



**Town of South Bristol**  
6500 West Gannett Hill Road  
Naples, NY 14512-9216  
585.374.6341

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## **Planning Board Meeting Agenda**

Wednesday, January 16, 2019  
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.*

### **Meeting Etiquette Review**

### **Minutes**

Approval of December 5, 2018 Planning Board Meeting Minutes

### **New Business**

Threatened and Endangered Species SEQR Process by Mike Wasilco, DEC (Avon)

### **Public Hearing**

#### Final Site Plan Approval Application #2018-0012 Continued from 12/5/18

Owners: IGAHFY LLC

Representative: Venezia & Associates

Property: 6551 Longs Point Drive

Tax Map #: 185.17-2-14.100

#### Final Site Plan Approval Application #2018-0013

Owners: Ruth Myers

Representative: David Burrows

Property: 6995 Coye Point Drive

Tax Map #: 191.17-1-26.000

#### Final Site Plan Approval Application #2018-0007

Owners: Chris & Tracy Flynn

Representative: Jeremy Fields

Property: 6713 Pine Bank Drive

Tax Map #: 191.05-1-3.100

**Old Business**

Proposed noise ordinance local law

Proposed short term rentals local law

Define impervious/impermeable and pervious/permeable surfaces, and lot coverage definitions

Review Code §170-38(C) request additional residential structures on same lot must have same postal address

**Other****Motion to Adjourn**

## **Town of South Bristol Planning Board Meeting Minutes Wednesday, January 16, 2019**

**Present:** Mary Ann Bachman  
James Ely  
Ann Jacobs  
Sam Seymour  
Michael Staub  
Rodney Terminello

**Excused:** Ralph Endres  
Ann Marie Rotter  
Bessie Tyrrell

**Guests:** Rocco & Pat Venezia  
Jeremy & Cathy Fields  
Chris & Tracy Flynn  
Tim Tyskiewicz  
Mike Wasilco  
Tim McKenna  
David Burrows  
Ruth Myers  
Alena Chadwick  
Mark Connors & two guests  
Barbara Howard & Dahl Schultz  
Phil Sommer  
Steve Cowley

### **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 except for Ralph Endres, Ann Marie Rotter and Bessie Tyrrell.

### **Reading of Vision Statement**

Board member, Sam Seymour, then read the Comprehensive Plan Vision Statement.

### **Minutes**

Chairman Ely called for a motion to approve the December 5, 2018 meeting minutes as written. Rodney Terminello made said motion which was seconded by Ann Jacobs. The motion was unanimously accepted by all board members present.

### **Threatened and Endangered Species SEQR Process presented by Mike Wasilco, DEC (Avon)**

Mike Wasilco: I am the regional wildlife manager for NYS Department of Environmental Conservation. I oversee the wildlife management for the state agency charged with protecting the wildlife resources.

With regard to SEQR in my office we generally deal with the wildlife species and most particularly in this matter would be the ones that are state listed as threatened and endangered. They have special protections. Under NYS law there is an endangered species act similar to the federal law. Anything that is federally listed that occurs in New York is listed at least the same under state law. Luckily in this part of the state we do not have very many federally listed species because you would need to also deal with fish and wildlife service in addition to the state agency. Endangered is that it has been determined the species is rare enough to be threatened with disappearing from the state in the foreseeable future. Threatened would be that it has declined enough that it is in danger of becoming rare enough to be considered endangered. There are also listed species of special concern. Those will show up when you do the SEQR. Those are ones we have concerns over and are tracking, but they do not have the same regulatory protections as the threatened or endangered and will not need a Part 182 take permit. The endangered species act protects the species from hazing, which is defined as harassment, killing, basically causing disruption of that species critical life processes such as breeding. That includes for endangered species an adverse modification of habitat. So it not only protects the species from being killed, but if there are impacts to their habitat that will affect their ability to keep using the area and remaining in existence.

We also deal with occupied habitat for species we are protecting. Around the eagle is nest is considered occupied habitat. That is considered occupied habitat for five years after the nest is last used. They move to a different site and go back. If they have not been there for five years, then it is a historic habitat that will still come up in your SEQR reviews, but when you contact us we will say there is not as much of an issue.

The other federally listed species you are most likely to run into in this area is the northern long eared bat. There is one documented occurrence in the area. That is one that we do not know where they occur. They used to be everywhere then there was a disease. White nose syndrome came through and has reduced the population by about 99%. The biggest concern with the northern long eared bat is not taking out the roost trees where the young are each year. It is mostly a restriction on removing trees during the summer when the young ones cannot fly yet.

When somebody wants to do a development project or anything else, especially if they are coming before a Planning Board and part of the SEQR process they have to look at what are the environmental impacts. Easiest and best way for people to see what state permits might be needed is to use the DEC EAF mapper online. The process is you specify the property and if it generates a yes response to that question for threatened or endangered species it will populate a list of what species is present. It does not tell you where they are or how close they are to the project site. They are within a check buffer that is set up in natural heritage. If the project is close to that species, the project applicant needs to contact DEC environmental permits office asking for a jurisdictional determination for the threatened and endangered species and whether you would need a Part 182, which is an incidental take permit.

If it comes up with yes response to wetlands, you would ask for a wetland delineation.

Our office will take a look at where the project is, what the project is proposing to do and what species are involved to do a quick assessment whether it is likely there is going to be some impact or if we can say this is far enough away and not a big disturbance project. We do not feel there is going to be an impact to the species. Or we either need more details on what that applicants are doing and timing. The permits department will contact the applicant that yes it is jurisdictional here are the issues. Generally we sit down

with the applicant to try to find a way that they are not going to have to apply for Part 182 take permit. If they can modify their project to avoid impacts, like seasonal restriction on when they are going to do the work. If it is the long eared bats, we would need a tree clearing in the winter months and that is at the federal level as well.

I know one that has come up this past summer is bald eagle nest. Bald eagle nest depending on the project and how far from the nest there are different restrictions. Generally the federal guidelines say there should not be any activity within 330 feet of the nest. There should not be any heavy equipment operated within 660 feet of the nest especially during critical times of the breeding season which can start in January and run all the way to the end of September. If you can do all of your work farther away during the October through December period you are not going to need a permit for eagles. If you need to do it closer, then we have to look closer as to what is going on and what is between the nest and the project. Some of it comes down to, was there similar activity that close to the nest that was already going on when the eagle decided to nest there. Basically indicating whether the eagles might be tolerant of it.

I know we have a nest at Pine Bank Drive. Those houses have been there. There has been activity so those eagles are a little more tolerant of activity than say an eagle nest a mile from the nearest house. Somebody wants to build a house 500 feet from it. That is going to be a much bigger disturbance than somebody doing repairs on their house. Sometimes we have to watch the eagles as people are coming and going to see how tolerate they are. With other species we run into different things.

We have issued one Part 182 permit in this region. It was for the Watkins Glen/Montour Falls sewage treatment plant they are building. As they were doing field survey they noticed a new eagle nest within 400 feet of where they were proposing to put their sewage treatment plant. If you are not able to modify to where we think there is not going to be any impact, then at that point the applicant would need to put together an application for Part 182 incidental take permit. The application requires an assessment of impact to the list of species that needs to be mitigated. For Watkins Glen we suspected that the construction activity itself was likely to affect the eagles in one way or another. Either making them abandon the nest and move somewhere else, and usually when they do that a lot of times they do not nest successfully because they are having to build a new nest or that they would stay there and react to the activity so much that the nest would fail. When those eggs are in the nest and instead of incubating them all the time every time somebody comes in to disturb them they fly off and get agitated. Those eggs get exposed to weather and die or the next time is critical is when the chicks first hatch. They can get too hot or too cold, if the parent is not there caring for them or when the young are ready to fledge with disturbance they could jump out of the nest too soon and get on the ground and predators get them. Because that nest was so close to where they were going to do construction it is likely there are going to be impacts to this nest. They had to come up with a plan how they were going to mitigate for those impacts. They rearranged their project footprint a bit to put as much buffer between the nest and the project as possible including erecting a visual barrier between the project site and nest. We worked with them for staging their construction. Turns out those eagles stayed, but over the years we do not know what is going to happen when the plant goes into operation with the noise, activity and lights may still impact it.

Essentially when the project is identified that they cannot modify their project to avoid the impacts they come up with a plan of how they are going to mitigate those impacts. The mitigation has to show that there is going to be a net conservation benefit to the species as whole. You can protect another nest site

somewhere else. With other species habitat you can create a better habitat for them somewhere else. It is up to the project applicant to come up with what they are proposing as mitigation. We will work with them and assess whether there is a net conversation benefit. As long as there is and they have done everything they can to reduce and mitigate the impacts we will accept the Part 182 application.

Chairman Ely: How long does it take to get a jurisdictional determination?

Mike Wasilco: A lot of it depends on how much detail the applicant can give us when they request a jurisdictional determination. Essentially for eagles if it is within 1500 feet, we are going to need a lot more detail than something further away. The northern long eared bat we are looking for tree removals over three inches in diameter.

Chairman Ely: Do applicants typically come in person or do they submit a written application?

Mike Wasilco: Our permits folks get it over the phone, by email, and sometimes it is in the mail. Some of them if they are close will stop by the office. Essentially, however they can get the information to us. Once I get it in my office I can take a look at something and within fifteen minutes make a determination if it is far enough away that there is no impact.

If closer to a nest and the applicant has not provided enough information there will be some back and forth to get the information we need. Whether there is an issue or not is relatively quick. Usually within a week or so.

Michael Staub: For the northern long eared bat, what types of trees are they nesting in?

Mike Wasilco: The northern longer eared bat will use any tree other than conifers. If you have a tree with dense foliage or crevices that gives them shelter, they might be in that.

Michael Staub: So no pine trees?

Mike Wasilco: I guess not. They prefer not to be in pine trees.

We are looking in towns that there has been occurrences. If they are removing one tree, we would probably say not a big deal. The recommendation is if you can avoid removing a lot of trees during June and July which is the critical period for them and nesting birds as well.

With bald eagles nine months out of the year is considered breeding season that can cause more headaches for projects. Eagles nesting season starts in January so once they have started nesting or on a nest basically once the young have left the nest for the year that seasonal restriction can be lifted.

Michael Staub: Is there any follow up to see if those plans work?

Mike Wasilco: I have limited experience for 182 permits and the mitigation plans because we have issued one of those. The conservation benefit was that the villages purchased a parcel of land that protected a nest near Moravia. It was a parcel of land that had a nest on it then the land was transferred to the state as part of a wildlife management area that then they could post buffers around it. Better protections on a different nest in exchange a little bit on this nest. We know that protection was put in place. We make sure the work actually gets done. As to whether or not leads to a benefit in that case that property is

protected from project impacting that nest. We have been issuing these incidental take permits for four or five years. I think there has been 20 or so across the state. A lot of them concerning the Long Island tiger salamanders. They created additional breeding habitat for the salamanders. They are going and doing surveys to see if they are actually using it.

Michael Staub: But you do not know?

Mike Wasilco: I do not know off hand no.

Chairman Ely: Any other questions? Thank you very much. I appreciate you coming.

Mike Wasilco: You are welcome.

### **Public Hearing**

#### Final Site Plan Approval Application #2018-0012 Continued from 12/5/18

Owners: IGAHFY LLC

Representative: Venezia Associates

Property: 6551 Longs Point Drive

Tax Map #: 185.17-2-14.100

Chairman Ely: You may recall this was an application for a dock. It came up at the December meeting. This is a continuation of the public hearing that we began at the December meeting. You may also recall that both board members and neighbors had a number of concerns which they expressed about the proposed dock. It has, however, subsequently been called to my attention and I have shared with the board that some of the concerns, however legitimate they may be, are simply beyond the prevue of this board. Therefore, we cannot pursue them again here this evening. However, I know the plans were amended. Please introduce yourself for the record.

Rocco Venezia: I am Rocco Venezia from Venezia Associates. We added some additional information to the dock. We tweaked the location a little bit, but we also added a 60 foot mean offset from the high water line. That is the distance we can go out to. It shows we are in compliance with that.

Chairman Ely: You are in compliance. Alright. So you have tweaked it in ways I think are shown on the second map that we should all have to examine. You are in compliance with the Docking and Mooring Law?

Rocco Venezia: That is correct.

Chairman Ely: Is there any other questions the board members have? Anybody in the audience wish to speak to this issue? Yes. Please introduce yourself for the record.

Alena Chadwick: I am Alena Chadwick. I am the neighbor to the north of the proposed dock. What I would like to know is how far did it get tweaked over to the property line which would going to here?

Rocco Venezia: I do not have that information on the map. It is available, but I do not have it on the map.

Alena Chadwick: So you do not know. Can you give an estimate?

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Rocco Venezia: That is not my business to guess. I have to get on the computer to do that.

Alena Chadwick: Okay. Thank you.

Chairman Ely: Okay. Any others members of the audience wish to speak?

Michael Staub: I was not at the last meeting for personal reasons so I am a little back on this. The property that this is attached to this is a permanent residence or is this a rental property?

Rocco Venezia: It is a lake property. It not really a residence. It is a parcel with a pool on it and pool house.

Michael Staub: Do the people live there year round?

Rocco Venezia: Seasonal.

Michael Staub: Seasonal. Do they rent it?

Rocco Venezia: No. They do not rent it.

Michael Staub: I was interested in just one family owns this property, correct?

Rocco Venezia: That is correct.

Michael Staub: They use it as a seasonal property?

Rocco Venezia: Yes.

Michael Staub: Okay. How many boats do they anticipate using this dock during the season?

Rocco Venezia: There is only one slip there.

Michael Staub: It looks like a substantial dock. If there is room for boats to come up and moor there they can moor there, correct?

Rocco Venezia: The water starts to get shallow on that far side so there would not be a lot of room. I guess a boat could swing up on the north side and tie off. The intention is there is a big swim area platform there and the one boat slip. That is the intention.

Michael Staub: So the intention is for swimming area there off the dock and one boat?

Rocco Venezia: That is what we call a swim platform.

Michael Staub: Thank you.

Chairman Ely: Any other questions? Do we have any written comments on this?



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Diane Graham: There is one that I received before December 5<sup>th</sup> meeting. [Annexed written comment below.]

Chairman Ely: Thank you. County Planning does not review this kind of proposal. [Annexed County Planning recommendation below.]

Unless we have any other questions or concerns I have to propose we proceed to the SEQR form which our guest speaker mentioned a few minutes ago. I am going to propose that we answer each of these SEQR questions no or small impact and that as part of the same motion declare this to be a Type II action requiring no further action.

A motion was made by James Ely to answer SEQR questions no or small impact and declare this a Type II action requiring no further action and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Chairman Ely: I declare the public hearing closed.

[Public hearing closed at 7:32 pm.]

Findings proposed by Chairman Ely:

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

A motion was made by James Ely to approve finding numbers 1-4 and said motion was seconded by MaryAnn Bachman.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

A motion was made by James Ely to grant preliminary and final site plan approval to application #2018-0012, IGAHFY LLC to construct a dock and boat station on 6551 Longs Point Drive and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Annexed comments:

*OCPB #172-2018 Recommendation – Exempt*

*We have no problem with the site plan to construct a boat dock and boat station at 6551 Longs Point. We live at 6539 Longs Point. Gary and Vicki Profetta*

Final Site Plan Approval Application #2018-0013

Owners: Ruth Myers

Representative: David Burrows, P.E.

Property: 6995 Coye Point Drive

Tax Map #: 191.17-1-26.000

[Public hearing opened at 7:35 pm.]

**LEGAL NOTICE**

**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 #2018-0013 for property owned by Ruth Myers located at 6995 Coye Point Drive, Tax Map #191.17-1-26.000. The owner and applicant are looking for site plan approval to construct two additions, portico, new shed and septic system.

SAID HEARING will take place on the 16th day of January, 2019 beginning at 7:00 p.m. at the South Bristol Town Hall, 6500 West Gannett Hill Road, Naples, NY 14512.

Application is available for review at the Planning and Zoning Office prior to the above meeting date.

All interested parties may provide written comments, appear in person or by representative.

Chairman Ely: I understand that this is an amended application and who is going to present this tonight?

David Burrows: I am David Burrows, Architect for Ruth Myers. This was reviewed in December. Nothing has changed except for the septic system has been revised and submitted and approved by George Barden. There were some other technical submissions that had to be done for instance the Federal Fish and Wildlife, but all the other approvals had taken place. Diane has been keeping track of what we need to submit and I have been following up on that. The critical thing was the septic system.

Chairman Ely: Do you know if variances were required for this project?

David Burrows: This was redesigned so that there were no variances.

Chairman Ely: Anyone else in the audience that wishes to speak to this proposal?

Ruth Myers: I think every one of my neighbors sent a letter that they were fine with it.

Chairman Ely: No one in audience has stepped forward. Diane, we have written comments, is that correct?

Diane Graham: Yes. [Annexed written comments below.]

Chairman Ely: As I understand it County Planning has made no formal recommendation in connection with this application. They did suggest that Kevin Olvany should be involved in connection with erosion control. I believe that has been done. [Annexed County Planning recommendation and comments below.]

David Burrows: Yes. I have been in contact with him.

Chairman Ely: He has approved your plan, is that correct?

David Burrows: Yes. That was back in November or December.

Chairman Ely: I understand. I think it is in my file. We have a letter with no archeological impact and no problems with eagles, is that correct?

David Burrows: Correct.

Chairman Ely: Board members do you have any questions for Ms. Myers or for Mr. Burrows? No questions. No one in the audience that wishes to speak further to the subject? I declare the public hearing closed.

[Public hearing closed at 7:41 pm.]

Chairman Ely: I am going to propose that we answer each of these SEQR questions no or small impact and that as part of the same motion declare this to be a Type II action requiring no further action.

A motion was made by James Ely to answer SEQR questions no or small impact and declare this a Type II action requiring no further action and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Findings proposed by Chairman Ely:

1. The proposed project is consistent with the comprehensive plan.
2. The proposed project is consistent with the zoning district in which the project is located.
3. The proposed project will not have an adverse impact on the physical or environmental conditions of the district.

4. The proposed project will not adversely affect the character of the neighborhood.

A motion was made by Rodney Terminello to approve finding numbers 1-4 and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

A motion was made by James Ely to grant preliminary and final site plan approval to application #2018-0013, Ruth Myers, 6995 Coye Point Drive and said motion was seconded by Rodney Terminello.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Annexed comments:

*OCPB #10-2019 Final Recommendation and Comments: With the exception of applications involving lakefront properties or encroachments to County owned right-of-ways described in AR Policy 5 Parts A and B, the County Planning Board will make no formal recommendation to deny or approve applications involving one single family residential site, including home occupations:*

1. *The applicant and referring agency are strongly encouraged to involve Canandaigua Watershed Manager as early in the review process as possible to ensure property design and implementation of storm water and erosion control measures.*

*To: Town of South Bristol Planning Board*

*I am the owner of the property located at 6987 Coye Point Drive. Ruth Myers has presented me her plans dated November 20, 2018 and I have no objections to them. Her plans will not have any impact on me or my property.*

*James & Maura Winnick*

*To: Town of South Bristol Planning Board*

*I am the owner of the property located at 6997 Coye Point Drive. Ruth Myers has presented me her plans dated November 20, 2018 and I have no objections to them. Her plans will not have any impact on me or my property.*

*Julie D. Smith*

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*To: Town of South Bristol Planning Board*

*I am the owner of the property located at 6993 Coye Point Drive. Ruth Myers has presented me her plans dated November 20, 2018 and I have no objections to them. Her plans will not have any impact on me or my property.*

*Marc M. McStay  
Jane McStay, POA for Marc McStay*

*To: Town of South Bristol Planning Board*

*I am the owner of the property located at 6991 Coye Point Drive. Ruth Myers has presented me her plans dated November 20, 2018 and I have no objections to them. Her plans will not have any impact on me or my property.*

*Gregory J. Sarkis*

Final Site Plan Approval Application #2018-0007

Owners: Christopher & Tracy Flynn  
Representative: Jeremy Fields  
Property: 6713 Pine Bank Drive  
Tax Map #: 191.05-1-3.100

[Public hearing opened at 7:44 pm.]

LEGAL NOTICE  
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 #2018-0007 for property owned by Christopher J. and Tracy H. Flynn located at 6713 Pine Bank Drive, Tax Map #191.05-1-3.100. The owner and applicant are looking for site plan approval to demolish the existing residence, construct a single family three bedroom residence with attached garage, and a new septic system.

SAID HEARING will take place on the 16th day of January, 2019 beginning at 7:00 p.m. at the South Bristol Town Hall, 6500 West Gannett Hill Road, Naples, NY 14512.

Application is available for review at the Planning and Zoning Office prior to the above meeting date. All interested parties may provide written comments, appear in person or by representative.

Chairman Ely: As I understand it this is an amended application to demolish a residence and construct a new residence and garage, is that correct?

Tim Tyskiewicz: That is right.

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Chairman Ely: Please introduce yourself for the record and explain to the Board and to the audience what you have in mind.

Tim Tyskiewicz: I am Tim Tyskiewicz and this is Jeremy Fields. We would like to take down an existing residence and construct a new one. I think we have our paperwork submitted and hopefully all in order. We are here to answer any questions you have.

Chairman Ely: Do the Board members have any questions?

Michael Staub: When would the work start on this?

Jeremy Fields: We are looking at spring to start.

Michael Staub: How long would it take to complete?

Tim Tyskiewicz: Maybe fifteen months.

Sam Seymour: What are you doing with the old house, trucking it away or burying it or burning it?

Jeremy Fields: We are trucking it away. It will be dismantled and taken and disposed of.

Tim Tyskiewicz: We are keeping some of the good stuff, storing it and the rest we will haul away.

Sam Seymour: So there will be some reuse?

Tim Tyskiewicz: Yes. Some beautiful flooring we pulled up and a shame to waste. Some shower material. We are working hard to delicately take the things out that are important to us.

Michael Staub: How old is the existing structure?

Tim Tyskiewicz: Wild guess is 60.

Michael Staub: Is there any asbestos shingling on it that we would have to be concerned about in disposal?

Jeremy Fields: No there isn't. It all predated after asbestos. I think it was mid 1960s, right Chris?

Sam Seymour: It might be older than that.

Chris Flynn: Hi I am Chris Flynn. I think it was early 1960. Somewhere in there. We want to make South Bristol our home and we are going to live here full time. We wanted more modern amenities.

Michael Staub: I am just concerned about the demolition and anything that would be in an old house that may be of concern either once it gets airborne or in disposal as far as permitting goes. If you are going to carry all the stuff off, where is it going to go?

Jeremy Fields: It will all go to the construction land fill site. The siding is wood and asphalt roofing.

Michael Staub: Okay.

Jeremy Fields: That is why there is no asbestos.

Michael Staub: It depends on the construction at the time in the early 1960s. Sometimes they were still using pipe lagging with some asbestos in it. Some of the old shingling material that might have been used still could have had some kind of asbestos fiber in it. I was in the Navy for nine years so I know that asbestos was still around well into the 1970s and into 1980s. That is a concern that you have being in demolition. Once that stuff becomes friable then it could hurt somebody bad. As long as you can keep intact you do not have a problem. You surveyed the site and you do not see any concerns?

Jeremy Fields: Yes. There are none. It is like I said it is all wood framed on masonry and wood sided.

Michael Staub: Are you going to take out the existing septic system and put in a new one?

Jeremy Fields: Actually it is an upgrade to the existing system. There will be new tanks. The field is already under way. The septic field is already being put in.

Michael Staub: The leach field you mean?

Jeremy Fields: Yes.

Michael Staub: The septic system you are going to improve it then?

Jeremy Fields: Well we are expanding it. The absorption field is on the upper side of the road and then tanks are being replaced because they are old and the location of the new house.

Michael Staub: So you are upgrading the new system?

Jeremy Fields: That is correct.

Michael Staub: The soil that is disrupted there where is that going to go?

Jeremy Fields: It is a raised bed. We cut the trees off. There is really no export of soil.

Michael Staub: So it is going to stay on site?

Jeremy Fields: That is correct.

Michael Staub: Okay.

Chairman Ely: George Barden has approved your septic?

Jeremy Fields: That is correct. That was done prior to the construction application.

Michael Staub: I was just worried about soil migration.

Chairman Ely: You have an archeological clearance letter, I believe?

Tim Tyskiewicz: We do.

Chairman Ely: There is an eagle nearby and I know that you have letters from the Federal and DEC approval with certain conditions, which we will come back to in a minute. Basically you are cleared.

Jeremy Fields: That is correct.

Chairman Ely: Anyone in audience wish to speak to this proposal? No. Diane do we have any written comments in connection with this proposal?

Diane Graham: No.

Chairman Ely: Board members any other questions? No. I will close the public hearing.

[Public hearing closed at 7:51 pm.]

I am going to propose that we answer each of these SEQR questions no or small impact and that as part of the same motion declare this to be a Type II action requiring no further action.

A motion was made by James Ely to answer SEQR questions no or small impact and declare this a Type II action requiring no further action and said motion was seconded by Ann Jacobs.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Findings proposed by Chairman Ely:

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

A motion was made by James Ely to approve finding numbers 1-4 and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.



Chairman Ely: County has made no recommendation in connection with this. They did refer to the fact that you might have to get a steep slopes permit. I am advised that would be a stage when you get the building permit. That would not be before our board. [Annexed County Planning recommendation and comments below.]

Jeremy Fields: We have it.

Chairman Ely: You already have it. Okay. Thank you.

A motion was made by James Ely to grant preliminary and final site plan approval to application #2018-0007, Christopher and Tracy Flynn, 6713 Pine Bank Drive subject to the conditions articulated in the letter from the Fish and Wildlife Service to Christopher Flynn:

1. Restrict demolition and new home construction activities within the limits shown on the site plan you provided, which were prepared by Venezia Land Surveyors and Civil Engineers and dated October 5, 2018;
2. Preserve existing trees along the southern border of your property and outboard of the limits of construction; and
3. Inform all contractors that they will be working near a bald eagle nest and must avoid unnecessary idling of equipment, shouting, back up alarms, or other similarly loud noise during the breeding season.

and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Annexed comments:

*OCPB #184-2018 Final Recommendation and Comments: With the exception of applications involving lakefront properties or encroachments to County owned right-of-ways described in AR Policy 5 Parts A and B, the County Planning Board will make no formal recommendation to deny or approve applications involving one single family residential site, including home occupations:*

1. *The applicant and referring agency are strongly encouraged to involve Canandaigua Watershed Manager as early in the review process as possible to ensure property design and implementation of storm water and erosion control measures.*
2. *Does the site plan review a steep slope permit from the Town of South Bristol?*

**Old Business**

Impervious/impermeable and pervious/permeable surfaces; lot coverage definitions

The Board discussed definitions and proposed recommending amendment to the impervious/impermeable, pervious/permeable and lot coverage definitions to the Town Board for consideration.

**RESOLUTION 1-2019**

**TOWN OF SOUTH BRISTOL PLANNING BOARD**

At a meeting of the Planning Board of the Town of South Bristol on the 16th day of January 2019, it was:

RESOLVED, that the South Bristol Planning Board recommends that the South Bristol Town Board take appropriate steps to amend local law definitions as follows:

**IMPERVIOUS/IMPERMEABLE**

Such as pavement (roads, sidewalks and driveways) that are covered by impenetrable materials such as asphalt, concrete, brick, stone and gravel not allowing fluid to pass through; impermeable.

**LOT COVERAGE**

The total area of a lot or parcel covered by impervious and substantially impervious surfaces and/or structures on or proposed to be permanently located on a lot. Impervious and substantially impervious surfaces and structures shall include, but not be limited to, buildings (both primary and accessory), sidewalks, decks, patios, swimming pools, stairs, landings, retaining walls, planters or planting boxes, freestanding solar panels, driveways and parking areas (including gravel, paved or brick), buildings and roof overhangs, sheds, pavilions, gazebos, awnings, tennis courts, and any other paved, gravel or constructed surface or structure on or proposed to be permanently located on the lot or parcel. Lot coverage will include all areas above the mean high water mark of 689.4 feet above sea level.

NOTE: 50% of all permeable/pervious surfaces will be counted towards total lot coverage.

**PERVIOUS/PERMEABLE**

Allowing fluid/water to pass through into soil and filter out pollutants and recharge the water table and not allowing runoff, permeable.

Dated: January 16, 2019

By Order of the Planning Board of the Town of South Bristol.

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Diane Scholtz Graham  
Planning Board Assistant

A motion was made by Ann Jacobs to recommend amending three local law definitions per resolution 2019-1 and said motion was seconded by Rodney Terminello.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

Noise ordinance

The Board discussed noise ordinance and proposed recommending local law on noise to the Town Board for consideration.

**RESOLUTION 2-2019**

**TOWN OF SOUTH BRISTOL PLANNING BOARD**

At a meeting of the Planning Board of the Town of South Bristol on the 16th day of January 2019, it was:

RESOLVED, that the South Bristol Planning Board recommends that the South Bristol Town Board take appropriate steps to add the proposed noise local law attached hereto.

Dated: January 16, 2019

By Order of the Planning Board of the Town of South Bristol.

\_\_\_\_\_  
Diane Scholtz Graham  
Planning Board Assistant

**Chapter 165. Noise**

[HISTORY: Adopted by the Town Board of the Town of South Bristol on TBD by Local Law No. TBD. Amendments noted where applicable.]

GENERAL REFERENCES

False alarms - Ch. **58**

Dogs - Ch. **61**

Farming - Ch. **56**

Vehicles and traffic - Ch. **162**

Wind energy conversion systems - Ch. **170**

**§165-1. Authorization.**

This chapter is adopted pursuant to the authority granted to the Town of South Bristol at New York Municipal Home Rule Law § TBD.

**§165-2. Title; purpose.**

This chapter shall be known as and may be cited as Local Law No. TBD of the Town of South Bristol. The purpose of this L.L. No. TBD is to establish Chapter **165**, entitled Noise, of the South Bristol Town Code, in order to regulate noise within the Town.

**§165-3. Legislative finding.**

The Town Board of the Town of South Bristol finds and hereby determines that excessive or otherwise unreasonable noise within the Town can negatively affect the protection, order, conduct, safety, health, welfare and well-being of the persons and property within the Town of South Bristol. Therefore, the Town Board of the Town of South Bristol hereby further finds and determines that noise shall be regulated within the Town.

**§165-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**EXCESSIVE NOISE**

Any excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of a reasonable person of reasonable sensitivities or which causes injury to animal life or damage to a property or business. Standards to be considered in determining whether excessive noise exists in a given situation include, but are not limited to, the following:

- A. The volume or intensity of the noise;
- B. Whether the nature of the noise is unusual or rare;
- C. Whether the origin of the noise is created by man or is natural;
- D. The volume or intensity of the ambient or background noise;
- E. The proximity of the noise to sleeping facilities;
- F. The nature of the area and the zoning district where the noise emanates from and into;
- G. The time of the day or night the noise occurs;
- H. The duration of the noise;
- I. Whether the noise is continuous;

**PROPERTY LINE**

In addition to the boundaries of real property established by deeds, this also includes those boundaries created by rental or lease agreements.

**§165-5. Excessive noise prohibited**

Excessive noise is prohibited within the Town of South Bristol and shall be a violation of this chapter. For the purpose of this chapter, the Code Enforcement Officer or any law enforcement officer having jurisdiction within the Town to enforce this chapter, including the Ontario County Sherriff's Department, and NYS Police shall be considered a reasonable person of reasonable sensitivities.

**§165-6. Specific acts deemed excessive noise.**

Any noise which falls within the excessive noise definition herein shall be excessive noise and thus a violation of this chapter. Given the aforementioned, excessive noise includes, but is not limited to, the following:

- A. The following shall constitute Excessive Noise at all times:
- (1) The sound of a horn, except as an emergency signal or warning, including novelty horns, audible at 25 feet from the vehicle.
  - (2) The unnecessary creation of sound from a motor vehicle, including the squealing of tires, racing of engines, and playing of electronic equipment, including radios, audible at 25 feet from the vehicle.
  - (3) The operation of equipment, including motor vehicles, generators, engines, compressors, and HVAC units, that are in such disrepair as to create noise beyond the design specifications for the equipment, such that the sound is audible beyond the property line of the premises upon which the sound is created. Disrepair includes the reduction in effectiveness of or elimination of any required muffling devices.
  - (4) Barking of a dog which violates Chapter **61** of the South Bristol Town Code.
  - (5) Any noise which is intentionally caused to annoy, disturb, harass, or injury any other person or business.
- B. The following shall constitute Excessive Noise from the hours of 7:00 a.m. until 10:00 p.m., Sunday through Thursday and 7:00 am until 11:00 p.m. Friday and Saturday.
- (1) The playing of any radio, television, musical instrument, or other machine or device for producing, reproducing, or amplification of sound, such that, the sound is audible at 25 feet or more beyond the property line of the premises upon which it is being used.
- C. The following shall constitute excessive noise from the hours of 10:00 p.m. until 7:00 a.m. Sunday through Thursday and 11:00 p.m. until 7:00 a.m. Friday and Saturday.
- (1) The playing of any radio, television, musical instrument, or other machine or device for producing, reproducing, or amplification of sound, such that, the sound is audible at 25 feet or more beyond the property line of the premises upon which it is being used.
  - (2) The deliberate creation or allowance of sounds that disturb the ambient quiet beyond the property line of the premises upon which the sound is created.

**§165-7. Exemptions.**

The following shall not constitute excessive noise. Rather, the following is permitted by this chapter:

- A. Audible alarm and alerting devices designed to identify, alert the owner to and/or deter crime and emergencies, given that said alarm or device is working properly and is not malfunctioning and is in compliance with Chapter **58** of the South Bristol Town Code.
- B. Lawfully permitted fireworks displays.
- C. Ringing of bells or chimes in conjunction with normal church or religious activities.
- D. Sounds created by emergency vehicles, equipment and operations while lawfully operating.
- E. Sounds created by the normal operation of a properly functioning heating or cooling unit.
- F. Reasonable production of sound or noise in connection with any reasonable military, civic or authorized parade, funeral procession, religious ceremony, or wedding conducted at a reasonable time and with reasonable frequency.
- G. Reasonable use of properly maintained and operated lawnmowers, hedge trimmers, leaf blowers, snow blowers, recreational vehicles and other domestic power tools and devices utilized for the care and maintenance of one's property between the hours of 7:00 a.m. and 9:00 p.m.
- H. A gathering permitted by Chapter **170** of the South Bristol Town Code as long as said gathering is operating within the permit granted by the Town.
- I. Lawful discharge of firearms.
- J. Agricultural activities as defined in Chapter **56** of the South Bristol Town Code.
- K. Snow removal and for normal and routine golf course maintenance conducted by a governmental agency, private contractor, owner or owner's agent.

**§165-8. Enforcement; penalties for offenses.**

- A. Enforcement. It shall be the duty of the Code Enforcement Officer, the Ontario County Sheriff's Department, NYS Police and any other law enforcement officer with the requisite jurisdiction to enforce this chapter.
- B. Violation. Any person, firm or corporation who or which fails to comply with or violates any of the provisions of this chapter shall be guilty of a violation and subject to the penalties of that violation or violations. Separate violations may be deemed committed during the same day if additional violations continue or occur after one is cited with a violation that same day.

C. Penalties. For each violation, any person, firm, company or corporation who or which neglects or refuses to do any act required by this chapter shall be punishable as follows:

(1) For the first violation, a fine of up to \$250 or imprisonment for up to 15 days, or both.

(2) For a second violation committed within three months from the commission of any prior offense, a fine of up to \$500 or imprisonment for up to 15 days, or both.

D. Civil enforcement. Appropriate actions and proceedings may be taken by law or in equity proceedings to prevent any violation of this chapter, to recover damages, to restrain and correct or abate a violation. These remedies shall be in addition to the penalties described above. Consequently, the Town may institute any appropriate action or proceeding to prevent and to restrain, correct or abate such violation or to prevent any illegal act, conduct, business or use in and about such premises.

A motion was made by Rodney Terminello to recommend adding the proposed local law on noise per resolution 2-2019 and said motion was seconded by Mary Ann Bachman.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Jacobs, S. Seymour, M. Staub, R. Terminello; Opposed: 0

Motion carried.

#### Proposed short-term rentals local law

There was a discussion about the proposed short-term rentals local law that was modeled after the Town of Victor. The Board was asked to review the proposed short-term rentals local law for recommendation to the Town Board at their next meeting.

#### Review Code §170-38(C) request additional residential structures on same lot must have same postal

This topic was deferred to the next meeting.

#### **Other**

##### FEMA

FEMA will be conducting field reconnaissance in Ontario County starting January through April. The FEMA letter is posted on the Town website under community bulletin board and code enforcement pages and at the Town Hall.

##### 2018 Resolutions

The Town Board acted favorably on the Planning Board recommendations to make amendments to the town code from the December meeting.

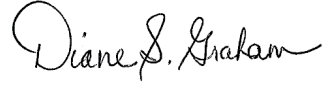
##### Sands Project

Site plan changes will possibly be discussed at the next meeting.

**Motion to Adjourn**

Being no further business, Michael Staub made a motion to adjourn the meeting and it was seconded by Ann Jacobs. The motion was unanimously accepted and the meeting was adjourned at 8:28 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane S. Graham". The signature is written in black ink and is positioned above the printed name and title.

Diane Scholtz Graham  
Board Assistant