

December 20, 2010

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 application:

(12-06-10) THOMAS BOS and EILEEN BROWN, 7367 Bear Ridge Road, North Tonawanda, N.Y. 14120, for an Area Variance to permit applicants to construct a residence between 125 feet and 230 feet from the road right-of-way upon premises located on the south side of Lower Mountain Road immediately adjacent to and westerly of 4750 Lower Mountain Road near the intersection of Lower Mountain Road and Marjorie Drive, whereas the Zoning Ordinance does not permit construction of a residence farther from the road right-of-way than 125 feet.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to approve minutes of meeting of November 22, 2010 as presented. Unanimously approved, motion carried.

(08-04-10) Chris, Curt and Patricia Rechin – applicants
D & M Landscavation – tenant

Applicants had requested a Use Variance to temporarily store excavated material closer to the road right-of-way than 500 feet. Action was tabled at August meeting until additional information was received and no information was received. Attorney sent a letter requesting the information. Communication has been received dated December 9th from Chris Rechin in which request was made to table the application until the January 24, 2011 meeting. The tenant has had some family issues and the Rechins have been extremely busy at work. Also advised that they had contacted NYS D.E.C. and U.S. Army Corps of Engineers as far as wetlands and are waiting for both to get determination to them.

A motion was made by Mr. Robinson and seconded by Mr. Bechtel that per applicants' request, the application for Use Variance is tabled until January 24, 2011 meeting. Unanimously approved, motion carried.

PUBLIC HEARING:

(12-06-10) THOMAS BOS and EILEEN BROWN were present at this meeting and have submitted the following: Application for Area Variance, Short Environmental Assessment Form, Agricultural Data Statement, aerial view of the property and surrounding properties and copy of portion of town map. Also submitted this evening were: copy of letter dated December 20th from Joseph and Sharon Cassata, letter dated Dec. 20th from Richard and Kim Sarles, information applicants had received from Michael Tracy of the Highway Dept. and pictures taken by applicants at 230 feet from the road

right-of-way of Johnson, Cassata, and McIntosh residences and Eveningside Winery and view from the road. The aforementioned letters and pictures are on file.

Miss Brown said they would like to place their future home between 125 and 230 feet from the road right-of-way. The parcel is between two homes on rock. House at 4750 Lower Mountain Road has a crawl space and house at 4730 hit rock at three feet and had to build up a little to create a basement. Applicants wish to have a full basement in their home. They hope that within 125 feet and 230 feet there will be a place where they can build and not hit the rock.

Mr. Bos said they plan to put in a tree line for privacy for neighbors on both sides.

Public Hearing open:

Mrs. Gary Miles, 4766 Lower Mountain Road, said she still feels the same on this issue as at the previous meeting when applicants requested setback of between 350 feet and 450 feet from road right-of-way. They wish the privacy of their back yard and are opposed to the setback. They swim in their pool in their back yard in the Summer. They have no privacy in the front yard because of Marjorie Drive. They want to preserve the privacy and not sure if applicants would plant the trees.

Glenn McIntosh, 4750 Lower Mountain Road, said they have lived at this address for 26 years. Traffic has increased over the years with the town's increasing growth. They enjoy family in the back yard and feel applicants' home should be in line with the neighbors.

Michael Johnson, 4722 Lower Mountain Road, said they wish to preserve the green area in the back. Applicants should stay in line with requirements in the Zoning Ordinance. The ordinance states 125 feet setback is the maximum and they should stay in line with all of the homes in the area to enjoy the view to the south. We welcome everyone to come to the neighborhood. We all want our families to be safe but feel they should respect the desires of the people who live here. Come into the area and enjoy the back yard. Applicants said they will plant trees for privacy. They want to build behind everyone else and then plant trees. A lot of trees will block the view to the back. Respect the town's Zoning Ordinance. Enjoy the back yard with everyone else. There is opposition from the neighbors. By going back further than 125 feet will affect all of the neighbors. Mr. Johnson said there is no guarantee the trees will be planted and they should abide by the town's Zoning Ordinance.

Letter from Richard and Kim Sarles, 4718 Lower Mountain Road, dated Dec. 20th which stated in part "they had expressed their concerns at a previous meeting and continue to oppose the permit application. We have no concerns if built within the Town of Cambria codes."

Kirk Brown, 5180 Lower Mountain Road, Lockport, said all the homes should be the same setback.

Glynn Matthews Jr., 12740 Mauerer, Cato, N.Y., owner of the property, said Mr. Bos and Miss Brown have put in a purchase offer on this property. He said at one time, in the 1970's, a Mr. Crisman lived in a building back further than 125 feet. He said the town directed him to have the building taken down. He said they dug down eleven feet to bury that building. He said the foundation is still there.

Sherri Johnson, 4722 Lower Mountain Road, said we should keep the Zoning law in effect pertaining to setback. The neighbors still have the same concerns on the setback issue as they had at the previous meeting. This would be a disruption of the neighborhood. Please consider the feeling of the established neighborhood and respect the people's wishes. Everyone is getting along in harmony, keep everything as is.

Chairman said the applicants should get soil samples and see where the rock is. Per Zoning Ordinance, maximum setback is 125 feet.

Mr. McIntosh said where Mr. Crisman lived was condemned.

Letter from Joseph and Sharon Cassata dated Dec. 20th was the same letter submitted at October 25th meeting except they had changed the footage for the setback to 230 feet and changed the date.

Public Hearing closed.

Concerns of board members:

Mrs. Kroening said on the application the request is to build a one-family dwelling 125' to 230' from the road right-of-way. They should have someone check and see where the best place would be for the home depending on the depth of the rock.

Chairman said the board needs to have more concrete information to see where the rock is before making a decision. Perhaps the home could be in line with the neighbors' garages.

Miss Brown said she had contacted Michael Tracy of the Highway Dept. who stated "there is an average annual traffic increase of 3%". Also said "there were many neighbors that claimed they had no problem raising their children on this street". The preceding communication is on file.

Miss Brown said they will be dealing with a very different safety situation with their children, than most of their neighbors have had with theirs.

Miss Brown said a variance was recently granted to someone to build a home on Plank Road approximately 400 feet from the road right-of-way and she said there wasn't much concern on that issue. There are several homes on Lower Mountain Road, Budd Road and Plank Road with greater than 125 feet setback.

It was pointed out that each application is different and is considered on its own merits.

Mr. Smith asked what is the setback on the McIntosh's home?

Mrs. McIntosh said the depth is 125 feet.

The depth of the Cassata residence is 125 feet.

Building Inspector said when the homes Miss Brown mentioned were built, they were built before the ordinance was changed in regard to depth. He said the fire company feels it is a fire hazard issue when homes are built way back.

Mr. Bos said there is a fire hydrant in front of the property.

Applicant has the ability to get information on the depth of the rock on this property and where the best location would be for their future home.

Chairman said the request is a range from 125 feet to 230 feet.

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

A motion was made by Mr. Smith and seconded by Mr. Robinson to **table** action on application for a variance to Thomas Bos and Eileen Brown until we find out what the actual depth of the rock is in the area of 125 feet to 230 feet; and also applicants are to provide more detailed information on the rock formation on that property. Unanimously approved, motion carried.

REPORTS:

Chairman – contacted Town Supervisor regarding reappointment of Peter Smith for another term and was informed Mr. Smith has been reappointed for another term.

Attorney - notified Town Board that the Zoning Board meetings will be held on the fourth Monday of each month in 2011 at 8:00 P.M. except for the December meeting which will be on the third Monday due to the Christmas holiday.

Building Inspector – work has started on Niagara Professional Park (WNY Urology Associates') building. Building Permit for a fence was issued. Original request was for a six (6) foot high fence and changed to an eight (8) foot high fence.

Chairman - Michael Sieczkowski, alternate board member, will be reappointed for 2011.

Next meeting will be Monday, January 24, 2011 at 8:00 P.M.

A motion was made by Mr. Robinson and seconded by Mrs. Kroening to adjourn at 8:50 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____