

January 22, 2007

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Joseph Ohol, Chairman, at 8:05 P.M. He welcomed everyone to the meeting followed by the Pledge to the Flag.

Members present: Joseph Ohol, Chairman  
Theresa Kroening, John Reardon, Donald Robinson, Peter Smith  
Also present: Norman Allen, alternate  
Robert Blackman, Councilman  
Clifford Burch, Building Inspector  
Donald Lane, Deputy Building Inspector  
Gary Billingsley, Attorney  
Robert Klavoon, Wendel Duchscherer Eng.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to declare ZONING BOARD of APPEALS as LEAD AGENT IN REGARD TO SEQR for all SPECIAL PERMITS, VARIANCES, AND ANY OTHER MATTERS that should come before it in the year 2007. Unanimously approved, motion carried.

Chairman said he would like to make one change in the Agenda, namely, to table action on application of David Cloy for a Use Variance for a pond until the end of the meeting.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to table request of David Cloy until the end of the meeting. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mr. Reardon to approve minutes of meeting of December 18, 2006 as presented. Unanimously approved, motion carried.

Mr. Cloy said he would like to make two clarifications in the minutes, namely,  
Page 2, spelling of "Paul Giachetti", a mining specialist with "D.E.C. from Olean".

Mr. Robinson and Mr. Reardon agreed on these corrections. Unanimously approved, motion carried.

**TABLED SPECIAL PERMIT** from December 2006

**2005-13 (12-08-05) Jay Eisenhardt**, 5120 Ridge Road, Lockport, N.Y. 14094  
Special Permit for private kennel

Mr. Burch said he had received a phone call this morning from Mrs. Eisenhardt stating they were in Michigan and there was an ice storm which damaged their car and did not think they would be back in time for tonight's meeting. She asked to have the renewal tabled until February?

A motion was made by Mrs. Kroening and seconded by Mr. Smith to table action on Special Permit renewal for Jay Eisenhardt until the February meeting. Unanimously approved, motion carried.

**CURRENT SPECIAL PERMIT RENEWALS:**

**2004-14 (8-04-04B) SBA Cingular Wireless**

Communications tower on premises at 5105 Lockport Road, Barone property

Mr. Tim Connelly appeared on behalf of SBA Cingular Wireless. He said National Grid now owns the tower and SBA Cingular Wireless owns the co-location. Do both have to pay the renewal fee? It was said that \$500.00 fee is required from National Grid and the same amount from SBA Cingular Wireless.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to **table** action on the renewal of the aforementioned for one month. Unanimously approved, motion carried.

**1998-02 Modern Recycling, Inc., 4746 Model City Road, P.O. Box 209, Model City, N.Y. 14107**  
Special Permit to use existing building located at 5204 Lockport Junction Road, Lockport, for warehousing.

Mr. James Goehrig, P.E., was present on behalf of Modern Recycling and said there has been no change in the building. He said the east half is rented out. Modern uses the west side.

Per Building Inspector, there have been no problems at this site.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **renew** Special Permit for three (3) years to Modern Recycling, Inc. to use building at 5204 Lockport Junction Road for warehousing. Unanimously approved, motion carried.

**(11-09-06) David and Joyce Cloy, 4281 Burch Road, Ransomville, 14131, and their consultant, Joseph Von Uderitz, were present at this meeting, and are requesting a Use Variance to Excavate and mine a ten (10) acre clay pond to be reclaimed as a ten (10) acre recreation/farm pond upon premises known as 3130 Ridge Road in the Town of Cambria. Public Hearing was held on December 18, 2006 and action was tabled for one month. The board requested some additional information from Mr. Cloy and his consultant.**

The following were submitted this evening:

1. Answers to four questions under "H" (Use Variance) on application form.
2. Copy of map of David Cloy's farm.
3. Copy of school tax for fiscal year 07-01-06 to 06-30-07 for subject parcel #292000 91.00-1-9 - 38.70 acres
4. Copy of County/Town Tax, Town of Cambria for fiscal year 01-01-06 to 12-31-06 for subject parcel #292000 91.00-1-9 - 38.70 acres
5. Copy of letter dated Dec. 18, 2006 from Niagara County Soil and Water Conservation District
6. Copy of letter dated Dec. 26, 2006 from Becken Farms
7. Copy of letter dated December 19, 2006 from Joseph Von Uderitz
8. Copy of Joseph Von Uderitz' College Diploma from Alfred University

Per letter dated October 26, 2006 from New York State Department of Environmental Conservation "DEC proposes to act as SEQR Lead Agency for the review of this mining permit application" of

David W. Cloy.

Mr. Billingsley, Attorney, responded to this letter by correspondence dated November 29, 2006. Per No. 2 in the letter stated “As a permit granting authority, the Town of Cambria Zoning Board of Appeals would therefore appear to be the appropriate Lead Agent herein. The Town of Cambria therefore does not concur that the New York State Department of Environmental Conservation should act as Lead Agent on this matter. No. 5 states “Since the Town of Cambria Zoning Ordinance specifically prohibits mining in the Agricultural – Residential District, it is respectfully submitted that the New York State DEC lacks jurisdiction to further proceed with the Mining Application herein.”

Finally, said letter states “To conclude, the Town of Cambria objects to the New York State DEC acting as Lead Agent, and understands that it would be improper for a mining permit to be granted for any premises in the Town of Cambria located in the Agricultural – Residential District”.

Counsel said no final action can be taken this evening. Who should be the Lead Agent needs to be resolved. He understands this board (Zoning Board of Appeals) may wish to retain the right to be Lead Agent.

It was agreed after discussion, that DEC has the expertise to act as Lead Agent on this application. Procedurally, which agency (D.E.C. or the Zoning Board) shall act as Lead Agent needs to be resolved before the SEQR process can be completed.

Per letter of October 26, 2006, No. 2, DEC “requests information regarding any project impacts, which should be addressed in their review, especially regarding setbacks, barriers to access, dust, hours of operation and zoning prohibitions”.

If the town wishes to make comments on this type of issue, and any similar issues, DEC would allow the additional time for comments.

Mr. Cloy said DEC requested a reply within thirty (30) days and the actual reply was addressed in 32 days.

Chairman asked Mr. Cloy how many deeds does he have on the 90 acres and applicant replied he has two (2) deeds. Original farm was approximately 50 acres and the 38 acres was purchased at a later date. Pond will be on the 38 acre site.

Counsel said the Zoning Board can rescind its Lead Agent designation, and request DEC to act as Lead Agent in the SEQR process subject to comments on information regarding project impacts mentioned in DEC’s Oct. 26, 2006 letter by the Town Zoning Board and Town Planning Board to be made by approximately Feb. 6, 2007.

Mr. Cloy said it doesn’t matter to him who acts as Lead Agent, DEC or Zoning Board of Appeals, but feels DEC has the expertise on the proposed issue. Mr. Von Uderitz agrees with the idea.

The board may rescind the LEAD AGENCY declaration on this application.

A motion was made by Mr. Smith and seconded by Mr. Robinson to rescind SEQR Lead Agency status by the Zoning Board of Appeals for this application only, namely David W. and Joyce Cloy. Unanimously approved, motion carried.

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to advise DEC that they may act as SEQR Lead Agent in this application only, namely, David W. and Joyce Cloy, for a Use Variance for a ten (10) acre clay mine to be reclaimed to a recreational farm pond. Unanimously approved, motion carried.

Mr. Cloy has addressed all of the questions pertinent to the Use Variance. The SEQR process has to be completed before the town can act on the application.

The Planning Board and Zoning Board may make further comments on project impacts prior to February 2<sup>nd</sup> with such comments to be forwarded to DEC by February 6, 2007.

REPORTS:

Chairman:

Feb. 6<sup>th</sup> – New York Planning Federation in association with Wendel Duchscherer, video presentation – 7:00 P.M. at Clarence High School Auditorium

Feb. 28<sup>th</sup> – Seminar at Niagara County Community College per MEMO dated January 2, 2007 (4 hours) recommend board members attend.

John Reardon appointed Vice Chairman for the year 2007

Building Inspector:

Application received from Mr. Erway for a temporary Variance for dirt pile at Rt. 425 and 93 and would like to leave dirt there temporarily. Will need fill for a project in Ransomville. Whatever is not taken to Ransomville can be spread out on property it is on currently.

Proposed project by HSBC on corner of Comstock Road and Lockport Road. Article in the Lockport Union Sun and Journal. No further information as of this meeting.

Attorney: nothing to report

A motion was made by Mr. Reardon and seconded by Mr. Robinson to adjourn at 9:23 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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