

The ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by John Reardon, Chairman, at 8:05 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, Donald Robinson, Peter Smith  
Also present: Michael Sieczkowski, alternate  
Matthew Foe, Councilman  
Joseph Ohol, Councilman  
James McCann, Building Inspector  
Gary Billingsley, Attorney  
Randy Roeseler, Wendel Duchscherer Engineers

Secretary read Notices of Public Hearings as they appeared in the Lockport Union Sun and Journal to consider the following applications:

**2013-03 (04-30-13) GARY and JUDY HEPPNER**, 5399 Cambria Road, Sanborn, N.Y. 14132, for a Special Use Permit to permit applicants to construct a 150 foot Commercial Wind Energy System, namely a windmill with a height of 152 feet, upon said premises approximately 330 feet from the road right-of-way as permitted by Local Law No. 1 of the year 2009, a Local Law to Regulate Wind Energy Systems within the Town of Cambria.

**(04-23-13) CRAIG and TAMMY CAMPBELL**, 5783 Willow Creek Lane, Sanborn, N.Y. 14132, for an Area Variance to permit applicants to construct a shed upon said premises containing dimensions of 15 feet by 15 feet, whereas applicable restrictions appear to prohibit such sheds whose dimensions exceed 12 feet by 10 feet.

**(05-03-13) JAY WENDT and GLENN WENDT**, 3030 Saunders Settlement Road, Sanborn, N.Y. 14132, for a Variance to permit applicants to construct an accessory building containing approximately 3000 square feet upon said premises whose principal dwelling contains approximately 1700 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an accessory building exceeding the square footage of the first floor of the principal dwelling upon said premises.

**(05-02-13) HAROLD BRYANT**, 6314 Hoover Road, Sanborn, N.Y. 14132 for a Use Variance to permit applicant to construct a building with dimensions of 32 feet by 24 feet upon premises on the north side of Lockport Road between Meahl Road and Diller Road that does not contain another principal building. The Zoning Ordinance of the Town of Cambria does not permit construction of such a structure when there is not a principal structure on said premises.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to approve minutes of meeting of April 22, 2013 as presented. Unanimously approved, motion carried.

**SPECIAL PERMIT RENEWAL** (tabled from April 22, 2013)

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

A second notice was sent to applicants notifying them of their renewal. There was no one present at the April 22<sup>nd</sup> meeting or tonight's meeting and no response to the letters.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to table renewal of the Special Permit until the end of the meeting and see if someone appears. Unanimously approved, motion carried.

## **PUBLIC HEARINGS:**

**2013-03 (04-30-13) Mr. and Mrs. Heppner**, along with Thomas Fleckenstein, representing Niagara Wind and Solar, Inc. 7510 Porter Road, Suite 4, Niagara Falls, N.Y. 14304, were present at this meeting and have submitted the following: Cover letter dated April 30, 2013 stating what was in the attached packet to request a Special Use Permit for installation of a 10kW WECS (windmill):

1. Application to the Town of Cambria ZBA
  - a. Site Plan
  - b. Electrical Drawing
  - c. Picture of installed WECS system
2. Agricultural Data Statement
  - a. Site Plan
  - b. Parcel Detail
  - c. Satellite View showing Parcel
3. Long Form Environmental Assessment Form

Mr. Fleckenstein said applicants would like a Special Use Permit to construct a 150 foot Commercial Wind Energy System with a height of 152 feet overall on their property. It will be a small Commercial 10kW with 140 foot Self-supporting Lattice Tower. It has not been determined the exact location where the windmill will be placed as of this date. May place the tower approximately 20 feet from where shown on existing Site Plan. Tower will be 152' to the tip of the blade. The National Grid kWh meter to be replaced with a net meter at project completion

The windmill produces more power in the Winter time than the Summer. All electrical conduits will be buried below the ground. Turbine plates will be white or gray, whatever meets requirements under Local Law dated 2009. Tower greater than 100 feet is a Commercial unit per definition in Local Law, will be the same as one installed on property of Arrowhead Spring Vineyards. Arrowhead will use 100 percent of the power from the windmill and Heppner's will not be using 100 percent of the power generated. They are applying for a NYSERDA grant.

At 30 feet higher than nearby trees or buildings the wind is better on a 140 foot tower with 152 feet tip.

Counsel asked engineer how much information is needed? Although defined as a Commercial system due to height, it is not a large system. Applicant and Mr. Fleckenstein will be working with town engineer on what is needed for the Planning Board to go along with Local Law. Plans should be ready for June 17<sup>th</sup> Planning Board meeting. Also, will take care of SEQR at that time. The Zoning Board is not in a position to make any decision this evening. Planning Board will be Lead Agent under SEQR.



**PDF Complete**  
Your complimentary use period has ended.  
Thank you for using PDF Complete.

[Click Here to upgrade to Unlimited Pages and Expanded Features](#)

Public Hearing open.

Carl Schul, 5340 Cambria Road, Sanborn, N.Y. 14132, asked what decibels does this produce? In the future may want to sell property for housing and now is in a flood zone. Windmills do make noise if commercial. If residential, has no concern.

No further concerns from the public.  
Public Hearing closed.

Concerns of board members:

Mr. Bechtel referred to windmills in Java, get underneath can hear a swishing sound. Windmills in Java are about 400 feet tall.

Mr. Fleckenstein said this proposed windmill is not what would be a commercial turbine. The ones in Lackawanna are commercial. The one to be used by the Heppners is considered a small residence turbine. He said at a point 39 miles per hour, starts to feral. Grid failure if a car hits a pole, will shut down until there is power in the grid.

Mr. Roeseler will be working with Niagara Wind and Solar to address issues.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **table** application of Mr. and Mrs. Heppner until next month and more information is received. Unanimously approved, motion carried.

**(04-23-13) CRAIG and TAMMY CAMPBELL**

Mr. Campbell was present at this meeting and the following have been submitted:  
Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey.

Mr. Campbell said he would like to construct a 15 foot by 15 foot shed for storage of riding lawn mower, push mower, grill, snow blower, picnic table and garden tools. Property is located in Willow Creek Estates and when it was originally planned was going to be "Patio Homes", single story. Then the developer changed builders to Ryan Homes and wished to have the option to also construct two-story homes which was approved by the Town Planning Board and amendments to the "Declaration to the Covenants and Restrictions" were approved and recorded in the Niagara County Clerk's office.

The restriction that applies to Mr. Campbell's issue is No. "2.16 Permitted Accessory Buildings. Accessory buildings whose dimensions do not exceed ten (10) feet in width and twelve (12) feet in depth are permitted hereunder."

Mr. Campbell said he needs more room to store the aforementioned and 10' by 12' building is not large enough.

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



**PDF Complete**  
Your complimentary use period has ended.  
Thank you for using PDF Complete.

[Click Here to upgrade to Unlimited Pages and Expanded Features](#)

Concerns of board members.

Chairman said there is a Covenant in the Willow Creek Estates which states what is permitted and what is not permitted in this subdivision. He asked applicant if he had discussed the issue of the Covenant with his attorney? He should have been aware of this Covenant when he purchased the property.

Mr. Campbell said paper work was done after they moved into the home. He said he paid for the Application fee for the Variance.

Building Inspector said the original proposal was to permit a 10ø by 10ø accessory building for øPatio Homesø in Willow Creek Subdivision. Then Ryan Homes took over the development and removed the 10ø by 10ø permitted accessory building and changed to a 10ø by 12ø permitted accessory building and in 2010 øAMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR **WILLOW CREEK ESTATES**.

Counsel advised Mr. Campbell to discuss the Restrictive Covenant issue with his attorney. This is to protect Mr. Campbellø neighborhood.

Applicant would like the board to table the decision and he will contact his attorney.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **table** application of Craig and Tammy Campbell per applicantsø request, for one month to allow them time to discuss the issue with their attorney. Unanimously approved, motion carried.

**(05-03-13) JAY WENDT and GLENN WENDT** were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, Copy of Certificate of Survey and a sketch of property showing proposed New Pole barn.

Mr. Jay Wendt said he would like to build a 3,000 square foot pole barn for storage of snowmobile, equipment and tools and said he would like to keep all of his equipment inside. At present the house is 1700 square feet of living area and the new building would be 1300 square feet larger than living area of his home. He said he is planning to put an addition on to the house in the future.

Public Hearing open:

Mr. J. Gary DiLaura 7605 W. Rivershore Drive, Niagara Falls, N.Y. 14304 who owns Cambria Storage at 3056 Saunders Settlement Road, Sanborn, N.Y. 14132, bought the property in 1995 from the Wendt family. He got a permanent Use Variance for the storage business, and said he is opposed to Area Variance requested by Jay and Glenn Wendt.

Public Hearing was briefly adjourned at this time to allow Mr. Roeseler to explain the MS4 Federal regulation. Mr. Roeseler gave a brief explanation of Storm Water Prevention Permit (Municipal

Separate Storm Sewer Systems) control program for construction activities that disturb greater than or equal to one acre of land, to prevent erosion, protect water quality of New York State and other places, sediments, road ways, etc. Mr. Roeseler said new applications which consist of one acre or more must abide by MS4 regulations and file a plan for storm water management. The MS4 would be a part of the application submitted from the applicant and have information from D.O.T. for applicant and engineer for the applicant, who will prepare the plans and documents in compliance with the Local Law. Applicant who will prepare the plans, would then go over the plans and required documents with the Building Inspector.

Public Hearing reconvened.

Mr. DiLaura continued on with his reasons for opposing the proposed new building of Mr. Wendt which is in the vicinity of Mr. DiLaura's property. He feels Jay and Glenn Wendt want this building for commercial purpose.

Mr. DiLaura asked what will the height of the side walls be and Mr. Wendt said 12' side walls. What will the building be used for? Mr. DiLaura feels this building will be used in conjunction with Mr. Wendt's construction business and they plan to operate a commercial business in this building. He further said they have an illegal septic system in the back yard. They already have a drainage problem and then asking for a 3,000 foot building on top of the septic system and no permit for septic system. He said he had called the Health Department and was told the Wendt's have no permit. He said the Wendt's do not cut the grass and septic smells. Why do they need a 3,000 foot building?

Public Hearing closed.

Concerns of board members:

Mrs. Kroening asked applicant about size of side walls?

Jay Wendt said he does concrete work, has hand tools, machine is pulled back of a pick-up truck. He said he needs that size of building to put vehicles inside. Also, has a camping trailer, walls have to be 14 feet high in order to put a 12 foot door on. Other part of building will have an 8 foot garage door.

Jay Wendt said he will have to put in new grinder sewer system and also take care of drainage issues.

Chairman said lot size is a little under one (1) acre.

Jay Wendt said building will not be used for commercial use, just for personal storage. Residence is on the former James Lewis portion of the property and by sketch is the same size lot as Mr. Wendt's.

Mr. Bechtel referred to Building Inspector on this Wendt issue and asked "what should be done?"

Building Inspector said he was under the impression the proposed building would be used for storing of construction tools and camping trailer. He said he has not been to see the property.

Building Inspector was asked to look at the site. The feeling is Mr. Wendt needs to down size the proposed new building.

Mr. Wendt reaffirmed they will connect up to the sewer system.

Discussion on side walls, need for 14 foot wall and 12 foot door?

Mr. Robinson said this is a large building in a residential area.

It was recommended to table this application until the Building Inspector takes a look at the property.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to **table** application of Jay and Glenn Wendt to construct a 3,000 foot pole barn on premises at 3030 Saunders Settlement Road until the Building Inspector can look at the property and what is proposed. Unanimously approved, motion carried.

**(05-02-2013) HAROLD M. BRYANT** was present at this meeting and has submitted the following:  
Application for Use Variance, Short Environmental Assessment Form, Agricultural Data Statement, Sketch of proposed garage, copy of survey, description of building (3 pages).

Mr. Bryant would like to construct a pole barn, dimensions 32ø by 24ø setback of 150ø from the road and building to be centered between east and west property lines on premises on the north side of Lockport Road between Meahl Road and Diller Road that does not contain a principal structure on the premises. He said he has owned the property for approximately 25 years. The property contains woods in the front. The building will contain personal storage. He said he is a teacher, Inter Mason Union and works at Job Corps. He said he would like to store rigging equipment, scaffles, etc. connected with his teaching. He said he could put up something different like a two-car garage.

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

Secretary read a letter from Elizabeth Harman, 4234 Lockport Road, Lockport, N.Y. 14094, dated May 16, 2013 addressed to Town of Cambria, Zoning Board of Appeals, c/o John Reardon, Chairman, which stated in part öshe is a Pendleton resident on the south side of Lockport Road, who owns approximately 100 acres of land which is zoned residential. I am opposed to any building that is not residential or farm based being established in a residential area etc.ö

Public Hearing closed.

Concerns of board members:

Mr. Bechtel asked about notifying of people on Pendleton side of Lockport Road?  
Counsel said a Notice of Public Hearing is mailed to bordering towns.

Chairman said this is for a Use Variance. Applicant must prove hardship for a Use Variance as stated on the application öH. if request is for Use Variance No. 4. If alleged hardship is self-created.ö There is no principal building on this property and there would be no supervision over site and no protection from vandals or thieves.

Applicant was asked if he would have a security system?

Mr. Bryant said there will be no windows in this proposed building and yes, it is a self-created hardship.

Also, the check for the Niagara County Planning Board was not received by them in time to act on Zoning Board referral at their meeting and to make a recommendation.

Counsel said this application of Mr. Bryant will have to be tabled until next month's meeting and a Notice of Public Hearing will be published again in the paper at no additional cost to applicant.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **table** application of Mr. Bryant for a Use Variance for a pole barn on his property until the June meeting. Unanimously approved, motion carried.

#### REPORTS:

Chairman ó Upcoming training session Orleans County on June 24, 2013  
Subject ó Farmland Protection and Agricultural Viability

Building Insp. ó No report

Attorney ó Faery application for pond, need report from D.E.C. and no representative can visit the property until Mr. Faery has a Mining Permit.

Chairman ó Regarding Renewal of Winstel Special Permit, no one appeared on behalf of the Winstels at the April or May meetings and Counsel to send a letter.  
A motion was made by Mrs. Kroening and seconded by Mr. Robinson to direct Mr. Billingsley to send a letter to Mr. and Mrs. Winstel regarding renewal of their Special Permit to operate a small automobile repair shop. Unanimously approved, motion carried.

Board members ó Mrs. Kroening said she may be unable to attend the June meeting and asked Mr. Sieczkowski to attend. She will advise him.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 9:20 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

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