

April 27, 2009

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by John Reardon, Chairman, at 8:00 P.M. He welcomed everyone to the meeting followed by the Pledge to the Flag and then announced the Agenda for this evening.

Members present: John Reardon, Chairman  
Norman Allen, Theresa Kroening, Donald Robinson, Peter Smith  
Also present: Michael Bechtel, alternate  
Robert Blackman, Councilman  
Clifford Burch, Building Inspector  
Donald Lane, Deputy Building Inspector  
Gary Billingsley, Attorney  
Robert Klavoon, Wendel-Duchscherer Eng.  
William Amacher, Chairman of Planning Board  
Douglas Mawhiney, alternate Planning Board member

One correction on Pages 1 and 3, the address of co-location on tower on Lockport Road should be 4219.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of March 23, 2009 with correction noted. Unanimously approved, motion carried.

Secretary read Notice of Public Hearing as it appeared in the Lockport Union Sun and Journal to consider the following applications:

**2009-02 (03-12-09) MODERN RECYCLING, INC.**, 4746 Model City Road, Model City, N.Y. 14107-0209, owner, and Shelby Crushed Stone, Inc./Cambria Asphalt Products, Inc., of 10830 Blair Road, Medina, N.Y. 14103, applicant, for a Special Permit to permit applicant to install a Hot Mix Asphalt Plant upon premises commonly known as 5204 Lockport Junction Road to be located approximately 650 feet from Lockport-Junction Road pursuant to the Special Permit Ordinance of the Town of Cambria. Said premises are located in the Industrial (I-1) District.

**2009-03 (03-25-09) LOURETTA PARLETTE**, 5748 Campbell Boulevard, Lockport, N.Y. 14094 for a private kennel to permit applicant to keep up to 4 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

**(03-30-09) JASON MANNING and LISA MANNING**, 9670 Martin Road, Clarence, N.Y. 14302, for an Area Variance to permit applicants to construct a two-family residence upon premises containing 175 feet of frontage located on the east side of Comstock Road between 5289 Comstock Road and 5269 Comstock Road in the Town of Cambria, whereas the Zoning Ordinance does not permit construction of a two-family residence on a parcel containing less than 200 feet in frontage.

**2009-04 (04-02-09A) ERIC WISOR**, 2958 Ridge Road, Ransomville, N.Y. 14131, owner, and William Pearce, 4566 Ridge Road, Lockport, N.Y. 14094, applicant, for a Special Permit to permit applicant to do motor vehicle repair in an existing structure located at 2958 Ridge Road pursuant to the Special Permit Ordinance of the Town of Cambria. Said premises are located in the Agricultural-Residential District.

**(04-02-09B) EDWARD JOHNSON and SONIA JOHNSON**, 3180 Lower Mountain Road, Sanborn, N.Y. 14132 for an Area Variance to construct an addition with dimensions of approximately 12 feet by 26 feet to an existing garage upon said premises located approximately 10 feet 3 inches from the west side lot line of said premises, whereas the Zoning Ordinance does not permit construction of a garage or an addition thereto closer to a side lot line than 15 feet.

**SPECIAL PERMIT RENEWALS:**

**1995-03 Charles W. Malcomb**, 4759 Saunders Settlement Road, Lockport, N.Y. 14094  
Special Permit for Professional office  
Mr. Malcomb was present at this meeting and said he wishes to continue with the Special Permit for the business.

Per Mr. Burch there have been no concerns with this business. Previous renewal was for three years.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **renew** Special Permit to Mr. Malcomb for a Professional office for a period of three (3) years. Unanimously approved, motion carried.

**1995-06 Darrin Peck**, 4400 North Ridge Road, Lockport, N.Y. 14094  
Special Permit for Hair salon  
Mr. Peck was present at this meeting and said he wishes to continue with the Special Permit for the business and would like it for the maximum time allowed.

Per Mr. Burch there have been no problems with this business. Previous renewal was for three years.

A motion was made by Mr. Robinson and seconded by Mr. Allen to **extend** Special Permit to Mr. Peck to operate Hair salon at the aforementioned address for a period of five (5) years. Unanimously approved, motion carried.

**PUBLIC HEARINGS:**

**2009-03 (03-25-09) LOURETTA PARLETTE** was not present at this meeting.

The following have been submitted: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement, sketch of the property and copy of Survey map.

Because this application did not get to the County Planning Board in time for their meeting, no action could be taken this evening. A phone call was made to the applicant regarding the public hearing but no one home and message left.

A motion was made by Mr. Smith and seconded by Mr. Allen to move this application to the end of tonight's agenda. Unanimously approved, motion carried.

**(03-30-09) JASON MANNING and LISA MANNING** were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form,

Agricultural Data Statement, copy of portion of Town map, sketch of the property and copy of Survey.

Mr. Manning said they would like to construct a two-family residence on a lot less than 200 feet in width between 5289 and 5269 Comstock Road. They lack 25 feet frontage. He said there are sewers on this property. He said he owns the lot to the south of subject parcel. He owns two duplex homes, one on the north side of subject lot and one on the south side. There is a 66 foot proposed right-of-way between subject lot and lot to the south.

Public Hearing open:

Alfred Osborne, 5261 Comstock Road, said he has several objections. He gave copy of pictures, which he took, to the board members to substantiate his objections as follows:

- No. 1. Picture of his home  
2. A shed on neighbor's property that has shingles off because of wind damage and not repaired yet from storm about six months ago.  
3. Debris on lot at 5269 Comstock Road, grass not cut. Property not maintained.  
4. Debris around building.  
5. Stairs not installed properly, an eyesore, lumber is rotting, no hand rails. Diminishing property value. This will be the third two-family home in a row.  
Mr. Osborne said sometimes there are more than two families living in the house. Changing the character of the neighborhood. There are more transient residences than permanent residences.

Stephen Larson, 5359 Comstock Road, is in agreement with Mr. Osborne. Thinks the board should say "No" to this request.

Nicholas Giammichele, 5257 Comstock Road, said the Town gave Mr. Manning variances for two two-family homes already. Mr. Giammichele said he has written letters to the Town but the Town Supervisor has not answered the letters. There are violations on the steps on the previous two homes. He asked Mr. Burch about the steps that are illegal without hand rails? His property is decreasing in value with the duplex homes next door, a direct effect on the other properties. Mr. Giammichele said he moved from Amherst to get away from duplex homes. He said there are 5 or 6 vehicles at one of these homes in the morning, home next to Mr. Larson's. How many people can legally live in a two-bedroom home? Woman with three children, etc. in a two-bedroom house. Other home has three adults and two children. How many people can you put in a duplex? There is only one hand rail. Steps and no hand railing? Steps were constructed illegally.

Public Hearing closed.

Concerns of board members:

Mrs. Kroening asked Mr. Manning if he checks on the property?

Mr. Manning said he checks on properties once a week. Toys are in the back. He said he has contacted someone to replace the shingles blown off. The wind continually blows off the shingles.

Chairman asked applicant if the proposed new house will be the same as the existing homes?

Mr. Manning said “yes”, it will be the same except there will be dormers in this new two-family home. He said he will check the railing and the concrete settled allowing a change in the steps. Also said the snow plow did damage to the hand rails. He said the new home will be constructed per code. He said the stairs will be repaired within a week.

Mr. Smith asked applicant how long has he owned the lot?

Mrs. Manning said they bought the property in 1998 or 1999. They own on each side of the proposed right-of-way. Property is zoned for two-family homes in that area.

Building Inspector said at the time the first house was built, the code didn’t require hand rails. Now hand rails are not required on both sides of the stairs. The town doesn’t have authority to get involved with house repairs, like shingles. Code was changed as far as hand railings were concerned when the two 2-family houses were built.

Counsel asked Mr. Manning if it is his intention to replace the hand rail that was taken off by the snow plow?

Mr. Manning said he will repair the hand railing that the snow plow damaged.

Counsel asked applicant if he will make sure hand rails are in place on the new duplex?

Counsel asked applicant if he plans to take care of the dirt piles on the property?

Mr. Manning said that dirt will be placed around the new home when constructed.

Mr. Reardon said as far as who lives in the house, that is not up to the town. The board is considering the request of Jason Manning for a specific variance. Code enforcement officers need to follow up if non-conformance of the ordinance.

A motion was made by Mr. Smith and seconded by Mr. Allen to **declare negative declaration under SEQR** on application of Mr. and Mrs. Manning. Unanimously approved, motion carried.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **approve** request for Area Variance to permit applicants to construct a two-family residence upon premises containing 175 feet of frontage located on the east side of Comstock Road between 5289 Comstock Road and 5269 Comstock Road in the Town of Cambria, with the following conditions:

1. Bring adjacent properties up to compliance in code.
2. No Certificate of Occupancy shall be granted until adjacent properties are brought up to compliance with New York State fire and building codes.
3. The dirt piles to be leveled before Certificate of Occupancy is granted. Unanimously approved, motion carried.

**2009-04 (04-02-09A) ERIC WISOR/WILLIAM PEARCE**

Mr. Pearce, applicant, was present at this meeting on behalf of Eric Wisor, owner of the property.

The following have been submitted: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement and copy of sketch of the property.

Mr. Pearce said he would like to add a motor vehicle repair business to the current Special Permit which Mr. Wisor has for ATV's, water craft and snowmobile repairs. There will be no additional buildings or outside use.

Public Hearing open: there were no comments from members of the public.  
Public Hearing closed.

Concerns of board members:

Mr. Smith asked applicant how many cars he would have on the premises?

Mr. Pearce said he would have approximately ten (10) vehicles. Parking of these vehicles would be inside the fenced area. Mr. Wisor still repairs ATV's and snowmobiles.

Chairman asked Mr. Pearce if he would have additional signage?

Mr. Pearce said the signs would be in compliance with the ordinance. He said he plans to have one on the front of the existing building and one on the front of the property. As for size of signs, he would use existing signs that are currently on the Wisor property. Will have a sign inside of building which will display business name. The Polaris sign will be removed, will comply with sign ordinance of the town. The Polaris dealership is no longer in operation at this site.

Mr. Robinson asked applicant if he would be selling vehicles?

Mr. Pearce said there would be no selling of vehicles, just repairing.

Building Inspector said vehicles will be behind the fenced area behind the building.

Mr. Wisor's Special Permit is still in effect and will be revised to include repairing of motor vehicles.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **declare negative declaration under SEQR** on application of Mr. Pearce. Unanimously approved, motion carried.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** revision of Special Permit to permit Mr. Pearce to add motor vehicle repair business on premises of Eric Wisor. Sign to be in compliance with Zoning Ordinance. There are to be repairs only and no sale of motor vehicles. All vehicles to be inside of the fenced area on said premises. Unanimously approved, motion carried.

**(04-02-09B) EDWARD and SONIA JOHNSON** were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of Property Plan and copy of Survey map.

Mrs. Johnson said they would like to build an addition, 12' by 26', on to the rear of their existing garage, which is 26' by 28', and will be approximately 10'3" from west side lot line. She said the existing garage was built many years ago.

Public Hearing open: there were no concerns expressed by members of the public.  
Public Hearing closed.

Concerns of board members:

Mr. Smith asked applicant what they plan to use the addition for?

Mr. Johnson said they would like to store their camper in the addition. There is gravel in that location now. It is level there and on other part there is a slant of hill.

Building Inspector said the new addition will be no closer to the side lot line than the existing garage.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **declare negative declaration under SEQR** on application of Mr. and Mrs. Johnson. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** request for Area Variance to construct an addition with dimensions of approximately 12' by 26' to an existing garage upon said premises located approximately 10'3" from the west side lot line of said premises. Unanimously approved, motion carried.

Building Inspector said to applicants they will need to get a building permit.

**2009-02 (03-12-09)** Owner – **Modern Recycling, Inc.**, 4746 Model City Road, Model City, N.Y. 14107-0209  
Applicant - **Shelby Crushed Stone, Inc./Cambria Asphalt Products, Inc.**,  
10830 Blair Road, Medina, N.Y. 14103  
Property location – 5204 Lockport Junction Road, Lockport, N.Y. 14094

Paul Pass, owner of Shelby Crushed Stone, Inc. and Thomas Biamonte, Applicant, were present at this meeting.

Mr. Pass said the asphalt plant is on the Junction Road site, shipped from Ohio, and stored at the Modern Recycling site. They wish to secure a Special Permit to operate a portable asphalt plant. He said they are leasing property from Modern to erect and operate the business. They have permission from Modern to store equipment , parts, etc. on the property. They hope to be in operation within the year.

Public Hearing open: there were no comments or concerns from members of the public.  
Public Hearing closed.

A coordinated review was done on the proposal. Agencies notified of this proposal for the Hot Mix Asphalt Plant were: County Highway Department, Commissioner of Public Works; Niagara County Water District; County Health Dept.; State Dept. of Environmental Conservation; State Dept. of Transportation; N.Y.S. Office of Parks, Recreation and Historic Preservation; County Planning Board.

Counsel read communication received from the aforementioned agencies and a copy of each will be on file with the Town Clerk.

One or two permits from D.E.C. are required prior to operation.

Counsel asked applicant and representatives if they had any comments on any requirements or concerns raised from the aforementioned letters?

Question was asked about dust control?

Mr. Pass said they will use water spray system to control the dust and also use water on stone piles. He said there is not much dust. Also will use water on the aggregate.

Air Quality permit application will be submitted to D.E.C. and any other information required.

Chairman asked applicants how they are progressing and they replied the plant is on the premises and is being painted.

Mr. Pass said anyone is welcome to drive through the property. He said their goal for starting the business is July 1, 2009.

Building Inspector said they have no concerns or questions other than the water run off.

Mr. Biamonte said retention pond is adequate. Water on site.

Modern did not get a SPDES permit and needs to get clarification regarding whether water runs off site.

Counsel complimented Mr. Klavoon on getting all of the SEQR information for this application, taking care of the Coordinated Review, and getting all the necessary information so the board could get a determination this evening.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** attached Resolution of determination of non-significance pertaining to Article 9 of SEQRA with applicant to comply with mitigating conditions specified in letter to Robert Klavoon from Steven J. Doleski, Regional Permit Administrator of New York State D.E.C. dated April 21, 2009 on file with Town Clerk. Unanimously approved, motion carried.

Applicant has agreed to use water supply to control dust and to limit dust from aggregate stockpiles and is using washed aggregate which eliminates dust.

It was asked how many agencies were contacted? Answer – nine, and there were no concerns from any of the agencies.

**REPORTS:**

Chairman - New Town of Cambria Zoning Ordinances adopted March 12, 2009 given to board members.

Continuing Education classes at Niagara County Community College May 19<sup>th</sup> – 5:30 to 9:30 P.M.

Town Clerk requested any changes for Zoning Board members for the Web site be given to her.

Next regular meeting will be May 18<sup>th</sup> at 8:00 P.M.

Building Inspectors – nothing to report.

**Other Business –**

Counsel said:

1. On Pearce application for motor vehicle repair business on property of Eric Wisor, the Niagara County Planning Board recommended approval.
2. Crown Castle – renewals (three – each expiring in a different month)) Suggest all three renewals come due at the same time. Amend renewals and all will be due for renewal in the month of December.

A motion was made by Mr. Smith and seconded by Mr. Allen that renewals of :

2002-16 Crown Castle International - co-location on property at 3023 Carney Drive

1998-19 Crown “ Atlantic - tower “ “ “ “ “

1998-03 Crown “ International - co-location “ “ 4219 Lockport Road

will all come due in December 2013. Unanimously approved, motion carried.

End of reports.

**2009-03 (3-25-09) Louretta Parlette**

A motion was made by Mrs. Kroening and seconded by Mr. Robinson that applicant, Louretta Parlette, request for Private Dog Kennel, Public Hearing will not be held this evening and to table and re-advertise the Public Hearing notice for the May meeting. Unanimously approved, motion carried.

A motion was made by Mr. Allen and seconded by Mr. Smith to adjourn at 9:20 P.M. and to reconvene after Planning Board meeting this evening.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: \_\_\_\_\_

