

July 22, 2013

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by John Reardon, Chairman, at 8:00 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
Donald Robinson, Peter Smith
Michael Bechtel resigned from the Zoning Board after the meeting on
June 24th
Michael Sieczkowski, alternate, is now a regular board member

Member absent: Theresa Kroening

Also present: Matthew Foe, Councilman
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:

(06-07-13) SHARON STOYELL, 4980 Ridge Road, Lockport, N.Y. 14094, for a **Use Variance** to permit applicant to construct a 7.8 kW ground/pole mounted solar electric tracking system on the southern portion of said premises behind (south of) the barn upon said premises, whereas Local Law No. 1 of the year 2013 Regulating Solar Energy Systems in the Town of Cambria requires such systems to be contained within the limits of the building roof and/or on rooftops of principal or accessory buildings in the A-R District.

(06-10-13) GREGORY JORDAN, 3511 Ridge Road, Lockport, N.Y. 14094, for an **Area Variance** to permit applicant to construct a garage with dimensions of 24 feet by 30 feet upon said premises within approximately 10 feet of the east side lot line, whereas the Zoning Ordinance does not permit construction of a garage closer to a side lot line than 15 feet.

(06-20-13) JOSEPH McCABE, 5100 Blackman Road, Lockport, N.Y. 14094, for an **Area Variance** to permit applicant to construct a shed with dimensions of 12 feet by 16 feet in the front yard upon said premises, whereas the Zoning Ordinance requires construction of such structures in the rear yard.

(07-01-13) CAMBRIA VINES N'BINES LLC, 9402 Douglas Fir Court, Clarence Center, New York 14032, for a **Special Permit** to permit applicant to construct a half acre farm pond upon premises adjacent to 4321 Lower Mountain Road within approximately 150 feet of Lower Mountain Road pursuant to the Special Permit Ordinance of the Town of Cambria.

A motion was made by Mr. Robinson and seconded by Mr. Smith to approve minutes of meeting of June 24, 2013 as printed. Unanimously approved, motion carried.

RENEWALS:

2008-03 (02-04-08) (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 14094.

Mr. Richard Eakin was present on behalf of the above. He said at present there are no finances to go ahead with the project and do not know when there will be.

Counsel said Special Permit was granted in 2008 and recommended renewing for a certain length of time until the County is ready to go ahead with the building, suggested renewing for two years.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **renew** Special Permit of County of Niagara for a new facility for a period of two (2) years retroactive to June 2013 with understanding if able to proceed within the two years, will notify the building inspector and if they wish to discontinue the special permit, will notify the building inspector. Unanimously approved, motion carried.

2003-07 (04-24-03) AT&T - Co-Locator – Telecommunication tower at 4621 Ridge Road, Lockport, N.Y. 14094 FA 10000 885

Counsel – regarding length of time for renewal. Discussion on length of time on co-location. Suggest – something else than five years, perhaps two (2) years. Building Inspector agreed on a two (2) year renewal.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **renew** Special Permit for co-location on tower at 4621 Ridge Road, Lockport 14094 for a period of two (2) years. Unanimously approved, motion carried.

PUBLIC HEARINGS:

2013-05 (06-07-13) Owner - **SHARON STOYELL**
Agent - CIR Electrical Construction Corp. (contact – Darrin Harzewski)
400 Ingham Avenue, Buffalo, N.Y. 14218
Blue Collar Green Company

The following have been submitted: Application for Use Variance, Agricultural Data Statement, Certificate of Liability Insurance, Niagara County On-Line Mapping System and various other information provided.

Mr. Harzewski said Ms. Stoyell is requesting a Use Variance to construct a 7.8 kW ground/pole mounted solar electric tracking system on her premises at 4980 Ridge Road, Lockport. He said this system moves around where there is the most amount of sunlight. It will

be located behind her existing barn. He said the approximate life of the system is 20 years plus. This will be the first of this kind in Niagara County if approved.

Public Hearing open:

Secretary read a letter from Mr. and Mrs. Robert Winslow, 4988 Ridge Road, Cambria dated July 15, 2013, who said they have no objection to Ms. Stoyell's plans.

There were no comments from members of the public.
Public Hearing closed.

Concerns of board members:

Mr. Robinson asked Mr. Harzewski how big are the panels?

Mr. Harzewski said there are 30 panels total on the proposed system, which would be 26 feet high by 25 feet wide. Each panel is 3' by 5' and 25' by 18' when assembled.

Mr. Sieczkowski asked about shadow area?

Mr. Harzewski said it adjusts to the sun. The applicant's cost of electricity is expensive because she has a hot tub pump and heats with floor radiant in the house.

It was asked about noise from this solar system?

Mr. Harzewski said no noise, movement is minimal, very quiet.

Mr. Sieczkowski said per Local Law No 2013, small-scale solar equipment system located within A-R Zoning District is only permitted as a solar collector, when completely contained within the limits of the building roof surface. The proposed system for Ms. Stoyell is ground/pole mounted and that is the reason for the request for a Use Variance.

Mr. Harzewski said the pole will be ground/pole mounted with no concrete base.

Mr. Sieczkowski would like to see information regarding the shadows. Will the shadows be on the resident's property only?

Counsel said the Town Planning Board does not make recommendations on Use Variances.

Building Inspector said the shadows may be on the neighbor's property in the morning only, otherwise, will be in the applicant's yard only.

Mr. Harzewski said there is one type of this system in North Collins and another in Lancaster. There is 45% more production with a tracker

Chairman said a Use Variance is much more difficult to obtain than an Area Variance.

Mr. Harzewski said that NYSERDA and National Grid applications had been approved.

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

A motion was made by Mr. Smith to approve request of Sharon Stoyell for a Use Variance to construct a 7.8 kW pole mounted solar electric tracking system on a property zoned Agriculture-Residential. There was no second to the motion.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **deny** application of Ms. Stoyell for a Use Variance to construct a pole mounted electric tracking system on her property. The vote was as follows:

Mr. Robinson	-	yes, to deny the application
Mr. Sieczkowski	-	yes, “ “
Mr. Smith	-	no, “ “
Mr. Reardon	-	yes, to deny the application

Mr. Reardon said reasons for denial are: Per “H” on Application for Use Variance:

1. Per Mr. Reardon - Hardship is self-created
2. Per Mr. Robinson - Will alter character of the neighborhood

Motion carried, application of Ms. Stoyell is denied.

(06-10-13) **GREGORY JORDAN** was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copies of two sketch plans.

Mr. Jordan said he would like to build a two-car garage, dimensions 24’ by 30’ which will be approximately 10 feet from the east side lot line. He said the front of the garage will be within 15 feet of lot line and the rear will be within 10 feet of the lot line.

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

Concerns of board members:

Mr. Sieczkowski asked applicant what is the distance on the east side of the property to the closest structure?

Building Inspector said there is nothing on the east side now.

Counsel – no comments

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

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to **approve** application of Gregory Jordan for an Area Variance to permit applicant to construct a garage with dimensions of 24' by 30' upon said premises within approximately ten (10) feet of the east side lot line. Unanimously approved, motion carried.

(06-20-13) **JOSEPH McCABE** and his wife, Theresa, were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and sketch of the property.

Mr. McCabe said they purchased the shed, 12 ' by 16', in May and shed was already assembled. The shed was already in place at the back of their home on the west side when he found out from Mrs. Kroening there was an easement on the property. The front of their house faces Upper Mountain Road (south). He said the land on the west side at times is wet. He wants to put snowblower in the shed and the proposed location would be more accessible to clean out his driveway, if the shed was on the east side of his house. There are a few trees around the shed which does block the view somewhat.

The shed is now on the east side of house, Blackman Road side.

Mr. McCabe said it would be expensive to move the shed, have already used four tons of stone and would need four tons more to move the shed.

Public Hearing open:

June Kroening, son, Michael, and daughter Sheila were present at this meeting. Michael said they are looking to the future on the property.

Public Hearing closed.

Concerns of Board members:

Shed is on stone.

Mr. Sieczkowski asked applicants how far would they have to move the shed to the west to be flush with the house?

Applicants said shed would have to be moved 25' to 30', the front of the house faces the south.

Applicants informed Mr. McCann they were not aware of an easement on that property. They did not know until after they had purchased the shed.

Counsel asked how close to the road is the shed and answer was about 25 feet. The road right-of-way is 33 feet from the center line. The shed is closer to the road than the house is.

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

A motion was made by Mr. Smith and seconded by Mr. Robinson to permit applicants to locate the shed, dimensions 12 feet by 16 feet, in the front yard of their home, in its current location. Unanimously approved, motion carried.

2013-04 (07-01-13) CAMBRIA VINES N'BINES LLC

The following has been submitted: Application for Special Permit to construct a small farm pond, Short Environmental Assessment Form, Agricultural Data Statement, copy of Niagara County Soil and Water Conservation District letter, dated June 14, 2013 and copy of Niagara County On-Line Mapping System consisting of four pages.

Brenda Young and husband, Robert Johnson, are owners of this property, formerly Walter Freiert farm. She said they are growing Hops on a portion of the farm. She said there is seepage area and soil erosion. They would like a small pond approximately one-half acre (150' by 150') for run-off, erosion management and crop irrigation.

Per Niagara County Soil and Water Conservation, proposed pond site is approximately 215 feet north of Lower Mountain Road and 140 feet from the east property line. The pond will be excavated to a depth of 10' to 16' utilizing 3:1 slopes and all spoil material will be used on site as fill.

Agent said she and her husband are both ecologists.

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

Agent said approximately 132 acres of the farm is leased to Flevie Danielewicz and he has planted soy beans.

Per Niagara County Soil and Water Conservation District, as stated in their letter, “this location should provide for a functional pond”.

Counsel asked applicant if they (Brenda Young and husband, Robert Johnson) own the property?

Agent said they hope to close within a few days.

A motion was made by Mr. Robinson and seconded by Mr. Sieczkowski to declare **negative declaration under SEQR** on application for a small farm pond on property of Cambria Wines N’Bines Unanimously approved, motion carried.

A motion was made by Mr. Sieczkowski and seconded by Mr. Smith to **approve** application for a Special Permit to permit applicant to construct a half-acre farm pond upon premises adjacent to 4321 Lower Mountain Road within approximately 215 feet of Lower Mountain Road with the following conditions:

“Contingent on property owners providing proof of ownership of this property; and Upon a finding of no environmental damage and finding that the construction or alteration of said pond will not adversely affect drainage in the area.” Unanimously approved, motion carried.

End of Public Hearings.

(05-21-13) Frank Dispenza Sr., 3130 Ridge Road, Ransomville, N.Y. 14131
Request for Use Variance to permit applicant to construct a twelve-acre farm pond for fish farming and to remove excavated material from the property.

Mr. Dispenza was present for an update on his proposed pond. He said he will need a Mining Permit and as of this date, no further information available. DEC will be Lead Agent.

Counsel asked Mr. Dispenza about the time frame on proposed pond?

Mr. Dispenza said the paper work has been submitted and nothing further as of this meeting. Roger Mawhiney is to notify Mr. Dispenza when a response is received.

Mr. Robinson asked Mr. Dispenza if he has a clear title to the property?

Mr. Dispenza said he is making mortgage payments to the mortgage holder and will inform the town when further information is available.

REPORTS:

Chairman said he is leaving the Zoning Board because he has purchased a home in the Town of Lockport and cannot remain on the board if he doesn't live within the town. Also, informed the board Michael Bechtel has resigned from the Zoning Board. Mr. Reardon said he will be at the August meeting and resignation will be effective September 01, 2013

Michael Sieczkowski will be a permanent member of the Zoning Board of Appeals.

Building Inspector – no report

Attorney - Wrote a letter to Robert and Christine Winstel, 3537 Saunders Settlement Road, Sanborn confirming termination of Special Permit to operate automobile repair shop as of June 24, 2013.

Board members – no report

Other Business – Mr. Danielewicz' request for Area Variance to construct a pole barn at 5935 Baer Road, dimensions 30 feet by 40 feet, 20 feet from north side lot line, has been withdrawn and Mr. Danielewicz will place the pole barn in a location permitted by the Ordinance regulations.

A motion was made by Mr. Robinson and seconded by Mr. Smith to accept Mr. Danielewicz' withdrawal of Area Variance. Unanimously approved, motion carried.

A motion was made by Mr. Sieczkowski and seconded by Mr. Robinson to adjourn at 9:15 P.M.

Next meeting August 26, 2013 at 8:00 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy

Minutes approved: _____