

March 26, 2012

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
Member absent: Theresa Kroening
Also present: Matthew Foe, Councilman
Robert Blackman, liaison
Clifford Burch, 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 applications:

(02-23-12) KEITH LASAL, 4909 Saunders Settlement Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to construct a 12 foot by 24 foot addition to an existing detached garage upon said premises within approximately 4.8 feet of the east side lot line, said existing detached garage having current dimensions of 24 feet by 22 feet, which will result in said detached garage containing approximately 816 square feet, whereas the Zoning Ordinance does not permit construction of a detached garage that exceeds 720 square feet, or closer to a side lot line than 15 feet.

(03-01-12) PAUL TORREANO and JOANNE TORREANO, 4400 Upper Mountain Road, Lockport, New York 14094, for an Area Variance to permit applicants to construct an addition to their existing residence upon said premises containing dimensions of approximately 16 feet by 16 feet including porches on both sides thereof within approximately 40 feet of the road right-of-way, whereas the Zoning Ordinance does not permit construction of a residence closer to the road right-of-way than 60 feet.

(03-05-12A) DAVID ERWAY, 4204 Willow Road, Wilson, New York 14172, owner, and **LYNDA McSPADDEN**, 2911 Maple Road, Wilson, New York 14172, applicant, for an Area Variance to permit applicant to construct a hot dog stand with dimensions of 10 feet by 16 feet upon premises commonly known as 4078 North Ridge Road within approximately 38 feet of North Ridge Road, whereas the Zoning Ordinance does not permit such structures closer to the road right-of-way than 80 feet.

(03-05-12B) ROBERT BLACKMAN, 4472 Thrall Road, Lockport, New York 14094, for a Special Permit to permit applicant to maintain temporary living quarters for farm laborers upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to approve minutes of meeting of February 27, 2012 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (tabled from February 27, 2012)

1992-02 Terry Zastrow, 4258 North Ridge Road, Lockport, N.Y. 14094
Special Permit for "Shaklee" Products' business

There was no one present at the February meeting for Mrs. Zastrow and action was tabled for one month.

Mr. Reardon received a phone call from Mrs. Zastrow pertaining to the renewal of Special Permit. He requested Mrs. Zastrow to submit a letter in writing to the Zoning Board as to her wishes for the Special Permit.

A letter to Mr. Reardon, Zoning Board, dated March 20, 2012 was received from Mrs. Zastrow in which she requested the Special Permit for “Shaklee” business be renewed for another 5 years. She said due to her work schedule, is unable to attend the Monday night meetings. She requested no changes in the Special Permit.

Building Inspector said he had received no complaints on this business.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **renew** Special Permit to Terry Zastrow for the “Shaklee” products’ business for a period of five (5) years retroactive to February 2012. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWALS (Current)

1997-01 James Puchlerz, 5070 Saunders Settlement Road, Lockport, N.Y. 14094
Special Permit to keep livestock on less than 5 acres
Lease agreement with Thomas Class for the 5 acres of land at 5080 Saunders Settlement Road is due for renewal.

Mr. Puchlerz was present at this meeting and said he would like to renew the Special Permit to keep livestock on less than 5 acres, and has a new lease agreement with Thomas Class for the 5 acres at 5080 Saunders Settlement Road for the period March 2012 through March 2017.

Building Inspector had no concerns on this Special Permit.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **extend** Special Permit of James Puchlerz to keep livestock on less than 5 acres for a period of five (5) years. Lease agreement with Thomas Class for five (5) acres at 5080 Saunders Settlement Road from March 2012 through March 2017 coincides with Special Permit. Unanimously approved, motion carried.

2002-02 (02-14-02B) AT&T Cingular Wireless

Special Permit for co-location of personal wireless telecommunication service facility equipment on existing tower at 4160 Upper Mountain Road, Sanborn 14132 – Re: FA10032308

This renewal was due in March 2012, but due to the fact it took some time to locate the correct contact person and address, it was too late for them to respond in time for this meeting. A letter was finally sent on March 21st regarding the renewal, request for length of time (5 years) and also to notify them of the renewal fee of \$500.00 is due. They were informed that the Zoning Board will meet on Monday, April 23rd, to act on this renewal.

A motion was made by Mr. Bechtel and seconded by Mr. Smith to **table** action on renewal until the April meeting. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(02-23-12) KEITH LASAL was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, and copy of portion of deed description.

Mr. Lasal is requesting an Area Variance to construct a 12 foot by 24 foot addition to an existing garage (816 square feet) 4.8 feet from east side lot line and Zoning Ordinance does not permit construction of a detached garage that exceeds 720 square feet or closer to side lot line than 15 feet.

Public Hearing open:

Scott Reiter, 4917 Saunders Settlement Road, Lockport, 14094 who lives on the east side of Mr. Lasal, asked if a new survey would be prepared for the lot line and expressed concern about drainage between his property and Mr. Lasal's out to the road. At times there is standing water between the two properties.

Public Hearing closed.

Concerns of board members:

Mr. Smith asked applicant what he is going to use the new addition for?

Mr. Lasal said he is adding the bay for his daughter to park her car in and personal storage.

Mr. Smith asked regarding the drainage, where does the water go now from the existing garage?

Mr. Lasal said now the water goes between the two lot lines and out to the road, Saunders Settlement Road. Most of the water comes from north (back).

Mr. Reardon asked applicant if there would be any way to put the addition on to the other side of the house?

Mr. Lasal said there would not be enough room on the other side of his house for the addition. The new building will be 12 feet high.

Counsel asked applicant if there would be any way to have water guttered away and go more toward the west draining from the back between the two houses?

Mr. Lasal said standing water problem is only during certain times of the year.

Building Inspector said this happens when we have a hard rain and then there is a problem with the ditch to the road.

Counsel said Saunders Settlement Road is a County road and suggested applicant get in touch with highway superintendent of the County on this issue.

Mr. Lasal said there is a little swale now between the two homes.
Mr. Bechtel asked applicant if the swale could be dug a little deeper?
Mr. Lasal said it does drain and goes to the road. At times it does dry up.

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

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to **approve** request of Keith Lasal for an Area Variance to permit applicant to construct a 12 foot by 24 foot addition to an existing detached garage upon said premises within approximately 4.8 feet of the east side lot line, said existing detached garage having current dimensions of 24 feet by 22 feet, which will result in said detached garage containing approximately 816 square feet. Unanimously approved, motion carried.

(03-01-12) PAUL and JOANNE TORREANO were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, sketch of the proposed addition and copy of Survey.

Mr. Torreano said they would like to construct a living room with porch on either side, dimensions of approximately 16 feet by 16 feet. He said he is not sure if they will put a porch on the east side.

Public Hearing open:

Elaine Clark, 4408 Upper Mountain Road, Lockport, lives on the east side of Mr. and Mrs. Torreano and expressed concern about where the porch will be. She said her bedroom is on the west side of her home and asked applicants if that is where the porch will be?

Public Hearing closed.

Concerns of board members:

Mr. Smith asked applicant where will the addition face?

Mr. Torreano said the addition, living room, will face the road and porch will be on either side of new addition. Applicant showed Mrs. Clark where the addition will be in a picture.

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

Building Inspector had no further comments. The addition will be closer to the road.

Counsel said Niagara County Planning Board recommended approval of this request.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** request of Paul and Joanne Torreano for an Area Variance to permit applicants to construct an addition to their existing residence upon said premises containing dimensions of approximately 16 feet by 16 feet including

porches on both sides thereof within approximately 40 feet of the road right-of-way. Unanimously approved, motion carried.

(03-05-12A) DAVID ERWAY, 4304 Willow Road, Wilson, 14172, owner, not present at this meeting, and **LYNDA McSPADDEN**, applicant, 2911 Maple Road, Wilson 14172, have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and sketch of the property showing Coulter Farm Market, L.J. Ice Cream and proposed hot dog stand, parking, etc.

Also present at this meeting, Paul Biddlecombe, friend of Ms. McSpadden.

Ms. McSpadden said the free-standing hot dog stand, dimensions approximately 10 feet by 16 feet, would be about 38 feet from Route 93 (North Ridge Road).

Public Hearing open:

Joseph Naab, 4091 North Ridge Road, Lockport 14094, asked applicant how far from the road would the building be? He said his home is for sale and this building will devalue his property. A border is needed along North Ridge Road. Also, there will be dust coming into his home. The entrance and exit are close to the parking lot. Are they going to submit a site plan? He has no objection to the hot dog stand. Why can't they put the hot dog stand on the other side of the property?

Diane Cassick, 4090 North Ridge Road, Lockport, N.Y. 14094, is concerned about safety for the children. After the baseball games in the summer recreation program, a lot of the children come to that property and have ice cream. Are they going to put a fence around the property line, safety for the kids?

Public Hearing closed.

Concerns of board members:

Mr. Robinson asked how far from the road will the hot dog stand be?
Stand will be approximately 38 feet from the road right-of-way.

Mr. Smith asked if stand would be north and next to the restaurant where picnic tables are?

Building Inspector asked what type of fence could they erect?
Ms. McSpadden said a split rail fence would be okay with her.

Building Inspector said if the stand were to be placed on the south side of farm market, that would interfere with unloading of produce for the market.

Mr. Reardon asked applicant if they had been there before?

Ms. McSpadden said there is no room inside the building for a hot dog stand. The entrances from Routes 93 and 425 are in and out, and will not be creating a third entrance. Safety is a concern. She said

there has been no problems in the past with traffic on this property. The baseball teams come through about three nights per week.

Mr. Reardon said it was mentioned devaluing of property in the area, we can't control that. He asked what is the time table and when do they plan to start construction of the hot dog stand?

Answer was hopefully to start within the month depending on the weather.

Ms. McSpadden said they plan to have the facility open May through September.

Building Inspector had no further comments.

Counsel's understanding is that applicant is to erect a split rail fence, extending existing fence toward North Ridge Road (Rt. 93).

Applicant agreed to construct a split rail fence.

Mr. Bechtel suggested planting some trees.

Building Inspector said that might cut off some of the visibility.

Counsel said the Niagara County Planning Board recommended approval of this application for a variance.

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

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to **approve** application for Area Variance to David Erway, owner, and Lynda M. McSpadden, applicant, to permit construction of a hot dog stand with dimensions of 10 feet by 16 feet upon premises commonly known as 4078 North Ridge Road within approximately 38 feet of North Ridge Road, with stipulation a split rail fence be erected along property line and extend to the right-of-way, approximately 33 feet from center line of the road. Unanimously approved, motion carried.

2012-03 (03-05-12B) ROBERT BLACKMAN was present at this meeting and has submitted the following: Application for Special Permit, Short Environmental Assessment Form, Agricultural Data Statement, copy of portion of town map and sketch of property showing buildings, silos, house and option number 1 and option number 2 for placement of a trailer.

Mr. Blackman said he would like a Special Permit to place a trailer on his farm to house seasonal farm laborers, maximum of four (4) from July through October. One of the people he hires does not drive. The most he would have is during harvesting of pears and apples. Other times would be one or two people.

Public Hearing open:

Keith Anterline, 4850 Blackman Road, Lockport, said he would like to see the site plan of the housing before commenting on the issue.

Richard Oliphant, 4882 Blackman Road, Lockport, asked how many trailers does applicant wish to have, where will they be located and for how long will Mr. Blackman have the trailers?

Mr. Blackman said there will be just one (1) trailer, and Option No. 2, as shown on the sketch plan, is the location he prefers.

No further questions at this time.

The sketch of Mr. Blackman's buildings and where he proposes to place the trailer, Option No. 2, was shown to residents in attendance.

The following questions were asked by Mr. Anterline?

1. Will there be two trailers on Mr. Blackman's property? There are limitations on trailers in the town. They will decrease property values.
2. Where is the human waste going to go?
Mr. Blackman said there will be a portable "John" on the property and waste will be picked up by Modern Disposal Service once a week.
Mr. Anterline asked, will it be accumulating, go into the creek, or along side of the property, pollution problem?
3. What are the hours of operation at the farm? Needs to be some restrictions.
4. Type of trailers, size, showers, how long will the farm laborers be in these trailers?
5. Will the trailer be on the property permanently? Don't want to see a trailer park, should be removed at the end of picking season, should not be left there.
6. Will the farm laborers be on the farm all year long?
7. Need more open forum at the meetings.

The following questions and concerns expressed by Jacqueline Preisch, 4444 Lower Mountain Road, Lockport, sister of Beverly Dakin, who lives in Georgia.

1. Who can we ask to get answers in the future if problems arise from the neighbors on the trailer issue? What is our recourse, example, theft? What if bad things happen, do we come before the board? We want to protect our property.

Mr. Anterline said he will follow through and get other people involved.
No further concerns expressed by the public this evening.

Public Hearing closed.

Concerns of board members:

Mr. Smith asked Mr. Blackman where he plans to place the trailer?

Mr. Blackman said he will use Option No. 2 as shown on sketch as he feels that is the best location and there will be just one (1) trailer located behind the pole barn, will not be noticeable from

Thrall Road, will be using a portable “John” which will be pumped out into a Modern Disposal truck once a week. There is a shower in the former milk house. The maximum number of farm laborers would be four (4) at picking time, otherwise one or 2 people. This is for seasonal help.

Chairman reiterated, this trailer will be for seasonal farm laborers and not full-time occupancy. This request is for a Special Permit, first time is for one year and could be renewed. Chairman said during the time, one year, if there are concerns from neighbors or legal issues, etc., they should contact the Building Inspector or the town. The Zoning Board does not enforce the laws. Mr. Blackman said he understands the concerns of the neighbors.

Mr. Reardon said this is not precedent setting, not a first time request for a trailer for farm laborers in the town.

Building Inspector said there are Special Permits in effect at present for four (4) farmers in the Town of Cambria for a trailer on each farm for temporary farm help as of today.

Mr. Bechtel asked how many trailers is applicant requesting?

Mr. Blackman said he is asking for one (1) trailer to be placed on Option No. 2 in sketch plan.

Building Inspector said if there are problems, go to the police. There have been no problems with the other trailers in the town.

Mr. Reardon said Mr. Blackman is going with Option No. 2 for the placement of the trailer as this area is more private for the laborers and also for the neighbors.

Counsel asked Mr. Blackman if he knows what the approximate size the trailer will be?

Mr. Blackman said the trailer will be large enough for maximum of four people, need four to harvest pear crop, earlier in the season need only two people. He said the persons he has in mind have worked for him in the past, which goes back approximately 10 years. Trailer would remain on the farm and would be locked and put inside behind main barn and would not be visible from the road.

Mr. Reardon said this trailer would be housing temporary seasonal help and not be rented out.

Mr. Blackman said that is correct and there would be no sale of products from the trailer, hours of operation are variable. Those residing in the trailer would be working on the farm all day long during the week, perhaps 8 to 10 hours, and weekend shopping etc. He said he would be in the area every day and can observe what goes on. These are people he trusts.

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

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** application for Special Permit for a period of one (1) year to Robert Blackman to maintain temporary living quarters for seasonal (not year round) farm laborers, a maximum of four (4) upon premises at 4472 Thrall Road, Lockport. There will be a single trailer on the property, site no. 2, as shown on the sketch and will be placed behind existing pole barn. Unanimously approved, motion carried.

REPORTS:

Chairman - Received letter from Matthew Foe, Town of Cambria Councilman, to Mr. Reardon, dated March 12, 2012. Mr. Foe, present at this meeting, said a committee has been formed consisting of Mr. Foe, Chairman, Lou Ann Murawski, Town Clerk and Randy Roberts, Councilman, to review/update Zoning Ordinance, Local Law #1 1997 – regulating Personal Wireless Telecommunication Service and Towers, Local Law #1 2009 – Local Law to regulate Wind Energy Systems, etc. They would like some input from the Zoning Board, review the laws and suggest any changes, etc.
 A work meeting is scheduled for 7:30 P.M. prior to April 23rd regular meeting.

Kenith and Dolores Hill, 3262 Lower Mountain Road, Sanborn 14132

Re: need for Special Permit for their “commercial equine operation”

Discussion: No further communication since the Hill’s last letter of January 24, 2012 and Gary Billingsley, Attorney’s response dated March 12, 2012.

(10-17-11) Carol Vosburgh / Lori Kendzia

Re: Variance to park used cars for sale at 2970 Saunders Settlement Road

No further information has been received or response to letters sent as of this date. The public hearing was held in December 2011.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **deny** request for a variance to sell used cars at 2970 Saunders Settlement Road, for failure to submit additional information to modify additional request to place vehicles 10 feet of the road right-of-way. Also, Niagara County Planning Board recommended denial of the request for a variance. Unanimously approved to deny, motion carried.

2011-10 (10-06-11) Modern Recycling, Inc. – request for Special Permit Amendment to add “Composting” operation on their property at 5204 Lockport Junction Road.

No further information has been received regarding DEC negative declaration. Further **tabled**.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 9:27 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____