



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

Zoning Board of Appeals Meeting Agenda

Wednesday, October 26, 2016

7:00 p.m.

Call to Order

Pledge of Allegiance

Minutes

Approval of September 28, 2016 Zoning Board of Appeals Meeting Minutes

Public Hearing

Special Use Permit:

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

New Business

Fall Meeting Schedule

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, October 26, 2016

Present: Robert Bacon
Tom Burgie
Albert Crofton
Jonathan Gage
John Holtz

Absent: Tom Brahm
Carol Dulski

Guests: Peter Zelter, Property Owner
Elaine Zelter

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:05 p.m. followed by the Pledge of Allegiance. There was a roll call of board members present except for Tom Brahm and Carol Dulski.

Chairman Burgie: Part of the normal flow for a variance request which this is not is to relay the Rules of Order. Rules of Order really are not applicable here because a special use application if it meets certain guidelines which are specified by the town and it is in the code, we are required to grant that special use. What we need in this hearing/meeting is to see that all of those requirements laid down by the town are met in this case. Then we will grant that special use permit. It is in accordance with the town code. It is allowed by the town code. There is not any variance. It is not an exception of the town code or anything of that nature. We need to step through the special requirements that are laid down which is why they have assigned it to the zoning board of appeals just to have that special look before a permit is issued in the case what you are trying to do. If you can help us understand that each one of those things are met, then we are golden.

Peter Zelter: Excellent.

Minutes

Chairperson Burgie called for a motion to approve the September 28, 2016 meeting minutes. Albert Crofton made a motion to approve the meeting minutes which was seconded by Tom Burgie. The motion was unanimously accepted by all board members present.

Public Hearing

Chairman Burgie: I will read the official newspaper legal notice of public hearing into the minutes.

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

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

Application #2016-07-Z for property owned by Peter Zelter located at 6143 Gulick Road, Tax Map #182.00-5-2.000 is looking for a special use permit per §170.91-92 of the town code to allow a second residence for family use.

SAID HEARING will take place on the 26th day of October, 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 Burgie: Please present your case with what it is you would like to do.

Peter Zelter: As you all received the plethora of paperwork that I have given you outlining what are plan is. We built a pole barn and we are converting it into living space. In fact, Phil has been up there earlier this week and he could see the progress we have made. It is sided and roofed. Currently we have the rough drains in and hoping to move forward with the slab in the coming weeks. Our goal is to finish, is to complete that project and that will be our main residence. The current residence that is on the property is a small cabin basically one bedroom home. We will update that and my mother will live in that building. So ultimately any of the work we have done on the site we did clear an area about a half an acre. Guy Rogers and quarry cleared an area and dug a pond for us. You can see in the first picture some lumber there but they cleared and leveled a half-acre site, put a pond in were having septic and electric and all the locals guys are getting a piece of the pie. It falls within the Comprehensive Plan of South Bristol as far as residences go. It is not encroaching on any of my neighbors and the closest property line is about 75 feet away. That's about it. Do you guys have any questions at all about the papers that I submitted to you? I think it includes Bill Grove's septic, Guy and quarry will be installing that in coming weeks. I have been working closely with the local code enforcement officer, Phil. He has been up there for inspections as well and so far we are going by the books as much as we can so we do not have any problems down the road.

Chairman Burgie: And you have submitted a site plan to the planning board?

Peter Zelter: Yes.

Chairman Burgie: Okay. As I understand it they are waiting on our approval of a special use to approve the site plan.

Peter Zelter: Right. That is in two weeks I believe is that meeting. They have all their paperwork as well.

Chairman Burgie: CEO is not hear to amplify that, it's fine. Any visitation reports?

Jonathan Gage: I was out today but I did not go on the property. I walked up and down the road and examined it from both the property your neighbors to the north and to the south. From what I could see from the road it would not appear to be any difficulty for them.

Peter Zelter: It is very unobtrusive even driving up our own driveway you can't see the barn until you've passed the first building. It is really pretty well hidden up on the hill.

Jonathan Gage: Right. Just because the leaves are out was the only reason I could see it from the road. Looking at it from the point of view of the seven questions we ask here. So it did not look like it adversely affected the character of the neighborhood from my observation and with one common driveway it did not

look like it would be detrimental from my viewpoint on the road there to the nearby properties. Looking at it from the certain questions we ask for the special use permit it seemed to satisfy most of the ones I could see from observing that.

Chairman Burgie: Okay. Thank you.

Albert Crofton: I walked up and talked to Mr. Zelter. I do not believe you will be able to see the additional house from the road. This is going to be as unobtrusive as it possibly could be. I cannot see the present house from the road. If he built without asking permission, no one would have known, not even the assessor. I think he deserves kudos for that. I certainly see nothing that would be bothersome to anybody.

Robert Bacon: I am a neighbor just down on Mosher Road so I go by the property very often. I have an unrelated question to the seven criteria.

Peter Zelter: Yes. I will sell you some of my oak lumber.

Robert Bacon: When I am looking at the mechanical drawings here, it was curious to me to see that you have bedrooms, bathrooms and a garage, but I did not see an outline for a kitchen.

Peter Zelter: Let me take a look at the drawing. It is funny that it is not laid out there but where it is an L-shape kitchen at the back of this bath between this door here and it goes along this wall and this wall.

Robert Bacon: So you do have one planned?

Peter Zelter: Yes.

Robert Bacon: I was more concerned from a resale perspective for your part.

Peter Zelter: We are looking forward to getting a real kitchen again.

Robert Bacon: I am good.

Peter Zelter: Excellent.

John Holtz: I went up there today. I had the drawing from July not the one from October and looking at how you are going to bring the septic piping around that bend with the culvert there and everything. That looked to me like it was going to be tricky.

Peter Zelter: Guy seemed to think it would not be any problem. We left one side of that culvert. We did not stone across it because we are not sure exactly how that is going to come through there yet, but Guy assured me we should have plenty of room to do it and still have enough slope.

John Holtz: Between the end of the culvert and the edge of the drivewayí

Peter Zelter: There should be enough elevation change there.

John Holtz: At first I did not know I guess where it was coming out of the barn. There is a big flat area along the barn. It is not a steep drop.

Peter Zelter: No it is not.

John Holtz: It was making that turn and I did not know if the septic pipe whatever caní It has to be varied so much I would think. I do not know if you are going to need a culvert extension and then more fill. Visually now I did not know how you were going to pull that one off.

Peter Zelter: I think Guy thought there would still be enough room between the top of the culvert and the top of the roadway to bury that pipe there. If there is any question there, I can have Bill revisit the site.

John Holtz: Did anyone else see that or think about it? That was my big question.

Peter Zelter: It was a question I had as I was walking up the driveway today trying to figure out if they would do two forty-fives to make that. It looks like you can do two forty-fives through there. My guess is that is how they will do it. I do have a lot of faith between Bill and Guy that they will get it right.

John Holtz: Your leach field is not cleared yet, right? That is where your stone stacks down there.

Peter Zelter: It is actually mostly cleared. There are a few trees. There are a couple of pines that have to be removed. There are three pines other than that they are actually going to lay it between the trees. We laid it out specifically so we could. Specifically there is a large oak tree in there that we wanted to keep. They did engineer it so that we could lay it between the trees and have enough room to add more lines.

Chairman Burgie: So it is just an oak tree that is going to be near or in the field?

Peter Zelter: Correct. There might be a couple of trees on the periphery but it is mainly this large oak.

Chairman Burgie: No species that invade the piping of a septic like a popular or anything of that nature?

Peter Zelter: No. We have burning lots of popular for the last couple of years outside.

John Holtz: I have a site visit question. Is this where we can ask them more questions?

Chairman Burgie: I think we are going to have an opportunity.

John Holtz: Okay. That is my site visit.

Chairman Burgie: Well we are going to have a discussion period but if you have other questions go ahead.

John Holtz: Did you ever think of just parceling it off making it two properties? Would that make things easier for you?

Peter Zelter: Not really. Kind of like to keep it all one if it is possible. For a couple of reasons including utilities and only having one service feed.

John Holtz: Because you had an existing septic right on the cottage?

Peter Zelter: There is an existing septic. It is a small tank I have already had to pump it out twice this year. It is a 500 gallon tank. It wasn't in great shape. When we bought the property three years ago it was with the intention of redoing the electric and septic and plumbing. It needs to be rehabbed. It is a 1930 cabin that has been worked over the last 100 years. So our plan was always to replace the septic. It just worked out that we would tie these two in together. Originally we weren't even going to put a holding tank up top but decided that is probably the best thing to do. A 1,000 holding tank for each unit, or each property, each building with a common leach field.

Chairman Burgie: Thank you. The next item on the agenda is to determine the SEQR status (State Environmental Quality Review Act). Every type of building construction modification whatever we have to address that by law.

John Holtz: It falls under the Type II?

Chairman Burgie: It is. Under the State SEQR 617.5 which covers type II actions paragraph (c)(9) "construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph 11 and the installation, maintenance and/or upgrade of a drinking water well and a septic system;" is a type II action which requires no further review.

So we will make that as one of our findings as we get to that part of the meeting. Saves us some time.

Peter Zelter: Absolutely.

Chairman Burgie: Any discussion on that item whether or not that it is a type II? Okay this is where we open the public hearing. We would like to hear from the public. Your thoughts?

Peter Zelter: I think it is a great idea. It is going to improve the community.

Chairman Burgie: So we will close the public hearing since we have no public here tonight.

Public or municipal officer's documentation that is appropriate in the case and any other documentation. Did we receive any correspondence from any of the neighbors or anything of that nature?

Diane Graham: No.

Chairman Burgie: We did receive correspondence from via email from the county planning board and they have indicated that this does not fit their requirements for review. So we do not need to continue.

Peter Zelter: That is a good thing, right?

Chairman Burgie: Yes. It is a very good thing. This is where we now open it up to zoning board discussion and debate and then we will determine findings. Any discussion that you would like to offer in this debate?

One thing that I would like to answer here I was doing some reading/review. There is a very interesting document. I think you made a copy of this for the board members if not, we need to. “All You Ever Wanted to Know about Zoning” published by the New York Planning Federation. There is a description about variance and special use. They make it very clear that a special use is not a variance it is in accordance with the zoning regulations. Therefore, we are not looking for a variance from the regulations. This is what caught my eye. They make it clear in here that there have been numerous court cases that have reviewed the process of special use permit and a matter of Gordon and Jack versus Peterson 646 NYS 2D824 1996 the Appellate Division II Department found that such declassification (Special Use Permit) for special exception is tantamount to a legislative finding that if the special exception conditions are met the use is in harmony with the general zoning plan and will not adversely affect the neighborhood and the surrounding areas. The first five of these items that we put in the letter that said you need to help us to understand how these are being met, the town code says these have to be addressed. Basically the court has already said if you meet the special conditions for the special use then this is already met because it is in accordance with the town code. So we do not really need to address any of those in my opinion. Discussion on that?

Anybody have anything that they would like to ask or offer?

Albert Crofton: No one is going to know it is there.

Robert Bacon: I think the one point that always comes up on the special use is having two families or two residence on one parcel and as you have even stated you want to keep the parcel under one name, its one address, one driveway, one ownership. I think that is one of the initial key points. You will have going forward need to be crystal clear in the event you call EMS where there is help needed whether it be fire, police, or ambulance. Is it house one, house two, A, B, whatever, big, small?

Peter Zelter: Is that something dictated by you, by the board?

Chairman Burgie: There is specific guidance and that is what he is addressing right now for special use of an additional residence on a property. Specific requirements that have to be met and I think you are already meeting them but we just need to address those.

1. The owner of lot must own all structures on the lot.

Peter Zelter: Right, I do.

Chairman Burgie:

2. Additional residential structure permitted as a special use shall not be leased or rented.
3. All structures will have the same postal address.

Peter Zelter: They do.

Chairman Burgie:

4. All said structures shall be served by the same access road or driveway for emergency vehicles.

Peter Zelter: They are.

Chairman Burgie:

5. Site plan has been submitted with the application for planning board review and approval.

We have already addressed that.

6. Landscaping when found necessary by the planning board shall be provided.

Peter Zelter: If you drive by there are plenty of trees out front.

Chairman Burgie: Those are the six special items having to do with an additional residential structure on the same lot. If those are met, which you just indicated, then we need to capture those in findings that all the requirements are met before we make a determination on the special use permit.

Anyone have any other discussion here?

Jonathan Gage: No. Just wondering if we were going to go through those points.

Chairman Burgie: We do. We need to make those as findings that we have addressed them. So do you want to make the first finding?

Finding #1: The six conditions for the additional residential structures on the same lot §170-38 criteria has been met.

A motion was made for finding #1 by Jonathan Gage and the motion was seconded by Robert Bacon.

All in favor: Aye 5; Opposed 0

Finding #2: The action proposed is a type II action in accordance with paragraph 617.5 (c)(9) and no further review is required.

A motion was made for finding #2 by Chairman Burgie and the motion was seconded by Albert Crofton.

All in favor: Aye 5; Opposed 0

Chairman Burgie: Any other findings that we need to document on this?

Jonathan Gage: We went through the seven general conditions, but do we need to mention that?

Chairman Burgie: The seven general conditions were kind of addressed by this court ruling.

Jonathan Gage: We do not have to?

Chairman Burgie: I do not think we need to do each one of them individually. No. Anything else?

I would like to petition the board members to make a motion to approve or deny the applicant's request.

A motion to approve the application was made by Jonathan Gage and it was seconded by Robert Bacon.

Roll call vote of the board ó Aye 5; Opposed 0

T. Burgie, R. Bacon, A. Crofton, J. Gage, J. Holtz

Chairman Burgie: The motion has carried. You will be issued your special use permit.

Peter Zelter: Excellent. Thank you guys. Thank you for coming out tonight.

New Business

Fall Meeting Schedule

There was a discussion about having one meeting for November and December. It was decided to meet Wednesday, November 30 and cancel December's meeting.

The 2017 monthly meetings will continue to be held on the fourth Wednesdays at 7:00 p.m.

Other

Announcement

Friday, November 11, Veterans Day at 1:00 p.m. there will be a ceremony of dedication at the town for the new Veteran's Memorial Garden.

Special Use Permit for Additional Residential Structure on the Same Lot

There was a discussion about special use condition óstructures shall not be leased or rented.

There was a discussion about concern for delay in service for both emergency and postal delivery services differentiating between two residences with the same numerical address.

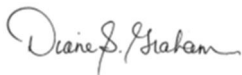
Two members have requested a resolution to look at options to possibly amend the town code on special use permits for additional residential structures on the same lot to differentiate between two residences for emergency and postal delivery services.

All in favor: Aye 4 - T. Burgie, R. Bacon, J. Gage, J. Holtz; Opposed 1 - A. Crofton

Motion to Adjourn

Being no further business, Robert Bacon made a motion to adjourn the meeting and it was seconded by John Holtz. The motion was unanimously accepted and the meeting was adjourned at 7:56 p.m.

Respectfully submitted,



Diane Scholtz Graham
Board Secretary