

**Town of Cambria  
Zoning Board of Appeals Meeting  
August 27, 2018**

The regular monthly meeting of the Zoning Board of the Town of Cambria was called to order by Peter Smith, Chairman at 7:00PM. 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

**Members Absent:** Cheryl L. Shoop, Alternate

**Also Present:** Gary Billingsley, Attorney

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

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

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

Mr. Booth and his family were present at the meeting they have been working to restore the property that was previously known as the Forsyth Tavern. They would like to have the barn open as an antique shop for 2-3 days per week and when the former tavern is restored they would like to host small events.

Mr. Billingsley read and discussed the following recommendations made by the Niagara County Planning Board:

The Niagara County Planning Board requires adequate information upon which to make its decision. The zoning referral form will not be accepted unless all the following information is submitted:

- Adequate written description of proposal.
- Sketch Plan, Survey, Plats or Site Plans of the property affected showing:

**Tyler Booth- Former Forsyth Tavern continued**

property boundaries, any existing and proposed structures, landscaping, traffic access patterns, parking arrangements, walls, fences or other buffers, existing and proposed signs. Drawings must be properly dimensioned and drawn to scale.

-SEQR Environmental Assessment Form (EAF)

-For variances, indicate specific changes from local code being requested:

The Niagara County Planning Board recommended approval with the following recommendations:

1. Clarification that a use variance is actually needed since business use is allowed by Special Permit.
2. A landscaping plan should be completed that includes a buffer for adjacent residential properties.
3. Receive feedback from Department of Transportation and take action accordingly.
4. Ensure that the number of parking spaces meets town code requirements.
5. Incorporate traffic flow signage on premises.

A discussion took place regarding documentation that is necessary and who is to provide the information. Mr. Billingsley suggested further discussion be tabled until the September Meeting to allow all parties involved time to collect and review necessary information.

Several key issues were discussed that need to be addressed prior to the September Meeting. This information should be submitted to Mr. McCann by August 31, 2018 for inclusion in the September Meeting.

The following issues were discussed:

-A Special Permit is in general easier to get than a Use Variance. A Use Variance requires that applicant meet all four (4) criteria.

-There is some confusion about who is required to provide information from the New York State Department of Transportation.

-Specific information regarding the number and specific size of parking spaces, the Town of Cambria does not want or allow parking on public roadways.

-Signs in place directing traffic flow, exit and entrance all clearly delineated with signs in place.

-Driveways accessible by fire department trucks and fire equipment.

A motion was made by Mr. Rowles and seconded by Mr. Andrews to table this Use Variance and Special Permit until the September Meeting, all in favor, motion carried.

**Special Permit-Renewal**

**ZBSP2017-004 Ryan Sherwood**  
**3136 Andrews Rd, Ransomville, NY 14131**  
**SBL# 77.00-1-48.3**  
**Animal Husbandry-Chickens**

In August of 2017, Mr. Sherwood was approved by this Board to raise 5-6 laying hens with no roosters permitted; the chickens were to be kept confined and not run free range on the property. This Special Permit was granted for one year from that date with a five year renewal after the initial year. Mr. Sherwood was present at the meeting and stated that all is going well with his chickens. Mr. McCann stated that there have been no issues with this Special Permit.

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

**Special Permit-Renewal**

**ZBSP1992-07 Grace Colosimo**  
**3588 Lower Mountain Road, Sanborn, NY 14132**  
**SBL# 105.00-2-60.2**  
**Rooming House**

Mrs. Colosimo and her grandson Cory Gough were present at the meeting. Mr. Billingsley informed the Board that Mr. McCann has been in contact with the Attorney acting as guardian for Mrs. Colosimo. The Town has concerns regarding this rooming house and the subsequent renewal. Mr. McCann has an appointment to visit the property on Wednesday, August 29, 2018 and suggested the Board table this renewal until he has conducted the inspection.

A motion was made by Mr. Rowles and seconded by Mr. Johnson to table this Special Permit Renewal until the September meeting, all in favor, motion carried.

**Special Permit-Renewal**

**ZBSP-2012-06 Niagara Forestry/Brian Whyte**  
**4177 Lower Mountain Road, Lockport, NY 14094**  
**SBL# 92.00-1-66**  
**Log Mill**

Mr. Billingsley informed the Board that Mr. McCann would like this renewal to be tabled until the September meeting to allow Mr. Whyte time to clean up the property where he operates his logging business. Mr. Whyte was present at the meeting and feels that his logging business should be considered farming and not be required to have a Special

**Whyte Special Permit-Renewal continued**

Permit making this renewal unnecessary. Mr. Whyte further stated that it is his understanding that this type of business should be regulated by the New York State Department of Agriculture and Markets. Mr. Whyte stated that he has 170 acres in the Southern Tier from which he logs, all his vehicles used in the logging business are registered as farm vehicles. Mr. Billingsley stated that this issue has been raised in the past and Mr. Whyte is currently before this Board to address the Special Permit and request that the property in question be cleaned up.

A motion was made by Mr. Johnson and seconded by Mr. Andrews to table this Special Permit Renewal until the September meeting, all in favor, motion carried.

**New Business**

**Special Permit            Steven Palistrant**  
**ZBSP-2018-010        5907 Shawnee Road, Sanborn, NY 14132**  
**SBL# 120.00-1-61.11**  
**Animal Husbandry- Chickens**

**Public Hearing Notice**

To permit applicant to raise up to ten (10) chickens upon said premises which contains 1.6 acres pursuant to the Zoning Ordinance of the Town of Cambria, which permits animal husbandry by Special Permit upon premises containing less than five (5) acres.

Mr. Palistrant was present at the meeting and stated that he would like to have ten (10) hens with no roosters to show his grandchildren where eggs come from.

**Public Hearing Open**

Mr. Sherwood, 3136 Andrews Rd, Ransomville 14131 was present at the meeting for renewal of his Special Permit to have chickens and stated that he didn't grow up on a farm but having chickens has been a good experience for his children.

**Public Hearing Closed**

Mr. Palistrant stated the chickens will be kept in a fence/run with a coop.

A motion was made by Mr. Andrews and seconded by Mr. Johnson to declare a negative declaration under SEQ, all in favor, motion carried.

A motion was made by Mr. Rowles and seconded by Mrs. Retzlaff-Hurtgam to approve this Special Permit for one (1) year to allow Mr. Palistrant to have ten (10) chickens no roosters, to be kept in and enclosure not free range, all in favor, motion carried.

<b>New Business</b>	<b>G. Scholand, Esq-Representing Crosslake Fiber USA LP</b>
<b>Special Permit</b>	<b>Concerning SBL#107.00-2-31</b>
<b>ZBSP2018-011</b>	<b>Vacant Land Lockport-Junction Road</b>
<b>Area Variance</b>	<b>Underground Fiber Optic Cable</b>
<b>ZBAV2018-011</b>	<b>Fence</b>
<b>ZBAV2018-012</b>	<b>Setback</b>

Mr. Scholand was present at the meeting representing Crosslake Fiber he stated they would like to construct a building that will be 12 feet by 26 feet. The small building will have a four (4) space parking lot, generator, fence and landscaping will be in place.

### **Public Hearing Notice**

CROSSLAKE FIBER USA LP, c/o Harter, Secrest & Emery, LLP of 50 Fountain Plaza, Suite 1000, Buffalo, New York 14202, prospective purchaser of a vacant lot on the west side of Lockport Junction Road (Tax Map No. 107.00-2-31) located south of 5044 Lockport Junction Road in the Town of Cambria for the following applications:

- A. Special Permit to permit applicant to construct a utility structure, namely an In-Line Amplification Shelter, upon said premises pursuant to the Special Permit Ordinance of the Town of Cambria.
- B. An area variance to permit applicant to construct a fence with a height of 8 feet, whereas Section 1112(2) of the Zoning Ordinance of the Town of Cambria does not permit construction of a fence exceeding a height of 6 feet upon said premises.
- C. An area variance to permit applicant to construct said utility structure, namely an In Line Amplification Shelter, 52 feet from the north side lot line upon said parcel which contains approximately 847 feet in width, whereas Section 302(4) (d) of the Zoning Ordinance of the Town of Cambria requires that the narrower of the two side yards for a non-residential building shall not be less than 1/3 of the total width of the two side yards.

### **Public Hearing Open**

Tom Venne, 5172 Upper Mountain Road, Lockport 14094

Mr. Venne has concerns about this proposal. He stated that they moved to the Town of Cambria from the City of Lockport because they wanted to live in a farm community with a farm setting. He is concerned that this project will end up looking like the Delphi Plant from the back of his property. He would like the Town of Cambria to continue to be a farm community if at all possible and wondered why they selected this particular location.

Mr. Murphy, 5100 Upper Mountain Road, Lockport 14094

Stated that he has the same concerns as Mr. Venne. He further questioned why the building needs to be 50 feet from the property next door and why isn't it placed on the other side where the land is vacant therefore not distributing the neighbors.

**New Business- Crosslake Fiber-Underground Fiber Optic Cable continued**

He stated that he worked 30 years in a plant and doesn't want to look at one in his backyard. He also expressed concern about what will happen to the remaining land, the proposed building will only use .25 of an acre that leaves over 39 acres. He also lives in the Town of Cambria because it is a rural farming community.

**Public Hearing Closed**

Mr. Billingsley read from the Short Environmental Assessment Form provided by Crosslake Fiber that proposed the following findings in respect to the Town's SEQR analysis:

Crosslake Fiber USA LP's proposed project will not cause any significant change to the character of the neighborhood in which it is located. The surrounding area contains a mix of residential, agricultural, commercial/ industrial, and transportation-related uses, and thus the project as proposed will not create any conflict with the existing neighborhood or community character.

The project is relatively small in size (the proposed building is smaller than a typical single-family home), and its potential for negative impacts to the surrounding area is particularly low. Any visual impacts associated with the project will be minimized by the proposed vegetative screening. After construction, the project will not generate any significant noise, with the exception of the presumably rare instances when the external generator will run due to power outages, and this generator will be housed in a sound-attenuated enclosure to further minimize potential impacts. The project will not generate any significant air emissions or storm water, and it will not cause or contribute to any flooding or drainage issues due to its small size and the attributes of the parcel on which it will be located.

The project will generate very little traffic, and will not create any new demand for transportation-related amenities. There is also no reason to expect any negative impacts to historic, archaeological, architectural, aesthetic, or other community resources.

A thorough review of the application materials indicates that the project will not create any hazards to local environmental resources, human health, or surrounding properties, or any other significant adverse environmental impacts.

**New Business- Crosslake Fiber-Underground Fiber Optic Cable continued**

In a letter from the law firm Harter Secrest & Emery they state: In response to feedback we received from Code Enforcement Officer James McCann, we have modified the Site Layout Plan, and hereby submit the attached version as a new Exhibit K. Please consider this modified version in place of the original Exhibit K when reviewing Crosslake's application materials. The new Site Layout Plan differs from the original in that the front building setback (front yard) has been increased from 55 feet to 60 feet in length. We have also moved the external generator from the rear of the building to the south side of the building, and slightly modified the shape of the perimeter fence accordingly.

Mr. Scholand stated that the proposed fenced in area will be 69 feet by 79 feet, the generator will run only when the power is off or during a monthly test. This project will only use .25 of an acre so the company he is representing will be interested in subdividing and selling the remaining roughly 39 acres. Images of the proposed building were provided, the large rectangular pre-fabricated building with fiberglass panels that will be misty gray in color. Mr. Rowles asked if the fence needed to be so high for security reasons and/or to minimize the need for additional security lighting. Mr. Scholand responded that the height is intended to protect the investment.

Mr. Andrews suggested making the building look a little less like a box and come up with a design more like other buildings in the town. Mr. Billingsley stated the design of the building concerns will be addressed by placing trees on the back of the fence to provide a more pleasing view for the neighbors.

According to Mr. Scholand this is part of a larger fiber optic project. The proposed fiber optic cable will run parallel to Lockport-Junction Road, there will be no water or sewer and the proposed building is shorter than a typical structure. Other structures like this will be in place every 50 or 60 miles as part of the larger fiber optic project. Mr. Scholand estimated that it would take approximately 3-6 months to complete this proposed project.

A motion was made by Mr. Andrews and seconded by Mr. Rowles to declare a negative declaration under SEQR, all in favor, motion carried.

A motion was made by Mr. Andrews and seconded by Mr. Johnson to approve this proposal with the following conditions: trees will be in place and extend along the rear of the building and the monthly generator test will be run between the hours of 7:00AM-7:00PM, all in favor, motion carried.

**Area Variance****ZBAV2018-010****Joseph and Carole Fournier****4200 Lower Mountain Road, Lockport, NY 14094****SBL# 106.00-1-22.12****Erect Large Shop**

Mr. and Mrs. Fournier were present at the meeting and would like to construct a pole building that will be approximately 32 feet by 48 feet and 16 feet high. According to Mr. and Mrs. Fournier the proposed building will be used for personal storage.

**Public Hearing Notice**

An area variance to permit applicants to construct an accessory building containing 1,536 square feet approximately 3 feet closer to the road right of way than the front main wall of their residence upon said premises, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of such a structure that exceeds 1,500 square feet, nor does it permit construction of such as structure closer to the road right of way than the front main wall of a residence upon said parcel.

**Public Hearing Open**

No Comment

**Public Hearing Closed**

An Area Variance is required to construct this proposed building because the proposed building site is 3 feet closer to the road than the house and 36 feet larger the Zoning Ordinance allows. Mr. Fournier stated that the additional size is needed to accommodate their large travel trailer, which requires large overhead doors.

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

**Old Business****Special Permit-New****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 provided images of the improvements that have been made to the property. The large piles of debris have been removed, the fence is in place, and landscape vehicles are parked on a paved area in the south west corner of the property inside the fence. Personal vehicles are parked in the front of the residence.

**Special Permit-Raelean McGee continued**

Ms. McGee stated that the business will operate from 7:30AM-7:00PM. They currently have one employee that drives his car to work and parks on site. If additional employees require parking Ms. McGee will need to speak to Mr. McCann.

A motion was made by Mr. Johnson and seconded by Mr. Andrews to declare a negative declaration under SEQR, all in favor, motion carried.

A motion was made by Mr. Johnson and seconded by Mr. Rowles to approve this special permit for one (1) year with the following conditions: Up to three (3) personal vehicles may be parked in driveway in front of the residence, all company vehicles shall be parked inside the fenced area on the south-west corner of premises, the landscape business will operate between the hours of 7:30AM-7:00PM, with no outside storage, 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, September 24, 2018 at 7:00PM.

A motion was made by Mr. Johnson and seconded by Mr. Andrews to adjourn the meeting at 8:14PM all in favor, motion carried.

Respectfully Submitted by  
Melinda Olick

