

Town of Cambria Zoning Board Meeting Minutes

January 23, 2023

Call to order

A meeting of the **Zoning Board of Appeals** was held at **Cambria Town Hall** on **January 23, 2023**, @ 6:30 pm. Everyone was welcomed followed by the Pledge of Allegiance.

Attendees included:

Peter A. Smith, Chairman
Thomas Andrews, Chairman
Cheryl Shoop, Member
Harmony Retzlaff-Hurtgam, Member
Andrew Milleville, Member
Mark March, Alternate
Randy Roberts, Liaison to the Town Board
Gary Billingsley, Town Attorney
Building Inspector/Code Enforcement, James McCann
Krista Brocious, Planning /Zoning Board Clerk

Members not in attendance included: Deputy Building Inspector/Code Enforcement, Matthew Cooper

Approval of minutes

A motion to approve December 19, 2022 minutes made by Ms. Shoop and seconded by Mr. Andrews, all in favor, motion carried.

New Business/Public Hearings

Mr. Billingsley read the Public Hearing Notices.

Chairman Smith asked the board if Mr. Biamonte could be moved until the end of the meeting as he was not present at the start.

A motion to move Mr. Biamonte to the end of the meeting was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

RONDEAU, William
4794 Lower Mt. Rd., Lockport
Special Permit Pond

ZSP-2022-016
SBL#93.00-2-38.21

Tim Arlington from Apex Consulting and William Rondeau are present. Mr. Arlington explained that the greenhouse is almost 1,000 ft back, the wind turbine that was discussed at the Planning Board meeting is behind that and then the pond is behind the turbine. The primary use of the pond is fire protection. There will not be a public fire line back there cause

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of the cost so they want a pond and will have a dry hydrant. Emergency vehicles will be able to access the pond and turn around back there. The pond is .13 acres. It is large enough to handle fire protection for up to 5 hours and 3 hours in winter factoring in ice. The secondary reason for the pond is to control stormwater runoff.

Public Hearing opened.

Brian Short of 4902 Lower Mountain Road- How big will the turbine will be?

Mr. Arlington-65 ft tall has the correct fall zone that meets all the Town regulations and was reviewed and approved by Planning Board.

Kristi Short of 4902 Lower Mountain Road- Will they be able to hear it at their house?

Mr. Arlington-No. It's 38 decibels and 1,000 ft back from the road. Mr. Rondeau briefly explains how the turbine would work. It is quieter than a dishwasher.

The public hearing is closed.

Mr. Andrews asked about the rock in the area. Mr. Arlington states that he has had some tests done and they haven't hit any bedrock in the test pit area.

Chairman Smith asked how deep the pond is going to be. Mr. Arlington responded that it will be 8ft., .13 acres, and 5,600 sq. ft. of surface area.

Motion

A motion for negative SEQR was made by Mr. Andrews and seconded by Mr. Milleville, all in favor, so carried.

A motion to approve the Special Permit for the pond with the following conditions was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

- The pond will be .13 acres with no environmental concerns and it will not adversely affect drainage
- It will be constructed in compliance with the December 5, 2022 letter from Niagara County Soil and Water.

Mr. Billingsley announced that Mr. Biamonte had arrived.

BIAMONTE, Thomas
Upper Mountain Rd., Sanborn
Special Permit Pond

ZSP-2022-014
SBL#105.00-1-51.2

Mr. Biamonte stated that he would like to put a farm pond on his property located on the north side of Upper Mountain Road between 3165 and 3211. The purpose of the pond is to give

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irrigation to farmland and for fire protection. He would like to build a barn down the road. The pond would be about 300 ft. from the escarpment. It does hold water from his tests.

Public hearing open.

Jeff Anzalone of 5360 Lower Mountain Road believes the request should be granted. The same company designed his pond.

Public hearing closed.

Mr. Andrews asked if there is bedrock in the area of the pond and how that would work with the wetlands near there. Mr. Biamonte explained that they will have to build elevation up. There is rock there. Mr. Biamonte asserts that there are actually no wetlands near by and that is a mistake that he has contacted the County about.

Chairman Smith asked what size the pond will be. Mr. Biamonte responded that it is .43 acres.

Ms. Shoop asked if the pond will be used year-round. Mr. Biamonte answered that it will depend on rainwater. All the water from the east and north side run into this area. There are some hills there. It may dry up in the summer but he is not sure. It filled right up with precipitation. He will line it with clay or a liner if needed to keep the water in.

Motion

A motion for negative SEQR was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

A motion to approve the Special Permit for the pond with the following conditions was made by Mr. Milleville and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

- The pond will be .43 acres with no environmental concerns and it will not adversely affect drainage
- It will be constructed in compliance with the January 6, 2022 letter from Niagara County Soil and Water.

ROSASCO, James
4894 Lower Mt. Rd.

Use Variance-Dog breeding/ Training Business

ZBUV-2022-003
SBL#93.00-2-36.1

Nina Nardecchia is present to represent Mr. Rosasco who could not make it due to work. They are asking for a dog breeding and training business on the 26 acres Mr. Rosasco owns. Ms. Nardecchia helps with the dogs. She worked at a veterinary hospital as an assistant. The dogs

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bred here are used to find narcotics and explosives. They serve the community as police officers do. They are part of a bigger picture.

Public hearing opened.

Bill Fisher of 4864 Lower Mountain Road- What kind of fence do they have and are there provisions so the dogs don't escape?

Brian Short of 4902 Lower Mountain Road- How are we back here again? The rules have not been followed. Nothing has been done about the dogs. Jim has been out at 1:30 in the morning with the lights and whistles. There are 20+ dogs on the property.

Mr. Short pointed out that Mr. Rosasco has different people on the property and Mr. Short isn't familiar with them. One of the dogs came after him while he was working on his property. Mr. Short explained that he was bitten by a dog when he was younger. Mr. Rosasco is gone a lot of the time and other people are taking care of the dogs without him present. The dogs were alone for an entire weekend and they are being exercised in the middle of the night.

Jordan Short of 4902 Lower Mountain Road explained that within a week of the last meeting, Mr. Rosasco put a fence up and it was not done properly which fell over in the storm at Christmas. There's chicken wire up the rest of the way where the dogs can get out. Ms. Short is afraid of being attacked. She had bad experiences with these dogs already. She says the dogs affect the surrounding wildlife and that people coming and going from Mr. Rosasco's property negatively affect the traffic in the area.

Dan Polk of 5830 Joanne Drive asked for clarification on some of the discussions regarding Mr. Rosasco already having the dogs.

Paige Short of 4902 Lower Mountain Road said that in the past Mr. Rosasco has used a smoker to make his own dog treats and while he was doing this she was unable to open her windows due to the overwhelming smell caused. She spoke about a time she was asked to watch the dogs and they escaped and she had trouble retrieving them as they were not wearing collars. She asserts the dogs behave aggressively.

Kristi Short of 4902 Lower Mountain Road said she has had negative experiences with Mr. Rosasco's dogs. They have followed after her while he attempts to gain control of them. She also spoke about the fence coming down.

Renee March of 4864 Lower Mountain Road expressed that the issue isn't if he is training them well but that he is not going about it the right way.

Jonathan Kraft of 3121 Upper Mountain Road said that if a dog is trained right it will behave right. If he gets a fence and keeps the dogs inside that fence it would be fine.

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The public hearing was closed.

Mr. Billingsley clarified that the reason this matter is on the agenda again is that last time Mr. Rosasco was permitted to withdraw his application thereby making it possible for him to complete a new application.

Ms. Retzlaff-Hurtgam asked how many dogs are currently on the premises. Ms. Nardecchia said there are 6-8 adults with the rest being under 6 months of age. Ms. Retzlaff-Hurtgam inquired as to why there are still that many adult dogs on the premises. Ms. Nardecchia was unable to answer that for Mr. Rosasco.

There was a brief discussion about why Mr. Rosasco wasn't present and what other buildings are on the property.

Ms. Nardecchia said that Mr. Rosasco is willing to do what is right for the dogs and everyone else. He will put up a fence if needed. She asserts this has much potential to make a difference in many lives. The wind did knock over the fence that was up. All the dogs have collars and could be leashed if need be.

Chairman Smith explains that he sees no improvement here and that neighbors being chased to their homes is not good.

Mr. Billingsley explains that there is a residence and other outbuildings on his property. A dog breeding business is not a permitted use in the Agricultural Residential zone. Based upon what has been said this evening Mr. Billingsley says that Mr. Rosasco can make a reasonable return on the premises as it is being used currently and any hardship would be self-created. This is a use variance and the board does not have the authority to grant this because Mr. Rosasco can use his property for other purposes.

Ms. Nardecchia asked to withdraw the application. Mr. Billingsley explained that this zoning violation has gone on long enough and due to the public opposition and that a use variance is not an appropriate remedy for the violation, the application can not be withdrawn. Mr. McCann stated that no law says someone is allowed to withdraw an application, the board allowed him to do it the first time. Mr. Rosasco continued with the operation. To allow another withdrawal is unfair to the neighbors and the town. Mr. Rosasco had ample notice of the meeting and should have been present.

Further discussion ensued.

Motion

A motion to deny the use variance was made by Mr. Andrews and seconded by Mr. Milleville, all in favor, so carried.

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Special Permit Renewals

HAHN, Richard (Retro to May 2021)
3779 Lower Mt. Rd., Sanborn
Retail & Wholesale Business

A signed letter indicating a request to renew the special permit was provided to the building department.

Motion

A motion to renew the special permit for five years was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

POLK, Daniel **ZSP-2021-003**
5830 Joanne Dr., Sanborn
Animal Husbandry-Chickens

Mr. & Mrs. Polk had not responded to the letters sent so they came to the meeting to request that their Special Permit be renewed. Mr. McCann has had no complaints about the chickens.

Motion

A motion to renew the special permit for five years was made by Mr. Milleville and seconded by Ms. Shoop, all in favor, so carried.

HOLBERT, Kevin **06-29-15A**
5176 Shawnee Road, Sanborn
Animal Husbandry-Chickens

There has been no response to the letters sent by the building department. Mr. Billingsley requested to send a letter before terminating.

Motion

A motion to allow Mr. Billingsley to send another letter to Mr. Holbert was made by Mr. Milleville and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

Reports

None

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Motion

A motion to close Mr. Biamonte's agenda item was made by Mr. Andrews and Ms. Retzlaff-Hurtgam, all in favor, so carried.

Adjournment

A motion to adjourn at 7:36 pm was made by Mr. Andrews and seconded by Ms. Shoop, all in favor, so carried.

Krista Brocious

Planning/Zoning Clerk