

**VILLAGE OF PENN YAN
ZONING BOARD OF APPEALS
MEETING MINUTES
JANUARY 21, 2009**

PRESENT: STEVE OWENS, ARTHUR PIKE, RUTH DAVIS, EDWIN LAURSEN, JR.,
LYNN DURYEA, Recording Secretary

PUBLIC PRESENT: Matt Tomlinson and John Stapleton from Marathon Engineering

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MOTION: Arthur Pike made a motion to approve the 12-15-08 minutes.

SECOND: Ed Laursen, Jr. seconded the motion. All in favor - 4. Carried

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FIRST ISSUE: Application from The Wegman Group, LLC for a variance related to the setbacks at several positions for a proposed subdivision at 313 Hamilton Street, Penn Yan.

MOTION: Arthur Pike made a motion to accept the application as presented

SECOND: Ed Laursen Jr. seconded the motion.

Matt Tomlinson and John Stapleton were present to discuss the project with the Board and Mr. Tomlinson handed out an additional drawing for the Board to review.

He told the Board that The Wegman Group, LLC owned the land at 313 Hamilton Street and were proposing to subdivide and build on it in two phases, leaving the existing home with some land attached on a separate parcel. The resulting project would be called Parkland Estates and would have its own private, circular road.

He described the subdivision as an area where the existing landscaping was the major concern when they designed the layout of dwellings. He added that the property owner want to retain the 'park-like' setting and disturb the existing landscaping as little as possible. For that reason they would be forced to situate the buildings closer to the roadway and an adjacent property than code allowed.

Matt explained that he had discussed the setback issues related to the road width with Bruce Lyon, the Code Enforcement Officer. He stated they were requesting an 18' width instead of a 24' width for the entire roadway, excluding the entry which would be 24' wide.

The Chairman, Steve Owens, asked if the existing home with land would extend all the way to the rear property line and if the farmer, whose property abutted at the rear, would be affected. He also wanted to know if there were to be any additional road cut-through to the subdivision.

Matt told the Board that the rear property line would remain the same for the parcel attached to the existing home, but there would need to be a variance for the setback related to the farmer's property line near one proposed dwelling. Matt stated that there was to be only one access to the subdivision and no other roadways cutting through.

Steve Owens then laid out the three setback variances this project would need from the Board and said they would be handled separately as three individual variances. Steve also summarized for clarification that just one of the variances related to a setback that involved another property owner, the others were setbacks related to the developer's property only.

- 1.) Zero (0) clearance side setbacks for all the common walls on the proposed attached homes.
- 2.) Ten (10) foot front setbacks from the private right-of-way for proposed homes.
- 3.) Fifteen (15) foot rear setback for one home labeled #7A/B.

Ruth Davis asked Mr. Tomlinson to point out where the front doors would be located on the dwellings and if it was likely they would be the most used for entry. Matt pointed out that most of the homeowners would gain entry through an interior garage access door rather than the main exterior entry to the home.

Steve asked if there was to be road maintenance managed by a proposed Homeowner's Association. Matt said there would be an association and it would be responsible for road maintenance.

Ed Laursen inquired about the variance approval process related to project phases far into the future at this site. He asked if the Board would approve those at the present meeting or not. The Chairman explained that they would secure all the variances that were needed for the project at one time.

The Chairman proceeded to conduct the Balance Test for the setback variances individually.

For the zero foot, common-walled setback, the Board found that:

1. Benefit cannot be achieved by other means since the dwellings are attached units and are situated so as to come together AT the property line.
2. There were no neighbors present to express opposition either in writing or verbally.
3. The setbacks will not cause an undesirable change in the neighborhood character or to nearby properties.
4. The setbacks will not have any adverse physical or environmental effects.
5. The alleged difficulty has been self created so that each property owner has a desirable wooded parcel with maximum land benefit.

ALL IN FAVOR – 3

Ruth Davis – nay vote

GRANTED

For the 10 foot front setback the Board found that:

- 1.) Benefit cannot be achieved by other means due to parcel dimensions and the desire the developer has to retain existing trees and plantings.
- 2.) There were no neighbors present to express opposition either in writing or verbally.
- 3.) The setbacks will not cause an undesirable change in the neighborhood character or to nearby properties.
- 4.) The setbacks will not have any adverse physical or environmental effects.
- 5.) The alleged setback difficulty has been self created to allow the development to retain its park-like setting.

ALL IN FAVOR – 4

GRANTED

For the 15 foot rear setback the Board found that:

- 1.) Benefit cannot be achieved by other means due to parcel dimensions and the desire to leave old growth lot flora.
- 2.) There were no neighbors present to express opposition either in writing or verbally.
- 3.) The setbacks will not cause an undesirable change in the neighborhood character or to nearby properties.
- 4.) The setbacks will not have any adverse physical or environmental effects.
- 5.) The alleged setback difficulty has not been self created since it facilitates the best use of parcel space without creating additional setback conformance issues.

ALL IN FAVOR – 4

GRANTED

OTHER BUSINESS: NONE

MOTION: Arthur Pike made a motion to adjourn the meeting at 7:40 PM.

SECOND: Ed Laursen, Jr. seconded the motion. All in favor - 4. Carried.

Respectfully submitted by:

Lynn Duryea, Secretary
Zoning Board of Appeals
Village of Penn Yan