

August 22, 2011

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by John Reardon, Chairman, at 8:03 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
Clifford Burch, Building Inspector
Donald Lane, Deputy 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:

- (07-13-11) DONALD McGuire**, 3159 Ridge Road, Ransomville, N.Y. 14131, for an Area Variance to permit applicant to construct a detached garage with dimensions of 30 feet by 40 feet upon said premises containing a residence with less than 1200 square feet within 51 feet of the road right-of-way, whereas, the Zoning Ordinance does not permit construction of a detached garage containing dimensions which exceed the square footage of the principal residence upon said parcel.
- (08-01-11A) KIMBERLY BELL**, 5229 Kennedy Crescent, Sanborn, N.Y. 14132, for an Area Variance to construct an above ground swimming pool approximately 9 feet from the rear lot line of said premises, whereas the Zoning Ordinance does not permit construction of a swimming pool closer to the rear lot line than 15 feet.
- (08-01-11B) PAUL ZAMBITO**, 3538 Saunders Settlement Road, Sanborn, N.Y. 14132, for an Area Variance to construct an accessory building with dimensions of 28 feet by 32 feet with the front main wall of said accessory building to be the same distance from the road right-of-way as the front main wall of applicant's residence, whereas the Zoning Ordinance does not permit construction of an accessory building closer to the road right of-way than the rear main wall of a residence.
- (08-08-11A) DANIEL and MARY JOHNSON**, 4085 Daniels Road, Ransomville, N.Y. 14131, for a Special Permit to permit applicants to construct a farm pond containing a surface area of approximately one-half an acre upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.
- (08-11-11B) CHRISTOPHER COOPER**, owner, and **GERALD WOELFEL**, applicant, of 5838 Shawnee Road, Sanborn, N.Y. 14132, for a Special Permit to permit applicant to maintain a private kennel permitting applicant to harbor between four (4) and eight (8) dogs over six (6) months old registered to applicant as permitted by the Special Permit Ordinance of the Town of Cambria.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to approve minutes of meeting of July 25, 2011 as presented. Unanimously approved, motion carried.

RENEWAL (tabled from July 25, 2011)**1996-10 Crown Castle International**

Special Permit for cell tower, west of 4219 Lockport Road, Lockport N.Y. 14094
Site No. 875128

The renewal action was tabled for one (1) month because the Town had not actually received the check for renewal fee as of July 25th meeting. The check in the amount of \$500.00 dated July 25, 2011 was received on July 26, 2011.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **renew** Special Permit to Crown Castle International for tower west of 4219 Lockport Road, Site No. 875128, for a period of five (5) years retroactive to July 2011 with stipulations: applicant is to keep the Town of Cambria informed of any changes in the tower, contact person, address and phone number of owner of tower, and any co-locations. Unanimously approved, motion carried.

RENEWAL (current)**2010-06 (08-02-10C) Jac-Lynne S. Ward**

Special Permit to maintain a private kennel to keep up to six (6) dogs

Ms. Ward was present at this meeting and said she would like to renew the Special Permit.

Building Inspector said he had received no complaints on this Special Permit.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **renew** Special Permit to Jac-Lynne Ward to maintain a private kennel to keep up to six (6) dogs for a period of five (5) years. Unanimously approved, motion carried.

1995-11 (04-02-09A) Eric Wisor, 2958 Ridge Road, Ransomville, N.Y. 14132

Special Permit to operate Polaris dealership – sell snowmobiles, ATV's, watercraft and accessories. It was reported that Mr. Wisor is no longer operating this business and is living and working out of state. There has been no contact with Mr. Wisor and no response to communications.

Building Inspector recommended terminating the Special Permit for the business on its own terms.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to have the Special Permit of Eric Wisor expire on its own terms due to lack of response to communication and the fact that Mr. Wisor is no longer in the area and no activity at the 2958 Ridge Road address. Unanimously approved, motion carried.

PUBLIC HEARINGS:

(07-13-11) DONALD McGUIRE was present at this meeting and has submitted the following:

Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey.

Mr. McGuire said he would like to construct a detached garage, dimensions 30 feet by 40 feet, to park his vehicles in.

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

Board members:

Mr. Bechtel asked applicant if this building would be for personal storage and no business operated from it?

Mr. McGuire said this building will be for personal use only and no business will be conducted from it. It will be one story with vinyl siding.

Chairman said this building will be 30 feet by 40 feet for storage purpose. This exceeds the square footage of his residence.

Building Inspector said he would like Mr. McGuire to remove the tent that is on his property and Mr. McGuire agreed to do so.

Counsel had no comments on this issue.

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

Mrs. Kroening said she would like to add stipulation that the tent be taken down and Mr. McGuire agreed to this request.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to approve application for Donald McGuire for an Area Variance to permit applicant to construct a detached garage with dimensions of 30 feet by 40 feet upon said premises containing a residence with less than 1200 square feet within 51 feet of the road right-of-way with stipulation that tent on this property be taken down. Unanimously approved, motion carried. Applicant was informed that he needs to get a building permit.

(08-01-11A) KIMBERLY and KURT BELL were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, sketch of their property, sketch of filter and sketch of pool.

Mr. Bell said the above ground pool is approximately nine (9) feet from the rear lot line and ordinance requires 15 feet from the rear lot line.

Public Hearing open:

Mrs. Eric Winter, 5232 Subbera Road, Lockport, said originally the filter was approximately nine (9) feet from the property line. They have moved the filter in under the deck next to the pool.

Public Hearing closed.

Board members:

The Building Permit should have been obtained before pool was built.

Mrs. Bell explained that she and her husband both work and had left paper work for the contractor to follow when digging for the pool. When her husband came home from work, discovered the pool was too close to the lot line. At that time the filter was out beyond the pool. Pictures were shown to board members. There is a little ditch at the rear of the property.

Mr. Bell said they could not put the pool in another place because of the leach lines for septic system. He said the pool is twenty (20 feet) across and about ten (10) feet from the lot line.

Counsel asked if a buffer could be put in to protect view from the neighbor?

Mrs. Winter said there is a ditch across the back and would not work with a buffer. She said they have moved the filter under the deck. She said in the past pools have been placed over the leach lines.

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

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to **approve** application of Kimberly Bell to construct an above ground swimming pool approximately nine (9) feet from the rear lot line of said premises. Unanimously approved, motion carried.

(08-01-11B) MR. and MRS. PAUL ZAMBITO were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of Survey map.

Mr. Zambito said they would like to construct a 28 foot by 32 foot accessory building in line with attached garage for storage

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

Public Hearing closed.

Board members:

Mr. Robinson asked applicant if there would be any business conducted from this building and Mr. Zambito said no business.

Mr. Zambito said he would like to keep a truck, bike, car and the children's toys in it. He owns approximately one and one-half acres. He said he has a back shed for lawnmower and some of the toys.

He said the exterior of the building will match their home, garage and shed. Height 9' walls, 28' by 32' building with 2 garage doors.

Building Inspector had no concerns on this request. He said if he were to move the proposed building back, it would be close to his shed.

Counsel had no comments.

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** request for an Area Variance to construct an accessory building with dimensions of 28 feet by 32 feet with the front main wall of said accessory building to be the same distance from the road right-of-way as the front main wall of applicant's residence. Unanimously approved, motion carried. Applicant was informed that he must obtain a building permit.

(08-08-11A) DANIEL and MARY JOHNSON were not present at this time.

The following have been submitted: Application for Special Permit for a one-half acre farm pond, Short Environmental Assessment Form, Agricultural Data Statement and copy of letter from Niagara County Soil and Water Conservation District dated August 3, 2011.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **table** application of the aforementioned until the end of the agenda and see if they appear. Unanimously approved, motion carried.

(08-08-11B) CHRISTOPHER COOPER, 5838 Shawnee Road, Sanborn, N.Y. 14132, Owner
GERALD G. WOELFEL 5838 Shawnee Road, Sanborn, N.Y. 14132, Applicant

The following have been submitted: Application for Special Permit to have a Private Kennel to keep up to eight (8) dogs, Short Environmental Assessment Form, Agricultural Data Statement, sketch of gate, and copy of Survey map.

Mr. Woelfel said he is the brother-in-law of Mr. Cooper and has show dogs and just moved here from Colorado and is living with Mr. Cooper temporarily. Mr. Cooper has two (2) dogs and Mr. Woelfel has four (4) at present.

Public Hearing open:

Janet Stockburger, 5848 Shawnee Road, Sanborn, 14132, said she has a problem with the dogs. She quoted from the Zoning Ordinance regulations "KENNEL, PRIVATE An establishment including cages, dog runs and structures wherein between four (4) and eight (8) dogs which are over six (6) months old registered to the owner of the premises are harbored" She said the dogs have been on her property. . There is a breeding program going on and noise. She said they live close to Mr. Cooper's home. Their bedroom in on that side. How do they dispose of the excrement?

Mr. Woelfel said it is put in a container for the garbage pick up.

Kevin Stockburger, 5848 Shawnee Road, Sanborn 14132, said owner/applicant erected an electric fence but don't use it or watch the dogs. The dogs go into his pond and go out back.

Mr. Woelfel said he is staying here temporarily and has been here for about a year. He said he trained dogs professionally in Colorado. He said there would be no breeding or selling of puppies. He said he will be applying for a building permit to put up a fence. He got bark collars for them today. He said he has no plans for training or breeding facility.

Public Hearing closed.

Board members:

Mrs. Kroening asked how many dogs are owned by the owner and how many by the applicant?
Mr. Cooper, owner, said he has two and Mr. Woelfel, applicant, said he has four dogs.

Mrs. Kroening asked for a clarification of owner and applicant?
Counsel said when application came in, it was not clear, that application include Mr. Cooper, owner, and Mr. Woelfel, applicant.

Mr. Smith asked if these are inside dogs?
The answer was they are inside dogs and have a collar to control them.

Mrs. Stockburger said they have an electric fence but not on.
Mr. Cooper said the electric fence is activated.

Mr. Woelfel was asked how long he has lived at this address and he said since October 1, 2010.

Building Inspector said if dogs were kept in the back of the property, would not be close to the neighbors.

Mr. Cooper said he owns about $\frac{3}{4}$ of an acre and understands it includes a flood plain in the back. He said he would like to have the dogs close to the house and also understands water table in the back is low.

Counsel asked Building Inspector about setback from the structure?

Dogs permitted to go off of the property?

Owner said when they were puppies, they did go off of the property. In the beginning, there was a problem when installing the fence. Fence has been in for about 1-1/2 years.

Counsel asked if dogs are kept outside?

Mr. Cooper said dogs are outside when he is outside, otherwise, kept inside on the porch patio. He said he has fully enclosed runs which are protected with a cover from the sun.

Mr. Woelfel said he only plans to be at Mr. Cooper's home temporarily. When he does move, he will take the dogs with him.

Only two dogs are registered to the owner of the property.

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

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **deny** application of Christopher Cooper, owner, and Gerald Woelfel, applicant, for a Special Permit to permit applicant to maintain a private kennel permitting applicant to harbor between four (4) and eight (8) dogs over six (6) months old registered to applicant because the dogs must be registered to the owner of the property. Unanimously approved, application is denied.

2011-07 (08-08-11A) DANIEL and MARY JOHNSON were present at this meeting now.

Mr. Johnson said they would like to construct a one-half acre farm pond to be used for irrigation purpose. He said they own approximately eight (8) acres and are interested in this for a farm assessment.

Public Hearing open:

Robert Blackman, 4472 Thrall Road, Lockport, 14094, said there is more to obtaining a farm assessment than construction of a pond. You must have an actual farm operation, certain number of acres and a certain income from the farm operation.

There were no further concerns from the public.

Public Hearing closed.

Counsel read from the Zoning Ordinance: regarding definition of a farm, must have certain amount of farm activity, assessment based on production of farm products grown on the farm.

Building Inspector said for a farming assessment, must have at least seven (7) acres of land and \$10,000.00 in sale of products from this land as of this date to qualify for agricultural assessment.

Applicant said they plan to use the pond for irrigation and also plan to grow some things.

Chairman said there is also a concern for safety. The board suggests a fence surrounding the pond during construction of said pond and also plans for construction including a slope in the pond so you can walk out of it. Chairman also asked how far from back lot line to the pond and applicant said 150' to 200'.

Chairman highlighted a few concerns in the letter from Niagara County Soil and Water Conservation District:

Concerns of Niagara County Soil and Water:

1. Proposed pond dimensions are approximately 150 feet by 150 feet.
2. Pond to be excavated to a depth of 10 – 12 feet utilizing 3:1 side slopes.
3. All spoil material will remain onsite as fill.
4. Some of the soil is poorly drained.
5. A pond constructed at this location may have trouble holding water all year long.
6. Recommend a test pit be excavated to determine groundwater characteristics and depth to an impermeable material. Test pit could be left open through the Summer months to monitor groundwater elevations to determine how far the water level in a pond constructed at the site would drop.
7. Test pit should be fenced or secured to prevent accidental entry.
8. No mapped wetlands occur in the proposed pond area.

Concerns of Board member:

Mr. Smith asked applicants what they will be doing with the fill?
Mrs. Johnson said the fill will stay on the property.

Counsel said pond cannot be closer than 100 feet from the lot lines.

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

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** application for a Special Permit to permit applicants to construct a farm pond containing a surface area of approximately one-half an acre upon said premises with the following conditions:

1. Upon a finding that the construction or alteration of said pond will not adversely affect drainage in the area.
2. Applicants to comply with conditions per attached letter dated August 3, 2011 from Niagara County Soil and Water District
3. A safety fence is to be built surrounding pond during construction by agreement of applicants.
4. Applicants must obtain a building permit.

Unanimously approved, motion carried.

REPORTS:

Chairman - If anyone has any requests for budget for 2012, please let Mr. Ellis, know by Sept. 1st.
Online Planning and Zoning Courses

Other Business: George Bush, Councilman, had submitted an Application for a Variance to erect a sign for the Recreation Park on Upper Mountain Road. The application has been misplaced.

The board could hold a special meeting on Wednesday, August 31st to take action on the Variance application.

Repairing of Ohol barn roof damaged by wind storm and addition to structure on Ohol property on Upper Mountain Road. Severe damage was done to the roof.. Building Permit was issued to repair the roof. Building Permit was issued after the addition was built. Variance was granted years ago for the initial structure. An Application for a Variance could be requested for the addition.

Building Inspector – no report

Board members – no report

(08-04-10) Chris, Curt and Patricia Rechin, 5700 Shawnee Road, Sanborn, N.Y. 14132
Re: Use Variance to temporarily store excavated material closer to the road right-of-way than 500 feet from Shawnee Road

Chris and Curt Rechin were present at this meeting. Chris Rechin said they have a meeting with Army Corps of Engineers on Tuesday, Aug. 30th regarding the excavating of material on to property of The Rechins. Also, will discuss the issue of the Wetlands on the property. Per information supplied by Mr. Rechin, on copy of survey, shows area of existing fill, area of proposed fill to be removed, etc. Mr. Rechin is to contact the Building Inspectors' office following the meeting with the Army Corps of Engineers on the issues aforementioned.

It was reported a copy of letter dated August 16th to The Rechins with copy to D & M Landscava-tion, who was doing the trucking of the material to the site, was returned Aug. 22nd with note from the Post Office "Return to Sender, Moved, Left no Address, Unable to Forward".

He said they are trying to clean up the property and do not know what kind of fill D& M was putting on the site.

The bins where the fill could be stored temporarily, are 16 feet by 16 feet. There is some concrete in the fill per Mr. Rechin.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 9:45 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____