

July 27, 2015

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Michael Sieczkowski, Chairman, at 7:00 P.M. He welcomed everyone to the July 27th meeting followed by the Pledge to the Flag and then announced the agenda for this evening.

Members present: Michael Sieczkowski, Chairman
Thomas Andrews, Alan Johnson, Donald Robinson, Peter Smith
Also present: Matthew Foe, Councilman
Randy Roberts, Councilman and liaison to the Town Board
James McCann, Building Inspector
Gary Billingsley, Attorney

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of Regular meeting of June 22nd and minutes of Special meeting of June 29th as presented. Unanimously approved, motion carried.

Secretary read Notice of Public Hearing as it appeared in the Lockport Union-Sun and Journal to consider the following applications:

(06-29-15A) KEVIN and BRIGITTE HOLBERT, 5176 Shawnee Road, Sanborn, New York 14132 for a Special Permit to permit applicants to conduct animal husbandry, namely, the keeping of pastured chickens, and possibly goats, upon said premises which contain approximately 1.38 acres, whereas the Zoning Ordinance does not permit animal husbandry upon parcels containing less than five (5) acres except as otherwise permitted by the Special Permit Ordinance of the Town of Cambria.

(06-29-15 B) TIMOTHY IVANCIC, 5059 Upper Mountain Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to construct a garage with dimensions of 20 feet by 30 feet upon said premises closer to the road than the front of the residence upon said premises and within approximately 5 feet of the east side lot line, whereas the Zoning Ordinance does not permit construction of a garage closer to the road than the front of a residence, nor closer to a side lot line than 15 feet.

Tabled from June 22, 2015:

2015-08 (05-06-15) ERIC WISOR- owner of property and building at 2958 Ridge Road, Ransomville, N.Y. 14131
Paul Winkowski ópartner, 4774 Beach Ridge Road, Lockport
14094 and
Jacob Blake -partner, 3884 Slusaric Road, North Tonawanda
14120

The following have been submitted: Application for Special Permit, Short Environmental Assessment Form ó Part 1 ó Project Information, consisting of 3 pages;

Short Environmental Assessment Form ó Part 2 ó Impact Assessment, consisting of 2 pages; and Agricultural Data Statement.

Applicants have requested a Special Permit to operate a small store/front internet retail business in an existing structure belonging to Mr. Wisor at 2958 Ridge Road to sell new and used Powersport parts and accessories and possibility of becoming an authorized FedEx Drop Hub pursuant to the Special Permit Ordinance of the Town of Cambria.

Public Hearing was held on June 22nd and there was no one present from the public. There was no action taken by the board on the 22nd because the board members felt they needed more information on the proposed business so it was tabled until more information was received.

No information had been received until tonight's meeting.

The applicants gave two copies to the board of further information which had been requested at the June meeting.

The name of the business will be "Ride Today Powersports". The building was formerly a "Polaris Sports" dealership and repair facility. It has been closed for many years. The new business will sell new and used parts for ATVs, motorcycles, snowmobiles, PWCs, etc. They will market and sell parts, and also plan on becoming an authorized FedEx shipping hub.

The following concerns were expressed and answers given:

Building Inspector questioned Disposal of waste, such as oil, oily rags and other waste materials.

Applicant said they use "Simple Green", a cleaner and degreaser, to take care of oil. They drain out oil (engine oil, transmission oil and brake fluid) into waste pan and then dispose oil into waste oil container identified as "Used Oil" compliant with EPA regulations. In the Winter months, this is used in an oil burning furnace. The amount of oil from the engines ranges from 1 to 3 quarts, sometimes less. Oil filters will be drained and stored in separate storage containers labeled "Used Oil Filters" until they are either recycled or disposed of in the trash. Oily water and antifreeze will be recycled and handled by Superior Lubricants located in North Tonawanda. Antifreeze will be containerized temporarily in 55 gallon drums until they reach capacity and then recycled by Superior Lubricants.

Mr. Wisor was asked about the oil burner and he replied, every year the unit is picked up and the unit is replaced with a new unit. Natural Gas is their primary source of heat.

In the report was a picture of the oil burner and oil container.

The oily/greasy rags from cleaning parts are allowed to air dry and then disposed of in the trash. Used oil filters are put into container labeled "Used Oil filters" and then thrown out with the regular trash, make sure, they are empty before they are disposed of.

Recycled tires ó will be recycled or re-sold if they are good.

How many plastic drums ? Answer was 3 drums (not pressurized and do not leak). On ATV's , have to get the mud off.

Volatile gas is not good in burners.

The Building Inspector is permitted to go into the building at 2958 Ridge Road unannounced and see how the business is operating.

Counsel recommended tabling this Application for a Special Permit to Mr. Wisor, owner, and Mr. Winkowski and Mr. Blake, applicants, until further information is provided as requested at the June 22nd meeting.

Chairman said questions and concerns are required to protect the safety of the citizens of the town. He also suggested a Site Plan Review by the Planning Board .

Discussion ó Some board members asked whether this action (Site Plan Review) was necessary?

Chairman made a motion to send this application of the aforementioned to the Town Planning Board for Site Plan Review. There was no second to this motion.

Mr. Johnson asked "why do we need to have a Site Plan Review?"

Mr. Wisor said when he was in business at this place years ago, did repairs on snowmobiles, etc.

Counsel said the proposed business needs a Special Permit to operate.

The last three pages of the "Operating Report" submitted by Mr. Wisor, owner of property and building and Mr. Winkowski and Mr. Blake, applicants for the new business, pertained to Eric Wisor and William Pearce dated April 27, 2009 for motor vehicle repair business.

A motion was made by Mr. Sieczkowski and seconded by Mr. Johnson to refer the application to the Planning Board for Site Plan Review on application for Special Permit to Mr. Winkowski and Mr. Blake to operate a small store front / internet retail business at 2958 Ridge Road.

As not all board members voted óayeö, Secretary was directed to poll the board:

Alan Johnson	-	abstained
Thomas Andrews	-	opposed
Donald Robinson	-	opposed
Peter Smith	-	opposed
Michael Sieczkowski	-	approved

The motion failed for Site Plan Review: 3 opposed, 1 abstention, 1 approved

Counsel recommended opening the meeting and having further discussion on how to proceed.

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

A motion was made by Mr. Smith and seconded by Mr. Johnson to **allow** applicants, Paul Winkowski and Jacob Blake to operate a small store front/internet retail business in an existing structure upon premises located at 2958 Ridge Road to sell new and used Powersport parts and accessories with the possibility of becoming an authorized Fed Ex Drop Hub; and that the Building Inspector of the Town of Cambria may inspect premises at any time unannounced to observe the operation of the business. Applicants must be in compliance with D.E.C., Niagara County Health Department and other health related Regulations. This Special Permit is for a period of one (1) year. Four (4) board members approved. Mr. Sieczkowski abstained, motion carried.

RENEWALS:

2008-03 (02-04-08) Richard Eakin, County of Niagara, 59 Park Avenue, Lockport, N.Y. 14094
Special Permit to construct a new County Public Works facility on premises known as 5058 Lockport Junction Road, Lockport, N.Y. 14094. Previous renewal was for 2 years retroactive to June 2015.

Mr. Eakin, Deputy Comm., was present at this meeting to request renewal of the Special Permit for the aforementioned.

There were no comments from the following on the renewal of the aforementioned: Building Inspector, Attorney and Board members.

A motion was made by Mr. Robinson and seconded by Mr. Smith to renew Special Permit to County of Niagara for a new County Public Works facility. This renewal is for three (3) years retroactive to June 2015. Unanimously approved, motion carried.

2004-02 Omnipoint Comm., T-Mobile\ ó co-location No. 2 AT & T due for renewal at 4621 Ridge Road.

Per Counsel, there have been changes in the law - co-locations no longer require renewals, expire on their own terms.

A motion was made by Mr. Johnson and seconded by Mr. Robinson that Special Permit for co-location on existing tower at 4621 Ridge Road, Lockport 14094 expired on its own terms. Unanimously approved, motion carried.

2004-10 (05-24-04) Stephen Cooper, 3494 Lower Mountain Road, Sanborn, N.Y.
Special Permit for in-law apartment.

Mr. and Mrs. Cooper are out of town. Previous renewal was for five (5) years.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **table** action on the renewal of Mr. and Mrs. Cooper for an in-law apartment until the August meeting. Unanimously approved, motion carried.

2006-12 (06-23-06) Vincent Salerno and Maureen Weinert, 4898 Upper Mountain Road, Lockport, N.Y. 14094
Special Permit to operate private kennel

Mr. Salerno and Ms. Weinert would like to renew the Special Permit and said there has been no changes in the Special Permit. Their previous renewal was for five (5) years.

The following had no concerns on the aforementioned: Building Inspector, Counsel or Board members.

Mr. Smith asked applicants what kind of dogs do you have? and answer was: Border Collie and Australian Shepherd.

A motion was made by Mr. Robinson and seconded by Mr. Johnson to **renew** Special Permit to Vincent Salerno and Maureen Weinert for a period of five (5) years to

operate a private kennel on their premises at 4898 Upper Mountain Road, Lockport 14094. Unanimously approved, motion carried.

1993-10 Gary Billingsley, 4421 Lower Mountain Road, Lockport, N.Y. 14094
Special Permit for Home Law Office

Mr. Billingsley wishes to renew the Special Permit and no changes are requested. The previous renewal was for five (5) years.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **renew** Special Permit to Gary Billingsley for a period of five (5) years for a Law Office in his home at 4421 Lower Mountain Road, Lockport 14094. Unanimously approved, motion carried.

1995-12 Thomas Parker, 5150 Ridge Road, Lockport, N.Y. 14094
Special Permit for temporary residence for mother

There was no one present this evening on behalf of Mr. Parker for renewal of the Special Permit. The previous renewal was for five (5) years.

A motion was made by Mr. Johnson and seconded by Mr. Smith to **table** action on the aforementioned renewal until next month. A second renewal letter will be sent. Unanimously approved, motion carried.

End of Renewals.

PUBLIC HEARINGS:

2015-10 (06-29-15 A) KEVIN and BRIGITTE HOLBERT, 5176 Shawnee Road, Sanborn, N.Y. 14132

Mr. Holbert was present at this meeting and has submitted the following: Application for Special Permit for Animal Husbandry, Short Environmental Assessment Form, Part 1 ó Project Information consisting of 3 pages; Short Environmental Assessment Form, Part 2 ó Impact Assessment consisting of 2 pages, Agricultural Data Statement, Survey of the property, and a sketch.

Mr. Holbert said he would like to continue to keep chickens for themselves for the eggs and meat, which according to Mr. Holbert, is much healthier than store-bought eggs and meat and close to home.

Public Hearing open:

Nicholas Caegel, next door neighbor, said Mr. Holbert has about two dozen chickens and they get into his garden and in his yard. They are eating his strawberries and tomatoes. Mr. Caegel said his only complaint is to keep the chickens in his own yard. He had a fence for the goats and they were enclosed but the chickens are not fenced in.

Mrs. Pufpaff, 5184 Shawnee Road, neighbor, said she is not against the chickens, but keep them out of her yard also. She said there is a rooster and 11+ pullets.

Mr. Holbert said he has sold the goats and does not plan on getting more goats.
Public Hearing closed.

Chairman asked applicant if he is operating a business with the eggs? Mr. Holbert said òno business, just for their own personal use.

Chairman asked how long have you had these chickens? Mr. Holbert said òa little less than three years, does have a coop for them.

Chairman asked do you give them a supplement as these chickens are òfree range? Mr. Holbert said òin the Summer, don't get much other than what they pick themselves.

Chairman asked do the chickens go near the road and get hit by a car? Mr. Holbert said òthey do go out by the road occasionally but seldom get hit.

Chairman asked would you consider having less than 25 chickens? Mr. Holbert said òhe would consider five (5) less for now would be okay.

Mr. Smith asked applicant about putting up a fence to keep the chickens confined to his own property?

Applicant said there are eleven (11) full-grown chickens and 13 ó half-grown over one year old, one half are laying; one rooster, has multiple breeds.

Chairman asked can you reduce the number over a time period? Mr. Holbert said òyes.

Chairman said òyou need a fence high enough so chickens don't fly out, three feet is not high enough, you also could clip their wings, number of chickens ó10 adult chickens that are laying eggs are permitted.

Counsel said a fence is the issue. Special Permit with suitable fence on premises to keep the chickens on Mr. Holbert's property.

Mr. Smith said the neighbors only concern is chickens be fenced and not run on their property.

Applicant indicated he could agree to cull down number of chickens laying to 10.

Mr. Robinson asked applicant what he does with the manure and straw in the building? Mr. Holbert said he ðcombines the manure and straw and puts it in the gardenö. Put up a suitable fence to keep chickens on his own property.

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

A motion was made by Mr. Johnson and seconded by Mr. Smith to grant Kevin and Brigitte Holbert a Special Permit to permit applicants to conduct animal husbandry, namely, the keeping of pastured chickens upon said premises which contain approximately 1.38 acres, on condition a suitable fence is constructed. Applicant is permitted to have ten (10) adult chickens that are laying eggs. Special Permit is for a period of one (1) year initially. Unanimously approved, motion carried.

A copy of notice as required by Town Law Section 283-a and Agriculture and Markets Law, Section 305-a along with Public Hearing notice was sent to Kevin and Brigitte Holbert, applicants; and the following neighbors: Mark Woleben, R & R. Devantier, Demaris Wilson, Laura Pufpaff and copy on file with Town Clerk.

PUBLIC HEARING:

(06-29-15B) TIMOTHY IVANCIC, 5059 Upper Mountain Road, Lockport 14094 was present at this meeting and has submitted the following: Application for an Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and Survey.

Mr. Ivancic said he would like to build a two-car garage 20 feet by 30 feet in front of residence and will come within five (5) feet of east property line He said there is no other place to put the garage, because there is a grade and a drop-off on the side of the house and has a walk-out basement.

Public Hearing: there was no one from the public who had any concerns.
Public Hearing closed.

Garage will be approximately five (5) feet off of east lot line.

Chairman asked applicant what type of construction will the garage be? Applicant said öit will be a pole barnö.

Chairman asked applicant õhow many stories high?ö Mr. Ivancic said õit is a two-story house, but not in the front, two stories in the backö.

Applicant said garage will be one story, one floor with eight (8) foot walls, overhead door facing the south. Some things to put in this garage will be lawnmower, tractor, snow plow, firewood cut and now is in the driveway. The articles are all outside and would like to put those things inside.

Chairman said survey shows two sheds outside. Applicant said the 8øbö shed has been demolished. He said from front of garage to Upper Mountain Road will be between 50 feet to 60 feet. The neighborø house is close to the road. Septic system is in back of his house behind existing driveway. Applicant said his home has five bedrooms and four bathrooms.

Building Inspector said garage will be 50 ó 60 feet off of the road.

Counsel asked applicant what his time frame for construction is? and Mr. Ivancic said õhe would like to start within the next 30 daysö.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **approve** the request of Timothy Ivancic for an Area Variance to permit applicant to construct a garage with dimensions of 20 feet by 30 feet upon said premises closer to the road than the front of the residence upon said premises within five (5) feet of the east side lot line. Unanimously approved, motion carried.
End of Public Hearings.

Old Business: none
New Business: none

REPORTS:

Chairman: Updating of Zoning Ordinance ó if there are further comments, discussion, board be ready for next meeting

Town is concerned about Solar Panel Glare reflection ó and recently passed a Local Law requiring glare and or reflection from Solar panels not infringe on the neighbors.

Next meeting ó August 24th at 7:P.M.

A motion was made by Mr. Johnson and seconded by Mr. Smith to adjourn at 8:30 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____

