

## **Town of South Bristol**

6500 West Gannett Hill Road Naples, NY 14512-9216 585.374.6341

# **Planning Board Meeting Agenda**

Wednesday, February 19, 2020 7:00 p.m.

#### Call to Order

## Pledge of Allegiance

## **Reading of Vision Statement**

As stewards of both the land and the lake, we will preserve and protect our safe, clean, naturally beautiful, rural and scenic environment with thoughtfully planned residential, agricultural, recreational, and commercial development.

## **Meeting Etiquette**

#### Minutes

Approval of January 15, 2020 Planning Board Meeting Minutes

#### **New Business**

Preliminary Site Plan Approval Application #2020-0001

Owners: Melissa Scott and Scott Portuondo Representative: Phil Greene, Worden Hill Marine

Property: 6377 Old Post Road Tax Map #: 185.10-1-13.000 Zoned: LR (Lake Residential)

### Preliminary Site Plan Approval Application #2020-0002

Owners: RSPS Applewood LLC Representative: Fields Construction Property: 5709 Applewood Drive Tax Map #: 168.20-1-16.000 Zoned: LR (Lake Residential)

Proposing a local law on events

#### **Old Business**

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, February 19, 2020

**Present:** Mary Ann Bachman

James Ely Ann Jacobs Ann Marie Rotter Michael Staub Bessie Tyrrell

**Excused:** Ralph Endres

Sam Seymour Matthew Sousa

**Guests:** Jeremy & Cathy Fields

Phil Greene

David Samatulski Lindsay Bolton Dan Marshall Steve Cowley Phil Sommer

#### Call to Order

The meeting of the Town of South Bristol Planning Board was called to order at 6:59 p.m. followed by the Pledge of Allegiance. All board members were present except for Ralph Endres, Sam Seymour and Matt Sousa.

#### **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 January 15, 2020 meeting minutes as written. Michael Staub made said motion, which was seconded by Ann Jacobs. The motion was unanimously accepted by all board members present.

#### **New Business**

Preliminary Site Plan Approval Application #2020-0001

Owners: Melissa Scott and Scott Portuondo Representative: Phil Greene, Worden Hill Marine

Property: 6377 Old Post Road Tax Map #: 185.10-1-13.000 Zoned: LR (Lake Residential)

Chairman Ely: Please introduce yourself for the record and then make your presentation.

Phil Greene: My name is Phil Greene from Worden Hill Marine. I am representing the owners of this parcel of land. I pretty much outlined the important parts of our application in the letter I wrote to you

folks and the Zoning Board of Appeals. Hopefully you have had a chance to read that. Basically, there is an existing dock structure there. An existing dock on piles. If you open to your survey map, I can do a quick point. The existing dock structure, there is an existing wooden deck surface that was an old pier style dock. A previous owner chose to build a new dock alongside of it. This is the part I am talking about here that has failed. The photo you will see the surface is pretty ragged and not usable. It is also besides structurally being in need of repair at this time. It is functionally not very useful to the owners now. We have an issue where we would like to remove that and doing so bring the dock into compliance with the Docking and Mooring Law. It may be technically allowed in terms of the Docking and Mooring Law because depending on how you interpret piers and the mean high water line it actually does go out around the pier so that becomes part of the land. It is not with the spirit of the dock law. By removing it we eliminate that interpretation from the dock law and now it is a more traditional shape. With that removed since this parcel has just over 100 feet of water front they would be allowed 1080 square feet. With a 1080 square feet that would allow the owners to add to the very end of the existing dock and make that platform space larger and more useful for them. The other improvement they would like to make is to add a storage facility down at the waterfront. The Docking and Mooring Law calls it a boat accessory structure. There is kind of a unique part to this parcel. On the survey map you will see that the shoreline there is a small flat space protruding out into the water. The Docking and Mooring Law is very specific on when a parcel is called a steep slope parcel and when a storage building is allowed. That little spit of land out there with a lawn on it is just large enough that it technically makes this parcel not qualify under the steep slopes law. Then makes it such that the storage building would not be allowed even though the parcel otherwise qualifies. If you are at all familiar with the properties that are along Old Post Road, they all have steep banks and there is no flat land typically down at the water. One option was to then apply and utilize the fact that you are allowed storage building upland, but we would not meet the setbacks by the upland zoning law. So we need to apply for a variance there. We did not choose that alternative for a couple of reasons. Mostly it was not convenient to the dock to have the storage building on that flat spit of land. From a planning perspective we are trying to maintain as much open shore line as possible and put like uses of structures together. With the plans we are proposing it as a storage facility behind or on the land side of the boat hoist structure. So from the lake it is barely visible. Also the parcel just north of this parcel there is a rather extensive dock system with a large storage facility also at the water front. By putting the storage facility where we proposed it we have put all like uses together and to keep the shoreline uncluttered. As far as the size of the facility, we are compliant with the Docking and Mooring Law in terms of the size of the accessory structure within limits allowed. Actually, if we were doing it on the small spit of land and lawn area, we would be allowed to have a much bigger shed. We do not feel that is necessary. The reason we are here is because you folks, and rightfully so, want to review all applications for building permits for the lake parcels in the lake residential area. I really do not have a lot more to add. I am certainly willing to answer any questions.

Chairman Ely: Let me be sure I am clear. The proposed dock addition is in compliance with the Docking and Mooring Law, right?

Phil Greene: Yes it is.

Chairman Ely: You are going to remove this discrepant structure that you were describing earlier?

Phil Greene: That's right.

Chairman Ely: When it comes to your boat accessory or a shed, however you want to characterize it, that would require a variance?

Phil Greene: Yes, because this parcel technically does not qualify as a steep slope under the Docking and Mooring Law. The only way you can have a shed or boat accessory structure is to have the parcel totally comply to be a steep slope.

Chairman Ely: As you well know, of course, this Board does not grant variances you would have to go to the Zoning Board.

Phil Greene: That's right.

Michael Staub: They are scheduled for the 26<sup>th</sup>.

Phil Greene: Next week.

Chairman Ely: Okay. Very good. I am prepared tentatively unless Board members, you may have questions. I do not want to cut anyone off. I am sorry Bessie.

Bessie Tyrrell: I do. If we are looking at this picture, the boat hoist is there. There will be water between the boat hoist and your little building?

Phil Greene: That is correct.

Bessie Tyrrell: The way you access that will be from that platform there, correct?

Phil Greene: That is correct.

Bessie Tyrrell: Okay. You will not be able to get at it from this side because there will be water there?

Phil Greene: That is right. Just from the one end.

Bessie Tyrrell: The addition goes out here?

Phil Greene: That is right.

Chairman Ely: Any other questions? Assuming the Board Members are agreeable I would be prepared to tentatively schedule this for our public hearing at our next meeting in March? However, that assumes you will be able to get the variance from the Zoning Board of Appeals.

Phil Greene: That is correct.

Chairman Ely: If you do not get the variance from the Zoning Board of Appeals for whatever reason, I will simply have to delay it until it gets straightened out maybe April. Is that agreeable with everybody?

Board Members: Yes.

Phil Greene: I do not know the policy of the Town. It would be helpful for us if you give the Zoning Board of Appeals a positive recommendation, as you will.

Chairman Ely: I cannot speak for others. It has been my experience that the Zoning Board of Appeals is an independent Board that makes their own decisions. Any individuals are more than able to communicate anything you wish to the Zoning Board of Appeals, but as a Board we cannot take a formal position. I am sorry. Is that it for you?

Phil Greene: That is fine. I was not sure what policy there is.

Chairman Ely: Hopefully we will see you in a month at the public hearing.

Phil Greene: Okay. No problem.

Chairman Ely: Thank you.

Michael Staub: Thank you. Very good presentation.

# Preliminary Site Plan Approval Application #2020-0002

Owners: RSPS Applewood LLC Representative: Fields Construction Property: 5709 Applewood Drive Tax Map #: 168.20-1-16.000 Zoned: LR (Lake Residential)

Chairman Ely: Please introduce yourself and who you represent.

Jeremy Fields: Okay. I am Jeremy Fields representing RSPS LLC on Applewood. What is similar with what Phil was just talking about is we have a concrete pier. So it is an existing dock 350 square feet over the water. It is a level frontage so you don't have the same amount of square footage allowed. We have 720 square feet allowed in this case. We are asking for 320 square feet. So total is 670 square feet. It is a simple add to the end of the dock. Not very complex. If you look at the shaded areas on there, extending it similar to the previous application and then putting a slip in.

Chairman Ely: The area marked as dock addition, right?

Jeremy Fields: That's correct.

Chairman Ely: You are well within the Docking and Mooring requirements?

Jeremy Fields: That's correct.

Chairman Ely: Is this just to have more boats?

Jeremy Fields: More sitting area. It is kind of an odd shape. It is a little deeper water. If you extend it out, you get a little more water depth there. That is pretty straight forward.

Michael Staub: Is this supposed to go into the lake by 8.2 feet?

Jeremy Fields: That is correct. 8.2 feet on one side. You see it has an angle and then 8.0 foot on the other side.

Chairman Ely: This odd little L-shaped thing comes off, right?

Jeremy Fields: Right. It is for a slip.

Chairman Ely: What is this?

Jeremy Fields: That is a slip for a jet ski.

Chairman Ely: Any other questions for Jeremy?

Michael Staub: Because it goes into the federal or state local agency regulated body water do you need any special permit for that?

Jeremy Fields: No. Just you guys.

Michael Staub: Just us. Okay.

Chairman Ely: Anybody else? Not trying to hurry anybody. No. Jeremy, I will have Diane advertise this for a public hearing for the March meeting.

Jeremy Fields: Okay. Fair enough.

Chairman Ely: Thank you for your presentation.

#### Proposing a local law on events

Chairman Ely asked the Board:

- What type of events do you want to cover?
- What type of regulation do you think is useful?

Chairman Ely asked Diane Graham to give the Board electronic copies of laws from other Towns to review.

#### **Old Business**

Chairman Ely gave an update from the January meeting on the following:

### Informal Presentation Peregrine Hill Resort

Property: State Route 64

This will require action by Zoning Board of Appeals. There has not been any further contact from the proponents on an application at this point.

## Preliminary Site Plan Approval Application #2019-0008

Property: 6471 St Rt 21

This will require approval by Zoning Board of Appeals for a special use permit. That has not yet been issued and I understand negotiations by the Zoning Board is ongoing.

## Preliminary Site Plan Approval Application #2019-0009

Property: 5737B Seneca Point Rd

There were issues with lot lines and septic system approval and so that is not before us either.

#### Other

Chairman Ely gave Dan Marshall, Town Board Supervisor privilege of the floor.

Dan Marshall: I am here to inquire with questions on the proposed short-term rental law that you have forwarded to the Town Board for review. While I am not here to speak on behalf of every Town Board Member I believe several of them and myself included are concerned with regards to how much work we may be throwing on the CEO and Planning Board. There is a fair amount of effort at least on the initial basis for applying for these permits where it looks like one maybe two visits here and a visit to the site by the CEO. I have been told, I think informally at least, by this Board and also by the CEO they think that it can be handled. Nonetheless, I remain a little bit concerned about it because it does seem like a lot of effort. I am questioning the internal parts of the proposed law not the law itself. We need a short-term rental law. There is no doubt about that. I wondering if there is not another way to simplify by any chance. Let me go back a step and preface this all by saying you guys have done a great amount of work and I fully appreciate that fact. I do not want to pull the rug out from underneath you and say we are going to do it our way. That is not what I am proposing here. The concern as I just mentioned about the excess amount of work put upon the Planning Board and also the CEO is a concern to me. One question I guess I have after reading it a little bit is your asking for a public hearing. What was your thought process in that with the need for a public hearing? Is it because you want the neighbors or folks in the vicinity of the proposed short-term rental to be notified and allowed to speak? Is that the concept behind it?

Chairman Ely: I cannot speak for everybody, but I do think that was definitely a concern that neighbors would be aware of the application and if they had some concerns to have a forum in which they could voice those concerns.

Dan Marshall: I am going to throw something out here and I believe Tom Gunter-Kremers spoke, at least, to the Town Board and I think he may have been here as well. He brought up some good points and he did address them and sent me a letter and what have you. He asked for the opportunity to chat and he was not able to do so when I was able to do so. He sent another individual the president of Premier Properties. Had a very interesting conversation with him. Councilman Cowley was there as well to listen in. His comment was how many complaints have you had in the last few years? In all honestly I had to say multiple complaints about one place. Maybe we should be looking at using what we already have. We created a noise ordinance that is effective. We have some language in our code about large group assemblies. Permits would be required for that. Perhaps the language in that could be tightened up a little bit that would control such things. Hopefully with the Canandaigua Lake Watershed Inspector and everyone else the issue of septic system would be fairly closely regulated. I think those were the three major things we were concerned with. I do not want to start all over again on this. I think it is time to move forward. We have something to put in place. Is there an easier way to do that then to require what has been suggested where we do the visits. Certainly nobody can condemn us for going in and making sure these places are safe and fire protected with smoke alarms, carbon monoxide detector, alarms and what have you. Has that been the issue I guess at this point in time? The Board has been reluctant to pull the trigger until we have some discussion about it. Short of having another joint meeting between the two boards I decided I would come here and speak and see if I could get some input from you and what you think about it.

Chairman Ely: You raised a number of good points Dan. I think in terms of the enforcement mechanism we would be open to suggestion as to how that might be better implemented. It does seem to me to be a fair amount of work, at least in the outset, on the code officer. He has indicated, and he can speak for himself in a moment, that he can handle it, but there may be better ways to go about it. I would be open to that. First of all we reviewed the short-term rental laws in a number of communities in the area. It struck me that almost all of them adopt a permit system. It seemed to me that gave an additional enforcement arm. I have heard quite mixed things from people who came to complain about to the extent to which the Sheriff's Office in fact enforced the noise ordinance very strictly. If we have a permit system and then if there are complaints, you can revoke the permit. That may be a more effective way than having the Sheriff's Office in Canandaigua see if they sent somebody out or not. That has been one source of concern. Among other issues that have to be addressed is parking. We have had complaints that these large parties spin out of control and parking all over including the neighbor's driveways, which is totally unacceptable. When they ask people to move, all they get is sass and back talk and nothing happens. Of course, these people can be understandably very frustrated with that situation. It seemed to me and I can only speak for the Board that we had to have some enforcement mechanism that did not necessarily rely on what the Sheriff's Office might do. If we have enough complaints, we will take away your permit and you cannot have any more parties at your place. I realize that there are different kinds of issues. Some places seem to be almost commercial, letting themselves every weekend for events, which do not seem to be monitored in any realistic way and that is a major source of concern. We have also had concerns about people in more neighborhood type parties as well. Most of them are respectful of their neighbors, but it only takes a few. Lastly, is the septic situation to which you have eluded that if your house is approved a septic system for six people and you have sixty you are going to tax the system. We have to have some mechanism to deal with that. I think our thought was we were trying to come up with the mechanism that would give the Town some control over objectionable activities without making it so draconian that people could not go forward. There are towns all over the place and this is a huge issue all over the country. We ultimately modeled a good deal of our draft on Watkins Glen. Other people may wish to share some thoughts.

Bessie Tyrrell: If all around people are permitted and we are not, that may raise some issues that we do not want to deal with. We may get people that are less responsible than some of our neighbors have. Also, there have been a number of people I know about the weddings across from Bristol Harbour. We have had a number of people through the years down on Granger Point. Someone rents in there and they cannot get around the circle. It was not just one person. There are a number of places that have had parking problems.

Mary Ann Bachman: I am wondering if people have not been more vocal because they are under the impression the Town is working on this and has been working on it for months.

Ann Marie Rotter: I get the sense people are waiting.

Dan Marshall: I will admit the push back has come from Bristol Harbour residents who rent in that area. At least for me as the Town Board Member when we first heard of the issues that basically brought this to the table Bristol Harbour was not even on our mind because we had never heard there were some issues at Bristol Harbour. Now apparently there have been. They were handled internally. We are trying to create a law that is fair to everybody, but it is hard to create a law that is going to the situation that we referred to on State Route 64 and also to a person who is renting a condo at the cliff. Two different areas of concern.

Mary Ann Bachman: Can we do a registration without folks having to present a proposed floor plan?

Dan Marshall: What was the thought process regarding the need for a floor plan?

Mary Ann Bachman: Keep the applicant focused on the bedroom square footage to justify the number of guests.

Michael Staub: Confirm the overnight occupancy and how many people were going to be sleeping there.

Chairman Ely: Bear in mind you raise a good point here, Dan. Some of the other Towns required a site plan. I thought that was over the top. A professionally prepared site plan would be expensive and take time. A floor plan can be a sketch. It does not have to be a professionally prepared plan. We are trying to make it more compliance friendly, if you will, by going to a floor sketch plan.

Dan Marshall: Okay.

Michael Staub: Is it possible to incorporate this into the existing subset of Bristol Harbour as their own control over the people that are there? I am sure many of the merchants who rent out commercially are affiliated with a Better Business Bureau or have realtors group that they interface with that sets up rules and regulations that govern the people that rent. Would it be possible instead of going through the Town first is make presenters for our rental property go to these organizations and seek their approval?

Dan Marshall: Interesting. That was discussed as well when I met with the individual from Premier Properties is that number one they vet their renters very carefully. Are you from Premier Properties?

Lindsay Bolton: Yes.

Dan Marshall: I was told perhaps somebody from Premier Properties would be here. I am told they make a fairly extensive effort to vet their perspective tenants. Interestingly enough if there is an issue with one of their properties they send their own people out. They have somebody on-call 24 hours. The discussion came up that there are some communities in New York State that require you if you are going to rent your property to work through somebody like Premier Properties or whatever. That is a little over the top too I think, but interesting.

Michael Staub: It seems to me they are far better equipped to view and vet proposed renters or rental properties than we as a Planning Board would be or as a Town Board would be. It is in their best interest to present the best case and they would represent a community of renters and individuals so if anything came up as a problem would go against the whole community of those people. They would be more inclined to oversee these renters. If we had a complaint, we would have one place to go to initially to take care of the complaint before we involve the Sheriff or involve local laws.

Dan Marshall: Brian Zerges is the present of Premier Properties.

Bessie Tyrrell: He has spoken to us.

Dan Marshall: His comment is it is not good business for us to have bad tenants.

Ann Marie Rotter: I think one of the things that we are trying to do is strike a balance between insuring that the properties themselves are compliant with codes for fire, septic and safety that the tenants are assured they are renting a good property. That is one aspect. Then, of course, the person that is renting that property needs to be an ethical and compliant with the codes as we have them outlined. I think we are trying to strike that balance.

Dan Marshall: I think again back to our State Route 64 story. If the rental company had vetted their tenants maybe a little bit better we might not be here talking tonight.

Ann Marie Rotter: I do not deny that.

Mary Ann Bachman: Did they have responsible contact people?

Dan Marshall: I believe they do, but the responsible contact people were located up in Rochester.

Mary Ann Bachman: That was a big part of this too.

Dan Marshall: There probably needs to be a local person.

Ann Marie Rotter: They came here and spoke to us. I got the sense they have been down this road in other communities.

Dan Marshall: They have.

Ann Marie Rotter: They clearly felt that if the Town became too regulated it was going to create conflict. So they were trying to ease it and not be so forceful. I also do not want them to disrespect neighbors.

Chairman Ely: We would not have this problem in the first place if they had done any kind of job policing the people to whom they rent. The follow through is not there. If you rent a house, some are not approved for 60-80 people and overnight one cannot park all over the neighbor's property.

Ann Marie Rotter: I like that we can revoke the permit. That to me is our hammer.

Dan Marshall: Their lawyer eluded to the fact that this whole law was being aimed at his client. Well sir we are in this room because of your client. I am glad we had this discussion.

Chairman Ely: Dan, the law is not just applying to his client. He may be the spark that drove it.

Dan Marshall: Absolutely.

Chairman Ely: We have had complaints elsewhere.

Bessie Tyrrell: Lots of them.

Dan Marshall: No doubt about it. He was the spark that caused us to go down this road.

Mary Ann Bachman: The Planning Board from time to time will get an organization or individual investors proposing their plans with us. Sometimes it fizzles out. I think most of the time it does, but keep

in mind it is an attractive community with the ski resort and the lake. I do not know how much more in the future we will have that type of situation. The interest is there to develop rental property.

Dan Marshall: Are your questions answered?

Steve Cowley: Yes. The law seems very much involved. I agree that Phil Sommer will have to do a lot of work. Talked to him and he said the initial first round is going to be hard. The second one is going to be easier. That is why I was questioning it.

Bessie Tyrrell: In defense of the floor plan. We have rented a fair number of houses in there. You have to be careful because they will turn everything into a bedroom. They will turn the breakfast room and closets into bedrooms. That is the idea behind the floor plan to say they have six bedrooms. Are they really six bedrooms?

Dan Marshall: Okay.

Ann Marie Rotter: If it does blow up in our faces, we will have to probably revert to a site plan.

Dan Marshall: Okay. We have had experience righting a law and almost two months later having to amend it. It could very well happen here as well.

Chairman Ely: Phil put a great deal of work on these various codes as well. He was certainly very helpful to me and to the Board in putting together the proposal that we have. I did review with him whether we were putting a lot of burden on him, which is a very fair comment. Phil do you want to say anything?

Phil Sommer: No.

Dan Marshall: Phil is capable of doing what he wants to do, but five years from now we may have another code enforcement officer that says, oh my what are you doing.

Chairman Ely: I understand that is a problem. In so far as the Town Board would like to reflect further on different enforcement mechanisms I think we would be open to it. The heart of it is, seems to my mind, we have to put in place some kind of a permit system. Now whether that requires a public hearing that could be debatable. Whether it requires everything we recommended that could be debatable. We need a permit system that every other Town that we looked at has in some form so that we could take it away if we have the drunk fests that we are hearing about.

Dan Marshall: We might be able to eliminate the need for a public hearing if perhaps on the permit we ask the applicant to state unequivocally that he has contacted the neighbors to make them aware and what they would like to do. Something to that effect. You have answered my questions. I appreciate that. Again my objective here was not to tell you the law stinks and we are going to start all over again. That is not the case at all. In all honesty, I received an email today from one of the neighbors of the issue on State Route 64. He was very upset with me because he had heard that I had spoken to somebody who wants to eliminate the local law. In defense of the gentlemen from Premier Properties his first words to me were you need a law. His concern was perhaps we were throwing too much weight on the back of the Planning Board and the CEO. I have not had anybody say you do not need this law. Thank you.

Chairman Ely: Let us know what we can do further as your Board continues deliberations.

Dan Marshall: We meet again on March 9 and bring it up at that point. Hopefully, I will be able to convey to the Board why some of things they were concerned about why you put them where you put them and whatever. If somebody from this Board could be at our Town Board meeting so that we could nail them down and say why did you do that? That would be nice. On March 9 I know we will be addressing it. Time is wasting here. We definitely need to get a local law in place.

Chairman Ely: Thank you Dan.

Dan Marshall: Thank you.

Ann Jacobs: Is the concern from Bristol Harbour because of the process of the permit because they handle their complaints internally?

Dan Marshall: I do not think it was so much about the process. I think they were worried more about the fact because of their circumstances over there they might not be able to comply with the parking. The condos on the cliff have two spaces and that is it. What do you if you have more than two cars? So that was a concern.

Mary Ann Bachman: They know that the community center there has extra parking.

Ann Marie Rotter: They have been parking more than two cars for many years.

Chairman Ely: This Board cannot create more parking space.

Mary Ann Bachman: The point is you are not parking too many cars.

Dan Marshall: I am not here to defend him. I am here to tell you what they told me. A little thing that says you have to have a street address at two different locations. On the condos that is not going to be easy to do. Little things like that.

Bessie Tyrrell: It is in two places. There is a little sign and it is on the building.

Dan Marshall: Thank you.

#### Everwilde Inn and Spa Project

Chairman Ely shared that the Town Board has referred the Everwilde Inn and Spa back to the Planning Board for review of the changes since the last review and to provide a supplemental report. Chairman Ely will set up a meeting with Kathy Spencer, LaBella Associates for guidance on the process.

# Motion to Adjourn

Being no further business, Bessie Tyrrell made a motion to adjourn the meeting and it was seconded by Michael Staub. The motion was unanimously accepted and the meeting was adjourned at 8:03 p.m.

Respectfully submitted,

Diane S. Graham

Diane Scholtz Graham

**Board Assistant**