

CORRECTED COPY of MINUTES of JUNE 27, 2016

(consists of 10 pages)

June 27, 2016

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Michael Sieczkowski, Chairman, at 7:00 P.M. followed by the Pledge to the Flag and then welcomed everyone to the meeting.

Members present: Michael Sieczkowski, Chairman
Thomas Andrews, Alan Johnson, Donald Robinson, Peter Smith
Also present: Matthew Foe, Councilman, filled in for R. Roberts as liaison to the
Town Board for this meeting.
James McCann, Building Inspector
Gary Billingsley, Attorney
Melinda Olick, Assessor's Clerk

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

ZB SP-2016-003 **SAMUEL PARISE**, 5475 Comstock Road, Lockport, N.Y. 14094 for a Special Permit to permit applicant to construct a farm pond approximately 175 feet easterly of Comstock Road containing approximately .2 acres upon premises adjacent to and to the south of 5475 Comstock Road pursuant to the Special Permit Ordinance of the Town of Cambria.

ZB AV 2016-003 **JOSEPH WEGRZYN and LINDA WEGRZYN**, 2980 Carney Drive, Sanborn, N.Y. 14132, for an Area Variance to permit applicants to construct an addition with dimensions of 24 feet by 16 feet to an existing pole barn with dimensions of 24 feet by 32 feet upon said premises, whereas the Zoning Ordinance does not permit construction and/or expansion of such a structure that would contain dimensions exceeding 1008 square feet.

ZB AV-2016-004 **CHERYL ANDREWS**, 3613 Ridge Road, Lockport, N.Y. 14094 for an Area Variance to permit applicant to construct a pole barn with dimensions of 26 feet by 40 feet and an attached lean-to containing dimensions of 8 feet by 32 feet which would be located within 10 feet of her said residence, whereas the Zoning Ordinance does not permit construction of such a structure closer to a residence than 25 feet.

ZB SP-2016-004 **MICHAEL HANSEN**, 5459 Comstock Road, Lockport, N.Y. 14094 for a Special Permit to permit applicant to store tree service equipment in an existing barn upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria

A motion was made by Mr. Johnson and seconded by Mr. Smith to approve minutes of meeting of May 23, 2016 as presented. Unanimously approved, motion carried.

RENEWAL of SPECIAL PERMIT (current)

(06-04-15) Paul Wendt, 3056 Moore Road, Ransomville, N.Y. 14131 Owner
Kevin Mearbell, 1714 Saund. Settlement Road, Niag. Falls, NY. 14304
Applicant
Subject property - 2990 Carney Drive, Sanborn, N.Y. 14132
Business - Innovative Card Solutions

Mr. Wendt and Mr. Mearbell were present at this meeting and said they would like to renew this Special Permit. They said they are in compliance with all of Building Inspector's requests.

Chairman read the letter that was sent to them informing them of this meeting tonight to act on the renewal of Special Permit to operate business known as "Innovative Card Solutions" in an existing building at 2990 Carney Drive, Sanborn.

Counsel stated they could renew the Special Permit for up to five years.

A motion was made by Mr. Smith and seconded by Mr. Robinson to continue the Special Permit to operate business known as "Innovative Card Solutions" by applicant, Kevin Mearbell at 2990 Carney Drive, Sanborn, for a period of five (5) years. Unanimously approved, motion carried.

PUBLIC HEARING:

ZB SP-2016-004 MICHAEL HANSEN SR. (Name on Application)
(05-23-16) DAVID J. HANSEN JR (Name on Contact)
SBL 121.00-2-4.11 MICHAEL J. HANSEN SR. and JR. (Names on Contact)
SBL 121.00-2-4.12

Mr. Hansen Sr. was not present at this time.

A motion was made by Mr. Smith and seconded by Mr. Johnson to **table** this application until the end of the meeting and see if Mr. Hansen appears. Unanimously approved, motion carried.

At this time Mr. Hansen appeared.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **rescind** the aforementioned motion. Unanimously approved, motion carried.

The following has been submitted: Application for Special Permit for Storage of tree service equipment in an existing barn at 5459 Comstock Road, Short Environmental Assessment Form, Part 1, Project Information, consisting of 3 pages, Short Environmental Assessment Form Part 2, consisting of 2 pages (N/A), Agricultural Data Statement, pictures and information from Town of Cambria Assessor's office : Real Property Transfer Report, merger of 2 properties into 1 property and tax map.

The owners of 5459 Comstock Road are: Michael Hansen Sr., who resides at 3196 Northway Drive, Sanborn, N.Y. 14132; Michael Hansen, Jr., who resides at 5459 Comstock Road, Lockport, N.Y. 14094 and David J. Hansen, who resides at 5459 Comstock Road, Lockport 14094.

Public Hearing open:

Mr. Hansen said he wishes to store three trucks and four pieces of equipment relating to tree service business in the large barn (arena) dimensions 100 feet by 60 feet

There were no comments from the public.
Public Hearing closed.

It was explained that if Application for Special Permit is approved, would be initially for one year and if everything goes well, applicant may request a longer period of time up to five years.

Mr. David Boniello, Attorney for applicant, present at this time, said applicant wishes to store tree service equipment in the barn.

Mr. Hansen said there will be no changing of oil, no maintenance on the vehicles in the barn, no flammable liquids stored in the barn and no outside storage of anything.

Conditions for granting a Special Permit per Zoning Ordinance:

1. No change in character of neighborhood.
2. No depreciation of property values.
3. No excessive noise or disturbance of neighborhood.
4. Adequate parking area.
5. No outside storage of materials permitted
6. No appreciable change in traffic.
7. Plan must be approved with appropriate landscaping.

Chairman asked the Board members if they had any concerns? Answer was no concerns.
Building Inspector – no comments

Mr. Boniello said the building is sufficient to store all of Mr. Hansen's tree service equipment inside.

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

A motion was made by Mr. Smith and seconded by Mr. Johnson to permit applicant to store tree service equipment in an existing barn, dimensions 100 feet by 60 feet, upon said premises at 5459 Comstock Road, Lockport, N.Y. 14094 for a period of one (1) year. The barn is big enough to store all of applicant's tree service equipment in. No outside storage is permitted.

Mr. Boniello thanked Mr. Billingsley and Mr. McCann for their help with this application.

PUBLIC HEARING:

ZB SP-2016-003 **SAMUEL PARISE** was present at this meeting and has submitted the following: Application for Special Permit for a farm pond, Short Environmental Assessment Form – Part 1, Project
(05-02-16)
SBL 121.002-64.1 Information consisting of 3 pages, Short Environmental Assessment Form, Part 2, Impact Assessment – consisting of 2 pages; letter dated May 10, 2016 from Niagara County Soil Water Conservation District, Agricultural Data Statement and pictures of applicant's property.

Mr. Parise said he wants the retention pond to improve drainage on his property which has been swampy for years. He wants the property so it will be useable, drain the land into the existing swale and then to the road ditch. He is requesting a Special Permit for a pond to do so. This will also help drain farm land to the east of his property.

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

The lot is triangular in shape

Mr. Parise said he was not aware that he needed a permit before starting the pond, to go before the Building Inspector and follow Niagara County Soil and Water letter of May10, 2016.

Per Niagara County Soil and Water Conservation, in their letter, "soils in the area of the proposed pond are described as "poorly drained to very poorly drained soils".

The digging of the pond had begun prior to the aforementioned and Building Inspector issued a "Stop Work Order" as the specifications in the Niagara County Soil and Water were not being followed. Also, it was discovered debris like cement and wood were being put into a hole and covered which is not permitted. Adding fill will raise the surrounding land and may not control the flooding issue.

Chairman asked applicant why he didn't go to the Building Inspector about issue of the pond and applicant said he didn't know it was necessary. Mr. Parise said there are approximately 0.2 acres of swamp and when there is a lot of rain, more problems. The lot is lower. Applicant said after bringing in fill, was going to put top soil on the top.

Chairman asked the Building Inspector if they had come to some sort of an agreement about removing some of the fill?

Counsel said this is a Zoning violation matter which is in addition to what debris is to be removed.

Building Inspector has issued, a "Stop Work Order" on the proposed pond and there is a pile of dirt to be used for cover of a hole which has broken concrete, wood and other debris in it.

Applicant wants to use his property and every time it rains, property is swampy and wet.

Chairman asked Building Inspector "are you able to come to some agreement that some of the debris is to be removed?"

Counsel said Mr. Parise is in an alleged violation of the Zoning Ordinance and request is that debris be removed from the property.

Counsel suggested that Mr. Parise determine what needs to be removed. Recommended getting a Building Permit.

Counsel recommended to Mr. Parise that he determine what needs to be removed. Recommended getting a Building Permit. A Certificate of Compliance is to be issued at such time that Building Inspector is satisfied and construction done according to Town Ordinance and Niagara County Soil and Water Conservation in their letter of May 10th and for protection of the town. Also, building materials and debris that needed to be removed have been removed.

Mr. Parise said proposed pond dimensions per Niagara Soil and Water will be 70 feet by 130 feet and 4-to 6 feet in depth equal to 0.2 acres.

Chairman said per letter from Niagara County Soil and Water, pond will be 175 feet east of Comstock Road and 150 feet from northern property line will be pond site. Mr. Parise said pond will be oblong – follow swale area.

Chairman said on drawing there is a 50 foot island. There is nothing in Soil and Water letter about an island.

Chairman referred to #17. (in application page 2 of 3 Environmental form) "Will the proposed action create storm water discharge, either from point or non-point sources?

- a. Will storm water discharges flow to adjacent properties?
- b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?

Mr. Parise said water goes under the road to a larger creek.

Counsel said drainage through to adjacent property owners will not change.

Construction control storm water proper including compression infrastructure draining property including pond and swale.

Chairman said local contact people are per Stormwater Management Plan are: **Wright Ellis, Supv. Jon Mac Swan, Highway Supv., James McCann, Building Inspector and/or Timothy Walck, P.E. at Wendel.** The aforementioned people representing the town to protect storm water control and protect the welfare of the people. Mr. Parise has approximately 3 acres.

Chairman stated this Application for pond meets the criteria in **REVISED ORDINANCE FOR STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL WITH 2016 Annual Report and Recommendation** from Town Board of Cambria as stated in same as read by Chairman : Page 2 **Section 2. Purpose** "The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the jurisdiction and to address the findings of fact in Section 1".

2.6 "Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management practices and to insure that these management practices are properly maintained and eliminate threats to public safety."

Section 4. Applicability

4.3 "All land development activities subject to review and approval by the Town Board of the Town of Cambria under (subdivision, site plan, and/or special permit) regulations located within MS4 R1 District shall be reviewed subject to the standards contained in this ordinance."

Page 8 2.2.2 Condition C –Stormwater runoff from land development activity disturbing between (1) and five (5) acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.” AND

Chairman also referred to an excerpt from the Town Board Minutes of February 11, 2016 as follow:

“COOPERATING MS4 LETTER OF COMMITMENT”

“It was indicated that the Western New York Stormwater Coalition, is seeking a grant. The project, entitled Western NY Stormwater Coalition MS4 Gap Analysis & Mapping Project, includes completion of a gap analysis to identify barriers to green infrastructure in local laws; and, a continuation of MS4 storm system mapping that will add the following features: municipal facilities and the storm sewers draining those properties; stormwater management practices, including ponds, chambers, bioretention areas, swales, rain gardens, pervious pavement; and, web-based tools for tracking environmental assessments at facilities, and inspections and maintenance of stormwater management practices. This agreement places some responsibility on the Town including some inkind services. We are requesting the entire town be included. No further cost to the Town. AND an excerpt from the Town Board Minutes of May 12, 2016

as follows: **PUBLIC INFORMATION MEETING
MS4 DRAFT ANNUAL REPORT/STORMWATER MANAGEMENT PLAN**

“Lauren Glose, Wendel, gave a brief presentation with regard to the Stormwater Management Program. The Draft Annual Report covers six factors affecting: public education and outreach, public participation and involvement; illicit detection/discharge; construction control measures; post-construction control measures and stormwater pollution prevention “good housekeeping”. The report is available for review on the Town of Cambria website and in the Town Clerk’s office.”

STORMWATER MANAGEMENT PLAN FOR 2016: MS4 ANNUAL REPORT

“Upon a motion duly made by Councilman Foe and seconded by Councilman Ohol, it was resolved to approve the 2016 MS4 Draft Annual Stormwater Management Report and to authorize Supervisor Ellis to sign the document and forward it to the DEC.

Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts -Motion Carried- “

Chairman asked applicant if fill is contaminated? Applicant said maybe. “Are there some issues pertaining to stormwater that apply in a case like this?” Building Inspector to meet with Highway Superintendent and make a determination, if you feel uncomfortable finishing the pond first and then the swale?

Counsel stated that since applicant wishes to proceed with the pond as quickly as possible should stay in touch with Mr. McCann, Mr. Mac Swan, Mr. Ellis and/or Mr. Walck, as needed. Applicant has pending Zoning violation proceeding in the Town of Cambria Court and Town is working with the applicant. to be in compliance with Zoning Ordinance. Applicant was further advised that if he proceeds with the work, he would be doing so at his own risk, and that if there were issues relating to the project, he could be directed to restore property to its original condition.

Discussion on who should be Lead Agent on the Parise pond issue.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **table** Application of **Samuel Parise for a Special Permit for a pond on his property at 5475 Comstock Road.** Unanimously approved, motion carried.

Counsel was directed to write a letter to Stormwater Management contact. persons for their review and also to request that Town Board consider whether it should be your Lead Agent under SEQR if applicable.

PUBLIC HEARING:

ZB AV-2016-004 **CHERYL ANDREWS** – Owner
(04-25-16) **FRANK ANDREWS** - Agent, was present this evening.
SBL 77.00-2-67

The following has been submitted: Application for Area Variance to construct a pole barn 26 feet by 40 feet with 8 feet by 32 feet lean to 10 feet from house, Agricultural Data Statement, 2 sketch plans, and pictures of home and property.

Owner of property is Cheryl Andrews and Frank Andrews is husband and agent.

They would like to park their vehicles closer to the house and put tractor and farm tools inside, such as: tractor, brush hog, disk, plow and other tools which are now outside and to put undercover.

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

Mr. Andrews said they would like to have the building 10 feet from the house. He said they are getting older and prefer less walking distance. At present, garage is 25 feet from the house.

Building Inspector said per Ordinance, structure has to be no closer to the residence than 25 feet.

Chairman asked how high will the walls be and Mr. Andrews said 10 foot walls

Board members - no concerns

Building Inspector - nothing to add

Attorney - no concerns

Chairman - Refer to Application "H" Considerations by Zoning Board of Appeals:
If request is for Area Variance, benefit to applicant versus detriment
to the community:

1. If variance will cause change in neighborhood.
2. If benefit sought can be achieved by other feasible means.
3. If variance is substantial.
4. If change will have adverse physical or environmental impact.
5. If existing condition is self-created.

Mr. Johnson said Mrs. Andrews has a health issue and would be easier for her to have building closer to the house.

A motion was made by Mr. Robinson and seconded by Mr. Johnson to **approve** Application of Cheryl Andrews, 3613 Ridge Road, Lockport for an Area Variance to permit applicant to construct a pole barn with dimensions of 26 feet by 40 feet and an attached lean-to containing dimensions of 8 feet by 32 feet which would be located within 10 feet of her residence. Unanimously approved, motion carried.

PUBLIC HEARING:

**ZB AV 2016-003 JOSEPH and LINDA WEGRZYN
(05-04-16)**

SBL 105.13-1-30 Mr. Wegrzyn was present at this meeting and has submitted the following: Application for Area Variance to add 24 feet by 16 feet to existing pole barn, Agricultural Data Statement, Survey and Town map.

Mr. Wegrzyn said his present building is in need of repair and in need of more room and plans to add to existing building and join it to existing pole barn. He then said he would like to add 4 feet to the 16 feet shown on survey.

Public Hearing:

Public Hearing Notice says 24' by 16' addition to 24' by 32' on to an existing barn and applicant would like 4' more added to 20' by 24'. Addition would be 96 square feet, larger than originally proposed.

Attorney ruled that addition (20' by 24') size of structure, 4' more is not substantial enough for a new application and require a Notice of a new Public Hearing and the Board could proceed on application as amended.

Applicant said he talked with neighbors and they had no problem with the addition. Existing garden shed will be taken down. Per applicant, all of his equipment can be stored in the building.. Roof will follow current building. Side and roof material will match current structure.

Chairman asked if application would have to be amended? Answer was "yes",
96 square feet larger than original proposal, so new addition will be **20 feet by 24 feet**.

Per applicant, he will be able to store all of his equipment inside the building.

Chairman then went through "H" on application:
Considerations by Zoning Board of Appeals:
If request is for Area Variance, benefit to applicant versus detriment to community:

1. If variance will cause change in neighborhood.
2. If benefit sought can be achieved by other feasible means.
3. If variance is substantial.
4. If change will have adverse physical or environmental impact.
5. If existing condition is self-created.

Concerns of Board members, Building Inspector Attorney - none.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **approve amended application** of Joseph and Linda Wegrzyn, 2980 Carney Drive, Sanborn, for an Area Variance to permit applicants to construct an addition with dimensions of 20 feet by 24 feet to an existing pole barn with dimensions of 24 feet by 32 feet upon said premises and an existing shed will be torn down. Unanimously approved, motion carried.

Old Business - none
New Business - none

REPORTS:

Chairman - Next meeting July 25, 2016
Building Inspector - none -
Attorney - a few minor amendments to proposed revision
Board members -none -

Motion by Mr. Smith, seconded by Mr. Robinson to adjourn at 8:30 P.M

Respectfully submitted,
Marjorie E. Meahl
Marjorie E. Meahl, Rec. sec.

Minutes: approved: Aug. 22, 2016