

September 23, 2013

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Theresa Kroening, Acting Chairman, at 8:00 P.M. who welcomed everyone to the meeting followed by the Pledge to the Flag and then announced the agenda for this evening.

Members present: Theresa Kroening, Acting Chairman
Donald Robinson, Michael Sieczkowski, Peter Smith
Also present: Matthew Foe, Councilman
Robert Blackman, Councilman, liaison to the Town Board
James McCann, 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:

(09-04-13) ERIC and COURTNEY GUENTHER, 4576 Baer Road, Ransomville, New York 14131, for a Special Permit to permit applicants to construct a one-half acre farm pond with dimensions of approximately 150 feet by 150 feet upon said premises approximately 900 feet west of Baer Road and approximately 100 feet from the north side lot line of said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

(09-05-13) JOHN and DAWN RYAN, 3544 Upper Mountain Road, Sanborn, New York 14132, for a Use Variance to permit applicants to construct a storage building with dimensions of 24 feet by 40 feet upon premises commonly known as 4273 Saunders Settlement Road, which premises are currently vacant, whereas the Zoning Ordinance does not permit construction of such a structure upon premises which do not already contain a principal dwelling.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to approve minutes of meeting of August 26, 2013 as presented. Unanimously approved, motion carried.

RENEWAL (current)

2007-11A (08-23-07A) Mr. and Mrs. **Eugene Elson**, 3510 Lower Mountain Road, Sanborn, N.Y. 14132, Special Permit for private kennel to harbor between 4 and 8 dogs over 6 months old

There was no one present on behalf of Mr. and Mrs. Elson at this time.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **table** action on renewal of Special Permit to Mr. and Mrs. Elson for a private kennel until the end of this meeting. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(09-04-13) ERIC and COURTNEY GUENTHER have submitted the following:

Application for Special Permit to construct a farm pond, Short Environmental Assessment Form, Agricultural Data Statement, copy of letter from Niagara County Soil and Water Conservation District dated August 2, 2013, five pictures of pond site and a copy of survey map.

Mr. Guenther was present at this meeting and said he would like to construct a one-half (1/2) acre farm pond for recreation, drainage and irrigation purposes.

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

Board members:

Mr. Robinson asked applicant if all of the fill from the proposed pond will remain on the site?

Mr. Guenther said “yes” all of the material will remain on the site.

Applicant said the property is 421 feet wide by 1700 feet in depth, pond will be located in the middle of the property, which consists of two lots, approximately 100 feet from property line.

Mr. Sieczkowski asked if the Army Corps of Engineers gets involved with flood plains?

Mr. Guenther said this proposed pond will not be in the Flood Plain.

Mr. Sieczkowski asked if anyone from the Town has looked at the subject property?

Building Inspector said Milleville Brothers work that area and cannot farm it because the land is too wet.

Mr. Sieczkowski asked applicant if he had contacted the Army Corps of Engineers, and applicant said “no” he had not contacted them because he felt as long as pond did not disturb the wetland it was not necessary.

Counsel asked Mr. Guenther when he would like to construct the pond?

Applicant said he would like to start the project this Fall.

Per Soil and Water Conservation, dimensions of proposed pond will be approximately 150 feet by 150 feet, will be excavated to a depth of 12-14 feet, utilizing

1 foot vertical to 3 foot horizontal side slopes, all spoil material to remain on-site. The wetland maps indicate that a mapped federal wetland is present to the north and immediately adjacent to the proposed pond area. No excavation activities or fill disposal should occur in this area without contacting the US Army Corps of Engineers and fill material should be deposited outside of the flood plain. The Town should review any excavation or placement of material in the flood plain prior to construction. The proposed site should provide suitable conditions for a functional pond.”

Counsel recommended to the board that written information be obtained from the Army Corps of Engineers pertaining to the proposed pond site, federal wetland and flood plain before action is taken by the board and further suggested this application of Mr. and Mrs. Guenther be tabled for one month and that no Building Permit be issued.

Building Inspector is in agreement with tabling this application.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **table** application of Eric and Courtney Guenther to permit applicants to construct a one-half acre farm pond on their premises at 4576 Baer Road until written information is received from the Army Corps of Engineers regarding federal wetland and flood plain on applicants’ property. Unanimously approved, motion carried.

Mr. Guenther said he would like to construct the pond before Winter sets in. He said he did go back 400 – 500 feet further than originally planned as he wanted it in the flood plain.

It must be determined if the proposed pond is in the wetlands or not.

A Special meeting by the board could be held if the requested information from the Army Corps of Engineers is received.

(09-05-13) JOHN and DAWN RYAN were present at this meeting and have submitted the following: Application for Use Variance to erect a pole barn, Short Environmental Assessment Form, Agricultural Data Statement, copy of portion of town map and received tonight Site Plan and house plans.

Mr. Ryan said their home has been sold and will have to move out soon. They wish to erect a pole barn, dimensions 24 feet by 40 feet, on vacant land at 4273 Saunders Settlement Road, to use for storage while new home is being built. They wish to store their belongings in this storage building.

Secretary read a letter from Timothy Walters and Linda Kacymarek dated September 20th Re: Variance for 4273 Saunders Settlement Road. In the letter said “are

not in agreement with the variance, have some unanswered questions, but unable to attend as they are on vacation”.

Public Hearing open:

Mr. and Mrs. Alan Wagner, 4297 Saunders Settlement Road, Sanborn, N.Y. 14132, were present at this meeting. Mr. Wagner inquired about the stakes on the property and about setbacks.

It was said the town has regulations pertaining to setback requirements.

Mr. Wagner said he did not know about the house being built on the property at 4273 Saunders Settlement Road, just thought it was going to be a storage building and thought maybe a business was going to be operated from this building. He said he didn't realize there was going to be a house built on this property.

Also concerned about setback from the road.

Home will be approximately 90 feet from the road right-of-way.

Building Inspector said storage building will be 24 feet by 40 feet and approximately 40 feet behind the proposed house and 25 – 30 feet from side lot lines. Building will have ten foot walls and will be 15 feet high.

It was asked if the house setback will be in line with the two existing homes?

There will be a little difference but not much.

The new home will have an attached garage. Pole barn will not be attached to the house. They plan to start construction of the house in about two weeks after the pole barn is built.

Mrs. Kroening asked applicants if the pole barn is for storage of their personal items only and the answer was “yes”.

Mr. Ryan said the barn siding and roof will match the new house.

Public Hearing closed.

Board members had no concerns.

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

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** Application for Use Variance to permit applicants to construct a storage building with dimensions of 24 feet by 40 feet upon premises commonly known as 4273 Saunders Settlement Road, Sanborn, N.Y. 14132, with addition to previous motion that any future use will be for personal use only. Mr. Smith and Mr. Robinson agreed to this addition. Unanimously approved, motion carried.

REPORTS:

Building Inspector – Update on schooling which will be on October 2nd at N.C.C.C.

Attorney - Inquired about further information pertaining to Faery and Dispenza proposed ponds. Nothing further as of this date. Reported that DEC has cut back on employees, therefore, taking a little longer to check the sites.

Board members – no report this evening

Renewal – tabled from beginning of this meeting.

No one appeared on behalf of Mr. and Mrs. Elson regarding renewal of Special Permit for dog kennel.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **table** renewal of Special Permit for dog kennel for Mr. and Mrs. Eugene Elson for one month. Unanimously approved, motion carried.

Secretary to write a second letter to Mr. and Mrs. Elson.

A motion was made by Mr. Sieczkowski and seconded by Mr. Robinson to adjourn at 8:40 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved _____