

**Town of Cambria  
Zoning Board of Appeals Meeting  
November 19, 2018**

The regular monthly meeting of the Zoning Board of the Town of Cambria was called to order by Peter Smith, Chairman at 6:00PM. Everyone was welcomed to the meeting, followed by the Pledge to the Flag.

**Members Present:** Thomas C. Andrews, Acting Chairman  
Harmony Retzlaff-Hurtgam  
Bradley Rowles  
Cheryl L. Shoop

**Members Absent:** Peter Smith  
Alan Johnson

**Also Present:** Gary Billingsley, Attorney

A motion was made by Mr. Rowles and seconded by Mrs. Retzlaff-Hurtgam to approve the Minutes for the October Meeting as presented, unanimously approved, motion carried.

The public hearing notice was read as it appeared in the town newspaper.

**Old Business**

**Special Permit-Renewal**

**ZBSP-2012-06      Niagara Forestry/Brian Whyte  
4177 Lower Mountain Road, Lockport, NY 14094  
SBL# 92.00-1-66  
Log Mill**

Mr. Whyte was not present at tonight's meeting. At the request of Mr. Whyte's Attorney Mr. Townsend, Mr. Billingsley suggested that this matter be tabled until the December meeting.

A motion was made by Mr. Rowles and seconded by Mrs. Shoop to table this Special Permit Renewal until the December Meeting, all in favor, motion carried.

**New Business**  
**Special Permit**  
**ZSP-2018-013**

**Alexandra Plante/Kin Loch Farmstead**  
**4299 Ridge Road, Lockport, NY 14094**  
**SBL# 78.00-2-24.112**  
**Pond**

**Public Hearing Notice**

For a special permit to permit applicant to construct a farm pond for fire protection purposes upon premises commonly known as 4299 Ridge Road with dimensions of approximately 35 feet by 20 feet pursuant to the Special Permit Ordinance of the Town of Cambria.

**Public Hearing Open**

No Public Comment

**Public Hearing Closed**

Ms. Plante was present at the meeting and stated they would like to have a pond dug on their 38 acres of land. The proposed pond would be used to provide fire protection for the 50' by 60' pole barn that is currently under construction. Ms. Plante stated that according to the Fire Code they would need to either construct another fire hydrant on their premises or a 13,000 gallon pond to adequately protect a 3,000 square foot pole barn. The building is located 570 feet away from the closest fire hydrant making the pond necessary in the event of a fire.

The proposed pond would be approximately 35 feet by 20 feet, and contain roughly 36,000 gallons of water and be 7 feet deep. In addition the proposed pond would have a dry hydrant, and gravel driveway. The proposed pond will have a liner as the soil is not dense enough to hold water. The liner will be smooth but a ledge will be in place as a safety measure in the event someone falls into the pond. Ms. Plante was asked by the Board if the proposed pond will have a fence, Ms. Plante stated that she hadn't really considered the fence but she will take whatever precautions are necessary.

The proposed pond has been recommended for approval by the Niagara County Planning Board and has been reviewed by Niagara County Soil and Water.

A motion for a negative declaration under SEQR was made by Mr. Rowles and seconded by Mrs. Retzlaff-Hurtgam, all in favor, motion carried.

**New Business****Special Permit- Plante continued**

A motion was made by Mr. Rowles and seconded by Mrs. Retzlaff-Hurtgam to approve this Special Permit providing there is no environmental damage and the pond will not adversely affect drainage in the area, pond to be constructed in compliance with the October 15, 2018 letter from Niagara County Soil and Water, all in favor, motion carried.

**Area Variance**

**ZSP-2018-015      David-Aliza Edbauer**  
**4715 Plank Road, Lockport, NY 14094**  
**SBL# 93.03-1-13**

**Public Hearing Notice**

For an area variance to permit applicants to construct an addition to an existing solar array upon premises which would include their residence currently known as 4715 Plank Road. Said solar array would thereby include one additional ground mounted panel with dimensions of 16 feet by 30 feet. The entire solar array would contain 1,547 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit the total square footage of a solar array to exceed 1,500 square feet upon such a parcel.

Mr. Edbauer and Mr. Prinzi, Operations Coordinator for Solar Liberty were present at the meeting and Mr. Edbauer stated that he would like to install an additional pole and panels to be included on his existing solar array. He would like to become a net zero household and not be required to buy any power off the grid. He stated that his original solar arrays were installed seven years ago and he still has had to buy 30,000Kw of power from National Grid. He stated that he is not selling any power back to the grid the power from his solar arrays are for he and his family's energy needs. He is planning to purchase an electric car in the future.

**Public Hearing Open**

Kim Sarles, 4718 Lower Mountain Road, Lockport, NY 14094 who lives across the street from Mr. Edbauer stated that she is against the extra solar panel, it is over the size the Town permits and no blockage is provided to the neighbors.

Pamela Fleming, 4723 Lower Mountain Road, Lockport, NY 14094 stated that she is also against the additional solar array. She stated that no one else in the Town is allowed to have solar arrays the size of a billboard. Ms. Fleming further stated that she has been trying to sell her house and no one is interested in purchasing the property with the hideous sight of the solar arrays in their face. In addition she feels the existing solar arrays are a hazard to the road and children riding their bikes.

**Area Variance-Edbauer Public Hearing continued**

Ms. Fleming stated that the neighbors only get relief from the glare off the Solar Arrays during the summer months when the trees are covered with leaves.

The neighbors feel that Mr. Edbauer has done nothing to block the glare from his neighbors. Ms. Fleming stated that she is not against solar and has a daughter who works in the industry. She stated that there was no variance granted prior to the original arrays being put in place, the Town Board did not realize how large the arrays were going to be. Ms. Fleming stated that existing solar arrays should be dropped to the ground and the additional panel should not be allowed.

**Public Hearing Closed**

According to Mr. Billingsley subdivision approval by the Planning Board would also be needed by applicant. This would appear to involve a further subdivision request resulting in a lot fronting on both Lower Mountain Road and Plank Road which would include the Lower Mountain Road portion containing depth of less than the depth required by the Zoning Ordinance. Also additional variance relief relating to rear yard setbacks would appear to be required based upon the location of the existing and proposed solar array. Currently the proposed solar array would be too close to the current lot line. Mr. Edbauer would have other feasible means available; roof mounted or location closer to residence.

Mr. Billingsley stated that there are five (5) criteria that this Board must consider when balancing if an Area Variance can be granted without being a detriment to the health, safety and welfare of the community.

The Area Variance criteria are as follows:

- Whether benefit can be achieved by other means feasible to applicant;
- Undesirable change in neighborhood character or to nearby properties;
- Whether request is substantial;
- Whether request will have adverse physical or environmental effects;
- Whether alleged difficulty is self-created;

If approved shall grant minimum variance necessary, and may impose reasonable conditions.

Mr. Edbauer stated that roof mounted solar arrays are not an option they will not work on his roof which is in the shade. He further stated the solar arrays will not work on the back of his property behind his pool they would be too far away from his residence.

Mr. Prinzi stated that distance would have an adverse effect on the level of output by a few percentage points from the proposed solar arrays.

**Area Variance-Edbauer continued**

A motion was made by Mr. Rowles to deny this area variance because two (2) other options are available that would not require a variance, and applicant would require additional relief from the Planning Board on a further subdivision request, and further setback relief due to rear yard setback requirements, seconded by Mrs. Shoop, all in favor, motion carried.

**Area Variance****ZBAV-2018-017****Kenneth-Paula Adams****4770 Carter Drive, Lockport, NY 14094****SBL# 93.03-1-27****Placement of Shed****Public Hearing Notice**

For an area variance to permit applicants to construct an accessory building with dimensions of 10 feet by 16 feet upon said premises closer to the road right-of-way than the rear main wall of their residence, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such a structure closer to the road right-of-way than the rear main wall of a residence upon such a parcel.

**Public Hearing Open**

Daniel Cudzilo, 71 Brentwood Drive, North Tonawanda, NY 14120 owns 4760 Carter Drive and 4750 Carter Drive was present and expressed concern that the proposed building may block the view should a house be built on his vacant land. Mr. Cudzilo requested information and clarification.

**Public Hearing Closed**

Mr. and Mrs. Adams were present at the meeting and would like to construct a 10' by 16' accessory building for additional storage. They stated that their property backs up to the Escarpment and the location they have chosen is mostly level, dry and ideal due to the drop off at the back of their property.

A motion was made by Mrs. Retzlaff-Hurtgam and seconded by Mr. Rowles to approve this Area Variance, all in favor, motion carried.

**Area Variance**

**ZBAV-2018-019     Joanne-Jaren Israel**  
**4344 Burch Road, Ransomville, NY 14131**  
**SBL# 77.00-1-58.82**  
**Pole Barn**

**Public Hearing Notice**

An area variance to permit applicants to construct a pole barn containing dimensions of 40 feet by 64 feet upon said premises which would contain 2,560 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit an accessory building exceeding 2,000 square feet upon such a parcel.

**Public Hearing Open**

No Public Comment

**Public Hearing Closed**

Mr. Israel was present at the meeting and stated that he built his home two (2) years ago and is now ready to seek approval for a large pole barn on their property. He stated that the 2,560 square feet pole barn is needed to store his tractor, truck and enclosed trailer. He would like to be able to back the truck and enclosed trailer in the building to keep them out of the weather. He grew up in Wilson and his family had pole barns so he was familiar with the size he would need for his purpose.

In addition friends and neighbors encouraged him to go with the larger pole barn and offered you always need additional storage space. The proposed building will be 17- 20 feet off the property line.

A motion was made by Mrs. Shoop and seconded by Mrs. Retzlaff-Hurtgam to approve this Area Variance, all in favor, motion carried.

**Area Variance**

**ZBAV-2018-019     Jeffery-Margaret Hall**  
**4605 Ridge Road, Lockport, NY 14094**  
**SBL# 79.00-1-13.2**  
**Addition to existing garage**

**Public Hearing Notice**

An area variance to permit applicants to construct an addition to an existing garage upon said premises. The existing garage contains 864 square feet, the 16 feet by 24 feet addition would contain 384 square feet, and the total structure would contain 1,248 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such an addition where the total square footage of the existing garage and the proposed addition exceeds 1,000 square feet.

**Area Variance-Hall continued****Public Hearing Open**

No public comment

**Public Hearing Closed**

Mr. and Mrs. Hall were present at the meeting and would like to construct an addition to their existing garage.

A motion was made by Mr. Rowles and seconded by Mrs. Retzlaff-Hurtgam to approve this Area Variance, all in favor, motion carried.

**Use Variance****ZBUV-2018-005****Gregory-Kimberly Nye****4494 Upper Mountain Road, Lockport, NY 14094****SBL# 107.00-1-50.3****Accessory Building on Vacant Land****Public Hearing Notice**

For a use variance to permit applicant to construct an accessory building, namely a pole barn, upon a vacant parcel of land westerly of and adjacent to 4494 Upper Mountain Road, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an accessory building upon a parcel that does not contain a residence or other principal building.

**Public Hearing Open**

No public comment

**Public Hearing Closed**

Mr. and Mrs. Nye were present at the meeting they would like to keep their vacant lot separate for the property where their residence is located. According to Mr. and Mrs. Nye in the future they would like to downsize and build a smaller retirement home on the vacant lot. They would like to have the accessory building in place for the future home as well as having the building now for additional storage.

The vacant lot has 100 feet of frontage current building codes in the Town of Cambria require 150 feet of frontage. This property is grandfathered that is the reason applicants do not wish to merge their lots

According to Mr. Billingsley, approval of this Use Variance would be a direct violation of the Zoning Ordinance of the Town of Cambria. The vacant lot is currently a legal building lot.

**Use Variance-Nye continued**

This is not a unique situation, but a self- created situation. It would be a self-created hardship since the property could be used in another way, namely as a residence.

The Board was encouraged to deny this Use Variance as a matter of law.

A motion was made by Mr. Rowles to deny this Use Variance as a matter of law, seconded by Mrs. Retzlaff-Hurtgam, all in favor, motion carried.

**Reports**

**Chairman-** Nothing to report at this time

**Building Inspector-** Not present at this meeting

**Attorney-** Nothing to report at this time

**Board Members-** Nothing to report at this time

The next meeting of the Zoning Board of Appeals will take place Monday, December 17, 2018 at 7:00PM, following the Planning Board Meeting at 6:00PM.

A motion was made by Mr. Rowles and seconded by Mrs. Shoop to adjourn the meeting at 6:45PM all in favor, motion carried.

Respectfully Submitted by  
Melinda Olick

Mr. Andrews was appointed Chairman for the November meeting as Mr. Smith, Chairman and Mr. Johnson Vice Chairman would be unable to attend this meeting.