

**Town of Cambria
Zoning Board of Appeals Meeting
June 26, 2017**

The regular monthly meeting of the Zoning Board of the Town of Cambria was called to order by Peter Smith, Chairman at 7:00PM. Everyone was welcomed to the meeting, followed by the Pledge to the Flag.

Members Present: Peter Smith, Chairman
Thomas C. Andrews
Bradley Rowles
Alan Johnson
Harmony Retzlaff-Hurtgam

Members Absent: Cheryl L. Shoop, Alternate

Also Present: Randy Roberts, Councilman, Town Board Liaison
Matt Foe, Councilman
William Amacher, Chairman, Planning Board
James McCann, Building Inspector
Gary Billingsley, Attorney

A motion was made by Mr. Johnson and seconded by Mr. Rowles to approve the Minutes for the May Meeting as presented, unanimously approved, motion carried.

Special Permit

**ZBSP-2016-0004 Michael Hansen
5459 Comstock Rd, Lockport, NY 14094
SBL#121.00-2-4.11
Store Tree Service Equipment**

Mr. Hansen was present at the meeting and would like to renew his Special Permit to store tree service equipment at 5459 Comstock Road. This is the first renewal for this Special Permit, the initial permit approval last year was for one year. According to Mr. McCann there have been no issues with this Special Permit.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to renew this Special Permit for 5 years, all in favor, motion carried.

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Special Permit Alan Tarnowski
4663 Baer Rd, Ransomville, NY 14131
SBL# 105.00-2-14
Maintain Car Repair Shop

Mr. Tarnowski was present at the meeting, and would like to renew his Special Permit to operate an auto repair shop at his residence at 4663 Bear Road. According to Mr. McCann there have been no issues with this Special Permit. This permit has been renewed numerous times without issue.

A motion was made by Mr. Johnson and seconded by Mr. Rowles to renew this Special Permit for 5 years, all in favor, motion carried.

New Business

ZBAV-2017-007 Robert-Kaylynn Kalota
5882 Shawnee Rd, Sanborn, NY 14132
SBL# 120.00-1-74

Public Hearing Notice

Area Variance to permit applicants to construct an accessory building with dimensions of 40 feet by 60 feet upon said premises, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an accessory building that exceeds 1,000 square feet upon such a parcel.

Mr. Kalota was present at the meeting and would like to construct a 40 x 60' storage building. He would use the building to store his two boats, tractor, RTV, ATV, and other items. In addition Mr. Kalota plans to purchase an RV when he retires, and will need a place to store that too. Mr. Kalota would like a building this size to accommodate his "toys" and still have enough room to work on things inside the building when necessary.

Public Hearing-Open

No comments

Public Hearing-Closed

The Board explained to Mr. Kalota that the Zoning Ordinance is very clear on the size of accessory buildings. The Zoning Ordinance for the Town of Cambria clearly states that accessory buildings cannot exceed 1000 square feet. The Board asked Mr. Kalota to explain why he needs such a large building, could he make due with a smaller building or possibly 2 smaller buildings? Mr. Kalota explained that he needs this size building to accommodate his boats. One boat is 26' x 10' and the other is 28' x 12' with additional height and width added to each boat when trailered. Mr. Rowles explained that the Board needs to adhere to Town Law; this proposed building exceeds that limit.

ZBAV-2017-007 Kalota-continued

Mr. Kalota stated that he has seen many larger accessory buildings in the Town of Cambria. Mr. Rowles explained that the Zoning Ordinance changed January 1, 2017. The previous ordinance allowed an accessory building to be the same first floor square footage of the existing house. Mr. McCann stated that the Town is trying to make the law fair to all residents. Mr. Kalota stated that he has purchased additional property to make his lot bigger to accommodate the large accessory building. Mr. Smith asked how tall the proposed accessory building will be. According to Mr. Kalota the proposed building height will be 17' and 19' at its peak. This will accommodate his boats which have a height of 13' when trailered. Mr. Kalota owns all the items he intends to store in the proposed building. Mr. Kalota stated that he and his wife keep a very neat and tidy well maintained home and feel that should be a consideration in granting this Area Variance. Mr. Billingsley suggested 2 smaller buildings of 1000' each; this would meet Mr. Kalota's needs and adhere to the current Zoning Ordinance. Mr. Kalota stated that it will be less expensive to construct one large building instead of two smaller buildings. Mr. Rowles, Mr. Johnson, and Mr. Andrews discussed the current Zoning Ordinance with Mr. Kalota and explained that what he is requesting is well over the square footage allowed by the current ordinance. The Board stated again that 1000 square feet is the law for the Town of Cambria.

A motion was made by Mr. Rowles and seconded by Mr. Andrews to deny this Area Variance. As the vote was not unanimous the secretary was asked to poll the Board, and the votes were recorded as follows:

Mr. Rowles- Yes

Mr. Andrews- Yes

Mr. Johnson- Yes

Ms. Retzlaff-Hurtgam - Yes

Mr. Smith- No

The Area Variance was denied, motion carried.

ZBAV-2017-008 Janice Salerno-David Kutis
3101 Lower Mountain Rd, Sanborn, NY 14132
SBL# 105.00-1-11.12

Public Hearing Notice

Area Variance to permit applicants to construct a barn with dimensions of 70 feet by 80 feet approximately 30 feet from the west side lot line upon said premises, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an agricultural building closer to a side lot line than 100 feet.

Ms. Salerno was present at the meeting and stated that she would like to construct a 70 x 80' pole barn on her property at 3101 Lower Mountain Road for horses.

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ZBAV-2017-008 Janice Salerno-continued

Public Hearing-Open

No comments

Public Hearing-Closed

Ms. Salerno stated that she would like to construct the pole barn on the 5 acres she owns with David Kutis. She would like the proposed building to be 30 feet from the west side lot line. The property on the west side is 56 acres owned by she and her sister Rosanne Salerno.

Mr. Rowles stated that the location of the proposed building would be fine if Ms. Salerno were the sole owner of both properties, but what happens in the future if one or more parcels were to be sold, and then it becomes an issue. The Board suggested reconsidering the proposed site and she should give consideration to placing the proposed pole barn in the center of her property, then there will be no further issue to discuss with this board.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to table this Area Variance to allow Ms. Salerno the opportunity to reconsider the site for the proposed pole building, all in favor, motion carried.

ZBAV-2017-009 Cindy-Craig Smith
5834 Shawnee Rd, Sanborn, NY 14132
SBL# 120.00-1-50

Public Hearing Notice

Area Variance to permit applicants to construct an addition to an existing garage upon said premises containing dimensions of 30 feet by 36 feet, which addition would result in said garage containing 1416 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of a garage that exceeds 1000 square feet.

Mr. and Mrs. Smith were present at the meeting and stated they would like to replace their old garage that is rotting and falling down. They plan to use the space for a workshop and to store classic cars.

Public Hearing-Open

No comments

Public Hearing-Closed

The proposed addition to an existing building would be 30 by 36', stick built with vinyl siding. Mr. Johnson asked if they would consider 2 buildings. Mrs. Smith asked with all due respect to the Town why they would want people to have two buildings instead of one really nice building. Mrs. Smith stated that they keep their property well maintained, they own four acres on the other side of proposed site, and the neighbors on the other side have no issue with the proposed addition.

ZBAV-2017-009 Cindy-Craig Smith-continued

A motion was made by Mr. Andrews and seconded by Mr. Rowles to approve this Area Variance to allow Mr. and Mrs. Smith a 30 by 36 ' addition to existing garage, all in favor, motion carried.

ZBUV-2017-010 Thomas Ohol-Owner

ZBAV-2017-003 5832 Comstock Rd, Lockport, NY 14094

Jeanette Prohaska-Potential Buyer

Regarding Vacant Land Located on Lockport Rd

SBL# 121.00-2-46.211

Public Hearing Notice

Area Variance-To permit applicant to construct a residence approximately 185 feet from the road right -of-way upon premises located in the B-2 Zoning District on the north side of Lockport Road westerly of the intersection of Lockport Road and Campbell Boulevard, whereas the Zoning Ordinance does not permit construction of a residence farther from the road right-of-way than 125 feet.

Public Hearing Notice

Use Variance-To permit applicant to construct a residence upon said premises located in the B-2 Zoning District on the north side of Lockport Road westerly of the intersection of Lockport Road and Campbell Boulevard, whereas a residential dwelling is a prohibited use in the B-2 Zoning District of the Town of Cambria.

Ms. Prohaska was present at the meeting and stated that she would like to build a house and business on the above mentioned 3.5 acre lot owned by Mr. Thomas Ohol. The business would be located in the front of the property with the house is located in back.

Public Hearing-Open

No comments

Public Hearing-Closed

Mr. Billingsley stated that the Zoning Board of Appeals has had some difficult applications recently. He pointed out that the Zoning Board cannot disregard the Zoning Ordinance, and that the spirit of the Zoning Ordinance must be observed. The Zoning Board would be rewriting the Zoning Ordinance if they grant this use variance. Only the Town Board has the authority to amend the Zoning Ordinance. There are four criteria which must all be met in order for this Board to grant a use variance.

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ZBUV-2017-010 Thomas Ohol-Owner

ZBAV-2017-003 Jeanette Prohaska-Potential Buyer-continued

The applicant cannot show a reasonable return cannot be realized from the property as is, since the property can be used for any B-2 use. Applicant cannot show that its alleged hardship is unique. Applicant cannot show that the requested change will not alter the character of the neighborhood, since there are no other residences in that portion of Lockport Road. Applicant cannot show that the hardship is not self-created, since it would be purchasing property that clearly does not permit residences. The property is zoned for Business and the Zoning Ordinance prohibits construction of a residence in the B-2 Zone. This Board is being asked to go beyond what the law permits. Mr. Billingsley ruled that this application must be denied as a matter of law. Ms. Prohaska asked why, if this is against the law in the Town of Cambria is she even here, why was the application accepted? She will have no problem going to the Town Board to get the approval she is seeking. Mr. Billingsley stated that the Town Board does not re-zone property and does not grant variances, she would be asking the Town Board to create a new law. What she is trying to do is not permitted in the B-2 Zoning District. Every variance does not get approved that is presented before this Board. Mr. Billingsley stated that he is not a voting member of either Board, but provides legal counsel.

Ms. Prohaska asked about the houses on the corner of Lockport Road and Campbell Boulevard, if this property is Zoned B-2 how are residences located in an area where they are prohibited. Mr. McCann stated he recently learned that when this parcel was re-zoned many years ago the houses remained A/R or Agricultural/ Residential as all the property once was prior to re-zoning.

A motion was made by Mr. Johnson and seconded by Mr. Rowles to deny this Use Variance, all in favor, motion carried.

Applicants request to construct a residence 185' from road right-of-way would accordingly also be denied, due to the foregoing denial of the Use Variance request.

Old Business

Use Variance

ZBUV-2017-002 Leroy Gates
2505 Wilson-Cambria Rd, Wilson, NY 14172
Concerning 3938 Ridge Rd
SBL# 92.00-1-6

Mr. Gates was present at the meeting and would like this Use Variance to sell used cars on the property he owns at 3938 Ridge Road. He would like to start with 6 cars to sell. This property is 154.4 feet by 149.6 feet. This property is Zoned A-R not B-2. Mr. Billingsley stated that the Zoning Ordinance of the Town of Cambria does not permit the sale of used cars in the A-R Zoning District of the Town of Cambria.

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ZBUV-2017-002 Leroy Gates-continued

Even if Zoned B2 vehicles would have to be located 80' off both Roads. The Niagara County Planning Board "voted that the project has no significant county- wide impact "and sent it back to the Town of Cambria

The Board stated even if premises were Zoned B2, the 80' set back from both Ridge Road and Cambria-Wilson Road would be required.

A motion was made by Mr. Rowles and seconded by Mr. Andrews to deny this Use Variance all in favor, motion carried.

Reports

Chairman- Nothing at this time.

Building Inspector- Nothing at this time.

Attorney- Nothing at this time.

Board Members- Nothing at this time.

The next meeting of the Zoning Board of Appeals will take place July 24, 2017
at 7:00PM.

A motion was made by Mr. Johnson and seconded by Mr. Andrews to adjourn the meeting
at 8:07PM all in favor, motion carried.

Respectfully Submitted by
Melinda Olick