fuel and oil and things that shouldn't be in the ground. Rood asked if there are any wetland restrictions on this property. Fulkrod noted they met with Soil and Water at the site and there is nothing.

Arlene Wilson, co-chair of the Yates County Farmland Protection Board in Yates County, stated that they are not in favor of this. They feel that it is going to be in opposition to where they are going with the farmland protection plan. They are in the planning update process, and they are concerned about having a shop facing out on Route 14A and if there was a way to put this behind the building, because as more development comes, we are losing the scenic views that people like about Benton and that attract people to come here and visit as well as do business here. Arlene stated that she has looked at our comprehensive plan and there are some statements in the plan that they value agriculture and the rural landscape, but the plan has no specifics about where farms should be. It does talk about being pro-business, but once you use up and start cutting up farmland and rural land, its very hard to get that back again. If there's issues with creeks and streams that is even more telling, because that will impact other properties adjacent and properties that if the water and creek is polluted with oil and those kinds of run-offs, it will have impacts.

Rood thanked Arlene for coming and for her comments. He then noted that a few people here were part of writing the comprehensive plan and our description of farmland was taken from the United States Dept. of Agriculture description. We have struggled with that for quite a while and we have had some things come in that have puzzled us. He then noted that he was down looking at this particular site, but its up to the others of the Board. Rood asked Fulkrod if he really sees this as top-quality farmland, because it looks like some type of racetrack there. Fulkrod noted that where they are putting all of this is over the horse track and any bit of that could be tillable acreage that is being used, but this individual has decided to buy it and put a house on it, which as far as the house and the barn go, there is nothing that we can do to stop it. All we can stop them from doing is having a business there. On Route 14A, we are going to see businesses keep popping up because it's a very high populated place. What matters is we have already set the precedence several times with many businesses on 14A being in front of residences. It was asked if there's a time when we must stop allowing this and change? Rood stated that unfortunately there is nothing in the comprehensive plan or the zoning law that prevents us from approving this project, but he is in favor of tabling this because we don't have adequate drawings to look at. It is our responsibility to look at the footprints of this building and we don't have any other information in front of us. Meyer indicated that he is also on the Zoning Board, and they have tabled numerous ones lately because the people aren't here. They need to address us so that we can directly answer questions to them and get answers from them.

Rood made a motion to table this until the next meeting. Meyer seconded the motion. Crystal stated that the position of the shop isn't, in any way, helping the drainage. If we change it and move it back for visual purposes, it will not help any of that other stuff. Hullings noted that this Board has heard his voice on the commercial industrial growth in this town and as a Planning Board, we need to do something about it. He said he knows precedence has been set, but if we continue to let this happen, we will be a commercial industrial village and not farmland.

Fulkrod noted he understands where everyone is coming from and in this instance, he can build a house tomorrow and we cannot stop him. He can put in a barn up behind the house tomorrow and we can't do anything. The only thing we can look at is that he has a business there and where he positions it. It is up to both Boards.

Hullings indicated that we do need to revisit the comprehensive plan and zoning. They could put a skyscraper in and we couldn't do anything about it. Fulkrod noted it is the Board's job to come up with recommendations for the Zoning Board on what you want to see, whether it is a set of arborvitaes or

special drainage and how much of the area in front of the shop, if you allow it, can be used. He is already setting out equipment for sale.

Rood stated we have a responsibility for how we rule on these things. If they are appealed in Albany, there are only three things the court is going to look at; our comprehensive plan; our zoning law, and our meeting minutes. That is all they will look at. If we miss a step someplace, we can be overruled. The legal expense of this thing is pretty high, so we have the responsibility to protect our Town. We are trying to be fair to everyone, because down the road it is a legal mess.

Rood indicated that we have had a motion on the floor and a second. Being no further discussion, the motion was carried.

APPEAL #181SUP-22: Rail Riders for a Special Use Permit to have a 24 X 40 storage shed and a holding tank for porta potties.

Rood noted he went down to look at this, and the building already seems to be there.

Fulkrod noted that this is a business that has been given a special use permit by the ZBA. She was asked to come back every year to redo her special use permit. This last year when she came in the ZBA granted her a full-time special use permit without having to come back because she had been abiding by all the rules and she has come in for permits any time she needed anything and now she has done this. It fits within the landscape of her property; it is an allowable process with just a change to her special use. As far as the septic tank, it is solely on him to approve it. This is something that was also done outside the parameters of what was given to her by the ZBA. With her not being here, this should be tabled. As far as this Board is concerned, the Board is just looking at what the use of that barn will be and the change of the special use. For this Board's knowledge, he will be asking the ZBA to revoke her full-time special use permit and make her come back once a year so stuff like this gets handled.

Rood stated he has looked at this and it is pretty much straightforward. He is disappointed that she didn't come to us first, but that is not the first time that has happened.

Rood made a motion that we accept this application as presented.

Tomion noted that there were some conversation about whether the railroad will allow that structure to be there. She asked if there is any problem with that. Fulkrod noted he hasn't heard back from them yet. She has a lease to do what she wants with her property, if there isn't something that is unmovable. She couldn't put up a pole barn with beams on it; everything she has put up could be put on a flatbed and taken away tomorrow. That is the way the lease was written. With any property, the way our zoning laws are written, the owner must approve it. Fulkrod said he was hoping for an answer, but obviously for anyone that has tried to contact the railroad, it is not simple.

Rood stated that he was concerned with what this lady was doing when she put this in there, but this has become quite a tourist attraction for the Town of Benton. Fulkrod noted she is doing a good business, but the problem is that she knows she must come in for everything that needs a permit.

Rood then noted that his opinion is that we should approve this as presented, as she is trying to make the Town of Benton a tourist attraction, which we like. Tomion asked if there could be a provision that

the zoning board make her come back annually for permits since it is a seasonal operation. Rood stated that is up to the ZBA.

Rood made a motion to accept this as presented. There was no second to the motion, so Rood made a motion to table this application until next month. Goodall seconded the motion. All in favor.

APPEAL #183SUP-22 – Martin’s Equipment is requesting a special use permit for a 3840 Sq. Ft. Addition to Shop.

Rood stated that they essentially enlarging the western part or the back part of the new shop for new storage of machines.

Martin indicated that they had a little shop where they did their service first, and then a few years ago they built a new shop and a showroom. Now they need more storage for their units, so they are going to build over the old shop cover and then just go west, 80 ft. over. Hullings asked if this is going to be storage of units that they are servicing or for storage. Martin said they have a warehouse there now, but it is stocked full.

Fulkrod noted the new building that was approved a few years ago is already in front of it. What they would like to do is incorporate the building they already have into a larger building behind the big building they already have there. Stamped plans were sent to everyone in their packet. Rood indicated that the dimensions of the new building are quite away from the property line, so that will not be an issue. Fulkrod stated that in the hamlet center they are allowed 50 percent coverage and they are not close to that.

Rood asked if anyone had any questions or comments.

Tomion made a motion to approve this application. Meyer seconded the motion. All in favor.

APPEAL #184SUP-22 - D&L Rental and Supply are asking for a special use permit to add a 2,432 sq. ft. addition to the main building.

Fulkrod noted that this is towards the north 24 ft. and off the north side will be for more mechanic space and storage. Towards the south side they are planning on moving the storeroom towards the bottom side and parking and access. Fulkrod said that on the south side there is a loading dock. If anyone that has done work with them, right now when you go get something you go in the front door and go the counter and get what you’re going to get and then drive back around to get it. He is looking at moving it so people can go right to the loading dock and not have to go around and not be in the way of where they are moving equipment. It will basically help with the flow of business. Tom said that for someone who has worked with this company quite a bit, this will drastically help with the flow of the business, and he thinks it will keep people out of the way of excavators, so it should be a real positive thing.

Meyer made a motion to accept this application as presented. Goodall seconded the motion. All in favor.

OTHER BUSINESS:

Rood stated that this is the last meeting of 2022, and he really appreciates the cooperation of the Board. It hasn't been a terribly busy year, but he believes we have accomplished a few things. The one sad part is that this is Karen's last meeting. Tom presented Karen with flowers and a certificate of appreciation for the years she has been with the Board. Crystal served a wonderfully delicious carrot cake to all in attendance.

The meeting ended at 7:36 p.m.

Respectfully submitted,

Karen Ellis
Recording Secretary