

January 28, 2013

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, Theresa Kroening, Peter Smith  
Michael Sieczkowski, alternate  
Member absent: Donald Robinson  
Also present: Matthew Foe, Councilman  
Robert Blackman, Councilman, liaison to Town Board  
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:

**2013-01 (01-04-13) TIM DONUT US LIMITED, INC.**, 4455 Transit Road, Suite 2B, Williamsville, New York, 14221, for an Area Variance to permit applicant to construct a 1,953 square foot Tim Horton's Restaurant upon premises commonly known as 2970 Saunders Settlement Road, including a drive-thru window, within approximately 36.5 feet of 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 80 feet in the B-2 Zoning District.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to approve minutes of meeting of December 17, 2012 as presented. Unanimously approved, motion carried.

**RENEWALS:** (current)

**2012-01 (01-04-12A) Peter Smith**, 4472 Van Dusen Road, Lockport, N.Y. 14094  
Special Permit to maintain temporary living quarters for a maximum of four farm laborers.

Mr. Smith was present at this meeting and said he wishes to renew the Special Permit and requests no changes.

Building Inspector had no concerns on this Special Permit.

A motion was made by Mr. Bechtel and seconded by Mrs. Kroening to **renew** Special Permit to Peter Smith to maintain temporary living quarters for a maximum of four (4) farm laborers for a period of (5) years. Four board members voted "aye"; Mr. Smith abstained because of conflict of interest. Unanimously approved, motion carried.

**2012-02 (01-04-12B) Michael Bampton**, 74 Main Street, Tonawanda, N.Y. 14150  
Special Permit to conduct animal husbandry on a parcel containing less than 5 acres on premises at 4528 Ridge Road.

Mr. Bampton was present at this meeting and said he would like to renew the Special Permit and requested no changes. He said the chickens are fenced in and no problems.

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

Board members:

Mr. Reardon asked applicant if chickens are fenced in and answer was yes, are inside building and are fenced in.

A motion was made by Mr. Bechtel and seconded by Mr. Sieczkowski to **renew** Special Permit to Mr. Bampton for a period of five (5) years to conduct animal husbandry on a parcel containing less than five acres on premises at 4528 Ridge Road. Unanimously approved, motion carried.

**Michael Redfern**, 4573 Lower Mountain Road, Lockport, N.Y. 14094  
Variance for auto repair garage

Mr. Redfern was present at this meeting and said he would like to renew the variance.

Chairman asked applicant if he wishes any changes in the business and applicant replied no changes.

Building Inspector said he had no concerns on this business.  
Board members had no concerns.

A motion was made by Mr. Bechtel and seconded by Mr. Sieczkowski to **renew** variance to Mr. Redfern for a period of five (5) years to operate auto repair garage. Unanimously approved, motion carried.

#### **PUBLIC HEARING:**

##### **2013-01 (01-04-13) TIM DONUT US LIMITED, Inc.**

**Owner** – Tim Donut US Limited, Inc., 4455 Transit Road, Suite 2B, Williamsville, N.Y. 14221

**Agent** - Dale Gerbetz, P.E. – Parsons Brinckerhoff, Inc., 50 Lakefront Boulevard, Suite 111,  
Buffalo, N.Y. 14202

**Subject** - Tim Horton's Restaurant and drive-thru window service

**Location** – 2970 Saunders Settlement Road, Sanborn, N.Y. 14132

The following have been submitted: Application for Area Variance, Agriculture Data Statement, Short Environmental Assessment Form and copy of Land Title Survey dated 11-07-12, copy of Overall Concept Plan dated 01-04-13 and two Exterior Elevations' pictures.

Mr. Robert Benderson was present along with Mr. Gerbetz on behalf of the aforementioned.

Mr. Benderson said Tim Donut US Limited, Inc. would like to construct a new Tim Horton's restaurant including a drive-thru window service on Saunders Settlement Road in an existing plaza. There will be 28 parking spaces, 24 foot wide drive-thru, a concrete island and landscaping buffer for adjacent property. They will need a variance for building setback.

Rite Aid (CVS) has a provision for a no-build area in front of existing business for a possible fourth row of vehicle parking in the future. A cross access agreement for access to the site may need to be obtained by applicant.

Mr. Benderson said Tim Horton's peak business hours are 6:00 a.m. to 9:00 a.m. He said dumpsters will be in an enclosed area at the back of the building.

Concerns:

It was reported a tenant, Danielle Hoover, 2974 Saunders Settlement Road, who rents a home east of proposed restaurant, was present at the Planning Board meeting and had some concerns such as fencing and lighting.

Public Hearing open:

David and Linda Weaver, 2477 River Road, Niagara Falls, N.Y., were present at this meeting and are the owners of the property at 2974 Saunders Settlement Road, east of proposed new restaurant, where Mrs. Hoover resides and had some concerns: fencing for security and new lighting.

Counsel explained the town's procedure for a proposed business where a variance is required because of lack of setback and other issues as well. The Planning Board reviews the Site Plan for issues like parking, hours of operation, setback, etc. and proposal on property goes to the Zoning Board if variance is required.

Public Hearing closed.

Concerns of board members:

Mr. Smith asked Mr. Benderson if this Tim Hortons would be the standard size and Mr. Benderson said this would be the new size, which is a little larger.

Mr. Benderson said the drive-up lane is based on the amount of traffic on the road. He again said their peak time is 6:00 a.m. to 9:00 a.m. He said he is not sure what the hours are for the other businesses in this plaza as to the time they open. Tim Hortons' hours are 24 hours a day 7 days a week.

Mr. Sieczkowski questioned if there is sufficient room to move the proposed new building back farther.

Mr. Benderson said that would mean the drive-up would be shorter, could be done and would necessitate two lanes, double speaker, more employees (approximately 3 more) to accommodate the customers quickly. The vehicles could get stacked up.

Counsel asked, is there any certain way how cars line up? Applicant advised some restaurants have two (2) drive-thru lanes. Largest number in the stack, 9 or 10, would be a difference of 3 cars with 2 lanes. He said they figure 25 seconds per vehicle to go through the drive-up window. Will need to staff it properly.

Building Inspector had no concerns on this issue.

The Niagara County Planning Board recommended approval of Site Plan and Variance .provided that some type of cross access agreement be in place, any required approvals of D.O.T. are received and landscaping buffer for the adjacent property owner.

The applicant may proceed with the engineering work.

No action was taken at the Planning Board meeting this evening.  
Per Counsel, there is no preliminary procedure on Site Plans.

The Planning Board is satisfied with the application of Tim Donut US Limited, Inc. as long as applicant satisfactorily addresses comments from Niagara County Planning Board and obtains any necessary approvals from N.Y. State Dept. of Transportation, obtain appropriate access to the property, install landscaping buffer for adjacent property and follow requirements of Town of Cambria Zoning Ordinance.

Mr. Sieczkowski asked if the property is sold, would new owners have to come before the board if granted tonight?

Counsel said owner or tenant can make application.

A motion was made by Mrs. Kroening and seconded by Mr. Smith to declare **negative declaration under SEQR** on application of Tim Donut US Limited, Inc. Unanimously approved, motion carried.

A motion was made by Mr. Sieczkowski and seconded by Mr. Bechtel to **approve** application for Area Variance to permit applicant to construct a 1,953 square foot Tim Horton's Restaurant upon premises commonly known as 2970 Saunders Settlement Road, Sanborn, N.Y. 14132, including a drive-thru window service, within approximately 36.5 feet of the road right-of-way, per Concept Plan submitted dated 01-04-13.

Applicant shall:

1. Satisfactorily address recommendations of the Niagara County Planning Board including a cross access agreement for access to the site if necessary;
2. Satisfy any requirements of D.O.T. (Dept. of Transportation);
3. Provide a landscaping buffer for the adjacent property; and

4. Amendments may be made by Applicant and Town of Cambria Planning Board in the Site Plan Review of the application subject to such amendments as may be made by applicant.

Unanimously approved, motion carried.

REPORTS:

Attorney – no report

Board members –

Mrs. Kroening said she will not be at the February meeting and has asked Mr. Sieczkowski to fill in for her.

Other business – Roberta Sherwood – regarding Special Permit renewal on dogs. There was no one present on her behalf and no response to Attorney's letter. Attorney to write her another letter.

A motion was made by Mr. Bechtel and seconded by Mr. Sieczkowski to adjourn at 8:45 p.m.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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