

January 24, 2011

The regular monthly meeting of the PLANNING BOARD of the TOWN of CAMBRIA was called to order at 7:00 P.M. by William Amacher, Chairman, followed by the Pledge to the Flag and welcomed everyone to the meeting.

Members present: William Amacher, Chairman
Jeffrey Hurtgam, Douglas Mawhiney, John Phillips, Roger Schreader, Sr.
Also present: Gerald Kroening, alternate
George Bush, Councilman
Clifford Burch, Building Inspector
Gary Billingsley, Attorney
Robert Klavoon, Wendel Duchscherer Enc.
Robert Roberson, Brandt, Roberson & Brandt, P.C.
Lou Ann Murawski, Town Clerk

Chairman appointed John Phillips co-chairman for the year 2011.

A motion was made by Mr. Hurtgam and seconded by Mr. Schreader to approve minutes of meeting of December 20, 2010 as presented. Unanimously approved, motion carried.

SITE PLAN (current)

2011-04 (01-07-11) WILLIAM R. GOODHUE, 5252 Saunders Settlement Road., Lockport N.Y. 14094
Business use "Dawn til Dusk Café"

Mr. Goodhue was present at this meeting and has submitted the following: Application for Site Plan Approval, Short Environmental Assessment Form, Agricultural Data Statement, copy of portion of town map showing location of subject property, proposed location of new structure and sketch of proposed structure.

Mr. Goodhue said he would like to construct a drive-thru coffee outlet hut, approximately 8 feet by 10 feet, on the north side of his property to accommodate truckers, operators of buses, combines and other large vehicles to get coffee, donuts, etc. They then could proceed out using one of the exits either to Saunders Settlement Road or to Campbell Boulevard.

Counsel said the Niagara County Planning Board met this afternoon and recommended denial of the application because of serious safety concerns in the proximity of the intersection. He said it would necessitate a vote of majority plus 1 (4) board members to approve the application.

Mr. Goodhue said people slow down for the intersection. The proposed hut would be approximately five (5) feet from the road right-of-way and ordinance requires any business structure to be at least 80 feet from the road right-of-way, a very substantial variance, which is the reason for the variance request.. Applicant said there will be three entrances and 3 exits.

Counsel recommended tabling this application. The Zoning Board meets following this meeting and will have a Public Hearing on the request for variance of Mr. Goodhue.

Chairman asked Mr. Goodhue what his time table is for opening this facility?

Applicant said it will take about three days to construct the building which will be fully insulated, will be very attractive and will look like the existing diner. He said there is no facility nearby for truckers, etc. to drive through for coffee, donuts, etc.

A motion was made by Mr. Hurtgam and seconded by Mr. Schreder to **table** application for Site Plan of William Goodhue to construct a drive-thru coffee outlet. Unanimously approved, motion carried.

ADDITION TO previously approved SITE PLAN:

2010-08 (08-05-10 B) NIAGARA PROFESSIONAL PARK (Western New York Urology Associates)

Miss Patricia Bittar, Project Manager representing William Schutt & Associates P.C. and Robert Bauer from Bergio and Campofelice, general contractor, were present at this meeting representing Niagara Professional Park.

Miss Bittar said they would like to stockpile the subsoil now and place it along the south property line until at least the Spring. She said the subsoil can't be used right now because of the wetness in it. The drainage and storm water will not be affected. Some of that soil will be used on the site and blended in. There is a compaction requirement.

There is a possibility some of the excess soil could be used at the Town Park Per Site Grading Plan presented this evening, the height of the proposed berm is ten (10) feet. A haul road would have to be constructed to get access to the soil. There is no seed in the soil. There will be a cost to construct the access road. It was said it would probably be May or June before anyone could get onto the property. The low areas on the Urology property will be filled in. The concept of the berm and final grading plan will be deferred until Fall with understanding that the town make arrangements to remove part of the fill in the Summer and then Niagara Professional Park to submit a final grading plan in the Fall. Applicant will construct a suitable haul road near the pond and to stay out of the wetland area.

A motion was made by Mr. Hurtgam and seconded by Mr. Mawhiney to **amend** previous Site Plan Approval dated October 25, 2010 and add proposed removal of subsoil from said property. Unanimously approved, motion carried.

RECONSIDERATION of Previously Denied SITE PLAN

2010-13W (09-29-10) ARROWHEAD SPRING VINEYARDS

Duncan and Robin Ross – applicants

Chairman called for an Executive session at 7:22 P.M. and regular meeting reconvened at 7:55 P.M.

Board members were given copy of letter dated January 21, 2011, copy on file, from Arthur J. Giacalone, Attorney at Law, faxed to Gary M. Billingsley, Esq.

**Re: Town Planning Bd.’s “Reconsideration” of Ross application/4746 Townline Road
and
Ross v. Town of Cambria Planning Bd., et al, Sup. Ct., Niagara Co. (J. Kloch)**

Mr. Giacalone represents several residents who live in close proximity of Arrowhead Spring Vineyards.

Counsel explained the Article 78 proceeding pertaining to Town Planning Board including Town Board. Recommends that the issue be settled regarding the construction of Wind Energy System on the property of Duncan and Robin Ross. Recommended a Resolution authorizing Gary Billingsley as Attorney for the Town Planning Board to sign the prepared **STIPULATION** which is:

1. “The Decision of the Town of Cambria Planning Board denying Petitioners-Plaintiffs’ application for Site-Plan Approval, dated November 29, 2010 and filed in the Town of Cambria Clerk’s office on December 6, 2010, is declared null and void and Site-Plan Approval is granted as requested;
2. The Town of Cambria shall issue building permits necessary for construction of Petitioners-Plaintiffs’ 10-KW wind turbine project;
3. The Town of Cambria Planning Board incorrectly interpreted a provision of the Town of Cambria Local Law No. 1 of 2009 in a manner which misled the Planning Board”.

Counsel mentioned that the Chairman takes Planning Board’s Site Plan review authority very seriously. Site Plan review of application would occur later in this meeting.

Counsel said he feels settlement of this Site Plan issue is in the best interest of the town.

A motion was made by Mr. Schreader and seconded by Mr. Hurtgam to **approve Resolution** as aforementioned and that Gary M. Billingsley, *Attorney for Respondent-Defendant, Town of Cambria Planning Board*, 4421 Lower Mountain Road, Lockport, New York 14094, sign the STIPULATION as presented. Unanimously approved, motion carried.

SITE PLAN:

Chairman had some concerns as follows:

1. The windmill will have a monopole tower with guy wires. Tower to be galvanized, dull gray in color. The blades are wide. Questioned the color of the blades? The board requested white which will blend in with the sky. Turbine nacelle to be white.
2. Wind speed has to reach a minimum of 7-1/2 miles per hour before generating power. Is there a braking system?

Mr. Klavoon said the tower construction will be 400 feet off of the right-of-way of Townline Road, 200 feet off of the west line, 120 feet tower height and 132 feet to the tip of the blades. No SEQR required on this Site Plan.

The Building Inspector, Engineer, Attorney and Board members had no further concerns on this Site Plan.

The aforementioned letter from Mr. Arthur Giacalone was reviewed by board members and attorney.

A motion was made by Mr. Schreader and seconded by Mr. Hurtgam to **approve Site Plan of Arrowhead Spring Vineyards**, Duncan and Robin Ross, applicants, to construct a Wind Energy System on property at 4746 Cambria-Lockport Townline Road, Lockport, N.Y. 14094 with following revisions/clarifications: windmill will have monopole tower with guy wires. Tower to be galvanized, dull gray in color. Blades and turbine nacelle to be white.

Secretary was requested to poll the board:

- Mr. Mawhiney - deny the Site Plan
- Mr. Schreader - approve the Site Plan
- Mr. Phillips - “ “ “ “
- Mr. Hurtgam - “ “ “ “
- Mr. Amacher - “ “ “ “

Four “ayes”, one “nay”, the vote over rules the Niagara County Planning Board’s denial of the Site Plan. Motion carried.

Mr. Thomas Fleckenstein, from Niagara Wind and Solar, said a SEQR determination is needed. Counsel recommended issuing a negative declaration.

A motion was made by Mr. Philips and seconded by Mr. Hurtgam to declare **negative declaration under SEQR** on Site Plan of Arrowhead Spring Vineyards, Duncan and Robin Ross, applicants. Unanimously approved, motion carried.

REPORTS:

- Chairman – no report
- Building Inspector – no report
- Attorney – no report
- Board members – no report

Next meeting will be February 28, 2011 at 7:00 P.M.

A motion was made by Mr. Mawhiney and seconded by Mr. Schreader to adjourn at 8:10 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____

