



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

Zoning Board of Appeals Meeting Agenda
Updated 10/22/20

Wednesday, October 28, 2020
7:00 pm

Meeting at the Town Hall with face masks and social distancing

Call to Order

Pledge of Allegiance

Minutes

Approval of September 23, 2020 Zoning Board of Appeals Meeting Minutes

Rules of Order

Old Business

New Business

Area Variances (2) Application #2020-0010

Owners: Andrew & Marie McNabb
Representative: Venezia & Associates
Property: 5697 Applewood Drive
Tax Map #: 168.20-1-9.000
Zoned: LR (Lake Residential)

Area Variances (2) & Special Use Permit Application #2020-0008

Owners: Philip C. & Lucy A. Sheils
Representative: Wendy Meagher, PE
Property: 6847 & 6877 Walton Point Drive
Tax Map #: 191.09-1-2.110 & 191.09-1-4.000
Zoned: LR (Lake Residential)

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, October 28, 2020

Present: Robert Bacon (Participated via Zoom)
Thomas Burgie
Carol Dulski
Jonathan Gage
John Holtz
Barbara Howard
Martin Gordon

Guests: Andrew & Marie McNabb
Dan Hackett
Anthony Venezia
Philip & Lucy Sheils
Wendy Meagher
Peter Heintzelman
Phil Sommer

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:02 pm followed by the Pledge of Allegiance. All board members were present.

Minutes

There were no meeting minutes available for approval.

Rules of Order

Thomas Burgie read the Rules of Order.

Other

Chairman Burgie: We have one member who is going to be joining us as a voting member from home. He is on Zoom. Bob Bacon was in the proximity of someone who has tested positive. He does not have any symptoms. The person who he was in the vicinity with does not have any symptoms, but he did test positive so Bob is self-quarantining. He has another week or so before he can join us. So he will be participating here, which all of us are going to have to speak clearly for him to be able to hear and participate. Bob, if you do have any misunderstanding or anything that is not coming across clearly, please stop us and let us know. We want to make sure you get all the information.

Robert Bacon: I will do that Tom.

Chairman Burgie: We also have an addition to the Board. Martin Gordon is going to be joining the Board. This is his first Board meeting. He will be an alternate on this Board. You are welcome to ask questions and join in the discussion. You will not be a voting member on this Board. The five primaries will be.

New Business

Area Variances (2) Application #2020-0010

Owners: Andrew & Marie McNabb
Representative: Venezia & Associates
Property: 5697 Applewood Drive
Tax Map #: 168.20-1-9.000
Zoned: LR (Lake Residential)

Legal Notice of Public Hearing

Please take notice that the Town of South Bristol Zoning Board of Appeals will hold a public hearing on the following application:

Amended application #2020-0010 for property owned by Andrew & Marie McNabb located at 5697 Applewood Drive, Tax Map #168.20-1-9.000. The applicant/property owners are looking for a 2.2 foot variance with a 22.80 foot rear setback where 25 feet is required and a lot coverage variance of 2.3% with a total lot coverage of 22.3% where 20% maximum is required for construction of a new home, driveway and porches.

Said hearing will take place on the 28th day of October, 2020 beginning at 7:00 pm 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 join the meeting and/or provide written comments prior to the meeting.

Diane Scholtz Graham
Board Assistant

Chairman Burgie: Here is your opportunity to present your case for what you want to do.

Dan Hackett: Good evening. My name is Dan Hackett. I am a landscape architect working with the McNabb. Anthony Venezia is with me from Venezia Surveying and Engineering. Marie McNabb and Sandy McNabb are in the audience. If I could, I would like to stand up hopefully this will all work good. If you cannot hear me, let me know. My client is looking to demolish an existing structure and put a new house up. Looking for two variances. One would be a setback from the lake and the other is lot coverage. The reason I put the color rendering up with the landscape plan was to explain why these variances and this relief is necessary. The site itself the parcel to the north is owned by this client also so the McNabb's own this. This parcel is a wooded area. It has two extremely large oak trees. Those oak trees really determined where we could set the house back and how the house could technically be designed. With preserving those trees we also wanted to keep the house bias towards the north property. The north property is owned by them, used by them as a guest house and that would push it further away from the parcel to the south. The front setback that they are seeking on this corner of the front porch. I think was is important to note there is that the amount of area that they looking at is a small triangle. I think it was less than five feet as stated on the application. It is the corner of the porch, as you all know living on the west side of the lake, with the morning sun. The architect that designed it for passive solar, but obviously not for heat to pour into the house. That was one of the reasons why the architect again with that corner trying to clip it felt it was very strange. Moving it to the south we are really moving into where the pump

stations will be for the septic. That is why we ended up there by proximity with the small five feet. The lot coverage issue really comes into effect with having a driveway that can get to the garage. Again, if we could take those trees out and slide this house back closer to the road we could shrink that driveway. If we shrink that driveway, we could bring the lot coverage down. Where we located what is a precarious position next to that tree is as safe as I feel they could go with doing clean root preening, fertilizing and to save the tree. If you have not been to the site, the trunks of these trees are 30-36 inch trees. They are pretty magnificent old oaks. Really that defined the location of where the house is. I guess at this point I would open it up to the Board. There is a couple of other driving factors that I mentioned. The lot coverage while it does exceed the new zoning standard we actually less than the current condition with lot coverage. The second thing is the septic field is on the other side of the street. That land could not be purchased. There is an agreement with an easement. That easement allowed them to move their septic off of the site again it exists with a berm getting it out of the flood plain. I can draw relevance because there are zoning laws in the Town where if there is property across the road you can have a higher percentage on the lakefront. I think that was formulated because they wanted to get septic off the lake and not crammed into these houses. Although we cannot use that footage in our lot calculations that footage does exist. It is sized for a conventional sized system, which is a pretty large system.

Anthony Venezia: You are talking about a 60 by 80 area.

Dan Hackett: When you add that into the square footage process, it is not annexed in, but I think there is relevance for the Board to look at in the decision how we tried to mitigate the very minimum amount in a request for these variances.

Chairman Burgie: I want to make sure that I understand what you just said. If the trees were not there and you had put the septic there then that would add to the lot coverage and it would be significantly more than the 22.3%?

Dan Hackett: No. To understand it and Anthony you know the exact rule. If you own land across the street, that footage can be put into the total square footage, which is divided up into the lot coverage. The land was not purchased. It was done as an easement. So 60 by 80 is how many feet?

Chairman Burgie: So 4,800.

Dan Hackett: Thank you. When you look at that from a percentage...

Anthony Venezia: We would be significantly under.

Dan Hackett: We would be significantly below that 20% threshold. That calculation because it is done as an easement it is not figured into this math. I do think when mitigating factors to grant variances they went above and beyond by buying this easement so they could move the septic and create a better situation where everything was not jammed in next to house. They really worked hard to make this a proper site and do the right thing. That is just something for you to think about in your decision making.

Chairman Burgie: Thank you.

Dan Hackett: Are there any questions?

Chairman Burgie: We will have some significant questions. I am going to throw one out and we can discuss it later. One of the variances is for 2.3 feet, is that right?

Jonathan Gage: It is 2.2 feet. It is 22.8 feet from the porch to the setback.

Chairman Burgie: How difficult would it be to not have to have that variance and make the porch two feet smaller or something of that nature?

Dan Hackett: The current porch we did talk to the architect about that. If I could get my scale out, I can give you the exact measurement that Mr. Muller spoke of. I believe that it was more the ergonomics. The porch is eight feet coming out. What the architect commented on was you get an Adirondack chair and a table out there. You have your post, which is set back from the front of that so you come in another four inches plus a six inch post you get about a three foot walkway in front of the porch with an Adirondack chair. The driver on his design was to be able to actually have chairs out there and be able to walk in front of it if you are on the porch and it is a rainy day.

Chairman Burgie: When you are talking about eight foot. Is that looking to the north or the east?

Anthony Venezia: To the east.

Chairman Burgie: What I am looking at on your picture there is it goes out a couple of feet past the house to the north. Could that be retracted a foot or two just to gain that 2.3 feet?

Dan Hackett: Again, it is the architect who spoke with me and that is why I am scaling it. He is not here tonight. He has twelve feet of space and I think what that space was for an outdoor dining table. So you have a 36 inch table and 36 inches for each chair to be slide in so you have six. You take off from your post another four plus six inches and that gives you roughly three feet on the back of the table and three feet to the other. I did ask the architect those questions as we were going through this and that is how he landed on this envelope of ergonomics so actually having that space and making it usable.

Chairman Burgie: I understand. When we ask these questions, it is not that I am against it. We are required by law to ask that question. We are required by law to only grant the minimum variance necessary to be able to make reasonable use of the property. We have to pursue these. Is there something else that could be done?

Dan Hackett: I respect that and understand. Again, as part of our due diligence of even coming here. Those were questions that were raised why are we here, why are we doing this, and what are the aspects that we landed here? I appreciate the question.

Barbara Howard: So on Tom's question you cannot shift this down two feet to the south?

Dan Hackett: When we move to the south you can see how the driveway comes around the tree and the big trunk of the tree, so when we drag it to the south and currently I think we are thirteen feet from the tree, kind of our critical zone, but again I just want to be exact. It is actually twelve feet three inches. It is twelve foot three off the corner. If we were to shift to the south, this comes up into the middle of the garage and you would not be able to get in the garage.

Martin Gordon: The setback off the north lot line, which is another lot owned by the owner and it looked like one contiguous lot to me. Is that setback there per zoning?

Anthony Venezia: That is Town zoning code because they are two separate tax map parcels we have to abide by that side setback.

Martin Gordon: My question is more to you Tom. It seems like if they could go further north, they could come off to the northwest and get around the tree and avoid the variance on the lakefront. So move north and a little bit west.

Dan Hackett: That was kind of discussed. We would have to ask for a variance on the north property line, which variance would be granted against the owner. I am sure they would not say hey I do not want to be three feet from the line. The problem is with that is they have two separate tax parcel. I think this goes to their attorneys. It was recommended to have the current setback because in the event one day the estate is settled. Their plan is to actually move down here and live here full-time. This will be their full-time house. They have a large family. They get together a lot as a family. I believe that their attorney advised them not to try to do that because what would happen if it ever had to get separated and it is in an estate and one day they may be dead. With that noted that there could be legalities also issues if it was ever resold.

Chairman Burgie: I am not sure what the legalities would be. If we were to grant a variance against the side setback to the north against your property, that variance goes with the land and stays with the land. It changes the code with respect to that setback. It is no longer ten feet. It would be eight feet or whatever it was that we granted here. In separating the two there is still two parcels. We just now have a different application of the code for that north lot line setback.

Anthony Venezia: The one issue that we run into if we try to shift the house to the north is as we continue north along the high water line onto the neighboring property the McNabb's northerly parcel the lakefront encroaches into the lot and the lake comes back. As we move north, we get closer to the lake. As you can see that black line on the north end of the property is the adjoining high water line.

Martin Gordon: You can also come less.

Dan Hackett: I am not an attorney. I just know that the attorney mentioned something about they saw some issues. Now I will just speculate. It could be if they resold and someone next door wanted to tear the house down and rebuild a house would they object to a house five feet from the property line. I know they were advised by an attorney that would not be the best approach. When we all sit at the table, we have different ideas. I have to go with okay I think twelve feet is twelve feet and that is where we should be.

Anthony Venezia: We went for the lesser of the variance. If we shifted it five feet north, there would be a greater variance for a side setback. It would probably be a four or five foot side setback to make that work to get away from the lake.

Chairman Burgie: What is the side setback right now?

Dan Hackett: Twelve feet.

Chairman Burgie: Ten feet is the minimum.

Dan Hackett: Twelve foot five.

Anthony Venezia: To make that work to get around that tree it would be a more significant side setback than it would be the front setback.

Dan Hackett: The farther we slide it up the further the porch goes. To slide up would be sliding back. I think there are problems because they are separate parcels.

Chairman Burgie: The trade off on this discussion you are doing right now is Ontario County Planning Board recommends denial on any lakefront property that is requesting a rear setback, which is the lake side setback or lot coverage. They have to review it and they automatically because of incremental effects on the lake recommend denial. When they recommend denial and the rear setback of 22.8 versus 25 is one them, they are recommending denial. We have to address every one of their concerns. We have to for the lot coverage anyway. We have to address that concern and we have to have a super majority in deciding to grant the variance here. If it was the north side setback that we are dealing with, we would not have to do that. Ontario County Planning Board would not have been concerned.

Dan Hackett: There is also in your test questions one of the things with the variance in the five questions is the percentage, which Anthony brought up. There was a lot of criteria that was weighted. I am not disagreeing with your questions. I just trying to give you an answer as to why we are where we are at.

Chairman Burgie: That is fair.

Dan Hackett: It is looking at that percentage. If you are much more comfortable as a Board to grant a higher percentage variance, that is really good news. I am glad we knew that. We were trying to keep it to the minimum because the variance asks for the minimum requested to go for. In weighing that out we thought we were going for the minimum request.

Chairman Burgie: Okay.

Martin Gordon: Again you have twelve and a half feet to the north, right?

Dan Hackett: Correct.

Martin Gordon: If I look at the shoreline, it does not quite look like a 45 degree angle then it comes back in.

Dan Hackett: Right here is that setback line.

Martin Gordon: I am looking at the mean high water mark.

Dan Hackett: And here is the setback line.

Anthony Venezia: The 25 feet.

Martin Gordon: Okay. If indeed your side setback is 12.5 feet that means you can slide it to the north 2.5 feet and to the west 2.5 feet.

Dan Hackett: When we do that and come back and this line progresses back that setback will actually be larger and that the line comes in.

Anthony Venezia: We are also getting a little bit too close to that tree. The large oak tree.

[Dan Hackett described the repositioning on the site plan to board members.]

Martin Gordon: Not if you slide it over. It is 45 degrees.

Chairman Burgie: I am not sure it buys anything going at 45 degrees. He can go to the lot line, but he would still need the 2.2 foot if he wanted a 45 degree based on what I see there.

Martin Gordon: Unless they go beyond it and decrease the ten foot.

Chairman Burgie: Then it could.

John Holtz: If that corner of the porch is an issue, have you ever considered making that instead of a 90 a 45 or rounding that corner? Is there a way to bring that in?

Dan Hackett: I spoke with the architect about that. His response was the way the roof line are on the house and the look with having this clip would ascetically be like chopped the corner off a porch. That was his concern. The other thing I would like to bring up with the Board is that the existing condition there the setback is less than what we are currently asking for. Again I know in the application we were told not to list existing conditions, but existing conditions when we have a preexisting condition that has less of a setback and we are actually increasing the setback from what it is now with the new house I would hope the Board would be able to take that under consideration in their decision.

Robert Bacon: This is Bob on Zoom.

Dan Hackett: Hey Bob.

Robert Bacon: Did you consider combining the two lots to eliminate the lot coverage variance and the setback variance? As Marty said if you move the house to the northwest would you eliminate both of those conditions?

Dan Hackett: By joining the parcels? We would not be able to because you would have two residences on one lot.

Anthony Venezia: That were connected.

Chairman Burgie: That would require a special use permit.

Anthony Venezia: Right.

Dan Hackett: Yes.

Robert Bacon: Sure.

Chairman Burgie: But there are other limitations with the special use permit. Two residences on the same lot you could never lease it or rent it either one of the properties. That is one of the conditions the Town has put on it. It is a possibility, but probably not preferred in your case. The nodding of the head I see.

Anthony Venezia: It just would not work for the benefits of doing that just do not outweigh the problems it causes down the road.

Robert Bacon: Okay. So it was considered?

Anthony Venezia: Yes.

Dan Hackett: It was considered. It was looked at.

Barbara Howard: What about the size of the garage. A tiny piece of the garage that is close to the tree that you do not want. What about reducing the size of the garage by two feet?

Dan Hackett: Maybe the McNabbs could answer that directly. As I understand it they are going to be selling their house in Pittsford and moving down here full-time. Part of that was by moving their house down here the garage space and having storage. Their architect has been the architect for a few homes for them and set this program up pretty tight for what they needed. Is that a fair assessment?

Marie McNabb: Boathouse space and we have life jackets and all that. The extra space in the garage is really so we are not having a shed.

Chairman Burgie: I would like to point out one other thing that has been part of the discussion from the beginning. Anything they can do to minimize the requested variance helps their case. It may not get us all the way there, but it helps their case. In fact they did after I met with Mrs. McNabb and they talked about it. They had a much larger driveway a circular driveway covering a significant part of the front of the house there. It would have pushed it up to 25.5% coverage, which is a 5.5% variance if I remember right. It is now down to 2.3% variance on 22.3%. So they have done some significant redesign to try and mitigate what they have down here. We are going to be answering the comments from Kevin Olvany into the record here a little bit later. Ontario County Planning Board had recommended that they get him involved early in the process and they did. He has some comments that helped to mitigate the fact that it is 22.3% coverage. His comments were pretty direct that what he is recommending and what they are looking at doing would be very significant in mitigating the storm water runoff. So we will enter that in in a little bit.

Dan Hackett: Did you see the most recent comments by Kevin?

Chairman Burgie: What is the date of his comments most recent?

Dan Hackett: It was a bit ago. I know it went to the Planning Board and came here. Kevin had spoken with us. We talked about removing the driveway. We put in a swale system. Anthony could speak to it better.

Anthony Venezia: After we talked with Kevin, we put in more infiltration structures. We are using infiltration trenches. A couple drywells in order to hold back a significant storm event. The driveway is

actually in this case is an engineered gravel driveway. So that driveway will hold back water. During a storm or an event it will actually hold that storm surge back. The whole system works together to create a capacity of a storm. I believe it is a 25 year storm that we designed to. During that storm event it is probably a two inch event that system will hold back that water and it will not directly discharge at any point discharge to the lake. If we do get an event that overwhelms the system, the system will still work at capacity. If it does get overwhelmed, the end point of this is a drywell. That drywell instead of being point discharge source it comes out of the rim of the well like a catch basin with a bunch of holes with a gravel base around it to hold capacity. That water will bubble up and then go through a grass swale and gently make it way to the lake and it will not be discharging any silty water. That helps with the lot coverage we are dealing with. Right now we are higher than we currently are with the design now by .2 or .3% higher and there is no storm water on this site at all. Another thing we could take a look at is with the adjustment of the location of the septic. One of the big things that we do not like to do when we are doing a raise and rebuild is to displace flood waters. We do have to bring the structure up to current FEMA regulation standards two feet above flood. In that situation we do have to bring some fill around the house so we get proper drainage away from the foundation and footers. That being said by taking out that septic and moving it across the street we are actually going to be adding to capacity. We are not discharging so if we do have a flood event no water coming off the McNabb property will be displaced on neighboring properties.

Dan Hackett: To the point of with Kevin the last correspondence was positive.

Chairman Burgie: September 17th is the last.

Dan Hackett: Favorable to how we were mitigating it. Also with the septic one of the things that everyone was waiting for was to get through the variance process before going to final architectural because it costs a lot of money to do final architectural be denied variances and then do them again. We spoke with the Planning Board on that. There was someone, who from the County is with the septic? I cannot remember his name.

Anthony Venezia: Tyler.

Dan Hackett: Tyler with the Watershed. He wrote back that the amount of area that we have is very adequate for the septic size. The septic that he saw to date was adequate for what he wanted. He held giving any final approval until final architectural are presented just so nobody comes and sneak another bathroom in or take this and build that. That all makes sense. He said the overall envelope of space that you have available could take the condition of adding more. So he was very comfortable with saying yes I give this the nod, however, present me the final architectural when you get there and that was very nice of him to look at it that way and understand the program of progressing through.

Chairman Burgie: Marty, did you have something?

Martin Gordon: Why are we counting the driveway if it is permeable?

Chairman Burgie: It is 50% engineered driveway. The normal driveway has been reduced its calculation to a 50% calculation based upon the engineering. Phil, can you address why the driveway counts against the impermeable?

Phil Sommer: Because it is a structure. Driveways count as a structure.

Anthony Venezia: I do give the Town of South Bristol a lot of credit because they are the only Town along the lake that actually gives us a reduction for doing a proper driveway like this. I think when you talk about Zoning that is not just impermeable surface because you do not want somebody throwing a 40,000 square foot driveway because it is engineered. It not just permeable it just surface area and making sure there is enough green space in the area so it does not look out of place with the lake and what we are trying to do.

Chairman Burgie: I am sure there will be more discussion as people have time to think about this and we will be entering some of these documents in a moment. Phil, do you have anything to add as to why the variances are required?

Phil Sommer: No. I do not have any particular reasons. I leave that up to you guys.

Chairman Burgie: It did not meet the code, therefore, you denied.

Phil Sommer: They are looking for the appropriate variances for the back. Lot coverage variance - I know we have the 20%, but that is up to the discretion of the Board to change that. They answered Kevin Olvany. Correct me if I am wrong Anthony, they put in another dry well that he asked for on the side?

Anthony Venezia: Yes.

Chairman Burgie: That is the third one?

Phil Sommer: Yes. Everything that Kevin has asked for they have done. They have reduced the driveway. Could more be done, yes, but quite a bit has been done.

Chairman Burgie: Thank you. Visitation reports?

Jonathan Gage: I was down this morning and inspected it. I could see that everything is as represented here.

Chairman Burgie: Anybody else?

Carol Dulski: I went back when the first time this came up and exactly what Jonathan said.

Barbara Howard: I went down yesterday afternoon and walked around the property. It is a tight fit as you look at it no question. It placed enough from the lake that if you get any closer to the lake I think it would be bad for it.

Martin Gordon: I went down last week and the thing that I noticed is the house as it sits now really disrupts the character of the neighborhood – the existing structure. While the new structure would help the character of the neighborhood. As you have already stated, it has a larger amount of front setback as designed from the existing structure. The other thing I noted is the septic field right now is a raised bed on the same side of the street as the existing structure. Those trees are huge. The house that is there now is completely out of character.

Chairman Burgie: I had the opportunity to go down in mid-July I think and take a look at it. Ann Marie showed me around and we discussed a lot of different things, which is where the amount of coverage and what we were going to have to do as a Board with the recommended denial from the County Planning Board. All that discussion came up at that point. They have worked hard at trying to mitigate some of those factors. Everything as you said. It is very tight. You are planning to build a very beautiful place that is going to add character to the neighborhood. It will get rid of that eye sore.

Robert Bacon: I would just add that I also went down during the middle of the summer. I echo what everything that everybody else has said with the addition of very cooperative client here that has worked with the multiple organizations to try to minimize the variances. In addition, I see the drawings that they are going to remove the one shed that is on the front side of the house and incorporate that storage inside the garage. A good move for the character of the neighborhood also.

Chairman Burgie: Thank you. Any others? Everybody had a chance to speak? I think the next thing we need to do is address State Environmental Quality Review Act. It is nice when we get certain types of construction or requests like the variances here that they fall under Type II actions. The SEQR regulation addresses Type I actions where we have to see if there is any possible large impact to the environment. There are Type II actions that the State has already said if they are doing these things you do not have to follow any other review. There are those that are unlisted. They are not in either one of those and then we have at least answer the question is there possible impact should be look further. In this case we do have two paragraphs that put this into a Type II action. SEQR paragraph 617.5 (c)(11) "*construction or expansion of a single family residence, two-family, three-family on an approved lot including provisions for necessary utilities, septic, water, etc.*" So that is one that is a Type II action. The other we are addressing here is 617.5 (c)(16) and (c)(17) "*granting of individual setback and lot line variances and adjustments in granting of an area variance for a single family, two family or a three family residence.*" This does qualify as a Type II action and no further review is required in this case. We will document this as our first finding when we get there. Anybody have any concern with that?

This is where we open it up to the public hearing. Anybody who has not had a chance to speak yet has the opportunity now.

Diane Graham: Do you want me to check and to see if there is anybody is out in the hall?

Chairman Burgie: Yes.

Diane Graham: Hello, is there anybody who wants to speak on the McNabb project? No.

Chairman Burgie: No. Then we will close the public hearing. We need to relay any public or municipal officer's documentation as appropriate to the case. We have a number of different things that have come in.

The first one is from Tom Hubbard a neighbor of yours.

To Whom It May Concern:

I am partial owner of the property at 5699 Applewood Drive on Seneca Point. Our property is located just south of McNabb property. It is my understanding that the McNabbs have applied for two variances. One to deal with the distance of the house from the shore of the lake and the other regarding the coverage

of the lot by the proposed house and driveway. The McNabbs have reviewed their plans with me and I am supportive of both variances as applied for. Should you wish to discuss this further with me, please do not hesitate to contact.

Cordially,

Samuel T. Hubbard

His phone number is on there also. You have the support of your neighbor. Was there any other letters of support?

Diane Graham: Yes. From Dee Crofton. Do you want me to read it?

Chairman Burgie: Please. I do not have this.

Diane Graham: It was back in August.

Overall I have no objection to their house. I do hope they realize if we have a very wet spring and the lake is high a good deal of the yard floods. I do have concerns about the amount of construction traffic that will be on the lane. It is a one lane road and at times, especially in the winter, if there is a lot of snow getting through may be difficult as my husband and I live here year-round. Also, I would also like to be assured that the workers keep their speed down. I worry not only about my dogs, but any children that may dart in the road. One last concern is the wear and tear on the road itself. It already has numerous potholes and during the winter it freezes and thaws and will only get worse with a lot of heavy vehicles on the road.

Thank you for the opportunity to express my concerns.

*Deidra Crofton
5701 Applewood Drive*

Chairman Burgie: Thank you. That is all the public and now municipal officers. We will start out with the... Did we ever get a final copy of the Planning Board minutes? All I have is the draft here. I doubt that anything would change in this, but this has to do with the site plan, area variance for both the lot coverage and the setback.

Proposed site disturbance is 94 percent of the lot. The site plan notes indicate removal of the existing raised septic field and on-site wastewater treatment system design plans, however, no plans for a new septic system are included with the referral.

Did we get those to the County Planning Board?

Diane Graham: Who is the email from?

Chairman Burgie: This is the draft Ontario County Planning Board minutes August 12.

Diane Graham: Yes. We do have a final.

Chairman Burgie: They did receive it?

Diane Graham: We received the final.

Chairman Burgie: You have the final?

Diane Graham: Yes. It was sent out.

Chairman Burgie: Maybe you can read that because all I have is a draft here.

Diane Graham: Yes. Sorry, I sent that on to you via email.

Chairman Burgie: I was reading through about a hundred emails that have gone back and forth on this project and the Sheils project.

Diane Graham: Here it is. Back in August.

Chairman Burgie: I am sorry they put numerous ones on the same page and I actually started too early. That did not have to do with you and the septic. Ignore everything about the septic. Thank you. Okay.

The project description site plan and two area variances to allow demolition of an existing house and construction of a new home on a .53 acres lot at 5697 Applewood Drive in the Town of South Bristol. The proposed variances are to allow 26% lot coverage...

So they have not been updated after this?

Diane Graham: No.

Chairman Burgie: *when 20% is allowed and a 23' rear (lakeside) setback when 25' is required.* Again, they are rounding off everything the 25.5% it said 26% and that is already NA.

Proposed site disturbance is 94 percent of the lot. The site plan notes indicate removal of the existing raised septic field and on-site wastewater treatment system design plans, however, no plans for a new septic system are included with the referral.

Diane Graham: It is all based on the initial presentation.

Chairman Burgie: What I was reading here did apply to this.

The applicant also owns a .18 acre lot with a seasonal residence to the north of this property.

According to OnCor, the property is not constrained by wetlands or steep slopes and there is only a small area in the southeast corner of the lot in the floodplain.

*B. The following applies to all development on parcels with lake frontage that require;
variances pertaining to lot coverage or,
variances pertaining to side yard setbacks or,
variance pertaining to lake shore setbacks*

The CPB's role of reviewing and making recommendations on county wide development has provided a unique perspective on the trend of more intensive development and use of lakefront lots. Of particular concern are the incremental negative impacts to water quality and the character of our lakefront neighborhoods. The following policy is a result of discussion and debate spanning 18 months as well as consultation with outside agencies directly involved with water quality issues in Ontario County. The intent is to address over development of lakefront lots and support the clearly stated interest by local decision makers to do the same.

I think I read that in the other place. Here they are referencing a side setback would be a concern to them too, but I saw in a different set of minutes from the Ontario County Board that they were not worried about side. So that is where my comments came earlier.

Final Classification: 2

Findings:

- 1. Protection of water features is a stated goal of the CPB.*
- 2. The Finger Lakes are an indispensable part of the quality of life in Ontario County.*
- 3. Increases in impervious surface lead to increased runoff and pollution.*
- 4. Runoff from lakefront development is more likely to impact water quality.*
- 5. It is the position of this Board that the legislative bodies of lakefront communities have enacted setbacks and limits on lot coverage that allow reasonable use of lakefront properties.*
- 6. Protection of community character, as it relates to tourism, is a goal of the CPB.*
- 7. It is the position of this Board that numerous variances can allow over development of properties in a way that negatively affects public enjoyment of the Finger Lakes and overall community character.*
- 8. It is the position of this Board that such incremental impacts have a cumulative impact that is of countywide and intermunicipal significance.*

Final Recommendation: Denial

All of that is the standard that they put in every one of these that they address it and gives us a feel for why they are doing that. Here are the specific comments that we need to address.

Comments:

- 1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.*
- 2. The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.*

We have Kevin's input on that.

- 3. The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conservation District or Watershed Manager as early in the review process as possible to ensure proper design and placement of on-site septic system.*

We have that input also.

4. *The area of disturbance line does not clearly identify protection area for trees to be retained and other undisturbed areas.*

I am not sure where that came from. I thought you were showing protection lines on there for the trees. We need to be able to address that. That is one of their concerns.

Dan Hackett: I think I can address that if they feel it is inadequate on the drawing. We can make a notation on the drawing on tree protection and add a detail to engineering drawing for when we came into the Planning Board.

Chairman Burgie: Okay. Sounds good.

Martin Gordon: There is a note on the drawing that says maintain a protective distance 24 foot oak tree. The notes are in the drawing.

Dan Hackett: I think what we will do is graphically show some snow fencing and we can add that detail. That would be very clear. Also so the Board knows as I should have brought this up and I know this is outside the wheel house, but the actual builder of the home will be Mr. McNabb. Mr. McNabb is a builder by profession.

So for the Crofton's he will be keeping his eye on things I think.

Chairman Burgie: Okay. We will make that a condition as we go through this. This is a simple one to fix.

Dan Hackett: Absolutely.

Chairman Burgie:

5. *Does the area of the engineered gravel driveway/infiltration area overlap with the construction entrance?*

Anthony Venezia: It does right now. When we pull out the construction entrance, we will rebuild that as the engineered driveway. We need something stabilized so we do not muddy up the private drive. At time of construction it will be a construction entrance, but before we pull out of there that will be taken out and then it will be rebuilt to take on that water the way it is designed.

Chairman Burgie:

6. *Is the aerobic digester in the septic easement associated with this lot or the lot to the north?*

Anthony Venezia: The aerobic digester I believe all the septic equipment will be the pump and aerobic digester located just west of the house. The only thing in the easement would be the distribution boxes and leach lines themselves. So it will be pumped across the road to the septic field. The digester I believe is not located in that easement. It is located on the property itself.

Chairman Burgie: There is an aerobic digester that is on the drawings?

Dan Hackett: They are on the septic drawings.

Chairman Burgie: They are asking if one shown on the septic is associated with this lot or their lot to the north.

Dan Hackett: It services both lots.

Chairman Burgie: It is going to do both?

Dan Hackett: Yes.

Anthony Venezia: Right now, but they are going to redo that for the new one. There is an aerobic digester that is currently used.

Andrew McNabb: There will be two aerobic digesters.

Dan Hackett: There is two aerobic digesters to one system.

Andrew McNabb: Then it gets pumped out to one field.

Anthony Venezia: So there is two separate septic tanks and aerobic digesters for each unit then those two units will feed the same field.

Chairman Burgie: Okay. That is not something we have to make a condition or anything of that nature. I think you answered the question. It is captured in our minutes and they can see it there.

7. *The site plan appears to show a significant portion of the lot in the floodplain (elevation 691.2), but the site plan does not show the northern extent of the floodplain. Also the garage FFE of 690 is lower than the 100 year floodplain elevation of 691.2.*

Anthony Venezia: It is there. Captured as much as we can. The limit of floodplain is right now the only thing above the floodplain on that current property is really the raised bed. Most of the property is in the floodplain.

Chairman Burgie: I am sorry is the what?

Anthony Venezia: Most of the property is in the floodplain. The only thing above the floodplain is as we go farther west on the other side of the property it starts to raise and then the raised bed is actually out of the floodplain. Most of project is currently is in the floodplain and will stay in the floodplain. We are not raising the property to displace any flood waters.

Chairman Burgie:

8. *The site plan indicates the area of the existing raised septic field will be lowered resulting in net gain to the floodplain.*

Anthony Venezia: Correct.

Chairman Burgie: You moved it to the other side.

Anthony Venezia: Right. By lowering the existing septic bed we have a net gain. As we move it across, the septic system will be located outside of the floodplain. It will not be in the floodplain any longer.

Dan Hackett: That Indian burial ground that is there that will all be lowered down to the grade.

Chairman Burgie: We are done. We can terminate the meeting right now.

Dan Hackett: And the eagle nest. We did do an archeological study.

Anthony Venezia: That was not in the SHPO letter.

Chairman Burgie: That reminds me let's bring that up. We need to put that into the notes also.

9. *The existing house is listed as in the floodplain and the proposed house appears to be at FFE of 691.0. Will on-site material be re-located to raise the elevation of the house? Will off-site fill be imported? How do the proposed cuts and fills result in a net gain to the floodplain area as stated?*

Anthony Venezia: There is minimal grading around the house and it is a large septic that is probably two-three feet high because of that large cut we have a net gain. We are minimizing fill around the house. It will have a little bit a fill around it. Then you will have some free board the basement structure and then first floor. We are not going to raise grade way up. We are going to raise the house up a little bit so there will be a little visible.

Dan Hackett: The entire septic field will be razed and lowered down. That is the increase in the floodplain.

Chairman Burgie:

10. *Is the cobble reinforced shoreline existing or proposed? If proposed area should be included in limit of work.*

Anthony Venezia: That is all existing. We do not have any shoreline protection proposed. It is all currently there.

Chairman Burgie:

If existing, the proposed tree locations should be sufficiently inland of the cobbles to promote stable root system formation.

Dan Hackett: The proposed trees in the front and that was another criteria was to minimize this house from the lake. Put some large trees in. They actually love large trees. They are back from the cobble shoreline. They are also trees that love water. White Oak and London Plane trees are going in the front.

Diane Graham: What are the two?

Dan Hackett: Two London Plane trees (Sycamore) and a White Oak. The White Oak is obviously doing pretty well on the property in the back. We want to pull one of those trees and make it look like maybe a

squirrel left an acorn there when it grows up. Actually they are pretty large trees they are putting in, but it is nice to have that cohesion to the site.

Chairman Burgie: So you believe that they are going to be sufficiently inland of the cobbles to promote root development?

Dan Hackett: I do. Yes.

Martin Gordon: I am sorry to go backwards, but in nine it says *the existing house is listed in the floodplain and the proposed house appears to be at FFE 691*. Per the drawing the proposed house is at 693.4.

Anthony Venezia: We are raising it up.

Dan Hackett: We are raising it to get it out of the floodplain.

Martin Gordon: Right, but this note is incorrect.

Anthony Venezia: That was probably the existing.

Martin Gordon: Let me read it again. *The existing house is listed in the floodplain and the proposed house appears to be at FFE 691*.

Anthony Venezia: That is incorrect.

Dan Hackett: That is incorrect.

Chairman Burgie: It is actually at...?

Anthony Venezia: 693.4

Chairman Burgie: That addresses their concern. Rarely do I see this many comments from the Ontario County Planning Board.

11. *Erosion and sediment control plan not included with referral. The sediment trap is located very close to the Lake and does not appear designed to catch sediment from the northern portion of the site including the construction entrance and the driveway/infiltration area.*

Anthony Venezia: We worked with Kevin Olvany to come up with a large area. Most of the construction the way it will be graded and we will swale it around. As we are bringing that swale along the west and to the south to try and gather. We cannot get every single little piece. We could add a small temporary depression at the northeast corner during construction, if it would help. It would just be temporary. We could add that. We have a large one at the southeast, which is sized for the whole property.

Dan Hackett: I do not think again if that wanted to be conditioned.

Anthony Venezia: We can add one to the northeast.

Dan Hackett: A temporary sediment during construction be sent. I do not think that is a big deal at all. Then it can be noted on the plan for the Planning Board. Sure.

Chairman Burgie: Those are their comments. As I tried to explain, since they recommended denial, we have to address every one of their comments. Many of these things in our discussion have addressed them and will be in the minutes, but some things we will have to address either with Kevin comments here or conditions. There are a couple that we said we are going to put a condition on to make sure that you did those.

Do we have any other municipal officer's documentation?

Diane Graham: We have emails on septic from Tyler.

Chairman Burgie: We have already referenced the septic. He has no problem with the design, but will not give final approval until they have the final house plan.

Diane Graham: I know Erin responded to County Planning questions. I do not know if you want that in the minutes.

Anthony Venezia: She is our head engineer.

Chairman Burgie: Anything we are missing that we are looking for we should look?

Jonathan Gage: A couple quick observations. It is a very positive step that they are going across the road with the septic getting it away from that oak tree. One factor you can see by observing the plans here, but we have not really stated is when you are saying you are going with a setback variance of 2.2 feet here you almost get the implication when you are reading it first without looking at the plans that is going to cover the whole side of the house going down there. When you look at this with your scale of one inch equals ten feet, I do not have a tape measure with me, what are you talking about maybe six square feet here?

Anthony Venezia: You are probably saying about 97% of the front of that house is outside of that setback.

Jonathan Gage: Right. I can emphasize we are not going to be moving everything over here. It is a tiny little fraction, which you see from this. It is a good point to bring out.

Chairman Burgie: From reading their comments, the Ontario County Planning Board, I think their overall concern is storm water runoff into the lake. A properly designed septic and storm water runoff. That little bit of variance is not going to affect storm water runoff. At least I do not believe it will.

Okay. Discussion and debate period. Anybody have more thoughts or questions that they would like to discuss?

Jonathan Gage: I applaud their keeping the trees and doing like so many people have in the past of going with an easier plan by not keeping the trees. It is definitely our old growth trees that adds to the character of the area. That is a positive factor in my view.

Barbara Howard: I agree with Jon. You have done a great job I think to try fit into the space that needs to fit in and still keep those trees. They are definitely worth saving. I appreciate the fact you are doing that as well.

Dan Hackett: Thank you.

John Holtz: I want to clarify on the point I brought up before about the corner of the porch. You are saying you do not want to round it or you do not want to 45 degree angle it just because the architect does not want to. You could do it and then you would not need the variance.

Dan Hackett: I think from the perspective he gave me and the architect is not here so I certainly do not want to impose words, but when I spoke with him it was again you have a beam coming this way he said. You have a beam coming this way, you have rafters coming down if you clip this your post comes to here. It was a dissertation about how this thing needs to be the way it is. At that time, I said we need to keep this as minimal as we can. One of the things I do a lot of is work with people for variances. It is sitting down. I see people who want things 97 feet out and you look at them and say you are out of your mind. We are working back and forth. Everybody has an ego. Architects have an ego. I do not think this was totally generated by his ego. I think it was also part of the program requirements. I do not think it is easily as hey we can chop that off and it can all go away. Again, when you are looking at this every single variance they say was this self-created everything can be looked at self-created. You can just not build a house and you would not have that. We are looking at it more in terms minimizing what we needed to fit with that program, to fit with the site, to fit with the character of the neighborhood and fill all your test question criteria as best we could with very good mitigating factors. Does that help answer, John?

John Holtz: I guess. The amount of variance you are asking for and talking about the corner so I was just trying to think gee instead of going through the whole rigmarole of granting a variance maybe you could do something. If it is structurally necessary, then...

Dan Hackett: I think to part of that structurally necessary is again I am not the architect, I do not know for sure, realize that underneath this porch it has a roof, but it is all open air. This is not a foundation going in front of the setback. This is literally that roof line at that corner. It is a porch situation. I am not the structural engineer on this, but they want one post in the ground. That post comes up, it supports that corner then you get into a two post situation. It is all part of his mojo and rigmarole on how he got there. I really could not argue with him. I understood it from what he was saying and said okay I understand why you need to be there. Let's do this and that is how we got the house positioned as close to the tree as we could to preserve what also the architect said the needs were in that design.

Chairman Burgie: There is one other municipal officer's input that did not read and have referenced it a couple of times, but that really does lead us toward what we are going to be doing here with the concerns for storm water runoff. I just realized that. This is from Kevin Olvany from the 17th of September. On the plan he says some other things first, but:

On the plans there are two proposed dry wells with a 75 foot long perforated pipe and trench system connecting the two dry wells. These dry wells and trench system will perform much the same function as a raingarden and require less annual maintenance and are less subject to being filled in. I suggested to Anthony that a third dry well be considered to capture roof runoff that will be closer to the lake- specifically where the temporary sediment trap is located. This east side of the house will be tough to send the roof runoff to the dry wells in the west (front) of the house. My rationale for this location is that

the land will already be disturbed and it is in close proximity to the lake.

This tear down-rebuild is asking for a lot coverage variance of about 2.5%.

I think we said 2.3%.

They have done several mitigating factors to reduce impacts from the existing residence. The onsite system is being upgraded and moved much further away from the lake which provides for an important reduction in nutrient and bacteria loads to the lake. The combination of the dry wells and the angular stone driveway will also provide substantial runoff reduction. The third drywell would provide for additional infiltration and treatment. These are the types of mitigating factors that need to be implemented when considering granting a variance. Please let me know if you have any questions.

Kevin Olvany

He is basically saying you have taken some significant steps in addressing the 22.3% coverage where 20% is the limit because of we want that storm water to be absorbed. Well these other things will mitigate that extra 2.3% very well. It sounds like. These are the types of mitigating factors that need to be implemented. If they are all included in what you are doing, then I think that addressed the major concern that the Ontario County Planning Board has with this.

Anthony Venezia: We went back and forth with Kevin a couple of times to make sure he was comfortable with what we were proposing.

Chairman Burgie: So you have the third dry well as he was recommending?

Anthony Venezia: I believe it is on the latest iteration of the plan. I do not think it is on this one.

Dan Hackett: I think I have the old plan.

Diane Graham: So it on the latest one we have?

Anthony Venezia: I believe it is. I would have to double check. I thought we added that per Kevin's request.

Chairman Burgie: We can make that a condition and make sure that it is there.

Diane Graham: September 10 is the last.

Anthony Venezia: No. We will have to make a condition to add it.

Chairman Burgie: So we are up to three conditions right now. Okay. Any other discussion, debate or anything else you want to do? No. Bob? Then it is time to determine our findings. The findings are the legal documentation of did we consider everything that we are required to by law do our due diligence in granting or not granting the variance. Here is where we show our evidence.

Diane Graham: Are you addressing them individually or both of them together?

Chairman Burgie: What do you mean?

Diane Graham: The variances.

Chairman Burgie: I think we can do all of the findings from our discussion together. I would like to take an individual vote on the each of the variances. Does that work?

Diane Graham: Yes.

Finding #1

Chairman Burgie moved that this a Type II action under the SEQR paragraph 617.5 (c)(11) construction or expansion of a single family residence on an approved lot including necessary utilities; paragraph 617.5 (c)(16) granting of any individual setback and lot line variances and adjustments, and paragraph 617.5 (c)(17) granting of an area variance for a single family residence, therefore, requires no further review. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #2

Chairman Burgie moved that an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties created by granting the area variances. Robert Bacon seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #3

Chairman Burgie moved that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the area variances. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #4

Chairman Burgie moved that the requested area variances are not substantial. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #5

Chairman Burgie moved that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Robert Bacon seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #6

Chairman Burgie moved that the alleged difficulty was not self-created. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Chairman Burgie: There is one thing we did not discuss during the SEQR that was eagle and archeological site determinations.

Diane Graham: We have the archeological determination letter dated July 31st with no impact.

Chairman Burgie: Thank you.

Diane Graham: The SEQR question on species is checked no.

Chairman Burgie: I guess we are good there. Any other findings people feel we should put in to our evidence?

Robert Bacon: I think it is worth noting on lot coverage implemented significant mitigation steps to control the runoff.

Chairman Burgie: So would you like to make that a finding?

Finding #7

Robert Bacon moved that the owners have implemented significant mitigation steps including drywells, drainage and engineering driveway to control the run-off from the property to the lake. Thomas Burgie seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz
Nays: 0

Motion is carried.

Chairman Burgie: Any other findings?

Barbara Howard: I think it is worth notating that we are asked specifically whether or not an adverse effect on the physical or environmental conditions of the neighborhood.

Finding #8

Barbara Howard moved that the conversion of this property actually enhances the physical and environmental conditions of the neighborhood. Robert Bacon seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz
Nays: 0

Motion is carried.

Chairman Burgie: Any other findings we left out? Then next step is conditions. We have identified three conditions that we would like to make sure we put into here. Per Kevin Olvany's recommendations:

Condition #1

Chairman Burgie moved that a third drywell will be used to capture roof run-off on the southeast corner of the property. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz
Nays: 0

Motion is carried.

Chairman Burgie: Their concern was the area of disturbance line does not clearly identify protection area for trees to be retained and other undisturbed areas.

Anthony Venezia: We will add a protection detail for trees to be kept. We will add that to the site plan.

Dan Hackett: That will be show on the site plan not the landscape plan because the person doing the actual work would see it on the site plan.

Chairman Burgie: That would be provided before going back to the Planning Board?

Dan Hackett: Yes.

Anthony Venezia: Yes. The same as the extra drywell. We will all do that in the same plan. We will make sure conditions are met.

Dan Hackett: All your conditions to the Planning Board.

Chairman Burgie: Okay.

Condition #2

Chairman Burgie moved clearly show area tree protection details on the site plan. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Chairman Burgie: This was about erosion and sediment control plan was not included with the referral. The sediment trap is located very close to the lake does not appear designed to catch sediment from the northern portion of the site including construction entrance and the driveway infiltration area. How do we word this? This is a condition. You are going to show it, right?

Anthony Venezia: In order to meet that condition we can place a temporary sediment trap at the northeast corner. So any runoff from the driveway that makes it way along the north side of the house towards the lake will be captured in a small designed temporary sediment trap that will be used during construction to hold back any kind of dirty water that might makes it way toward the lake.

Chairman Burgie: Now that was about three paragraphs of wording.

Anthony Venezia: To mitigate that we will install a temporary sediment trap at the northeast corner of the house.

Martin Gordon: Wait a minute. The northeast corner of the house is the lake.

Anthony Venezia: I would say the north side is close to the lake as we can get it without disturbing anything. It is a long statement.

Martin Gordon: Can you say it is in the center of the lot towards the north lot line?

Anthony Venezia: Any way you want to word it. I would say off the north side of the porch.

Chairman Burgie: To catch sediment on the north side of the site. That is their concern.

Martin Gordon: Does he already have a swale there?

Anthony Venezia: There is a swale there. We do not have a temporary sediment basin to catch anything.

Dan Hackett: When we look at that, they do own the parcel to the north and it may actually have to show up on their northern parcel. I am thinking of access around the building during construction. So I would not want to do is come back and if we showed it on the property they own the other property, but it would still allow some access and control runoff. Would the Board be okay with that?

Barbara Howard: Instead of trying to identify where this is going to be put in the appropriate place to capture any sediment.

Dan Hackett: That would be great. Location to capture sediment on the north side of property.

Barbara Howard: Yes.

Chairman Burgie: Yes, Phil.

Phil Sommer: I have a question for Anthony. Would it make more sense to put that sediment trap at the Town side of that swale down at northeast corner like you thought?

Anthony Venezia: That is what I was saying. The one thing we also have to realize is because of what the drywell is going to be made out of, there is not going to be any runoff of it. The only real runoff from that is going to be along the north side in the area that we are not touching until we create that swale at the end. It will be a little bit of sediment that might make it to the lake during an event. That system once it goes in is not going to have any runoff.

Dan Hackett: Let's go with Phil's recommendation on the location. Phil, if you are comfortable with that?

Anthony Venezia: At the terminus of the swale?

Phil Sommer: That would make more sense. I would think at the northeast corner to catch it.

Dan Hackett: I think that is fine.

Diane Graham: So back to the wording.

Anthony Venezia: Terminus of the north drainage swale.

Diane Graham: That a temporary sediment trap will be placed on the north side...

Anthony Venezia: At the terminus of the north swale.

Diane Graham: Drainage swale?

Anthony Venezia: Yes.

Phil Sommer: Basically it is the northeast corner.

Condition #3

Chairman Burgie moved that a temporary sediment trap will be placed on the north side of the porch at the terminus of the north drainage swale. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Chairman Burgie: Are there any other conditions that anybody thinks should be included here?

Dan Hackett: At the end of every project the owners have a big party. No. I am sorry I wanted to inject a little bit of humor.

Chairman Burgie: We have two different variance before us.

I would like to petition a Board member to offer a motion to approve or disapprove the 2.2 foot variance from the rear lakeside setback.

Jonathan Gage moved to approve the variance. Robert Bacon seconded the motion.

Vote of the Board:

Robert Bacon – Aye
Thomas Burgie – Aye
Carol Dulski – Aye
Jonathan Gage – Aye
John Holtz – Aye

Motion is carried.

Chairman Burgie: I would like to petition a Board member to offer a motion to approve or disapprove a 2.3% lot coverage variance.

Robert Bacon moved to approve the lot coverage variance at 2.3%. John Holtz seconded the motion.

Vote of the Board:

Robert Bacon – Aye
Thomas Burgie – Aye
Carol Dulski – Aye
Jonathan Gage – Aye
John Holtz – Aye

Motion is carried.

Chairman Burgie: You have your variances.

Dan Hackett: Thank you.

Anthony Venezia: Thank you very much.

Chairman Burgie: Good luck with construction. It looks like a beautiful place you are going to be building.

Dan Hackett: Thank you for your time.

Chairman Burgie: Let's call the meeting back to order I guess. We did not actually close it. A shift to get people in an out.

Diane Graham: Back at 8:48 pm.

Thomas Burgie read the Rules of Order

Chairman Burgie: I do apologize the last one took much longer than we expected, but some rather significant issues that had to be dealt with. Hopefully we can make this one a little shorter. We will see. We have already taken attendance. Everybody is still here. We do not need to do that again, do we?

Diane Graham: No. I do not know about an opening statement?

Chairman Burgie: That was my opening statement. I did apologize for taking so long.

Diane Graham: How about the rules?

Chairman Burgie: Yes. Good point. We should relay the Rules of Order again just to keep it civil basically. [Thomas Burgie read the Rules of Order] Any questions on those? Again, just understand we are not your enemies we are trying to protect the community at large and grant what we can in this process. There are actually two different applications on this so would you read the notice.

Diane Graham: I did with one.

Chairman Burgie: Yes. Thank you. You did one variance, but there is also a special use. So there are two different things there and we will talk about the other variance also.

Robert Bacon: Does the special use permit still requested if it is one single property?

Chairman Burgie: Because it is one single property it will be a special use permit with two residences on the one single property.

Robert Bacon: That is right. Two residences, you are right.

Chairman Burgie: You were not in here earlier. We do have one board member who is one of the primary board members. Bob Bacon is at home participating via Zoom. He was in contact with someone who has since been tested for COVID. That person is asymptomatic and Bob is doing fine too. Out of caution he did not come in tonight. He is participating there.

We do have a new Board member. Marty Gordon is joining us. This is his first time on the Board. He was so impressed with the last meeting we had that he wanted to participate. He will be an alternate tonight. He will not be a voting member. We welcome you.

Area Variances (2) & Special Use Permit Application #2020-0008

Owners: Philip C. & Lucy A. Sheils
Representative: Wendy Meagher, PE
Property: 6847 & 6877 Walton Point Drive
Tax Map #: 191.09-1-2.110 & 191.09-1-4.000
Zoned: LR (Lake Residential)

Legal Notice of Public Hearing

Please take notice that the Town of South Bristol Zoning Board of Appeals will hold a public hearing on the following application:

Application #2020-0008 for property owned by Philip C. & Lucy A. Sheils located at 6847 & 6877 Walton Pint Drive, Tax Map #191.09-1-2.110 and 191.09-1-4.000. The applicant/property owners are looking for a 10.49 foot variance with a 39.51 front setback where 50 feet is required and a special use permit to allow two residences on the same lot with demolition of 6847 Walton Point Drive house and construction of a new home and septic system.

Said hearing will take place on the 28th day of October, 2020 beginning at 7:00 pm 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.

Diane Scholtz Graham
Board Assistant

Chairman Burgie: There is a second variance that came in later after this was done. That variance request is for setback variance request for recent lot combination on the north side of the parcel as a proposed tear down of the existing house and rebuild requiring a 16.75 foot setback variance to the stream that separates the two properties. The house is 8.25 feet from the stream where 25 feet is required, which is a relatively new requirement. This is in the zoning code 170-63 *Preservation of Natural Features – No structure shall be constructed within twenty-five feet of the bed of a stream, creek or dry creek with the ability of carrying water except for private bridges, drainage conduits and embankments and similar structures as are necessary to permit access to the lot or incidental the lawful use of the lot. Such structure shall not adversely affect the flow of the stream or substantially increase the likelihood of flood or overflow in the area.*

How did we make note of the new variance request? The website?

Diane Graham: We did not.

Chairman Burgie: Okay. Sometimes we identify something during a meeting that has to be amended so we will go with that and it will be in the minutes for anybody to read. Would you like to present your case?

Wendy Meagher: Good evening. I am Wendy Meagher with Meagher Engineering here representing the clients. I wanted to give you a little bit of history about the parcel. Back in 2018 from the County requesting that they replace their existing septic system due to the age. They did not have any record of where the leach field was and the proximity of where they thought it was to the lake. It gave the Sheils an opportunity to rethink the existing house down there and they had always wanted to build a permanent home down there. So they decided that while they were going to redo the leach field they were going to move forward to pursue their forever home down there. We started with the original parcel is basically was split by the drainage way, replace the house and design a septic system which could only go in the front of the house near the lakeside. We presented that to the NYS Department of Health. They reviewed it and just the complications, the complexity of the lot being that there is a drainage way here, the lake and triangular shape it required too many specific waivers or variances for the septic system. The Health Department came back and said you really need to reconsider relocating the septic system to more property. We met with Tyler Ohle. We convened with Sheryl Robbins at the State Health Department. Fortunately, the Sheils own the parcel to the south and we started talking about combining the lots to be able to place the septic system away from the lake and try to reduce the number of variances or specific waivers needed for the septic system. Both Tyler Ohle as well as the State Health Department were in agreement that if we did combine the lots we could place one septic system that would service ideally the new proposed house as well as the existing guest house. What that did present is that we will need a special use as you know for two dwellings on one parcel. The Sheils have a large family. They want to use the guest house and keep it for overflow sleeping. They want to keep it just for their family. They do not intend on renting it. They might do a small addition on it in the future or reconfigure it a little bit, but all these improvements are within the 20% lot coverage so we are not proposing anything beyond the 20%.

Chairman Burgie: Even if they added on to...?

Wendy Meagher: Even if they added on. This gives additional of what they could potentially add and it would still be within the 20%.

Chairman Burgie: Okay.

Wendy Meagher: So we reduced a little bit of walkway to the existing residence over here. For the most part the only thing that changed on the southerly lot was we are now proposing the new septic system. We are doing an advanced treatment system. We are improving both scenarios because the septic system for this little cottage I believe is just a holding tank.

Philip Sheils: I am not even sure.

Wendy Meagher: We are not sure. It could either be a holding tank or they go to leaching chambers. Regardless, both systems need to be upgraded. The County had given them a grant to do so. That is the first request the special use for them to be able to keep the guest house and we have gone through the

special use permit criteria. I do have answers/responses for all seven criteria. If you would like me to read them, I would be happy to. I think they were submitted with the application.

Chairman Burgie: No. We will address each of those. How do we want to do that? Go ahead.

Wendy Meagher: Would you like to discuss the special use first and then move on to the front setback?

Chairman Burgie: Why don't you say a couple of words about the special use because that will be the easier of the two of them? There is a difference between special use and variance. Variance you want to do something that is not in accordance with the Town code and we have to vary or waive a portion of it basically for either a setback variance or a lot coverage variance or anything of that nature. A special use is allowed by the Town code specifically what you are trying to do is allowed by the Town code and there was no denial from the Code Enforcement Officer because it is not against the Town code. It is in it. The Town Board simply set up a different review criteria where a Board actually looks at some very specific criteria if you meet those criteria we are required to grant a special use permit. If you do not meet any or more than one of those criteria we are not allowed to grant a special use permit. Now, would you like to address each of the ones in your letter that you said you are ready to do?

Wendy Meagher:

1. Is it consistent with the comprehensive plan of the Town? Yes. The existing cottage is consistent with the comprehensive plan. The cottage will be used as a guest house for friends and family only. Never to be used as rental property.
2. Is it in harmony with the purposes of the zoning law and with the regulations of the zoning district in which the proposed special use is to be located? Yes. The guest cottage located is in a lake residential district and a single family dwelling which is permitted principal use in the district.
3. It will not adversely affect the character of the neighborhood. Having two residential structures on a single property will not negatively affect the character of the neighborhood because there were two existing residence there because it was two lots. The combination of the lots was necessary to install the new septic system that will service both houses. The main house will be rebuilt and the guest house will remain, but the proposed changes will not exceed the required lot coverage.
4. Will not be detrimental to neighboring properties. Again, the special use permit request will not be detrimental to the neighboring properties because the two structures currently occupy the area so there will not be any change or impact to the neighbors.
5. Will it have no adverse effect on the physical or environmental conditions of the neighborhood or district? There will not be an adverse impact of the physical or environmental conditions of the neighborhood or district. Combining the lots for the septic system will improve the environmental condition of the neighborhood by implementing an advanced waste water treatment system for both houses.
6. Does it meet all the conditions for the land conservation district or any other restrictive overlay districts, if appropriate? There are currently no land conservation or restrictive overlay districts affected by this proposed special use.

7. Does it meet all the conditions that may be required under SEQR? The proposed properties meet the conditions under SEQR. A bald eagle determination has been completed and has concluded that the project will not impact the eagle nesting locations.

Chairman Burgie: As long as there isn't any blasting during nesting time. Is that right? Is there going to be any blasting on this site?

Wendy Meagher: No.

Chairman Burgie: Okay. What about historical or archeological?

Wendy Meagher: We got a negative declaration from SHPO.

Chairman Burgie: Good. Now those are the general requirements that we basically have to consider these for special use or a variance. So you have addressed both of them. We might have some discussion on one or two of these as we go through. Here is where the special use comes in. Special use permit for a residential structure on the same lot. These are the specific requirements that if met we are required to give it to you – the special use. Not necessarily the variances, but the special use.

- 1. The owner of the lot must own all structures. Yes?*

Wendy Meagher: Yes.

Chairman Burgie:

- 2. Additional residential structures permitted as a special use shall not be leased or rented.*

So even though it is not their intent now if we grant the special use you may never lease or rent these residences. Okay?

- 3. All said structures shall have the same postal address.*

Right now they have two different postal addresses.

Wendy Meagher: No sir. The lots have officially been combined. We have a single tax account number and a single address. That has been completed.

Chairman Burgie: Good. Thank you.

Phil Sommer: Actually you are going to have a single address, but one will be A and one will be B. It has to be noted like that for 911.

Wendy Meagher: Okay.

Phil Sommer: It will have 6877 A and B.

Chairman Burgie: Good. Thank you.

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

Wendy Meagher: Yes.

Chairman Burgie:

5. A site plan shall be submitted with the application for Planning Board review and approval.

That has been submitted?

Wendy Meagher: Yes they have.

Chairman Burgie: Have you had the initial meeting with them?

Wendy Meagher: Yes.

Chairman Burgie:

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

That is not something we are going to address, but if they want you to do some special landscaping then you are required to do that.

You meet those six criteria there the special use will be approved.

Wendy Meagher: Okay.

Chairman Burgie: We need to do SEQR status and we need to do visitation reports and have other input into this before we can actually grant the special use. We have covered all of that information so far.

Wendy Meagher: Okay.

Chairman Burgie: We will come back and do the variances a little bit later. I will ask for the CEO input on rationale for denying the permit later. Visitation reports anyone?

Jonathan Gage: I was down there this morning and again it as it is portrayed in the report here. The existing house is going to be torn down. It is right on the edge of the driveway there so pretty much anything that comes from that is an improvement over what is there right now. Although it is there is only one house past that anyway so it is almost at the end of the roadway. I see that there was a lot of work done on the stream bed stones and all that. How exactly do they combine the septic fields by going under the stream bed? Just curious how that works.

Wendy Meagher: A septic tank on this side for the main residence and it will be pumped over to tank over here and it will go under the stream. It is a gradual slope. This is drainage way is not very big. It is only a couple feet deep. We had to keep it at a gradual slope so it drains into the...

Jonathan Gage: Yes. I assumed that is what it was. I wanted to double check.

Chairman Burgie: Anybody else?

Barbara Howard: I went down yesterday. It looked just like it did when I was down there the other day. Some nice trees.

Martin Gordon: I went down a few days ago. The existing house and the cottage have been there a while. Looks like the existing shed used to be some sort of boat storage or boat house maybe. I noted the creek or the drainage between the two former lots looked like at times it had some pretty heavy flow. I took a walk up to the west of Walton Point Drive and looked up into the gully and it looked pretty full of debris. Then I looked under the roadway and it did not look like six foot to me and I am just imagining having seen gully washers what would happen if that thing became clogged. That gives me some pause. You are going to put a real nice house right next to this creek and the only pathway for the water seems to be through the house. The other question I had is I do not see a septic tank on the north side of the lot. I see a sewer line.

Wendy Meagher: Yes. I misspoke. It is getting pumped over and the tank is over here, treatment is here and then it gets pumped up to the leach field.

Martin Gordon: It is a gravity feed and not a forced?

Wendy Meagher: Correct. It is gravity. My apologies. That was the last version.

Martin Gordon: I do not see any detail for crossing of the stream. So what would prevent that from a gully wash and send sewage into the lake?

Wendy Meagher: It is protected, buried and embedded underneath the stream. It is not going through the drainage way.

Martin Gordon: No. I understand. It is like a foot under, but were you going to put a concrete shield over it?

Wendy Meagher: We could certainly do that. We are working that out with the State Health Department.

Martin Gordon: Okay. The other thing I noted I also looked at this from the water and right now you cannot see the existing house. It is sort of buried in the trees. Walton Point is not a collection of large houses. It is more medium size houses. The only one that is closer to water is your neighbor Standish, the rest are set back in the trees. It looks like you are going to bring this out. It will probably be visible from the water and it is a wide expanse. I am not convinced that it wouldn't change the character of the neighborhood. My main concern was that gully full of debris and that little pipe. What happens when that gets clogged? Where is the water going to go?

Wendy Meagher: We will get to that shortly. I will explain.

Diane Graham: Any other visitations?

Chairman Burgie: I did. I went down and met one of the Dr. Sheils. Talked to the other one on the phone. He showed me around and what the issue was. One concern that Kevin Olvany has identified here we are going to have to take into consideration. One your second variance request is that is a huge drop with a lot of debris in that it could be a waterfall if it was going all year long and that has in the past plugged up the culvert. I understand that you put in a new culvert. A larger culvert. Six foot now? Is that right? That will be in his words and I can testify to it at my property also. That will be plugged up sooner or later. We get another 100 year flood. It is going to get plugged up and all that water is going to go someplace. What you were describing to me before where the house sits right now it cut a channel between the stream bed and where the house is and went down to the lake. How deep was that channel that you saw?

Philip Sheils: Four to six feet.

Chairman Burgie: Four to six feet deep? Which now gets to the septic pipe coming underneath really does need to be protected because if that water can cut four to six feet deep and it is only a foot underneath that the bed of the stream it will tear that out. It has to be protected somehow. All the water went there and to the north side of the house around the house and down towards the neighbor's property as I understand it, right? By placing the house much longer than it is right now you have cut away and you have stopped the possible escape of that water between the stream bed and where the house is. It will hit up against your house and then it has to go someplace. Just back into the stream bed maybe. A lot will go down along the road and that is where we get into a discussion we will have. I am trying make sure I air the concern at this point so we can address it. *The proposed use will not be detrimental to nearby properties.* Well, the use itself isn't until that flood happens and then all that water is going to go down there. *The proposed use will not have an adverse impact on the physical or environmental conditions in the neighborhood or district.* Again, shunting all the flood water down in that direction is going to do more damage in that direction not on the south side of your house as it passes by. The culvert was like an eight foot culvert going under Lower Egypt Road and the storm we had about six years ago. I do not remember the date now. The first storm 100 year flood took out a twenty foot by twenty foot by twenty foot deep chunk of paved road on Lower Egypt Road. Huge hole. The entire road was not passable. Eighty percent of the water went down that way. The other twenty percent came down across the woods and my driveway and washed out my crusher run driveway and I still have rock throughout my yard. Thankfully, it did not do any serious damage to structures. It did flood my garage, which was in its path. So the Town came in and put in a new larger culvert to handle that flow so it does not get plugged up again to protect Lower Egypt Road. The next year we got the next 100 year flood and it did protect Lower Egypt Road. I have a Class C stream bed, which is a little bit larger than the stream bed that you have and it washed out about twelve to fifteen feet of bank between where it was and my driveway. I had to replace my whole driveway and we paved it. It was about that far (hands separated showing three feet) from undercutting this paved driveway and washing it away. I have a dug well with a stand and it washed up to the stand of the dug well and almost washed my well out. Two years in a row. So it will happen and that is what Kevin's comments and concern are. It not so much a concern on the front setback from Walton's Point, but off of the stream bed setback and whether or not sufficient mitigating engineering has been done here to ensure that doesn't happen. So from a special use permit - you met all the requirements. From the variance requirement then we have to get into this other level of discussion. Okay?

Wendy Meagher: Okay.

Chairman Burgie: That is what I came away from my visitation in seeing the environmental set up there and what is possible. Any other? Bob, did you have a chance to go down there?

Robert Bacon: Yes I did Tom. It was in the middle of the summer probably August. At that time there was discussions about the septic line going across the drainage stream and they were not talking about burying it. We did talk about the 100 year flood and the fact that the current house was actually water running through it. I do not remember the time frame, but I do remember it has been within the last 10-20 years. It is of concern.

Barbara Howard: If I remember correctly, that was about the same time that Lee Ann's basement or garage were also packed with several inches, if not, feet of mud because my son was in high school at the time so probably 2002-03 right around there he was a junior or senior.

Robert Bacon: Yes.

Barbara Howard: He helped dig out the mud and there was a lot of it for a long time.

Chairman Burgie: Let's keep moving through and see where this leads us. That was the visitation reports now we need to determine the SEQR status. This is pretty much going to fall under the same paragraphs of SEQR 671.5 (c)(11) *construction or expansion of a single family residence on an approved lot including provision of necessary utility, installation, maintenance and/or upgrade of drinking water or septic system* and 671.5 (c)(16) *granting of individual setbacks and lot line variances and adjustments*. They are both Type II actions under the SEQR regulation no further review is required. The SEQR is done. We will capture that as our first finding when we capture our evidence here.

Here we open it up to the public hearing. Any input from anybody else who would like to speak? We will close the public hearing for the discussion of the special use permit. There is no public or municipal documentation that specifically addresses the special use permit other than the County Planning Board did indicate in their minutes and they are looking for a site plan, area variance and special use permit. The bottom line with this type of request is *with the exception of applications involving lakefront properties including side, lake or lot coverage variances or encroachment to County owned right of ways. The CPB will make no formal recommendation to deny or approve applications involving a single family residential site plan*. They made no formal recommendation.

Wendy Meagher: Okay.

Chairman Burgie:

1. *The Town is encouraged to grant only minimal variance necessary*. We will address the variance in a minute.
2. *The applicant and referring agency are strongly encouraged to involve Ontario County Soil and Water Conversation District or Canandaigua Lake Watershed Inspector early in the review process as possible to ensure proper design and placement of onsite septic.*
3. *The applicant and referring agency are strongly encouraged to involve the Ontario County Soil and Water Conversation District or Canandaigua Lake Watershed Manager as early in the review process as possible to ensure proper design and implementation of storm water and erosion control measures.*

You have already addressed the septic issue and getting them involved. I see that we do have input from Kevin Olvany, which was one of the hang ups of not being able to move forward with this earlier because

we needed this from him. We will address that. That is really less of a special use than a variance concern. So given that. Is there any other documents that addresses the special use permit?

Diane Graham: I have a letter that pertains to the whole project.

Chairman Burgie: Go ahead.

Diane Graham:

September 15, 2020

*Phil Sommer
Code Enforcement Officer
Town of South Bristol
Gannett Hill Road
Naples NY 14512*

Dear Phil,

This letter is in full support of the house plans that Phil and Lucy Shiels have submitted for their property on Walton Point Road.

*The proposed home is completely in scale with the property and complements the style of other homes on the Point**

The Shiels are wonderful, thoughtful neighbors who have done a magnificent job improving the Shriener property on Walton Point without changing the cottage. Chip and I are certain their architect will make a strong effort to create a sustainable home that is in keeping with today's best practices in lake-friendly building.

Phil, I hope you and yours are well during these unprecedented times. Thank you for all your hard work on behalf of the residents of South Bristol.

*Leanna Landsmann
917-655-2327*

**Seneca Point residents should be as lucky as we!*

Chairman Burgie: Good neighbor there.

Diane Graham: I do not know where she lives in relation to the property.

Barbara Howard: Two houses down.

Diane Graham: Okay.

Lucy Sheils: I believe you have another letter from another neighbor, Bruce Capron, to the south.

Diane Graham: No. I do not have a letter.

Martin Gordon: While we are waiting I have a question.

Chairman Burgie: Go ahead.

Martin Gordon: There was a note in the application that there was a lot of work done on the stream bed. The gully that you mentioned...

Chairman Burgie: That is the stream bed. It drops into that stream bed.

Martin Gordon: Right. Was that prior to the improvements on the stream bed or after the improvements?

Philip Sheils: I am sorry.

Martin Gordon: My questions is the gully erosion that you described was that after you had made the improvements to the stream bed?

Philip Sheils: No. We made the improvements after the flood.

Chairman Burgie: Do you remember what year that was roughly?

Philip Sheils: 2004. The amount of debris that was dumped down there Charlie Standish used to make a big parking area. The rest of that was down on our property we used to back fill the retaining wall that Bob Fladd put in. The same time there was an existing crib that Charlie had made after the 1972 flood, I think.

Martin Gordon: 1973 Agnes.

Philip Sheils: Bob had field stone per whatever the regulations were at the time and concrete up the bed and galley basket up high. I cannot remember the height of the road then that was replaced at that point with a larger pipe. Then after we bought the Shriner place we had Bob finish the Shriner side of it. We had a gap further down on the north property where we asked him to fill that in at that point in time. The majority of the work on the north property was done 2004-05 and the other property that was done we bought that about six years ago. We did that work probably within a year of buying it.

Lucy Sheils: The southern property had all eroded. The big sycamore tree was at risk. So Bob had mirrored what he had done on the northern property to stabilize that part of the stream bed then.

Philip Sheils: When Tom came down, I showed him what had been just eroded property. Once we filled it in that was backfilled and then we did a lot of plantings on it. Put in a lot of natural flora. I would say Bob also in context of building that stream floor put in huge boulders so it would be like a pool coming down so it would dissipate underneath the land as opposed to being a chute. I think he addressed a lot of the issues very thoughtfully. Filling in the sides he preserved those trees on the stream bed. Most of the roots were pretty exposed. The huge sycamore you could see right up inside that tree from the stream bed.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 10.28.2020 Approved

We took what nature gave us. The only other comment about the existing house it has been there a long time and I am not sure how many floods it has seen, but to my knowledge it is the original foundation. I am sure it has happened. I do not think it has been enough to knock off the well-built cabin down there.

Martin Gordon: The existing cottage area looks like storage underneath.

Philip Sheils: It is a crawl space and I think it just field stone.

Martin Gordon: The existing house now is it on posts or is it on a foundation?

Philip Sheils: I think it is field stone foundation. I am not down there looking at it. We did have a flood and had some replaced because we had to. Part of the issue is the sill beam is totally rotted out. So the house is out of plum. None of the doors close. None of the windows close. It is primitively winterized with a furnace with no outlets it just blows into the main room and then goes straight up through the roof and out the windows. It is not livable in the winter. The plumbing has frozen in spite of our attempts. We have replaced it several times. My point in saying this is we love the property. We love the house. The kids only know it as their summer home. We would like to make it into a permanent residence where we will retire. That is our plan.

Diane Graham: This is the letter that Lucy received on her phone. It is addressed to County Road 12 and we are on Gannett Hill Road so that is probably why it did not come to us.

*6907 Walton Point Drive
Naples, NY*

September 20, 2020

*Town of South Bristol
6774 County Road 12
Naples, NY 14512*

South Bristol Officials:

Phil and Lucy Sheils are wonderful neighbors on Walton Point. We are writing today to voice our support for their plans and project to join their cottage with the former Shriner property, install a new septic system as shown on their engineering plans and reconstruct both structures.

Please contact us if there is anything further we can do to support their plans.

Regards,

*Bruce Capron
Lynn Thurston*

Chairman Burgie: Thank you. We are going address the special use and complete that then we will go to the variance because that is really a different issue. Any discussion on whether or not they met the requirements as we read for the specific special use requirements?

1. *The owner of the lot must own all structures.*
2. *Additional residential structures permitted as a special use shall not be leased or rented.*
3. *All said structures shall have the same postal address.*
4. *All said structures shall be served by the same access road or driveway for emergency vehicles.*
5. *The site plan has be submitted to the Planning Board.*
6. *They will address landscaping if necessary.*

Any discussion on that anyone? Then I would like to make:

Finding #1

Chairman Burgie: This finding can work with the variances later on too. It is the same thing.

Chairman Burgie moved that this under the SEQR paragraph 617.5 (c)(11) *construction or expansion of a single family residence on an approved lot including necessary utility...* and 617.5 (c)(16) *granting of any individual setback and lot line variances and adjustments...* They are both Type II actions, therefore, require no further review. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #2

Chairman Burgie moved that all requirements for paragraph 170-38 additional residential structures on the same lot special use requirements have been met. John Holtz seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Chairman Burgie: You have met all the requirements for the special use so the special use permit will be issued, but of course the site plan does have to be approved by the Planning Board. We need to address the variances, which are going to drive changes to the site plan.

Wendy Meagher: Understood.

Diane Graham: Are you going to do the seven conditions separately for special use?

Town of South Bristol Zoning Board of Appeals Meeting Minutes 10.28.2020 Approved

Chairman Burgie: They are all basically related to the same one and to the variance also. We will do a finding on each one of those.

Diane Graham: Okay. So are we finalizing this one or are we saving it?

Chairman Burgie: The special use is finalized.

Diane Graham: Alright. So we are not doing roll call?

Chairman Burgie: We do not need to. They have met the requirements.

Diane Graham: Alright.

Chairman Burgie: At least I do not believe they need to vote on whether or not they met the requirements because everybody else already said that.

Diane Graham: Okay.

Chairman Burgie: Now we get to the variances. Variances are usually more difficult issues. That is just the name of the game because you are asking for us to vary the Town Code. So here we go back to the Code Enforcement Officer and ask him anything you want to add to what we have already said about the variance application?

Phil Sommer: The front variance obviously 50 feet is required and they have I think ten point something. The only one I have a concern with then from the site visit and the conversation I had with Mr. Sheils and Kevin Olvany is the 25 foot setback off the stream. That was put in the code back in April 2019 because of issues we have had during some of these storms. The old code read 25 feet from a stream carrying water six months or more. That was kind of hard to determine unless you stood there 24/7, 365. We thought anything that could carry water. We have been having these gully washers. Arbitrarily make it 25 feet from a stream. With that said, Kevin was talking with Ellen and we had a good conversation. There is a lot of water upstream of that creek. Kevin calculated about 254 acres crossing Co Rd 33, Co Rd 12, St Rt 21 and down to Walton Point. Our concern was if one of those big gully washers came having water come through damaging any structures. We are worried about the impact on the foundation wall. Would it make it go to the neighbors on the north and south? It is a concern. I do not know how much was discussed after our meeting with maybe changing or backing off the closest of the points of the stream to allow more of a water shed effect through there. That is mainly my concern. I do not want to see you spending money to build a brand new house to have one of these. In their defense after talking with them. They talked to their neighbor about cleaning up the gully and offered to pay to have it done and get some of the dead trees and that to mitigate what is up there now. Everyone knows they are hanging in there (*trees*) and will come down eventually. The neighbor is not cooperating. With that said, I believe there has to be some give and take to back that away from the stream a little bit to allow more area for the water to flow when it does flood. That is my only concern with that setback. I have no issue with the front setback at all.

Chairman Burgie: Thank you.

Martin Gordon: You mentioned that a neighbor was not cooperative to agree to the trees being removed?

Phil Sommer: That is what I was told by Mr. Sheils. He offered to pay and have it done. The neighbor wanted nothing to do with it.

Martin Gordon: Isn't that neighbor Capron?

Phil Sommer: I have no idea.

Mr. Sheils: Yes.

Chairman Burgie: We can go in a couple of different directions. I do want to preface as I indicated when I was down there the setback from the front is actually more than what exists now. So it improves it. That is not of major concern to me. It is major concern based on my personal experience and what I saw down there to put a house blocking that entire flow right there. Obviously, it is a major concern for Kevin Olvany who has given his input. Let's read the municipal officer's documentation for this discussion.

He gives a lot of different information in here. We will attach these to the minutes.

I think it is conservative to estimate 254 acres of steep slope land drains to this six foot culvert. Based on the owner's description the last major event the overflow went to the north hit the corner of the house and the flow went around both sides of the house. My concern is the plan reduces structure setback from the stream from approximately 45 feet to nine feet. Thus, the overflow will be hitting this house and the new section will potentially block a portion of flow and shunt all the water to the north of the house. Thus, potentially further impacting the neighbor to the north. There is also a chance that the new house could be damaged as well by this type of event that will occur again.

The wrong kind of storm on 200 plus acres could overwhelm this culvert with flow and debris...

No. This is the first email. The second was after that.

...and cause water to over top this area. It would be very wise for Meagher Engineering to invest some time to look at the exact drainage area for the applicant.

That is why I asked you if you had that.

Based on the topo provided it looks like there is a potential for the gully to preferentially jump to the north and impact the home. I would highly suggest moving the structure further away from the gully. It also looks like it is well inside the 25 foot setback.

He is actually suggesting that it should be more than 25 feet, which we cannot require obviously. More than 25 rather than vary it to less than 25. The reason I wanted to say that if we go forward and vote on the variance one of them in my opinion it is probably going to be approved. My opinion, the Board doesn't have to agree with me. The other one I am extremely concerned about it. I think it would definitely be detrimental to nearby properties if you shunted that water coming down the stream and it went to the north. Actually the drive falls both ways so hit the north and some hit the south if I remember right. We will have a difficult time granting a variance. I will have a difficult time granting a variance that would put other houses at risk even if you want to take the risk to your house. If we vote on the variance and deny the variance, you may not return to this Board by Town code within one year to ask for a modification of that variance or whatever. We are locked into a year.

Wendy Meagher: Okay.

Chairman Burgie: Unless you can convince one of the Board members to make a motion to bring it back up and we have a unanimous vote to readdress it. That unanimous vote at one Board meeting would then allow us to schedule another vote at another one. It becomes a very difficult process. I guess my question is do we continue or would you like to go back and look at the stream setback variance and is there something you can do to mitigate the risk to adjoining properties?

Wendy Meagher: I would like to address the front setback first. As you know the private drive is on our parcel. It is uphill on the other side so we are improving that setback. We are also reducing a side setback from the existing residence. We put a lot of thought and care into placement of the house to save the mature trees on the property. Beautiful sycamore and hemlocks. The owners have consulted arborists to really protect and nourish those trees to keep them healthy. That is why we have placed the house where we have. When we shift over and away from the drainage way, it pushes it closer to the lake and it jeopardizes these mature trees. That is why we placed it where it is. Now we have been working with Pete the architect to come up with ideas on how we can somewhat keep their footprint, but yet twist it a little bit and push it a little bit to the northeast to where we can get ourselves away a little bit from the drainage way.

Peter Heintzelman: My name is Peter Heintzelman. I am the architect for the project. We have obviously talked about a lot of different things so far this meeting. I do not feel I need to recap. Thankfully most of you have been out to the site and seen what the Sheils have done over the past several years in terms of their landscaping and their stewardship, love and care. Like Wendy was explaining when designing this house we really wanted to make sure that we could keep pretty much everything they have spent time, money in and not try to alter that lake frontage, those two beautiful sycamore trees, and hemlock trees. Those are massive trees we really want to maintain those both from an aesthetic standpoint from the house, but aesthetic standpoint looking back at it from the lake. So that is kind of like when you were saying why we decided to place the house where it is. Going into the shape of the house and why our house is designed the way it is. One, this will be Phil and Lucy's permanent residence. They plan to retire at this house. They have a number of children and that will continue to grow hopefully. More and more family. They are trying to combine these two lots to really make it a homestead style piece of property that will be their primary residence. As I said they are retiring there so we took great care in terms of the size of the house to make it a more aging in place experience where the main level is one solid floor. The master bedroom is on the main level. There are provisions in for an elevator. That requires wider hallways. A little bit larger bathrooms in case anything were to happen where a wheel chair was involved or something of that nature. The idea being that they would be able to live in this house throughout the remainder. We also wanted to incorporate a two car garage. Right now they do not have a garage. All their parking is either right in front of the house or it actually happens on Walton Point or the other side. Adding two car garage to the property and to the project allows them to get at least two of the cars off of the street. Enhancing the aesthetic of the road. They are at the end, but at least it cleans it up and organizes it. Gives them space to put things away. Then as we were discussing the connectivity to the landscape all that they put into it on the lake frontage the trees and then drainage way we have been discussing in terms of all the work that they have put into it. The last thing I was going to point out was the combination of lots. So with what you guys have submitted and I gave you this packet because we kind of started talking about the 25 foot stream recently and not had a lot of time to give you guys anything since then. I guess going back to your question of moving forward. We did want basically have some conversations of what that 25 foot setback looks like and what that does to the property different from we are shooting for.

Maybe an alternate and more conversation. I do not think we are looking for the variance that we requested in terms of eight or nine foot.

Wendy Meagher: Nine foot plus.

Peter Heintzelman: If you look at our proposed site plan that shows the 25 foot setback from the stream, which would be page five. You will see that we rotated the house basically towards the north and the northwest. As we rotate that house we can start to see how that rotation really starts to play into the large hemlock tree that is in the middle of the property and then also the sycamore tree that is on the north as well as the grade that is at the north that brings us down to the existing retaining wall that the Sheils have built. A couple of the things we are trying to avoid it starts to push us in that realm. Again, we have not gone through the steps of grading and where we are going to be if this plan is where we end up going. It could start to sacrifice some of those elements we are trying to keep. Then we started playing with what you will see is your last sheet in that packet. What if we push it further from the stream, and maybe closer to that 18 foot realm? It starts to again get us further from the drainage way, which is understandable of what you guys are discussing. It starts to allow some breathing room and alleviate some of the space around those two mature trees. It gives us some more space to grade down to that landscaping wall. I guess point being we are trying to come up with a solution here with you. Like I said we did not have a lot of time, but we wanted to at least present these. I guess speaking for Phil and Lucy we are definitely willing to make some changes here to shift the house off of that stream as much we need to. That is where we are standing right now.

Chairman Burgie: These two drawings that you gave us page 5 and page 6 they are exactly the same residence just tipped it and turned a little bit.

Peter Heintzelman: There is a hinge point. As you can see between the garage and the main residence. It is kind of a connector hall. Martin, you brought up a point a little while ago looking at it from the lake side. The aesthetic we are shooting for color scheme, nature, and the feel of the house that we are planning on designing here wants to be very similar to what the existing cabin is for the Sheils. They do love it. As Phil explained it is not winterized. They have some foundation and structural issues. It is not a reasonable thing to try to renovate and rebuild. We are also keeping it as a single story ranch with a walkout basement. From Walton Point Drive it is going to look like a single story house – one floor. Then from the lake side will look like a two story house. We are not trying to develop a three story very tall house. We are well within our guidelines for building height in terms of average grade. To go back to what you were saying Tom this is pretty much the exact same footprint our floor plan, but this connector hall between the garage and the house tweaks because of the rotation. We are trying to keep the garage in the same spot. We are doing that to try to keep the elevation of the house at the same spot because Wendy has done a lot of the grading to get the house up four plus feet then what we are currently at again to help with the flooding.

Wendy Meagher: To that point I would like to add a couple quick notes. The existing home although it is further away it is down four feet lower - the finished floor. So what we did was bring the house finished floor up and closer that did improve the potential for the first floor to be flooded. Also wanted to note that there is a lot of concern if this does get plugged. Water is going to take the path of least resistance. We are not changing any of the grading on the existing private drive. It is going to want to come over and make its way down the drive regardless if the house is shifted here or here. It is sloped the same basically on both directions. It will come up and go to the north and go to the south and towards the lake all at once.

Chairman Burgie: Excuse me just a second. When you had the flood in 2004, did it go to the south also?

Phil Sheils: I do recall. There was not any damage that I am aware of. I am sure some water went that way, but I do not think the Shriner's had any issues. That house is sitting on cinder blocks. So if they did get water it probably it would have gone underneath it. I do not remember Bruce Capron having any issue at all. Other than us and Jeff Sykes who lost his house up the road from us. Different gully. The state wall came down under his house. There is a number of gullies that come down that hillside. We were just one of several.

Chairman Burgie: I know what you are saying that water would go both directions, but when that happens now an increased flow is going to go to both neighbor residences. That puts them at risk. That is one of my concerns.

Okay. I see what you have here with the two options. One at 25 feet, which kind that encroaches on the trees and the other at 18 feet. Have you looked at the 18 foot and what other mitigating constructs can you put in here to handle the water. Eighteen feet is only nine feet more than what your first plan was. Kevin is recommending more than 25, if possible. Eighteen I can just imagine what he is going to say. Obviously, this has not been presented to him so has not had a chance. He is going to say wait a minute. Twenty-five might not be enough. What can you do to channel the water so that it doesn't go this way to the neighbors? Some of it is going too obviously, but if it jumping just to the north as it did in 2004 and goes straight towards the lake. So maybe 18 feet will be enough if you build the proper engineering into it to handle the floodwaters going through there. Have you looked at anything of that nature?

Wendy Meagher: The existing private drive because it is so steep on this side we do not have any room to change the grading much to the north to the neighbor. Not only the proximity of the house and the shape of the lot.

Chairman Burgie: I was asking more about south of the new home between the stream bed and the south side of the new home.

Wendy Meagher: So on this side we are bringing the finished floor elevation way up. We do have a stair access, which we could remove. We do not have any entrances or anything down here at a lower level to where it would be impacted. You really cannot put a retaining wall or anything. It is going to want to go down to the north.

Chairman Burgie: You showed me the huge boulders that washed down through there up against your house, didn't he? You were showing me all those huge boulders.

Phil Sheils: Those were not from the flood. Those were from Bob Fladd brought to protect the house from a future flood. What was up against the house were boulders I could pick up and manually move. They were all 30-40 at the most. The things Bob put there have to weigh several hundred pounds. We paid for him to bring those in to create that corner so if water came it would break on that and not break on the house.

Wendy Meagher: I guess we could do some similar situation where we could put some large boulders in this area to mitigate some the energy from the water.

Chairman Burgie: To channel the water in and mitigate some of the energy. Yes. Go ahead.

Phil Sheils: We have done some of that with the existing property anticipating another flood.

Wendy Meagher: I cannot mitigate anything that heads to the north because of the existing grading of the private drive.

Chairman Burgie: When you block off some of the 45 feet that exists now down to nine feet or 18 feet, you are going to be shunting water off to the north. That increases the risk to the neighbor. That is my concern. How you handle this so that it does not shunt more water that way. It goes straight towards the lake, but doesn't damage their new home.

Martin Gordon: I have a similar question, but it is for the architect I am sorry I did not get your name.

Peter Heintzelman: Hi, it is Peter.

Martin Gordon: I think Dr. Sheils brought this up the cabin sits on cinder blocks. There are ways to design a house on piers like they do in the flood zones in the south for the hurricanes so the water goes through your house not in it.

Peter Heintzelman: Correct.

Martin Gordon: Has there been any thought to removing part of the very south part of the basement and putting piers in and maybe having an open storage area for recreation purposes? Still make that useful space, but have it open so you would have flow when the water would overflow from the gully.

Peter Heintzelman: No. We have not discussed anything like that. I suppose it is possible though with our climate energy efficiency wise is not ideal to have an exposed floor. There is obviously insulation practices and things we could do. It is definitely not ideal in our climate. It is an interesting idea, but no we have not discussed it.

Martin Gordon: The reason I bring this up is personally we just proposed a structure that put on piers so we could have flow under the structure so it would go through the structure. It is the only reason I bring it up and this reminded me when you talked about the cinder blocks water went under. That way you do not have to divert anything. It is going to happen. The other question is to option with the 25 foot setback you have a large sycamore being impacted because you have it circled in red then at 18 foot it is not impacted, but it does not look like.

Peter Heintzelman: It is moved because we did not rotate it as far. So when you rotate it up towards the sycamore tree it gets closer. When you get closer to that tree, grade starts to change, dig foundations around a tree, you get into root systems and things trees can be compromised.

Martin Gordon: Thank you.

Wendy Meagher: The shape of the lot is a huge factor and a lot of our challenges.

John Holtz: Would the change in the diameter of the culvert pipe do anything?

Wendy Meagher: It is pretty substantial now. The way it's tipped, slope and diameter it can handle 360 cubic feet per second. It is a substantial amount.

John Holtz: The worry people is the debris clogging it or put a second culvert pipe next to that culvert.

Chairman Burgie: The problem with a second culvert next to it is each one can be plugged individually. In my class C stream I had three 18 inch pipes. They are not six feet. Every one of the pipes could handle all the water coming except for the rock coming down. When the water slowed down because branches crossed the rock layer, it rose to completely fill it. I had to take the pipes out completely because about the third or fourth time I could not clean them anymore. So extra six foot culverts if you look at the trees up there they are full trees two foot diameter they are going to come down and not go through a six foot culvert. They are not going to go through even if there are two pipes. That slows the water and starts to build up.

Wendy Meagher: Unfortunately, our property line is on the lake of the private drive. The complete culvert is not even on the Sheils property. We cannot add to it or change without neighbor's permission.

Chairman Burgie: What other discussion or any concerns?

Jonathan Gage: Since we are brain storming here and throwing ideas out. When you move your main residence closer to the lake thus creating an open area there you almost can if you widen the driveway going down to the Standish and then the area on the hillside where the road goes right up into the hillside you create ditching there. You say you cannot ditch on the west side of the road because the hillside is right there, but by widening the road way down you can take a portion of the west of the roadway and create ditching there. I had the same problem on my roads. By creating aggressive ditching along the one side of it diverted the water then you could push it past Standish's place. It would be a helpful factor in diverting the water.

Wendy Meagher: The only thing that does is if you increase the drainage way on this side we have our septic system here so we now we have certain setback requirements from the drainage way to the septic system. We are worsening the situation for the septic system.

Jonathan Gage: We were talking about the water going to the north not the south.

Peter Heintzeman: You are talking about putting a drainage ditch next to the road between the house and the road?

Jonathan Gage: Between the road and the hillside. You have the width of the road in this picture here. By the moving the house back you can also push the road towards the lake and opening up the western part of the roadway to become a ditch to divert the water. The main complaint here is about water going to the north affecting Standishs, correct?

Wendy Meagher: So the setbacks from the side which is ten feet but because of the front setback this is kind of a gray area here. We conservatively put it as 50 foot back. We do not have any more room to push the road that way. Then we would now have a lakeside setback variance. It is a steep hill here. I do not know if we could adjust that too much. That is the only concern.

Jonathan Gage: I am not fully convinced on that, but that is okay. If anybody else visions what I am saying here. I think that is feasible.

Barbara Howard: I think it is worth looking at. It does divert the northbound water.

Jonathan Gage: Everything on the west side going down to Standish is?

Wendy Meagher: It is on neighboring property. If you push it too much there is a triangular area of buildable area over in that corner. So we would need more variance, which we are trying to avoid.

Chairman Burgie: Have you with this drawing on page six with 18 foot measured the variance that would be required for the front setback from Walton Point?

Peter Heintzelman: I am sorry I could not actually hear.

Chairman Burgie: Right now you are requesting a front setback variance also.

Peter Heintzelman: Correct.

Chairman Burgie: We know what that is. Have you measured with a front setback based upon your drawings in either page 5 or page 6?

Peter Heintzelman: I do not know the exact measurement, but if you look at both of these the dash line that you see underneath the proposed house is the submitted footprint. So the garage has stayed in the same spot between the road in all three schemes.

Chairman Burgie: I see what you are saying.

Wendy Meagher: He is wondering if that variance is going to be adjusted if we go to that scenario.

Peter Heintzelman: No. It would be the same.

Chairman Burgie: Go ahead Phil.

Phil Sommer: Is it okay if I weigh in here?

Chairman Burgie: Yes. Please.

Phil Sommer: After being on the site, with Sheils and Standish, there is an open area for water to disperse down there before it hits Standish cottage. My concern is you are not going to keep the thing from flooding, but to move it back and keep the area as open as you can on the south side of the proposed structure not to push any more water to the north because it is proof from what Mr. Sheils was telling me that open area actually acts as another area to disperse the water into the lake before hitting Standish. I think the question I have is to keep an open flow area to the south as it is now and not impact more water to the north and overtask that open area where it acts naturally to disperse the water. I do not have a copy of the plans I apologize. Pete was going to send to me. I do not know the configuration and angle by a 45 or something like that on the south side of the house.

Chairman Burgie: Do you want to come up and look at it?

Peter Heintzelman: Sorry Phil.

Phil Sommer: No you are cool.

There was a discussion about stream setback and water flow.

Chairman Burgie: There seems to be a lot of ideas being thrown out and a lot of arm chair engineering right here being done that is very dangerous. If we were to approve any variance of that 25 foot stream setback based upon history and what we expect one day will happen again without really some good ideas on how to handle this so that it does not damage other properties, I think it could put the Town in legal jeopardy approving something we said we should not be doing. So we can do this all night long or we can table it and let you have a chance to look at it. I for one will not approve the variance as requested. Without knowing more about the recommendation from the Canandaigua Lake Watershed Manager is no less than 25 feet. We are talking about maybe we can compromise in between. I think we are trying to armchair something that we should not be. I think unless you want to take a vote and take a risk then we should probably take some time go back and look at what is possible and come back with some better ideas than what we have been able to generate tonight. Anybody have any comment on that?

Wendy Meagher: Can I take a moment to speak to my clients?

Chairman Burgie: Yes. Please. Yes. Ma'am.

Wendy Meagher: Chairman we would like I guess move forward with the request for the front setback and special use, but we would like to reserve the right to table the variance to the drainage way. It was presented as two separate variances?

Chairman Burgie: I do not know why that would be a problem to be honest with you. I think we can do that.

Diane Graham: So if the house position changes for the setback to the stream, the front setback amount will change. If they get the variance, that variance would void that if they changed their plans?

Chairman Burgie: The variance will go with the land and it will allow them to go exactly that far from Walton's Point from the property line.

Diane Graham: Okay. Regardless of what they end up doing.

Chairman Burgie: If they slide it around a little a bit, it will not change, however, the site plan will change and it has to go to the Planning Board and snowballs from that point.

Diane Graham: Okay.

Chairman Burgie: We can act on the one variance. You are going to be stuck with the one variance. If you try and move it even six inches closer we will not be able to...

Wendy Meagher: We understand. We are willing to work within that setback granted.

Chairman Burgie: Alright then. I think we have enough discussion and debate. Let's determine the findings. We are only working on the one variance now, which is 39.51 foot front setback variance.

Finding #1

Chairman Burgie moved that this a Type II action under the SEQR paragraph 617.5 (c)(11) *construction or expansion of a single family residence on an approved lot including provision of necessary utility connections installation maintenance and/or upgrade of drinking water or a septic system or both*, and 617.5 (c)(16) *granting of individual setback and lot line variances and adjustments* requiring no further review. John Holtz seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #2

Chairman Burgie moved that an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties created by granting the area variance. Carol Dulski second the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #3

Chairman Burgie moved that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #4

Chairman Burgie moved that the requested area variance is substantial, however, it is less than the variance that would be required with the existing structure. Robert Bacon seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #5

Chairman Burgie moved that the variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #6

Chairman Burgie moved that the alleged difficulty was not self-created. Jonathan Gage seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #7

Chairman Burgie moved that the proposed use is consistent with the comprehensive plan of our Town. John Holtz seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #8

Chairman Burgie moved that the use is consistent with the purposes of the zoning law of our Town. Robert Bacon seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Finding #9

Chairman Burgie moved that the use will not be detrimental to nearby properties. Carol Dulski seconded the motion.

All in favor.

Ayes: 5, R. Bacon, T. Burgie, C. Dulski, J. Gage, J. Holtz

Nays: 0

Motion is carried.

Chairman Burgie: Anyone else have any other findings that they need to incorporate here?

Barbara Howard: Not being able to rent the property have to go into this or is that in the minutes?

Chairman Burgie: We already captured that. Actually we did finding one and two back then for the special use now we are doing finding one through nine. This is finding 1-1 I guess. I do not know.

Barbara Howard: Just want to make sure.

Chairman Burgie: Yes. It is already captured. Alright. If no other findings, are there any conditions that we need to make on this variance? No. Then I will petition a Board member to offer a motion to approve or deny this variance request. Anyone?

Martin Gordon moved to approve the 39.51 foot front setback variance. Jonathan Gage seconded the motion.

Vote of the Board:

Robert Bacon – Aye
Thomas Burgie – Aye
Carol Dulski – Aye
Jonathan Gage – Aye
John Holtz – Aye

Motion is carried.

Chairman Burgie: You have your special use and the front setback variance.

Wendy Meagher: Thank you.

Chairman Burgie: We would love to work with you, but we are limited in how much risk we can take on in this even if the owners want to take risk with the house. Please find a magic bullet for us.

Wendy Meagher: Thank you for your time.

Anthony Venezia: We appreciate it. Thank you very much.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 10.28.2020 Approved

Chairman Burgie: When they come back, it is going to a different one than what they have requested before so, yes, we are going to need a public notice.

Diane Graham: Okay.

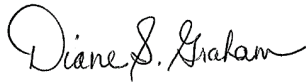
Chairman Burgie: So you might want to tell them the time frame.

Diane Graham: Our next meeting is December 2nd.

Motion to Adjourn

Being no further business, Jonathan Gage motioned to adjourn the meeting. Carol Dulski seconded the motion. The motion was unanimously accepted and the meeting was adjourned at 10:40 pm.

Respectfully submitted,



Diane Scholtz Graham
Board Assistant

Appendix – Kevin Olvany, Watershed Program Manager 10/23/2020 comments

From: Kevin L. Olvany [mailto:klo@canandaiguanyork.gov]

Sent: Friday, October 23, 2020 8:35 AM

To: Ellen Horbachewski <ellen@meagherengineering.com>; Phil Sommer <ceo@townofsbny.org>

Cc: Wendy Meagher <meagherengineering@gmail.com>

Subject: RE: 6847 & 6877 Walton Point Drive - Storm Water Review

Hi Ellen and Phil

I have attached an estimate of the drainage area that flows to this property. I think it is a conservative estimate of 254 acres of steep slope land that drains to this 6 foot culvert. Field work would need to be done to get the exact boundary. This is a large and steep drainage area that can be very flashy in the "wrong" storm conditions generating high peak flows for short durations that could be very damaging. The goal is to make sure any approvals/variances granted will not exacerbate the issue for the owner and the adjacent landowners.

The site visit along with the conversation with the owner confirmed that under the wrong storm event and ground conditions- this culvert has a high probability of getting plugged and the gully washer will overflow the culvert. Based on the owner's description of the last major event, the overflow went to the north, hit the corner of the house and the flow went around both sides of the house. My concern is that the plan reduces the current structure setback from the stream from approximately 45 feet to about 9 feet. Thus, the overflow will be hitting this house and the new section will potentially block a portion of the flow and shunt all of the flow to the north of the house- thus potentially further impacting the neighbor to the north. There is also a chance that the new house could be damaged as well by this type of event that will occur again.

The 25 foot stream setback is a critical land use regulatory feature that needs to be integrated into the plan as best as possible to protecting existing and new structures during flood events. In addition, the 25 foot setback provides a natural buffer to these dynamic stream systems. I would suggest that the applicant and their engineer figure out a way to maintain a high flow pathway around the south side of the new house to avoid their new house from getting hit with flood waters and protecting the neighbor to the north as well. This will likely require greater than a 9 foot setback from the edge of the stream/gully.

These are tough situations. As we talked about yesterday, we are trying to use our collective experience from around the lake to look at these issues and avoid the mistakes from the past by building flood resiliency into our watershed drainage system.

Sincerely,
Kevin Olvany
Watershed Program Manager
Canandaigua Lake Watershed Council
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