

May 21, 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 8:00 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  
Norman Allen, alternate  
Member absent: Peter Smith  
Also present: Robert Blackman, Councilman  
Clifford Burch, Building Inspector  
Donald Lane, Deputy Building Inspector  
Gary Billingsley, Attorney  
Robert Klavoon, Wendel Duchscher Eng.  
Dana Braun, Wendel Duchscherer Eng.  
Gerardo Buzzeo, Planning Board alternate

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

**(04-26-07) MARK J. BROOKS**, 3344 Upper Mountain Road, Sanborn, N.Y. 14132, for an Area Variance to permit applicant to construct a 20 feet by 26 feet garage upon said premises 8 feet from the east 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) ROBERT MOORE and KRISTI MOORE**, 7845 Indian Blanket Road, Beaumont, Texas, 77713, prospective purchasers of premises commonly known as 3792 Ridge Road, for an Area Variance to permit applicants to construct a residence upon said premises approximately 439.33 feet from the road right-of-way, whereas the Zoning Ordinance does not permit construction of a residence farther from the road than 125 feet.

**(05-10-07) ROBERT MOORE and KRISTI MOORE**, 7845 Indian Blanket Road, Beaumont, Texas, 77713, for a Use Variance to permit applicants to construct a .99 acre farm pond upon premises commonly known as 3792 Ridge Road, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of farm ponds exceeding one half of an acre in size.

Chairman mentioned this meeting was changed from regular meeting date because of the holiday.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to approve minutes of meeting of April 23, 2007 as presented. Unanimously approved, motion carried.

Chairman announced we are going to deviate from Agenda and hear from representatives for the Student Housing proposal on property connected with N.C.C.C.

Craig Zogby spoke on behalf of United Develop. Group, the developer for the proposed Student Housing Village Corp. and gave a brief explanation of what is planned and showed drawings. He said there will be approximately 307 beds in a three (3) story building to be located on the northeast corner of college property.

Mel Farmer of Stantec Consulting Services, said the college property consists of approximately 285 acres. A twelve (12) acre parcel will be subdivided from college property for the student housing. There will be no road frontage but there will be a new access road to the parcel. A Special Permit will be required to permit student housing in an Agriculture Residential District and an Area Variance because there will be no frontage for this 12 acre parcel on a public road. The Planning Board will take care of Site Plan review and Subdivision approval to divide parcel from the college property.

Utilities will be from Rt. 31 or from utilities on site.

A current rendering of three (3) story structure was shown to board members.

There will be a R.D. and R.A. on each floor as well as site management team.

Chairman asked if everything was in order with Planning Board for public hearing on June 25<sup>th</sup>?

Mr. Reardon asked if there were any significant changes in the plans since the April 26<sup>th</sup> meeting? Answer was the site is the same, approximately twelve (12) acre parcel. There are no substantial changes.

Mr. Deeb said there may be a little different look in the front, little more or less stone. They want to have more of a collegiate look. Some things may depend on the final cost of the project. The inside design will be the same. They are changing the laundry facility from the second floor to the first floor.

The Planning Board's only action tonight was to declare Planning Board Lead Agent. Special Permit and Variance will be before the Zoning Board.

They are providing a detention area to mitigate storm water.

Counsel said Public Hearing will be called for two applications, namely Special Permit for dormitory student housing and Variance for lack of frontage on a public road.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to call for a public hearing on June 25, 2007 at 8:00 P.M. for Special Permit for student housing and Area Variance for lack of frontage on a public road. Unanimously approved, motion carried.

Dana Braun will be representing Wendel Duchscherer Eng. at the meeting on June 25<sup>th</sup>.

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

**2006-06**      **Herbert Stephenson**, 5314 Townline Road, Sanborn, N.Y. 14132,  
Special Permit to display and sell outside furnaces at 5311 Townline Rd., Sanborn  
Mr. Stephenson 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.

Board members had no concerns on this matter.

Mr. Stephenson said he would like to purchase a truckload of stoves at one time consisting of at least 10 and could get a better shipping rate. He would like to display five (5) and store the other five (5) in back of existing barn which is located some distance from the road and requested permission to do so.

One of the conditions in original Special Permit was “maximum of five (5) furnaces stored outside for display and anything over five (5) to be stored inside of barn or garage”. If Mr. Stephenson wishes to make any changes in his Special Permit, he would need to file a new application for Special Permit.

Mr. Reardon asked applicant how many stoves are stored inside and Mr. Stephenson replied he has not stored any inside yet.

A motion was made by Mr. Robinson and seconded by Mr. Allen to **renew** Special Permit to Herbert Stephenson to display and sell outside furnaces and to use an existing building in conjunction with his business at 5311 Townline Road with existing conditions for a period of three (3) years. Unanimously approved, motion carried.

**2001-13 (8-23-01) Connie Berti**, 4867 Cambria Road, Lockport, Special Permit to operate gift shop at 4077 North Ridge Road

Mrs. Berti’s business is closed and she no longer owns the property at 4077 North Ridge Road.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to allow Special Permit to expire on its own terms and based on the board’s understanding that the property has been sold. 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 said he received the information on addresses for the above but did not have a chance to write the letters to them. Many of the tower and co-location headquarters are located out of state. Communication for renewal by letter would probably be the best solution on these matters.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to table action on SBA Cingular, Lockport Road and Cingular Wireless co-location on Upper Mountain Road for one more month. Unanimously approved, motion carried.

#### **PUBLIC HEARINGS:**

**(04-26-07) MARK J. BROOKS**, 3344 Upper Mountain Road, Sanborn, N.Y. 14132, 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.

Mr. Brooks would like to construct a garage, 20 feet by 26 feet, approximately eight (8) feet from the property line.

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

Board members:

It was asked who is Mr. Brooks' closest neighbor?

Douglas Szathmary, 3350 Upper Mountain Road, Sanborn, present at this meeting, said he has no objection to the building of this garage. He said there is a little drainage problem.

Mr. Reardon asked if garage could be placed on the other side of the house?

Mr. Brooks said that isn't possible.

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

A motion was made by Mrs. Kroening and seconded by Mr. Reardon to **approve** request for Area Variance to permit applicant to construct a 20' by 26' garage upon said premises approximately eight (8)' from the east side lot line of said premises. Unanimously approved, motion carried.

Mr. Lane reminded Mr. Brooks that he needs to get a building permit prior to construction.

**(05-03-07) ROBERT and KRISTI MOORE**, 7845 Indian Blanket Road, Beaumont, Texas 77713, have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of portion of town map hi-lighting parcel they have purchased consisting of 94.5 acres, 1065.8' frontage by 3877.2 in depth, on the south side of Ridge Road, known as 3792 Ridge Road, Lockport.

Mr. and Mrs. Moore wish to construct a home upon said premises approximately 439.33' from the road right-of-way, plant a vineyard, Christmas trees, flowers and vegetables, and also wish to have horses with corral and barn and a pond on this property.

Public Hearing open:

Tim Arlington, Apex Consulting Survey & Engineering Services, P.C., Agent, was also present this evening. He said Mr. and Mrs. Moore would like to set the house back over 400 feet from the road on the 96 acre farm and would like a pond 0.99 acre where soil is conducive to a pond. He said the land in front, by the road, is sandy. Neighbors are far away, 800 – 1,000 feet. Also, there is a hedge row on the east and west sides and woods in the back. There is an existing home on the front of the property

which they plan to demolish. Reason for variance is because proposed residence will be more than 125 feet from the road. Soil from the pond will remain on the site and feels the proposal will not affect character of the neighborhood.

Comments from neighbors:

Nancy Cook and Charles Fowle, 3780 Ridge Road, next door neighbors, were concerned about the existing trees.

Mr. Moore said the trees will remain, no plans to take any down.

Ms. Cook also asked where their future home would be? Her home is approximately 330' back from the road.

Public Hearing closed.

Board members:

It was said most of that land is fairly level.

A picture of the style of home proposed was shown to board members.

Mr. Reardon asked applicant how he selected this particular site on the property for their home?

Mr. Arlington said they are trying to keep a close proximity of pond and corral and be as efficient as possible. Mr. Moore would like more of a consolidated location based on the location of the pond as far as land planning is concerned.

Mr. Moore said David Millville is farming his parcel as well as neighbor's land now.

Applicant was asked how he came up with future home being 439.33' back from the road and he said it was a privacy issue.

Chairman asked applicant what's going to happen to the other adjoining neighbors? The lady next door, Ms. Cook, is back 330' from the road.

Mr. Reardon would like to see some uniformity. Could future residence be moved 100' closer to Ridge Road? Would that be possible?

Mr. Moore said the ground is sandy closer to the road. Plans to put septic system to the side of future home.

Mr. Reardon again asked applicant if he would be agreeable to move house closer to the road?

Mr. Moore said a farmer uses three parcels, his, and one on each side.

Chairman recommended tabling decision on the Area Variance until the board has reviewed the pond application.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to table decision on the Area Variance of Robert and Kristi Moore until the board has heard the public hearing on the Use Variance for the pond. Unanimously approved, motion carried.

**(05-10-07) ROBERT and KRISTI MOORE**, 7845 Indian Blanket Road, Beaumont, Texas 77713

The following have been submitted: Application for Use Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of portion of town map hi-lighting subject parcel and copy of Site Master Plan.

Public Hearing open: there were no concerns expressed by persons in the public.  
Public Hearing closed.

Mr. Moore said they would like a 0.99 acre pond which will be used for watering their new crops, including trees, vegetables, and for horses approximately six (6) and some for the existing 26 acres used by another person for their crops. Some of the fill from the pond area will be used for fill around their future home. If pond were larger, would then need to go to State D.E.C. for review. The location of the pond was determined by type of soils 300 – 400 feet back from the road.

Chairman advised Mr. Moore that a letter from the Niagara County Soil and Water Conservation District is required by the town.

Chairman asked applicant what his time frame is on starting his home, pond etc.?

Mr. Moore said they would like to start this Summer with installing the septic system and to get the pond started. They would like to build the home in 2008. Pond is critical for what is proposed.

Counsel said is there anything in this project that calls for a need for that large of a pond?

Mr. Arlington said the amount of fill required and also amount of water needed.

Mr. Reardon said in a Use Variance there are things that have to be proven by the applicant. The alleged hardship is self-created.

Mr. Arlington said he is familiar with the regulations concerning a Use Variance. He said there is active agriculture taking place on that property now and Mr. Moore wishes new agriculture things.

Chairman said he knows the person who uses that property for crops and he does not water his crops.

Counsel said to applicant you will need some documentation in writing for reasons for the pond.

Building Inspector asked how much water do trees take? It could depend on the type of soil.

Mr. Arlington said majority of the water would be used for the horses and new crops. There will be a need for water for their proposed operation.

Mr. Reardon asked Mr. Moore if he plans to have a small business there? Do you plan to let the horses drink from the pond?

Mr. Moore said they would pump the water from the pond to the horses.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to **table** action on the application for the Use Variance for the pond until we have received a letter pertaining to the pond from Soil and Water Conservation District. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **table** action on the application for the Area Variance for setback on the home for one month. Unanimously approved, motion carried.

#### REPORTS:

Attorney – we will proceed with the filing of decisions within five (5) days with the Town Clerk.

Building Inspector – monthly report given out

Mr. Parsons is taking down trees on his property at top of Thrall Road hill without permission within Escarpment district.

Dep. Building Inspector – Robert Rockwood is cutting down trees on his property on south side of Thrall Road within Escarpment district without permission.

Mr. Reardon said he will not be able to attend the June meeting.

Mr. Blackman, Councilman – there is a large boat on property on Subbera Road in front of house. Appears they are operating a business from this site, sign says “Charter Fishing Trips”.

A motion was made by Mr. Reardon and seconded by Mr. Robinson to adjourn at 9:30 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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