

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

**Present:** Mary Ann Bachman  
James Ely  
Ann Marie Rotter  
Sam Seymour  
Matthew Sousa  
Michael Staub  
Bessie Tyrrell

**Guests:** Jeremy & Cathy Fields  
Fred McIntyre  
Dan Marshall  
Stephen Cowley  
Phil Sommer

### **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 and Ann Jacobs.

### **Reading of Vision Statement**

Board member, Mary Ann Bachman, read the Comprehensive Plan Vision Statement.

### **Minutes**

Chairman Ely called for a motion to approve the September 18, 2019 meeting minutes as written. Michael Staub made said motion, which was seconded by Ann Marie Rotter. The motion was unanimously accepted by all board members present.

### **Public Hearing**

#### Permanent Dock and Boat Station Site Plan Amendment #2019-0006

Owners: Joseph C. Briggs and Nancy P. Briggs, QPRT/Susan Kitchen, Trustee

Representative: Jeremy Fields

Property: 6529 Longs Point Drive

Tax Map #: 185.17-2-6.000

Chairman Ely declared the public hearing open at 7:02 pm.

Diane Graham read the legal notice as published.

### 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:

Town of South Bristol Planning Board Meeting Minutes 10/16/19 Draft

Application #2019-0006 for property owned by Joseph C. Briggs and Nancy P. Briggs, QPRT Susan Kitchen, Trustee located at 6529 Longs Point Drive, Tax Map #185.17-2-6.000. The applicant and owner are looking for an amendment to site plan approval of May 15, 2019 from a 529 square foot dock and boat station to a 448 square foot dock only.

SAID HEARING will take place on the 16th day of October, 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 Code Enforcement Office prior to the above meeting date. All interested parties may provide written comments, appear in person or by representative.

Diane Scholtz Graham  
Board Assistant

Oc 03  
78846

Chairman Ely: That will be put into the record, right?

Diane Graham: Yes.

Chairman Ely: You may recall the Briggs suffered a fire which destroyed their home and in the spring we granted site plan approval for their new residence and dock. The family was rethinking the dock situation and withdrew that application with regards to the dock. Hence we have an amended application to consider. With that, I understand that family members will not be here, but that Jeremy Fields is going to represent them. Am I correct, Jeremy?

Jeremy Fields: Yes.

Chairman Ely: Will you please come forward and describe the situation as amended?

Jeremy Fields: You are correct. The Planning Board has already approved the dock request.

Chairman Ely: For the record this is Jeremy Fields speaking now.

Jeremy Fields: Basically what the Briggs would like to do is originally they had a larger dock with a boat hoist on it. They were afraid it would obstruct their view. So we are getting rid of the boat hoist with the roof and just building the dock thus the reduction in square footage.

Chairman Ely: Was there not a debate on where it was going to be located on the property?

Jeremy Fields: That is correct. Yes. The location is staying in the same spot. We are meeting all the setbacks. Nothing changed with the side setback. You have the map in front of you with the water rights survey. The water rights lines are being met. We are just eliminating the boat house. By eliminating the boat house you eliminate the cat walk that went around the other side of the boat so that is your reduction in square footage.

Chairman Ely: So am I correct that this complies with the docking and mooring law?

Jeremy Fields: That is correct.

Chairman Ely: This is less intrusive on the lake and potentially on the neighbors than the original plan?

Jeremy Fields: That is correct. Yes. It is a simple straight dock now.

Chairman Ely: Are there any questions for Mr. Fields from Board members?

Bessie Tyrrell: What do you make the dock out of?

Jeremy Fields: The super structure is steel and then the decking is composite (recycled).

Chairman Ely: Realistically when will the project get under way?

Jeremy Fields: We are going to do it right away. They want to have it for spring. As soon as we have the approval and I can get a permit, we will build it.

Chairman Ely: Jeremy, you are busy on a number of projects. Is this realistic that you are going to get to this?

Jeremy Fields: Yes. This is a quick dock. We will be in and out in four days tops. It is straight up, six pilings and away we go.

Chairman Ely: Any other questions for Jeremy? Thank you Jeremy. Diane have we received any written communications in connection with this project?

Diane Graham: No.

Chairman Ely: County Planning does not review docks. Is there anyone else in the room who wishes to speak to this proposal? I see no one. I declare the public hearing closed.

Public hearing closed at 7:07 pm.

Chairman Ely: Unless other Board members have questions that they would like to ask I think we should proceed to SEQR and findings.

We have already found the Briggs project to be a Type II action requiring no further SEQR review. I see no reason why that would not extend to an even reduced proposal which is the one before us. Unless there is an objection I will proceed on the assumption that the previous finding of a SEQR Type II action requiring no further SEQR review will be effective here as well.

Findings:

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.
5. The proposed project complies with the Docking and Mooring Law.

A motion was made by Michael Staub to accept findings 1-5 and said motion was seconded by Mary Ann Bachman.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Rotter, S. Seymour, M. Staub, B. Tyrrell  
Opposed: 0

Motion carried.

A motion was made by James Ely to grant preliminary and final site plan approval to application #2019-0006, 6529 Longs Point Drive dock amendment and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Rotter, S. Seymour, M. Staub, B. Tyrrell  
Opposed: 0

Motion carried.

### **New Business**

#### Proposed amendment to Chapter 113-7 G and K Noise Exemptions for clarification

Chairman Ely: This proposal originated from Dan Marshall and he may wish to speak to that in a moment. There have been concerns raised about early grass cutting in connection with the golf course at Bristol Harbour. We are out of that season now, but nonetheless Phil had complaints earlier in the season. You know we have recommended and the Town adopted a noise ordinance. I am quite clear in my own mind that we did not have grass cutting in mind when we adopted the ordinance. We were concerned about noise and music at all hours, but I also think it is quite arguable that the existing wording, in fact, could cover it. The code exempts snow removal and normal property maintenance, which includes grass cutting, in my eyes, by government agency, private contractor, owner or owner's agent. Nonetheless Dan had suggested, and I was certainly quite willing to raise for our consideration, a proposed amendment that has been circulated. It takes two steps. In connection with G that says "*Care and maintenance of one's property.*" I think what it means is *residential property*. In K the proposed amendment would now read "*Snow removal and normal property maintenance conducted by, but not limited to, a governmental agency, ski resort, golf course, private contractor, owner or owner's agent.*" The wording added, of course, is basically ski resort and golf course. That is it for your consideration. Dan you may wish to speak to that just a bit?

Dan Marshall: The amendment was a joint discussion between myself, Phil and Diane as well. The reason why I thought it was important we change it from one's property to residential property is that,

otherwise in my opinion, somebody could go out and start mowing their grass at 5:30 in the morning to their next door neighbor. With a golf course, it is reasonable to assume, they should be out there at that time of day. Obviously this is with regards to Bristol Harbour as the only golf course the Town has. Typically they have a 7:00 am tee off time so they need to be out ahead of that in order for golfers to properly use the course. I do not think you would find it unusual for any golf course to see people out doing maintenance of the course, mowing grass what have you, prior to the hours we would prefer for residential use. It was clear that it was not our intention when we asked for a noise ordinance law that we were trying to prevent a golf course from conducting its normal business. It then brought around the question when are we going to get a phone call that Mr. Fuller needs to stop making snow at midnight. I am not going to call him up and tell him he cannot do it. We thought it was probably preemptive measure to include that as well hence the reason for the second paragraph.

Chairman Ely: Thank you Dan. Has there been some change in the early morning grass cutting in the summer?

Dan Marshall: I have no idea. I would assume how many times have you seen guys out at the early hours mowing the grass with dew still on the ground and what have you. I am not a golfer and have not been on a golf course to play a round of golf. I would assume, however, that an early morning mowing is probably not at all unusual.

Chairman Ely: That is what I would have thought. I am only speculating and do not know. I doubt there has been a change in practice.

Dan Marshall: I do not believe there has been a change in practice at all. I think we suddenly had a noise ordinance law and somebody said this would apply to the golf course. I do not know about the Planning Board, but I think I can say that the Town Board had no intention of having an issue with normal maintenance of a golf course or normal maintenance of a ski area. I do not think that was in the plan. I thought we were talking about the issues that were prevalent and obvious, in particular, the residents on Mountainside Drive. That is what really prompted this. Of course, that raised the issue that there are many properties on the lake that have the same type of issue.

Chairman Ely: Any other questions or discussion among ourselves?

Ann Marie Rotter: I think this makes good clarity.

Michael Staub: It is common sense.

Mary Ann Bachman: Yes. It is good.

Dan Marshall: This is an amendment to an existing local law, I do not know if we have to go through the whole local law process again or whether this is an amendment we can do by board resolution. I am not sure.

Bessie Tyrrell: You mean we might need a public hearing?

Dan Marshall: It is possible.

Town of South Bristol Planning Board Meeting Minutes 10/16/19 Draft

Chairman Ely: That surely would be a phone call to Jeff. All we are going to do is recommend this to the Town Board and they have to follow whatever procedure the Town Attorney tells them.

Steve Cowley: We have Bristol Harbour and Bristol Mountain. There might be another complaint for something else that we might have to amend. I really want us to make sure we are not going to keep adding to the complaints that we do not want to enforce.

Bessie Tyrrell: Like grape picking?

Steve Cowley: That is a good one.

Ann Marie Rotter: That is agricultural activities, which is on the exemption.

Dan Marshall: We are a right to farm community.

Steve Cowley: Something else is squeaking docks.

Dan Marshall: We have had issues with squeaking docks.

Chairman Ely: It is very difficult to anticipate every conceivable complaint involving noise with somebody in the community. I think it is quite apparent that this was never drafted by our Board or adopted by Town Board with the idea of prohibiting routine agricultural practices, shutting down golf course maintenance much less shutting down a ski resort, which has been running for years here. It is a very important asset in our community. I do not think it was ever our thinking at all and I shall find it awfully hard to anticipate what somebody might come up with down the road.

Steve Cowley: I want to make sure we have covered the gray areas.

Ann Marie Rotter: In particular or just in general?

Steve Cowley: Gray area in general.

Chairman Ely: What does somebody wish you to do at the Board meeting?

Ann Marie Rotter: Assign fines.

Steve Cowley: We can fine people who that have not abided by the law so a resident said we need to start fining the marina so they will fix it.

Dan Marshall: There was a half hour discussion last night on a squeaky dock. Bristol Harbour has a homeowners association. Bristol Harbour homeowners association said you better talk to the Town about that. I do not believe this is a Town issue. It is the homeowner's association or their management that they hired should be responsible to resolve.

Sam Seymour: Does the Town have jurisdiction over the lake with the noise ordinance?

Dan Marshall: It is a valid question. If a guy went by with his cigarette boat with high decibels ratings, in my humble opinion no, we do not have the authority to do anything about it. I was always under the

impression that the Town's authority ends at the edge of the water. The Docking and Mooring Law certainly calls for the Town to approve a dock and they are out in the water.

Chairman Ely: It doesn't mean we have any right to control an application over the lake at all. I think your premise is quite correct. At that point we are out.

Michael Staub: We are also constrained by the limit how far the dock can go out into the lake.

Chairman Ely: We have to comply with Docking and Mooring Law.

Dan Marshall: The ground on which the docks are sitting on is actually state land so the marina has to get approval from the state to do whatever they do.

Dan Marshall: We can all sit here tonight and agree that this is a little crazy, but this complaint is not going to go away. I can guarantee you it is not going to go away. We met with the marine operator in the last half hour. We are at least getting that done. Sounds like the issue for this year is going to end as soon as all the hoists are removed. Next year I believe they have plans to alleviate the problem they are going to use coated rubber or something that will help the issue. It is not a Town issue and yet it gets dropped in our lap. We cannot sit here and ignore it because people will say the Town is just ignoring our concerns. We have to somehow or another help to address and that is what I told them we would do. Like everything in government things do not happen overnight.

Chairman Ely: The provisions in G and K to which we have been discussing and proposing, these amendments they really pertain to maintenance of property. I suppose in a very indirect way you could say that squeaky docks relates to the maintenance, but it might be a little bit strained. In any event, I just think it is very difficult for us to sit here tonight and try to anticipate every conceivable objection that might be raised especially with Bristol Harbour. I think we should not fail to go forward with what we can and speak to an immediate concern. My gut reaction is that the issue that has been raised with the squeaky docks really ought to be taken up first with the homeowner's association. They cannot, just because they do not want to deal with it, boot it to the Town. Boot it right back to their management company. Aren't they paid to do this kind of thing?

Dan Marshall: As soon as I figure out who their president is.

MaryAnn Bachman: The election takes place right here on the October 26<sup>th</sup>.

Dan Marshall: I do intend to push back to the homeowner's association if nothing else to the management company they have hired to take care of such things.

Bessie Tyrrell: The dock makes the kind of noise I think it makes that is less loud than the way the ropes slap around the top of a sailboat. That is ridiculous.

Sam Seymour: One point of leverage is to go after the state permitting agency.

Dan Marshall: Have you tried to deal with the state Sam? I just found out what it takes to put signs up in Woodville. It is an act of congress. You cannot put a sign up anywhere you want. It has to be x number of feet away. As I told people at the Board meeting, we are going to put up speed radar signs in Woodville and in order to meet the NYS requirements at the south end our speed radar signs that the

Town of South Bristol will be paying for will not only be located in a different Town, but a different county. To meet the minimum distance requirements it has to be located in the Town of Italy. If I were to move it 75 feet north so we are now in South Bristol it is too close to the other signs. We are paying for it and our residents in Woodville are going to benefit from it, but it is going to be in Italy.

A motion was made by James Ely to recommend to the Town Board for consideration and adoption of the proposed Noise amendments to items G and K and said motion was seconded by Michael Staub.

All in favor.

Aye: 6; M. Bachman, J. Ely, A. Rotter, S. Seymour, M. Staub, B. Tyrrell

Opposed: 0

Motion carried.

### **Resolution 3-2019 Noise Amendment**

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

RESOLVED, that the South Bristol Planning Board recommends that the South Bristol Town Board take appropriate steps to amend Noise Chapter 113-7 G. and K. as follows:

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 residential property between the hours of 7:00 a.m. and 9:00 p.m.

K. Snow removal and normal property maintenance conducted by, but not limited to, a governmental agency, ski resort, golf course, private contractor, owner or owner's agent.

Dated: October 16, 2019

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

---

Diane Scholtz Graham  
Planning Board Assistant

#### 2020 Board Meetings

The Board discussed 2020 meetings and it was decided to continue to hold regular meetings on the third Wednesday each month except for November and December. The Board agreed to combine November and December into one meeting on either December 2<sup>nd</sup> or December 9<sup>th</sup>. The Board will decide which date at the December 4th meeting.

## **Old Business**

### Proposed local law for short-term rentals

Chairman Ely: It was my hope that we could make some real progress and wrap things up tonight. Unfortunately, that cannot be. We circulated to you Jeff Graff's email about five pages long. I received it about midday. Some of you have not had a chance to look at it. Jeff raises a number of points that I have not had a chance to evaluate. I must say that he has worked on these for a number of towns so I think if we have gone to the trouble to consult our attorney, we have to look closely at what he has to say. Therefore, I am going to have to suggest we defer further discussion of this until our December 4 meeting. I am very hopeful at that meeting we can kick around Jeff's comments, but at that meeting I am hopeful we could be in a position to recommend something to the Town Board. It takes a long time and I know they have to go through a lot of hoops and have a public hearing. I would certainly like to have it in effect by next spring. We are getting out of the season now and come back into it before we know. I might add that I happen to know because I have been in conversation with Phil that we are going to have several other proposals coming before us who are interested frankly in building what amounts to commercial rental units. It is imperative in my mind we get something, even if not perfect, in effect to deal with the situation before it arises. I think in January we are getting a presentation along that line for our consideration. In any event where does it leave us? I am going to suggest everybody look over Jeff's comments. So we will be in a position to really focus on them at our next meeting. Secondly, I will endeavor with Phil's help to go over his comments and line them up against our current draft. Maybe you can have something by way of comparison in advance so we can see what he is suggesting.

Dan Marshall: Can I ask Diane to perhaps send a copy of Jeff Graff's comments to Town Board members?

Chairman Ely: Of course. Good point Dan.

Bessie Tyrrell: Remember Brian Zerges who came. He said he was going to send us stuff from the national association.

Chairman Ely: He did send it. Brian has some interesting thoughts too. We certainly want to discuss them. I thought they were constructive in spirit. Some of them I think we have already dealt with. One about the whole events and tents that we are going to handle separately, which he suggests. I think that is what we are going to do. I am not going to hold this up based on tents.

Dan Marshall: I am sorry to keep interrupting Mr. Chairman, but I cannot stress enough to all of you the importance of getting this moving forward. Fred McIntyre has been putting up with this all summer and a lot of other people have to. He is probably coming to these meetings to see some resolution. So the sooner we can put something together the better.

Chairman Ely: You certainly catch my sentiment. I sent this to Jeff some time ago about our draft. Presently I wanted to get comments in time for the meeting. Technically speaking he complied, but that is not as a practical matter as a basis to consider at the meeting. I will say he gave us considerable food for thought. I had hoped we would get it earlier to discuss it tonight. This has dragged on and I think at some point board members we do not want to spin our wheels. We have to move forward because the Town Board has a whole process too. It is really important that we do our share to get this business off our plate. Okay. Are we all agreed on that course of action? Then unless someone else has something to say I prepared for a motion to adjourn.

Bessie Tyrrell: Does it make sense to have a workshop?

Chairman Ely: I would be open to that. That would be an extra meeting, right?

Bessie Tyrrell: Yes.

Chairman Ely: We could consider that and make the proposal more complete for the December meeting. Right now we have nothing else on the griddle. I would be open to a workshop if you think it would be a good idea.

Bessie Tyrrell: I think if we want it done by December. We have certainly done it in the past.

Chairman Ely: Would you all be up for that?

Sam Seymour: In lieu of the December meeting could we move it to November?

Chairman Ely: The reason we have done this is because it is so tricky with the holiday periods.

Sam Seymour: Yeah.

Chairman Ely: Let me read Jeff's draft over and get with Phil Sommer early next week to see where we think we are going with this.

Mary Ann Bachman: When you say workshop, do you mean in addition to the December 4 meeting?

Chairman Ely: Yes. It would be better to find some time in November if we could. A workshop in November.

Dan Marshall: The Town Board would be willing to participate in that workshop too.

Steve Cowley: Can we do something in two weeks instead of waiting to the end of November?

Chairman Ely: We will see what we can come up with. I am shooting in the dark here because I have not had a chance to digest what Jeff has to say. Some of it just may be restructuring and definitions. I would not rule it out.

Bessie Tyrrell: We can maybe reserve a date and then if we do not need it.

Mary Ann Bachman: Some Wednesday in November.

Dan Marshall: Consider the option of having Jeff Graff attending the workshop.

Chairman Ely: That is an idea having the attorney attend.

Michael Staub: All hands on deck and get a resolution we can put forward to you.

The Board decided to hold a Planning Board workshop on Wednesday, November 13 at 7:00 pm. Town Board members will be invited to participate.

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

This item was deferred to the next meeting.

**Motion to Adjourn**

Being no further business, Michael Staub made a motion to adjourn the meeting and it was seconded by Sam Seymour. The motion was unanimously accepted and the meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Diane Scholtz Graham  
Board Assistant