

October 25, 2010

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Theresa Kroening, Vice Chairwoman, at 6:30 P.M. She welcomed everyone to the meeting followed by the Pledge to the Flag and then announced the agenda for this evening.

Members present: Theresa Kroening, Vice Chairwoman
Michael Bechtel, Donald Robinson, Peter Smith, Michael Sieczkowski, alternate
Member absent: John Reardon, Chairman
Also present: 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 application:

(09-30-10) THOMAS BOS and EILEEN BROWN of 7367 Bear Ridge Road, North Tonawanda, N.Y. 14120 for an Area Variance to permit applicants to construct a residence between 350 feet and 450 feet from the road right-of-way upon premises on the south side of Lower Mountain Road immediately adjacent to and westerly of 4750 Lower Mountain Road near the intersection of Lower Mountain Road and Marjorie Drive, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of a residence farther from the road right-of-way than 125 feet.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of Special meeting of September 8, 2010 and minutes of regular meeting of September 27, 2010 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (tabled from September 27, 2010)

2007-10 (08-20-07) Michael Duerr, 4127 Beach Ridge Road, North Tonawanda, N.Y. 14120
Special Permit for plumbing business upon premises located between
4287 and 4319 Lockport Road

Mr. Duerr was not present at the September meeting and action was tabled for one month. Mr. Duerr was present at tonight's meeting and said he has sold the business and never operated from the Lockport Road address. He said he does not wish to renew the Special Permit.

He was informed if someone else wishes to operate a business from the Lockport Road address, that person must apply for a Special Permit from the town.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to terminate the Special Permit for a plumbing business upon premises located between 4287 and 4319 Lockport Road per request of Michael Duerr. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWALS (Current)

2003-12 (09-04-03) Mr. and Mrs. Michael Maholsic, 4006 Beebe Road, Newfane, N.Y. 14108
Special Permit for dog kennel

Mrs. Maholsic was present at this meeting and said they would like to renew the Special Permit for a dog kennel.

The previous renewal was for three (3) years.

Mrs. Maholsic said they just have their own dogs.

Building Inspector said he has received no complaints on this Special Permit.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to extend Special Permit to Mr. and Mrs. Maholsic for a dog kennel for a period of five (5) years. Unanimously approved, motion carried.

1995-17 Robert Smith, 4455 Saunders Settlement Road, Lockport, N.Y. 14094
Special Permit to repair and sell firearms

There was no one present on behalf of Robert Smith at this time for renewal of Special Permit to repair and sell firearms.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **table** action on Special Permit of Mr. Smith until the end of the meeting and see if someone appears. Unanimously approved, motion carried.

PUBLIC HEARING:

(09-30-10) THOMAS W. BOS and EILEEN R. BROWN were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, two copies of portion of town map, one with explanation of placement of future home, etc.; aerial view of subject property and neighboring properties, and letter from Joseph and Sharon Cassata, 4730 Lower Mountain Road.

It was asked if the applicants had purchased the property?

Mr. Bos said purchase of the property is contingent on approval of the Variance for setback further than allowed in the ordinance.

Public Hearing open:

Michael and Sherri Johnson, 4722 Lower Mountain Road, are neighbors to the west of applicants.

Mr. Johnson said they live in the former Martin house and are 60 feet from the road, have two children and two dogs and have had no problems. Pictures were shown to board members of the view of the escarpment from the back of their home. He has four major concerns as follows:

1. Applicants should abide by the town ordinance and enjoy the beauty of the region and preserve it and be in line with existing homes.
2. Possibility of a need for utility poles back to their future home.
3. Grade drainage. Applicants want to build their home on the lowest part of the property.

4. Some of the neighbors have a deck and pool at the back of their home and want to enjoy their yards.

Mr. Johnson said he doesn't believe there is a traffic hazard problem on Lower Mountain Road as they haven't had any problems in the years they have lived there.

Sherri Johnson said they want people to hunt in the back, needs to be hunted. There are coyotes and lots of deer. If these people build back there, there would be no more hunting.

Mr. Johnson said they would like to enjoy the view, keep house toward the road so all can enjoy their back yards.

Mrs. Gary Miles, 4766 Lower Mountain Road, neighbor to the east of subject property, and next to the winery, enjoy the view to the back, enjoy the privacy even with the pole barn and winery which doesn't interfere. She said anything built behind them would be infringing on their privacy. They like to be outside and have a pool and family outings.

Glenn McIntosh, 4750 Lower Mountain Road, east of applicants, said he has resided there since 1986, one of the first houses, and have activities in their back yard including a pool. There has been a slow and steady growth in the town, a quiet town, and respect the Zoning laws.

Mrs. Richard Sarles, 4718 Lower Mountain Road, said regarding the children issue, has a disabled daughter and has had no problems with the cars on the road. Also said, they spend a lot of time in their back yard and enjoy the privacy. Friends say what a beautiful view we have. There are deer and coyotes running through the back. She feels applicant should abide by the zoning laws.

Building Inspector said he received a phone call from Randy Biehl, owner of Eveningside Vineyards, who said he is against the applicants building a house so far back from the road.

Secretary then read the letter from Mr. and Mrs. Cassata dated September 27, 2010 which stated in part "We hold no opposition to the proposed location of their home site and we wish them well in their endeavors".

Public Hearing closed.

Concerns of board members:

Mrs. Kroening said this is a very large substantial request. She asked if the board members would like to see the site?

Mr. Bechtel said there appears to be a lot of neighbors opposed to the request for substantial setback and feel the ordinance should be adhered to. This is a good neighborhood. They enjoy their back yards. Quite a distance to get a fire truck back if needed and fire company would want a larger main water line to get back there. Also, would need a good substantial driveway to get back with fire trucks.

Mr. Klavoon said one inch and two inch water line service would require a larger meter. Water would cost more to service back to the house, significant expense especially copper pipe to go back that far. There is a fire hydrant across the road.

Miss Brown said she has personal reasons for wanting to go back farther for their future home. Feels it would be safer. They could plant trees for a buffer for the neighbors' privacy. She said she wants to prevent hunting on the property, doesn't like guns.

Counsel asked applicants if there is any reason why they couldn't build closer to the road?

Mr. Sieczkowski asked if the proposed site is where the taller trees are, about eight feet tall, for the future home?

Mrs. Kroening said the board tries to get closer to what the ordinance requires. Each application is unique and not setting a precedent. Are there any homes in the neighborhood that are back further?

Mr. Bos said there is a house on the other side of Lower Mountain Road off of Plank Road that is behind homes on Lower Mountain Road.

Building Inspector said that home was built before the change in the ordinance regarding depth.

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

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **deny** application of Thomas Bos and Eileen Brown for an Area Variance to permit applicants to construct a residence between 350 feet and 450 feet from the road right-of-way upon premises on the south side of Lower Mountain Road immediately adjacent to and westerly of 4750 Lower Mountain Road near the intersection of Lower Mountain Road and Marjorie Drive. Unanimously approved, motion carried, request for Area Variance is denied.

Mr. Bos asked if they were to build their house within requirement of the Zoning Ordinance, what would be the setback requirement for a pole barn at the back of the property?

Counsel said there was no mention in the application of a pole barn.

(08-02-10A) Steven and Mary Lou Ribbeck, 3320 Renee Terrace, Sanborn, N.Y. 14132
Request for Area Variance to construct a home at 4610 Plank Road with setback of 500 feet. Action tabled at the August 23rd meeting to allow applicants time to secure additional information and discussion with town engineer.

Mr. Ribbeck said he talked with Mr. Klavoon regarding the water line and that the fire company would have to run a long line, approximately 1,000 feet to get to the home if needed. No further conversation on this issue. It would be a big expense to put a fire hydrant back near the proposed house.

Mr. Ribbeck said the parcel is 900 feet in width by 1200 feet in depth. There is a fire hydrant in front of the old house at the front of the property.. He said he measured the exact distance to the future home from the road and it is 413 feet. Also measured a fire hydrant in the immediate vicinity. Mr. Ribbeck said he would like to place the house where he originally proposed to put it, behind the mature trees. He said he will not be infringing on anyone's property. He wants the privacy. He said he will stay away from the foundations of buildings that were formerly on this property. Also, there has been some vandalism on this property, damage to Christmas trees by four wheelers and snowmobiles, etc. Perhaps people will stay off of the property if someone is living there, more security.

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

A motion was made by Mr. Robinson to **deny** application of Steven and Mary Lou Ribbeck for an Area Variance to permit applicants to construct a residence 500 feet from the road right-of-way upon said premises but there was no second to the motion. Mr. Robinson withdrew his motion.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **approve** application for Area Variance to permit applicants to construct a residence with modification of **413** feet in depth from the road right-of-way upon said premises.

Secretary was requested to poll the board:

Mr. Robinson – “nay”
Mr. Sieczkowski – “aye”
Mrs. Kroening - “aye”
Mr. Smith - “aye”
Mr. Bechtel - “aye”

There were 4 “ayes” to approve Area Variance and 1 “nay”, motion carried.

2010-08 (08-05-10B) Western New York Urology Associates LLC, 3085 Harlem Road, Cheektowaga, N.Y. 14225

Now known as **Niagara Professional Park**

Area Variance – two story commercial building in B-2 Zone – height 38 feet maximum
Zoning Ordinance of the Town of Cambria does not permit such a structure that exceeds 22 feet in height at the eaves.

Public Hearing was held on September 27, 2010 for the Area Variance. No concerns were expressed on the application and no comments on the SEQR regulations. Action was tabled on the Area Variance for one month.

Michael Terranova present on behalf of Lauer Manguso & Associates Architects/Engineers, requested approval of Area Variance for height of 38 feet for the two story medical facility to allow more head room height for some of the equipment.

Per Mr. Terranova, there will be a ring road around the building for access for fire equipment with one fire hydrant on the premises.

Mr. Sieczkowski asked about the 38 foot height and Mr. Terranova said the 38 feet is the top of the roof line.

Board members – no further concerns

Counsel said the Area Variance is for the height of the building. He said, before either board can act on the application for Area Variance, the SEQR needs to be concluded. He asked Mr. Klavoon where we stand on the Coordinated Review as far as sanitary sewer connection with D.E.C. and NYSHPO, Phase 1A and 1B archaeological investigation written documentation.

Mr. Klavoon representing Wendell Duchscherer Eng., recommended approval, per letter dated October 25, 2010 to John Reardon, Chairman of Zoning Board of Appeals and William Amacher, Chairman of Planning Board, copy on file, with conditions: No. 1. through No. 8. The Zoning Board can make a negative declaration under SEQR, with regard to the application for an Area Variance.

A motion was made by Mr. Robinson and seconded by Mr. Smith to declare **negative declaration under SEQR** on application of Western New York Urology Associates LLC, 3085 Harlem Road, Cheektowaga, N.Y. 14225. Unanimously approved, motion carried. Location of project is at 3850 Saunders Settlement Road, Sanborn, N.Y. 14132.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **approve** application for Area Variance to Western New York Urology Associates LLC, 3085 Harlem Road, Cheektowaga, N.Y. 14225 to construct a two-story commercial building upon premises commonly known as **3850** Saunders Settlement Road, Sanborn 14132. Said building would have a maximum height of 38 feet. Premises are zoned B-2. Unanimously approved, motion carried.

1995-17 Robert Smith arrived at the meeting at this time.
Special Permit for Repair and sale of fire arms

Mr. Smith said he would like to renew the Special Permit. His previous renewal was for 3 years.

Building Inspector said he had no complaints on this business.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **renew** Special Permit to Robert Smith to repair and sell fire arms from his property for a period of five (**5**) years. Unanimously approved, motion carried.

REPORTS:

Vice Chairwoman – no report

Building Inspector – Wisor/Pearce – 2958 Ridge Road, Ransomville 14131 – regarding Special Permit

Mr. Wisor, owner of the property, has a permit to repair and to sell ATV's, snowmobiles, etc. Mr. Pearce added motor vehicle repair to Mr. Wisor's Special Permit. At the time of renewal, April 2010, Mr. Pearce was not in business yet. Recently observed

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Reports – cont.
Wisor/Pearce – cont.

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vehicles on the premises. Special Permit is in effect until 2011. Will see what Mr. Pearce is doing on this property and what his plans are for the future.

Attorney – nothing to report this evening.
Board members – no report

A motion was made by Mr. Bechtel and seconded by Mr. Sieczkowski to adjourn at 7:40 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____