

# Town of Cambria Zoning Board Meeting Minutes

## November 20, 2023

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### Call to order

A meeting of the **Zoning Board of Appeals** was held at **Cambria Town Hall** on **November 20, 2023**, @ 7:00 p.m. Chairman Smith welcomed everyone followed by the Pledge of Allegiance.

### Attendees included:

Peter A. Smith, Chairman  
Thomas Andrews, Vice Chairman  
Harmony Retzlaff-Hurtgam, Member  
Andrew Milleville, Member  
Mark March, Alternate Member  
Gary Billingsley, Town Attorney  
Deputy Building Inspector/Code Enforcement, Matthew Cooper  
Krista Brocious, Planning /Zoning Board Clerk

Members not in attendance included: Randy Roberts, Liaison to the Town Board and Building Inspector/Code Enforcement, James McCann

### Approval of minutes

A motion to approve the **October 23, 2023**, minutes was made by Ms. Shoop and seconded by Mr. Andrews, all in favor, motion carried.

Mr. Billingsley read the public hearing notices.

### New Business/Public Hearings

<b>D'ANGELO, Cathy</b>	<b>ZSP-2023-018</b>
<b>4217 Ridge Rd., Lockport</b>	<b>SBL#78.00-2-31</b>
<b>Special Permit-Pond</b>	

Cathy D'Angelo explained that she would like to put a pond behind her garage area. Clay and a liner would be used to ensure the pond holds water. The earth being dug up for the pond would be used as a border.

The public hearing was opened.

Mark Herbst of 4427 Ridge Road was concerned that farm machinery would not turn around with the pond being so close to the property line.

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Ms. D' Angelo and the board confirmed, based on the provided survey and drawing of where the pond would be that the pond would be more than 15 feet from the property line, and this satisfied Mr. Herbst.

The public hearing was closed.

### 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 contingent that there is no environmental damage, the pond does not affect drainage, that it's made of clay and a liner in the location that it is shown on the map, and that the excavated spoil is used as a berm around the pond was made by Mr. Andrews and seconded by Mr. Milleville, all in favor, so carried.

**GAROFALO, Jennifer**                      **PSP-2023-013**  
**4571 Budd Rd., Lockport**              **SBL#93.00-2-45.22**  
*Use Variance-Public Kennel*

Dr. Garafalo works with Seven Hearts Maternity Rescue, and they ask her to take in pregnant Huskies as they can be a difficult breed. She wants to be able to take dogs for them and not have number restrictions with numbers as she has the space. She has a lot of experience with these dogs. There would not be breeding.

The public hearing was opened.

Henry Zomerfeld of Hodgson Russ, LLP represents Michael and Susan Sieczkowski of 4555 Budd Road. He submitted an opposition letter on November 17<sup>th</sup>. He argues that there are issues with what is currently going on at Dr. Garofalo's property and now she wants to expand it in a matter inconsistent with the code and New York town law. Mr. Zomerfeld then plays an audio recording of dogs barking from his phone. He stated that the dogs had gotten out of the kennel and showed a picture of same to the board from his phone. He argues that there are concerns with her now wanting to have more dogs. He also argues that Dr. Garafalo does not meet the criteria for a Use variance and that the application should be denied.

Lindsay Wood of the Erie County SPCA and the Erie County Sheriff's Department spoke on behalf of Dr. Garofalo and the need for veterinary services in the area. She stated that dogs are going to bark and cannot be confined 100% of the time. She explained that the difficulty with the dogs Dr. Garofalo would take in are pregnant and in need of medical care which is why

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many people won't take them in and they are considered difficult. Ms. Wood said that there are measures that can be taken to assist with barking concerns. It would be a hardship to not allow Dr. Garofalo to assist the community.

Paul Suita of 3344 Lockport Road agrees with Mr. Zomerfeld. He feels that she is changing her purpose of the property. He believes Dr. Garofalo's kennel would devalue his property.

Dr. Garofalo challenges the statements made by Mr. Zomerfeld and explains that Mr. Sieczkowski agitates her dogs. She wants to know how the video was taken because the Sieczkowski's were not outside. She states that she is under constant surveillance by her neighbors, and she is disturbed. There is further explanation of this from Ms. Garofalo.

Mr. Zomerfeld states that his clients are doing nothing inappropriate and it's not illegal to have cameras on their property. Dr. Garofalo has not put up a fence. They have not name called Dr. Garofalo and they expect the same in return. There was more brief discussion on this.

The public hearing was closed.

Chairman Smith stated that because they have just received paperwork, they have been unable to go through on this matter and he would like to table it.

### Motion

A motion to table the application was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor so carried.

**GAROFALO, Jennifer**                      **PSP-2023-013**  
**4571 Budd Rd., Lockport**              **SBL#93.00-2-45.22**  
*Special Permit-Veterinary Clinic*

Mr. Billingsley explains that this will be a public hearing too because the application has been amended.

Dr. Garofalo wants to have clients come onto her property for equine appointments for vaccines and acupuncture and for dogs and cats for euthanasia. She has a business plan she wanted the board to see that will need to be distributed again. Her hours are 8 am-8 pm on the weekends and 6 am-8 pm on the weekdays except Wednesdays. It's all going to be outside on the grass outside the parking lot and she can use portable corrals or keep the horses right on the trailer.

The public hearing was opened.

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Mr. Zomerfeld addressed the issues with this application, health, welfare, and safety concerns. She will be euthanizing animals under a pergola in plain view. He asserts that she does not meet the criteria for a special permit and goes on to explain that. There have been reports to the Sheriff's Departments and Dog Control Officers about the barking that occurs. The Sieczkowski's have gotten quotes for fixing their grass from when Dr. Garofalo's horses got out and caused damage to their property. The application doesn't satisfy the town zoning ordinance and it should be denied according to Mr. Zomerfeld.

Mr. Suita is concerned about Dr. Garafalo bringing diseases into the Town and the County from other towns and counties that she works in.

Ms. Wood explains that it is imperative to have veterinary services for the people in our community. A more affordable option is the animal coming to the Dr. rather than the Dr. coming to you. Having someone you trust locally and close to home to have the service is a huge asset to the community. Specific measures could be put in place to help alleviate some of the concerns and to deny Dr. Garofalo outright would be a hardship. Animals are huge in this community and having a veterinarian is imperative. It's almost impossible to get vet appointments now, especially for new clients. Dr. Garofalo would be an asset to the community.

William Rondeau of 4794 Lower Mt. Rd. He called around and it took him 3-4 months to get a vet appointment for his dogs and goats. He believes Dr. Garofalo would be an asset to the Town and County. We are a right-to-farm community and the noise through the years from farm equipment far exceeds anything from the animals. The benefit of having a vet to address the hard issues and not charge an arm and a leg is great for the Town and County.

Amy Gerhard of 6386 Michelle Dr., Lockport works with Dr. Garofalo at a Veterinary practice. She is such an asset to the Niagara Community. Dr. Garofalo works all day and lets the dogs out at lunch and when she gets home from work. They are not outside barking all day. She works all day and then is home with them.

Benita Portscher of 3360 East Ave., Youngstown said that it is so hard to find a vet for horses and large animals and it's scary. There's not a lot of vets in the area. Having another vet would be a huge asset and there's not a lot of help here.

Dr. Garafalo stated that her dogs are only out 2-3 times a week. They are in the house when she is at work. They do bark at times. They are not out for hours and hours. Her horses got out one time. The Sieczkowski's never tried to talk to her but she got a letter in the mail that they were taking her to court so that is what she was waiting for. There was also no damage in her backyard, apparently just in theirs. She wants to petition for an 8 ft. fence. She just ran out of

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time with the weather. She asserts that the images that were taken and presented to the board by Mr. Zomerfeld were from her backyard and not theirs.

The public hearing is closed.

A brief discussion is had regarding Dr. Garofalo's business plan getting to the board members.

Mr. Billingsley recommends that the board table the application and requests on the board's behalf that Dr. Garofalo provide the proposed location of the fence.

Mr. Andrews asked Dr. Garofalo to clarify that she would only be servicing horses and euthanizing cats and dogs but not treating them. She keeps the animals in a freezer until the crematory services come to pick them up. Mr. Andrews wants to know what kind of diseases horses could have that could be spread that Mr. Suita could be referring to. Dr. Garofalo says that's mostly cattle that could have spreadable diseases which she doesn't service.

Dr. Garofalo specializes in alternative medicines for horses. There are no other veterinarians that do what she does. She goes on to explain a bit more about her treatments.

Dr. Garofalo clarifies that the horses can be treated in her portable pen or right on the trailers. She would only treat in spring, summer, and fall.

Mr. Billingsley asked what types of noises would be generated from treating the animals. Dr. Garofalo states whinnying, the diesel trucks bringing the horses, horses kicking. Dr. Garofalo will not treat the horses in her barn with her horses.

Mr. Milleville requests a sketch for the proposed fence which the Building Department has and can provide.

### Motion

A motion to table this application was made by Mr. Andrews and seconded by Mr. Milleville, all in favor so carried.

### Special Permit-Renewals

**FISCHER, William & Susan**  
**5108 Carriage Ln., Lockport**  
*Animal Husbandry-Chickens*

**ZSP-2022-015**  
**SBL#107.04-1-50**

A signed letter indicating a request to renew the special permit was provided to the building department. No concerns from the building department.

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### Motion

A motion to renew the special permit for 5 years was made by Ms. Shoop and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

Mr. Billingsley stated that the December meeting does not work for Dr. Garofalo and she would like to come to the January 22, 2023 meeting. The matter is being tabled until the January meeting due to Dr. Garofalo's request. This will include the Planning Board meeting as well.

### Reports

Mr. Billingsley stated that Forsyth Warren Tavern's matter was settled in Supreme Court regarding the Special Permits that were granted for 5182 Ridge Road. The first one was to permit a barn on the premises to be used for an antique sales business (ZBUV-2018-002), the second one was to host public and private events (ZSP-2018-007) and the third one was for the Forsyth Warren Living History Farm Museum (ZSP-2019-006). The Town, Forsyth Museum and Tyler Booth were able to reach a resolution on the matter regarding the special permits that this board terminated a couple of years ago. It has been resolved and it has been requested that the board adopt the following resolution:

WHEREAS the parties to the Article 78 Proceeding commenced by Tyler Booth and the Forsyth Museum against the Town of Cambria, et al., reached an Agreement settling the proceeding between them on Wednesday, November 11, 2023 at the Niagara County Courthouse which resolved the issues between the parties, all parties present were in agreement that Art. 78 Proceeding had been settled with the agreement reached that day,

NOW, THEREFORE BE IT RESOLVED that, pursuant to the November 8, 2023 agreement that settled the Art. 78 Proceeding, the Zoning Board of Appeals hereby authorizes the reinstatement of the Special Use Permits previously revoked by the Board, to the holder, Tyler Booth, with full force and effect together with all the rights, privileges, and authority encompassed thereby if the same has never been revoked. The reinstated Permits shall have a term of one year during which said Permits may be renewed or extended upon the request of the holder. This RESOLUTION shall take effect immediately.

Mr. Billingsley recommends a motion and polling of the board to reinstate the special permits.

### Motion

Ms. Shoop made a motion to reinstate the Special Permits and it was seconded by Mr. Andrews, all in favor.

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Ms. Shoop-Aye

Mr. Andrews-Aye

Ms. Retzlaff-Hurtgam-Aye

Mr. Milleville-Aye

Chairman Smith-Aye

### Announcements

None.

### Adjournment

A motion to adjourn @ 8:10 pm was made by Mr. Andrews and seconded by Ms. Retzlaff-Hurtgam, all in favor, so carried.

*Krista Brocious*

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Planning/Zoning Clerk