

May 17, 2010

The regular monthly meeting of the PLANNING BOARD of the TOWN of CAMBRIA was called to order at 8:00 P.M. by William Amacher, Chairman, followed by the Pledge to the Flag and then welcomed everyone to the meeting.

Members present: William Amacher, Chairman
Jeffrey Hurtgam, John Phillips
Roger Schreader, Sr., alternate
Members absent: Gerardo Buzzeo, Douglas Mawhiney
Also present: Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney

The following corrections were made to the April 19th minutes: Page 3 bottom of page No. 1, hours of operation 7:00 A.M. to 5:00 P.M. Monday thru Friday and 7:00 A.M. until noon on Saturday; and Page 7, 3rd paragraph should be Mr. Phillips said it has been several years etc.

A motion was made by Mr. Phillips and seconded by Mr. Schreader to approve minutes of meeting of April 19, 2010 as corrected. Unanimously approved, motion carried.

RENEWAL:

2007-05 David Kubiniec, 4268 Upper Mountain Road, Sanborn, 14132
Site Plan for yard and shop area for plumbing business at 4049 Saunders Settlement Road,
Sanborn 14132

Mr. Kubiniec was present at this meeting.

Chairman said to Mr. Kubiniec there is still a stock car frame outside. No outside storage of vehicles or parts thereof, is permitted per Site Plan Agreement. The grass needs to be cut, old beat up fence and railroad ties outside.

Mr. Kubiniec said it is hard to get rid of the railroad ties because of the creosote in them.

Chairman also asked Mr. Kubiniec if he plans to make any improvements to the property? The lawn should be kept in better shape.

Mr. Kubiniec said he plans to put better stone in the driveway.

Building Inspector said he had received no complaints on Mr. Kubiniec's property.

Board members had no other concerns.

The Site Plan agreement has been in effect since 2007, approved for one year at a time.

Chairman asked if there is power in the building now and Mr. Kubiniec said there is power in the building. He said, at this time, he doesn't have the money to take care of the fence. He said the railroad ties were on the property when he bought it. Nothing has been done with the part of the stock car which

was mentioned in 2007, when Site Plan was originally approved and needs to be moved off of the property. Because of the outstanding issues, the Site Plan was renewed for one year at a time.

Counsel suggested to Mr. Kubiniec to meet with Mr. Burch, Building Inspector, on what needs to be done to be in compliance with Site Plan Agreement that was acted on in 2007.

Mr. Kubiniec said the stock car frame is a legitimate frame.

Mr. Kubiniec was informed to come back to the Planning Board meeting next month.

A motion was made by Mr. Hurtgam and seconded by Mr. Phillips to table renewal of Site Plan Approval for one (1) month. Unanimously approved, motion carried.

07-04 Willow Creek Estates

Re: Request for Amendment of Restrictions in Willow Creek Estates by Home Owners

A letter was received by Mr. Amacher dated April 28, 2010

Re: Request for Amendment of Restrictions in Willow Creek Estates by Home Owners

It stated in part “ At the time that the subdivision in the Town of Cambria called “Willow Creek Estates” was approved, it was originally contemplated to be patio homes; however, that changed due to circumstances which were brought before the Board, which necessitated a different style of home therein.”

“Several homeowners have requested the ability to have more flexible restrictions in the subdivision. Castleton will soon be conveying the last lot out, and reserved in the original restrictions, which were approved by the Planning Board, the right to amend the restrictions at any time prior to Castleton Develop. L.L.C. conveying the last lot out.”

As a courtesy to the Planning Board, a copy of the proposed amendments to the Declaration of Covenants and Restrictions for Willow Creek Estates was provided to insure there were no concerns.

Mr. Nesper said he is representing Castleton Development L.L.C. who was approached by Ryan Homes, builder, regarding the proposed amendments to the restrictions on the homes in the Willow Creek subdivision. He said there are approximately three (3) lots left to be sold. Some of the home owners would like to add things to their existing homes and would like to make their own choices. Originally, this subdivision was planned for older people but instead it is a younger generation of people.

The following are the proposed amendments to the Declaration of Covenants and Restrictions for Willow Creek Estates from the Memorandum:

1. “Patio Home” is replaced with “Home” throughout.
2. Driveways – Still must be paved with asphalt or concrete, proposed width leave up to individual home owners.

From Memo – proposed amendments

3. Walls – The use of walls for landscape retention is now permitted.
4. Fences - Fences are now permitted even without pool, but they must not be chain link and high quality.
5. Swimming Pools – All pools are now permitted, not just in-ground.
6. Spas/Hot Tubs – Not limited to adjacent to rear of house like in the initial restriction.
7. Temporary or Permanent Accessory Structures – Now permitted
8. Outdoor Play sets and Sports Equipment – Now permitted
9. Mail boxes – Restrictions are eliminated – located according to Post Office requirements.
10. Outdoor Ornamental Materials – Now permitted.
11. Prohibited Construction Areas – has been expanded to read as follows:
“No home or “Improvement” shall be constructed on a lot within twenty-five (25) feet of the front Lot line or within the Conservation Easement, Drainage Easement, or 100 Year Flood Zone shown on the attached Schedule A. “Improvement” means any shed, structure, pool, swing set, playground, tennis court, basketball court, or any other permanent or semi-permanent improvement to the real property, which is not removable by a single individual without mechanical assistance or assistance from another person.”
12. Exterior Appearance – Committee no longer controls exterior appearance of homes. Home owners can paint whatever color they want on the outside of their homes.
13. Landscaping – Home owners can chose whatever landscaper they wish.
14. Prohibited Landscaping – (deleted subparagraph c) in its entirety which gives the Committee the ability to cause a person to remove landscaping if there was a “justified complaint”.
15. Lawn Service – Deleted so people could cut their own lawn or hire who they like.
16. Gardens – Can now be located other than just adjacent to home.
17. Exterior Lighting – People can now have what they want.
18. Exterior Holiday Decorations and Lighting – Do not have to put them up not more than 30 days before a holiday and take them down not more than 15 days after.
19. Obligation to Repair or Reconstruct – need to remove the word “curbs” since no real curbs exist.

20. Emergencies or Disasters – No mandatory re-building now required. Property can be sold as vacant land if people desire.

This is a P.U.D. zone and any change in regulations can only be made after this board (Planning Board) reviews the restrictions and then makes recommendations to the Town Board.

These lots in Willow Creek subdivision are smaller lots and require certain type of structures.

Counsel said if these homes were in A-R zone, would be allowed one (1) accessory building no larger than the square footage of the first floor of the residence.

George Brown, 5791 Willow Creek Lane said the lawyer did not tell the people buying these homes about the restrictions. There is no Home Owners Association.

Kimberly Smith, 5792 Willow Creek Lane, said there were no restrictions mentioned by attorney or the builder, Ryan Homes.

Counsel said if there are recorded restrictive covenants, buyers through their own attorneys, would customarily be advised of same.

Decks are prohibited.

Building Inspector said the Restrictions are recorded in the Niagara County Clerk's office, copy attached to the MEMO from Mr. Nesper, including Book No., Page No. of Recorded Document, Document date - 6/22/07, Document Type - Declaration of Covenants and Restrictions for Willow Creek Estates, containing six (7) pages; a map of Willow Creek Estates, Schedule A and other documents.

The residents, present this evening, said Ryan Homes' sales people are at fault for not informing the people of the Restrictions in this subdivision.

Mr. and Mrs. Smith would like a 10' by 16' accessory building.

10-06 Hossain/Schuman Miranda Schuman, 49 Hillwood, Cheektowaga, N.Y. 14227 and her future father in-law, Michael Kamm, were present this evening. She said she is in the process of purchasing the home at 3876 North Ridge Road, Lockport 14094, from Mohammed Hossain, and needs to add 19 feet in width for a depth of 200 feet on the west side to square up the property.

Counsel said a Public Hearing is not required on this subdivision but a subdivision application must be filled out, fee received, and the 19 feet by 200 feet portion being subdivided, to be included in her deed.

A motion was made by Mr. Phillips and seconded by Mr. Hurtgam that Subdivision application must be filled out, pay the required fee and include the subdivided 19' by 200' portion on to one deed. Unanimously approved, motion carried.

A motion was made by Mr. Schreader and seconded by Mr. Phillips to declare **negative declaration under SEQR** on request for subdivision approval for Miranda Schuman. Unanimously approved, motion carried.

A motion was made by Mr. Hurtgam and seconded by Mr. Schreader that Subdivision application is to be submitted, required application fee paid and final approval will not be given until receipt of the aforementioned. Unanimously approved, motion carried.

Mr. Hossain is keeping five (5) acres.

REPORTS:

Chairman – New York State Dept. of State Training for local Planning and Zoning Boards
Wednesday, June 16, 2010 at Niagara County Community College
5:00 P.M. to 9:30 P.M.

Building Inspector – nothing to report
Attorney - “ “ “
Board members - “ “ “

Meeting adjourned at 9:10 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____