



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

Zoning Board of Appeals Meeting Agenda

Wednesday, September 23, 2020
7:00 p.m.

Meeting at the Town Hall with face masks and social distancing

Call to Order

Pledge of Allegiance

Minutes

Approval of April 22, 2020 Zoning Board of Appeals Meeting Minutes

Rules of Order

Old Business

New Business

Area Variance Application #2020-0012

Owner: Martin E. Gordon & Jill M. Gordon
Representative: Bill Grove, PE
Property: 6765 State Route 21
Tax Map #: 191.09-1-14.100
Zoned: R3 (Residential 3 Acre)

Area Variance Application #2020-0014

Owners: Gary N. Woodard and Patricia A. Woodard
Representative: Bill Grove, PE
Property: 6961 Co Rd 34
Tax Map #: 177.00-1-49.100
Zoned: R1 (Residential 1 Acre)

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, September 23, 2020

Present: Robert Bacon
Thomas Burgie
Carol Dulski
Jonathan Gage
John Holtz

Excused: Barbara Howard

Guests: Bill Grove
Martin Gordon
Gary & Patricia Woodard

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:03 pm followed by the Pledge of Allegiance. There was a roll call of board members with all present except for Albert Crofton.

Minutes

Chairman Burgie called for a motion to approve the April 22, 2020 meeting minutes. Robert Bacon made a motion to approve the meeting minutes, which was seconded by Carol Dulski. The motion was unanimously accepted by all board members present.

Rules of Order

Carol Dulski read the Rules of Order.

Old Business

Area Variance Application #2020-0014

Owners: Gary N. Woodard and Patricia A. Woodard
Representative: Bill Grove, PE
Property: 6961 Co Rd 34
Tax Map #: 177.00-1-49.100
Zoned: R1 (Residential 1 Acre)

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 #2020-0014 for property owned by Gary N. Woodward & Patricia A. Woodard located at 6961 County Road 34, Tax Map #177.00-1-49.100. The applicant/property owners are looking for 41.8 foot variance with an 8.2 foot front setback where 50 feet is required for construction of a 24 foot by 24 foot garage.

Said hearing will take place on the 23rd day of September, 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
Se 16
91550

Chairman Burgie: This is your opportunity to present your case. What do you want to do and why can't we do it in a different way without a variance.

Gary Woodard: As you have been out there to see it. Carol and Jonathan came out today. To put the garage where you see on the plan. As you go beyond that the lawn picks up significantly. There is probably a three or four foot fill that you would have to put in there to bring it up to grade. I would like to avoid that, if possible. I am in charge of the snow removal there too and by moving the garage 24 feet from that point towards the road then that would mean that the garage would cover part of the existing driveway. So that would reduce my shoveling to go up through there. Then you would still have room from the front of the garage towards the highway so you could park two vehicles there if you had to. So two in the garage and two behind you. You can have four vehicles there with no problem. That is what I am asking for to avoid building up that back part with fill and reducing shoveling activities. I might add we have been up there out of 59 years of marriage up there 45 years. So the whole dynamics of that valley has changed tremendously. When we moved in it was peaceful and quiet, now it has become. We still love the location and discussing what are we going to do in our older age. We would like to stay in the valley and our son lives right next door to us. He has been a great help. As a note he and his wife have been there 28 years. They have no problem with having the garage put there and Phelps Greene owns the church. He sent a letter here saying he has no real objection to it either. We would appreciate your consideration.

Chairman Burgie: One thing I am going to clarify you said it would take about three or four feet of fill. That is at the very front of garage if you were to move it back there. It drops off and continues dropping off so it would take a whole lot more than three feet of fill at the back of garage wouldn't it?

Bill Grove: It would. Yes.

Gary Woodard: Yes. It probably would.

Bill Grove: To put the garage at the setback line you are right. The front of the garage would need three or four feet of fill, but by the time you get to the back of the 24 feet you are probably going to need five or six feet of fill and then you would have to taper all that off. It is a lot more earth work involved to put it back there. The existing church building that is just northeast of Troy's house we measured that at 6.6 feet from the right of way line. It would be closer to the road than what Gary is proposing to do with his garage. It is very similar to Gary's house. It is a little bit further forward than Troy's house, but it is very much in the character of the neighborhood I believe.

Chairman Burgie: The right of way line versus the front of the garage where you intend to put it 8.2 feet from the right of way line. Is that right?

Bill Grove: Yes.

Chairman Burgie: The one concern that I have in hearing what you just said is parking cars in front of the garage. Eight point two feet puts your cars over the right of way line. Especially in the wintertime for plowing. That is going to be an issue.

Bill Grove: I see what you mean, but from the center line it is 42 feet back. So I guess if your concern would be a car parked within that space. It is allowed.

Chairman Burgie: Did you get what the required setback is from working with Phil?

Bill Grove: No. I got it from the code. I did not see a difference between principal structures and accessory structures.

Chairman Burgie: We will get into more discussion. I am just going to let you know that a question popped into my mind as you were going through this. There are four rod roads and three rod roads. State Route 21 and 64 are four rod roads. I believe County Road 33 and 34 are four rod roads. That means 33 feet from the centerline to the edge of the right of way. Not 25 feet. That is a three rod road.

Bill Grove: Okay.

Chairman Burgie: This is something I need to clarify from Phil. That is why I asked if you got this from Phil.

Bill Grove: No. I used the survey map to determine where the centerline and the right of way line were.

Chairman Burgie: Took that off of a survey map?

Bill Grove: Correct. Yes. The actual setback line being 50 feet from the right of way line.

Chairman Burgie: So you are going off of the right of way line.

Bill Grove: Fifty feet from the centerline would help. It would less of a variance request.

Chairman Burgie: If the right of way is based upon a 25 foot from the centerline versus 33 foot that makes a difference as to how far the cars would be parked off the road. That is where my question is going. If it is 25 feet from the centerline to the road to the right of way line and now you are building it 8.2 feet from the right of way line then parking a car in that 8.2 feet is going to be difficult and you would be parking it in the right of way. Part of it.

Bill Grove: Correct. Which is what they do now if they have more than two vehicles in that parking space. They would stack two and two behind it, but the two that would be behind would be partially in the right of way.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 9.23.2020 Approved

Chairman Burgie: Let's keep that for our discussion later. I am sorry I am getting off schedule, but I do want to make sure we address that.

Diane Graham: Do you need clarification if it is a three rod or four rod road? I can look on a map.

Chairman Burgie: He is going from a survey that shows the right of way.

Bill Grove: I believe that the right of way was not uniform through there, which is why it is an odd number.

Chairman Burgie: Same thing down in Woodville.

Bill Grove: You can see on the map the legal centerline does match the actual centerline of the road. You see how the road is offset further south than the centerline. That was right off of the survey as well.

Diane Graham: I was confused because I did not know what each line meant. There is no reference.

Bill Grove: Oh. Yes. I see what you mean. Sorry about that I can see why. I believe in general it would be a four rod road so it is 33 feet from each side of centerline.

Diane Graham: Then 50 feet from that.

Bill Grove: And 50 feet from that would be the setback.

Chairman Burgie: Basing it on a four rod road?

Bill Grove: Yes. Sixty-six feet is a four rod road?

Chairman Burgie: Yes. Sixty-six feet is a four rod road.

Bill Grove: Then yes.

Chairman Burgie: Which gives you more distance from the actual lanes of traffic on a four rod road than a three rod road.

Bill Grove: Yes.

Chairman Burgie: When we were talking about this, I do not know where that number came from. Where your right of way line came from. If it was a four rod, we do not have a double possibility of a problem here. That was my concern.

Bill Grove: Right. I understand. I do not think that a car parked outside of the garage would interfere with any kind of snow removal or any traffic at all. There is plenty of room there to not be even out the edge of the pavement, the edge of the shoulder.

Gary Woodard: We have had parties there in the winter time in the past with cars going up through and we have double, double cars. There is more shoveling, obviously. It has not really done any damage.

Chairman Burgie: Okay. Good. Thank you. The CEO is not here to explain the rationale for the refusal, but it is obvious it does not meet the setback requirement, therefore, a variance is required. How about visitation reports?

Carol Dulski: I was there this morning and talked to the gentlemen. He was showing me about the slope in the back and the amount of fill he needed. It is a lot of fill. I think I followed you Jonathan.

Jonathan Gage: I was there this morning too. Standing there Mr. Woodard and saying where the lines were on where the garage was going to be. You notice it is character with the surrounding area. His son's house on one side, his house on the other side and of course, there is the old church that Phelps owns down there that is way closer to the road. It is in character with it like we have found in other instances where we have reviewed variances before.

Robert Bacon: I will add Gary. I live up on Mosher Road and drive by there just about every day so I am familiar with the house. I did do a quick drive by on the way here. Noticed that the property does drop off substantially from your existing driveway. I question I know you have a pond back there. I would imagine that is fairly wet during the springtime.

Gary Woodard: Early in the spring yes and then it dries right out completely. It keeps moving on down the line.

John Holtz: I did not stop, but I have been to Gary's house before. Like you I drive by it almost every day. I am familiar. Years ago I remember when the Town Hall fell down. He was thinking of putting the garage over there, but now that he is getting to be an elderly gentlemen he probably does not want to walk as far to his garage.

Gary Woodard: It is my wife, not me. Thanks John.

Chairman Burgie: I also made a trip down there a week or two ago I believe. We had a long talk and he me exactly what he wants to do. That is a lot of drop off in the back there. To require you to move it all the way back there would require a whole lot of fill, settling and compacting on that hillside. I can see the difficulty in trying to do something like that. You are right. It is generally in character for the neighborhood based upon the houses on both sides and the old church there.

Anything else? The next thing we need to do is the SEQR status. We are required to look at any possible environmental impact. If it is a major impact then we would require a study of some type. Thankfully, the state has published guidelines that said a Type II action is already documented in here as it's not going to be a major impact, therefore, it does not require another study. Under paragraph 617.5 (c)(10) construction, expansion or placement of minor accessory appurtenant residential structures including garages, carports, etc. So it qualifies as a Type II action which requires no further study. We can close the SEQR report at that point. We just document that in our findings when we get to that point in the meeting.

Bill Grove: I do not know if you saw in the file, but we did get clearance from SHPO on any archeological significance to the site.

Chairman Burgie: And there wasn't any?

Bill Grove: Correct.

Chairman Burgie: This is where we open up the public hearing and allow any other interested parties to address the Zoning Board. So we will close the public hearing since there is not anything additional. Relate any public or municipal officer's documentation as appropriate to this case. We do have a letter, Diane?

Diane Graham: Two letters. Do you want me to read them?

Chairman Burgie: Please.

Diane Graham:

*Phelps Greene
6000 Co Rd 33*

To the Zoning Board,

Dear Board Members,

I am the owner of property at 6933 Co Rd 34. I have no objection to their proposed garage project given the topography of the property. I know that their request is appropriate for the long term stability of their garage. It will also be in character with the other structures in that area.

Sincerely,

Phelps (Phil) Greene

To Whom It May Concern:

This is to say we are in support of the variance requested for Gary and Pat Woodard. We have no concerns.

Troy & Lisa Woodard

Gary Woodard: They are immediately next to us. We are 6961 and they are 6947.

Chairman Burgie: We do have municipal officer's being the County Planning Board did submit their comments on this project. Just to synopsise here so we do not read everything in. Although we can make this part of the file. They do not give a recommendation based on this type a request. However, they do have two comments:

1. The referring body should require the applicant to locate garage at the setback line of other structures.
2. A highway work permit will be required for any work in the right of way or disruption of traffic flow.

I think that is obvious the second one, right? So if you are in the right of way or you are going to block traffic you will require a permit for that. We will document that. That will be required because they have made that recommendation here.

Comment #1– If I draw a straight line between the corner of your son’s house and your house, your garage is crossing over that. If I drew a straight line from the old church to your house it is not an issue. The old church is much closer than that. That is one thing that when we get to discussion we need to address that part of it.

Is there any others that I did not know about, Diane?

Diane Graham: I do not believe so.

Chairman Burgie: We open it up to discussion and debate period.

Robert Bacon: I have no further comments to make.

Jonathan Gage: Actually your son’s house is actually further forward than your house, right?

Bill Grove: The other way around.

Jonathan Gage: So yours is closer.

Chairman Burgie: He is five feet closer to the road looks like.

Jonathan Gage: How much of a difference would that make to line it up with Gary’s house?

Bill Grove: In grade, at the front of the garage none at the back of the garage it would require probably three times as much fill to move it back that far. Even a couple feet makes a pretty big difference in the amount of fill that would be required.

Jonathan Gage: What they are recommending there is the front of the structure?

Chairman Burgie: They are not being very explicit there. In line with other structures. There are two houses and an old church there. The old church is significantly closer. If his son’s house was five feet closer than it would not be an issue. It would be lined up.

Robert Bacon: If all of the homes were setback substantially from the road, it would become an issue. In character is somewhat of an open statement.

Jonathan Gage: Aesthetically the bushes in front of his son’s house would be more or less in line with the front of it if you took those into account.

Robert Bacon: That is true.

Chairman Burgie: I guess taking into account there are three structures in that area and it is back of the line between the two outside structures. His house and the old church. I am not overly concerned that the

son's house is a little bit farther back and causes it to be over that line, but it is in line with all of them personally.

Jonathan Gage: I concur.

John Holtz: In Boswell's corner area that part of town there are a lot of historic structures. As you drive from 33 towards 64, there are a number of houses that are pretty close. I think where he wants it is in keeping with the feel of the neighborhood.

Robert Bacon: I agree. Good job.

John Holtz: It would be nice if it was designed as an old carriage house or something with an historic look to it. I do not think we can.

Chairman Burgie: That would be an interesting condition wouldn't it?

John Holtz: It is the old stage coach stop right for Boswell's corner house is?

Gary Woodard: Yes.

Chairman Burgie: Is that right? I did not realize that.

Diane Graham: Where is the church located? Is it next to your sons?

Robert Bacon: It is east of the property.

Diane Graham: Wasn't that a Town Hall?

Gary Woodard: The Town Hall is located on the other side. We had purchased that and joined the historical society. We were trying to determine what we would do with that. My son and I got underneath with railroad jacks and put blocks underneath it. Trying to figure out if we could move it. Where do you get the money? In December of 2007 the powers above took care of it. There was a wet snowstorm. When I was reading the paper and drinking coffee in the kitchen. I looked and she had just come right down. We had to clear the debris. That structure was actually almost probably set back about where the church is. It was in advance of the front of our house. I could look out of our house and it was more towards the road.

Bill Grove: The survey map shows Gary's house here and this the old Town Hall building here. Definitely was closer to the road than Gary's house is.

Chairman Burgie: Any other discussion from anybody?

Finding #1

Chairman Burgie moved that this a Type II action under the SEQR regulations 617.5 (c)(10) construction, expansion or replacement of minor accessory appurtenant residential structures including garages, etc. I am going to stop there. There are other examples, but that is it. Are you getting what I am saying?

Diane Graham: I am, but I am confused.

Chairman Burgie: What are you confused about?

Diane Graham: I am looking at the 2020 Handbook and it says something different for that one. The 2020 SEQR Handbook that I gave everybody. It is saying nine and I could be wrong here. Construction or expansion of a primary or accessory appurtenant non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance.

Chairman Burgie: That is the non-residential?

Diane Graham: Yes.

Chairman Burgie: There is another one down further.

Diane Graham: I just pulled it up as a reference and looking at the number you said it says something else.

Chairman Burgie: Bear with us.

Diane Graham: Do you want me to give you my laptop?

Chairman Burgie: It has been reformatted. They have renumbered the paragraph here. This is paragraph 617.5 (c)(12) read the same way. Construction, expansion or replacement of minor accessory appurtenant residential structures including garages, etc. There are many other things in the list. Paragraph 617.5 (c)(16) granting of individual setback and lot line variances and adjustments. It falls under two paragraphs. Said motion was seconded by Robert Bacon.

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 by granting this area variance. Said motion was seconded by Jonathan Gage.

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 without significant additional cost. Said motion was seconded by Robert Bacon.

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. Said motion was seconded by Carol Dulski.

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 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Said motion was seconded by Jonathan Gage.

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 is not self-created. Said motion was seconded by Robert Bacon.

All in favor.

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

Nays: 0

Motion is carried.

Finding #7

Robert Bacon moved that the property topographical slopes away from the road and that would be the reason for substantial increase in the construction of a garage if it were to be moved back to the required setback. Said motion was seconded by Chairman Burgie.

All in favor.

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

Nays: 0

Motion is carried.

Finding #8

Robert Bacon moved that the construction of a new garage is within the character of the neighborhood and use reference to the old church being closer to the road than the current proposed garage. Said motion was seconded by Chairman Burgie.

All in favor.

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

Nays: 0

Motion is carried.

Chairman Burgie: Anyone else that would like to add to this? Do we need to make any conditions in this?

Jonathan Gage: Should we make one based on the Ontario County Planning comments where a highway work permit will be required for any work done in the right of way?

Bill Grove: That is fine. We do not anticipate any work within the right of way. Just to be clear. If we need to, we can get that permit.

Jonathan Gage: It says for any work in the right of way. If you are not in the right of way, you do not need to do it.

Bill Grove: Exactly. Yes.

Diane Graham: Do you still want that based on that wording exactly?

Chairman Burgie: Document the condition based upon that wording. They are not required a permit if they do not do work in the right of way. Let's make it a condition.

Condition #1

Jonathan Gage moved that an Ontario County highway work permit will be required for any work done in the right-of-way. Said motion was seconded by Robert Bacon.

All in favor.

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

Nays: 0

Motion is carried.

Chairman Burgie: Anything else? Then I would ask to have someone offer a motion to approve or deny the applicant's request.

Robert Bacon moved to approve the applicant's request for a 41.8 foot variance with an 8.2 foot front setback. Said motion was seconded by Jonathan Gage.

Vote of the Board:

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

Motion is carried.

Area Variance Application #2020-0012

Owner: Martin E. Gordon & Jill M. Gordon
Representative: Bill Grove, PE
Property: 6765 State Route 21
Tax Map #: 191.09-1-14.100
Zoned: R3 (Residential 3 Acre)

Robert Bacon: I would like to address a comment to Marty Gordon and yourself, Diane. I have a prior relationship with Marty Gordon in bicycling with the Honeoye Riders. I will be abstaining tonight from any voting.

Diane Graham: Okay.

Chairman Burgie: Barbara you will be primary now.

John Holtz asked about requirements for when to abstain.

Chairman Burgie replied if there is any possible perception of a conflict of interest then we should abstain.

Robert Bacon: I aired on the side of transparency.

Martin Gordon: I also know his son. I do not know if that matters.

Robert Bacon: My son is a New York State Trooper and Marty has done work with the New York State Troopers.

Bill Grove: It is tough in a small community like this.

Chairman Burgie: I do thank you for your patience in going second in this one because yours is a little bit more substantial that we need to talk about.

Martin Gordon: I appreciate your time tonight too. I know the majority of you came out to take a look at the property. I was teaching today online so I was not able to give rides down or meet with you so I apologize in advance.

Chairman Burgie: I do appreciate the pictures because that really does gives us a much better feel for the dilemma that you are in.

Diane Graham: Would you like me to read the notice?

Chairman Burgie: Yes. Would you please read the newspaper publishing?

Diane Graham: Yes.

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 #2020-0012 for property owned by Martin E. Gordon & Jill M. Gordon located at 6765 State Route 21, Tax Map #191.09-1-14.100. The applicant/property owners are looking for 24 foot variance with a one foot rear setback from the mean high water mark where 25 feet is required to construct a 725 square foot two story storage building and a 150 square foot deck.

Said hearing will take place on the 23rd day of September, 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
Se 16
91551

Chairman Burgie: Thank you. Here is your opportunity to put into words a little bit more that what we are able to read here.

Martin Gordon: Okay. Sure. I know you have a copy of the site plan and also the initial architect drawing for the building. I guess the first thing I would like to note is you can see in the darker photograph sort of the widest view. Our house sits up to the right of the photograph above the lake. What you cannot see it is a rather unique architectural design that would match what we are proposing. I am going to call it a day cottage. It is an accessory structure, but we want it for several different reasons: safety, storage and day use. I am going to start with safety because this sort of popped into my mind as I was walking in an incident that happened this summer. Our daughters were in town visiting. Some of their friends were

down at that dock area. We were having a good old time. We really did not pay attention to the weather and a thunderstorm rolled in over Gannett Hill. We were caught out in the open. It was a little bit scary. Had nowhere to go inside. Our house is a half mile up the hill. It sort of passed. I forgot about it until just before this meeting. I thought that is important because our house is about a half mile away. John, did you come down last night?

John Holtz: Yes. I walked it.

Martin Gordon: So you can attest to the distance. There is also a 200 foot elevation difference. My in-laws we drive them down in a side by side I affectionately call that our tram. This is structure that makes our waterfront usable. We do own 630 feet of waterfront. Again, you can see from that picture that it is pretty much undeveloped. The building you see on the water all the way to the left is the Standish property. That's a house that is right on the water. Then you have next over is our existing dock on this side of the proposed project. Over to the right you can see our next neighbors dock, Brovitz. You can see peeking through the trees their house. Their house is actually below ours on the cliffs. There is a letter I think you have from Kevin Olvany that mentions some things related to what we have now and also what his recommendations are. We currently have a foundation and first floor of a collapsed boat house. It is still a structure. It still has the first floor structure and foundation. There is also a small storage shack that is rotting away. Both structures were nonconforming. They were within 25 feet and not too pretty. I first met Mary Standish this past weekend and mentioned that she would love to see something look better down there because from her view they look right at our junk basically. We would like to make her happy. I do not think we are changing the character of the neighborhood because there is the Standish house already on the water there. We are not going to be interfering with anybody's view. There are very steep cliffs there. We would actually be improving the look of the shoreline on that stretch. It is undeveloped and we would like to keep it that way. In Kevin's letter we could feasibly put up a boat house that has a larger footprint than what is already there. Honestly, we do not need a boat house. We need someplace that we can get inside of, use a bathroom and use for storage. We would be willing to forego or and give up our rights to ever build a boat house on our parcel.

Chairman Burgie: What would you say because of steep slopes you would be authorized a boat house and accessory structure.

Martin Gordon: Yes. A boat house and accessory structure. It would have a larger footprint than what we are proposing for this day cottage, storage building.

Bill Grove: That is the conversation I had with Kevin Olvany was that if they wanted to if they used it as a boat house it could be beyond the mean high water line shore side of it. It could have a larger footprint than what we are proposing. It could house two slips, two boat doors and room for two boats in it. What we are asking for is smaller than that using basically the footprint.

Martin Gordon: Three bays along the shoreline.

Bill Grove: Okay. Initially we had submitted a plan to the Town to build this structure exactly on the footprint of the old boat house. The problem with that was the old boat house hung over the mean high water line by a foot and a half at one corner. I think Marty has a picture of the boat house foundation structure.

Martin Gordon: It is the last picture with the picnic table and kayaks.

Bill Grove: The idea was we would just build it on that same footprint at a higher elevation and on piers. The piers would be setback, but the front of the structure where it overhung would meet that same front line as that existing structure. When we submitted to Phil there was some discussion at the Town, Phil said we cannot let you do that because the variance that you are asking is for a negative setback. It is different than asking for a variance because we were actually over onto property that was not ours. It is lakefront, but it was over the property line. What we did is pulled it back two feet. Were now at two and half feet so that we would be one foot behind the mean high water line with the new structure. We would accomplish that by doing a little bit more regrading in the back to give us room. We would have like to use that exact footprint, but instead we decided to go the route of asking for the variance of one foot where 25 feet is required. The other thing to note is there is no other area buildable at the shoreline. There is no way to meet that 25 foot setback requirement. The site plan I submitted to you tonight shows that 25 foot setback line. The previous version didn't. I am sorry that I did not have that on there. That is the one change that I have on that plan I denoted the 25 foot setback. If you can compare that topography, John you were down there, it is a sheer cliff right to where it is flat. That is the only really usable area is to take advantage of the area where the existing structure is. In addition we would propose to take down the shed or shack that is there, the walkway and the small footbridge that goes across. The footbridge would be replaced by one that is further back from the shoreline behind the shed.

Chairman Burgie: I am getting a little bit confused by the definitions here. He said that the Town could not give a variance putting the building that you want to do over the existing footprint because it crosses over the mean high water line. That is a true statement because any time construction crosses the mean high water line the Town code does not take precedents any more. If it crosses the mean high water line, then the Docking and Mooring Law takes precedents, therefore, you would not be asking for a negative variance from us because our code would no longer take precedents. The Docking and Mooring Law would take precedents. What you said was you could actually put a larger structure than what you are requesting over the water.

Bill Grove: That is my understanding based on the Docking and Mooring Law. If it were an actual boat house, we could be larger than the footprint we are requesting.

Chairman Burgie: A boat accessory structure rather than a boat house?

Bill Grove: Boat house specifically. A boat accessory structure, in my understanding, is that the size of that is limited to a 120 square feet. It can also be within the setback, but we are limited in size to the 120 square feet, which would not give them enough room for what they want to do with it.

Chairman Burgie: Each permitted dock shall not exceed 720 square feet, any appendage shall not exceed an area of 256 square feet. This is steep slope. Did Phil say this qualifies as steep slope?

Bill Grove: Kevin said that it did. Yes. They both did.

Chairman Burgie: It did. One boat accessory structure as long as there is no existing boat house or existing building on the adjoining line within 60 horizontal feet from the mean high water mark. One boat accessory structure an additional 200 feet of dock space that is allowed 120 square feet of boat accessory

structure plus 80 square feet of dock equals 200 square feet. If it was a boat house you said that structure could be larger than what you are trying to build, but you couldn't build this structure on the water side of the mean high water line. This structure would not be considered a boat accessory structure or a boat house.

Martin Gordon: That is correct.

Chairman Burgie: This would be much more encompassing than a boat accessory structure. It is definitely not a boat house.

Martin Gordon: I think where Kevin got involved being the Watershed guy he was talking about impervious area.

Chairman Burgie: Oh yes.

Martin Gordon: I think that is what we were trying to address with him was the impervious area could be much larger if we went with a boat house versus an accessory structure behind the mean high water mark.

Chairman Burgie: A boat house built over the land do you mean or over the water?

Martin Gordon: A storage building like we are proposing built where we are proposing.

Chairman Burgie: An accessory structure?

Martin Gordon: An accessory structure.

Chairman Burgie: A boat house would be over the water.

Martin Gordon: Yes.

Chairman Burgie: There is nothing impervious to be considered there because it is over the water. It is just draining out into the water.

Martin Gordon: Not in our shoreline because it is very shallow there. It goes out very gently. You can see in one of these photos that there is actually rails. The last picture if you look to right of the picture there are two steel rails.

Chairman Burgie: Oh, I see.

Martin Gordon: The boat house would be over the water. It would be over the mean high water mark a little bit. Most of it would be behind.

Chairman Burgie: I see.

Bill Grove: I think what Marty is trying to say is the reason that we reached out to Kevin is for his opinion of the project is when the project went to the County Planning Board one of their comments was that we had to get input from Kevin for storm water runoff. I sent him a copy of the plan with a note can you please review this. It is a net decrease in impervious surface over the existing conditions. The Board

will need some input on this. Kevin called me and we talked about the project and in depth about the Docking and Mooring Law because it my understanding he helped write that when it came about. The intention was for that was more for to facilitate navigation. If you are going to have a structure like this they would like to have it be needed for boat storage as a boat house. I brought up the point that kayaks are boats, rowboats and stuff like that will be stored there. That is not the intent that people think of a boat house as kind of what was there before with the rail system. Where you had a rail system pull your boat up on the cradle and wheel it in. He would not get the use out of that so we are trying to get Marty what he would like at the shoreline in a way that makes sense. Personally, I do not think it is over development given that he has this spit of land that sticks out there. The one spot where a building can go and the remainder of it is basically undevelopable as it is.

Chairman Burgie: I would have to agree with you from an aesthetic standpoint over development, but when he did comment of this drainage from the roof that affects the entire lake.

Bill Grove: Yes.

Chairman Burgie: We need to be careful of that and that is part of the over development also.

Bill Grove: I understand. In reading Kevin's comments I think we talked about doing a dry well type of system for the runoff. Honestly, it is all shale. Any water that hits there is going to soak right in. There is no soil there to speak of. It is all shale beach. Controlling that roof runoff is not going to be tricky at all. We have plenty of room to put leaching chambers or a dry well type scenario there. I think that became kind of a minor detail in the note from Kevin. I know he talked about that if there was not a pre-existing non-conforming structure there that he recommended that you do deny the various request. Since there was a building there and part of that building still remains, the structure is still there that it is not as bad of a request as it may seem when you first look at it. A one foot setback where 25 feet is required is pretty substantial in my opinion. The fact that there was already a structure there and I went back in time on Google Earth at imagery back to 2017 it was still there. Sometime between 2017 and before Marty purchased it. It came down in a snow storm.

Martin Gordon: The other interesting thing is we are calling the old building a boat house, but in fact it was more than a boat house. It had a party deck on top and some other features. It was sort of a hybrid boat house. I think that is one of the reasons it collapsed. It had a flat roof and the snow load crushed everything.

Chairman Burgie: It was also used as a boat house with the rails going into it?

Martin Gordon: Yes.

Chairman Burgie: Okay. Interesting. We are going to have a lot more discussion as we go through here. We know why the CEO refused the permit because it does not meet the 25 foot setback requirement. Visitation reports: I have heard a little bit about it. I did not get a chance to go down there. I apologize. I appreciate the pictures you sent because it gives me a much better feel for it.

Bill Grove: Can I back up to the last comment you said about Phil denying the application? It is true that he did, but it is my understanding if it were an actual boat house that it could not be built there. I want to make sure.

Chairman Burgie: It is larger than what you are trying to do is what you are saying?

Bill Grove: Correct.

Chairman Burgie: If it were a boat house?

Bill Grove: I do not want to beat that to death. That is the crux of it.

Chairman Burgie: Visitation reports?

Jonathan Gage: If I understand it correctly, is this one foot over the mean high water mark a big thing with the Docking and Mooring Law? If it is, so when you made your original plan one foot does seem a little like not that much to change your plans in reducing the building one foot to accommodate that or was that not something you were aware of?

Martin Gordon: We did change the plans to move it back.

Jonathan Gage: Right. It went from 18 inches to 12 inches. Could you of moved it back to 18 inches and then this would be a moot point.

Chairman Burgie: They moved it back two and half feet. It is not the 18 inches over on the water side of the mean high water line. It is a foot short on the land side of the mean high water line.

Bill Grove: It is confusing if you look at the plan. There is a honeycomb grey area that is the footprint of the old structure and because South Bristol is unique and does not count overhangs against you in setback. The front overhang of the roof would extend out to the mean high water or beyond the mean high water line. Per your code the actual dimension that we are measuring from would be back from the mean high. It does get a little confusing with all the lines overlapping at the same point there.

Chairman Burgie: Do you know whether or not the overhang potentially going over the mean high water line is addressed in the Docking and Mooring Law? I am not familiar with that.

Bill Grove: I do not think it is.

Chairman Burgie: If that puts us in the Docking and Mooring Law then we cannot consider a variance. We need to make sure that is not an issue.

Bill Grove: It is not considered part of the structure per your Town code. I wouldn't say it doesn't exist obviously it will exist. If that were not a lake front parcel and you were at the town side setback line you are allowed a two foot overhang over that line it does not count towards anything. You are one of the few towns that does not include overhangs into setback requirements. Maybe the only one I have worked in.

Chairman Burgie: That is why I am want to make sure we do not get in the cross purposes with what is in the Docking and Mooring Law because we do not control that. I think you are probably right, but we do need to just verify somewhere along the line. They do not stop you from having the overhang go over it because the variance will not give you permission to do that, should we grant it.

Bill Grove: Okay.

John Holtz: Let me start by saying Jill is in much better shape than I. Walking that slope is not joke at all. He left and I could not get the fancy ride down. She said we can go this way or the steep way. I think we went the steep way. The things I thought about when I got down there was that gully coming down there. We have these 100 year storms every five or six years and I did not know if, I know you cannot predict anything, all those roads the steepness for logging roads you have to have spots to run the water off. I can see a whole bunch of stuff shooting down on that shale beach area. It might give you more land as it grows through the years. I do not know what you do about that. Those are things I noticed when I was down there. Is the structure going to be on piers?

Martin Gordon: Yes.

John Holtz: So if the water if it does get high, it would be going under the structure.

Martin Gordon: Goes right under. Yes.

John Holtz: The one tree, which is not in good shape is going to come down next to the storage shed you have there now. In talking with Jill taking that shed and walkway down and then condensing the footprint of the existing structure into the new structure it is almost a wash of square footage just looking at it as far as what is down there. The walk back up was ten times worse than the walk down.

Martin Gordon: She said, you did good though.

John Holtz: We had to stop three times I guess. I pretended I was enjoying the view catching my breath.

Bill Grove: The existing bridge and walkway that are there is not much clearance for the water to get underneath of it. There has been a bunch of debris that has collected down there. The intention of the new bridge is to give clearance for that debris to wash out and not get stuck in there. The bridge that is there has not washed out so I figured by increasing that I have raised it up two and half feet higher than what the existing bridge was to allow more water debris to go through there. As far as the water coming down the path, I do not think they really get much because it is so permeable. The fractured shale can take so much.

Martin Gordon: Have you ever seen the manmade curbs, the raised part?

John Holtz: Yes.

Martin Gordon: It just washes that away and goes down.

John Holtz: Okay.

Martin Gordon: It has never flowed entirely over that sort of shale area at the bottom into the creek.

John Holtz: Oh really.

Martin Gordon: It flowed over the edge into the lake. Not to say it would never do that. That is why we have the building on piers.

Bill Grove: From the deck that is there now on the existing structure it will be five feet higher. It is not a little bit. It is pretty significant. Space there for the water to get through. You say oh it has never happened, but in my opinion it probably will at some point be logged in there. The water will find a way around there. We do not want it to be coming through the house. We want it to go underneath.

Martin Gordon: We used the 1,000 year floodplain not the 100 year floodplain. We did. I remember asking you to do that.

Bill Grove: Your architect yes.

Martin Gordon: Oh okay.

Chairman Burgie: Anything else on visitation?

Bill Grove: Jonathan brought up the point it basically being a wash in structure size. It is actually a slightly smaller square foot of surface area. If the variance is granted and the building is built, the deck and the shed come off even including the bridge it is smaller footprint than existing.

Chairman Burgie: The dock you are leaving there, is that right?

Bill Grove: Yes. The dock is going to stay as well as the little walkway that connects the dock to the foundation that is there now, correct?

Martin Gordon: Yes. I do not know if you want some guidance on the other photos? There is a photograph with a red circle on it. That is our house. Down on the lower left hand corner is the gold and yellow rectangular area. That is what we are proposing. The faint red line in the water that is the extent of our shoreline.

Chairman Burgie: Okay. It is showing how long the shoreline is.

Martin Gordon: The junk that you see all the way to the left is zombie property.

Diane Graham: Is this including the triangle piece on the other tax map?

Martin Gordon: Yes.

Jonathan Gage: So you are saying that is unknown the zombie property?

Martin Gordon: We know the owner Cherniss, but apparently he has not paid his taxes. There was a bunch of junk in the lake that just got pulled out. I just pulled a bunch of plumbing out of there from his water intake. It is just a mess. I had a conversation with Standish to see how we could possibly clean it up.

Jonathan Gage: I must say though from all these pictures it would be very difficult to determine where the trail goes from the house.

John Holtz: It goes straight down.

Martin Gordon: There is a longer way that is not as steep.

John Holtz: Oh. Yes. The scenic route.

Chairman Burgie: Shall we move to the SEQR or is there more discussion?

Bill Grove: If I could just add that if there were a way to accomplish this without asking for a variance of this significance we would do it. There is no other way to build what Marty wants down there that would meet the setback. We looked at different options as far as turning the building and doing it long and skinny along the base of the cliff. We would still need a significant variance to even do that.

Chairman Burgie: Pretty significant, but less than what you are requesting?

Bill Grove: It would not match architecturally.

Martin Gordon: We are putting a retaining wall behind there as part of the project to keep the shale from sliding down onto the house. That is part of the reason for the deck behind the house to catch any of that scree that comes down. If you had a longer structure you would be asking for more rocks coming down from the steep slope crashing into the structure.

Bill Grove: There would be an option to do it, but it would include significant excavation of the steep shale bank to get there. It turns what is already a difficult project into a near impossible project. I guess with any amount of money things are doable.

Chairman Burgie: Sure.

Bill Grove: This is not one of those properties.

Chairman Burgie: It is not anybody's intent to bankrupt you in the process of doing it.

Bill Grove: Thank you.

Martin Gordon: Thank you.

Chairman Burgie: Are we ready to discuss SEQR? No last thing you want to add?

Bill Grove: Oh, I will find something.

Chairman Burgie: This does qualify as a Type II action I believe. Diane, please back me up on the paragraph number. There is 617.5 (c)(12) I believe what we just decided is "*Construction or expansion of a primary or accessory appurtenant non-residential structure or facility involving less than 4,000 square feet...*" This is a non-residential. This is not twelve. That was the garage one. This is what paragraph?

Diane Graham: Twelve says "*Construction expansion or placement of minor accessory appurtenant residential structures including garages, carports, patios, decks, swimming pools...*"

Chairman Burgie: That is not what we are talking about. I am looking for the *“Construction or expansion of a primary or accessory appurtenant non-residential structure or facility involving less than 4,000 square feet...”*

Diane Graham: I think that was nine. Yes. Nine.

Chairman Burgie: I believe 617.5 (c)(9) is applicable. We will need to read that and 617.5(c)(16) *“Granting of individual setback and lot line variances...”* Those are the two. Am I right?

Diane Graham: Yes. Sixteen was the one you used before.

Chairman Burgie: Those are the two that place it into a Type II action, which requires no further study. However, there are two issues that came up. One, we received some information on the eagle habitat and what I have read here is that the DEC is going to require a permit, but that is not for the eagle. That is for construction on the shoreline.

Bill Grove: They consider it incidental intrusion. You are right. The DEC requested that if we get approval for it that we apply for the joint permit with DEC and Army Corp of Engineers. Even though our the bulk of the disturbance will be behind the mean high water line, it was their recommendation that we get it just because of any incidental disturbance below the mean high water line. I think that is a reasonable request.

Chairman Burgie: This is going to require a permit from another agency is the point.

Bill Grove: Correct. Yes. DEC and Army Corp. It is a joint permit application.

Chairman Burgie: Ontario County Soil and Water involved in that also?

Bill Grove: They would not be. Not typically.

Chairman Burgie: No. So that is one of them. The eagle we have received feedback from the Federal Wildlife Service that says you fill out a self-questionnaire.

Bill Grove: Isn't that interesting. That was the first time I have been through that. I reached out to Tom Wittig at Fish and Wildlife Service. He sent me the link to fill out the Northeast Bald Eagle Project Screening form, which is a PDF that you check the boxes that apply to your project and then sign it. That is their coverage that you going to follow the proper protocol with dealing anything.

Chairman Burgie: There is not any approval process for that?

Diane Graham: Do they need a copy of that?

Bill Grove: They do not need a copy.

Martin Gordon: The process is basically fill this out and you keep it. If they ask for it, you supply it. You do not need to submit it.

Chairman Burgie: We get feedback from the DEC.

Bill Grove: We did get feedback from DEC that will not require a permit.

Chairman Burgie: Will not require a permit.

Bill Grove: For eagle impact. Correct.

Chairman Burgie: Good. We are set with the eagle impact. How about archeological?

Martin Gordon: In the letter there was no historical or archeological significance.

Chairman Burgie: Do we have something that says that?

Bill Grove: We have the clearance letter from SHPO.

Diane Graham: Yes. I am looking for the date. On June 24, 2020 we received a letter from the DEC. They combine it now with archeological and/or historic. Saying "in their opinion that no properties including archeological or historic listed will be impacted by this project."

Chairman Burgie: Okay. So we will document this as a Type II action with no further study is required for SEQR when we get to the findings. Any discussion on this?

I will open the public hearing. Since it is kind of dark behind you. I will close the public hearing.

Relay any public or municipal officer's documentation as appropriate to the case. If I remember right we did receive a letter from someone that supports this project, is that right or not?

Martin Gordon: I spoke to Mary Standish. She would be willing to send an email. My neighbor across the street Greg Pratt also said he would support it. I do not know if they sent letters.

Diane Graham: I do not recall receiving anything.

Chairman Burgie: So nothing there. The only municipal officer's documentation that is necessary is the minutes from the County Planning Board. Their findings are all boiler plate. They are going to recommend basically denial on any case like this just because of potential hazard I think. They make that pretty clear in their eight findings here. They do recommend a denial which then puts us in a different category. If we were to grant this variance, it takes a super majority. So it will take majority plus one. It takes the four out of the five to vote yes. We need to address each of their comments why they are recommending denial.

- 1. The referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot.*

That is state law anyway and prior court cases have said we grant minimum necessary as long as it is consistent with the rest of the requirements having to do with undesirable change and adverse impact and things of that nature, which we will document here in a moment.

- 2. What provisions have been made for treatment of storm water for the increased impervious area?*

That is where I think where we get into they had recommended. Based upon other cases we are getting we recommended that you contact the watershed manager and get his input into it. I believe he is saying he would suggest a couple of drywells for the roof run off that could be placed in the shale shoreline. You have already said that would not be a difficult thing to do.

Bill Grove: Correct. Yes. It is a good idea.

Chairman Burgie: That would be a condition that we would probably want to specify to make sure that does happen.

3. *What is the height of the proposed addition?*

They are not taking exception to it. They are just asking the question.

The area variance application indicates it provides street level entry and living space, which suggests it attaches to the upper level of the existing cottage.

There is no existing cottage. There is no street level to come into. I am not sure how we would address.

Bill Grove: My feeling is they got so used to doing the boiler plate they just continued the boiler plate on to some other application. I said to Phil well maybe the recommendation of denial was also not for us, but I doubt that.

Chairman Burgie: It would be nice to think that way, but I doubt that is true.

Bill Grove: You know me. Give a little bit and I will take a lot. We are not over height with the structure. I think that is a question I can answer. For a height we could be at 35 feet. We are about 20.3 feet from average grade. We are almost 15 feet lower than what we could be with a structure there.

Diane Graham: Did you say 20.3 feet?

Bill Grove: Yes. Twenty point three is the proposed height above finished grade.

Chairman Burgie: Generally that height limitation gets down to the scenic view. People would be driving by on the street. You are so far below looking at anything other than on the lake. That is not going to be a factor anyway.

Bill Grove: Yes. I understand. As far as the rest of the comment number three about it providing street level entry and living space attached to the upper level of the existing cottage. I do not know how to answer that.

Chairman Burgie: We can make a finding here to address that and say there is no existing cottage. Not applicable. I do not think that is a big issue.

Martin Gordon: There is no street either.

Bill Grove: Right. Initially I read it and thought maybe they were considering that foundation as the existing cottage and we are coming in at a higher level, which is partially true. If we are able to get the approvals, it will be built higher and we will come in at first floor level, which will be higher. The more I thought about it, the more I realized that I do not think that counts.

John Holtz: Didn't we say you are decreasing the impervious?

Bill Grove: Yes. That is the other point. That is a small decrease.

Chairman Burgie: It is still a good comment to put a couple of drywells to decrease the potential runoff even more.

Bill Grove: Easily accomplished.

Chairman Burgie: To make sure everybody is comfortable with this.

Bill Grove: Right. To answer your question about the square footage. It is a smaller square footage. It is eight square feet smaller. It not a significant amount. It is slightly smaller.

Chairman Burgie: Any other municipal officer's documentation that I do not know about, Diane?

Diane Graham: I do not believe so other than the eagle and SHPO, which you already addressed.

Chairman Burgie: Then we open it up for Zoning Board of Appeals discussion. One thing that I would like to ask and this goes to minimize the variance. We are obviously going to have to for you to be able to do anything you have to have a variance. That does not mean we have to approve it. It means for you to do anything you have to have a variance period. Minimizing the variance I read this a few times a two story storage building. This is a house without bedrooms, I think.

Martin Gordon: A day cottage.

Chairman Burgie: It is a day cottage.

Bill Grove: The nomenclature is probably more my fault than anybody's because we did a very similar type of structure on Old Post Road. I took a lot of the notes from that. They called that a storage structure. That met the 25 foot setback requirement. It was a two story day cottage essentially. We called it a storage building there. Accessory structure would probably been more appropriate or call it a day cottage. We got approval for the other one so I figured we call this the same thing because it is essentially the same thing. It will store things in it.

Chairman Burgie: I know. In the second level, right? In the loft? The question I have in looking at it is the screen porch is how deep?

Diane Graham: A 150 square feet? No, not that one. That is the deck.

Bill Grove: Ten feet.

Chairman Burgie: It is a ten foot deep screened in porch. That is an additional ten feet of a variance over the cottage itself. The interior portion of the screened in porch. Is there any possibility you looked at putting the screened in porch on the north side of that where it does not come so close to the mean high water line? I understand the architectural issue, but we are still required to grant the minimum variance required to do the project. What would it do to you to say that is a big screened porch that is requiring a lot of variance to do that?

Martin Gordon: I think it would change the architectural style of the building. You would end up seeing the side of the building. We are also putting the deck where there is a view. If you turned it 90 degrees then you are looking at the side of a hill. Half your view would be the side of a cliff.

Chairman Burgie: From this illustration?

Martin Gordon: I think the southeast view is the best indication of that.

Bill Grove: Do you have the architectural plans or just the site plan?

Diane Graham: They have the architectural.

Martin Gordon: It is page A-9.0 the 3D southeast view.

Carol Dulski: The last page.

Martin Gordon: Yes. Last page. So if you were to look at the southeast view, which is the fourth view out of five. You notice there is a big cliff on the left as you face the front of the house you are suggesting putting this deck over to the right. Over to the right is the gully. There is that big shale cliff you would be staring at. Adjacent to the bridge there.

Bill Grove: The south side would be basically the same thing.

Martin Gordon: South side would be the same thing. There is also a safety thing. Do we want to be sitting where you are not protected from stuff coming down that steep hill? Stuff does come down that steep hill.

Chairman Burgie: Are you going to iron plate the west side to protect the day cottage?

Martin Gordon: We are going to have a retaining wall. There is a clean out behind the retaining wall. Theoretically it should catch stuff. I do not trust that like a boulder or log rolling down and crashing into that porch that is now on the side as opposed to front where it is the most protected. It is a matter of safety as well where we put that. We do realize we to be unobtrusive as possible that explains the height. We kept it very low. Tried to keep the minimal footprint. Tried to make it meet the character of the land. Not only the neighborhood, but the land too. Going to back to the style of our house up above, the architect is a guy by the name of Don Hershey who was a locally famous architect who studied under Frank Lloyd Wright. He wanted to have the house to be part of the land. That is one of the reasons you cannot see our house until you are out into the lake a little bit. We wanted to have that same thing down on the water. We wanted to positively affect not negatively affect.

Chairman Burgie: Other discussion?

Carol Dulski: I have a question about the silt fence? Is that included on the map somewhere?

Bill Grove: It is the black line across the front of the structure. There are two parallel black lines with boxes.

Carol Dulski: By the screened porch that we were talking about?

Bill Grove: It is on the site plan.

Carol Dulski: Oh got you.

Bill Grove: Below the disturbance to catch any kind of silt. Honestly, there is not going to be any on a site like this because it is all shale. You are not doing any major excavation. The foundation of the structure is going to be on piers. They will be either drilled or driven. There is not going to be a chance to have a lot of mud washing off from anywhere. There will be no mud to be seen anywhere near that.

Chairman Burgie: I knew that this was going to take a little bit more discussion than the other one. Is there any debate or questions?

John Holtz: So you are on piers, but you are sealing that up. I thought it was going to be open.

Bill Grove: Yes. What are you going to do? I had that question.

Martin Gordon: Open slats.

Bill Grove: Okay.

John Holtz: So if there is debris coming you want that to be caught by those things?

Martin Gordon: No. They will probably get broken off, but that is okay.

John Holtz: With high water you do not want it to go under...

Bill Grove: There will be gaps in the slats so the water can flow right out.

Martin Gordon: If there is a big enough flow the slats can get destroyed without destroying the house. This is a similar design that they would down in hurricane zones.

John Holtz: Okay.

Martin Gordon: When a storm surge comes in it goes under instead of over or through. That is why we selected the pier design because we do have the gully right there.

John Holtz: Sure. Yes.

Martin Gordon: Does that answer your question?

John Holtz: I was just wondering when I was talking to your wife and she said it was going to be on piers. I had a picture of hurricane houses are up like ten feet. Hopefully it goes underneath.

Bill Grove: It is one by eight cedar.

John Holtz: Is that just for aesthetic reasons?

Martin Gordon: For aesthetic reasons. Yes.

Bill Grove: And security too. The front of it will have a set of doors that will insulate the storage that is underneath.

Chairman Burgie: Anyone else? Okay. We are done with discussion and debate. It is now time to determine findings.

Finding #1

Chairman Burgie moved that this is a Type II action under SEQR paragraphs 617.5 (c)(9) "*Construction or expansion of a primary or accessory appurtenant non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and is consistent with local land use controls...*" and 617.5 (c)(16) "*Granting of individual setback or lot line variances...*" Said motion was seconded by Jonathan Gage.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

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 by granting this area variance. Said motion was seconded by Barbara Howard.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

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. Said motion was seconded by Carol Dulski.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard
Nays: 0

Motion is carried.

Finding #4

Chairman Burgie moved that the requested area variance is substantial. Said motion was seconded by Barbara Howard.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard
Nays: 0

Motion is carried.

Finding #5

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

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard
Nays: 0

Motion is carried.

Finding #6

Chairman Burgie moved that the alleged difficulty was not self-created. Said motion was seconded by John Holtz.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard
Nays: 0

Motion is carried.

Chairman Burgie: We need to address specific things from County Planning Board's recommendation. *"Referring body is encouraged to grant only the minimum variance necessary to allow reasonable use of the lot."* Since there is no other place you can put it and you are back as far as you are I do not think you can build a structure with less of a variance than what is being requested.

Finding #7

Chairman Burgie moved that the minimum variance to accomplish this project and allow reasonable use of this lot is a 24 foot variance with a one foot setback. Said motion was seconded by Jonathan Gage.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

Nays: 0

Motion is carried.

Chairman Burgie: Their second comment that we need to address is “*What provisions have been made for treatment of storm water for the increased impervious area?*” The recommendation from the Watershed Manager, Kevin Olvany is “*A couple of drywells for the roof runoff that can be placed right in the shale shoreline.*” Let’s make it a finding that we have made a condition.

Finding #8

Chairman Burgie moved that pursuant to Kevin Olvany’s recommendation a couple of drywells for roof runoff will be placed right in the shale shoreline.

I do not know how to do that. We have to have the finding, but we also have to have the condition.

Diane Graham: So are we doing a finding first and then the condition second?

Chairman Burgie: Yes.

Diane Graham: So the finding is that was noted by the County.

Chairman Burgie: And a condition has been stipulated.

Diane Graham: A condition is that you want it to be placed.

Barbara Howard: Impervious? Is it up or down?

Bill Grove: It is down, but I still think it makes sense to put drywells in there.

Diane Graham: So how many are we talking?

Chairman Burgie: Two.

Bill Grove: It depends on the gutter configuration. It may be just one or maybe one on each side.

Chairman Burgie: Since they recommended couple. I am going to suggest we make a condition that there be a minimum of two.

Bill Grove: Fair enough.

Chairman Burgie: Alright?

Bill Grove: Probably will be easier anyhow.

John Holtz: So I know what I am voting on can you tell me what that is?

Bill Grove: The shed roof off the front porch and there is one off the back so we will gutter that on each one and run them to at least two drywells in the shale. My preference would be to use the infiltrator chambers that use like for septic systems. They make larger ones. We will the infiltrator chambers that our designed for storm water and put it into that. So it will pipe into and leach out into the shale underneath.

John Holtz: We just had a discussion that those roads are all shale and they just suck the water up. This is basically the same thing. Now we are saying that we need.

Bill Grove: I guarantee they will work.

John Holtz: Okay.

Bill Grove: It will accomplish the infiltration of the storm water from the roof runoff.

John Holtz: So this is kind of overkill, but airing on the side of lake protection?

Chairman Burgie: That is correct.

Bill Grove: Yes.

John Holtz: Okay. I wanted to know what I am doing.

Diane Graham: So the finding number eight and now this condition are both made by Tom do I have a second.

Chairman Burgie: Let's back up because it is getting confusing. We are going to do a condition in a minute. It is not part of this right now. Let's make this finding number eight we are addressing the concern for treatment of storm water for the increased impervious area by making a condition, which is consistent with the Watershed Manager's recommendation.

Barbara Howard: Is the impervious area an increase or decrease?

Bill Grove: It is a decrease.

Barbara Howard: That is what I thought. It is a decrease.

John Holtz: Right.

Chairman Burgie: What is that?

Barbara Howard: The impervious area.

Bill Grove: Maybe say although it is a decrease...

John Holtz: Can we just strike the word increase and just say the impervious area?

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Chairman Burgie: Oh yes. I see what you are saying. An increase pervious area, decrease in impervious area. Is that right?

Bill Grove: We are decreasing the impervious. Right. Taking it this much and making it 80 square feet less than the existing.

Barbara Howard: We do want to address it with the County. So you do not want to say you were wrong. The provision made is for the impervious area. Whether it is an increase or decrease they are still going to do it.

Bill Grove: Possibly you can make that a condition be that we satisfy the Planning Board. We have to go back to the Planning Board to get approval on site plan.

Chairman Burgie: You are going to have to satisfy the Planning Board anyway. We do not need to make a condition of that.

Bill Grove: I mean the storm water aspect.

Chairman Burgie: They may specify something more assertive than we are. We cannot guess about that. You are going to have to satisfy the Planning Board to get approval for the site plan. They are just waiting to see if we are going to give a variance. Then they will approve or tell you to do something else with the site plan.

Bill Grove: Understood. Yes.

Diane Graham: We are still on finding eight.

Robert Bacon: We have not voted on it.

Diane Graham: I have Tom, but I do not have a second. There was confusion whether we were saying increased or decreased.

John Holtz: We are just taking that word out.

Barbara Howard: We are just saying for the impervious area.

Diane Graham: Okay. Who is the second?

Said motion was seconded by Carol Dulski.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard
Nays: 0

Motion is carried.

Chairman Burgie: Maybe we should make a finding number nine. They ask what the height is of the proposed addition. What is the total height?

Bill Grove: It is 20.3 feet.

Finding #9

Chairman Burgie moved that the height of the proposed structure is 20.3 feet. There is no street level entry. There is no existing cottage to build over. Said motion was seconded by Jonathan Gage.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

Nays: 0

Motion is carried.

Robert Bacon: I think we may want to suggest you add two other outside board's findings. The DEC and Army Corp of Engineers and the eagle.

Chairman Burgie: We read this into the minutes already.

Robert Bacon: So that is covered then.

Chairman Burgie: Yes. That is covered. We have

Bill Grove: About the permit we would need to get?

Chairman Burgie: The permit.

Bill Grove: It was an email from Guillermo Saar at DEC.

Chairman Burgie: That is right. DEC email to you.

Bill Grove: That was Friday.

Chairman Burgie: So that will be a condition that we make.

Bill Grove: The DEC determined that a part 182 E&T Species Permit will not be required. However, you will need an Article 15 permit for incidental disturbance at or below mean high.

Chairman Burgie: Let's hold that for a condition. That will be a condition. Are there any other findings that we need to make right now? There are two conditions specifically that we talked about. One is Kevin Olvany. I would like to make condition number one:

Condition #1

Chairman Burgie moved that pursuant to the Watershed Manager's recommendation a couple of drywells for roof runoff will be placed right in the shale shoreline. Said motion was seconded by Barbara Howard.

All in favor.

Ayes: 4, T. Burgie, C. Dulski, J. Gage, B. Howard

Nays: 1, J. Holtz

Motion is carried.

John Holtz: I do not think it is necessary.

Chairman Burgie: Probably isn't, but to address the Ontario County Planning Board's concerns it will not hurt.

Condition #2

Chairman Burgie moved to get a NYS DEC and Army Corp of Engineering Article 15 permit. Said motion was seconded by Carol Dulski.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

Nays: 0

Motion is carried.

Chairman Burgie: There is one other condition that we need to discuss. I do not know what the answer is. *"If the Zoning Board of Appeals is going to consider a variance, I would suggest stipulating that current and future land owners extinguish their right to a boat house and boat accessory structure on this property in the future. In addition, I would also subtract the 875 square feet of this structure from their future allowable dock square footage. They have about the 340 lineal feet of shoreline. They are allowed three separate docking systems each 720 square feet. They get an additional 200 square feet for the one of the docks per the steep slopes section of the law. Therefore, their current dock is okay and they could actually build one more dock even if we limited them to a boat house and boat accessory structure on this property."* What are your thoughts about it? Should we limit on this extent to not have more docks or boat accessory structures?

Robert Bacon: Just for clarification. I know I do not have any vote here. I thought Martin told me he had 650 lakefront.

Martin Gordon: 630 total.

Bill Grove: That is two parcels.

Martin Gordon: This parcel I think 330.

Bill Grove: I think Kevin was right. It is about 340.

Chairman Burgie: On this property?

Bill Grove: Correct. There is a separate triangular piece. The proposed structure is here. Marty's house is up here. There is this second triangle piece here. The path that John walked down runs along the top edge of that. It is sheer cliff down to the shoreline there. That is where the difference is. The other part is 340 and you have about 310 something like that.

Robert Bacon: There is two parcels in total?

Bill Grove: Two separate parcels.

Robert Bacon: Okay. Thank you.

Chairman Burgie: I think I saw an email from you earlier today that said you would not object to stipulating that?

Martin Gordon: I would not object to stipulating that we forego the rights to the boat house and accessory structure. I guess what you had thrown in at the end there about the dock I have not heard that before.

Chairman Burgie: He is suggesting stipulating the current and future land owners extinguish their right to a boat house and a boat accessory structure.

Martin Gordon: Right.

Chairman Burgie: Not the dock. He said they are allowed three separate docking systems each 720 square feet. They get an additional 200 square feet for one of the docks. Therefore, their current dock is okay and they could actually build one more dock. I think what he is suggesting is that we stipulate that we subtract off the square footage of this structure that you want to build from your allowable dock square footage.

Bill Grove: It is essentially a compromise because if it were a boat house by definition you would have to subtract that off of your allowable dock square footage. It counts towards dock space.

Martin Gordon: Okay.

Bill Grove: In what Kevin is trying to do I think is find a compromise between not having to call this a boat house yet. Almost making it a boat house already kind of a future development purposes. So we would not set precedent where we build the structure and then come back to the Town and say now that is not a boat house. Now we want to build a boat house. He is trying to avoid that. I think that make sense to do it. It is not Marty's desire to do anything more than what he has got there. Marty and I talked about some future dock space. It sounds like he has enough square footage left over even with counting that as a boat house to do what he needs to do with that.

Chairman Burgie: This is a very large variance that you are asking us for.

Martin Gordon: I go along with that.

Chairman Burgie: If we can appease anyone in the community who may take exception to it by doing this, maybe it makes sense to do that.

Martin Gordon: Then do it.

John Holtz: This is only pertains to his main property and not the little triangle, right?

Chairman Burgie: Yes. This is 340 linear foot.

Robert Bacon: I think playing devil's advocate and correct me, Tom, if I am wrong here. I believe the variance and the condition are attached to the parcel. Even though you were in the event to sell the property it still is a condition that is attached to the parcel. So it is transferrable.

Bill Grove: Yes. I talked to Kevin about that too. Kevin, it may have even been Phil we talked about that. What would happen in a case like that if somebody were to try to build that? This building would have to go away. You just could not have both if that is the stipulation that put on it.

John Holtz: Would that come on a deed restriction?

Chairman Burgie: Again, Kevin is trying to protect the lake and the environment.

Barbara Howard: That makes sense.

Chairman Burgie:

Condition #3

Chairman Burgie moved that the owners of this parcel extinguish their rights to a boat house and boat accessory structure on this property and 875 square feet of normally allowable dock space would be subtracted from your allowance. Said motion was seconded by Carol Dulski.

John Holtz: Is this parcel dividable in the future? Is it big enough to be divided? If he gave his daughter half of his land does restriction apply to the new parcel that is created?

Chairman Burgie: I would expect that it would read as the parcel that incorporates this day cottage.

John Holtz: Okay.

Chairman Burgie: If it were split off two different parcels. One of them has it and one doesn't. The other one certainly should have a right for a dock then.

All in favor.

Ayes: 5, T. Burgie, C. Dulski, J. Gage, J. Holtz, B. Howard

Nays: 0

Motion is carried.

Chairman Burgie: Are there any other conditions that we need to place on this?

Diane Graham: I do not know if this is a condition. You had mentioned the site plan says storage building and he is saying day cottage. Do you want that changed?

Chairman Burgie: No.

Bill Grove: I think the building is allowed by code as an accessory structure. I will just say that. You get to fancy with it you run the risk not be able to do it, I guess.

Chairman Burgie: I think after all this discussion people are going to be able follow the intent. Any other conditions.

John Holtz: Are we making sure the existing shed is taken down?

Chairman Burgie: That is part of the application, I believe. Then I would ask for a member to approve or deny the applicant's request for variance.

John Holtz moved to approve the applicant's amended request for a 24 foot variance with a one foot rear setback from the mean high water line. Said motion was seconded by Thomas Burgie.

Bill Grove: It is actually front. A lakefront parcel is actually the front.

Chairman Burgie: The lakeside is actually the front?

Bill Grove: Lakefront parcels between the road and the lake they flip flop front to rear. You can say lakeside.

Chairman Burgie: Lake Residential.

Bill Grove: We are in R3 not lake residential.

Chairman Burgie: We have a 25 foot rear setback and we have a 50 foot front setback. If you want to call this a front then we...

Bill Grove: No. Fair enough.

Chairman Burgie: Alright.

Vote of the Board:

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

Motion is carried.

Chairman Burgie: I am sorry it was so painful.

Martin Gordon: No. I found it interesting. I appreciate all your time.


Other

Albert Crofton has tendered his resignation effective immediately. Chairman Burgie asked the Board if they know of any candidates for consideration.

Motion to Adjourn

Being no further business, Robert Bacon moved to adjourn the meeting. Said motion was seconded by Jonathan Gage. The motion was unanimously accepted and the meeting was adjourned at 9:24 pm.

Respectfully submitted,

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

Diane Scholtz Graham
Board Assistant