

January 24, 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 8:15 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
Gary Billingsley, Attorney
George Bush, Councilman
Robert Blackman, “
Robert Klavoon, Wendel Duchscherer Eng.

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

2011-01 (12-31-10) SUSAN ABRAHAM, 3531 Upper Mountain Road, Sanborn, New York 14132 for a Special Permit to permit applicant to maintain a private kennel and to keep up to 8 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

2011-02 (01-03-11) DEBBRA MARTINEZ, 4324 Ridge Road, Lockport, New York 14094 for a Special Permit to permit applicant to maintain a private kennel and to keep up to 4 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

2011-03 (01-06-11) ELIZABETH COPELAND, 3061 Moore Road, Ransomville, New York 14131 for a Special Permit to permit applicant to maintain a private kennel and to keep up to 8 dogs upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.

(01-10-11) WILLIAM R. GOODHUE, owner of **DAWN til DUSK CAFÉ**, 5252 Saunders Settlement Road, Lockport, New York 14094 for an Area Variance to construct a drive-thru coffee outlet with dimensions of 8 feet by 10 feet within 5 feet of the road right-of-way upon said premises, whereas the Zoning Ordinance of the Town of Cambria does not permit such a structure closer to the road right-of-way than 80 feet.

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

RENEWAL: Mr. and Mrs. Mark Woleben, 5152 Shawnee Road, Sanborn, N.Y. 14132
Special Permit for in-law apartment

Mrs. Woleben was present at this meeting and said she wishes to renew the Special Permit. There have been no changes.

Building Inspector said there have been no complaints with this Special Permit.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to **extend** Special Permit to Mr. and Mrs. Woleben to permit in-law apartment on their property for a period of five (5) years. Unanimously approved, motion carried.

At the request of Counsel, Lou Ann Murawski, Town Clerk, explained that the Dog Local Law adopted by the Town Board in December 2010 included a provision to make purebred licenses available only to those eligible purebred dog owners who are in compliance with the Zoning Ordinance relating to special permit requirements for operation of private or public kennels. The Building Inspector has followed up with a letter to those individuals who are harboring more than three dogs to ensure they are in compliance with the Zoning Ordinance, which will enable them to apply for a purebred license if they so desire.

PUBLIC HEARINGS:

2011-01 (12-31-10) SUSAN ABRAHAM, 3531 Upper Mountain Road, Sanborn, N.Y. 14132, was present at this meeting and has submitted the following: Application for Special Permit to maintain a private kennel to keep up to eight (8) dogs, Short Environmental Assessment Form, Agricultural Data Statement and sketch of her property showing the runs for her dogs.

Mrs. Abraham said she was unaware that she needed a Special Permit to keep up to 8 dogs and licensed individually. She said she had been informed that it was cheaper to have a Purebred license. She said that she shows the dogs, breeds them and does some judging. Five (5) of them are debarked and two (2) are not for security reasons.

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

Concerns of board members:

Mr. Robinson asked what kind of dogs does applicant have and she said they are Collies.

Mr. Smith asked applicant what would be the largest number of dogs she would have?

Mrs. Abraham responded eight (8) would be maximum number of dogs on the premises.

Mr. Bechtel asked applicant what she does with the waste and she replied that she puts it in the garbage or on her property.

Chairman asked applicant if the dogs ever get loose and Mrs. Abraham replied “no”, do not get loose.

End of comments from board members.

Building Inspector said he has had no complaints in that area about the dogs.

Attorney had no comments.

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

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to **approve** application for Special Permit to permit applicant to maintain a private kennel and to keep up to eight (8) dogs for a period of one (1) year with provision waste is disposed of properly according to State law. Unanimously approved, motion carried.

2011-02 (01-03-11) DEBBRA MARTINEZ, 4324 Ridge Road, Lockport, New York 14094, was present at this meeting and has submitted the following: Application for Special Permit for a private kennel to house four (4) dogs, Short Environmental Assessment Form, Agricultural Data Statement and sketch of her property.

Mrs. Martinez said the dogs are all Purebred.
She was told the dogs have to be individually licensed.

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

Concerns of board members:

Mr. Smith asked applicant what is the breed of these dogs?

Mrs. Martinez said she has two Golden Retrievers and two Dachshunds. Dogs are penned at all times or on a leash. They also can go into a garage.

Chairman asked applicant how long she has had these dogs and she said about seven years and they never get loose. She was asked about waste removal and said it is put in the garbage or in the woods behind their home.

End of comments from board members.

Building Inspector said there have been no complaints on these dogs.

Counsel had no concerns on this issue.

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

A motion was made by Mrs. Kroening and seconded by Mr. Bechtel to **approve** application for a Special Permit to permit applicant to maintain a private kennel and to keep up to four (4) dogs for a period of one (1) year with provision waste is to be properly disposed of according to State law. Unanimously approved, motion carried.

2011-03 (01-06-11) ELIZABETH AG COPELAND, 3061 Moore Road, Ransomville, New York

14131, was present at this meeting and has submitted the following: Application for Special Permit for a private kennel to house up to eight (8) dogs, Short Environmental Assessment Form, Agricultural Data Statement and copy of deed highlighting two areas where dogs are housed.

Mrs. Copeland said she has four (4) Bloodhounds and would like option to have up to eight (8) dogs. She said she works with search and rescue. The waste is put in the garbage or put in holes on their property.

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

Mrs. Copeland said she is a handler, judges dogs and goes to competitions. At present, she has four (4) dogs and doesn't plan to have more than six (6) dogs. Sometimes has puppies and average litter is 10 – 15. She said she has a Purebred license, has a kennel for the dogs, is more than 100 feet from the property line and has a fenced yard behind her home. The dogs do not get loose.

There were no concerns expressed from board members or attorney on this issue.

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

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** application for Special Permit to permit applicant to maintain a private kennel and to keep up to eight (8) dogs for a period of one (1) year with provision waste is disposed of properly according to State law. Unanimously approved, motion carried.

(01-10-11) WILLIAM R. GOODHUE, owner of **DAWN til DUSK CAFÉ**, 5252 Saunders Settlement Road, Lockport 14094, corner of Campbell Boulevard, was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, copy of portion of town map and sketch of his proposal.

Mr. Goodhue said he would like to construct an attractive drive-thru coffee outlet on this property, dimensions of structure 8 feet by 10 feet, located within five (5) feet of the road right-of-way. He said this could serve truckers, drivers of buses, combines and other large vehicles. Any size vehicle could use this facility. It would be elevated to service the larger vehicles. There would be three entrances and three egresses, entering further from the intersection, vehicles would not have to back out. Variance requested is for the setback from the road right-of-way. There are three medians the State put in, 6" high curbs and hut would be up against one of the medians. The outside of the hut would be of the same material as the existing diner, inside would be insulated and dry-walled and nicely constructed per applicant.

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

Mr. Goodhue said he has counted the number of vehicles that go through that intersection per day and there are approximately 15,000. He also mentioned a couple of large businesses that could use this

facility, Delphi and Yahoo.

Counsel said this application was referred to the Niagara County Planning Board which met today and recommended denial because of safety concerns at this intersection

Mr. Goodhue said he did not know about that meeting.

Counsel said in order for approval of this application, the board would need four “aye” votes in order to over-ride the county.

It was suggested that applicant contact the Department of Transportation as this would be a concern at the intersection.

Mr. Goodhue said the new building would be approximately 150 – 200 feet away from the signal light and vehicles slow down upon approaching the intersection.

Counsel said the Town Planning Board tabled action on the Site Plan to see what the Zoning Board’s decision would be on the Variance requesting five (5) feet from the road right-of-way for the new building.

Mr. Goodhue said the parcel the diner is on is approximately 1 ¼ acres.

Building Inspector expressed concern about traffic issue. Perhaps another location would be better, but it would be impossible to get the 80 feet setback requirement per Zoning Ordinance.

Mr. Klavoon feels the five (5) foot setback would be too close to the highway, traffic impact.

Mr. Goodhue said he will contact the Department of Transportation on the issue.

Chairman said this is quite a substantial difference – five (5) feet and ordinance requires 80 feet setback.

Mr. Goodhue said the window to the building would be elevated.

The board requested applicant get more information for the board to consider.

Mr. Klavoon will contact D.O.T. on this issue.

A motion was made by Mr. Smith and seconded by Mrs. Kroening to **table** action on application for Area Variance to Mr. Goodhue until more information is received on the setback issue. Unanimously approved, motion carried.

End of Public Hearings.

Area Variance tabled from December 2010:

(12-06-10) Thomas W. Bos and Eileen R. Brown

On January 21, 2011 Mr. Bos telephoned Building Inspectors' secretary and said that because of the weather, they were unable to dig the test holes to determine the depth of rock for their future home on Lower Mountain Road. Also, they would be out of town and unable to attend tonight's meeting. Mr. Bos said they would inform the Building Inspectors' office when to put them on the agenda.

Use Variance tabled from August and December 2010:

**(08-04-10) Chris, Curt, Patricia Rechin, Donald Wells – property owners
D & M Landscavation – landscaping tenant
Project – to temporarily store material closer than 500 feet from the road**

Mr. Chris and Curt Rechin were present at this meeting.

One of the concerns was where the dirt was coming from that was being put on the Rechin property as fill.

Mr. Chris Rechin said D.E.C. and the Army Corps of Engineers had been contacted.

Mr. Steve Currier from Army Corps of Engineers informed Mr. Rechin that they would have to look at the property and could not come out to inspect the site until Spring, perhaps March or April.

Mr. Charles Rosenberg from D.E.C. said where the material is being dumped is not in the wetlands as far as they are concerned.

Mr. Rechin said no material has been brought in for two to three months.

The material, per Douglas Musall of D & M Landscavation Co., letter dated January 7, 2011, copy on file, came from: Rite Aid, Niagara Falls, DuPont Credit Union, Military Road, Niagara Falls; Niagara Falls Memorial Medical Center and School #54, Buffalo, Ciminelli. Per letter, "all sites deemed clean and shovel-ready". They would like to leave the dirt there until Spring.

Mr. Klavoon said Wendel Duchscherer Eng. did an environmental study in 1994 on wetlands on that site. Things change over the years and what was prepared in 1994 may not be true in 2010. He said a professional engineer would need to look at the area delineated for filling in.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **table** action on the aforementioned until additional information is received. Unanimously approved, motion carried.

REPORTS:

Chairman informed board members that he will be unable to attend the February 28th meeting, will be out of town on business. Mrs. Kroening, Vice Chairperson, will fill in at that meeting.

Building Inspector said there are still more people with more than three (3) dogs to get Special Permits.

Board members – no concerns

Chairman reappointed Theresa Kroening, Vice Chairperson, for the year 2011.

A motion was made by Mr. Smith and seconded by Mr. Bechtel to declare ZONING BOARD of APPEALS as LEAD AGENT IN REGARD TO SEQR for all SPECIAL PERMITS, VARIANCES, and ANY OTHER MATTERS that should come before it in the year 2011, except for applications for which there is more than one permit granting authority. Unanimously approved, motion carried.

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 9:10 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____