

September 27, 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, Donald Robinson, Peter Smith, Michael Sieczkowski, alternate
Member absent: Theresa Kroening
Also present: George Bush, councilman
Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney
William Amacher, Chairman of Planning Board
Roger Schreader, Sr. – member of the Planning Board
Robert Klavoon – Wendel Duchscherer Eng.

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

2010-08 (08-05-10B) WNY UROLOGY ASSOCIATES, LLC, 3085 Harlem Road, Cheektowaga, N.Y. 14225, for an Area Variance to construct a two-story commercial building upon premises commonly known as 3874 Saunders Settlement Road. Said building would have a maximum height of 38 feet, whereas the Zoning Ordinance of the Town of Cambria does not permit such a structure that exceeds 22 feet in height at the eaves. Said premises are Zoned B-2. Comments from the public and submittals by any interested agencies as may be made and/or submitted pursuant to applicable SEQR regulations will also be considered.

2010-11 ((08-12-10) LINDA RODGER, 4772 Ridge Road, Lockport, N.Y. 14094, for a Special Permit to permit applicant to maintain a private kennel and to keep up to 6 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

(08-30-10) MARK and JEAN CATANESE, 5373 Townline Road, Sanborn, N.Y. 14132, for an Area Variance to construct an addition containing dimensions of 24 feet by 38 feet to an existing garage containing dimensions of 24 feet by 20 feet that is located on an adjacent parcel also owned by applicants which contains no other buildings, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such a structure upon a parcel that does not contain a principal building.

A motion was made by Mr. Bechtel and seconded by Mr. Smith to approve minutes of meeting of August 23, 2010 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (tabled from August 23, 2010)

2009-03 (03-25-09) Louretta Parlette, 5748 Campbell Boulevard, Lockport, N.Y. 14094
Special Permit for a Private Kennel to keep up to 4 dogs

Mrs. Parlette was present at this meeting and said she wishes to renew her Special Permit for a private kennel and requested no changes.

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

Board members had no concerns.

This is the first renewal.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **renew** Special Permit to Louretta Parlette for a private kennel for five (5) years to keep up to four (4) dogs on her premises at 5748 Campbell Boulevard, Lockport 14094. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (current)

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

There was no one present on behalf of Mr. Duerr at this time.

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

PUBLIC HEARINGS:

2010-08 (08-05-10B) W.N.Y. UROLOGY ASSOCIATES LLC

The following has been submitted: Application for Area Variance, Preliminary Plans:
Proposed Medical Building, First Floor Plan, Second Floor Plan and Revised Concept Plan dated 8/26/10.

The following were present on behalf of W.N.Y. Urology Associates:

Michael Terranova – Lauer Manguso & Associates Architects/Engineers
Patricia Bittar, Project Manager – William Schutt and Associates
Frank Campofelice – Burgio and Campofelice – General contractor
Robert Brauer - “ “ “

Letters received and are on file:

September 9 - New York State Dept. of Environmental Conservation
Re: SEQR Lead Agency designation

“ 14 - Commonwealth Cultural Resources Group, Inc. addressed to
Steven Doleski, D.E.C.
Re: Phase 1 and II Cultural Resource Investigations

“ 21 - Wm. Schutt & Associates addressed to Steven Doleski, D.E.C.
Re: SEQR Lead Agency Designation - Comment #1 – Wetlands,
#2 – Sanitary Sewer Extension, #3 – SWPPP, #4 - Archaeology

“ 24 - New York State Dept. of Environmental Conservation
Re: SEQR Lead Agency Designation – Town of Cambria Zoning
Board should assume Lead Agency status under SEQRA as the

most important issues are local in nature.

Also received: Concept Plan for two-story building - 46,170 square feet
Wetlands delineation

Per Counsel, this board (Zoning Board) cannot make a final determination under SEQR at this time. Comments under SEQR may be expressed this evening. This board needs to meet to conclude the SEQR process before the Planning Board can do a Site Plan Review. The Zoning Board could meet at 6:30 P.M. on October 25th and then the Planning Board could meet at 8:00 P.M. No action will be taken this evening on SEQR. In correspondence dated September 9th from D.E.C., there are a number of concerns and need more information to be submitted to D.E.C.

Mr. Terranova said the Medical building will be in the same location as originally proposed. He said there are no tenants for the second floor as of this date. Parking, setbacks, access to back of building per request of fire company, paved area for patient parking, doctors and staff are all in place in plans. There will be 38 feet to the top of center section. This will be a facility for cancer care, C.T.'s, M.R.I.'s and Linear acceleration.

Per D.E.C, wetlands are based on soil types. Per letter dated Sept. 9th, "If there is a state regulated wetland, there would also be a regulated 100-foot wide adjacent area to the wetland on and off site that could affect the project design and layout for the building, parking and stormwater facilities". Also, could affect stormwater retention pond or run-off. Drainage needs to be to the retention pond Requirement of SPDES permit. Archaeological – sensitive on the site.

Mr. Robert Peltier, Principal Archaeologist, representing C.C.R.G., said site is clear. Per letter dated September 14th, there are two phases, I and II regarding testing.

Phase I – Prehistoric artifacts were recovered. Subsurface shovel testing done.

Phase II - Additional shovel tests done which contained prehistoric lithic material.

"Results of both Phase I and II shovel test grids combined produced over 223 prehistoric lithic artifacts. Lithic analysis of recovered assemblage is currently being carried out by CCRG analyst. The final combined Phase I and II cultural resource investigations report will be submitted for review and approval by CCRG on or before October 8, 2010", per letter dated September 14, 2010.

Mr. Peltier said there may have been a temporary prehistoric camp site on subject property.

There was a discussion regarding alternative of private sewer going into public sewer system, which will exceed 2,500 gallons per day.

Public Hearing open: there were no concerns from the public concerning the application.

Chairman asked if there are any comments on SEQR regulations? There were no concerns expressed.

Public Hearing closed.

Concerns of board members:

Mr. Smith asked what the height of the rear section would be?

It was said they are adding approximately 10,000 feet to the second floor. Height will be the same.

Mr. Lane, Dep. Bldg. Inspector and member of Cambria Volunteer Fire Co., said the fire company is satisfied with what has been done.

Counsel – no further concerns

Mr. Smith asked about the archaeology – prehistoric.

Mr. Peltier said they don't think the people were there very long.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **table** action on the application for Area Variance by W.N.Y. Urology Associates for one month, until the October 25th meeting. Unanimously approved, motion carried.

A motion was then made by Mr. Robinson and seconded by Mr. Sieczkowski to change the time of the regular Zoning Board meeting to 6:30 P.M. on October 25, 2010. Unanimously approved, motion carried.

2010-11 (08-12-10) LINDA RODGER and her husband, John, were present at this meeting and the following has been submitted: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement and portion of town map showing their property.

Mrs. Rodger said they have six (6) dogs, all licensed, and they never leave their property. They are inside at night. Five dogs belong to them and one dog belongs to her son.

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

Mr. Bechtel asked applicant if she has a kennel for them?

Mrs. Rodger said the dogs do not run, are chained in the day time when outside and in the house at night. She said she does not board dogs and does not run a business.

Building Inspector said he has not received any complaints on the dogs.

Counsel said there is a provision in the ordinance which requires cages and dog runs that are outside and maintained on the property.

Applicant said the dogs are either in the house or chained outside.

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

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **approve** application of Linda Rodger for a Special Permit to permit applicant to maintain a private kennel and to keep up to six (6) dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria for a period of one (1) year.

Counsel recommended condition that no cages or dog runs be required provided dogs are maintained inside or on a chain when outside. This condition seconded by Mr. Bechtel. Unanimously approved, motion carried.

(08-30-10) MARK and JEAN CATANESE

Mr. Catanese 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 of applicant's property.

Mr. Catanese said he has a small poll barn (garage), dimensions 24 feet by 20 feet, and would like to put an addition on to that structure containing dimensions of 24' by 38', which is located on an adjacent property which he also owns but it doesn't have a primary residence on it. He said his granddaughter would like to have a horse and goats. He said he would also use addition to store a tractor.

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

Mr. Catanese said he owns approximately 50 acres and has power from the house to the garage. He said there are no plans to have a business on the property.

Building Inspector said there probably won't be a house put on the adjacent property as there is only 66 feet of frontage.

Counsel asked applicant if he could consolidate the two parcels of property? The Niagara County Planning Board recommended denial of variance because there is no principal building on the adjacent property. Per ordinance, cannot permit an accessory building without a primary residence on that property. The board will need four (4) affirmative votes to approve request for variance.

Mr. Catanese said for financial reasons he doesn't want to combine the two properties.

Chairman said the board could table action until next month.

Counsel said Mr. Catanese could take off enough property with accessory building on and add to property his house is on and to make sure he has enough property for setbacks from lot lines if he plans to have livestock and then would have to have the property resurveyed. If this is done, would not need a variance and could withdraw his application.

Applicant agreed to have the property resurveyed.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **accept withdrawal** of application for Area Variance to Mark and Jean Catanese. Unanimously approved, motion carried.

Public Hearings concluded.

REPORTS:

(08-04-10) Chris, Curt and Patricia Rechin – Applicants
D&M Landscavation – Tenant

Use Variance to allow D&M Landscavation to temporarily store excavated material closer to the road right-of-way than 500 feet. Action was tabled at the August meeting until additional information is received from applicants/tenant, copy of documents from 1994 and any other information available. Need additional information for SEQR process. No information has been received from applicants or tenant as to what kind of fill is being brought in and also concern for wetlands.

Mr. Klavoon said he contacted D.E.C. on the aforementioned and was told it is up to the local municipality. No information received from D.E.C. on this issue.

Mr. Robinson asked if D&M Landscavation should be bonded when taking away dirt from one place and putting it in another?

Mr. Burch said the determination on that would be if the dirt was contaminated. Should try to find out more details on the dirt.

Mr. Schreder asked if dirt was taken from a parking lot when removing asphalt, would that be called contaminated dirt? If putting dirt in proximity of wetlands and got high enough, could there be a possibility of run off?

Chairman said he will not be at the October 25th Zoning Board meeting, will be away on business.

Counsel asked if any communication had been received from Steven Ribbek regarding construction of a home approximately 500 feet off of Plank Road? The concern was water line will have to go so far back and fire hydrant would be a long distance from the house. Mr. Ribbeck was to check with town engineer and perhaps fire department on this issue. No information received as of this date.

Building Inspectors and board members – nothing to report

No one appeared on behalf of Mr. Duerr pertaining to his renewal for plumbing business on Lockport Road.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **table** action until next month on renewal of Special Permit of Michael Duerr for a plumbing business. Unanimously approved, motion carried. A second letter to be sent.

The next Zoning Board meeting will be October 25th at 6:30 P.M.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to adjourn at 9:00 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____

