

February 24, 2014

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Michael Sieczkowski, Chairman, at 8:00 P.M. He welcomed everyone to the meeting followed by the Pledge to the Flag.

Members present: Michael Sieczkowski, Chairman
Thomas Andrews, Craig Powley, Donald Robinson
Member absent: Peter Smith
Also present: Matthew Foe, Councilman
Randy Roberts, Councilman and liaison to the Town Board
James McCann, Building Inspector
Gary Billingsley, Attorney
Andrew Reilly, Wendel Companies

A motion was made by Mr. Robinson and seconded by Mr. Andrews to approve minutes of meeting of January 27, 2014 as presented. Unanimously approved, motion carried.

Old Business: (tabled from June 2013)

(05-22-13) Frank Dispenza, Sr., 3130 Ridge Road, Ransomville, N.Y. 14131
Request for Use Variance to construct an approximate twelve (12) acre pond on premises on Ridge Road

Mr. Dispenza has submitted application to the Zoning Board of Appeals for Use Variance to dig a pond for fish farming, etc. The proposed pond will be about 12 acres of surface area. Per Zoning Ordinance, a farm pond used for agricultural or recreation purpose, excavated area containing water can be no larger than one-half acre of surface area.

Tonight, Mr. Reilly from Wendel Companies, Engineering firm representing the Town of Cambria, was present and gave to board members a copy of Mr. Dispenza's Full Environmental Assessment Form.

Zoning Board of Appeals has concurred with designation of New York State Dept. of Environmental Conservation as SEQR Lead Agent for the review of Mining Permit application to Niagara Frontier Clay, Inc. for the Dispenza Pond Excavation on property at 3130 Ridge Road, Ransomville.

Zoning Board will act on request for Use Variance by Mr. Dispenza after SEQR process is completed. There is a 30 day period for public input after Lead Agent has been established.

Applicant has applied for a Mining Permit. The board will review the Mining Permit and then discuss other issues of concern and proposed impacts and that information may be provided to D.E.C. to be included with SEQR as part of the SEQR process.

Chairman said the word “lake” is not mentioned in the Comprehensive Plan and Mr. Reilly said that word is not used in the Zoning Ordinance, only the word “pond”.

Counsel advised the board if they feel they need more time to provide their input on the proposal, they can request more time. Some of the issues brought up were:

1. Who is responsible for drainage? D.E.C. is just considering the mining aspect of the proposed pond.
2. Change in water table. Will this affect well water used in the area? Impact on agriculture in the area?
3. There is a large pond in the immediate area. Mr. Cloy’s pond is next to Dispenza property, was basically a wetland. Per Mr. Cloy, area where his pond is located, could not grow good crops.
4. Applicant, Mr. Dispenza, has to meet the criteria on application. Could area where proposed pond is to be, be used for agricultural crops? Could he get a reasonable economic return from property as is?
5. On application, stated “for fish farming in conjunction with offal composting from our slaughterhouse business” which is the waste in trimmings of butchered animals removed in dressing. Could there be bacteria in the aforementioned waste going into the pond and into the waterways?
6. Overflow from pond?
7. Look at the end result from environmental aspect
8. Pond will be about 2,000 feet back from the road. Pond will be, in board’s opinion, a non-agricultural use in an agricultural area. Members of this board indicate they believe the purpose for this pond is to mine the clay. Mr. Dispenza owns approximately 40 acres and pond area affected will be approximately 12 acres.
9. Why is this a hardship? Zoning prohibits removing material from pond. Must have a use for the clay? Applicant must show proof that he is unable to use this land (12 acres) for farm operation. Per Zoning Ordinance, mining is not permitted. Mr. Dispenza

9. (cont.) is asking permission to do something that is not permitted in the Zoning Ordinance. Use Variance can be denied if property can be farmed. Applicant will need approval for a Mining permit and also approval of Use Variance. Zoning Board has permit-granting authority. DEC is Lead Agent but applicant will still need approval of Use Variance from the town even if the applicant is granted a Mining Permit.

10. The board will review applicable criteria listed on Use Variance application.

11. What will pond be used for after it is constructed? What is impact on Comprehensive Plan and development in the area?

12. How is the pond going to be maintained?

13. Rain water, where is the surface water going to go? Drainage area and where will water come from for the pond?

Counsel recommended authorizing Chairman to write a letter to D.E.C. requesting more time to do a final response and provide additional information to D.E.C. Additional discussion on following issues occurred :

a. Need proof about the subject property, namely, unique situation – very important. Burden of proof is on the applicant, Mr. Dispenza, to supply information to address required showing for Use Variance.

b. Refer to Niagara County Planning Board? With applications, as a matter of law, certain applications must be submitted to the Niagara County Planning Board for their review. The Town has an agreement with the aforementioned board that only certain matters need to be referred to them. The board can choose to refer certain applications to that board.

c. Impact on land – not known how long the mining project will take, depends on land conditions on the property, impact of water, drainage, water quality, impact on air, hours of operation, how many days per week removing the fill.

d. Noise, odor, dust issues when removing the material? removal of the top soil? Could dust affect Mr. Dispenza's business, namely the slaughterhouse; trucks per day in and out?

e. Mineral rights – who is the owner? (per Mining Permit Application – Frank Dispenza is the owner).

f. Affect on plants and animals?

- g. Aesthetic resources – no history on this property
- h. Transportation – how many trips per hour or day?
- i. Impact on energy
- j. Public health and safety (pond – depth of pond, goes from shallow to deep)
- k. Character of community (re: Comprehensive Plan for that area)
- l. Control of mosquitoes on the lake (per Mr. Reilly, usually mosquitoes don't stay on lake, but get in tire tracks, etc.)
- m. After the board has completed its part, D.E.C. could require financial security, namely, require a bond to begin and complete the mining operation.
- n. What will reclamation look like, a safe pond?
- o. Are permits required for fish farming and for the public to fish in the pond?

Building Inspector – no further issues this evening – Dispenza pond issue at this time.
send letter to Mr. Dispenza to attend March meeting for issues under SEQR and Use Variance.

Mr. Roberts – raised concerns about pond issue.

A motion was made by Mr. Robinson and seconded by Mr. Powley to authorize Chairman to write a letter to D.E.C. to request additional time to prepare final comments on Mining Permit application for Frank Dispenza. Unanimously approved, motion carried.

OLD BUSINESS: (tabled from January 2014)

Peter Smith has been appointed Vice Chairman of the Zoning Board of Appeals for the year 2014.

REPORTS: .

Chairman, Building Inspector, Attorney, Board members, Mr. Roberts – no further reports this evening.

NEW BUSINESS: Schooling can be done on line to New York Planning Federation
New board members will be put on the mailing list for New York

Planning Federation material.

Next regular Zoning Board meeting will be March 24th at 8:00 P.M.

Motion made by Mr. Robinson and seconded by Mr. Powley to adjourn at 9:15 P.M.

Respectfully submitted,

Marjorie E. Meahl

Marjorie E. Meahl, Rec. Sec.

Minutes approved: March 24, 2014