



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

Zoning Board of Appeals Meeting Agenda
Wednesday, September 26, 2018
7:00 p.m.

Call to Order

Pledge of Allegiance

Minutes

Approval of May 23, 2018 and June 27, 2018 Zoning Board of Appeals Meeting Minutes

New Business

Special Use Permit Application #2018-0008

Owners: Tom Hawks II

Property: 6202 Stemple Hill Road

Tax Map #: 185.00-1-32.111

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, September 26, 2018

Present: Robert Bacon
Thomas Burgie
Albert Crofton
Jonathan Gage
John Holtz
Barbara Howard

Excused: Carol Dulski

Guests: Thomas Hawks II
Bill Grove, P.E.
Jody Wilbur
Jim Wight
John Brahm
Katharine Brahm

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:00 p.m. followed by the Pledge of Allegiance. There was a roll call of board members with all present except for Carol Dulski.

Minutes

Chairman Burgie called for a motion to approve the May 23, 2018 meeting minutes. Robert Bacon made a motion to approve the meeting minutes which was seconded by Jonathan Gage. The motion was unanimously accepted by all board members present.

Chairman Burgie called for a motion to approve the June 27, 2018 meeting minutes. John Holtz made a motion to approve the meeting minutes which was seconded by Robert Bacon. The motion was unanimously accepted by all board members present.

The Rules of Order was read by Barbara Howard.

New Business

Special Use Permit Application #2018-0008

Chairman Burgie: I would just like to make sure that everyone is clear that a special use permit is not a variance which you are asking to do is in accordance with the town code, but because you want to put a second residence on the single approved lot the town has deemed that as needing a special use permit. A board reviews what you are trying to do to make sure that it is truly in accordance with the seven criteria that town has identified and then we have about five more special use for second residence on the same property. We will address those as we go through. We need to hear how you are meeting those requirements and then if it meets all the requirements then we are required to grant the special use permit. We are not allowed to not do it if you are meeting the requirements. If you do not meet all the

requirements, then we are not allowed to grant that permit. It is very clear in the state guidance to us and the town code what we are to look for. So we will be going through those in a few minutes.

Do you have any questions on what we are here to do tonight?

Diane Graham read legal public hearing notice:

**LEGAL NOTICE
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 #2018-0008 for property owned by Tom Hawks II located at 6202 Stemple Hill Road, Tax Map #185.00-1-32.111 is looking for a special use permit per the town code to allow a second residence on the same lot.

SAID HEARING will take place on the 26th day of September, 2018 beginning at 7:00 p.m. at the South Bristol Town Hall, 6500 Gannett Hill Road West, South Bristol, NY.

All interested parties may appear in person or by representative.

Chairman Burgie: This is where we would request that you present your case. What is it that you are planning on doing and in the memo to the applicants for the special use permit there was a number of things in here, seven items specifically, we are hoping you address as you go through these.

Tom Hawks: Sure. I am Tom Hawks. I am the owner of the property. It is a thirteen acre lot that I have owned for over forty years. Several years ago I decided that I was going to build on the lot and took provisions to put a septic for a house and leach field. In the process decided that I liked it so much down there I was not quite ready to build a house, but I thought I would build a cabin instead. For the last four years I have been living in the cabin. This year I have decided I would like to take advantage of the views of the area. Be able to live and enjoy the lake views and scenery. I already have a residence that has one bedroom in it. In accordance to George Barden rules of the septic it can only have three bedrooms in the area so the new house actually is only going to have one, but I have provisions that I could have a second bedroom upstairs. The cabin is 900 square feet. The new house is 1850 square feet. The goal is for me to be able to have a residence that I can share with my family. Have the cabin that I am at now place for my grandkids and kids to come down and be able to stay over. There is no intent at this point to do anything like renting or subdividing. The whole property would be family use only. I do have pictures of the property. I know three of you were able to come down and if you would like me to share them with you now?

Chairman Burgie: You can sure. As you are doing this I have seen three different figures 1,850 square feet scribbled through on your application. The CEO told me it was 2,057 square feet on something that he has and on these plans it says 2,980 square feet. I have seen three different figures for square footage for the new house.

Tom Hawks: That is a good question. When we were going through the design of the house, we realized a potential for a balcony upstairs which adds square footage to the house of what is going to be finished.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 9/26/18 - Approved

The first floor is the 1,850 or 60 or something like that so any additional is where they are adding on the square footage of the stairs and the loft area.

Bill Grove: I can speak to the site plan number includes the garage footprint too. So it footprint of the structure not living space.

Chairman Burgie: It was just confusing as I was reading this. Okay, how much are we doing here? It is a beautiful view you have. It is gorgeous.

Bill Grove: The 2,980 is the square footage of the entire structure and roof area for lot coverage calculations. As far as the other numbers, is it the higher number that they got from the CEO?

Tom Hawks: The 1,850 was what our original design was for the house and as we have added there is a few extra square feet.

Chairman Burgie: So 2,057 would be an accurate figure then?

Tom Hawks: Yes.

Chairman Burgie: It really does not play into whether or not if you are approved for the special use or not. We should have the records accurate to make sure the CEO is seeing accurate plans.

[Board members were reviewing iPad photos and paper photos.]

Bill Grove: The site of the house is very flat with some grading work Tom did back in 2010-11 when he built the cabin. So there is no steep slope concerns with the house. Usually with hillsides we get steep slope site plans that we have to prepare. We did not have that here. It is a relatively flat site we had to move it and shift the house over to where it drops off and we are going to have a walk out basement there.

Chairman Burgie: Doesn't that change the impervious square footage? What can absorb the water versus what is going to runoff by putting a house right there. It does not affect anything as far as the steep slopes or anything of that nature?

Bill Grove: Not anything extraordinary. You have the storm water taken care of onsite. Discharging it to a rip rap splash pad on a fairly level area before it comes down to the slope.

Chairman Burgie: The note at the top has to do with gutters.

Bill Grove: Yes.

Chairman Burgie: Funneling them to that rip rap splash area. Is that where everything on the site is being funneled as far as the runoff?

Bill Grove: No. The house sitting where it is and being elevated above the flat area it would shoot out in every direction essentially. The concentrated flow is headed towards the bank on the southeast of the house. At least in the plan it is. We could fairly easily change that as directed.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 9/26/18 - Approved

Chairman Burgie: Comments from the Ontario County Planning Board we will get to in a moment. That is one of the concerns that they had. So let's address that a little bit more when we get there, if you would.

Bill Grove: Okay.

Chairman Burgie: It is also one of the required items we have to look at and document. Once we have had all of our discussion and the facts are out there then we are going to go through list by list and created findings. We will state findings which are our documented evidence as to why we made the decision as a board that we did. If this ever were reviewed by someone, court or anyone else, there is evidence which is the findings that we will be documenting this as a formal process that we need to do here. We will get to those in a little bit more depth.

The CEO is not here, but this is not a denial of a permit because it is in accordance as long as it meets these requirements it is in accordance with the code. He is not denying the permit. He is just ensuring that the extra step that the code requires is being accomplished tonight.

How about visitation reports?

Robert Bacon: I did drive by this morning. I drove up the driveway. If you saw a red Subaru that was myself. I had some time constraints and did not want to knock on your door 8:30 in the morning. I apologize for any inconvenience or concerns.

Tom Hawks: No problem.

Robert Bacon: I did get to see the lay of the land. Beautiful property, beautiful view. I come from the background of the emergency medical services area. When I hear of two homes on one parcel, my big concern is how do I know which driveway to go? It is clearly marked at the mailbox as 6202. You come to the first Y. Do I go left or do I go right? I opted not to drive all around. I chose going right.

Tom Hawks: You chose right.

Robert Bacon: I chose correct. Once you are up there if you in an ambulance or fire department, you are going to see both homes.

Tom Hawks: That is right. Yes.

Robert Bacon: The only observation I would make if the driveway to the left if that is a logging trail or an access to another field, I would put some sort of sign that says the house is to the right so the ambulance, fire truck or police are not delayed in getting to your property.

Tom Hawks: Good point.

Robert Bacon: That is the only comment I have.

John Holtz: I went up there today and with Tom walking around it could be state park or something with the views and the waterfall in the back. It is an outstanding property. I could not see any neighbors. That is one of the things I always worry about is this going to bother the neighbors at all. I would say there

will be no visual impact. I really didn't after walking around and listening to him I did not have any concerns about the site at all.

Jonathan Gage: I went down this morning with Tom also and he took me around the property. My observations were the same as what John has just said there. The environment does not adversely affect the neighborhood. There really are no neighbors there. There is nobody you can see at all around there. It is very well marked. I didn't ask you after you have built the house and move into it, what are your plans for the current part, just for guests?

Tom Hawks: It would be for guests and family.

Jonathan Gage: Guests and family when they come to visit. Okay good. We always like to know what Bob said for emergency vehicles whether houses are both occupied if they were called to 6202 Stemple Hill Road they know which place to go to. It is an outstanding view. I have been to a lot of places on both sides of the lake and it has to rank at the top. The driveway the way it loops around is a very good aspect of it.

Chairman Burgie: Anybody else?

Albert Crofton: I visited the property. It is nothing that has not already been said. It is a very attractive spot. I do not see a problem with this.

Chairman Burgie: Barbara?

Barbara Howard: I did not make a recent visit. I am sort of familiar with the property.

Chairman Burgie: We cannot all the time. We are busy too. The next item on the agenda is to determine the SEQRA status. The State Environmental Quality Review Act. We are required to look at any kind of construction and the impact it may have to the environment. This is actually going to be quite an easy one because I believe because the types of actions fall into one of three categories. A type I action where we need to do more investigation and look at the potential impacts. There is a list of those. Those are major/larger projects generally. A type II actions are smaller actions that the state has already reviewed and said you do not have to do anything. These are approved. If it is not listed in one of those, then unlisted we need to do a determination of the impact and whether or not a greater investigation is necessary. In this case it does fall in the type II actions. It is a 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 eleven which discusses the utility connections and the installation maintenance and/or upgrade of a drinking water, well and a septic system. That will be our first finding when we get to that point. This is a type II action unless anybody disagrees with that. We will document the paragraph that is in the regulation at that time. That is easy.

Here is where we open it up to public hearing. Anyone else who is in attendance who would like to speak on this subject? This is your opportunity to do that.

Public hearing opened at 7:20 pm.

Diane Graham: I have three emails that I could read into the minutes, if there is no one to speak. We could do those first, if you like.

Chairman Burgie: We can. There is another space for it, but we can do that if you would like to read them now. That is fine.

Diane Graham:

Email #1

To the South Bristol Town Board Member;

Please consider this letter as our sentiments regarding the project that Tom Hawks is presenting to the town Board. Gary and I have known Tom for more than 15 years. We know that his building project has been a long-time dream of his. His passion to develop that property has been with the up most consideration to all environmental impact. Gary and I as near neighbors at 6539 Longs Point have no problem with Tom's building plans and would ask the Board to grant Tom a variance for his project.

We thank you for possibly considering this letter as you form your decision.

Respectfully,

Gary and Vicki Profetta

Email #2

My wife and I reside at 6252 Stemple Hill Rd and are the adjacent owners and neighbors to the south of Mr. Hawks' proposed construction. I have discussed Tom's plan with him personally and reviewed the site plan at the Town Hall. We have no objections to the proposed plan.

Richard VanGelder

Email #3

Tom,

As a reasonably close neighbor I want to tell you how pleased Nancy and I are that you are planning to build a home on that beautiful property you own above Hawks Point. I can't think of a better location for your new home, especially since it is in our neighborhood, affords you wonderful views and is not near or objectionable to those of us in the area, as far as I know. I wish you the best with your plans and look forward to the day we can visit you in your new abode.

Joe Briggs

Chairman Burgie: Any other comments? Anybody have anything you want to say? Okay. Then we will close the public hearing.

Public hearing closed at 7:23 pm.

Chairman Burgie: Here we relay any public or municipal officer's documentation as appropriate to the case. We do have a couple of different items here in front of us. One is from the Ontario County Planning Board. Just about everything that we look at here we send to them to see if they need to review or make any comments or recommendation on it. In this case of a single family dwelling their policy is to do an

administrative review and make no recommendation. They will make no formal recommendation to deny or approve applications involving one single family residential site including home occupations. They did not do that, but they did add three comments.

1. *The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Canandaigua Lake Watershed Inspector as early in the review process as possible to ensure property design and placement of on-site septic.*

You have provided information Bill Grove to George Barden, Ontario County Soil and Water. He has responded that he approves the system as engineered here. What you have given him meets all of his requirements for the septic. We will have these in the file. We are not going to read every word of these letters. It gets pretty long.

2. *The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.*

One of the things that we are required to look at under our code is that the proposed use will not be detrimental to nearby properties. The proposed use will not have an adverse impact on the physical or environmental conditions of the neighborhood or the district. Have you involved him in the storm water runoff issue, erosion control?

Bill Grove: No. Kevin Olvany you are referring to?

Chairman Burgie: Ontario County Soil and Water or Canandaigua Lake Watershed manager. It could be either one.

Bill Grove: No. We have not.

Chairman Burgie: We did get some information from the Planning Board that one of your neighbors downhill from you is having problems with runoff. That is a concern of mine that we have not involved them. I am not sure if anything on your property is causing it or could this exacerbate what is happening on nearby properties. I think I am going to make a recommendation that be a requirement that you comply with whatever conditions they put on it before actually building.

Bill Grove: No problem. Sure.

Chairman Burgie:

3. *The applicant and referring body should check with NYSDEC regarding proper safeguards to protect identified bald eagle habitat.*

We do not have to do a whole SEQR review because this is just a single family residence, but it is a valid concern. Could this impact any of the nesting bald eagles in the nearby area around your property? I do not know whether there are any?

Tom Hawks: They are actually located at Longs Point where the bald eagles are. We have red tail hawks where I am.

Chairman Burgie: Okay. That would probably be a concern also.

Tom Hawks: No tree removal or anything like that.

Chairman Burgie: Contact them to make sure they do not have any concerns or suggestions on what you are doing and how it should be done. Make sure that we do not hurt the birds.

John Holtz: I made a phone call to the DEC when I read this. I asked them about it. They have those eagles nest well mapped. They knew the exact location of this property and compared it to the location of the nearest nest. She said they have some bubble references on their maps. This may have fallen into that. There are two classifications of distances that come with two different requirements. One is a hundred yards and one is maybe three hundred yards distance. She said that it is three thousand feet from the existing nest. She did not see any issue at all.

Chairman Burgie: Okay. Your work is done for you I guess.

Bill Grove: Interesting it did trigger on the SEQR form. When we filled it out based on the parcel location, it triggered a bald eagle habitat. It was the first one I have seen like that since then and a couple that have triggered that. There is no tree removal proposed on the site.

Chairman Burgie: You did that many years ago in that location?

Tom Hawks: Yes.

Chairman Burgie: Is there any other public documentation that I do not know about that we need to relay?

Diane Graham: I do not think so.

Chairman Burgie: ZBA discussion and debate period.

Jonathan Gage: One question I had and I asked Tom about it this morning. He said Bill filled it out and wasn't sure. He said something about there being an archeological site. It was checked yes on that.

Bill Grove: Yes. It triggered that based on the location of the property in within a certain distance of an archeological site somewhere. It is a huge circle. I do not know where it is. It is close enough to trigger that 12b as a positive.

Chairman Burgie: But it is not in that location?

Bill Grove: No. The location because of the grading that has already been done is technically disturbed so it shouldn't. If it is required to submit, we can do that to get a letter of no effect or a letter of no impact on it. I believe because it has all been disturbed previously that it wouldn't apply.

Chairman Burgie: If you did not and just press forward, I would assume that it was not on that site and that it already was disturbed or there is no issue and you got down the road somewhere as you are digging the foundation for the structure you could be surprised. Someone could come forward and say I will take you to court and stop work. I guess I would suggest that it would be wise to make sure you do not have an issue with that.

Tom Hawks: To understand the site where we are building the house was already dug out. I actually took the bank behind it and filled it in.

Chairman Burgie: Oh really. Okay.

Tom Hawks: I have actually seen what is at the bottom. There is nothing there except for a lot of gravel that Guy Rogers would like.

Bill Grove: I can fill that out and submit it. We will wait for an answer. If you can make that a condition perhaps of your approval, it would be something the Planning Board could do. We still have to go to the Planning Board to get approval.

Chairman Burgie: Okay. It could be one of our conditions.

John Holtz: Do you think this is something like your bald eagle's nest that you are in a general area and probably native fishing camps and everything along the lake?

Bill Grove: Yes. There is a separate website you can go to and pull up the areas that are circled and there is a buffer zone around that. I think that buffer zone may be in a factor of miles. It is not feet. It could be miles from a known site. It does not mean that there is not another site there, but on the website could pop up anywhere and becomes a known site. Towns handle it differently when it triggers it. The Town of Jerusalem the entire bluff on bluff point is always triggers that 12b. They do not seem to worry too much about it. They say oh yah it always comes back positive.

Chairman Burgie: That is probably going to be the case, but wouldn't it be nice not to worry about it. Any other discussion? Ready to do the findings? There are a number of things to address. In general we need to find that it is consistent with the comprehensive plan of our town. I see nothing that would go against that. Let's go back and do one other finding and that is on the SEQRA to make sure that is documented and we do not forget it.

Finding #1:

That this is a type II action under paragraph 617.5(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 and the installation maintenance and/or upgrade of a drinking water, well and a septic system. It requires no further study.

The motion for finding #1 was made by Thomas Burgie and it was seconded by John Holtz.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Finding #2:

The proposed use is consistent with the Comprehensive Plan of our Town.

The motion for finding #2 was made by Thomas Burgie and it was seconded by Jonathan Gage.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Finding #3:

The proposed use is consistent with the purposes of the zoning law of our town, such as the promotion of the health, safety, and general welfare, and the conservation of the natural beauty of the land, its lakes, streams, forests and hills. The proposed must also be consistent with the regulations or the zoning district in which the proposed special use is to be located.

The motion for finding #3 was made by Thomas Burgie and it was seconded by Robert Bacon.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Finding #4:

The proposed use will not adversely affect the character of the neighborhood.

The motion for finding #4 was made by Thomas Burgie and it was seconded by Albert Crofton.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Finding #5:

The proposed use will not be detrimental to nearby properties.

The proposed use will not have an adverse impact on the physical or environmental conditions of the neighborhood or district.

With a condition that we will stipulate that you contact the Ontario County Soil & Water District, George Barden about the runoff issue and make sure the runoff from the general land. I know you have already taken care of the house itself, but the general land is not affecting somebody else.

Then under that condition I would make a motion that the proposed use will not be detrimental to nearby properties and the proposed use will not have any adverse impact on the physical or environmental conditions of the neighborhood or district.

The motion for finding #5 was made by Thomas Burgie and it was seconded by Robert Bacon.

Diane Graham: Can I add that it is Kevin Olvany and not George? George does the septic.

Chairman Burgie: Okay. That is fine. Change it to Kevin.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Chairman Burgie: Those general conditions have been met. Now we get into why there is a special use permit application and review by the Board here. The owner of the lot must own all structures on the lot.

Chairman Burgie: Yes?

Tom Hawks: Yes.

Chairman Burgie: Additional residential structures permitted as a special use shall not be leased or rented.

Tom Hawks: Understood.

Chairman Burgie: I am going back to the intent of this section because I know you asked this question. Could you rent the barn or cabin and live in the house? The intent of this section is to provide for close family members or guests to be accommodated in reasonable proximity to the primary residence. The following conditions shall apply. This condition applies to both of them. If you build a second residence under a special use permit neither one of them can be leased out. It cannot be rental property. Agreed?

Diane Graham: Can you say that?

Tom Hawks: Yes.

Chairman Burgie: I know it seems harsh sometimes, but that is the way the code was written and it is to allow you to have family members or friends come and visit you and be close the primary residence.

All such structures shall have the same postal address.

Tom Hawks: Yes.

Chairman Burgie: Yes. All such structures shall be served by the same access road or driveway for emergency vehicles.

Tom Hawks: Yes.

Chairman Burgie: A site plan shall be submitted with the application for Planning Board review and approval. You have already addressed that. Going back to them for a second meeting.

Landscaping, when found necessary by the Planning Board, shall be provided.

Tom Hawks: Yes.

Chairman Burgie: That is all of the conditions.

Finding #6:

This application meets all requirements in the town code for additional residential structures on the same lot.

The motion for finding #6 was made by Thomas Burgie and it was seconded by Jonathan Gage.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Chairman Burgie: Any other findings that we need to make? Then we will state conditions required.

Condition #1:

That you contact Kevin Olvany and ensure that there are not any special considerations that you need to do for the runoff not affecting other properties around you.

The motion for condition #1 was made by Thomas Burgie and it was seconded by Robert Bacon.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Condition #2:

Go ahead and make the review of the archeological site.

The motion condition #2 was made by Jonathan Gage and it was seconded by Thomas Burgie.

All in favor.

Aye: 5; Opposed: 0

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

Motion carried.

Chairman Burgie: Any other conditions that anybody has identified?

Robert Bacon: I think we should state DEC on the bald eagle and the red hawks.

John Holtz: I do not think the red hawks are endangered species.

Robert Bacon: Did you have a name that you shared that you talked with?

John Holtz: The woman on the other end. I think she was a state biologist.

Robert Bacon: I think that should be stated.

Chairman Burgie: We captured it in the minutes that it has been done. Do you feel it necessary for them to go back and check it again?

Robert Bacon: No. I am not applying if it is already captured in the minutes then we covered it.

Chairman Burgie: That was going to be a condition, but what John said it has already done.

John Holtz: I have a question about Kevin Olvany. Is that something that Phil follows up on to make sure if there is a recommendation that it has been met?

Diane Graham: Yes.

Chairman Burgie: Yes.

Robert Bacon: I think it is also been stated that they have to come back to the Planning Board and answer questions there.

Chairman Burgie: The Planning Board will be getting our minutes also.

John Holtz: Okay. Just wondered. Thanks.

Chairman Burgie: Okay.

John Holtz: Yes.

Chairman Burgie: That is it for the conditions anything else? Then I would petition the Board members to offer a motion to approve or deny the applicant's request for a special use permit.

A motion was made to approve the special use permit for 6202 Stemple Hill Road.

The motion was made by Robert Bacon and it was seconded by Jonathan Gage.

Roll call vote:

Robert Bacon, Aye
Thomas Burgie, Aye
Albert Crofton, Aye
Jonathan Gage, Aye
John Holtz, Aye

Motion carried.

Chairman Burgie: Motion carried you have your special use permit subject to making sure that you do not have a runoff issue and the site plan is approved. The special use permit is approved, but make sure you do those other things along the way.

Jim Wight do you have something to say about the runoff issue?

Jim Wight: I am a casual observer. If you like my opinion on it, I am not Kevin Olvany. Kevin Olvany is capable of doing a hydrology study and tell you exactly what is there. Since the beginning of time water has run downhill. What I viewed down there is approximately there are three pipes on that section of road within 150 feet of each other. Two of the pipes discharge runoff Tom's property to the gullies to the south of the Gotham property. One pipe does come across into the Gotham property and into a ditch that parallels their driveway down to an old sluice box and continues going around the other properties. I have witnessed this recently during a rain event where all three pipes were not doing exactly what they are supposed to be doing. The pipe that was discharging is a fifty inch culvert that comes on the Gotham property which carries, my estimate would be, less than a third of the water that comes off the hillside below Tom's current place. I stood there in their driveway and watched a stream three fingers wide come out of the this pipe and go not a third of the way down that ditch and disappear in the ground. We have shale around the lake. I have been there on two different occasions and, in an effort to keep water flowing where it should be down there, cleaned the ditch that parallels their driveway. The ditch is again right now is sediment in. Sediment moves with water. It is a known fact. They requested I come and clean it again. If we had a big rain event right now, water would flow across the ground hit that sediment and wash right across their driveway and go down into the house. I am guessing that their footer drain is probably old. Possibly filled in with sediment and water that does get that far is quite possibly going into the basement because of lack of maintenance let's say or old footer drain let's say. Water does go downhill. I think probably what Tom has done to this point Guy Rogers has dug their ditch and put a

catch basin at the bottom of Tom's driveway to catch channel water. I think every effort has been made to keep water away from their property with the exception to the fifty inch pipe and we know where that is going into the ground. It is not ten feet out of the pipe down the side of the driveway in a ditch and disappears and it is shale. Those are my observations to date.

Chairman Burgie: More of the water that is coming down the road is coming off into the ditch and across the driveway?

Jim Wight: Absolutely. Water sheets down the road and water sheet down their driveway. You know when we get these rain events, which we are getting more of. We have had one FEMA event since I have been in office and I do not care to ever see another FEMA event. There is plenty of water coming off the hillside. The rain coming down is not coming off of Tom's property. Runoff that is coming off of Tom's property most of it is discharged to the south of their property.

Tom Hawks: Since this has come up I have looked at the layout of my land. The roads when we had this one event my driveway was totally wiped out. The secondary road that goes up was totally wiped out. I have put a lot of money into the ditches, the culverts, redoing the road. It's like Jim said water runs downhill. I cannot do any more on mine. I cannot hold it. It is going to go somewhere.

Chairman Burgie: I definitely feel for you. I live on Lower Egypt Road which was washed out. It was a about a mile of the hillside on the east side of County Road 33 that comes down through a couple of culverts onto my property and washed out. That far it goes down six or eight feet into a ditch. It washed out that far from my driveway. I had just paved it the year before from the washout from that year. It was about to wash that out and it went right up to a standing pipe dug well that went right up to it and washed out everything. The next rain would have taken out my well. Jim was down there looking at it and helping out with advice. Lower Egypt was a huge project into fixing that hole. Probably twenty by twenty foot by twenty foot deep hole that it washed out in that.

Anything else for them? You do have a special use permit. That does not give you the building permit yet. The Planning Board has to do their bit first, but you have the special use.

Tom Hawks: They do get the minutes from this?

Chairman Burgie: They will get a copy of our minutes?

Tom Hawks: Thank you very much.

Other

Discussed combining November and December meetings. It was decided to hold meeting November 28th and postpone canceling the December 26th meeting at this time.

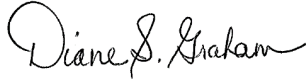
Discussed recent education opportunities and required training hour status with Board members.

Question to identify second residence on the same parcel to be determined.

Motion to Adjourn

Being no further business, Robert Bacon made a motion to adjourn the meeting and it was seconded by Jonathan Gage. The motion was unanimously accepted and the meeting was adjourned at 7:52 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane S. Graham".

Diane Scholtz Graham
Board Secretary