

# Town of Cambria Zoning Board Meeting Minutes

## December 20, 2021

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### Call to order

A meeting of **Zoning Board of Appeals** was held at **Cambria Town Hall** on **December 20, 2021** @ 6:30pm and began with the Pledge of Allegiance.

Attendees included: **Peter A. Smith, Chairman,**  
**Thomas Andrews, Member**  
**Harmony Retzlaff-Hurtgam, Member**  
**Cheryl Shoop, Member**  
**Mark March, Member**  
**Gary Billingsley, Town Attorney**  
**Randy Roberts, Liaison to the Town Board**  
**Building Inspector, James McCann,**  
**Krista Brocious, Secretary Planning /Zoning Board**

Members not in attendance included: **Bradley Rowles, Member**

### Approval of minutes

Motion to approve the November 22, 2021 meeting minutes was made by Ms. Shoop and seconded by Ms. Retzlaff-Hurtgam, all in favor, motion carried.

### Announcements

Mr. Billingsley introduced the two new Zoning Board of Appeals members. The Town Board has appointed the two gentlemen and they have taken the oath of office prior to this meeting. Andrew Millville has been designated to replace Alan Johnson who resigned. Mark March is the Alternate who is present this evening as well. Mr. Milleville has stated that he has a conflict of interest with an item on the agenda so for this meeting Mr. March will act as a voting member of the board.

### Special Permit Renewals

**SBA Towers II, LLC**  
**5105 Lockport Rd**

**Z-SP-2021-014**  
**Cell Tower**

A representative from the tower sent the Cambria Building Department a signed request for renewal. No representative is needed at this meeting. Mr. McCann stated that he has no objections to granting a renewal.

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### Motion

A motion to renew Special Use Permit for 5 more years was made by Ms. Shoop and seconded by Mr. March, all in favor, motion carried.

**Crown Atlantic Company LLC      OP-2021-00**  
**3024 Carney Drive                      Cell Tower**

A representative from the tower sent the Cambria Building Department a signed request for renewal. No representative is needed at this meeting. Mr. McCann stated that he has no objections to granting a renewal.

### Motion

A motion to renew Special Use Permit for 5 more years was made by Ms. Retzlaff-Hurtgam and seconded by Mr. March, all in favor, motion carried.

### Unfinished business

**Cody Development 2, LLC      ZB-AV-2021-009**  
**5218 Upper Mountain Rd.      The Corner Store**

Mr. Arlington briefly summarized the information he has stated in the previous meetings that started back in August. Mr. Billingsley requested Mr. Arlington to attempt to contact the DOT for comment regarding this matter at a previous meeting. He received a letter after 3 months from the DOT who does not usually comment until after the municipality has granted all its approvals. DOT asked for a reduction in size of the driveway from 40 to 30 feet and to provide interior access for the large trucks that would be coming in specifically the fuel trucks which would be coming in from Upper Mountain Road. They would fuel the tanks and exit out on to Townline road. Mr. Arlington requested an Area variance for setback from Towline Road as explained previously. The setback they are requesting is the same as the existing one now. He is at the meeting to answer any questions that have not been answered to this day.

Mr. Billingsley stated that Tim Walck, Town of Cambria Engineer, is here today. Mr. Smith questioned the reduction in driveway size and Mr. Arlington explained that it is a requirement of the DOT who likes smaller driveways and Mr. Arlington would prefer a wider driveway but it's not a large difference.

Mr. Walck stated the DOT does not usually make comments until after SEQR is granted however he spoke to Jonathan Coke from the DOT who did look at the plan and shared that it would require a major Perm 32 application. Mr. Coke's main concern was for circulation and limited access from Junction Rd. DOT will likely be asking for improvement at the intersection of Upper Mountain and Junction Road to prevent traffic from entering there and treatments

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along the entire width to be clear those vehicles cannot park along Junction Road. Mr. Coke was clear that they reserve their comments until after SEQR has been granted.

Mr. McCann asked Mr. Arlington if the beer and pop tractor trailer trucks can make the swing to get out of the driveway without issue. Mr. Arlington explained that they can because they don't have to go around anything. They will go straight in and out underneath the canopy.

Mr. Billingsley stated the considerations for an Area Variance set forth by the New York State Planning Federation for the new members. He read the 5 criteria and related them to The Corner Store and recommended that the board have a discussion about them. The 5 Criteria are as follows:

1. Can benefit be achieved by other means feasible to the applicant?
2. Does it cause an undesirable change in the neighborhood character or detriment to nearby properties?
3. Is the request substantial?
4. Will this request have adverse physical or environmental effects?
5. Is this alleged difficulty self-created? (This is relevant but not determinative)

Ms. Shoop stated that they have spoken about number 1 before because there will be more business and traffic. Mr. March states there are achievable means that they could do other things. Mr. McCann explains that the building is used for storage now and will then be made for business use which will create a different volume of people.

Mr. Billingsley explains that if this board grants the variance the Planning Board will determine SEQR.

Mr. Smith asked for a motion. A motion to approve was made by Mr. Andrews. Mr. Smith asked for a second motion.

Ms. Retzlaff-Hurtgam inquired if DOT answered all the questions Mr. Walck wanted answered. Mr. Walck clarified that they did answer some preliminary questions but they don't usually start looking at it until after SEQR and Site Plan. They did give high level input though.

Ms. Retzlaff-Hurtgam seconds the motion. Mr. March opposes. The Board is polled by the Chairman.

Peter A. Smith, Chairman: Aye

Thomas Andrews: Aye

Harmony Retzlaff-Hurtgam: Aye

Cheryl Shoop: Aye

Mark March: Nay

### Motion

The majority is in favor; therefore the motion for the Area Variance setback for The Corner Store is approved.

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### Reports

Mr. Smith states there are two new members to the board.

### Adjournment

A motion to adjourn the meeting was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam. All in favor, motion carried.

*Krista Brocious*

Secretary

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Date of approval