

July 23, 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 8:07 P.M. He welcomed everyone to the meeting followed by the Pledge to the Flag.

Members present: Joseph Ohol, Chairman  
Terri Kroening, John Reardon, Peter Smith  
Norman Allen, alternate  
Member absent: Donald Robinson  
Also present: George Bush, Councilman  
Robert Blackman, Councilman  
William Amacher, Chairman of Planning Board  
Norman Human, Planning Board member  
Donald Lane, Deputy Building Inspector  
Robert Klavoon, Wendel Duchscherer Eng.  
Dana Braun “ “ “

Chairman announced the agenda for this evening.

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

- (06-28-07) CORY MacPHEE**, 4645 Plank Road, Lockport, New York 14094, for an Area Variance to permit applicant to construct a 60 feet by 30 feet accessory building containing a total area of 2280 square feet upon said premises, whereas the Zoning Ordinance does not permit construction of such a building that will be larger than the square footage of the first floor of applicant's residence.
- (07-02-07) ROBERT KAVANAUGH**, 3201 Lower Mountain Road. Sanborn, N.Y. 14132, for an Area Variance to permit applicant to replace an existing 7'6" by 9' porch with a new 8' by 30' porch upon said premises approximately 35 feet from the road right-of-way, whereas the Zoning Ordinance does not permit construction of a porch closer to the road than 60 feet.
- (07-03-07) JAMES and JOHANNA GRAY**, 4160 Cambria-Wilson Road, Ransomville, N.Y. 14131 for an Area Variance to permit applicants to construct an attached garage upon said premises within approximately 21 feet from the road right-of-way, whereas the Zoning Ordinance does not permit construction of an attached garage closer to the road than 60 feet.
- (07-05-07) GERALD K. FARNHAM**, 5460 Hinman Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to construct a 56' by 75' storage building upon premises commonly known as 4923 Saunders Settlement Road, 50 feet from the west side lot line of said premises, whereas the Zoning Ordinance does not permit construction of such a building closer to a side lot line than 100 feet.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to approve minutes of meeting of June 25, 2007 as presented. Unanimously approved, motion carried.

**TABLED SPECIAL PERMIT RENEWALS:**

**2004-14 (8-04-04B) SBA Cingular Wireless** – Special Permit for communications tower on Barone property at 5105 Lockport Road – tabled since January 2007.

**2002-02 (2-14-02B) Cingular Wireless** – Special Permit for co-location of personal wireless telecommunication service facility equipment on existing tower at 4160 Upper Mountain Road – tabled from March 2007.

Counsel reported A.T. and T. merged with Cingular. He said he has been in contact with the aforementioned and they are in the process of authorizing these permits be renewed and confirmation of that communication will be forthcoming. Renewal fees have been paid.

Mr. Reardon asked how long before we receive confirmation of phone calls?

Counsel said we should receive communication from them within a week or so.

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

**1992-07 Samuel Colosimo**, 3588 Lower Mountain Road, Sanborn, N.Y. 14132  
Special Permit for a rooming house

Mr. Colosimo would like to renew the Special Permit.

Deputy Building Inspector said there have been no problems with the Special Permit.

A motion was made by Mrs. Kroening and seconded by Mr. Reardon to **renew** Special Permit to Samuel Colosimo to operate a rooming house for a period of three (3) years retroactive to June 2007. Unanimously approved, motion carried.

**(05-08-07) Student Housing Village Corp.**, 3111 Saunders Settlement Road, Sanborn 14132  
Area Variance and

**(05-03-07) Student Housing Village Corp.**, 3111 Saunders Settlement Road, Sanborn. 14132  
Special Permit

Chairman said the Planning Board at their July 16, 2007 meeting made determination of negative declaration under SEQR on applications of Student Housing Village Corp.

The following were present on behalf of the Student Housing Village Corp.:

Dr. Bassam Deeb, head of Student Affairs the N.C.C.C.

Craig Zogby, United Develop. Corp.

Jeffrey Smetana, “ “ “

Mel Farmer, Stantec Consulting Services, Inc.

Robert Klavoon from Wendel Engineering, had nothing further to add to what has already been submitted for the Student Housing.

William Amacher, Chairman of Planning Board, had nothing further to add.  
Representatives of the Student Housing Village Corp. had nothing further to add at this time.

**(5-08-07)** A motion was made by Mr. Smith and seconded by Mr. Reardon to **approve** application of Student Housing Village Corp. for an Area Variance to allow applicant to subdivide a twelve (12) acre parcel from premises commonly known as Niagara County Community College to be used for student housing that does not contain frontage on a public road. Unanimously approved, motion carried.

**(5-03-07)** A motion was made by Mr. Reardon and seconded by Mr. Smith to **approve** application of Student Housing Village Corp. for a Special Permit to allow housing of students relating to an educational use upon premises commonly known as Niagara County Community College in an agri-residential district. Unanimously approved, motion carried.

#### **CURRENT SPECIAL PERMIT RENEWALS:**

**1993-10**      **Gary Billingsley**, 4421 Lower Mountain Road, Lockport 14094  
Special Permit for a home Law Office

Mr. Billingsley requested renewal of the Special Permit.  
Per Deputy Building Inspector, there have been no problems with this Special Permit.

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to **renew** Special Permit to Gary Billingsley for a home law office for a period of three (3) years. Unanimously approved, motion carried.

**1996-07**      **Richard Hillman**, 4215 Upper Mountain Road, Sanborn 14132  
Special Permit to raise and train Alaskan Husky dogs

The letter informing Mr. Hillman that his Special Permit was due for renewal was returned and Post Office had marked on the envelope “Moved Out of State” and “return to sender”.

A motion was made by Mr. Reardon and seconded by Mr. Smith to allow this Special Permit to expire on its own terms and per note on the envelope “Moved out of State”. Unanimously approved, motion carried.

**(6-23-06)**      **Vincent Salerno an Maureen Weinert**, 4898 Upper Mountain Road, Lockport 14094  
Special Permit to operate private kennel

Mr. Salerno was present at this meeting to request renewal of Special Permit for the kennel.  
Per Deputy Building Inspector, there have been no problems with this Special Permit.

A motion was made by Mr. Smith and seconded by Mr. Allen to **renew** Special Permit to Vincent Salerno and Maureen Weinert to operate a private kennel and to raise show dogs at the aforementioned address for a period of three (3) years. Unanimously approved, motion carried.

**PUBLIC HEARINGS:**

**(6-28-07) CORY MacPHEE** was present at this meeting and has submitted the following: Application For Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and Survey of the property.

Public Hearing open:

Mr. MacPhee said he would like to construct a building, dimensions 60 feet by 38 feet, pole barn, for storage of tractor and other items for himself and brother.

There were no comments from members of the public.

Public Hearing closed.

Concerns of board members:

Chairman asked how much land does he have and Mr. MacPhee said 3.4 acres.

Mr. Allen asked applicant what kind of building will this be and he said a pole barn with a concrete floor. How far from the side lot line will this building be and Mr. MacPhee said there will be seventeen (17) feet from south lot line.

Mr. Reardon said to applicant, this building will be used for storage and no commercial or business use in the building? Mr. MacPhee said there will be no business use in this building.

Mr. Smith asked applicant why he wants such a large building? Applicant said he plans to put a boat, cars, etc. in this building.

Mr. Reardon said the town appreciates keeping things stored inside rather than outside.

Per Mr. MacPhee, the building will be 60' by 38' and per survey, shows 60' by 30'.

Counsel said that is an insubstantial error and okay with that figure (38').

Applicant said there is a swale between his property and brother's property, on property line between the two properties.

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

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to **approve** application for Area Variance to Cory MacPhee to permit applicant to construct a 60' by 38' accessory building containing a total area of 2280 square feet upon said premises. Unanimously approved, motion carried.

Deputy Building Inspector said to Mr. MacPhee that he needs to get a building permit.

**(7-02-07) ROBERT E. KAVANAUGH** has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, sketch of proposal and copy of survey.

Public Hearing open:

Mrs. Kavanaugh was present at this meeting and said they would like to replace existing porch, 7'6" by 9' with a new porch 8' by 30' which will be approximately 35' from the road right-of-way.

There were no concerns expressed by members of the public.  
Public Hearing closed.

Board members had no concerns on this proposal.

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

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **approve** application for Area Variance to Robert Kavanaugh to replace an existing 7'6" by 9' porch with a new 8' by 30' porch upon said premises approximately 35' from the road right-of-way. Unanimously approved, motion carried.

**(7-03-07) JAMES & JOHANNA GRAY** have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of letter from Mrs. Gray pertaining to her proposal dated 6/30/07, copy of four pictures of her home and copy of survey.

Public Hearing open:

Mrs. Gray was present at this meeting and said there is an attached utility building to their home which has no foundation and wish to tear that down and replace it and add an attached three (3) car garage approximately 21 feet from the road right-of-way.

There were no comments from members of the public.  
Public Hearing closed.

Concerns of board members:

Mr. Reardon asked where the entrance to the house is?

Mrs. Gray said entrance is on the Cambria-Wilson Road side. They own approximately 21.2 acres. The driveway will remain the same as presently exists.

She said they also plan to construct a second story above the garage for bedroom and bathroom.

Counsel said the Niagara County Planning Board recommended approval of this request for Area Variance.

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

A motion was made by Mr. Reardon and seconded by Mr. Smith to **approve** request for Area Variance to James and Johanna Gray to permit applicants to replace existing utility building and to construct an attached three (3) car garage upon said premises within approximately 21 feet from the road right-of-way. Unanimously approved, motion carried.

**(7-05-07) GERALD K. FARNHAM** was present at this meeting and has submitted the following:  
Application for Area Variance, Short Environmental Assessment Form,  
Agricultural Data Statement, copy of survey and copy of town map showing subject parcel located at 4923 Saunders Settlement Road.

Public Hearing open:

Mr. Farnham said the new barn, dimensions 56' by 75', is for hay storage, will be approximately 50 feet from the west side lot line.

There were no comments from members of the public.  
Public Hearing closed.

Chairman said new building will be around the corner from Comstock Road.

The future use of the property around the building will be for agriculture purposes.

Mr. Reardon asked Mr. Farnham why he chose this particular area for the building?

Mr. Farnham said he had the soil tested on this property and where the building will be, soil is not as good for crops as the other part. He also said there is good drainage on this property. New barn will set behind existing house and barn.

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

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to **approve** application for Area Variance to Gerald K. Farnham to permit applicant to construct a 56' by 75' storage building upon premises commonly known as 4923 Saunders Settlement Road, Lockport, 50' from the west side lot line of said premises.

Mr. Allen asked what is the distance between proposed building and north property line and applicant said there is approximately 650' to the lot line.

Unanimously approved, motion carried.

Other Business:

David Erway: subject property near intersection of Route 93 and 425, south of Coulter market. It was reported the dirt pile on this property is gone and property has been leveled off.

A motion was made by Mr. Reardon and seconded by Mr. Allen to allow Special Permit to expire on its own terms. Unanimously approved, motion carried.

REPORTS:

**(5-10-07) Robert & Kristi Moore**

Use Variance for a farm pond on property located at 3792 Ridge Road, Lockport.

Public Hearing was held on May 21, 2007 and tabled until June 25<sup>th</sup> for a .99 acre farm pond and was denied. Then the board approved applicant's request for application to a Special Permit for a ½ acre farm pond and that was denied.

Chairman said Mr. Moore has contacted Town Board members and Zoning Board members and requests a rehearing on the pond issue. In order for a rehearing, there must be a unanimous decision by this board to do so. There has been no formal written request for a rehearing, only verbally. Mr. Ohl understands request for rehearing is for a Use Variance.

Mr. Reardon feels Mr. Moore should submit a request in writing to the board before the board considers the rehearing on the pond issue.

Mrs. Kroening wants the request clarified as to what he actually wants, namely, .99 acre or go down to ½ acre, Use Variance to Special Permit.

A motion was made by Mr. Reardon and seconded by Mr. Allen to advise applicant, Robert Moore, to put his request in writing to this board. Unanimously approved, motion carried.

Chairman reported he received a letter today dated July 23, 2007 from David Milleville, partner of Milleville Brothers, who rents part of this land at 3792 Ridge Road which stated in part that he had spoke with Mr. Moore regarding pond issue. Mr. Milleville said (1.) they have been farming this land for many years and will continue to do so with permission from Mr. Moore and (2.) regarding irrigating, they are in favor of the pond and would consider irrigating on this property and use farm pond for a source of water for spraying purposes.

Zoning Bulletin – would board members like to subscribe to it?

Attorney – nothing to report this evening.

Deputy Building Inspector – nothing to report this evening.

Board members – nothing to report this evening.

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to adjourn at 9:00 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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