

Town of Cambria Zoning Board

September 27, 2021

Call to order

A regular monthly meeting of the Zoning Board of the Town of Cambria was called to order by Chairman, Peter A. Smith at 7:00pm. Everyone was welcomed to the meeting followed by the Pledge of Allegiance.

Attendees:

Peter A. Smith, Chairman
Alan Johnson, Vice Chairman
Thomas Andrews, Member
Harmony Retzlaff-Hurtgam, Member
Cheryl Shoop, Member
Gary Billingsley, Attorney
James McCann, Building Inspector
Randy Roberts, Councilman and Liaison to the Town Board
Krista Brocious, Secretary Planning /Zoning Board

Members not in attendance: Bradley Rowles, Alternate Member

Mr. Billingsley read the Public Hearing Notice regarding Mr. Stephenson.

Approval of minutes:

A motion to approve the August minutes was made by Mr. Andrews, seconded by Ms. Shoop. All in favor, motion carried.

Public Hearing: **ZB-UV-2021-002 STEPHENSON, Herbert**
 Use Variance **5331 Townline Road**

1. **(ZB-UV-2021-002) HERBERT STEPHENSON** of 5314 Townline Road, Sanborn, New York 14132 for a use variance to permit applicant to construct a storage building with dimensions of 46 feet by 96 feet upon premises located at 5311 Townline Road, whereas such a structure is not permitted in the A-R Zoning District of the Town of Cambria without a principal structure already being located upon such a parcel.

Town of Cambria Zoning Board

September 27, 2021

Mr. Stephenson was present and stated that he wants to put up the building for storage of vehicles. He has the room on his property. He has equipment are cars that he wants to keep out of the weather elements. He would put it behind his main barn where you won't see it from the main road. It will be made to look nice.

Chairman Smith opened the hearing to the public.

Chairman Smith closed the hearing to the public.

Motion:

Because Mr. Stephenson's property borders with Lewiston, this needs to be referred to Niagara County Planning Board (herein referred to as NCPB). Motion to wait until Niagara County Planning Board makes a recommendation made by Mr. Johnson, seconded by Mr. Andrews. All in favor, motion carried.

Old Business: **ZB-AV-2021-009** **Cody Dev. 2 LLC-Corner Store**
 Area Variance **5218 Upper Mt. Rd., Lockport 14094**

Apex Consulting Engineer, Tim Arlington, was present to speak on behalf of Mr. Fran Barone/Cody Development LLC regarding The Corner Store convenient store. Mr. Arlington went to NCPB who reviewed the project and granted them approval and recommended approval. The plan is the same as what he presented at the previous meeting.

Mr. Smith states that he understands that Mr. Arlington is still waiting on the DOT.

Mr. Arlington explains that he cannot submit to the DOT until the municipality has agreed to the plan and issued negative SEQR. Mr. Arlington says that the comments are to be addressed with the Planning Board for the information from Wendel given to him by Mr. Billingsley a few minutes prior to the meeting. It's his understanding that this board will rule on whether they are willing to give them an area variance for the location of the building addition.

Mr. Billingsley has issue with the Site Plan and recommends Mr. Arlington speaks with Mr. Walk from Wendel Engineers and at least try to get more information from the DOT. There seems to be question about if more than an acre of property is being disturbed. Mr. Arlington

Town of Cambria Zoning Board

September 27, 2021

responds that the property itself is under an acre and therefore they are only disturbing .9 of an acre. There are no curb cuts in the right of way.

Mr. Billingsley asks if there is a drive thru. Mr. Arlington responds that there is a window where customers can pull up and get their online orders but that it is not a typical drive thru. You cannot order food at it. It will be on the west side of the building where there is also a drive way predominantly for circulation.

There's more discussion of the structure and referring to the diagram.

Mr. Smith asks if the board is prepared to give them negative declaration.

Mr. Billingsley states that a determination should be made by the Planning Board and he has recommendations for the Board:

1. Mr. Arlington contact Mr. Walk of Wendel Engineers to address the issues in Mr. Walk's memo
2. The town Planning Board is contacted to see if they would be inclined to have a joint meeting on this issue.
3. Based on those suggestions he recommends the board table this again.

Motion:

Motion to table made by Mr. Johnson, seconded by Mr. Andrews. All in favor, motion carried.

ZB-AV-2021-010 BRONTMIRE, John/Nacca, Robin
Area Variance 5421 Townline Road, Lockport 14094

(ZB-AV-2021-011) ROBIN NACCA, applicant, residing at 4285 Oak Orchard Road, Albion, New York 14411, and JOHN BRONTMIRE, owner, residing at 2397 S. 500 W. Clearfield, Utah 84015 for an area variance to permit applicant to construct an accessory building in the R-1 Zoning District of the Town of Cambria which would contain approximately 4,000 square feet upon premises commonly known as 5421 Townline Road, whereas the Zoning Ordinance of the Town of Cambria does not permit construction of an accessory building in the R-1 Zoning District that exceeds 1,000 square feet.

Mrs. Nacca appeared before the board and explained that she is asking for a building and that the previous planning boards understood what she wants to do.

Town of Cambria Zoning Board

September 27, 2021

Mr. Billingsleys clarifies that ordinance permits a building up to 2,000 sq. ft. and is in the B1 district and NCPB did recommend approval. He wants to know if a like a less drastic variance could be considered.

Mrs. Nacca says size is 50x80. They need that entire space. They are going to work with the DEC. They constructed a close strategic plan on how much space they need. They explained that very well to the NCPB and they understood. The building will be camouflaged by the trees and bushes. They want to promote forestry.

Mr. Johnson wants to know the size of the building that NCPB approved. Mr. Billingsley states they look at application and may or may not get into the state of the variance. He is not sure they understood the full size of what is being asked.

Mr. Mathis who is present with Mrs. Nacca says they were asked and they were shown the plans and it was made very clear to them. Mrs. Nacca says the NCPB is well aware of the size and they have 90 acres so 4,000 sq. ft. is fine. Mr. Mathis states that the NCPB was very clear on the dimensions of the building and acreage.

Mr. Smith asks if he can entertain a motion on this. Discussion from the board takes place about the zoning ordinance and Mr. McCann states that is in an R1 district that is single family residential not an AR therefore it doesn't allow for farm barns. Mrs. Nacca says that's why she is asking for an accessory building.

The board has a brief discussion about where Mr. Billingsly reiterated that he doesn't know that there was a discussion during the NCPB that it's a 4,000 sq. ft. building in an area that only allows for 2,000 sq. ft.

Mr. Mathis explains that they absolutely understood. By making two buildings would make this a substantially more expensive to his client and a greater imposition for the board. He says they have the support of the neighbors.

A motion to deny was made by Mr. Andrews.

Mr. Mathis says he will put up two buildings back to back or 6 ft. apart then. Mr. McCann advises that can't be done either. Mr. Mathis states that's what he is being driven to do.

Mrs. Nacca explains she doesn't want to change the zoning or upset her neighbors. Mr. Nacca says he is just trying to maintain the legacy or his uncle.

Mr. Johnson says he understands and would like to help but just can't see how they can allow it.

Mr. Billingsley again encouraged the applicant to try and make the building smaller if not the board has to rule on 4,000 sq. ft.

Town of Cambria Zoning Board

September 27, 2021

Mr. Nacca already had prints made up for this size and it cost \$400 he doesn't want to spend on more prints.

Mrs. Nacca reiterates that they cannot possibly make the building smaller. This is what they need.

Mr. McCann explains in a regular AR area this wouldn't be a problem. In a residential area you can farm it but you cannot put an agricultural barn on it.

Mr. Smith says because of the college the zoning has changed and that is the problem. In a regular AR area it would not be a problem.

Mr. Nacca says that neighbors really want this and asks how large the Danielwicz building is that uses this property currently. Mr. McCann does not know off the top of his head but that's an AR zoned area.

Chairman Smith asked for a second on the motion to deny. More discussion ensues.

Mrs. Nacca inquires if the board rejects this then her only course of action would be to take it to court. Mr. Billingsley says yes and points out that she doesn't own the property yet. She has a letter of intent with the owner.

Mr. Smith asks again for a second motion to deny.

Mr. Johnson asks if a 3,000 sq. ft. building could work.

Mr. Mathis took measurements that were very precise to make sure everything fits inside so those farms equipment isn't around visible. 4,000 sq. ft. fits all their equipment otherwise it will be outside visible.

More discussion ensues of possible resolutions. The square footage would still be the same.

Ms. Shoop explains that no one wants to deny it but their hands are tied and she seconds the motion to deny.

Mr. Billingsley states that the denial is based on how substantial the variance is that this is a self-created hardship.

Mr. Nacca expresses his displeasure that the board is going against the NCPB.

Motion:

Board Clerk poles the board. 5 members support the motion to deny. 1 member votes in favor of the motion.

Town of Cambria Zoning Board

September 27, 2021

Motion is denied.

Special Permit: ZB-SP-2021-010 PARLETTE, Louretta
 Kennel License 5748 Campbell Blvd., Lockport

Ms. Twana Parlette is asking for one more dog over the allowable amount.

Motion:

Motion for negative declaration Mr. Andrews seconded Mr. Johnson. All in Favor, motion carried.

Motion to approve made by Mr. Johnson, seconded by Ms. Hurtgam. Motion carried.

Adjournment

Motion to adjourn the meeting Mr. Andrews, seconded Mr. Johnson. All in favor, motion carried at 7:50pm.

Krista Brocious
Clerk

10/25/2021
Date of approval