

October 27, 2008

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. followed by the Pledge to the Flag. He then announced the agenda for tonight's meeting.

Members present: John Reardon, Chairman
Norman Allen, Theresa Kroening, Donald Robinson, Peter Smith
Also present: Michael Bechtel, alternate
Robert Blackman, Councilman, liaison
Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney

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

- (09-10-08) DONALD BEYER**, 5028 Shunpike Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to maintain a 30' by 52' accessory building for farm machinery storage, which would be a second accessory building upon said premises, whereas the Zoning Ordinance does not permit maintenance of more than one accessory building upon said premises.
- (09-15-08) LOUIS and BARBARA FONZI**, 4811 Green Road, Lockport, N.Y. 14094, for an Area Variance to permit applicants to construct a 30' by 40' accessory building upon said premises approximately 31' closer to the road than the rear main wall of applicants' residence, whereas the Zoning Ordinance does not permit maintenance of such a structure closer to the road right-of-way than the rear wall of the residence upon said premises.
- (09-24-08) MARK STITT**, 4241 Burch Road, Ransomville, N.Y. 14131, for an Area Variance to permit applicant to construct a 40' by 40' addition to an existing garage upon said premises which will result in said garage containing more square feet than the residence located upon said premises, whereas the Zoning Ordinance does not permit maintenance of a detached garage which exceeds the square footage of a residence upon the same parcel.
- (09-25-08) JOHN and WRAE GORMAN**, 4874 Upper Mountain Road, Lockport, N.Y. 14094, for an Area Variance to permit applicants to construct a 40' by 30' accessory building upon said premises approximately 10' closer to the road right-of-way than the rear main wall of applicants' residence, whereas the Zoning Ordinance does not permit construction of an accessory building closer to the road right-of-way than the rear wall of the residence upon said premises.
- (09-29-08) MATTHEW and DEBORAH FOE**, 4517 Upper Mountain Road, Lockport, N.Y. 14094, for a Use Variance to construct a 7 acre pond upon said premises and to remove the fill from premises located on the west side of Comstock Road between Upper Mountain Road and Saunders Settlement Road, whereas the Zoning Ordinance does not permit excavated material to be removed from premises.
- (09-29-08B) ROBERT and SHARON SULLIVAN**, 4454 Baer Road, Ransomville, N.Y. 14131, for a private kennel to permit applicants to keep up to 4 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

(10-02-08) PATRICK HARMS, 4105 Burch Road, Ransomville, N.Y. 14131, for a private kennel to permit applicant to keep up to 5 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

(10-03-08) PATRICIA SAMPSON, 5069 Townline Road, Sanborn, N.Y. 14132, for Area Variances to permit applicant to construct a 16' by 22' addition to an existing garage that is approximately 12' from the side lot line, together with an 8' by 12' accessory building that is approximately 2.5' from the side lot line, whereas the Zoning Ordinance does not permit construction of accessory buildings or garages closer to side lot line than 15 feet, nor maintenance of more than one accessory building upon a single parcel.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of September 22, 2008 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWALS:

(10-16-89) JOAN KIRKLAND, 5954 Campbell Boulevard, Lockport, N.Y. 14094
Special Permit to breed and raise Collie dogs

Mrs. Kirkland was present at this meeting and said everything is the same, requested no changes.

Building Inspector said there have been no complaints received.

Previous renewal was for 3 years.

Board members had no concerns on this Special Permit.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **renew** the aforementioned Special Permit to Mrs. Kirkland for another three (3) years. Unanimously approved, motion carried.

2004-15 (10-04-04A) MR. and MRS. ROGER COOLBAUGH, 3274 Andrews Road. Ransomville, N.Y. 14131 - Special Permit for a private kennel

Mrs. Coolbaugh was present at this meeting and requested renewal of the Special Permit and said there are no changes.

Building Inspector said no complaints have been received.

Board members had no concerns on this Special Permit.

A motion was made by Mr. Smith and seconded by Mr. Allen to **renew** Special Permit to Mr. and Mrs. Collbaugh for a private kennel for another three (3) years. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(09-10-08) DONALD BEYER

Mr. Beyer 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 map.

Mr. Beyer said he would like to construct a 30' by 52' building to store tractor, plows and other farm equipment.

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

Concerns of board members:

Mr. Smith asked applicant if the articles being stored belong to him?
Mr. Beyer said "yes".

Mr. Reardon said to applicant, you have an accessory building now and wish to have a second one?

Mr. Beyer said the existing building is not large enough for all of his equipment. There will be no renting or leasing of this building. Mr. Beyer said it will be for his own person articles.

Mr. Reardon asked applicant what type of farm he has?
Mr. Beyer said he has five (5) acres but is not actively farming.

Building Inspector said the building will be back from the road and no obtrusion to the neighborhood.

Deputy Building Inspector said the building will be back approximately 270' from the road.

Mrs. Kroening said she stopped to see Mr. Beyer and the proposed location for the second building on the property. She said the existing building is small and not large enough to store all of the equipment he has. Building will be back from the road.

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** application for Area Variance to Donald Beyer to permit applicant to maintain a 30' by 52' accessory building for farm machinery storage which would be a second accessory building upon said premises. Unanimously approved, motion carried.

(09-15-08) LOUIS J. & BARBARA L. FONZI

Mr. Fonzi 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 map.

Mr. Fonzi said he would like to build a 30' by 40' building closer to the road than the rear main wall of his home. He would like to store lawn tractor, backhoe tractor with loader, brush hog and other various items in this building. He wants to keep everything inside.

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

Concerns of board members:

Mr. Allen asked applicant why can't the building be placed further back?

Mr. Fonzi said he wants to keep the building in line with other buildings in the surrounding area.

Mr. Reardon asked applicant if he could put the building closer to the driveway?

Mr. Fonzi said there is another driveway going to the new building. He wants to keep the buildings in line.

Mrs. Kroening said if Mr. Fonzi goes back further, there is shrubbery and also a drainage ditch or swale in the back.

Mr. Fonzi said he could move the building closer to the stone driveway. Only personal items would be stored in this building. Now, the items are stored outside.

The siding will be the same as is on the home. He will move the proposed building twenty (20) more feet from the lot line and then will be forty (40) feet from the north lot line.

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **grant** an Area Variance to Louis J. and Barbara L. Fonzi to permit applicants to construct a 30' by 40' accessory building upon said premises approximately 31 feet closer to the road than the rear main wall of applicants' residence and 40 feet off of north side lot line. Unanimously approved., motion carried.

(09-24-08) MARK STITT

Mr. Stitt 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 map.

Mr. Stitt would like to construct an addition on to the back of his existing garage, dimensions 40' by 40' for storage purpose.

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

Concerns of board members:

Mr. Robinson asked applicant what kind of siding would he put on and would it match what is on the garage?

Mr. Stitt said “yes” it will match siding on the garage.

Mr. Smith asked applicant how high will the addition be?

Mr. Stitt said it will be about two (2) feet higher than garage. He wishes to store a back hoe, old cars, old truck jeep, etc. in this addition. This addition will be for personal use, to keep vehicles inside.

Building Inspector – no comments

Board members – no other comments.

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

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** Area Variance to Mark Stitt to permit applicant to construct a 40’ by 40’ addition to an existing garage upon said premises which will result in said garage containing more square feet than a residence located on the premises. Unanimously approved, motion carried.

(09-25-08) JOHN R. & WRAE GORMAN

Mrs. Gorman was present at this meeting and the following have been submitted: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey map.

Mrs. Gorman said they would like a second accessory building, dimensions 40’ by 30’ by 10’ which will be approximately 10’ closer to the road right-of-way than rear main wall of their residence. The existing accessory building is used to house their horses. She said they need more storage space.

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

Public Hearing closed.

Concerns of board members:

Mrs. Kroening asked if horse barn is considered an accessory building?

It was said this is not a farming operation. This is an accessory building. Applicants do have a little over five (5) acres. This will be for private use only.

Mr. Reardon asked applicant how many horses they have?

Mrs. Gorman said they have three (3) horses

Mr. Smith asked applicant if this is for their own personal use?

Mrs. Gorman said “yes”, personal use.

Building Inspector said the existing building on the property is for animals which is a considerable distance from the road.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to declare **negative declaration under SEQR** on application of John and Wrae Gorman. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mr. Allen to **approve** Area Variance to permit applicants to construct a 40' by 30' accessory building upon said premises approximately ten (**10**) feet closer to the road right-of-way than the rear main wall of applicants' residence. Unanimously approved, motion carried.

(09-29-08A) MATTHEW and DEBORAH FOE

Mr. and Mrs. Foe were present at this meeting and have submitted the following: Application for Use Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of two maps showing existing pond and proposed pond, and letter dated Sept. 10, 2008 from Niagara County Soil and Water Conservation District to Mr. and Mrs. Foe.

Mr. Foe said the proposed pond area, approximately seven (7) acres is within a 50 acre field which floods in the Spring. It is heavy soil. He would like to construct a seven acre pond for agriculture and recreational use to help straighten out some of the drainage problems. In the future, may use this pond also for irrigation purposes.

Public Hearing open:

Alfred Osborne, 5261 Comstock Road, Lockport 14094, asked questions and expressed concerns as follows:

1. Will new pond be in addition to existing pond by making existing pond larger?
Mr. Foe said that area floods in the Spring.
2. How would applicant control the level? He said he has lived at current address for about nine years and the existing pond has overflowed about four of the nine years.
3. How long before final grade would be made after new pond is dug?
4. Mounds of dirt? There are mounds of dirt on property near him and has been there for a long time.
5. When would applicant move the mounds of dirt?
6. How are people notified of meetings? Next to him at 5269 Comstock Road, more than two families living in a two-family home. Grass is not being maintained and other issues too. When will these codes be enforced?

Nicholas Giammichele, 5257 Comstock Road, Lockport 14094, asked the following questions and concerns:

01. How far from the road is this pond going to be?
02. Hunting on this property?
03. How is the dirt going to be leveled off?
04. Mounds of dirt cause snow to pile up.

05. Mounds of dirt on a neighbor's property have been there for approximately eight years and has talked to the Building Inspector about it and nothing done.
06. On one mound, some dirt sliced off across the front side of the mound. Dirt could cave in with all of the rain.
07. Talked with OSHA about this problem. They said pond has to be 2 – 1 slope. There are children playing in that area.
08. Geese using the pond area.
09. When are the rules going to be enforced to protect homes in the immediate area?
10. One neighbor has illegal steps.

Martin Kroening, 4165 Upper Mountain Road, Sanborn 14132, said in regard to the hunting and shooting, hunters must be at least 500 feet from occupied dwellings.

Public Hearing closed.

Concerns of board members:

Mr. Robinson asked applicant how far from the road will proposed new pond be?

Mr. Foe said new pond will not be closer to the road than existing pond, approximately 300 feet. He said he will be going to the west with the pond and not to the east. Drainage overflow will go to Wasik property and then go into the creek. Water goes through current pond to drainage ditch between Wasik property and Foe property to the creek. Current pond consists of approximately three-fourths (3/4) of an acre. The existing pond is classified as an open-water excavated Federal wetland per N.C. Soil and Water Conservation District letter of Sept. 10, 2008. Mr. Foe said any pond is under Federal jurisdiction. Applicant said his plan is to clean out the existing pond and then start working towards the west, north and south. He said he hopes this will control the flooding on this property.

It was asked how long will it take to grade around the pond area?

Mr. Foe said he has no idea at this time how long this project will take. This will be an agricultural/recreational pond. He said the area around the pond will be graded and reclaimed back to agriculture as it is today.

Counsel said per Town Law, the legal notice is to be placed in the newspaper. He asked Mr. Foe if the pond will result in an increase of area that Mr. Foe will be able to farm?

Mr. Foe said “no”. This area is currently farmed but cannot plow or work very well. Will be a benefit to Mr. Foe on the west side with a greater slope away and rearrange that land so that is more ready to cultivate and more productive increase in the land. He said he will use some of the excavated material on his own property. The sub soil will be taken off of the site. He said he has had conversations with D.E.C. and they are supportive of this project.

Applicant said there is no sense in continuing with this project until they get permit from the town. There is no problem with N.C. Soil and Water Conservation on this proposed pond.

Counsel asked applicant about time frame?

Mr. Foe said they would like to start in the Summer of 2009. There will be two (2) separate ponds. He said he has discussed the pond issue with Soil and Water Conservation and they said this is an excellent location for the pond and are in agreement with the plan.

Counsel mentioned about Cloy application for pond on Ridge Road. The town has little control on the time frame. We need to deal with the multiple agencies on a project of this size. On the Cloy issue, after various discussions, this board decided that D.E.C. would be Lead Agent for SEQR. There needs to be some understanding regarding who will be lead agent.

First, Mr. Foe will need to get a variance from the town and work with an engineer. Town will need specifications of the pond. Drawings to be submitted to the town including proposed drainage plan. Also, written communication between Army Corps of Engineers, D.E.C. and the town in terms of how a project of this magnitude best be processed and how SEQR process can take place and type of things being done.

Applicant will need a town permit, D.E.C. permit and Army Corps of Engineers' permit. Town will work with the applicants on SEQR. and who will be lead agent.

Mr. Reardon said recreation, hunting, fishing and potential irrigation may be possible. There will be approximately 300' from Comstock Road to the pond on one side.

Mr. Reardon asked applicant what his plans are for safety?

Mr. Foe said people should not be on the property, policing of the area and trespassing.

During construction, the town usually requires applicant to have a fence surrounding the pond area.

Mr. Burch and Soil and Water Conservation said pond is based on type of soil. Slope has to be so that a person can walk in and walk out.

Building Inspector had no further comments at this time.

Board members had no further concerns at this time.

Determination must be made on who will be Lead Agent. Anything over one (1) acre D.E.C. wants to be involved.

Chairman said with a Use Variance, regulations are more stringent.

Deputy Building Inspector said from past experience, takes time for D.E.C. to act.

The magnitude of this project is going to require a certain level of engineering which applicant doesn't have as of this time.

Must refine application and applicants need to decide how they wish to proceed. The sooner those agencies get involved on this project, the sooner the entire application can continue.

Counsel recommended tabling this application pending the determination of who will be Lead Agent.

A motion was made by Mr. Robinson and seconded by Mr. Smith to table application for Use Variance for one (1) month to Matthew and Deborah Foe to construct a seven (7) acre pond until more information is received. Unanimously approved, motion carried.

(09-29-08B) ROBERT and SHARON SULLIVAN

Mr. Sullivan was present at this meeting and the following have been submitted: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement and sketch showing garage and exercise area behind garage.

Mr. Sullivan said they would like a private dog kennel for four (4) dogs in a fenced area. He said the dogs never run loose. These are just their own dogs and do not intend to raise dogs.

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

Board members:

Mr. Smith asked applicant if the dogs belong to him?

Mr. Sullivan said they are all their own dogs, no dog boarding, no business.

Chairman asked applicant how he controls the waste?

Mr. Sullivan said he has a pit for the animal waste on their own property.

Building Inspector had no concerns.

Mr. Allen asked applicant if there would be any breeding or selling of dogs?

Mr. Sullivan said no breeding or selling.

Mr. Sullivan was asked what kind of dogs are they and he said they are Shih tzu and part Siberian.

No further concerns on this application.

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

Counsel asked applicant what would be the maximum number of dogs on the premises?

Mr. Sullivan said four (4) dogs would be the maximum. He said he has runs for them and a fenced area in the back. All of the dogs are owned by Mr. and Mrs. Sullivan.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** request for Special Permit by Robert and Sharon Sullivan, 4454 Baer Road, Ransomville, N.Y. 14131, for a private kennel to permit applicants to keep a maximum of four (4) dogs on their premises for a period of one (1) year. Unanimously approved, motion carried.

(10-02-08) PATRICK HARMS

Kelly Harms was present at this meeting and the following have been submitted: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey map.

Mrs. Harms said they would like a personal dog kennel permit.

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

Concerns of board members:

Mr. Robinson asked applicant if these dogs are their own?
Mrs. Harms said “yes”, they are all theirs.

Chairman asked Mrs. Harms what will be the maximum number of dogs they will have?
She said the maximum number would be five (5), have four dogs at present. They are Labradors and Golden Retrievers. They have an underground electric fence and no above ground fence. She said they have never had a problem with the dogs getting out of fenced area, have had the fence two or three years and no problems.

Counsel recommends applicant comply with dog ordinance to keep dogs on their own property.

Building Inspector had no comments on this application.

This is not a business. All dogs belong to applicant and there will be no boarding of dogs.

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

A motion was made by Mr. Smith and seconded by Mr. Robinson to permit Patrick Harms to have a private kennel to keep up to five (5) dogs upon said premises for a period of one (1) year. Unanimously approved, motion carried.

(10-03-08) PATRICIA SAMPSON

Jeffrey and Patricia Sampson were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey map.

Mr. Sampson said they are requesting an Area Variance to construct a 16' by 22' addition to an existing garage that is approximately 12 feet from the side lot line, together with a 8' by 12' accessory building that is approximately 2.5' from the side lot line. He said the building in back of the garage is for an exercise room because of Mrs. Sampson's health problems. The 8' by 12' building is for storage so they can put vehicles in the garage.

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

Concerns of board members:

Mr. Smith asked applicant if the 16' by 22' building would be the same as the existing garage and Mr. Sampson said "yes", same width. This is for an exercise room. The 8' by 12' building is for storage. He said the building will only be about 2.5' from the lot line.

Building Inspector said the 16' by 22' addition will be in a straight line from the garage that is already there. The additional accessory building, 8' by 12', will be in line with current accessory building that is already there.

Board members had no further concerns.

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

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** Area Variances to Patricia Sampson, 5069 Townline Road, Sanborn 14132, to permit applicant to construct a 16' by 22' addition to an existing garage that is approximately 12' from side lot line together with an 8' by 12' accessory building that is approximately 2.5' from side lot line. Unanimously approved, motion carried.

End of Public Hearings.

REPORTS:

Chairman asked opinion of board members on changing the time of meetings from 8:00 P.M. to 7:00 P.M. One board member is going to school and could not make meeting at 7:00 P.M. Time will be left at 8:00 P.M.

Attorney suggested that Town Board when holding re-organizational meeting, request the following change: Planning Board to meet at 7:00 P.M. and Zoning Board to meet at 8:00 P.M. on May 18th. because of the Memorial Day holiday.

Building Inspector – monthly report handed out.

Board members – nothing to report

Other Business – terminate variance for Corr-Craft as the property has been sold. Variance is in effect until 2012.

Secretary read letter from Mr. Donald Winter requesting termination of the variance.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **terminate** variance of Corr-Craft (Donald J. Winter), 2990 Carney Drive, Sanborn 14132, because the building and property have been sold. This request for termination is per letter dated October 23, 2008 from Mr. Winter. Unanimously approved, motion carried.

Next meeting will be November 24th at 8:00 P.M.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to adjourn at 9:20 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____

