

October 26, 2015

The regular monthly meeting of the ZONING BOARD of APPEALS of the TOWN of CAMBRIA was called to order by Michael Sieczkowski, Chairman, at 7:00 P.M. He welcomed everyone to the October 26th meeting followed by the Pledge to the Flag and then announced the agenda for this evening.

Members present: Michael Sieczkowski, Chairman
Thomas Andrews, Alan Johnson, Peter Smith,
Bradley Rowles, Alternate
Member Absent: Donald Robinson
Also present: Matthew Foe, Councilman
Randy Roberts, Councilman and liaison to the Town Board
James McCann, Building Inspector
Gary Billingsley, Attorney

Chairman announced there is one withdrawal of an application from tonight's agenda, namely, Joseph and Andrea Stefanski which read as follows: **(ZBV-2015-011)** **Joseph and Andrea Stefanski** of 3685 Meadow Brook Acres, North Tonawanda, New York 14120, for an Area Variance to permit applicants to construct a residence upon premises located on the west side of Plank Road between Ridge Road and Van Dusen Road, 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. Johnson and seconded by Mr. Smith to accept withdrawal of Application by Joseph and Andrea Stefanski. Unanimously approved, motion carried.

Secretary read Notice of Public Hearing as it appeared in the Lockport Union Sun and Journal to consider the following applications:

(ZSP-2015-008) **JANICE SALERNO** of 3101 Lower Mountain Road, Sanborn, N.Y. 14132 for a Special Permit to permit applicant to maintain a private kennel upon said premises permitting applicant to harbor four (4) dogs over six (6) months old registered to applicant as permitted by the Special Permit Ordinance of the Town of Cambria.

(ZBV-2015-010) **DAVID ERWAY** of 4204 Willow Road, Wilson, New York 14172, owner, and **LYNDA McSPADDEN** of 2911 Maple Road, Wilson, N.Y. 14172, applicant, for an Area Variance to permit applicant to construct an addition to an existing hot dog stand located approximately 38 feet from North Ridge Road pursuant to an area variance previously granted by this Board, which hot dog stand currently contains dimensions of 10 feet by 16 feet, upon premises commonly known as 4078 North Ridge Road. Said addition would contain dimensions of 6 feet by 10 feet, and would contain a freezer and/or refrigerator. Both the hot dog stand and addition would be located within approximately 38 feet of North Ridge

Road, whereas the Zoning Ordinance does not permit construction and/or expansion of such a structure closer to the road right-of-way than 80 feet.

(ZBV-2015-011) **JOSEPH and ANDREA STEFANSKI** (see Page 1) withdrawn
(9-23-15)

(ZBV-2015-12) **MICHAEL HANSEN** of 3196 Northway Drive, Sanborn, N.Y.
(9-25-2015) 14132, for a Use Variance to permit applicant to park commercial
vehicles and/or equipment used for a tree cutting service upon said
premises, whereas the Zoning Ordinance does not permit outdoor parking of such
vehicles and/or equipment for business purposes in the A-R Zoning District.

A motion was made by Mr. Smith and seconded by Mr. Johnson to approve minutes of meeting of September 28, 2015 as presented. Unanimously approved, motion carried.

RENEWALS (current)

1995-17 **Robert Smith**, 4455 Saunders Settlement Road, Lockport, N.Y. 14094
Special Permit to repair and sell firearms
Mr. Smith was present at this meeting and said he would like to
renew the Special Permit for the aforementioned. Nothing has changed.

Building Inspector said there have been no problems with this Special Permit.
Counsel ó no concerns
Board members óno concerns

A motion was made by Mr. Johnson and seconded Mr. Smith to **renew** Special Permit to Robert Smith to repair and sell firearms for a period of five (5) years. Unanimously approved, motion carried.

2003-12 (9-04-03) **Mr. and Mrs. Michael Maholsic**, 4006 Beebe Road, Newfane
14108 Special Permit for dog kennel
There was no one present at this time on behalf of the above..

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

PUBLIC HEARINGS:

Z SP-2015-008 **JANICE SALERNO** - Private kennel for four (4) dogs

The following have been submitted: Application for an Area Variance, Agricultural Data Statement; Aerial picture and Tax Map supplied by Assessor's office.

Public Hearing open:

Mr. Erway said Lynda McSpadden is his sister, who runs the Hot Dog stand, and said the business is doing very well and needs more room for a freezer and/or refrigerator for storing supplies, such as rolls and condiments, etc. and then could buy in larger quantities.

There were no concerns expressed by members of the public present this evening.

Public Hearing closed.

Chairman asked Mr. Erway if freezer and/or refrigerator would occupy the whole space of the addition? Mr. Erway said they need to purchase articles in larger quantities so need more storage space.

Chairman asked how high will addition be? Mr. Erway said it will be enclosed like the existing building, a lean-to at the back.

Chairman asked if addition will interfere with site? Mr. Erway said the color will be the same as existing building.

Mr. Rowles agreed to this addition on to existing building.

Mr. Smith can foresee no problems with this addition.

Counsel had no concerns on this proposal.

All board members approve of the addition.

Counsel reported Niagara County Planning Board recommended approval of Lynda McSpadden's request for Area Variance to construct an addition to an existing Hot Dog stand.

A motion was made by Mr. Smith and seconded by Mr. Rowles to **approve** Area Variance to permit Mr. Erway, owner, and Lynda McSpadden, applicant, to construct an addition to an existing Hot Dog stand located approximately 38 feet from North Ridge Road pursuant to an Area Variance previously granted by this Board, which Hot Dog stand currently contains dimensions of 10 feet by 16 feet, upon premises commonly

known as 4078 North Ridge Road. Addition would contain dimensions of 6 feet by 10 feet and would contain a refrigerator and/or freezer and addition would be located within approximately 38 feet of North Ridge Road. Unanimously approved, motion carried.

ZB V-2015-11 JOSEPH and ANDREA STEFANSKI - WITHDRAWN
(9-23-15) The Public Hearing Notice was read at the beginning of the meeting. The application was withdrawn by Mrs. Stefanski by phone call to Building Inspector on October 26, 2015.

ZB UV-2015-012 MICHAEL HANSEN was present at this meeting, along with
(9-25-15) David Boniello, Attorney

The following have been submitted: Application for a **Use Variance**, Short Environmental Assessment Form Part 1 ó Project Information consisting of 3 pages, Short Environmental Assessment Form Part 2 ó Impact Assessment consisting of 2 pages, Agricultural Data Statement; and Aerial pictures and Tax map supplied by the Assessor's office.

Mr. Hansen said he would like to park equipment used for his tree cutting service business and storage of equipment on his property at 3196 Northway Drive which consists of approximately 5 and ½ acres.

Mr. Boniello said Mr. Hansen has a regular job and does tree cutting on weekends. He has a berm and shrubbery on his property. He said he gets along fine with his neighbors. Primary tree cutting business is in Niagara County. He said he has plenty of room on his property for a building. Also said, he is looking for a suitable site in the area to store the equipment.

Public Hearing open:

Mrs. Robert Leaderstorf, 3223 Southway Drive, Sanborn, said when the applicant was building their home, there was soil and dirt on the road and "the boys had their toys".

It was asked what are the "toys"? The answer was 4 by 4's. It is quieter now.

Another concern is value of the homes in this area.

Mrs. Leaderstorf said she was told Mr. Hansen planned to put up a big barn. How big could the poll barn be? Answer was "no bigger than the house". Also of concern is damage to the roads with heavy equipment.

Darlene Ordian, 3206 Northway Drive, Sanborn, said in 2013 she came before the Planning Board with this same issue, owner operating a tree service business out of his house. His equipment was kept on his property which was too big and too wide for the street. There also was dust and noise on the street. The business had been operating for at least two (2) years.. A business in that area is a violation of the ordinance. What is he going to do? Had discussion with Planning Board and Mr. Hansen has continued on for about two years.

Michael Duerr, 3218 Southway Drive, Sanborn, said Mr. Hansen is a great neighbor and no problems.

Public Hearing is now closed.

Chairman asked applicant what type of equipment does he have?

Mr. Hansen said he has 2 trucks, a lift, skidsteer and 2 commercial vehicles.

Chairman asked Mr. Hansen where does he perform the maintenance on his equipment?

He said he doesn't perform maintenance at home. It is done in Lockport. All equipment is kept on property at his residence. He said he has been looking for property to rent for storing equipment. Said he has made many calls but people do not return his calls.

He said he has contacted Mr. Fetterhoff, a Real Estate agent, to find a place for his business.

Mr. Smith asked how long has applicant been in the business? and Mr. Hansen replied about 10 years.

Where were you located before you came to Cambria?

Mr. Hansen said he was located in the Town of Wheatfield.

Applicant was asked if he has employees and said he has two sons who work with him.

He was asked if he stores wood and he said he has some split wood on his premises.

Chairman read from minutes of meeting of September 16, 2013 under "New Business" the business is landscaping and tree trimming.

Per Darlene Odian, present at the 9/16 meeting, she said she talked with Building Inspector at that time, about rectifying the situation when Mr. Hansen first built the house and equipment has been stored there for about 2 years.

Chairman said with a Use Variance, the applicant has to show whether regulations or restrictions caused unnecessary hardship and the criteria is as follows:

1. If reasonable return can be realized from property as is.
2. If alleged hardship is unique in the community.
3. If requested change will alter character of neighborhood.
4. If alleged hardship is self-created.

Mr. Boniello said Mr. Hansen's hardship is he has not been able to find a place to store his equipment. Most of his business is in Niagara County and most of his work is done on weekends. Mr. Hansen does have a full-time job.

Mr. Hansen was asked if he does wood chipping? He said he does do chipping for himself and friends.

Mr. Hansen said his home was built in 2013.

Regarding a possible poll barn, berm and fence, he said he is looking for a permanent poll barn in the future, but not right now. He said he has inquired at a couple of places but no calls back.

He was asked how far away could he go with equipment?

He said he needs to deal with customers and a secure area to store equipment.

He said the Court is waiting for decision from this Board.

Applicant has to address the criteria in the four regulations stated above. Attorney stated, in his opinion, Mr. Hansen has created the hardship.

Mr. Hansen has created hardship himself by bringing equipment on to his premises and that he is in violation of the ordinance by bringing equipment into the Town of Cambria.

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

A motion was made by Mr. Smith and seconded by Mr. Johnson for a Use Variance to allow Mr. Hansen to park his equipment, consisting of commercial vehicles and equipment used for tree trimming on his premises at 3196 Northway Drive for one (1) year so applicant can find a place to keep his equipment. Vote was not unanimous.

Secretary was requested to poll the Board:

Mr. Rowles - õnayö
Mr. Andrews - õnayö
Mr. Smith - õayeö
Mr. Johnson - õayeö
Mr. Sieczkowski - õnayö
Motion failed

A motion was made by Mr. Rowles and seconded by Mr. Smith to give **Michael Hansen three (3) months** to remove his equipment from property at 3196 Northway Drive, Sanborn, N.Y. 14132 and find a new place to store the equipment with all vehicles and/or equipment to be removed before the expiration of the three (3) month period. Unanimously approved, motion carried.

Old Business ó none

New Business ó none

REPORTS:

Chairman ó no report

Building Inspector ó no report

Attorney ó no report

Board members ó no report

Councilman Roberts ó no report

Next meeting will be Monday, November 23, 2015

Meeting adjourned by motion of Mr. Smith and seconded by Mr. Johnson at 8:15 P.M.

Respectfully submitted,

Marjorie E. Meahl, Rec. Secy.

Minutes approved: _____

