

May 24, 2010

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 and then announced the Agenda for this evening.

Members present: John Reardon, Chairman
Michael Bechtel, Theresa Kroening, Donald Robinson, Peter Smith
Also present: Michael Sieczkowski, alternate
Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney
Robert Klavoon, Wendel Duchscherer Eng.

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

(04-08-10A) COMMUNITY BIBLE CHURCH, 4168 Church Road, Lockport, N.Y. 14094 for an Area Variance to permit applicant to construct a Community Building containing approximately 25,980 square feet approximately 250 feet from the road right-of-way, together with a proposed future expansion of approximately 16,360 square feet for a Church upon premises located on the south side of Upper Mountain Road approximately 426 feet east of Blackman Road, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such a building farther from the road right-of-way. than 125 feet.

(04-08-10B) COMMUNITY BIBLE CHURCH, 4168 Church Road, Lockport, N.Y. 14094 for a Variance to construct a .48 acre wet pond for storm water detention to meet applicable SPDES requirements, whereas the Zoning Ordinance only permits ponds for agricultural purposes.

(05-06-10) STEVE MARCHETTI and SONJA MARCHETTI, 4570 Green Road, Lockport, N.Y. 14094 for an Area Variance to permit applicants to construct a pole barn with dimensions of 36 feet by 60 feet upon said premises, whereas the Zoning Ordinance does not permit construction of such a structure which exceeds the square footage of the first floor of the residence upon said premises, which said first floor contains 1,466 square feet.

Secretary noted one correction in the minutes of meeting of April 19, 2010 as follows: Page 6 at the bottom Mr. Phillips should be Mr. Reardon said to Mr. Kroening, etc.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to approve minutes of meeting of April 19, 2010 with correction as noted. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (tabled from February 2010)

2004-02 (02-02-04) Omnipoint Communications (T-Mobile USA) Attn. Nancy Valletta
Special Permit for co-location of personal wireless telecommunication service facility equipment upon an existing telecommunications tower upon premises at 4621 Ridge Road, Lockport 14094.

Letters have been sent notifying of renewal of Special Permit and renewal fee of \$500.00 due at this time but no response and no one appears. Renewal was due in February.

Counsel had some contact through Fax but actual arrangements for renewal had not been made. He suggested tabling until end of the meeting and see if someone appears.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **table** renewal until the end of the meeting and see if someone appears. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (Current)

2006-06 (4-13-06) Herbert Stephenson, 5314 Townline Road, Sanborn, N.Y. 14132
Special Permit to display and sell outside furnaces at 5311 Townline Road, Sanborn, N.Y. 14132

Mr. Stephenson was present at this meeting and said he wishes to renew the Special Permit.

Building Inspector had no comments and no complaints received on this business.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **extend** Special Permit to Herbert Stephenson to display and sell outside furnaces at 5311 Townline Road, Sanborn 14132 for a period of five (5) years. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(04-08-10A) COMMUNITY BIBLE CHURCH, 4168 Church Road, Lockport 14094
Subject Property location – Upper Mountain Road, Lockport 14094
Agent's name – Timothy Arlington, Apex Consulting, Survey & Engineering Services PC
102 East Avenue, Lockport 14094
Proposal – construction of a multi-purpose Community building with future expansion of a church to be located on the south side of Upper Mountain Road east of Blackman Road on property formerly owned by Robert & Loanne McCollum.

The following have been submitted: Application for an Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of survey map dated 11-24-09.

Robert Shane McCollum, 4423 Upper Mountain Road, Lockport 14094, son of Robert L. McCollum (deceased) and Loanne McCollum, appeared on behalf of the Community Bible Church.

Mr. Arlington said the first phase will be the approximate 26,000 square foot multi-purpose community building. He said there are approximately 550 people for Sunday service.

There will be parking in front and rear of the building and wish to have setback of 250 feet from the road right-of-way. Trees will be put in for a buffer for homes on Upper Mountain Road. The church property will consist of 11.6 acres. Plan to build a ball field and a pond in the rear.

Mr. Arlington said the building will be a very large and attractive building. He showed a drawing of the community building and future church.

Public Hearing open:

Elaine Clark, 4408 Upper Mountain Road, Lockport 14094, asked where will building be facing?

Paul Torreano, 4400 Upper Mountain Road, Lockport 14094, concerned about mosquitoes with the pond, affect on property value, feels this is a bad location for the church, ball park behind Torreano property? What is their time line for construction of the building? If the church finds they can't afford to build, is there another church involved?

Joanna Torreano, 4400 Upper Mountain Road, Lockport 14094, asked whose house will be in front of the church?

Elaine Clark said she doesn't want the pond in back of her house.

No further concerns at this time.

Public Hearing closed.

Board members:

Mr. Bechtel asked how wide is the building going to be?

Mr. Arlington said the first building, community building, will be 163 feet in width by 138 feet in depth and the church will be 118 feet in width by 137 feet in depth.

Mr. Smith asked how high will the highest peak be?

Mr. Arlington said highest peak will be 28 feet.

Mr. Sieczkowski asked what is the total frontage of the property and Mr. Arlington said 400 feet.

It was asked whose house will church be facing?

Mr. McCollum said building will be facing the barns on McCollum property which are on the north side of Upper Mountain Road.

How close to Mrs. Clark's property will the ball field be and answer was 160 feet to the closest point.

Mr. Arlington said trees will be planted at end of ball diamond as a buffer.

Counsel said ball fields are a permitted use in A-R zone.

It was asked what is the time line on this project?

Mr. McCollum said they do not have the funds yet. He said when they have 88 per cent of the money, will then start to build. Site work is being done now, like driveways.

Chairman said this board has nothing to do with the money issue.

Mrs. Kroening said this is a large project. Are there other alternatives?

Mr. McCollum said they will not go ahead with building until they have the funds to proceed. They have outgrown their existing church.

Mrs. Kroening asked if it will be necessary to remove some of the excess soil from the property?

There will be no basements in the buildings.

Mr. Arlington said there is a continuous slope 1 – 2 percent to the south.

Building Inspectors:

Mr. Lane expressed concern about fire hydrants. There will be a fire hydrant at edge of the building.

Mr. Burch said according to the ordinance, excess soil can be hauled away. A permit is required to remove the soil.

Counsel suggested that the Public Hearing on the Pond issue be held before making decision on SEQR on the setback issue.

Action was tabled on the setback of 250 feet from the road right-of-way for the Community building.

(04-08-10B) COMMUNITY BIBLE CHURCH, 4168 Church Road, Lockport 14094
Subject property located south side of Upper Mountain Road
Agent's name – Timothy Arlington, Apex Consulting Survey & Eng. Service
Proposal – Construction of 0.48 acre wet pond for storm water detention to meet SPDES Requirements (ties in with (04-08-10A) – Community building and church

The following have been submitted: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, Niagara County Soil and Water Conservation District letter dated April 15, 2010 – Re: Pond Site Evaluation – 4440 Upper Mountain Road; 107.00-1-69, copy on file; and Cut and Fill Calculations and Exhibit I.

Construction of a one-half (1/2) acre wet pond for storm water detention to meet SPDES requirement for water quality and water quantity, for a pond in the rear for run off from the building, parking lot and ball diamond. Pond depth will be maximum of seven (7) feet, under one-half (1/2) acre which controls water quality and water quantity. All water will drain to the south and a ditch will have to be dug to slow down the rate of run off and will remove sediment, a requirement of D.E.C. on ponds for this size of project. Pond will not have to be enlarged per Mr. Arlington. This pond will be for the whole project.

The evaluation on pond is based on topography.

Public Hearing open:

Community Bible Church – pond –cont.

Elaine Clark asked why drainage to the back is needed? Make sure that Community Bible Church is all that is involved. With buildings that big, is there another organization involved in this project?

Dep. Building Inspector said Yahoo on Junction Road has a retention pond in their front yard. That is for the same purpose as the church.

No further comments from the public.

Public Hearing closed.

Board members –

Mr. Bechtel asked if the septic system could drain into the pond?

Mr. Arlington said septic system will be a sand filter system and must be separated by more than 100 feet from the pond. The County and State require separation for drainage. Pond will be located in the lowest part of the property where there is a natural swale. There is 14' of grade from the road to the back.

It was asked if there is another organization besides the Community Bible Church involved in this project?

Mr. McCollum said only Community Bible Church – no other people involved in this project.

Counsel asked if parking lot will be paved?

Mr. Arlington said “yes” it will be paved, intent is to pave as constructed.

An easement will be required for the pond. The Church’s lawyer will take care of easement.

Mr. McCollum’s mother, Loanne, owns the property south of church property.

Re: Top soil need will depend on the permeability and type of soil as to what is needed. A copy of the Cut and Fill Calculations and Exhibit I were submitted.

Mr. Klavoon reported on the responses to the SEQR Lead Agency Designation - Coordinated Review regarding Community Bible Church as follows:

1. State of New York, Dept. of Agriculture and Markets – letter dated April 26, 2010 “land in question is not located within an agricultural district. Therefore, compliance with the Agriculture and Markets Law is not required.”
2. Niagara County Dept. of Public Works, Division of Highway, Bridges & Structures - letter dated April 30, 2010 - “reviewed Preliminary Layout Plan, and see no problem with proposed work on Upper Mountain Road right-of-way at this time. Before work begins, a Highway Work permit is required. Before permit is issued will need to review a more detailed plan, etc.”
3. New York State Dept. of Environmental Conservation – letter dated May 7, 2010 – had the following comments:

- (a) Need to obtain a SPDES Permit for Storm water Discharges and SWPPP.
 - (b) “Green” building measures (to conserve energy)
 - (c) Site is in Agricultural District #6. Niagara County Soil & Water Cons. District to be notified so as to evaluate potential agriculture impact.
4. New York State Office of Parks, Recreation and Historic Preservation – letter dated April 30, 2010 - project reviewed and No Impact on cultural resources.

Copy of the aforementioned letters are on file.

(04-08-10A) Community Bible Church Re: Setback

A motion was made by Mr. Robinson and seconded by Mr. Smith to declare **negative declaration under SEQR** on application of Community Bible Church for an Area Variance for Community Building setback of approximately 250 feet from road right-of-way. Unanimously approved, motion carried.

(04-08-10B) Community Bible Church Re: Pond

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

(04-08-10A) Community Bible Church Re: Setback

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** application of Community Bible Church for an Area Variance to permit applicant to construct a Community building containing approximately 25,980 square feet approximately 250 feet from the road right-of-way, together with a proposed future expansion of approximately 16,360 square feet for a Church upon premises located on the south side of Upper Mountain Road approximately 426 feet east of Blackman Road.

An amendment was made to the preceding motion as follows:

1. Applicant must obtain Site Plan Approval from the Town Planning Board.
2. Niagara County Health Dept. approval for septic system must be obtained prior to construction.
3. Applicant must break ground for Community building within three (3) years or applicant must come back to the Zoning Board for further review without the necessity of a further public hearing.

Mr. Robinson and Mr. Bechtel agreed to add the amendment to their motion. Unanimously approved, motion carried.

Mr. McCollum said they hope to break ground within one (1) year.

(04-08-10B) Community Bible Church Re: Pond

A motion was made by Mrs. Kroening and seconded by Mr. Bechtel to **approve** application of

Community Bible Church for a Variance to construct a .48 acre wet pond for storm water detention to meet applicable SPDES requirements with the following conditions as recommended by Counsel:

1. Construction of pond will not commence until Building Permit is obtained for the building. Mr. Arlington said no parking lots will be put in until they have the pond to control the water run off.
2. Pond to be constructed pursuant to Niagara County Soil and Water Conservation information per letter dated April 15, 2010 submitted with application.
3. SPDES Permit to be obtained.
4. Site Plan Approval from the Town Planning Board shall be obtained.
5. Easements for the drainage ditch to the south are to be obtained by applicant prior to construction of the pond.
6. No fill is to be removed from the property until permit is obtained from the Building Inspection Dept.
7. No environmental damage and a finding that the construction or alteration of said pond will not adversely affect drainage in the area.

Mrs. Kroening and Mr. Bechtel agreed to the aforementioned recommendations. Unanimously approved, motion carried.

Counsel recommended conferring with town engineer (Wendel Duchscherer Eng.) on any requirements by the Town Planning Board for Site Plan approval.

(05-06-10) STEVE and SONJA MARCHETTI, Green Road

Sonja Marchetti was present at this meeting and the following have been submitted: Application for Area variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of Proposal from Todd Erection Corp. and copy of Survey map of sub lot – 5A, Green Acres Subdivision.

Mrs. Marchetti said they would like to build a pole barn with dimensions of 36' by 60' and the square footage will be larger than the square footage of the first floor of their residence.

Public Hearing open: there were no comments from members of the public.

Public Hearing closed.

Mrs. Marchetti said this building will be used for horses only and there will be no business conducted from the building. She said they currently have two horses and the maximum would be four. They will have a fenced area for them.

Concerns of board members:

Mr. Smith asked applicant what the construction of building would be?

Mrs. Marchetti said it will be a pole barn, metal siding and 12 foot high ceiling.

Counsel had no concerns on this issue.

Building Inspectors had no comments.

Chairman asked if they would have any business, like boarding of horses?
Mrs. Marchetti said it will be for their own private use.

A motion was made by Mr. Robinson and seconded by Mr. Smith to declare **negative declaration under SEQR** on application of Steve and Sonja Marchetti for an Area Variance to permit applicants to construct a pole barn with dimensions of 36 feet by 60 feet upon said premises. Unanimously approved, motion carried.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **approve** Area Variance to permit applicants, Steve and Sonja Marchetti, to construct a pole barn with dimensions of 36 feet by 60 feet upon said premises. Unanimously approved, motion carried.

Building Inspector said to Mrs. Marchetti they need to get a building permit.

REPORTS:

Chairman – New York State Dept of Training for local Planning & Zoning Boards
Wednesday, June 16, 2010 at Niagara County Community College
5:00 P.M. to 9:30 P.M.

Counsel - Omnipoint – no one appeared on their behalf.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to **table** renewal of the aforementioned for one (1) more month. Unanimously approved, motion carried.

Counsel will try to contact them again.

Building Inspectors- no report

Next meeting – June 21st

A motion was made by Mr. Bechtel and seconded by Mr. Smith to adjourn at 9:05 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____