

**Town of Cambria
Zoning Board of Appeals Meeting
June 18, 2018**

The regular monthly meeting of the Zoning Board of the Town of Cambria was called to order by Peter Smith, Chairman at 8:00PM. Everyone was welcomed to the meeting, followed by the Pledge to the Flag.

Members Present: Peter Smith, Chairman
Alan Johnson
Harmony Retzlaff-Hurtgam
Thomas C. Andrews
Bradley Rowles
Cheryl L. Shoop, Alternate

Members Absent: No Members were absent

Also Present: Joseph Ohol, Councilman, Town Board Liaison
Gary Billingsley, Attorney

A motion was made by Mr. Johnson and seconded by Mr. Andrews to approve the Minutes for the May Meeting as presented, unanimously approved, motion carried.

The public hearing notice was read as it appeared in the town newspaper.

New Business

Special Permit-Renewals

**ZSP-1984 Upstate New York International Union of Operating Engineers
3365 Ridge Road, Ransomville, NY 14131
SBL# 77.00-2-61.1
Training Center**

Mr. Printup was present at the meeting as representative for the Operating Engineers; they would like to continue with this Special Permit as they have previously. Mr. McCann stated there have been no issues with this Special Permit.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to renew this Special Permit for five (5) years, all in favor, motion carried.

Special Permit Renewals

ZSP2006-10 James D. Henning
2967 Lower Mountain Road, Sanborn, NY 14132
SBL# 105.00-1-5.111
Operate Public Stable

Mr. Henning was present at the meeting and would like to continue with his Special Permit to operate a public stable. Mr. McCann stated there have been no issues with this Special Permit.

A motion was made by Mr. Johnson and seconded by Mrs. Retzlaff-Hurtgam to renew this Special Permit for five (5) years, all in favor, motion carried.

Special Permit Three Month Compliance Review

ZSP-2017-003 Sally Kolkmeier
4915 Townline Rd, Lockport, NY 14094
Concerning SBL# 79.00-2-8.2
4981 Ridge Road
Tourist Home

Mrs. Kolkmeier was present at the meeting and stated that things are going great with her Tourist Home. Mr. McCann stated that he has been through the house and everything is very well run and well-kept and there have been no issues with this Tourist Home.

This is the nine (9) month check for both this and the Buffone Tourist home which will be up for renewal in September.

The permits were approved at the Zoning Board Meeting on September 25, 2017. Both Mrs. Kolkmeier and Mr. and Mrs. Buffone will be asked to come before this Board at the Meeting held on September 24, 2018, if they wish to renew their Special Permit.

ZSP-2008-03 Niagara County Department of Public Works
5058 Lockport Road, Lockport, NY 14094
SBL# 107.00-2-32
Construct New Facility

Mr. Meal, P.E. Commissioner of Public Works, for Niagara County was present at the meeting and stated that the County would like a building on this site but funding needs to be secured to move forward at this time. Mr. McCann stated there have been no issues. This Special Permit has previously been renewed for three (3) years.

A motion was made by Mr. Rowles and seconded by Mr. Andrews to renew this Special Permit for three (3) years, all in favor, motion carried.

Special Permit Three Month Compliance Review-continued**Special Permit Three Month Compliance Review**

ZSP-2017-007 Nicholas and Evelyn Buffone
4611 Townline Rd, Ransomville, NY 14131
SBL# 91.00-1-41.11
Tourist Home

Mr. and Mrs. Buffone were not present at the meeting. Mr. McCann stated that this Tourist Home is also well run and there have been no complaints.

This is the nine (9) month check for both this and the Kolkmeier Tourist home which will be up for renewal in September.

The permits were approved at the Zoning Board Meeting on September 25, 2017. Both Mrs. Kolkmeier and Mr. and Mrs. Buffone will be asked to come before this Board at the Meeting held on September 24, 2018, if they wish to renew their Special Permit.

ZSP1992-07 Grace Colosimo
3588 Lower Mountain Road, Sanborn, NY 14132
SBL# 105.00-2-60.2
Rooming House

There was no representative for the Colosimo Family present at the meeting.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to table this Special Permit Renewal until the end of the meeting.

No one attended the meeting to represent the Colosimo Family; Mr. McCann stated a letter will be sent for next month's meeting.

A motion was made by Mr. Rowles and seconded by Mr. Andrews to table this Special Permit until next month's meeting.

New Business**Area Variance**

ZBAV-2018-004 Mr. Wayne Grenning
4233 Cambria Wilson Road, Lockport, NY 14094
SBL# 78.00-1-45.121
Addition to existing accessory structure

Mr. Grenning was present at the meeting and stated he would like to construct a separate new building instead of the addition. He provided a drawing for the Board of the proposed building.

New Business**Grenning Area Variance continued-****Public Hearing Notice**

To permit applicant to construct an addition with dimensions of 32 feet by 48 feet to an existing accessory building with dimensions of 32 feet by 48 feet upon said premises, which building would have a total of 3,072 square feet, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an accessory building that exceeds 2,000 square feet upon such a parcel.

Public Hearing Open

No Comment

Public Hearing Closed

Mr. Grenning will use the proposed building for his antique gas farm engines. These items are currently stored in the attached garage and he would like to move them to the proposed new building to free up the attached garage for his wife to park. The proposed new building will be eleven (11) feet tall at the peak of the roof, and be roughly one (1) foot shorter than his existing building. Mr. Grenning's existing building is 32 feet by 48 feet.

Mr. Andrews stated and the Board agreed that in the town of Cambria you are permitted to have two (2) buildings or accessory structures, therefore an Area Variance is no longer necessary since Mr. Grenning has decided to construct a separate building. Mr. Grenning has 3.10 acres

Use Variance**ZBUV-2018-002****Tyler Booth****5182 Ridge Road, Sanborn, NY 14132****SBL# 79.00-2-19.12****Antique Sales Business****Special Permit****ZSP-2018-007****Tyler Booth****5182 Ridge Road, Sanborn, NY 14132****SBL# 79.00-2-19.12****To use premises to host public and private events**

Mr. Booth was present at the meeting and is working to restore his property which was previously known as the Forsyth Tavern. Built in 1808 it is the second oldest building in Niagara County, Mr. Booth is working to restore this property to have it placed on the National Historic Register. The National Register of Historic Places is the United States federal government's official list of districts, sites, buildings, structures, and objects deemed worthy of preservation for their historical significance.

Booth Use Variance continued

Mr. Booth stated that he has proposed the antique shop and event site in order to provide funding for the restoration process.

Public Hearing Notice- Use Variance

To permit applicant to open an antique sales business in an existing structure upon premises commonly known as 5182 Ridge Road previously known as the Forsyth Tavern, whereas the Zoning Ordinance of the Town of Cambria does not permit antique sales businesses in the A-R Zoning District.

Public Hearing Notice- Special Permit

To permit applicant to use premises commonly known as 5182 Ridge Road previously known as the Forsyth Tavern to host public and private events pursuant to the Special Permit Ordinance of the Town of Cambria.

Public Hearing Open

William-Kathryn Rickerson, 4100 Cambria-Lockport Townline Road, Lockport 14094 stated they own the property adjoining the former tavern and are very concerned about the Use Variance. They have concerns that the applicant does not meet the criteria for the Use Variance. They have many concerns about traffic issues, pedestrians walking, gatherings, restrooms, commercial trucks dropping things off and numerous other issues. Mr. and Mrs. Rickerson are also concerned that should this be approved the property next to their house may become a parking lot. They are also concerned because the traffic already backs up over 1,500 feet to their house from the corner. They feel this is a very busy intersection where four (4) towns meet. This is where Cambria, Lockport, Newfane and Wilson all meet. There is a lot of traffic here from morning until about 8:00PM. In addition there is some concern about a dry creek bed and wetlands across Ridge Road.

Mike-Jamie O'Shea 5150 Ridge Road, Lockport 14094 stated that they share the same concerns as Mr. and Mrs. Rickerson. Mrs. O'Shea stated that they shopped a long time to find their current property. They were seeking peace and quiet to raise their special needs child, and do not support these proposals.

Paul Siuta 3344 Lockport Road, Sanborn 14132 stated that he has farmed the 165 acres he owns on Cambria-Lockport Townline Road for over 30 years and considers that intersection to be the deadliest intersection in the State. He feels there are lots of issues with this intersection and he has gone to Buffalo to discuss them with the Department of Transportation. Signs block the view for drivers and when he is driving his tractor it is impossible to see clearly. Mr. Siuta is concerned that Mr. Booth's proposals will increase traffic at this dangerous intersection with drivers who are unfamiliar with the area making

Public Hearing continued-

it even more dangerous. Mr. Siuta further stated that he likes Mr. Booth's idea but feels it should be denied until this intersection is fixed. He feels this intersection has to be made safe.

Public Hearing Closed

Mr. Billingsley stated that the Niagara County Planning Board has many of the same concerns the neighbors have expressed. It is currently considered an incomplete application by that Board as a great deal more information is needed. Mr. Billingsley did confirm with the Town Historian that an application has been made to the National Historic Register. He suggested Mr. Booth work with Mr. McCann to develop a sketch plan with parking, entrance and exit information. An application for a permitted use be made, and that the concerns of the neighbors be addressed.

Mr. Booth stated that it is their goal to restore the tavern and bring history to the site not to change the neighborhood.

Mr. Andrews suggested that Mr. Booth do a better job of explaining what he wants to do with this property.

A motion was made by Mr. Andrews and seconded by Mr. Rowles to table this Use Variance and Special Permit while Mr. Booth gathers more information.

New Business-continued**Area Variance**

ZBAV-2018-006 David-Aliza Edbauer
4715 Plank Road, Lockport, NY 14094
Concerning SBL# 93.03-1-11.12
Construct Solar Array

Area Variance

ZBAV-2018-007 David-Aliza Edbauer
4715 Plank Road, Lockport, NY 14094
Concerning SBL# 93.03-1-11.12
Construct Solar Array -Height 16.6 feet

Use Variance

ZBAV-2018-003 David-Aliza Edbauer
4715 Plank Road, Lockport, NY 14094
Concerning SBL# 93.03-1-11.12
Construct Solar Array- 10 feet from property line

Edbauer Variance-continued**Public Hearing Notice- Area Variance**

To permit applicants to construct a solar array upon premises commonly known as Plank Road (Tax Map No. 93.03-1-11.12) adjacent to and south of 4715 Plank Road, which would contain a pole mounted solar panel with a height of 16.6 feet, whereas Local Law No. 1 of the year 2017 that amends Local Law No. 2 of the year 2015 of the Town of Cambria Regulating Solar Energy Systems does not permit construction of a pole mounted solar panel that exceeds 15 feet in height upon such a parcel.

Public Hearing Notice-Area Variance

To permit applicants to construct a solar array upon premises commonly known as Plank Road (Tax Map No. 93.03-1-11.12) adjacent to and south of 4715 Plank Road, which would contain a pole mounted solar panel located within 10 feet of a property line, whereas Local Law No. 1 of the year 2017 that amends Local Law No. 2 of the year 2015 of the Town of Cambria Regulating Solar Energy Systems does not permit pole mounted solar arrays to be located closer to a property line than 50 feet.

Public Hearing Notice- Use Variance

To permit applicants to construct a solar array consisting of a pole mounted solar panel upon premises commonly known as Plank Road (Tax Map No. 93.03-1-11.12) adjacent to and south of 4715 Plank Road, a parcel of land which does not contain a residence or other principal building, whereas the above-referenced Local Laws and the Zoning Ordinance of the Town of Cambria do not permit such a solar array, which is by definition an accessory structure, upon premises which do not contain a residence or other principal building.

Mr. Edbauer was present at the meeting as well as Mr. Christopher Prinzi, Operations Coordinator for Solar Liberty. Mr. Edbauer stated that his existing ground mounted Solar Arrays meet 90%-95% of his energy needs. He would like another array to allow his home to completely rely on Solar Power to meet their needs. He would like to place the proposed array near the existing array so he could use the existing infrastructure. He discussed steps he has taken to minimize the impact the exiting solar arrays have on his neighbors. Landscaping with trees has been placed to minimize the effects of glare for his neighbors. They can address the height issue by digging deeper for the newly proposed Solar Array.

Public Hearing Open

Kim Sarles 4718 Lower Mountain Road, Lockport 14094 stated that she lives across the street from Mr. Edbauers' existing Solar Arrays. She stated that the trees that he planted

Edbauer Variance-continued

are about fifteen feet tall and 2 inches in diameter and the only time they block the glare is when they have leaves at this time of year. Otherwise the glare from the Solar Arrays is in her face all the time. In addition a driveway has been put in place so she must also deal with the headlights shining in her front window.

Pamela Fleming 4723 Lower Mountain Road, Lockport 14094 stated that she has complained to the Town on numerous occasions about the existing Solar Arrays and the glare. Pictures have been provided to the Town, she shared a cell phone picture of the glare from the existing Solar Arrays. She indicated that she and the other neighbors were never notified when the existing Solar Arrays were constructed. Ms. Fleming and several other neighbors questioned why the Edbauer household would need so much Solar Power. She hypothesized that he may be growing plants hydroponically. Ms. Fleming stated that she did her homework and according to the National Renewal Energy Laboratory the existing Solar Arrays are providing more than enough energy for his household. National Renewal Energy Laboratory or NREL is the National Laboratory of the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. Ms. Fleming is glad she and her neighbors have been given a voice to express their feelings on this matter.

James Mansfield 4733 Lower Mountain Road, Lockport 14094 stated that he doesn't want the glare from an additional Solar Array. His young daughter has even complained about the glare from the existing Solar Arrays. He stated that you cannot even look in the direction of the existing Solar Arrays. In addition he further stated that NASA doesn't make a helmet strong enough to block out the glare from the Edbauer Solar Arrays. Mr. Mansfield also questioned if money is being made off the Solar Arrays.

Public Hearing Closed

In response to his neighbors assertions Mr. Edbauer stated that his household gets 1400 kW of power from the solar arrays and 2600 from Geothermal. In order to receive credit from NYSERDA (New York State Energy Research and Development Authority) 90% of your energy needs must be met by Solar. He stated his household runs purely on electric they do not use propane.

Mr. Edbauer stated that the glare from the Solar Arrays is no worse than the glare off a metal roof. He feels the only time there may be a glare would be for about 10-15 minutes at sunset. He stated that it is scientifically impossible for the arrays to glare on the Road based on where they are placed and their position.

In addition Mr. Edbauer stated that he knew there was a less than 1% chance of this proposal gaining the Boards approval but felt it was an opportunity to provide information and education.

Edbauer Variance-continued

Mr. Billingsley stated that the Existing Solar Arrays were previously granted by a simple Building Permit. In 2015 the Town of Cambria created a Law relating to ground mounted Solar Arrays. That law did not allow ground mounted Solar Arrays. In 2017 the Law was amended to allow ground mounted Solar Arrays in certain circumstances. This proposal does not meet those criteria, and this is why Mr. Edbauer was seeking the Board approval for a Use Variance. The Town has learned to be more diligent in considering each application when granting approval for ground mounted Solar Arrays.

To allow a use not otherwise allowed in zoning, an applicant must demonstrate to the Board unnecessary hardship in order to obtain a Use Variance. Such demonstration includes proof of all of the following;

1. Cannot realize a reasonable return - substantial as shown by competent financial evidence;
2. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood;
3. Requested variance will not alter essential character of the neighborhood;
4. Alleged hardship has not been self-created.

The Board appreciates that the infrastructure is already there, but this is a non-conforming use, per New York State Law, it cannot be expanded.

Mr. Billingsley advised the Board that as a matter of law they must deny this Use Variance. If Mr. Edbauer wishes to pursue this matter he will have to consider another location with the glare issues being addressed. Any new proposal Mr. Edbauer this would require an entirely new application.

A motion to deny this Use Variance as a matter of law was made by Mr. Andrews and seconded by Mr. Johnson, all in favor, motion carried.

Applicants' request for subsequent variances will accordingly be denied, due to the foregoing denial of the Use Variance request.

New Business-continued

ZBAV-2018-009 Anthony Kuhn
Area Variance 2988 Upper Mountain Road, Sanborn, NY 14132
SBL# 105.13-1-60
Addition to residence 2.5 feet from property line

Kuhn Area Variance continued

Mr. Kuhn was present at the meeting and stated they he would to add on to his home to accommodate his family. He and his wife have three boys and would like to create some additional bedroom space. Mr. Kuhn added that they are very involved in the community and would like to remain in their current home but make it bit more livable for his family.

Public Hearing Notice

To permit applicant to construct an addition to his residence upon said premises with dimensions of approximately 12 feet by 22 feet within approximately 2.5 feet of his west side property line, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such a structure closer to the side lot line than 15 feet. The west side yard setback for applicant's existing residence is located 2.5 feet from the said west side property line.

Public Hearing Open

No comment

Public Hearing Closed

Mr. McCann stated that the proposed addition will be no closer to the lot line than the existing structure. A fire rated wall will be in place with a one hour burn time.

The proposed addition will be twelve (12) feet by twenty-two (22) feet. Mr. Kuhn stated he has re-done the entire house and this is the last remaining wall that he has not touched. He further stated that the neighbors fully support what he is doing and have offered to help.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to approve this Area Variance, all in favor, motion carried.

Old Business**Special Permit****ZSP-2018-004****Raelean McGee****5920 Meahl Road, Lockport, NY 14094****SBL# 121.00-1-37.2****Operate Landscape Business from Home**

Ms. McGee was present at the meeting and informed the Board that she has leveled off the parking area and that no more debris has been dumped on the property. She provided a plan for the property, which included a parking area and a four (4) foot fence. In addition Ms. McGee has spoken to several of her neighbors who had previously opposed this application for a Special Permit. She provided the Board with letter signed by three (3) of her neighbors. Mr. McCann stated he has been checking on progress and it is looking good.

McGee Special Permit continued

Ms. McGee stated they will park 4-trucks, 2 trailers one of which is a 14 foot enclosed trailer, 2 Bob Cats, 5 snowplows in said fenced area.

Mrs. Retzlaff-Hurtgam informed Ms. McGee that she took a look at the property herself and does not consider it to be cleaned up; she stated her impression at the last meeting was that it was going to be done. She informed Ms. McGee that she had plenty of time between this meeting and the last meeting to clean thing up. Ms. McGee stated she will continue to clean up the property.

Mr. Billingsley recommended that the Board to table this Special Permit to give Ms. McGee an opportunity to clean up the property and provide a plan as to exactly where things will be parked, the Board pointed out that she is planning to park a large number of items in a relatively small space.

A motion was made by Mr. Johnson, seconded by Mrs. Retzlaff-Hurtgam to table this application for a Special Permit to allow Ms. McGee time to clean up her property and develop a better plan, all in favor, motion carried.

Reports

Chairman- Nothing at this time.

Building Inspector- Nothing at this time.

Attorney- Nothing at this time.

Board Members- Nothing at this time.

The next meeting of the Zoning Board of Appeals will take place Monday, July 23, 2018 at 7:00PM.

A motion was made by Mr. Andrews and seconded by Mr. Johnson to adjourn the meeting at 9:18PM all in favor, motion carried.

Respectfully Submitted by
Melinda Olick

