

May 21, 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, Theresa Kroening, Donald Robinson, Peter Smith
Also present: Michael Sieczkowski, alternate
Robert Blackman, Councilman, liaison to Town Board
Matthew Foe, Councilman
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:

(04-16-12) DAVID and TAMMY MILLER, 3121 Lower Mountain Road, Sanborn, N.Y. 14132, for a variance to permit applicants to construct a detached garage upon said premises with dimensions of 24 feet by 28 feet within 6 feet of the east side lot line, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of a detached garage closer to a side lot line than 15 feet.

2012-06 (05-03-12) MILLEVILLE BROTHERS, 2598 Saunders Settlement Road, Sanborn, N.Y. 14132, owner, and Niagara Forestry of 4177 Lower Mountain Road, Lockport, N.Y. 14094, applicant, for a Special Permit to permit applicant to conduct a business within existing structures upon said premises commonly known as 4177 Lower Mountain Road, namely, to bring logs to said site to sort, reload and haul to mills for lumber, to saw logs for lumber and to make firewood upon said site, and to make maple syrup upon said site, pursuant to the Special Permit Ordinance of the Town of Cambria.

(05-07-12) DAVID and RENEE LEARMAN, 3193 Woodland Court North, North Tonawanda, N.Y. 14120, for a variance to permit applicants to construct a single family residence approximately 680 feet from the road right-of-way and an accessory building approximately 630 feet from the road right-of-way upon premises at the east end of Carney Drive, whereas the Zoning Ordinance does not permit construction of a residence farther from the road right-of-way than 125 feet, nor does it permit construction of an accessory building closer to the road right-of-way than the front foundation of the principal structure upon said premises.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to approve minutes of Work meeting and Regular meeting of April 23, 2012 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWALS (current)

2005-03 (03-21-05) Daniel J. Kummer, D.C., 5215 Town Line Road, Sanborn, N.Y. 14132
Special Permit for Chiropractic business

Mr. Kummer was present at this meeting and said he would like to renew the Special Permit. He said he only does the work occasionally and wishes no changes in the Special Permit.

Building Inspector had no concerns on this business.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to **renew** Special Permit of David J. Kummer, D.C. for a chiropractor business at the aforementioned address for a period of five (5) years. Unanimously approved, motion carried.

2008-04 (04-28-08A) Mr. and Mrs. Rodney Hogg, 5310 Shawnee Road, Sanborn, N.Y. 14132,
Special Permit for Display Marketing business

Mr. Hogg was present at this meeting and said he would like to continue with the business and requests no changes.

Building Inspector and board members had no concerns on this business.

A motion was made by Mr. Bechtel and seconded by Mrs. Kroening to **renew** Special Permit to Rodney Hogg for a display marketing business at the aforementioned address for a period of five (5) years. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(04-16-12) DAVID and TAMMY MILLER were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and sketch of their property including buildings.

Mr. Miller said they would like to construct a 24 foot by 28 foot detached garage.

Public Hearing open:

Terry Vosburgh, 3117 Lower Mountain Road, Sanborn 14132, next door neighbor, said he has no problem with Mr. Miller building a garage to keep his belongings in. His home is kept up nice.

Public Hearing closed.

Concerns of board members:

Mr. Bechtel asked applicant if he plans to operate a business from this garage?

Mr. Miller said there will be no business conducted from this garage. There is an existing building on the premises and it will be removed from the property. There is a deck on the east side of his home which is ten feet wide.

Mrs. Kroening asked applicant what he plans to do with the existing building?

Mr. Miller said the building will be removed from the property.

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

A motion was made by Mrs. Kroening and seconded by Mr. Bechetel to **approve** Application for Area Variance to permit applicants to construct a detached garage upon said premises with dimensions of 24 feet by 28 feet within 6 feet of the east side lot line. Unanimously approved, motion carried. Building Inspector reminded applicants that they need to get a building permit before beginning construction.

2012-06 (05-03-12) David Milleville, on behalf of **MILLEVILLE BROTHERS** and **Brian Whyte** and wife, applicant, on behalf of **NIAGARA FORESTRY**, were present at this meeting.

The following have been submitted: Application for Special Permit, Short Environmental Assessment Form and Agricultural Data Statement

Mr. Milleville said they purchased the property, 80 plus acres, from Haseley Brothers and are leasing approximately seven (7) acres with existing buildings, to Brian Whyte for his logging operation.

Mr. Whyte said logs are brought in, sorted, reloaded and hauled to mills. They also make fire wood and maple syrup in existing buildings. He said he has about 25 head of beef cattle on the premises.

Public Hearing open:

Joseph Fournier, 4200 Lower Mountain Road, said he has no objection to the business but is against the noise and the working on Sunday, especially the noise.

Public Hearing closed.

Counsel said, per letter dated May 18, 2012 from Niagara County Center for Economic Development, Re: Referral to Niagara County Planning Board for 4177 Lower Mountain Road, Town of Cambria, “the information provided is insufficient for N.C. Planning Board to make an informed recommendation on the project at the May 21, 2012 meeting”. They request applicant submit Site Plan with additional information as follows:

1. Location of existing buildings and any proposed additions
2. Setbacks
3. Ingress and egress to the site
4. Onsite parking
5. Proposed location of lumber storage areas
6. Locations where logs will be sawed
7. Any screening that is proposed for the site
8. Days and hours of operation
9. Anticipated number of deliveries per day

Applicant has agreed to supply the information requested to the board and for the County Planning Board.

Concerns of Board members, Building Inspector and Attorney:

Mrs. Kroening said Mr. Whyte has cleaned up the area and logs are neatly stacked

A letter, dated April 25, 2012, was received from State of New York, Dept. of Agriculture and Markets addressed to Brian Whyte which addressed a phone call from Mr. Whyte to that department concerning certain issues such as “definition of a farm operation” and “definition of a farm operation also includes timber operation as part of a farm”.

Mrs. Whyte mentioned regarding the maple syrup, there are restrictions on this and extra paper work.

Building Inspector said if Mr. Whyte were to go out of business, that the property should be cleaned up.

Counsel – encourage agriculture, concern is working on Sunday and noise involved.

Mr. Whyte said if nice weather, they do work on Sunday but don't do much sawing on that day, is not a practice to work every Sunday.

Mr. Fournier complained about noise from skid steer outside of building.

Mr. Whyte said he will try to eliminate some of the noise on Sunday.

Counsel – asked if more of the problem with noise is in the Summer rather than Winter?

Mr. Fournier said he would like the noise curtailed on Sunday.

Chairman said no action will be taken this evening

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **table** action on Application of Milleville / Whyte for Special Permit for a logging operation on property located at 4177 Lower Mountain Road for one month, until receipt of the information requested by the Niagara County Planning Board. Unanimously approved, motion carried.

(05-07-12) DAVID and RENEE LEARMAN were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and sketch of the property.

Mr. Learman said they own approximately 38 and 1/2 acres at the end of Carney Drive. The property on the north end is very low and wish to place their home in the most suitable location, on the highest area, about 680 feet from the road. They would like an accessory building closer to the entrance of their property, approximately 630 feet from road right-of-way, on a corner of field that is cleared. Accessory building will have solar panels.

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

Public Hearing closed.

Concerns of Board members, Building Inspector and Attorney:

Mr. Smith asked applicant how long will the driveway be?
Mr. Learman said approximately 700 feet long.

Mr. Smith asked if driveway will be wide enough for a fire truck?
Applicant said they will abide by the specifications from Building Inspector.

Mr. Bechtel asked applicant what size water line will you have to go back to the house?
Mr. Learman said size of line will be according to the code regulations. He said they own approximately 38 and 1/2 acres. He said the front of the property (north) is lower and at times is very wet.

Mr. Learman said the driveway base will be per Town specifications and State code, approximately twelve (12) feet wide. Need an area for a fire truck to turn around.
Counsel said he would have to abide by New York State Fire and Building Code regulations.

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

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **approve** request for Area Variance to permit applicants to construct a single-family residence approximately 680 feet from the road right-of-way and an accessory building approximately 630 feet from the road right-of-way upon premises at the east end of Carney Drive, and to abide by New York State Fire and Building Code Regulations. Unanimously approved, motion carried.

End of Public Hearings

REPORTS:

Chairman – Planning and Zoning Training Seminar Thursday, June 14th 5:00 p.m. to 9:30 p.m. at Erie County Community College, North Campus in Williamsville.
Also, there will be a Training Seminar in the Fall of 2012 at a location in Niagara County
June Work meeting at 7:00 p.m. and Regular meeting at 8:00 p.m.

Letter dated May 8, 2012 from Kenith and Dolores Hill. Mr. Hill said in regard to selling equipment, “We do not and have not sold any equipment as a business on our farm” He feels they do not need a Special Permit for their horse boarding operation.

Counsel said there have been recent changes in the regulations of Agriculture and Markets. The Hill’s do not need a Special Permit in the future for their operation. Counsel will send a letter to Mr. and Mrs. Hill informing them that they do not need a Special Permit for their horse boarding operation.

Building Inspector – Training Seminar will be offered in the Fall in Niagara County

Attorney – no report

(08-04-10) Chris Rechin – Progress report on temporarily storing excavated material upon premises at 5700 Shawnee Road, Sanborn, N.Y. 14132, Regarding Use Variance to store material closer to the road right-of-way than 500 feet.

Mr. Rechin was present at this meeting and said he is still working on removal of the dirt. Hope to have all of the material out within two (2) months.

Counsel recommended taking action on the Use Variance at the July 23rd meeting and the board can make a decision at that time. The Town wants applicant to be in compliance with the Zoning Ordinance. Mr. Rechin was informed to come to that meeting.

A communication was received from Paul J. Ford and Company, Structural Engineers, dated March 05, 2012 which was addressed to Steve Tuttle, Crown Castle International, East Rochester, N.Y., Subject: Structural Modification Report on **Verizon Wireless Co-Locate** behind Fire Hall in Pekin, Tower stress level for structure and foundation – Sufficient Capacity. Letter on file.

A motion was made by Mr. Bechtel to adjourn at 8:50 p.m.

Respectfully submitted

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____