



Town of South Bristol
6500 Gannett Hill Road ó West
Naples, New York 14512-9216
585.374.6341

Planning Board Meeting Agenda

Monday, November 7, 2016
7:00 p.m.

Call to Order

Pledge of Allegiance

Reading of Vision Statement

Preserve and protect our safe, clean, naturally beautiful rural and scenic environment with carefully and fairly planned commercial, residential, agricultural and recreational development.

Minutes

Approval of September 21, 2016 Planning Board Meeting Minutes

Old Business

Proposed amendments adding language to §170.94 A(3) regarding site plan review for lots adjoining Canandaigua Lake in the R-3 District, and adding language regarding lot coverage to the Schedule of District Regulations (Attachment 1).

Public Hearing

Preliminary and final site plan review:

Application # 2016-07-P
Tax Map # 182.00-5-2.000
Peter Zelter
6143 Gulick Road

New Business

Review draft proposal to amend town code pertaining to site plan approval with Kevin Olvany, Canandaigua Lake Watershed Council

Ralph Endres, board member term expiring in 2016

Other

Motion to Adjourn

Town of South Bristol Planning Board Meeting Minutes Monday, November 7, 2016

Present: James Ely
Ralph Endres
Ann Jacobs
Michael Staub
Rodney Terminello
Bessie Tyrrell
Mary Ann Bachman
Sam Seymour

Absent: Ann Marie Rotter

Guests: Peter Zelter, Property Owner
Kevin Olvany, Canandaigua Lake Watershed Council
Dan Marshall
Steve Cowley
Bob Sprague and Son

Call to Order

The meeting of the Town of South Bristol Planning Board was called to order at 7:00 p.m., followed by the Pledge of Allegiance. All board members were present with the exception of Ann Marie Rotter.

Reading of Vision Statement

Board member, Bessie Tyrrell, then read the Comprehensive Plan Vision Statement.

Minutes

Chairperson Ely called for a motion to approve the September 21, 2016 meeting minutes as written. Rodney Terminello made said motion which was seconded by Michael Staub. The motion was unanimously accepted by all board members present.

Public Hearing

Preliminary and Final Site Plan Review:

Application #2016-07-P
Tax Map #182.00-5-2.000
Peter Zelter
6143 Gulick Road

Chairman Ely: I am going to declare the public hearing open. Diane would you please read the notice.

Diane Graham:

LEGAL NOTICE, TOWN OF SOUTH BRISTOL, NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town of South Bristol Planning Board will hold a public hearing on the following application:

Application #2016-07-P for property owned by Peter Zelter located at 6143 Gulick Road, Tax Map #182.00-5-2.000 is looking for site plan approval per §170.38 and §170.94 of the town code to allow a second residence for family use.

SAID HEARING will take place on the 7th day of November, 2016 beginning at 7:00 p.m. at the Town Hall, 6500 Gannett Hill Road, in the Hamlet of Bristol Springs, NY. All interested parties may appear in person or by representative.

Chairman Ely: Thank you Diane. You will put that into the record?

Diane Graham: Yes.

Chairman Ely: Do we have an affidavit of publication?

Diane Graham: Yes.

Chairman Ely: That will go into the record as well? Then I would like to turn to our proponent, Peter Zelter.

Peter Zelter: Hi, I am Pete Zelter. I am the property owner at 6143 Gulick Road. I have submitted to you my plans for building a second residence on my property. It is actually a pole barn that we are going to convert into a residence. The existing residence which has been there since 1930. We anticipate on rehabilitating structure next year and my mother is going to live there. So it will be a family owned property with one address. I think it is all within the vision statement of the town and maintaining a park like environment. We have added a pond. We have had Guy Rogers up there doing some excavation work and beatified the land.

Chairman Ely: Can you comment on the septic arrangement?

Peter Zelter: The septic has been drawn up by Bill Grove and will be installed by Guy Rogers hopefully in the coming weeks.

Chairman Ely: Is that a new system?

Peter Zelter: It will be a new system. It will be actually be a shared leach field and two separate 1,000 gallon tanks to a shared leach field that is expandable.

Chairman Ely: It will be a single driveway?

Peter Zelter: Single driveway. Correct.

Chairman Ely: So that we would anticipate no increased traffic burden?

Peter Zelter: Correct.

Chairman Ely: I should point out that this is a permitted use in R-5 district with approval for a special use from the Zoning Board of Appeals, and the ZBA has in fact granted such a special use permit. The code

also requires that we should extend site plan review on the same property. Any board members have questions that we should direct to the applicant?

Bessie Tyrrell: What do you do with the old septic system? Do you dig it up?

Peter Zelter: It will be removed. Unfortunately, the top of the tank is above final grade where we want to be so we going to have to remove the tank.

Chairman Ely: What do you envision as the time table, sort of speak, for the project?

Peter Zelter: As quickly as possible. We are trying to push it as quickly as possible. We have to pour a concrete slab and the concrete plants will be closing in about three to four weeks. We are prepping it right now for concrete. Once the concrete is up, the framing, electrical, and plumbing I am really hoping for a temporary certificate of occupancy by the end of January or early February. It is ambitious I know. I am pushing everybody as hard as I can.

Chairman Ely: As you know, under code §170-38 we can permit additional structures on the same lot only for family members. Am I correct that this is a family situation?

Peter Zelter: Correct.

Chairman Ely: Let me then ask you a few questions regarding criteria in our code. You are the owner and you will own all structures on the lot?

Peter Zelter: Correct.

Chairman Ely: You understand that under the terms of the special use permit the property cannot be leased or rented?

Peter Zelter: Correct.

Chairman Ely: It is for family members?

Peter Zelter: That's correct.

Chairman Ely: They all have the same postal address?

Peter Zelter: Correct.

Chairman Ely: They have the same driveway? We have already talked about that.

Peter Zelter: Correct.

Chairman Ely: You have submitted the site plan to us. Does the ZBA think any landscaping is necessary?

Peter Zelter: They did not have any suggestions for landscaping. It is pretty heavily wooded area that has been cleared with a pond. It is already pretty magical.

Rodney Terminello: Are you going to pump water from the house over to the next structure?

Peter Zelter: Yes. So the well will go to the primary residence and pump back to the original residence which is downhill from me.

Chairman Ely: Your primary residence will now be the converted barn? Is that my understanding?

Peter Zelter: Correct. That's correct. Same with the electricity. We are going to do a 200 amp feed to the primary residence and a 120 back fed to the original residence.

Sam Seymour: So a single meter?

Peter Zelter: Correct. I just had the engineer from RG&E up this week or last week and we will do a new underground line from the road to a...

Rodney Terminello: So your Mom is paying the electrical bills?

Peter Zelter: I got a feeling I will get all the bills. They will put a transformer up between the two residences.

Chairman Ely: Any other questions?

Sam Seymour: Has the septic system been approved by the county?

Peter Zelter: Yes. It has been approved.

Chairman Ely: If there is no other questions, then I have to read into the record any reports from governmental agencies or any communications received in connection with this proposal. That will be very easy because I have received none. I have been advised by county planning that this is not a matter that they will be reviewing. Any persons on the floor who wish to speak to this proposal?

Dan Marshall: It is my understanding that we have written in our code and what the post office and what 911 are requesting is we were saying that it should be the same address as Peter just described here. However, 911 and the postal service are saying no that there should be two separate numbers. I got that information just today via Diane from the zoning board who apparently came across that situation where in our code it states that there should be one address. However, 911 probably would prevail and we need to think about changing that.

Peter Zelter: It did come up in the last meeting and I am not sure if whether to check with the county or not but I do believe for 911 services there has to at least be an A, B designation or some designation for each dwelling for emergency services.

Dan Marshall: Which makes sense.

Chairman Ely: That is a very fair point but of course, as it stands now we have the same postal address. A little bit of tension here.

Dan Marshall: The request I have received from the zoning board was that we consider a change to our code so that we are all in agreement.

Chairman Ely: We will enforce the code as it appears. Nothing else in the public hearing then I will declare the public hearing closed.

Now we come then to a SEQR determination. As the ZBA has already passed on a SEQR determination, I have taken the liberty of drafting a resolution which I will read.

Based on the application for site plan approval and the evidence presented at the public hearing, the planning board finds that the proposed action would not have a significant impact upon the environment, should be classed as a type II action, and no further SEQR review is required.

A motion to adopt this resolution was made by Chairman Ely and it was seconded by Ralph Endres.

Chairman Ely: This concurs with what the ZBA has already found but I think it was important that we should go on record in making our finding.

All in favor: Aye: 7, Opposed: 0

Chairman Ely: We must make certain findings. Let me propose the following:

1. The proposed project is consistent with the comprehensive plan.
2. The proposed project is consistent with the zoning district in which it is to be located.
3. The proposed project will not be detrimental to nearby properties.
4. The proposed project will not have an adverse impact on the physical or environmental conditions of the district.
5. The proposed project will not adversely affect the character of the neighborhood.

A motion was made by Michael Staub and it was seconded by Bessie Tyrrell.

All in favor: Aye: 7, Opposed: 0

We have agreed to the findings. Are we prepared to approve the site plan application as submitted?

A motion was made by Ralph Endres and it was seconded by Michael Staub.

All in favor: Aye: 7, Opposed: 0

Bachman, Ely, Endres, Jacobs, Staub, Terminello, Tyrrell

Old Business

Proposed amendments adding language to §170.94 A(3) regarding site plan review for lots adjoining Canandaigua Lake in the R-3 District, and adding language regarding lot coverage to the Schedule of District Regulations (Attachment 1)

Chairman Ely: This topic is set for the Town Board hearing next week. I do not think any further action is needed on our part. We, of course, had initiated this recommendation and Jeff Graff, Esq. has simply put it in appropriate legal form for adoption into the code.

New Business

Review draft proposal to amend town code pertaining to site plan approval with Kevin Olvany, Canandaigua Lake Watershed Council

Chairman Ely: Kevin let me say I really appreciate your willingness to come tonight and as it turned out our earlier business folded up faster than we thought so we are raring to go here. I have already explained to the board members that I do not envision any formal action by this board tonight. What I wanted to do is initiate some conversation about the proposed new code. You and I have kicked it around for a time, more you than me. Maybe you could make some opening remarks about the proposed changes then see if the board members have questions.

Kevin Olvany: The watershed council a couple years ago asked for a land use subcommittee to come together with the different municipalities to look at some of the big issues that we are seeing from a development perspective. How can we work together to work on some common code language understanding that home rule always applies and that each town is going to make its ultimate home rule decision as they want to see their code written, which is great. That is the way we want it. So what we have done is try to bring those common themes together and some of those are that onsite waste water law, steep slopes regulations, water course protection, and things along those lines. One of those also is site plan review. Making sure there is good review mechanisms within site plan review town-wide but also along the lakeshore area. One of the things we talked about is shoreline regulations in terms of how we manipulate the shoreline for shore owner's wants and looking at their needs per se and how do we balance the protection of the lake with what they want to do to the shoreline area. There are a lot of those issues and initiatives we have been working on the last two years. Some are farther along than others. Lot coverage was another one that you guys acted on within the last year. You made the changes we were looking for. A lot of the towns have done some of that work: Gorham, Town of Canandaigua, you guys. One of the things we are looking at is site plan review. Gorham and Town of Canandaigua have a pretty robust system of site plan review. I think we kind of worked as a land use subcommittee and Jim and I as we met talked about what were some of the themes that would work. Yeah maybe they would work for Town of Canandaigua but will they work in the Town of South Bristol. Tried to pick the best of the best out of those aspects. That is the big picture of kind of what we are doing, why we are doing it all that kind of stuff. If you want to, we can go through the draft and some of the changes that have been made. I know that the town attorney, Jeff has made some adjustments then we worked off of those adjustments to make sure we were following the layout that he had provided in there as well. I think you guys have acted on this already section three we were looking at where site plan review would kick in along the lakeshore area for a single lot development. It was not only the lake residential district, but we were also talking about those parcels that adjoined Canandaigua Lake in the R3.

Chairman Ely: That is in the works. That will be on the town board's agenda next week I believe.

Kevin Olvany: Okay. One of the things that would be good is and some towns do this even though the Dockings and Moorings Law does not require it per se is looking at and at least being able to show permanent docking structures as part of site plan review so you can see that aspect and how it is connected to the larger development that's occurring for that parcel. So that is one of the things we are suggesting to folks is to definitely include the docking system just the location of it. What they have to

comply with is docks and moorings but make sure it is part of your site plan review. You can take a look at it that way and that is why we included it on page two the permanent docking structures. The temporary ones I would not worry about just because they can move and they have to stay within the docks and mooring system. We also looked at some of the towns had no square footage when site plan approval would kick in along the lakeshore area. You are increasing all new construction, additions and/or expansions of any impervious surface. We went with 144 square feet and that is something you guys may want to take a look at and say we want to kick that up to a higher level but that was a number that has been talked about to throw some level of increase to the impervious surface.

Under existing conditions on page 5 (5 of 18). You guys have a steep slopes law but it doesn't differentiate 15-25% from 35-40% and upwards. It would be a really good idea just to see that aspect. Are we dealing with moderately steep slopes or are we dealing with extremely steep slopes? This should not be an added burden to the applicant because they can go on to ONCOR the county's online system and print out.

Sam Seymour: Won't the contours on the two foot intervals show that?

Kevin Olvany: Absolutely. The engineer should very easily be able to show that also.

Sam Seymour: When does the steep slopes law kick in?

Kevin Olvany: Under 2c on page 5 we are suggesting going from the vertical intervals of 20 feet, of what you have currently, to two feet. If they do not want to do a survey, they can always fall back on the county purchase lieder. Very accurate. Is it survey quality? No, but it is darn accurate level contour mapping and anybody can zoom in to their own parcel. It should not be an added cost or burden to the applicant.

Sam Seymour: Why identify all these various pitches when steep slopes only kicks in over at 15%?

Kevin Olvany: I think as you are reviewing a project

Sam Seymour: You will see it already with the contours on the drawing.

Kevin Olvany: You will see it, but a trained eye is going to have to say that is some extremely steep slopes there versus that is about 17-18% slope.

Sam Seymour: For our review why complicate the plans with all this extra stuff. Why not just show the contours at two feet and then shade the area that applies to steep slope law.

Kevin Olvany: You can do it that way but when we look at that issue, to me as you guys are making decisions, you are looking at how you make decisions regarding site plans what should be approved and what should not be approved or maybe look in certain areas. From my perspective, I would be a little more lenient in my review in my thought process on something that's in the 15-20% range versus something that is on 35-40-45% slope. Your steep slopes law at this point does not differentiate that aspect but your site plan review as you look at the layout of a property and what somebody is looking to do on that property those are the nuances that help in your decision making process knowing that difference between 20% or is it a 40%. Bad things happen on a 40% slope much quicker than on a 20% slope.

Sam Seymour: You will see that with the contours.

Kevin Olvany: You could. I am just saying from a planning board perspective you guys have to make that call.

Sam Seymour: When does the steep slopes law kick in?

Kevin Olvany: 15%. It is the same regulations throughout 15%-50% is how the town has it at this point.

Sam Seymour: Okay.

Kevin Olvany: One of the things is where the septic system is. There is certain requirements there inherently but as you look at where the house is going to be placed it's going to tell you what kind of masquerading is going to have to happen in order to build that house to make it work. Those are things you can start asking more questions if you are seeing this is not only a 15% slope, this is a 35% slope. Let's really think about why we are building here when there are other alternatives on your site that might be feasible. It is a one page printout at no additional cost for the applicant to pull up on the county's GIS system which is available to everybody and easy to use.

Going to the scale I skipped something there. I apologize it is up in 1.e. looking at 40 scale, 40 feet to the inch scale just gives you more details. I think it is helpful to have that.

Proposed conditions development.

Chairman Ely: You are on page 6 now?

Kevin Olvany: Yes, page 6 of 18. Proposed location boundaries, design, exterior dimension and uses of all lot coverage items percent shall also be provided. Some of the applicants, developers, engineers will do this. Some will put a chart on their plan saying here is the percent of lot coverage. It makes the decision making process easier if it is all laid out for you.

Chairman Ely: I think that is an excellent point. I think Phil Sommer actually tries to require this as matter of his own policy.

Kevin Olvany: So if there is a variance that's needed then you know what the process is through the town process.

Buildings or structures ó so we are really looking at lot coverage there so that was the aspect of showing all the lot coverage components and you have changed the definition of lot coverage.

Location ó so instead of being a written description, show it on the plans of your swales, ponds, basins, all of those things. Make sure it is required that it has to be on the plan. This is equivalent to your steep slopes regulation as well as you want a standard to go by. The one that we like to use because it is a nice standard across. The state did a nice job of pulling this together erosion control measures must meet the latest NYS standards for erosion and sediment control. It is called the blue book. They just came out with our latest version of it. They are used to working with it. You do not have to reinvent the wheel. That's what we recommend.

Bottom of page 7. This is a key one. I think you guys do this now but it is nice to formalize it so everybody is clear on why you are doing it. "Site plan approval will not be granted until the Watershed Inspector or relevant government agency has reviewed and approved the location and design of the onsite wastewater treatment system." The thing about that that is critical is and it happens in a couple of towns still sometimes and sometimes not is that the site plan will be approved or the permit will be granted and then they come to George where the waste water system is going to go. He looks at it and says this does not work in terms of where you are placing the house with the setback requirements or size of the absorption area. Making sure that the onsite system is going to function in the location that they are talking about I think is critical. It reduces the cost on the applicant so that they do not have to go back to the drawing board to a certain extent.

Sam Seymour: Does the Watershed Inspector have the ability to approve designs?

Kevin Olvany: Yes. He has the ability to say whether or not they meet the design standards.

Sam Seymour: Saying and approving a plan is different. I do not believe he has the authority to approve any designs.

Kevin Olvany: Yes he does. He can grant approval. There are certain requirements though that go above and beyond his capability and there are waiver systems that maybe they do not meet the 100 foot setbacks requirements. That has to go to D.O.H. for approval.

Sam Seymour: Don't all the systems go to D.O.H. for approval?

Kevin Olvany: There is a joint level of approval there but George has approval authority on the design of waste water systems that meet the current standards. If there is any type of waiver requirement or in terms of setback, then it has to go to D.O.H. to approve.

Sam Seymour: That must be new.

Kevin Olvany: No. It has been around since I well that is the way George has been doing it with D.O.H. With D.O.H.'s approval also saying yes this is how we want to do it.

Maybe you are thinking of new construction. He has approval on new construction as long as they meet the standards for D.O.H. If it is a repair or replacement, D.O.H. typically does not get involved unless they are not meeting the current standards.

Chairman Ely: Kevin at the bottom of page 7 and 8 the same wording appears. It seems redundant to me.

Kevin Olvany: It would be more appropriate to have it under planning board review.

Sam Seymour: That same concept Jim would apply to erosion control paragraph (l). The location and description on the plan should be included on the plan and this is paragraph 3 proposed conditions of development is sort of checklist for the design engineer to put stuff on the plan, but the approval itself is something the board will look for under planning board review.

Chairman Ely: Exactly then we will take that out.

Sam Seymour: Or just move it over.

Kevin Olvany: Under paragraph 3 proposed conditions it goes from (i) to (l). We will have to re-letter that to make sure it is working with the alphabet we use.

Under section 8 page 9 the Town of Gorham does this right now. Tom Harvey put this in who is their planning board chair and also county director of development and planning at the county level. So section 8. E. the way we have done this is balancing cut and fill operations within a flood plain area to make sure you are reducing the flood plain. The Town of Gorham does this along the shoreline areas. So construction within the floodplain will require that cut and fill must be balanced on the most recently released flood insurance maps. Principal buildings and other structures shall be constructed/construed as fill for the purposes of this section. So if you are building in that flood plain, we are trying to see that balance of cut and fill. It is a critical thing. If you think about, it that one little area on the lake for filling in the flood plain may not seem like that much, but if everybody does it in the flood plain you are going to raise that level of the lake just a little bit more and more of an impact around the lake because of it. We are not saying you cannot fill in a flood plain but you have to balance that somewhere else by cutting and developing more flood plain somewhere else. If you put a structure on top of that, we are also looking and saying construed as fill from that perspective as well.

Sam Seymour: So the available volume within the flood plain remains the same?

Kevin Olvany: Correct. Yes on that parcel.

Chairman Ely: On page 10 F. 2. You and I have talked about this before but I would like to get the board sensitized to this. "A site plan approval will automatically terminate two years after the same is granted unless significant work has commenced on the project." That has given rise to controversy right here in river city. We are going to have to do something to clarify this. I can ask Jeff Graff if he has thoughts, you may have thoughts or board members may have thoughts, but we have to have some criteria so that our code officer can decide if there has been significant work.

Kevin Olvany: This is something that Jeff brought in and I think it is good aspect to make sure you pull that together. It might be a Jeff question also in terms of is there a legal definition of what we mean there.

Chairman Ely: You may have thoughts of what other towns do.

Kevin Olvany: You hear sometimes about vested rights. Some of the definitions for vested rights would be there are footers in the ground. I would hate to see it just say grading is commenced or they have done some level of earth disturbance. It does not cost too much to go in with a bulldozer for a couple of days and do that.

Ralph Endres: I think it requires more than site preparation.

Kevin Olvany: Right. Where you are actually building. You are starting to build.

Ralph Endres: I would think once you start doing something to the land itself. If you are digging a foundation, you are getting into it. If they do not finish it, then we should put something in there to reclaim the land. Otherwise they have disturbed it enough that it could have impact.

Rodney Terminello: Or they have to restart the process over again.

Chairman Ely: They can always reapply.

Kevin Olvany: Ask for an extension. There are ways to do that. Definitely we have to for everyone's sake really define what that means by significant work. I can ask or we can circle back with Jeff Graff or we can do some work ourselves first before you want to engage Jeff on that.

Chairman Ely: If you have any further thoughts, I am not putting you on the spot tonight you can share them in due course.

Kevin Olvany: I think you want more than just land grading. I think you want something of tangible construction, bricks and mortars.

Mike Staub: Something that adds value to the property that you can measure intrinsically with dollars.

Ralph Endres: Some execution of the plan that was approved besides site clearing.

Kevin Olvany: Something that is defining where the structure is going to be.

Under G again and maybe this is redundant but were trying to make sure it was being applied to both areas of shoreline property both within the LR and R3.

I am not sure why this is in there again. I think it is a duplication somehow from the previous section. It is an amendment. Administrative review ó so this is one of the things that Gorham does that I think works pretty well. It gives their code enforcement officer and we have talked to him, it seems to work okay, that up to 400 square feet you basically say that you are going to allow your zoning/code enforcement officer, that is one in the same here, it is exempt from planning board review but that they have to follow the site plan review procedures. So you have the small projects okay let the code enforcement officer handle that aspect. It seems to work in Gorham. I would say check. Maybe Phil can talk with Gordy and see how it really works.

Chairman Ely: As I understand the applicant would have to follow the procedures but they would not come before this board for site plan review.

Kevin Olvany: Yes. Correct.

Chairman Ely: The code enforcement officer would handle that.

Kevin Olvany: Would handle that aspect. You want to make sure that you are not putting the code enforcement officer in a situation where it is creating true discretionary type decisions. The nice part about it is streamlining the small projects but still making these requirements real was the approach there. Again that is a. and b. under G.1 tied into that aspect.

Shoreline type aspects and again I think there needs to be some clarity work how this is laid out. I know we have kind of struggled with the different versions that are out there and we tried to work with what you guys had to pull some of this stuff in. This is one of those areas we talk about with shoreline standards that the planning board shall consider. This was in there already. Shall consider the aesthetics

and we added with impacts of a seawall in regard to adjacent properties and the seawalls appearance from the lake. The applicant must demonstrate that natural stone and/or vegetation is not a viable option, before the planning board grants approval. The issue with seawalls is that it does not dissipate wave energy from boat waves, wind action waves. What happens is it allows its energy to get pushed to the adjacent property owner. The problem with that it just enhances erosion. We have seen this time and time again. We see these walls go up and hits the wall, bangs off that wall and then it creates problems for the neighbor and then the neighbor has to do something. You can just follow it. Stone is going to be, in my opinion, a longer term better solution. If it is put in the right way, you can make sure that it is angular so it actually can dissipate that wave energy that is hitting it. Then if you can put the vegetation either intermixed or at the top of that bank where it can shade the stone and create some nice habitat you are getting that perspective also. That is what we are looking at there is trying to see if looking at the natural stone approach as opposed to just doing a vertical wall. I know DEC pushes that approach but sometimes it is a grey area. The east side of the lake sometimes because of that wind action that they get on a more constant basis or there are walls on either side it is tough to say no sometimes. Stone can really do a nice job.

Sam Seymour: So is this for replacing an existing wall? Isn't it so that new construction has to be built above mean high water level?

Kevin Olvany: A wall is going to have to go below mean high water mark for sure. A seawall because it is protecting most of the year. It is going to be below the mean high water mark.

Sam Seymour: So you cannot build it into the lake?

Kevin Olvany: So you can go up to one foot out from an existing wall. So you can go out one foot further to put a new wall in is what DEC allows for.

Sam Seymour: That's for a repair and replacement type of a thing?

Kevin Olvany: Yes. Exactly. So they are not having to dig out the existing wall you can build off of that wall.

What we are looking at here is most of the time it is going to be new work along the shoreline.

Rodney Terminello: There are a couple of spots on the other side of the lake that looks like they have built the land out.

Kevin Olvany: Oh. There are a lot of spots here.

Rodney Terminello: That is worse than having a seawall, right?

Kevin Olvany: Yes. You are not allowed to do that now and you really have not been allowed to do that for the last fifteen years or so in terms of really building out there. You see a lot of them and we run into this because you look at sometimes they try to claim that as property. What we are saying is you go to OGS the state office that really deals with real property for NYS and lands under water. What they've said is no lands under water for NYS extend to 687.11 feet above sea level and then the mean annual high is 689.4 feet. So the land owner owns to 687.1 the mean low water mark for Canandaigua Lake and that's state sovereignty is right there. So what they do they look at old aerial photos or look at shoreline on

either side and say okay this did get created like a nice beautifulí So they will measure and go across there. The state is not going to make you take it out but you cannot claim it as your property. From a docks and moorings perspective, this is why it is important. We ran into this in Middlesex a few time. We got it worked out with the dock builder and surveyor who were not happy with us but we showed that they did not own that 60 foot piece of land that had gotten filled in years ago. They did not actually own that area. Then they wanted a 60 foot dock going out beyond that. We know you need to put a dock out there but docks and moorings says you can go out to 60 feet to get to that three feet of depth. We did say yes, obviously you can get a docking system. We are not going to expect you to dock your boat right up against the wall but you are not going to get the full 60 feet going out so it was that balance.

We took some stuff out - exemptions. It just seemed like you would want to see these items - a single family dwelling, accessory structures. Again it is that lot coverage, those things that are going in that I did not think you would want to exempt. It is something Jim and I talked about. It seems like that especially along the shoreline you are going to want to look at these single family dwellings going in. Again that is your choice.

Chairman Ely: On my copy I have that crossed out Kevin.

Kevin Olvany: Yes that is crossed out as an exemption.

Then we added in in term of compliance aspect showing demonstrate compliance with Docks and Moorings.

The next section in red is water quality requirements. We pulled some information from Gorham and we actually enhanced what they were doing a little bit to put some standards associated with it. They are considering that also. They basically have if you are increasing impervious cover at all along the shoreline in terms of along Canandaigua Lake and their town they require some level of water quality treatment for that increased impervious cover. They do not even have a threshold, a square footage threshold. We put in a 400 square foot threshold on when this would kick in. You can play around with that number. If you want to look at something larger. The goal there was to try to say okay we have no filter between the shoreline and the lake. Even when you go upland, the stream system does perform some function but not complete function by any means. It can provide some water quality treatment as it is working its way down to the lake. You definitely do not get complete treatment but here we are getting no treatment before it gets into the lake. The elusion effect becomes the treatment basically and that is not really what we are looking for. The goal here is to provide some level of water quality treatment for any new impervious cover. I think we should look at this pretty darn closely. We put in a rain event a level of a rain event. This is where the engineer can run the calculations and say okay you have 1,000 square feet of increased impervious cover here a 1.3 inch of rain event is going to generate this amount of water. You have to treat that somehow. How are they going to treat it? Is it going to be a pond? No. It could be a variety of things raingarden, bio retention area, you could have a dry swale, you could have basically a cistern to allow that water to drop into that aspect and let it infiltrate into the ground. There is a whole array of activities again this is for shoreline properties. So you are not getting the heavy metals, etc. that can come off the impervious cover going directly into the Canandaigua Lake.

Sam Seymour: If someone builds a gazebo at the beach that is bigger than 400 square feet, they have to take downspouts and go to some kind of treatment device to treat the rain water that comes off of it?

Kevin Olvany: Yes. You look at shingles and there is a decent amount of studies that show there are pesticides put right into them, you have hydrocarbons, you have a variety of contaminates that come off of the shingles over time that can be an issue. That is what we are looking at trying to treat those kind of areas.

Sam Seymour: Better go to a metal roof?

Kevin Olvany: A metal roof can degrade also over a longer period of time. You can look at maybe doing porous pavement. There is a bunch of approaches that way to try to get that infiltration aspect. In South Bristol you have a decent amount if you have usable shoreline. You have a shallow base which is not great for septic system but is good for infiltration. It seems to be working well. They have had it about two or three years at least in Gorham and the engineers are adapting to it. They have more of a heavier clay type system in terms of their soil in that area.

The next paragraph is trying to encourage and we can work on this. They worked great in the first year, but how are they going to be maintained. What they should have is some sort of maintenance plan. Is your code enforcement officer going to go out and try to test to make sure it is being maintained? No, but one of the things we do want them to do to make sure especially if it a manufactured type system that they have to send in that yes we have had it maintained. There are these oil and water separators things like that that require maintenance. Typically it is a rain guard something along those lines and they typically have a ten year life cycle before they get inundated with so much silt and sediment that they lose their infiltration capacity. With that we crossed out a bunch of stuff and said this applies to anything where you are increasing impervious cover or even if you are doing a tear down rebuild. Number 5 we took out a lot of stuff because we really covered it with those two paragraphs. This is where I think we were less stringent and some of this came from Gorham, Town of Gorham's attorney as well. I think he pulled from some of this. He talked about storm water treatment system, it's designed, installed, and maintained to capture and treat all runoff from impervious areas on site during a 25 year storm event. 25 year storm event is four inches of rain in a 24 hour period. We are talking about a 1.3 inch rain event. When you look at the water quality requirements for NYS, they used the 90 percentile storm which is about .8-.9 inches around here. We are a little bit more than the minimum of what NYS says but we are a lot less stringent than the 25 year storm that's being called for on these tear down rebuilds. All this other information we can take out because we referenced the NYS storm water manual as the design manual to utilize. It has a whole array of alternatives to choose from that work very well. It gives the engineer then a lot of flexibility to choose from something that they know about and that will work best for the parcel.

One of things we took out the lots bisected by right of ways, but I think we tried to put in the lot coverage requirements.

Chairman Ely: That's being addressed.

Kevin Olvany: Okay.

Chairman Ely: I have a couple of quick questions for my understanding. On page 3, number 6, for example, the planning board shall conduct a public hearing within sixty-two days. I think the present requirement is forty-five. I am more comfortable with sixty-two days.

Kevin Olvany: I am going to defer to Jeff Graff.

Chairman Ely: It was his doing. I am comfortable with that. The board does not necessarily meet every month especially during the holiday season. I think that sixty-two is a little bit more comfortable.

I have a question about page 3, number 7 reservation of parkland. Is that a reference to a multiple dwelling unit?

Kevin Olvany: I think that is coming from Gorham's reference and that is where Jeff pulled that aspect from. Those are some of the changes Jeff was suggesting.

Chairman Ely: I am going to take that up with him because that might make sense if we are talking about a multiple dwelling. It makes no sense for single family residences. It does not say the board may make a finding, that we shall make a finding. I think that is overly directive. I can take that up with Jeff.

Kevin Olvany: That a proper case exists so that is where the discretion comes into play. Maybe you can get to some more objective standards that are going to make it easier for you to follow.

Bessie Tyrrell: I have a question. What about tree cover?

Kevin Olvany: We are looking at some stuff within the Town of Canandaigua in some of their reviews they are looking at a ridgeline law/view shed type law where it is saying you have to keep a certain amount of coverage there and protection. One of the things we are looking at from a shoreline regulation perspective that we might be looking at whether it be in site plan review or do you look at something within your zoning code. The Town of Gorham says you have to keep a 25 foot buffer along the shoreline if it has not been disturbed yet. Also it will allow a 30 foot viewing corridor. A lot of what has happened in Gorham is gone already so it is easy for them to write that regulation. It adds to the aesthetic quality of the area.

Bessie Tyrrell: We have a lot of tree cover. A lot of these other towns do not have very much, but we have a lot. So if they take down hundreds of trees, maybe they should plant others? I do not know.

Kevin Olvany: I think what you have done indirectly is with your lot coverage requirements and again that is in the lake residential district, but maybe you look at expanding lot coverage beyond the lake residential district.

Bessie Tyrrell: People just cut down trees not necessarily to build a garage.

Kevin Olvany: That is timber harvesting hopefully for most part they are just not cutting for the sake of cutting it. You have your timber harvesting law now. We did not want to get in to saying what kind of trees what percent of cover had to be remaining. We did not want to regulate clear-cuts. Those are things that we felt like okay if a town wants to do that on their own great but when we develop that model law it was really about if you are going to put in these haul road, skid trails, crossing streams having stream buffer. Those were the things we really focused on in the terms of timber harvesting law. If you are looking at an area that's going to have five acres clear-cut to put in something, maybe that is something you want to have in your site plan review and some towns want to know what your revegetation plan is. They also want to make sure you are planting native species. Chris Luley could help you tremendously on that aspect.

Chairman Ely: Any more questions?

Sam Seymour: Any motion towards outdoor lighting eliminating lights around the lake?

Kevin Olvany: Yes. A view shed law I think in the Town of Canandaigua is looking at going above and beyond some of what they have now with dark sky compliance. There is some movement out there. I deal with water.

Town of Canandaigua is doing this ridge line law. They are trying to figure out their ridge line and where are you viewing that ridge line from? We went to County Park in Gorham and Deep Run Beach and viewed to try and figure out what is that ridge line area. They were thinking mirror image to make sure they are not creating the wrong viewing aspect. The beauty of the Watershed Council is trying to bring folks together.

Ralph Endres: That is the only reason most people live down here. It needs to be protected, but again you have to temper that with property rights.

Kevin Olvany: Absolutely. Yes. We look at some of these laws we think we are being pretty comprehensive with them but how do we make sure we are not causing unintended consequence that undue burden that has no tangible benefit. Even if it has a tangible benefit it's an undue burden. So how do we balance that out and make sure we are looking at both sides of the equation.

Chairman Ely: Anymore questions for Kevin? I appreciate your coming. This was very helpful.

Sam Seymour: Any update on the proposed shoreline 200 foot setback septic law?

Kevin Olvany: The onsite law. I think Jeff Graff is taking another look at it. The next step with the revisions that we made based on the public input Jeff is going to be looking at it for Gorham, Middlesex, and South Bristol. The Town of Canandaigua is also asking their attorney to look at the law one more time. The feedback that we got in the meeting occurred here and over in Middlesex. Good questions but I think it reaffirmed that we have a pretty solid law to take to that next phase of starting the public hearings. That is why we tried to do it in the summertime to make sure we maximize the seasonal residents and get their input. Continue the process, let's get another level of legal review. What other changes do we need to make to it? Again, it is not a 200 foot setback. You can have a system within 100 feet of the lake. We are not going to make you take it out but making sure it is meeting certain requirements and trying to improve that aspect. If it is within 200 feet, then yes it needs to be inspected every five years. The tank can be within 200 feet of the lake but is really the absorption area that we are making sure it is functioning. If we can show that the absorption area is greater than 200 feet, then it exempts future inspections on the property. If it is not a failing system it is a substandard system that you do not need to replace or upgrade it until the time of property deed transfer if it is within the 200 feet zone. Those were some of the things that we changed based on feedback from the public, Jeff's comments, and everything else to get to that balance.

Chairman Ely: Based upon some of the comments here I will try to get rid of some of things we agreed to strike so it looks a little more presentable. I might run a few things by Jeff, if I can get him, then I will circulate and we can continue this discussion in January.

Ralph Endres, board member term expiring in 2016

Chairman Ely: This marks Ralph's last meeting with us in his present term. I know we have all enjoyed his present company. I can only say speaking personally that I hope the town board will seriously entertain reappointing Ralph to a new term on the planning board so that we can enjoy his good counsel, but that is a matter that is out of our control.

Dan Marshall: Anticipating that Ralph was planning on returning he is going to get reappointed. That will happen at the organizational meeting in January.

Chairman Ely: By that time Ralph will be somewhere in sunny Florida.

Ralph Endres: I will be in Alabama. When do I get sworn in? Do I wait until I come back?

Dan Marshall: I think when you come back.

Steve Cowley: You do want to be reappointed?

Bessie Tyrrell: How many years altogether Ralph?

Dan Marshall: The assumption that you wanted to be reappointed is correct?

Ralph Endres: Yes. Jim asked me at the last meeting. I said I serve at the pleasure of the town board. If they so nominate me, I will gladly serve.

Bessie Tyrrell: How many years has it been?

Ralph Endres: I think 16.

Other

Announcements:

On Election Day there will be a chicken, biscuit, and gravy dinner at the historical society. The cost is \$9.00 all you can eat with serving starting at 4:00 p.m. until it is gone.

There will be a dedication of the Veteran's Memorial Garden at the South Bristol Town Hall on Friday, November 11 at 1:00 p.m.

The next planning board meeting is scheduled for Wednesday, January 18, 2017.

Motion to Adjourn

Being no further business, Rodney Terminello made a motion to adjourn the meeting and it was seconded by Michael Staub. The motion was unanimously accepted and meeting was adjourned at 8:15 p.m.

Respectfully submitted,



Diane Scholtz Graham
Board Secretary