

April 22, 2013

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Theresa Kroening, Chairperson, at 8:00 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 Chairman  
Michael Bechtel, Donald Robinson, Peter Smith  
Michael Sieczkowski, alternate  
Member absent: John Reardon  
Also present: Matthew Foe, Councilman  
James McCann, 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 application:

**(03-20-13) THOMAS FAERY**, 3200 Ridge Road, Ransomville, N.Y. 14131, for a Use Variance to permit applicant to construct a 3.5 acre farm pond approximately 1400 feet from the road right-of-way and approximately 100 feet from the east and west side lot lines upon said premises, and to remove the excavated material from said premises, whereas the Zoning Ordinance does not permit construction of a farm pond exceeding one half an acre, nor does it permit removal of excavated material from said premises.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of March 25, 2013 as presented. Unanimously approved, motion carried.

#### **SPECIAL PERMIT RENEWALS (current)**

**2012-04 (03-28-12) Angela McLean**, 5237 Randolph Street, Sanborn, N.Y. 14132  
Special Permit to maintain a private kennel for up to five (5) dogs

Ms. McLean was present at this meeting and said she would like to renew the Special Permit for the above and requested no changes in the Special Permit.

Per Building Inspector, no complaints have been received on this Special Permit.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **renew** Special Permit to Angela McLean to maintain a private kennel for up to five (5) dogs for a period of five (5) years. Unanimously approved, motion carried.

**2012-05 (04-04-12A) Rob and Christine Winstel**, 3537 Saunders Settlement Road, Sanborn, N.Y. 14132 - Special Permit to operate a small automobile repair shop

There was no one present at this time on behalf of Mr. and Mrs. Winstel and no communication has been received per Building Inspector.

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

**PUBLIC HEARING:**

**(03-20-13)** **THOMAS FAERY** was present at this meeting and has submitted the following: Application for a Use Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of Niagara County Soil and Water Conservation District letter dated March 7, 2013, Re: Pond Site Evaluation and copy of map showing location of proposed pond.

Mr. Faery said he would like the pond for irrigation purpose. The land is not usable for anything, has scrub brush and trees on it, cannot grow crops on it.

Public Hearing open:

Comments and concerns:

Mr. Foe said this proposed pond would come under the new MS4 Federal regulation (Stormwater Discharge) from Municipal Separate Storm Sewer Systems control program for construction activities that disturb greater than or equal to one acre of land. This MS4 program did only affect the Sanborn area, but now, affects the whole town of Cambria.

What about SEQR in relation to MS4 regulations?

Mr. Billingsley said this MS4 regulation is relatively new.

David Cloy, 4281 Burch Road, Ransomville, who owns property adjacent to Mr. Faery, said he constructed a pond a few years ago in the vicinity of Mr. Faery's proposed pond, and proposal was deferred to D.E.C. (Department of Environmental Conservation). He said the MS4 now affects the entire town.

It was suggested that the town engineer look at the MS4 regulations as to what the town should be doing to comply with the law. D.E.C. may get involved as this applicant is requesting more than one acre of land impact which is under the new stormwater regulations and be in compliance with D.E.C.

Mr. Faery was asked if he had been in contact with D.E.C. and he replied he has not been in contact with D.E.C.

Counsel said it looks like D.E.C. will be the Lead Agent on this project.

Counsel said we may need comments from interested agencies. Also, Mr. Faery will need a Mining Permit, D.E.C. requirements and also will have to prove this is a hardship and other requirements as stated on the Application form. It appears that the Faery and Cloy land in that area is unusable as there are similarities to the two properties.

Mr. Cloy said, as reported by a representative of D.E.C., there is a need for ponds in that area as ponds will hold back the storm water drainage.

Public Hearing closed

Board members:

Mr. Smith asked õwhat is MS4ö?

Mr. Foe explained what MS4 is. It is a new Federal regulation to õdevelop, implement and enforce a plan to detect and eliminate illicit dischargesö. Also, õenforce and sediment control program for construction activities that disturb greater than or equal to one acre of landö. This is to prevent damage to neighboring properties.

Mrs. Kroening said originally Mr. Faeryø's application was for a Special Permit and changed to a Use Variance. The pond process starts with D.E.C.

Counsel recommended the board review the SEQR process and Mining Permit before any action be taken on this application. D.E.C. will be Lead Agent on this application for a Use Variance for a pond. Counsel recommended tabling this application until SEQR process is received.

Secretary was asked to make copies of the MS4 regulation for board members to review.

A motion was made by Mr. Smith and seconded by Mr. Robinson to table action on Mr. Faeryø's Application for a Use Variance for a pond for 3.5 acres at 3200 Ridge Road until information is received from D.E.C. on the proposed pond. Unanimously approved, motion carried.

It was suggested to contact Michael Myers and make arrangements for him to come to a meeting and explain the MS4 regulations.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski that Mr. Billingsley contact Mr. Myers to coordinate Mr. Faeryø's recent Mining Permit Application and D.E.C.'s anticipated site visit regarding same. Unanimously approved, motion carried.

#### REPORTS:

Chairperson ó no report

Building Inspector ó no report

Attorney ó no report

Board members ó no report

Mr. Foe reported that he along with Lou Ann Murawski, Randy Roberts and Randy Roeseler from Wendel Engineering are in the process of updating our Town Zoning Ordinance including definitions, updating documents, updating zoning laws, possibly addressing issues such as housing of part time farm laborers on farms, unkept properties, setbacks, storage buildings, garages, accessory buildings and other issues the people in the community are asking for like variances for detached garages.

Renewal:

**2012-05 (04-04-12A)** Rob and Christine Winstel ó Special Permit for small automobile repair shop.

No one appeared.

Zoning Board  
Renewal ó cont.  
Rob and Christine Winstel ó cont.

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A motion was made by Mr. Smith and seconded by Mr. Bechtel that secretary send a second letter to Mr. and Mrs. Winstel to appear at the May 20<sup>th</sup> meeting at 8:00 P.M. regarding renewing of their Special Permit. Unanimously approved, motion carried.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to adjourn at 8:37 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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