

October 26, 2009

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  
Donald Robinson, Peter Smith  
Michael Bechtel, alternate  
Members absent: Norman Allen, Theresa Kroening  
Also present: Clifford Burch, Building Inspector  
Donald Lane, Deputy Building Inspector  
Gary Billingsley, Attorney

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

**(06-03-09) CHARLES HARING**, 9311 Hunting Valley North, Clarence, N.Y. 14031, for an Area Variance to permit applicant to construct storage buildings approximately 25 feet from the road right-of-way upon premises commonly known as 4487 Ridge Road, whereas the Zoning Ordinance does not permit construction of such structures closer to the road right-of-way than 80 feet in the B-2 Zoning District.

**(09-21-09) MICHAEL and AIMEE PEARSON**, 3914 Saunders Settlement Road, Sanborn, N.Y. 14132, for an Area Variance to permit applicants to construct a 24 feet by 32 feet addition to an existing barn upon said premises approximately 55 feet from the road right-of-way, whereas the Zoning Ordinance does not permit construction of such a structure closer to the road right-of-way than 60 feet.

**(10-05-09) RONALD SCIME**, 213 Avon Road, Tonawanda, N.Y. 14150, for a Variance to permit applicant to conduct car sales from premises commonly known as 5083 Townline Road, whereas the Zoning Ordinance does not permit used car sales upon property which is zoned B-1.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of September 28, 2009 as presented. Unanimously approved, motion carried.

#### **SPECIAL PERMIT RENEWALS** (tabled from September 2009)

**2002-11 (8-28-02) Kathrin Caccamise**, 4931 Ridge Road, Lockport, N.Y. 14094  
Special Permit for grooming of dogs and cats

There was no one present at this time on behalf of Mrs. Caccamise.

A motion was made by Mr. Smith and seconded by Mr. Robinson to postpone action on the renewal until the end of the meeting and see if someone appears. Unanimously approved, motion carried.

**2003-13 (9-05-03) AT & T Wireless C/O Wireless Services**, 1630 Walden Avenue, Cheektowaga, N.Y. 14225

Special Permit to co-locate telecommunication service facility equipment upon premises at 4219 Lockport Road.

Secretary read two communications received:

Fax received from Marcia Murray, Network Leasing Specialist, AT&T addressed to Mr. Reardon, dated October 15<sup>th</sup>, which stated in part “This letter is to notify you that AT&T will not be co-locating on the telecommunication tower located at 4219 Lockport Road. Therefore, we do not wish to renew the Special Permit”; and,

Letter from Douglas Dimitroff, Phillips Lytle LLP dated October 15<sup>th</sup>, which stated in part “AT&T has advised that they are no longer co-located on the telecommunication facility at the above referenced Site and therefore they will not seek renewal of this Permit. The lease for this Site was terminated in 2007. We kindly ask that you remove this matter from the Zoning Board of Appeals Agenda for the October 26, 2009 meeting and update the Town’s records accordingly.”

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **terminate** the Special Permit to co-locate telecommunication service facility equipment upon premises at 4219 Lockport Road. based on the correspondence as stated above. Unanimously approved, motion carried.

Deputy Building Inspector said AT&T is to notify the town when the co-location equipment is removed from the tower per Zoning Ordinance regulations.

**2000-02 Buffalo Machine Tools of Niagara, Inc.**, 4935 Lockport Road, Lockport, N.Y. 14094  
Re: Special Permit for light assembly

There was no one present on behalf of Buffalo Machine Tools at this time.

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

**SPECIAL PERMITS and VARIANCE RENEWALS:** (Current)

**2005-09 (10-06-05B) Lori Siegmann**, 4460 Upper Mountain Road, Lockport, N.Y. 14094  
Special Permit for Hair Salon

Mrs. Siegmann was present at this meeting and said she wishes to renew the Special Permit.

Per Building Inspector, there have been no complaints on this business.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **renew** Special Permit of Lori Siegmann to operate a Hair Salon for a period of three (3) years. Unanimously approved, motion carried.

**2005-08 (9-21-05) Willard Antoncich**, 4593 Cambria Wilson Road, Lockport, N.Y. 14094  
Special Permit for heating and air conditioning business

Mr. Antoncich and son, Richard, were present at this meeting and said they would like to renew the Special Permit for the aforementioned business.

They were asked if they would like any changes in the Special Permit and Willard Antoncich said no changes.

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

A motion was made by Mr. Robinson and seconded by Mr. Smith to **renew** Special Permit to Willard Antoncich for a heating and air conditioning business for a period of three (3) years. Unanimously approved, motion carried.

**Timothy Swift**, Niagara Lazy Lakes, 4075 Lower River Road, Youngstown, N.Y. 14174  
Variance for mobile home for living facility & sales office at 4312 Church Road

Mr. Swift had contacted Building Inspector and said he would be out of town and would like to postpone action on the renewal until next month.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **table** action on Variance renewal per Mr. Swift's request, for one month. Unanimously approved, motion carried.

**(9-29-08B) Robert Sullivan**, 4454 Baer Road, Ransomville, N.Y. 14131  
Special Permit for private dog kennel

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

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

**(10-02-08) Patrick Harms**, 4105 Burch Road, Ransomville, N.Y. 14131  
Special Permit for private dog kennel

Kelley Kukucka, wife of Mr. Harms, was present at this meeting and said they would like to renew the Special Permit and requested no changes from the original Special Permit.

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

A motion was made by Mr. Robinson and seconded by Mr. Smith to **renew** Special Permit for a private dog kennel to Patrick Harms for a period of three (3) years. Unanimously approved, motion carried.

End of Renewals.

**PUBLIC HEARINGS:**

**(6-03-09)**      **CHARLES HARING** had submitted application for Area Variance in June 2009 to build storage buildings 25 feet from road right-of-way. Public Hearing was held on June 22<sup>nd</sup>. It was stated that the Niagara County Planning Board had recommended denial based on eight concerns as stated on their report.

Mr. Haring said at that meeting that it was virtually impossible to construct any outdoor buildings and meet the 80' front setback in the B-2 zone because of the irregular shape of the property. At that time he said he was most interested in obtaining approval for proposed units north and south of the main existing structure, and possibly construct units to the east at a later date.

Chairman asked applicant if he wished to request approval of the entire proposal, north, south and east, at this time?

Applicant said he could do units to the north and south of the existing building at this time.

Chairman said the board could table action and give applicant an opportunity to revise the proposal or else proceed with original application.

Applicant indicated he wished to revise the application

Action was tabled. Mr. Haring was advised to submit the revised plans to the town and to the Niagara County Planning Board when ready.

No new application has been submitted, only a revised map dated July 14, 2009. The storage building to the north will contain twelve (12) units and the building to the south will contain five (5) units.

Mr. Haring said he attended the Niagara County Planning Board meeting on October 19<sup>th</sup> and their recommendation was to return application to the Town of Cambria and "approval of request should be dependant on the town's plan for the intersection".

Mr. Haring said the proposed buildings would be north and south of existing structure and not into the intersection.

Public Hearing open:

Shirley Urtel, 4443 North Ridge Road, Lockport, N.Y. 14094, said the business at this site is one of the best operations there has been. It is quiet, the property is kept mowed and signs to a minimum. That intersection is so busy with traffic. It is difficult to find some type of business to exist with the neighbors. This has been a great solution. Where is the new driveway to be placed? What happens when business goes away? What about building in the vortex?

It was said there will not be any new driveways into the business, only the one existing driveway from Ridge Road, no new entrance from North Ridge Road.

Mrs. Urtel is concerned about construction of buildings out any further.

Gerald Thiel, 4437 North Ridge Road, Lockport, N.Y. 14094, said it is hard to get out of his driveway. Vehicles come around the corner from Ridge Road (104) very fast.

There were no further concerns from the public.

Public Hearing closed.

Concerns of board members:

Counsel said the County Planning Board recommended returning application to the Town of Cambria to make decision. “The 80’ setback only applies to the commercially zoned properties at the intersection, whereas the setback requirements in the adjacent zoning district are considerably less. The parcel is already non-conforming”.

Counsel asked Mr. Haring about new entrance on Route 93 (North Ridge Road)?

Mr. Haring said there are no plans for an entrance on Rt. 93.

Mr. Smith asked applicant how many units in each of the new buildings?

Mr. Haring said there will be twelve (12) units in the north building and five (5) units in the south building.

Mr. Smith asked how high will the buildings be?

Mr. Haring said 8’ up to 12’ or 13’ maximum. They will be lower than existing building.

Building Inspector asked Mr. Haring if he has any immediate plans to build in the vortex?

Mr. Haring said no plans to build in the vortex.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to declare **negative declaration under SEQR** on revised plan of Mr. Haring to construct two (2) new storage buildings.

Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** application for Area Variance to permit Charles Haring to construct two (2) storage buildings approximately twenty-five (25) feet from the road right-of-way upon premises commonly known as 4487 Ridge Road, Lockport 14094, whereas the Zoning Ordinance does not permit construction of such structures closer to the road right-of-way than 80 feet in the B-2 zoning district. Unanimously approved, motion carried.

**(9-21-09) MICHAEL and AIMEE PEARSON**

The following have been submitted: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, sketch of proposed building, copy of survey map and copy of aerial view highlighting subject property.

Mrs. Pearson was present at this meeting and said the addition to the existing barn will be 24’ by

32' and will be used for parking vehicles.

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

Concerns of board members: none

Applicants are requesting the addition be approximately 55 feet from the road right-of-way.

Mrs. Pearson said at present they do not have a garage for their vehicles and would like to turn into the garage and back around and head to the road. They would like to have this building constructed so they may use it this Winter.

Counsel said it was brought to his attention that this property is zoned B-2 and requires 80 feet setback. He said the Niagara County Planning Board had some concerns on this application and “recommended denial due to lack of information on end use of the site”.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to table decision until the end of the meeting to allow Mrs. Pearson time to contact her husband on the setback issue. Unanimously approved, motion carried.

**(10-05-09) RONALD SCIME** was present at this meeting and has submitted the following: Application for Use Variance, Short Environmental Assessment Form, Agricultural Data Statement, Certificate of Survey and sketch of property with location of building, proposed area for parking of Used Cars and Customer parking.

Mr. Scime said he would like to do New York State inspections, light mechanical work, especially on older Corvettes. He said he will not be changing any parts of the building. He gave board members a sketch of the garage, parking for used cars and customer parking. He said there is still an overhead garage door which has been covered over. The building had previously been used for light automobile repairs, and owners have attempted to establish other uses for the building in recent years, but the attempts were not successful. Applicant also noted that the parcel is very small.

Public Hearing open:

Robert Wagner, 5121 Townline Road, Sanborn, N.Y. 14132, said he is opposed to this repair garage. He said the school bus stops at that corner for children in that area. Any type of business would down grade the area taking away from value of the homes in the area. This is a family community and we don't need a used car lot with scrap tires piled behind the building.

Brian Tippett, 2961 Carney Drive, Sanborn, N.Y. 14132, expressed concern about traffic coming from Carney Drive on to Townline Road. Cars parked could block the view on Townline Road. He said he lives behind that building. Also, there is the possibility of noise and clutter from the vehicles and concerned about property value. There is graffiti on the building. Mr. Tippett said he is completely against this service station operation.

No further concerns.

It was said this business could become an “eye sore”.

Mr. Scime said he could move the three cars proposed to be parked in the front. He said he believes there will be no line of site problem.

Mr. Bechtel asked about possible noise from revving up of motors from vehicles.

Hours of operation – 8:00 A.M. to 6:00 P.M. six days a week, Monday through Saturday, and will not be open every day. Mr. Scime said he has a full time job and will not operate this proposed business full time. He said he just works on Corvette cars.

Signage – one sign on the building, no road signs, no gas pumps in the future.

Mr. Smith asked applicant if there would be any wrecked vehicles on the property?

Mr. Scime said “no”.

Counsel asked if there would be outside storage? Applicant said “no”.

Mr. Scime said he has a car hauler. He said he plans to do brake work, New York State inspections and light minor repairs especially on Corvettes. He said he takes them apart, repairs and puts them back together. All work would be done inside of the building. On customers’ vehicles, would be light mechanical work and State inspection. He said his brother, Jim, works with him. Mr. Scime said he has bought the property contingent on approval by this board.

Mr. Reardon explained what a Use Variance is and said there are more requirements to get a Use Variance.

Building Inspector said it would be nice to have someone use this building and maintain the property. There is room behind the building. Some of the vehicles could be moved further back from the road and the corner, especially No’s 9,10,11 and 12. Could use property, north and east sides to the fence, along north side of the property to Carney Drive north and east lot lines.

Counsel said the Niagara County Planning Board recommended approval and had no comments.

The designated parking area should be clarified.

Building Inspector said customer vehicles only should be parked in front of the building per Zoning regulations.

Mr. Smith asked applicant if he plans on changing the looks of the building?

Mr. Scime said the windows and doors are still there, two (2) overhead garage doors are still in the front of the building.

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

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** request for Use Variance to Ronald Scime to permit applicant to conduct car sales from premises commonly known as 5083 Townline Road, Sanborn 14132 with the following conditions:

01. Parking spots designated as C1, C2, C3 and UC 9, UC 10, UC 11 and UC 12 shall be placed so as not to interfere with site lines on the two roads.
02. No outside storage.
03. No work on vehicles shall be performed outside.
04. Business hours – 8:00 A.M. to 6:00 P.M. Monday through Saturday
05. One sign permitted on the building.
06. New York State Inspection and minor repairs of vehicles permitted.
07. No gasoline sales.
08. Fencing if requested by Town Planning Board
09. Subject to Town Planning Board Site Plan approval.

Unanimously approved, motion carried.

RENEWALS (tabled from beginning of meeting)

**2002-11 (8-28-02)** **Kathrin Caccamise** was present at this time and requested no changes in her Special permit for grooming of dogs and cats.

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

Mrs. Caccamise requested extending the permit for a longer period of time.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **renew** Special Permit to Kathrin Caccamise for a period of five (5) years retroactive to September 2009 to groom dogs and cats. Unanimously approved, motion carried.

**2000-02** **Buffalo Machine Tools of Niagara, Inc.** , Special Permit for light assembly.

There was no one present on behalf of the above.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to table action on renewal until next month. Unanimously approved, motion carried.

**(9-29-08B)** **Mr. and Mrs. Robert Sullivan**, Special Permit for private dog kennel.

No one appeared on behalf of Mr. and Mrs. Sullivan.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **table** action on Special Permit of Robert Sullivan until next month. Unanimously approved, motion carried.

PUBLIC HEARING (tabled from Page No. 6) Michael and Aimee Pearson

**(9-21-09)** Mrs. Pearson discussed this issue with her husband and they decided to go ahead with the request this evening as presented in the application.

Board members had no concerns on this application.

A motion was made by Mr. Smith and seconded by Mr. Robinson to declare **negative declaration under SEQR** on application for Area Variance to construct an addition to existing barn. Unanimously approved, motion carried.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** Area Variance as requested, namely, to permit applicants to construct a 24 feet by 32 feet addition to existing barn upon said premises approximately 55 feet from the road right-of-way. Unanimously approved, motion carried.

Mrs. Pearson was reminded that they need to get a building permit prior to construction.

#### REPORTS:

Chairman – regarding continuing education, there has not been any communication regarding schooling for board members in the local area

Counsel – will check into the schooling issue. No reports

Building Inspectors – no reports

Board members – no reports

Next meeting will be November 23<sup>rd</sup> at 8:00 P.M

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 9:10 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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