

June 25, 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 8:30 P.M. He welcomed everyone to the meeting followed by the Pledge to the Flag.

Members present: Joseph Ohol, Chairman  
Theresa Kroening, Donald Robinson, Peter Smith  
Norman Allen, alternate  
Member absent: John Reardon  
Also present: George Bush, Councilman  
Clifford Burch, Building Inspector  
Donald Lane, Deputy Bldg. Inspector  
Gary Billingsley, Attorney  
Dana Braun, Wendel Duchscherer Eng.

Chairman announced 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:

**(05-30-07) TEDDY TOMASIK and BARBARA TOMASIK**, 5202 Lower Mountain Road, Lockport, N.Y. 14094, for an Area Variance to permit applicants to construct a 24 feet by 44 feet accessory building upon said premises closer to the road right-of-way than the rear wall of the main building, whereas the Zoning Ordinance does not permit construction of an accessory building closer to the road than the rear wall of the main building upon such premises.

**(05-31-07) DANIEL DABOLL and PATRICIA DABOLL**, 5880 Baer Road, Sanborn, N.Y. 14132, for an Area Variance to permit applicants to construct a 26 feet by 44 feet detached garage upon said premises 10 feet from the north side line of said premises, whereas the Zoning Ordinance does not permit construction of such a building closer to a side lot line than 15 feet.

**(05-03-07) STUDENT HOUSING VILLAGE CORPORATION**, 3111 Saunders Settlement Road, Sanborn, N.Y. 14132, for a Special Permit to allow housing of students relating to an educational use upon premises commonly known as Niagara County Community College pursuant to the Special Permit Ordinance of the Town of Cambria.

**(05-08-07) STUDENT HOUSING VILLAGE CORPORATION**, 3111 Saunders Settlement Road, Sanborn, N.Y. 14132, for a Variance to permit applicant to be allowed 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, whereas the Zoning Ordinance of the Town of Cambria requires that such a parcel contain frontage on a public road.

Counsel explained that the Planning Board tabled SEQR determination and Zoning Board cannot act on the application until Planning Board has made SEQR determination. Planning Board will reconvene about 9:00 P.M.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to approve minutes of meeting of May 21, 2007 as presented. Unanimously approved, motion carried.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to approve minutes of Special meeting of May 30, 2007 as presented. Unanimously approved, motion carried.

**TABLED SPECIAL PERMIT RENEWALS:**

**2004-14 (8-04-04B) SBA Cingular Wireless** – Special Permit for communication 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.

No communication has been received from the above regarding their renewals.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **table** action on the Special Permit renewals for the aforementioned for another month. Unanimously approved, motion carried.

**TABLED AREA VARIANCE AND USE VARIANCE** from May 2007:

**(05-03-07) Robert and Kristi Moore** – Area Variance for house setback on property located at 3792 Ridge Road and

**(05-10-07) Robert and Kristi Moore** - Use Variance for a farm pond on property located at 3792 Ridge Road.

Mr. Moore, applicant, and Donald Swanson, Jr. from Apex Consulting Survey and Engineering Services, were present at this meeting.

Public Hearing was held on May 21, 2007 to permit applicant to construct a .99 acre farm pond and for setback of house 439.33' from road right-of-way at 3792 Ridge Road.

The pond is for irrigation of his future crops. Action was tabled because the board had not received a letter from Niagara County Soil and Water Conservation District pertaining to the pond.

Letter from Soil and Water Conservation dated March 29, 2007 was read by the secretary this evening. Per letter, the pond will work in this soil.

Mr. Swanson said Mr. Moore has a need for the pond for watering his future vegetables, flowers, trees and horses. Mr. Moore wants to live in an agricultural-rural area and has a long range plan for the farm.

Mr. Moore said he has an agricultural background. He works out of his home. He said David Milleville works some of the property now and plans to continue renting to him.

Chairman asked Mr. Moore if he has any farm income from the property now?

Mr. Moore said he is letting someone farm the property at present.

Chairman said to be a bona fide farmer, he has to grow a certain amount of crops with gross income of at least \$10,000.00 per year. The acreage is there.

Mr. Moore has not planted any crops yet. He said it would be cheaper to use farm pond, at no cost, for irrigation than County water.

Mr. Robinson said it is cheaper to use the County water than the pond because of cost of fuel to operate tractor and also other costs involved.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to declare **negative declaration under SEQR** on application of Mr. Moore for a pond. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **deny** application of Robert and Kristi Moore for a Use Variance to construct a farm pond, .99 acre, on property at 3792 Ridge Road. The reasons for denial are: applicant failed to meet the criteria as stated on the application, namely, no proof if reasonable return can be realized from property as is, alleged hardship is not unique in the community and alleged hardship is self-created. As not all board members voted to deny the application, secretary was requested to poll the board: Mr. Robinson – “aye” for denial, Mrs. Kroening - “no”, Mr. Ohol - “aye”, Mr. Smith – “aye”, Mr. Allen – “aye”. Four “ayes” for denial, one “no”, motion carried.

Mr. Moore said the dirt from the pond area would be used for fill around his future home. He mentioned that there was an approval granted for a ten acre pond in the town with no restrictions.

Chairman said each case is different and Mr. Moore’s situation did not meet all of the criteria for a Use Variance for a pond. He said applicant could request a smaller pond which is permitted in the Town of Cambria.

Mr. Moore asked Mr. Robinson what the size of his ponds are?

Counsel said the application could be amended to a Special Permit for a one-half (1/2) acre pond.

Mr. Moore agreed to request amending application to a Special Permit for a one-half (1/2) pond on property at 3792 Ridge Road.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to approve amending request of Mr. Moore to a Special Permit for a one-half (1/2) acre pond on property at 3792 Ridge Road. As not all board members voted “aye” for approval, secretary was requested to poll the board: Mr. Robinson – “no”, Mrs. Kroening – “aye”, Mr. Ohol – “aye”, Mr. Smith – “no”, Mr. Allen “no”. Application for Special Permit for one-half (1/2) pond is denied, 3 no’s, 2 “ayes”. Motion carried.

Tabled application for Area Variance:

Mr. Moore and Mr. Swanson, Apex Consulting were present at this meeting.

Public Hearing was held on May 21<sup>st</sup> to permit applicant to construct a residence 439.33’ from the road right-of-way on premises at 3792 Ridge Road.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to declare **negative declaration under SEQR** on application of Robert and Kristi Moore to construct a residence 439.33' from the road right-of-way at 3792 Ridge Road. Unanimously approved, motion carried.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **approve** application of Robert and Kristi Moore for an Area Variance to construct a residence upon said premises at 3792 Ridge Road approximately 439.33 feet from the road right-of-way. As not all board members voted "aye", secretary was requested to poll the board: Mr. Robinson – "no", Mrs. Kroening – "aye", Mr. Ohol – "aye", Mr. Smith – "aye", Mr. Allen – "aye". Area Variance is approved, motion carried.

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

**2006-10 (06-01-06) James Henning**, 2967 Lower Mountain Road, Sanborn, N.Y. 14132  
Special Permit to operate a public stable at 2995 Lower Mountain Road

Mr. Henning was present at this meeting and said he would like to renew the Special Permit.

Building Inspector said he had received no complaints on this business.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **renew** Special Permit to James Henning to operate stable at 2995 Lower Mountain Road, Sanborn 14132 for a period of three (3) years. Unanimously approved, motion carried.

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

There was no one present on behalf of Mr. Colosimo.

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

**Delores Hill**, 3262 Lower Mountain Road, Sanborn 14132  
Special Permit for boarding stable and lessons

Mr. and Mrs. Hill were present at this meeting and request renewal of Special Permit.

Building Inspector said he had received no complaints on this business.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **renew** Special Permit to Delores Hill to operate a boarding stable and give lessons for a period of three (3) years. Unanimously approved, motion carried.

**Alan Tarnowski**, 4663 Baer Road, Ransomville, N.Y. 14131  
Repair garage

Mr. Tarnowski was present at this meeting to renew Special Permit to operate a repair garage.

Building Inspector said he had received no complaints on this business.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **renew** Special Permit to Alan Tarnowski to operate a repair garage for another five (5) years. Unanimously approved, motion carried.

**PUBLIC HEARINGS:**

(5-30-07) **TEDDY and BARBARA TOMASIK**, 5202 Lower Mountain Road, Lockport 14094, were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of Building Proposal from Parco Building Systems, sketch of building and copy of Survey.

Public Hearing open:

Mr. Tomasik said they would like to construct a pole barn 24' by 44' with a carport on the side.

There were no comments from members of the public.

Public Hearing closed.

Mr. Tomasik said there is a shed on the premises and it will be taken down. Per ordinance, only allowed one out building.

Mr. Robinson asked applicant if there would be a driveway to the building?

Mr. Tomasik said there will be no driveway to the building, used just for storage.

Chairman asked if building could be moved to the west and answer was no because this is a corner lot. House is only 17 feet from the property line.

Mr. Allen asked applicant if any landscaping is planned around the building?

Applicant said they haven't decided yet but may plant some flowers.

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

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** application of Teddy and Barbara Tomasik for an Area Variance to permit applicants to construct a 24' by 44' accessory building upon premises closer to the road right-of-way than the rear wall of the main building. Unanimously approved, motion carried.

**(5-31-07) DANIEL and PATRICIA DABOLL** were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey.

Public Hearing open:

Mr. Daboll said they would like to build a detached garage 26 feet by 44 feet approximately ten (10) feet from lot line and stay one (1) foot from septic system.

There were no comments from members of the public.

Public Hearing closed.

Comments from board members:

Mr. Robinson asked if he would be putting a driveway back to the building?

Mr. Daboll said the driveway will be a continuation of existing driveway.

Mr. Allen asked about the leach field and Mr. Daboll said there is enough room for the building and not interfere with the leach field.

Building Inspector said this will be an accessory building as he has an existing garage.

The building will be a stick building on a floating pad.

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

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** application for Area Variance for Daniel and Patricia Daboll to permit applicants to construct a 26' by 44' accessory building upon premises ten (10) feet from the north side line of same premises. Unanimously approved, motion carried.

**(05-03-07) STUDENT HOUSING VILLAGE CORP.**

The following have been submitted: Application for Special Permit, Agricultural Data Statement and map showing NCCC property and properties located on the south side of Saunders Settlement Road.

Mel Farmer, Project Manager from Stantec Services, Inc., was present at this meeting to request Special Use Permit to allow student housing in an Agricultural-Residential district and to allow educational use in an A-R district. Property to be developed will be consistent with existing college with minimum impact on Route 31 and Route 429 and in close proximity to NCCC. Student housing will be close enough for independent living.

Public Hearing open:

Rose Mary Warren, 5842 Griffin Street, Sanborn 14132, stated the following:

1. This is a very important topic and will forever change Sanborn.
2. Niagara County Planning Board has some zoning issues. Requested someone from housing entity be present at the meeting but no one appeared.
3. New building will be land-locked
4. What are the existing roads now and are there plans for future roads?
5. Utilities – N. C. Planning Board is interested in where easement will be for utility lines - from college or where? Water and sewer lines along Route 31?
6. Will there be separate easements? Will that be responsibility of the college?
7. Who is going to pay for the easements? There is some cost involved.

Mr. Deeb said they are working through County attorneys' office for the easements.

Mrs. Warren asked if Student Housing Corp. will pay for the easements? County attorneys are a cost to taxpayers.

George Bush said the utilities will come in from Route 31 to the proposed new facility. The town has been asked to take ownership of the lines. The town has issues on this matter. Maintenance for three lines would be on NCCC property. They want town to maintain sewer and water lines and on Rt. 429 side, lines are underneath parking lots.

Chairman asked if the town is taking ownership of the lines?

Ms. Braun said this issue has not been resolved, no determination made.

Mrs. Nacca said she lives closest to the college on Townline Road. She said she sent out 500 surveys to residents on Baer Road, Townline Road, Saunders Settlement Road and Joanne Drive for their feelings on the proposed college dormitories. She also sent letter to Mr. Ross, College President, and to the town. She stated a majority of the people are very much against the dorms because of possibility of increase in noise, traffic and possibly crime.

Karen Lyons, 3175 Saunders Settlement Road, Sanborn said there would be 300 students living on campus instead of commuting and no increase in numbers. Why does NCCC want housing for students? This will not bring in more students, will have to train more employees. People acting as security should be civil service employees. Mrs. Lyons said she graduated from NCCC and worked there. She believes there will be a negative impact on home and community, no increase in students or revenue. Also, there will be a change in the community and maybe more crime.

Public Hearing closed.

Jeffrey Smetana from United Development Corp., said they will run water and sewer lines themselves, ownership by corporation, not Town of Cambria, and there will be no cost to the community and no additional cost to the college.

Mr. Smetana said the amenities are a commitment of the college.

Mrs. Nacca asked if the board could table decision to allow more time to review the Student Housing proposal? Maybe someone could call Fredonia college and Niagara University regarding student housing on their campuses.

Issue of ambulance and fire company calls regarding crime and traffic was raised.

Mrs. Warren inquired about the clay and dirt excavated during construction of the building? Would they need permission from the town to move it off of property if need be?

Building Inspector said any material that is taken out during construction and cannot be used in conjunction with the project, can be hauled away. Would we know if it is clay or not?

Mrs. Nacca said there are a lot of trees, not just clay. What do they intend to do with the clay and trees? Also, could disturb the wild life in that area.

Mr. Farmer said there will be a need to remove some of the trees around the ring road. He said they will provide a landscaping plan as part of site plan. Excess material will stay on the site.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **table** decision because of no SEQR action. Unanimously approved, motion carried.

Public Hearing for Area Variance to permit applicant, **STUDENT HOUSING VILLAGE CORP.**, be allowed to subdivide twelve (12) acre parcel with no frontage on a public road.

The following have been submitted: Application for Area Variance and copy of map dated 4/13/07 showing NCCC property and development on south side of Route 31.

Need to provide access plan from property line outside of ring road to Rt. 429, road frontage for the parcel.

Public Hearing:

Mrs. Nacca said there is an existing driveway from Rt. 429 going north and south. Parcel will have an access easement to Rt. 429.

Mrs. Warren said emergency vehicles will co-mingle on ring road with commuting students, about 250 cars.

Mr. Deeb said emergency vehicles are dealing with co-mingling now and has not been a concern. Access to emergency calls for campus and dorm are completely different. With that many people in close proximity, are going to be different.

Johanna Gray feels there are no potential problems. Fire apparatus can get to that road. No major problems as long as there is water pressure. The more people there are, the more calls there may be. No problem getting to them.

Mr. Buzzeo feels the student housing will help the economy in the area. Are there any thoughts of moving the building out toward the road? As people drive by, will see this impressive building.

Mr. Deeb said where it is planned for now is the best place, because of proximity to food service, which is in G building, book store, library, lounge, entertainment, etc. In the southeast corner there are athletic fields.

Mr. Buzzeo said this may have an impact on different schools. Niagara University had a great basketball team this year. Good things for the community.

Public Hearing closed.

Board members – there were no further concerns.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **table** decision on the Area Variance for Student Housing Village Corp. for no frontage for a subdivided parcel because we do not have a SEQR determination. Unanimously approved, motion carried.

#### REPORTS:

Packet mailing – mail important parts and hand out rest at meeting.

Chairman – Daigler family took down a house and building a ranch type home, 2 story into 1 story. They are living in a horse trailer while building home. Is that permissible?

Mr. Burch said people can live in trailer while building a house.

Attorney – nothing to report

Board members – nothing to report

A motion was made by Mr. Robinson and seconded by Mr. Smith to adjourn at 10:00 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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

