

May 23, 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
Theresa Kroening, Donald Robinson, Peter Smith
Michael Sieczkowski, alternate
Member absent: Michael Bechtel
Also present: Clifford Burch, Building Inspector
Donald Lane, Deputy Building Inspector
Gary Billingsley, Attorney

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to approve minutes of meeting of April 25, 2011 as presented. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWAL (current):

1999-03 (04-29-99) Richard Hahn, 3779 Lower Mountain Road, Sanborn, N.Y. 14132
Special Permit for landscaping, maintenance, sandblasting, painting and repair
and

2001-17 (12-03-01) Special Permit for Retail and Wholesale business, storage of bulk material and
nursery stock, equipment etc. outside

There was no one present on behalf of Mr. Hahn at this time.

A motion was made by Mr. Sieczkowski and seconded by Mr. Robinson to place renewal of Mr. Hahn at the end of the agenda and see if someone appears on his behalf. Unanimously approved, motion carried.

SPECIAL PERMIT RENEWALS (tabled from April 2011):

2009-04 (04-02-09A) Eric Wisor, owner and William Pearce, applicant
Revision of existing Special Permit of Eric Wisor, owner, to permit
William Pearce, applicant, 4566 Ridge Road, Lockport, N.Y. 14094, to do motor
vehicle repair in an existing structure located at 2958 Ridge Road, Ransomville,
N.Y. 14131

There was no one present on behalf of Mr. Wisor or Mr. Pearce at this time. A second notice was sent to Mr. Wisor and Mr. Pearce.

A motion was made by Mr. Smith and seconded by Mr. Robinson to **table** action on the renewal until the end of the meeting and see if someone appears on behalf of Mr. Wisor or Mr. Pearce. Unanimously approved, motion carried.

2010-03 (03-17-10) Christopher Matyas, 7166 Pendale Circle, North Tonawanda, N.Y. 14120
Special Permit to conduct light manufacturing business relating to computers and
computer related items upon premises known as 4935 Lockport Road, Lockport,
New York 14094.

Mr. Matyas was present at this meeting to renew the Special Permit to operate the aforementioned business. He said he wishes no changes in the Special Permit and to continue with the business.

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 Mr. Matyas to operate the light manufacturing business relating to computers and computer related items upon premises known as 4935 Lockport Road, Lockport, N.Y. 14094, for a period of five (5) years retroactive to April 2011. Unanimously approved, motion carried.

REQUEST FOR AREA VARIANCE (tabled from April 2011)

(12-06-10) Thomas W. Bos and Eileen R. Brown, 7367 Bear Ridge Road, Pendleton, N.Y. 14120, were present regarding Application for Area Variance to build a home on the south side, west of 4750 Lower Mountain Road, between 125 feet and 230 feet from the road right-of-way.

Per Zoning Ordinance, a residence cannot be built farther from the road right-of-way than 125 feet.

At the December 20, 2010 meeting (Public Hearing), action was tabled as the board wished applicants to find out the actual depth to the rock in the area of 125 feet to 230 feet; and to provide more detailed information on the rock formation on that property. The Winter weather came and they said they were unable to dig the test holes.

In April 2011 Mr. Bos and Miss Brown were present and said the test holes were dug when the contractor came to the property. Applicants subsequently advised the board that the “green certified home” plan was no longer part of the application. On the basis of this further information, Counsel said there is no need for a new public hearing.

Chairman said he has had conversations with applicant who told him they would attempt to build within the requirements of the ordinance on setback and when digging, would go back in increments of twenty (20) feet to find where the best place is for the future home foundation.

Chairman said he had received a phone call from Mr. McIntosh who resides at 4750 Lower Mountain Road and said he doesn't object to the proposed location of the future home if it has to go back 230 feet because of the rock formation.

Board members and building inspector had no further concerns on this issue.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to declare **negative declaration under SEQR** on application for Area Variance to Mr. Bos and Miss Brown. Unanimously approved, motion carried.

Counsel said there is a legal issue on applicants' request for flexibility on location for the future home versus exact setback relief customarily granted by this board.. The variance relief should have a

specific distance from the road right-of-way. At 175 feet, the home would be even with back of pool on McIntosh property, at 4750 Lower Mountain Road, immediately east of applicants' property. This will still require an Area Variance.

Miss Brown said at 175' they are satisfied with the rock issue. There is a little variance in rock depth by placing the home to the center of the property.

Mr. Sieczkowski understands applicants wish to have a nine (9) foot cellar wall and the average depth until hitting rock is five (5) feet.

Mr. Burch asked how much fill will be required? It will be four to five feet down before hitting rock. They will need considerable amount of fill to get the depth for the basement.

Mr. Smith asked applicants what type of home are they planning to build?

Mr. Bos said it will be a two-story house.

A representative of Boxwood Homes, Toby Logel, said closer to the center of the property there is an approximate two (2) foot elevation change. He said the plan is to attach the garage to the home. The front foundation of the home will begin at 175 feet and garage would be in front by fifteen (15) feet. Per Mr. Burch, variance would be considered from the front of the garage – 160' from the road right-of-way. The variance relief will be 35 feet.

A motion was made by Mr. Robinson and seconded by Mr. Smith to **approve** application for Area Variance to Thomas W. Bos and Eileen R. Brown to build a home with attached garage west of 4750 Lower Mountain Road, south side, not more than 160' from the road right-of-way. Unanimously approved, motion carried.

RENEWAL:

1999-03 (04-29-99) and 2001-17 (12-03-01) combined Special Permits of **Richard Hahn**. Mr. Hahn was present at this time and said he wishes to renew the two Special Permits. The previous renewal was for three (3) years.

Mr. Lane said there is a dirt pile close to the road on the west side of the property which should be leveled off. There is some blacktop in this pile which Mr. Hahn said is to be used for fill and he has a place for it, but with the wet weather, has been unable to move the dirt out. Building inspectors said they have received complaints from the neighbors on the dirt. The pile of dirt is a considerable distance from his business.

Counsel asked Mr. Hahn if and when the dirt will be removed? Mr. Hahn said he does intend to move the dirt as it has been sold.

Mr. Lane said he has removed the dirt that was on the right-of-way.

Mr. Hahn said, he will be able to take the dirt out within three (3) months.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson to **renew** the two combined Special Permits for a period of five (5) years. Unanimously approved, motion carried.

REPORTS:

Chairman: Received letter from Niagara County Center for Economic Development dated May 3rd Re: Niagara County Project Development Information Portal, a new website. Copy to be sent to each board member.

Attorney: Re: Mr. and Mrs. Kenith Hill, 3262 Lower Mountain Road, Sanborn, 14132
Special Permit for riding stable at 3262 Lower Mountain Road, Town of Cambria.

A letter was written to the above dated May 12, 2011, stating in part “had reviewed letter from Mr. Hill to the Town of Cambria Zoning Board dated February 18, 2011 and attached Memo from Clifford Burch relating thereto”. Counsel is in agreement with Mr. Burch’s interpretation, “that with respect to riding lessons, such lessons are permitted to be given to individuals who own or have a long-term lease for their horse boarded at the Hill farm pursuant to applicable “Right to Farm” statutes and interpretations provided by the Hills. These statutes and interpretations do not permit lessons to individuals who do not own or do not have a long-term lease for their horse to be boarded at the Hill farm.

The Special Permit previously granted to the Hills, pursuant to the Special Permit Ordinance, does permit lessons to the individuals who do not own or have a long-term lease for a horse being boarded at the hill farm.

(08-04-10) Chris, Curt and Patricia Rechin – applicants
D & M Landscavation – tenant
Use Variance is to temporarily store excavated material closer to the road right-of-way than 500 feet.

Action was tabled waiting for additional information from DEC. No further information received as of this date.

A motion was made by Mr. Sieczkowski and seconded by Mrs. Kroening to authorize attorney to write a letter to the applicants on the status of this Use Variance. Unanimously approved, motion carried.

2009-04 (04-02-09A) Renewal of Wisor/Pearce

Special Permit for Mr. Pearce to do motor vehicle repair in existing structure at 2958 Ridge Road, Ransomville, 14131. Property is owned by Mr. Wisor.

Two letters have been sent notifying them of time for renewal of Special Permit and no communication received.

A motion was made by Mr. Sieczkowski to terminate the Special Permit. Motion withdrawn.

A motion was made by Mrs. Kroening and seconded by Mr. Robinson that attorney write a letter to the aforementioned regarding their Special Permit and stating this is the final notification for renewal of the Special Permit. Unanimously approved, motion carried.

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

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____