

November 26, 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, Peter Smith  
Also present: Norman Allen, alternate  
Robert Blackman, Councilman, liaison  
Clifford Burch, Building Inspector  
Donald Lane, Deputy Building Inspector  
Gary Billingsley, Attorney

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:

**(10-25-07) THOMAS GREGSON**, 3838 Upper Mountain Road, Sanborn, N.Y. 14132, for a Special Permit to permit applicant to operate a Dump Truck Service and to store equipment in an existing structure upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

**(10-30-07) ALAN and LYNN JOHNSON**, 4703 Thrall Road, Lockport, N.Y. 14094, for an Area Variance to permit applicants to enclose an entrance on the front of a barn located upon said premises approximately 43 feet from the road right-of-way, whereas the Zoning Ordinance does not permit such enclosure of a structure used for agricultural purposes closer to the road than 100 feet.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to approve minutes of meeting of October 22, 2007 as presented. Unanimously approved, motion carried.

#### **TABLED SPECIAL PERMIT RENEWALS:**

**2003-11 (8-28-03B) Maria Rickard**, 3134 Upper Mountain Road, Sanborn, N.Y. 14132  
Special Permit to operate a heating and cooling business

No one was present nor communication received from Ms. Rickard. Three letters have been sent regarding the renewal of Special Permit with no response.

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

**2001-15 (10-04-01) Crown Castle Int.**, 2000 Corporate Drive, Canonsburg, Pennsylvania 15317  
Special Permit for co-location of personal wireless telecommunication service facility equipment upon an existing telecommunication tower, west of 4719 Lockport Road.

There was no one present on behalf of this special permit.

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

**CURRENT RENEWALS:**

**2003-16 (10-30-03) Susan Pufpaff**, 5184 Shawnee Road, Sanborn, N.Y. 14132  
Special Permit to operate a baking facility

There was no one present on behalf of this Special Permit.

Building Inspector said the sign advertising “Bakery” has been removed.

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

**2003-17 (11-04-03) Kelly Ventry and Kris Furman**, 3924 Saunders Settlement road, Sanborn 14132  
Special Permit to operate kennel

Ms. Ventry was present at this meeting and said they wish to renew the Special Permit. She said everything is going fine.

Building Inspector said no complaints on this business have been received.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to **renew** Special Permit of Kelly Ventry and Kris Furman to operate kennel for a period of three (3) years. Unanimously approved, motion carried.

**2006-14 (8-31-06) Bernice Pascoe**, 4540 Thrall Road, Lockport 14094  
Special Permit to operate a “Tea Room”

Mrs. Pascoe answered the renewal letter stating “she no longer owns the property on Thrall Road, and therefore, the Special Permit should no longer be renewed”.

A motion was made by Mr. Robinson and seconded by Mr. Reardon that Special Permit of Bernice Pascoe to operate “Tea Room” at the aforementioned address expires on its own terms and per notation on her renewal letter that she no longer owns the property. Unanimously approved, motion carried.

A question came up about other family members living in a portion of this home. Was that a Special Permit or a Variance? This should be terminated now that she no longer resides at this address. This issue will be looked into.

**2006-15 (8-29-06) Pilgrim Holiness Church**  
4077 North Ridge Road/4157 Wilson Cambria Road, Lockport 14094

A Fax dated November 26, 2007 was received today from Gibbs Law Firm, P.A., Attorneys and Counselors at Law, 5666 Seminole Boulevard, Suite Two, Seminole, Florida 33772, read by the Secretary which stated "Pilgrim Holiness Church has decided to sell the property and does not wish to renew their Special Permit".

A motion was made by Mr. Robinson and seconded by Mr. Smith that Special Permit of Pilgrim Holiness Church expires on its own terms and per request of applicant's attorney, Gibbs Law Firm, P.A. per Fax dated November 26, 2007. Unanimously approved, motion carried.

The following questions-issues were expressed by Johanna Gray, 4160 Cambria-Wilson Road, regarding the aforementioned church property:

1. When does the permit expire?
2. There are some fire hazard concerns on this property.
3. The building behind existing greenhouse is in poor condition.

Mr. Naab, neighbor to the east of former church property, said he is in agreement with Mrs. Gray on the condition of the building adjoining former greenhouse.

4. Mrs. Gray said she was told the cost for the town to bring a proceeding to remove the building would be expensive.

Counsel said the actual renewal tonight is to use existing building (former shop) for a church.

5. Mrs. Gray believes before the property changes owners, should get someone in the former church and the residence on this property to check on the unsafe conditions.
6. There is broken glass in the former greenhouse. The length of the two buildings, former greenhouse and other building is approximately 50' in length.

Mr. Naab said the former greenhouse is about three (3) feet from his property line. He said about \$4,000.00 worth of bushes were planted between his property and the church property. He said he would like to see the out building removed as it is an eye-sore.

7. Mrs. Gray suggested the town remove the unsightly building and then charge the owner for that work.

Counsel said that would involve a proceeding with a lengthy potential legal issue concerning whether the building was "unsafe" as defined by the Zoning Ordinance.

Mr. Naab said he also sent a letter pertaining to this issue to the town.

Deputy Building Inspector said for the building inspection department to condemn the property, the town would have to hire a structural engineer and he would make determination on the issue.

**PUBLIC HEARINGS:**

**2007-11 (10-25-07) THOMAS E. GREGSON** was present at this meeting and has submitted the following: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement, copy of survey and copy of subject property showing location of the house and barn.

Public Hearing open:

Mr. Gregson said he and his son operate the dump truck service. The truck they use is a single axle vehicle. They haul top soil, stone and mulch. Truck is stored at the rear of their property. The sign 28" by 20", is located in front of the house. He said from December through April they do not operate the service. He goes to Florida in the Winter months. There is little call for top soil that time of the year.

Building Inspector said he received a call from neighbor, Barbara Hodgkinson, 3832 Upper Mountain Road, Sanborn, who said she had no problem with this business.

Public Hearing closed.

Per applicant, there is no material, namely, top soil, mulch or stone stored on the site. The truck is kept at the back of the premises.

Counsel said there is a shed on the property. He asked Mr. Gregson if they use the shed to store equipment in? Counsel said in the Special Permit Ordinance of the town, a business use is permitted in an existing structure.

Mr. Gregson said he has a shed and does have a spare tire and shovel in that structure.

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

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to **approve** application for Special Permit to Thomas E. Gregson , 3838 Upper Mountain Road, Sanborn 14132, to permit applicant to operate a dump truck service and to store equipment in an existing structure upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria for a period of one (1) year. Chairman said this Special Permit is renewable in one year without the need for another public hearing. There is to be no storage of material on site and vehicle is to be stored behind the existing shed. Unanimously approved, motion carried.

**(10-30-07) ALAN A. and M. LYNN JOHNSON** have submitted the following: Application of Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and sketch of property showing existing barn and residence.

Mrs. Johnson was present at this meeting.

Public Hearing open:

Mrs. Johnson said they have plans to turn the barn into a farm winery. They would like permission to add an entrance to the front of the barn 43 feet from the road right-of-way.

There were no comments from members of the public.

Public Hearing closed.

Mr. Robinson asked where will the entrance to the building be?

Mrs. Johnson said entrance will be in the front of the barn.

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

A motion was made by Mr. Reardon and seconded by Mr. Robinson to **approve** application for an Area Variance to Alan A. and M. Lynn Johnson to enclose an entrance on the front of a barn located upon said premises approximately 43 feet from the road right-of-way. Unanimously approved, motion carried. Applicant was informed they need to get a building permit.

#### REPORTS:

Chairman - there is a training class tomorrow night at NCCC.

Attorney - nothing this evening

Building Inspectors – monthly report given out

Board members –

Mrs. Kroening asked about dump truck service located on Lockport Road site? Why doesn't that person, Mr. Zywiczyński, have to come before the board for a permit? This issue was discussed.

Interested person –

Mrs. Gray brought up a few issues:

Sign on property near her property. Doesn't the town have a way to get the sign removed? Discussion followed. Need more ordinances pertaining to various issues.

#### TA LED SPECIAL PERMIT RENEWAL:

##### 2001-15 (10-04-01) Crown Castle Int.

No one appeared on behalf of Crown Castle.

Chairman reported correspondence comes from California.

A motion was made by Mr. Reardon and seconded by Mrs. Kroening to **table** action for one more month on Special Permit renewal of Crown Castle for co-location of personal wireless telecommunication service facility equipment on an existing tower west of 4719 Lockport Road. Unanimously approved, motion carried.

Chairman brought up the issue and discussion followed on fee for special meetings held at the request of an applicant.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to adjourn at 9:00 P.M. Unanimously approved, motion carried.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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