

February 25, 2008

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.

Members present: John Reardon, Chairman
Norman Allen, Theresa Kroening, Donald Robinson, Peter Smith
Also present: Robert Blackman, Councilman, liaison
Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney

Mr. Reardon announced the agenda for this meeting.

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

(01-24-08A) KEVIN FLICK, 4910 Thrall Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to construct a 32' by 40' detached garage upon said premises, closer to the road than the existing residence upon said premises, said garage to be located 140' from the road right-of-way and said residence being located approximately 158' from the road right-of-way and containing 922 square feet on the first floor thereof, whereas the Zoning Ordinance does not permit construction of such a building closer to the road right-of-way than the principal residence thereon, nor construction of such a structure where the square footage thereof exceeds the square footage of the first floor of the principal dwelling located upon said premises.

(01-24-08B) SCOTT and KRISTIN TUBO, 4246 Plank Road, Lockport, N.Y. 14094, for an Area Variance to permit applicants to construct a 30' by 50' accessory building for storage and work space upon said premises with the principal residence containing 992 square feet on the first floor thereof, whereas the Zoning Ordinance does not permit construction of such a structure where the square footage thereof exceeds the square footage of the first floor of the principal dwelling located upon said premises.

(01-25-08) JAMES KOLKMEYER, 4915 Lewiston-Cambria Townline Road, Sanborn, N.Y. 14132, for an Area Variance to permit applicant to construct an addition to the existing 20' by 30' barn which will result in the barn having dimensions of 30' by 50', with the principal residence containing 1215 square feet on the first floor thereof, whereas the Zoning Ordinance does not permit construction of such a structure where the square footage thereof exceeds the square footage of the first floor of the principal dwelling located upon said premises.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of January 28, 2008 as presented. Unanimously approved, motion carried.

CURRENT RENEWALS:

2002-01 (02-04-02A) Donna McMichael, 4700 Thrall Road, Lockport, N.Y. 14094
Special Permit to conduct painting classes in an existing building

Mrs. McMichael was present at this meeting and said she would like to continue with the Special Permit and would like to extend it for 5 years.

Building Inspector said no complaints have been received on this Special Permit.
Board members had no concerns on this issue.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to **renew** Special Permit to Donna McMichael to conduct painting classes for a period of five (5) years. Unanimously approved, motion carried.

Outdoor Equipment, 4287 Ridge Road, Lockport, N.Y. 14094

Variance for small engine repair shop, sell lawnmowers, rototillers, chain saws, etc.

Vicki Piekos was present at this meeting and said she wishes to continue with the business which was formerly operated by her husband who died. She requests no changes in the business.

Building Inspector had no comments or concerns on this business.

A motion was made by Mr. Robinson and seconded by Mr. Allen to **renew** Variance to Outdoor Equipment to operate the aforementioned business for a period of five (5) years. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(01-24-08A) KEVIN FLICK was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, two copies of survey map and sketch of proposed building submitted 2-25-08.

Mr. Flick said he would like to construct a garage, dimensions 32' by 40', which will be forward of his home and oversize which is not permitted in the Zoning Ordinance. He plans to use this building for a work shop, restores vehicles for personal use and for storage. He said at present he has five (5) small buildings which are full and a steel building. He plans to tear down the small buildings and materials in them will be moved to new building and the steel building he plans to move to another location on the property. He said these buildings and his home are on one lot and has purchased adjoining lot and the new building will be on it.

Public Hearing open:

Peter Covell, 4894 Thrall Road, Lockport 14094 expressed the following concerns:

1. How tall will the building be and where will it be located?
2. How close to the lot line will the building be?
3. What type of material construction?
4. He has five structures on the property now and are full.
5. Will this new building replace the existing 5 buildings?
6. There are numerous unlicensed vehicles – (pick-ups, motor home, gas pump, trailers, pick-up truck beds) a mini junk yard, a lot of clutter.

7. Recommends cleaning up the property.

Public Hearing closed.

Concerns of board members:

Mr. Smith asked applicant what type of construction will this building be?

Mr. Flick said there will be a concrete footer, 2' by 6' construction, stone and brick facing, vinyl siding and has not decided on the type of roof, perhaps steel. Building will be two stories high.

Mrs. Kroening asked what items are to be stored in the new building?

Applicant said he could not store the motor home and the camper inside of building as they are too large. Mr. Flick said the trailers are all registered, van is registered and sold and will be gone as soon as weather permits. Truck box is for restoring, 3 tractors and farm implements. He said he wants a place to store the articles he takes from the sheds and will then take the sheds down. Steel building will go out back.

Mr. Allen asked applicant why couldn't the building be placed way back on the other lot?

Mr. Flick said there will be about 40 feet from the west property line to the new building. He said he wants the driveway closer to the road. House is close to the lot line and no place to put a garage on the lot where house is. Mr. Flick said he purchased the adjoining lot and wants it kept separate.

Counsel said proposed building is an accessory building. If request for Area Variance is granted to Mr. Flick, he would have to combine the two lots on to one (1) deed. The square footage of existing home is 922 feet on the first floor and the new structure would be over 1200 square feet. Zoning Ordinance does not permit construction of such a building closer to the road right-of-way than the principal residence nor construction of such a structure where the square footage exceeds the square footage of the first floor of the principal dwelling.

Mr. Flick said he has 3 antique trucks, a mustang, 3 Harley motorcycles, 3 dirt bikes, 2 trucks and antique car parts. He said he also needs the upstairs of new building for storage.

It was mentioned again that Mr. Flick must combine the two parcels on to one deed.

Building Inspector had no further concerns, New building will be larger than existing house and would be further forward than existing house.

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** application of Kevin Flick to permit applicant to construct a 32' by 40' detached garage upon said premises closer to the road than the existing residence upon said premises, said garage to be located 140' from the road right-of-way and said residence being located approximately 158' from the road right-of-way and containing 922 square feet on the first floor thereof with the following conditions:

1. Applicant shall consolidate his two parcels of real property onto a single Deed prior to the issuance of a building permit.
2. All buildings upon said premises except applicant's residence and a steel building which applicant may move to another location upon said premises shall be removed from premises.
3. No business use permitted in this structure.
4. No outside storage of applicant's personal property, other than a motor home and a camper.
5. Applicant must obtain a building permit prior to any construction.

Unanimously approved, motion carried.

(01-24-08B) SCOTT and KRISTIN TUBO have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, a copy of survey map.

Mrs. Tubo was present at this meeting and said they would like to construct a pole barn, dimensions 30' by 50', four car garage, one and one-half stories. There will be no storage on the second floor. She said at present they have a boat, trailer, jeep and accessories with parts and other articles stored in parents' garage. They would like to bring these items to their place for storage. They want to use their existing garage for their personal vehicles which is a two-car garage. Also, would like to have a work bench area and stall for working on their own vehicles.

Public Hearing open:

Victor Couturier, 4272 Plank Road, present on behalf of Daniel Russell, said Dan and Pamela Russell are totally against the four-car garage. There is not room enough for it. Mr. Couturier said he feels the building is going to be used for commercial use and don't want a commercial building in the neighborhood. He would like to see the design of the building and where it would be placed on the lot, what type of materials and aesthetics. Also, what are the starting and completion dates?

Secretary read letters from neighbors as follows opposing this building, which are on file:

Daniel and Pamela Russell, 4258 Plank Road, Lockport 14094 – major concerns are depreciate value of their home and eye sore.

Russell and Natalie Ryan, 4241 Plank Road, Lockport 14094 – eye sore, depreciate value of home, preserve aesthetics of neighborhood.

Philip and Joanne Potempa, 4252 Plank Road, Lockport 14094 – potential heating and air conditioning business from Tubo's home, building this size is unsightly, increase in noise pollution, increase in truck traffic and safety factor.

Elizabeth Devole, 4238 Plank Road, Lockport 14094 – concerned about placement of building, use (personal or business) and drainage issue.

Public Hearing closed.

Building Inspector said as far as drainage is concerned, that whole area is very flat and low, a damp area. There is a ditch behind all of the lots, one between the Tubo house and Devole property.

Mrs. Tubo said her husband dug a ditch between them and Devole property to get to the back. She said they will not drain their property on to the neighbor's property. As far as business use on their property, her husband will be employed, has to complete some certification and has three or four possibilities for employment when certification is completed. She said they can't afford to start their own business. He does have some machinery of his own. They will be bringing that equipment to their place. They are not requesting a business. New building will have a concrete floor and she said they will need many tons of stone fill to level the area and help with the drainage. The doors will be 12' by 10'. The building will be about 15' from property line. There will be approximately 25' between home and pole barn, house is about 200' from the road and building will be about 225' from the road.

Concerns of board members:

Mr. Robinson asked about driveway back to the new building?

Mrs. Tubo said there is a turnaround which will be access to the building. Driveway to the first door. Storage will be to the back of the building.

Mrs. Kroening asked Mrs. Tubo if the hedge row will be taken down?

Mrs. Tubo said about 15' in from property line there is a four foot chain link fence for the dog which is on the back side of the property. Dog pen will be behind the new building.

Mrs. Tubo also said they have a riding lawnmower, snow blower, push mower, indoor kennel and bicycles.

Mr. Reardon asked applicant if they could downsize the pole barn to be within the ordinance?

Mrs. Tubo said they would like to keep the building 30' by 50', no business use applied for, building will be just for personal use only.

Mrs. Kroening asked applicant how big is the neighbor's barn?

Mrs. Tubo said she thinks it is about 30' by 50', which is north of Devole property.

Mrs. Tubo showed board members a picture of what the building will look like and read description of same and said the contractor is L.F. Contracting from Ransomville.

Applicant said contractor will begin as soon as possible depending on the approval of the variance, removal of some trees and stone brought in.

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

Mr. Lane reiterated there shall be no business conducted from this building or property.

Counsel explained that an accessory building is for personal use only and no business permitted.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **approve** request for Area Variance to permit Scott and Kristin Tubo to construct a 30' by 50' accessory building for storage and work space upon said premises with the principal residence containing 992 square feet on the first floor thereof, with stipulations:

1. There is to be no business conducted from this building.
2. There is to be no affect on the drainage.

As not all board members voted “aye”, secretary was requested to poll the board:

Mr. Robinson – “aye”
Mrs. Kroening – “aye”
Mr. Reardon – “aye”
Mr. Smith – “aye”
Mr. Allen – “no”

Motion carried by a vote of 4 “ayes” and 1 “no”.

2008-02 (01-25-2008) JAMES KOLKMEYER was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey map.

Mr. Kolkmeier said he would like to construct an addition of 10' to north side and 20' to the east side of an existing barn making it 30' by 50', for a three car garage for personal use. He said he has a tractor and a large truck he would like to put in this building. There are posts and beams in existing barn and hard to maneuver around in it. It will have a gambrel roof or metal depending on cost, concrete block foundation and concrete floor.

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

Mr.Kolkmeier’s property is located in the Escarpment zone.

Counsel said the Planning Board approved the Site Plan subject to the Zoning Board granting approval on the Area Variance. The Niagara County Planning Board recommended approval.

Relief is for about 300 square feet. Building is for personal use only. No business to be conducted from this building.

It was asked what the height would be of the building and applicant said about 29 feet.

Board members had no concerns on this request.

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

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** request for Area Variance to permit applicant to construct an addition to the existing 20' by 30' barn which will result in the barn having dimensions of 30' by 50', with the principal residence containing 1215 square feet on the first floor. Unanimously approved, motion carried.

Mr. Kolkmeier must obtain a building permit.

REPORTS:

Chairman – from the Town Board minutes, Don Robinson was reappointed for 5 years as board member.
Change March meeting to the 17th at 8:00 P.M.

Richard Eakin from Niagara County Dept. of Public Works was present this evening. He said the Dept. of Public Works is proposing to purchase a 60 acre parcel of land on the west side of Junction Road to construct a new Public Works facility and propose to use about 30 acres of the parcel. They have outgrown their present facility and need to add a new record storage facility and voting machine storage, and be more energy efficient. He said they would like to have the public hearing in March for a Special Use Permit. Wendel Duchscherer Eng. is doing the designing. A formal Site Plan would perhaps be submitted in August or September. Mr. Eakin said they currently have a purchase offer to the owner.

Building Inspector – nothing to report

Board members – Mr. Robinson asked about the cleaning up of the Luff property?

Next meeting will be March 17th at 8:00 P.M.

A motion was made by Mr. Robinson and seconded by Mr. Smith to adjourn at 9:12 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____