

Town of Cambria Zoning Board Meeting Minutes

February 26, 2024

Call to order

A meeting of the **Zoning Board of Appeals** was held at **Cambria Town Hall** on **February 26, 2024**, @ 6:30 p.m. Chairman Smith welcomed everyone followed by the Pledge of Allegiance.

Attendees included:

Peter A. Smith, Chairman
Thomas Andrews, Vice Chairman
Cheryl Shoop, Member
Andrew Milleville, Member
Harmony Retzlaff-Hurtgam, Member
Mark March, Alternate
Randy Roberts, Liaison to the Town Board
Gary Billingsley, Town Attorney
David Haylett, Town Attorney
Building Inspector/Code Enforcement, James McCann
Deputy Building Inspector/Code Enforcement, Matthew Cooper
Krista Brocious, Planning /Zoning Board Clerk

Members not in attendance included:

Approval of minutes

A motion to approve the **January 22, 2024**, minutes was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, motion carried.

Unfinished business

GAROFALO, Jennifer
4571 Budd Rd., Lockport
Use Variance-Public Kennel

ZBUV-2023-006
SBL#93.00-2-45.22

Dr. Jennifer Garofalo was present. Mr. Milleville stated that there are complaints in the neighborhood already and he doesn't see how adding more dogs will improve the situation. Based on those facts and the required criteria for a Use Variance Mr. Milleville made a motion to deny the application. Mr. Haylett interjected that a SEQR Resolution needs to be adopted before a motion can be made. He read the following:

Town of Cambria Zoning Board Meeting Minutes February 26, 2024

WHEREAS, a Short Environmental Assessment Form has been prepared for the proposed action requesting a Use Variance to construct and operate a public kennel on premises located at 4571 Budd Road, Lockport, NY; and

WHEREAS, the Short Form Environmental Assessment Form does not identify any moderate to large impact to the environment associated with the project,

NOW, THEREFORE, BE IT RESOLVED, that it is determined that the action is an unlisted action pursuant to SEQRA, and that the proposed action will not result in any significant adverse impacts on the environment, and it is directed that this Determination pursuant to SEQRA be prepared and filed.

Motion

A motion to adopt the SEQR resolution was made by Ms. Shoop and seconded by Mr. Andrews, all in favor, so carried.

Mr. Andrews asked Dr. Garofalo to go through the purpose of the dogs and what her intentions were. Dr. Garofalo works with a rescue called 7 Hearts Maternity and is sometimes asked to help with the husky breed and would like to be able to help. She doesn't leave her dogs out excessively. Dr. Garaofalo explains that with her time constraints, she could only handle 1-2 dogs at a time. She is not looking to breed or take pregnant animals. She has three (3) of her own dogs.

Charles Malcolm who represents Mr. Sieczkowski stated that this is the most difficult land use application to get. Dr. Garofalo is seeking a use not permitted by the law. She has to demonstrate each one of the factors and one of them is that the hardship is not self-created but it is, so she is legally ineligible for the use variance.

Mr. Haylett explains that there are four (4) Use Variance criteria that must be met and shared the following findings:

1) "The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence."

The applicant has failed to make the required showing. The applicant has not presented any evidence that the parcel cannot realize a reasonable return by utilizing the property for any of the permitted uses in the AR District.

2) "That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood."

Town of Cambria Zoning Board Meeting Minutes

February 26, 2024

The applicant has failed to make the required showing. There is no evidence in the record that the hardship is unique to this property. The same arguments applicant makes could be made concerning any other lot situated in the AR district.

3) “That the requested use variance, if granted, will not alter the essential character of the neighborhood.”

The neighborhood is predominantly agricultural and therefore, the housing of animals would not alter the essential character of the neighborhood.

4) “That the alleged hardship has not been self-created.”

The alleged hardship in this case is self-created. The applicant purchased the property knowing that a public dog kennel was not an allowed use. There is no necessity that this particular lot be chosen for the construction and operation of a non-conforming use.

Motion

A motion to deny the request for a public kennel based on the criteria and findings was made by Mr. Milleville and seconded by Ms. Shoop, all in favor, so carried.

GAROFALO, Jennifer
4571 Budd Rd., Lockport

Special Permit-Veterinary Clinic

ZSP-2023-005
SBL#93.00-2-45.22

Mr. Milleville verified with Mr. Haylett that this is an approved use in the agricultural-residential district. Mr. Haylett confirmed that animal hospitals are an approved use in the A-R district. Mr. Haylett read the definition of such from the Town code which is “an establishment for temporary occupation by sick or injured animals for the purpose of medical diagnosis and treatment which shall exclude the treatment of humans.”

Mr. Haylett read the resolution for SEQR:

WHEREAS, a Short Environmental Assessment Form has been prepared for the proposed action requesting a Special Use Permit to operate a veterinary clinic on premises located at 4571 Budd Road, Lockport, NY; and

WHEREAS, the Short Form Environmental Assessment Form does not identify any moderate to large impact to the environment associated with the project,

NOW, THEREFORE, BE IT RESOLVED, that it is determined that the action is an unlisted action pursuant to SEQRA, and that the proposed action will not result in any

Town of Cambria Zoning Board Meeting Minutes February 26, 2024

significant adverse impacts on the environment, and it is directed that this Determination pursuant to SEQRA be prepared and filed.

Motion

A motion for negative SEQR was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

Mr. Haylett read the following resolution for the board's debate or adoption:

WHEREAS, an application for a Special Use Permit has been submitted by Jennifer Garofalo for the proposed action to operate a veterinary clinic on premises owned by Jennifer Garofalo located at 4571 Budd Road, Lockport, NY (Tax Map No. 93.00-2-45.22),

NOW, THEREFORE, BE IT,

RESOLVED, that the Board finds that no change in the character of the neighborhood will be caused by this Project as the neighborhood is predominantly agricultural and the treatment of agricultural animals is consistent in the district, and

BE IT FURTHER RESOLVED, that the Board further finds that no evidence has been presented that property values will depreciate as a result of this Project; and

BE IT FURTHER RESOLVED, that the Board further finds that the Project will not result in excessive noise or disturb the neighborhood as the veterinary clinic will be treated in the portable pen or on trailers and the only anticipated noise is to be caused from auto engines transporting the animals, and

BE IT FURTHER RESOLVED, that the Board further finds that the applicant has demonstrated that the property has adequate parking arrangements by utilizing a u-shaped driveway that vehicles will utilize while the animals are being treated, and

BE IT FURTHER RESOLVED, that the Board further finds that there will be no appreciable change in traffic as the appointments are limited to a maximum of fourteen (14) per week and thus any traffic increase will be minimal, and

BE IT FURTHER RESOLVED, that the Board finds that outdoor storage of materials used in connection with the Project are minimal; and

BE IT FURTHER RESOLVED, the Special Use Permit is hereby approved subject to the following condition(s):

1. The applicant is limited to a maximum of fourteen (14) appointments per week.
2. The pergola be relocated to be screened from any neighboring properties.
3. The applicant shall install a privacy fence on the north line of the property and business operations shall not commence until the fence is completed.

Town of Cambria Zoning Board Meeting Minutes February 26, 2024

Reports

None.

Announcements

Mr. Haylett introduced attorney Abe Platt who may be covering for him at future meetings.

Adjournment

A motion to adjourn @ 6:55 pm was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

Krista Brocius

Planning/Zoning Clerk