

September 26, 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 8:00 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  
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:

**(08-24-11) STUART ADAMS**, 4723 Upper Mountain Road, Lockport, N.Y. 14094, for an Area Variance to permit applicant to replace an existing porch with dimensions of 6 feet by 8 feet with a new porch with dimensions of 10 feet by 18 feet within approximately 32 feet of the road right-of-way, whereas the Zoning Ordinance does not permit construction of a porch closer to the road right-of-way than 60 feet.

**(09-09-11) ROBERT WARK**, 4865 Upper Mountain Road, Lockport, N.Y. 14094, for an Area Variance to construct an accessory building with dimensions of 28 feet by 48 feet, whereas the Zoning Ordinance does not permit construction of an accessory building that exceeds the square footage of the first floor of the principal residence, which is 820 square feet.

**(08-25-11) ROBERTA SHERWOOD**, 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 August 22, 2011 as presented. Unanimously approved, motion carried.

#### **RENEWAL (current)**

**2010-11 (08-12-10) Mrs. John (Linda) Rodger**, 4772 Ridge Road, Lockport, N.Y. 14094  
Special Permit to maintain a private kennel to keep up to six (6) dogs

Mrs. Rodger was present at this meeting and said she would like to renew the Special Permit. She requested no changes and has the same number of dogs.

Building Inspector and board members had no concerns on this Special Permit.

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

**PUBLIC HEARINGS**

**(08-24-11) STUART W. ADAMS** was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, Front Porch Layout and Design, Materials List, picture of home and garage and copy of Survey.

Mr. Adams said the previous porch was in bad shape and was unsafe. House was built in 1948. The electrical lines were very close to his home and had to have National Grid move them. The front of the house is approximately 42 feet from the road right-of-way and original porch was 6' by 8' wide. He said per Zoning Ordinance, he must have 60 feet frontage which he does not have. He would like the new porch to be 10 feet by 18 feet.

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

Board member:

Mr. Smith asked how wide do you wish the porch to be and Mr. Adams said 10 feet toward the road and 18 feet along the house. The power lines have been moved.

Building Inspector said there is 75 feet to the center of the road as shown on survey.

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

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **approve** the request for Area Variance to Stuart Adams to permit applicant to replace an existing porch with dimensions of 6 feet by 8 feet with a new porch with dimensions of 10 feet by 18 feet within approximately 32 feet of the road right-of-way. Unanimously approved, motion carried.

**2011-09 (08-25-11) ROBERTA L. SHERWOOD** and Christopher Cooper were present at this meeting and jointly own a home at 5838 Shawnee Road, Sanborn, N.Y. 14132

Roberta Sherwood submitted the following: Application for Special Permit to maintain a private kennel to harbor between four (4) and eight (8) dogs over 6 months old, Short Environmental Assessment Form and Agricultural Data Statement.

Ms. Sherwood said she presently has six (6) dogs.

0

Public Hearing open:

Kevin Stockburger, 5848 Shawnee Road, Sanborn, N.Y. 14132 asked the following questions?  
Who owns the house?; who owns the dogs?

He referred to the August 22<sup>nd</sup> Zoning Board meeting when a Public Hearing was held for owner, Christopher Cooper and applicant, Gerald Woelfel, requesting a Special Permit to maintain a private

kennel to harbor between four and eight dogs. At that time Mr. Cooper owned 2 dogs and Mr. Woelfel had four dogs and was living at 5848 Shawnee Road temporarily and had been there since October 2010 with the dogs.

They have six dogs in the house and have installed a partial fence. Dogs bark a lot. Mr. Stockburger said one female is not spayed and one male is not neutered.

Cindy and Craig Smith, 5834 Shawnee Road, Sanborn, N.Y. 14132, were present at this meeting and said the barking is mostly at night. Bark collars were purchased and now there is very little barking at night time. No problems now and not a issue for them.

Craig Smith said the dogs are Setters and are good dogs.

Received this evening: Statement from the following who have “no complaints or problems with the issuance of a Special Permit to have the dogs on owners’ property”: Paul Jacus, 5839 Shawnee Road, Paula A. Schreader, 5852 Shawnee Road, Sanborn, and Cindy Smith, 5834 Shawnee Road. Sanborn.

Also received from Janet Stockburger, 5848 Shawnee Road, an itinerary from August 22nd through September 23, 2011 pertaining to activity on property at 5838 Shawnee Road with regard to private kennel for up to eight dogs.

Public Hearing closed.

The answer to Mr. Stockburger’s questions:

Per Town Assessor’s records, the home at 5838 Shawnee Road is owned by Christopher T. Cooper and Roberta L. Sherwood, date of document 10/24/2003 and

Per Town Clerk’s records, Roberta Sherwood, 5838 Shawnee Road, is the owner of 6 dogs and are all licensed.

Mr. Cooper is erecting a six (6) foot high fence and has six pens, one for each dog.

Board members and Building Inspector– no further concerns.

Counsel said the Special Permit could terminate if Mr. Woelfel moves out of state and takes the four dogs. He could write a letter to the board informing them that he has left the area and taken the dogs with him.

Ms. Sherwood said there would be no breeding of the dogs and will not have more than six (6) dogs. She said they got bark collars for the dogs so they won’t bark.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to declare **negative declaration under SEQR** on application of Roberta Sherwood for the private kennel. Unanimously approved, motion carried.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **approve** application of Roberta Sherwood 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, with the following conditions:

1. By agreement, there is to be no breeding of dogs.
2. By agreement, Special Permit limits the number of dogs to six (6).
3. By agreement, Special Permit shall terminate at such time as Mr. Woelfel vacates the premises.

Unanimously approved, motion carried.

**(09-09-11) ROBERT WARK** was present at this meeting and has submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement and copy of property description in Deed.

Mr. Wark said he would like to build a storage barn for farm equipment, dimensions 28' by 48'.

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

Concerns of board members:

Mr. Bechtel asked applicant what he plans to store in the building?

Mr. Wark said he would like to store a tractor with a chipper, bulldozer and various other equipment.

There will be no business conducted from this building per applicant.

There were no further concerns on this request by board members, Building Inspectors or the Attorney.

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

A motion was made by Mr. Robinson and seconded by Mr. Bechtel to **approve** application for Area Variance to Robert Wark to construct an accessory building with dimensions of 28 feet by 48 feet. Unanimously approved, motion carried.

Applicant was advised that he needs to obtain a building permit prior to construction.

End of Public Hearings.

Other Business:

**(08-04-10) Curt, Chris and Patricia Rechin, 5700 Shawnee Road, Sanborn, 14132**  
Re: Application for Use Variance to temporarily store excavated material upon premises commonly known as 5700 Shawnee Road, Sanborn 14132

Mr. Chris Rechin was present at this meeting.

Per correspondence received September 21, 2011 and an aerial view map from Mr. Rechin to Mr. Burch, Building Inspector, which stated in part, “We have been in contact with US Army Corps of Engineers as far as wetlands. They have determined that the area in question is now wetlands and what we filled must be removed. They have given us a tentative deadline of October 31, 2011.”

1. “We will be using the bins located in the back of the property to temporarily store the removed fill, as we have been in contact with numerous contractors that need fill, and it will be just a matter of time before it is removed permanently.”
2. “Applicant is asking the board to grant a one year Special Use Permit to store the dirt in the existing piles, and will be using most of the dirt on site to reseed the wetlands and redo the lawns on the premises and any left over dirt will be removed from the site.”

Mr. Rechin said all of the fill put in wetland has to be taken out, approximately .27 acre to be Removed. He said they have started removing some of the fill and will need to reseed. Army Corps requested the dirt be out by October 31<sup>st</sup>. See letter on file dated 09-06-11 from Army Corps of Engineers which pertains only to the material on the Federal jurisdiction wetland area 0.27 acre of the 0.36 acre of fill.

Counsel said the Town’s other concern is the area that is in front, storage of excavated material closer to the road than otherwise permitted, by storing excavated material within 500 feet of the road right-of-way.

Mr. Rechin said he has two parties interested in taking out the dirt. He said he will store 0.27 acre of fill from wetland area in the bins until they get someone to take the dirt. Area including wetlands ¼ to ½ acre of land being disturbed and about ½ acre needs to be restored to be able to keep maintained.

Counsel said applicant appears to be attempting to comply. Rather than granting a Use Variance, Counsel recommended working with Mr. Rechin and give him one (1) more month. He needs to take care of wetland area and rest of the fill in front of the property.

Mr. Stockburger said he could use some of the fill on his property to fill in low areas.

Mr. Rechin asked for a year to get the job completed. He said this is the busy time of the year for his business.

Counsel recommended Mr. Rechin or a representative come to the next month’s meeting and report on the progress made, will be on the October agenda.

REPORTS:

Chairman – Continuing Education at N.C.C.C. and from New York Planning Federation in Amherst regarding S.E.Q.R. which will be on December 2, 2011.

Mr. Bechtel – On line Zoning course and explained the procedure.

Chairman – said he will be in Albany on business on October 24<sup>th</sup> and asked Mrs. Kroening to act as Chairperson for that meeting.

Attorney – Application has been received from Modern Recycling to add composting to the recycling business on Lockport Junction Road. The Planning Board will meet at 7:00 P.M. and Zoning Board at 8:00 P.M. on October 24<sup>th</sup>.

Re: Addition to farm building on property of Joseph Ohol on Upper Mountain Road. The roof and some of the supports on the original building were damaged in a wind storm and replaced and at that time the addition was erected. The original building was constructed pursuant to a variance and the addition to the building is not closer to the road than original building as permitted.

Building Inspector – Mr. Burch said he had an inquiry about installing a solar system for electricity and sale of some to National Grid. The home is located on the east side of Plank Road and north side Lower Mountain Road. The inquirer said there would be no noise to this system. There are no regulations on this issue at this time.

Board members – no concerns

A motion was made by Mr. Bechtel and seconded by Mr. Robinson to adjourn at 8:55 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: \_\_\_\_\_