



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

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## **Zoning Board of Appeals Meeting Agenda**

**Wednesday, May 26, 2021**  
**7:00 pm**

Meeting will be in-person at the Town Hall with face masks and social distancing

Zoom for public listening and viewing only

Join Zoom Meeting

<https://us02web.zoom.us/j/87067259092?pwd=clZyZG5qbUwxZlJFSCtURkFSWHUzUT09>

Meeting ID: 870 6725 9092, Passcode: 181345

### **Call to Order**

### **Pledge of Allegiance**

### **Minutes**

Approval of September 23, 2020, October 28, 2020, December 2, 2020 and February 24, 2021  
Zoning Board of Appeals Meeting Minutes

### **Rules of Order**

### **Old Business**

### **New Business**

#### **Special Use Permit Application #2021-0021**

Owner: Mark Conners

Representative: William Grove

Property: 6555 Longs Point Drive

Tax Map #: 185.17-2-15.000

Zoned: R3 (Residential 3 Acre)

### **Other**

### **Motion to Adjourn**

## **Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, May 26, 2021**

**Present:** Robert Bacon  
Thomas Burgie  
Carol Dulski  
Jonathan Gage  
Martin Gordon  
John Holtz  
Barbara Howard

**Guests:** Bill Grove  
Mark & Karen Conners  
William Eggers

### **Call to Order**

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:01 pm followed by the Pledge of Allegiance. There was a roll call of board members with all present.

### **Minutes**

Chairman Burgie called for a motion to approve the September 23, 2020, October 28, 2020, December 2, 2020 and February 24, 2021 Zoning Board of Appeals meeting minutes. Barbara Howard moved to approve all the meeting minutes. Carol Dulski seconded the motion. The motion was unanimously accepted by all board members present.

### **Rules of Order**

Robert Bacon read the Rules of Order.

### **New Business**

#### **Special Use Permit Application #2021-0021**

Owner: Mark Conners  
Representative: William Grove  
Property: 6555 Longs Point Drive  
Tax Map #: 185.17-2-15.000  
Zoned: R3 (Residential 3 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:

2021-0021 for property owned by Mark Conners located at 6555 Longs Point Drive, tax map #185.17-2-15.000. The applicant and property owner are looking for a special use permit to have an additional residential structure on the same lot per Town Code §170-38.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 05.26.2021 Approved

Said hearing will take place on the 26th day of May, 2021 beginning at 7:00 pm at the South Bristol Town Hall, 6500 West Gannett Hill Road, Naples, NY 14512.

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

Diane Scholtz Graham  
Board Assistant  
Ma 15, 98295

Chairman Burgie: Is Mr. Conner's here?

Diane Graham: They just walked in.

Robert Bacon: While we have a quiet time here. I have a clarifying question. I noticed on Google Maps the property is defined as Long Point Road and all the documentation here it says Long Point Drive. Do we know the difference?

Martin Gordon: It is actually Longs Point.

Mark Conners: It has to have an s or you end up on the other side of the lake. I know that.

Karen Conners: I thought it was Longs Point Road.

Mark Conners: I thought it was Road too. Everything I keep seeing now says drive.

Bill Grove: I think I got drive from the survey.

Diane Graham: It is on the Town information.

Mark Conners: As drive?

Diane Graham: Yes.

Mark Conners: That is my bad. I have been writing road on everything.

Bill Grove: Same place.

Chairman Burgie: We have done the preliminaries and it is now time for you to present your case as to what it is that you really want to do. We are very interested in what that garage with two sleeping rooms really is.

Mark Conner: I will go through the whole history of it. The Chadwick Family built that garage I am guessing in the 1940s and in that garage they put two bedrooms, washer and dryer, toilet and a sink. Oliver Chadwick used that as his bedroom in the 1950-60s. There were two garage doors one way and two garage doors the other way that were rusted and fell. So there are animals living in the garage. They had built in mattresses. I had the two garage doors on one side that we replaced and the person doing it said why do you need four garage doors? Why don't we put sliders here? So we put sliders where two of the garage doors were. We replaced the windows on the outside. I replaced the toilet and the hot water

heater. It is basically the same structure that it was with new windows and new doors. My kids use it to sleep in there. It is still used as sleeping. I replaced the washer and dryer with new.

Chairman Burgie: Is this heated?

Mark Conners: No. There is no kitchen. It is not heated. It gets 100 + degrees during the day because it is shingles on plywood. You cannot really go in there during the day. At night it is super-hot so when the kids sleep in there they turn on window air conditioners. I do not know what the definition is if you cannot cook in there. There is no heat. There are window air conditioners. There is a toilet. There is no shower. There is hot water. There is a washer and dryer. Oliver Chadwick as a teenager used it. He said, that is where he slept all the time. Now, the house there was something about rentals. So I thought I would point this out too. The garage has been there for many years. Dr. Thurber rented the house that I purchased. He rented originally in the mid-1960s and he rented it up to the year 2000. That was the same family who rented that house for all those years. During all those years the Chadwick's if they wanted to would use that garage for sleeping or not. The Thurber's did their laundry in there. I think the point I am making is something that came out about rental. That was used as a rental forever. There was no separation like you cannot rent this because someone is sleeping in the garage or whatever. When this was brought to my attention, I thought there was something about pre-existing. This has been pre-existing for 70 years. It has been used as a rental for 50 years.

Chairman Burgie: Which was used as the rental?

Mark Conners: The house we are knocking down and the garage both.

Chairman Burgie: The garage was used as a rental?

Mark Conners: The rental people used it. They did their laundry in there. They put their car in there.

Chairman Burgie: They did not rent the garage?

Mark Conners: They did not just rent the garage. No. They did not rent it as sleeping quarters because they rented the house as sleeping quarters.

Bill Grove: It was not vacation rental. It was a long-term rental.

Mark Conners: Long-term. They rented it like I said for 35-40 years. That is how I became aware that it was going to go up for sale. She was friends with my parents and said, "I am not going to rent this house anymore." I called them up and said if she is not going to rent it can I buy it? That is how I know the history of this. They are good friends with my parents. Does that help?

Chairman Burgie: What is your long-term plans as far as use of the garage?

Mark Conners: I prefer to leave it as is. Well it is falling down. So to get it to stay up I need to have some cables put inside. The walls are starting to tip out.

Chairman Burgie: In other words you could not get a Certificate of Occupancy for that building?

Mark Conners: No.

Martin Gordon: Just to be clear. There is still parking spots in there for vehicles in the garage?

Mark Conners: Not any more. There could be, but I stuck a couch in there, ping pong table and stuff like that.

Martin Gordon: Okay.

Mark Conners: Yes. You could pull cars in there, but we are just not. We put kayaks in there. We have a paddleboard, ping pong table that they wheel in and out. We do not park any cars in there. Yes. We could park cars in there if we wanted to.

Karen Conners: Were you implying that we might rent it? We have zero plans of renting.

Chairman Burgie: Less interested in renting at this point than using it as a residence.

Karen Conners: Oh, using the garage as a residence?

Bill Grove: That is why we are here. Phil made a determination that as part of this project to knock down the main house and build a new one that we had to apply for the second residence on the same property for the existing garage. We are not going to change the use from what it has been for 70 years.

Chairman Burgie: Phil was not able to be with us tonight because of a death in the fire department that he had to attend there. He did leave us a note. I am going to read an excerpt from that in a moment. I am trying to find out what your thoughts are about this. You could not get a Certificate of Occupancy. It is not heated so you cannot live in it in the winter time. Yes, you can use window air conditioners to make it palatable to summertime. You need a special use if you have two residences on the same property. We are not going through every step here because I am not sure that it is necessary to do every step in what we normally do in this meeting. There will be a discussion here in just a moment among ZBA members if you agree with this. Phil left us a message and I am going to read a couple of sentences out of it.

“After some long talks with myself and realizing that the existing garage is just an overflow for guests, structure does meet all requirements of a single family residence and others that applied did. There is no kitchen, no living area, just an area for sleeping. Garage has been there for years serving the same purpose just sleeping quarters.”

It does not meet the definition of a residence. I did spend this afternoon looking through our town code for a definition of residence. There is nothing. It is not heated, you could not get a Certificate of Occupancy for it and it does not meet all the requirements for the residence, why would we call it a residence. If we do not call it a residence, then you do not need to be here requesting the special use permit for two residences on the same property. Anything you want to add to it at this point?

Mark Conners: I had that conversation with him on the phone twice.

Chairman Burgie: He listened.

Robert Bacon: You were successful.

Mark Conners: Thanks.

Chairman Burgie: I am going to open it up to discussion right now rather than go through SEQR and all the other things that go on with it. Anyone have any thoughts on this?

Robert Bacon: I actually challenged when I read the application and looked at the drawings. Where is the second residence? Last night I drove down. I said well there is an outside shower, but not able to get inside I could not tell whether there was any heat, kitchen or living room. I came to the meeting today thinking why are we here for a special use permit?

Barbara Howard: I concur. I said to my husband am I so stupid that I cannot see where the second residence is. He said, no you are right. It says existing garage. I agree it does not make sense to me if you cannot get a Certificate of Occupancy how you could call it under any definition a residence. He cannot let anyone live there. It cannot be a dwelling.

Martin Gordon: I went down there today looking to see if I could see anything that indicated there was heat in the building. I saw a vent stack for the powder room probably. I also read it and said where is the second residence? It was a little confusing.

Chairman Burgie: I searched all over the site plan for a second residence. I could not find one. I had to call Diane. She said that is the garage. Oh, okay. There was not any definition of what this second residence was. It is five acres maybe it is not shown on the map here or something.

Jonathan Gage: Do you just drain the water in the winter and shut it down completely?

Mark Conners: Yes.

Martin Gordon: By the way that outdoor shower looks like it has not been used in quite some time.

Mark Conners: It does not work.

Martin Gordon: It like poison ivy growing in there or something.

John Holtz: Is there a difference if we are talking about in our definition of residence because we do have some zoned for seasonal residences?

Chairman Burgie: He would not give a Certificate of Occupancy on something that is leaning and ready to fall down.

John Holtz: This is existing.

Martin Gordon: There is no kitchen.

Chairman Burgie: Would still have to have a Certificate of Occupancy.

John Holtz: I am not arguing. I just trying to understand. I am having conversations with myself like Phil is. I did not know if that mattered. It is seasonal do you need a kitchen? Maybe you cook on a grill

outside. You say there is a definition of a residence so there is no way to differentiate between a year round residence and a seasonal residence?

Chairman Burgie: If we had an outdoor shower with a tent and grill in front of it, would we call that a residence?

Jonathan Gage: An outhouse, a grill and ten person tent would satisfy all the same requirements as what their garage does.

Chairman Burgie: I do not think that was the intent.

John Holtz: I am trying to figure out what's what.

Barbara Howard: Maybe it should be called bathhouse. Call it what it is. Stop calling it a garage. It is not being used as a garage. It makes it clear that is not a second residence or dwelling. It houses people.

Chairman Burgie: Does anyone feel strongly that this should be considered a residence and, therefore, a special use is required?

Barbara Howard: I feel strongly that it should not.

Carol Dulski: I went last week and thought where is the other residence? I did not get it.

Chairman Burgie: Then if nobody has any objections I am going to say that we are going to recommend to Phil Sommer that he is right. It is not a residence and a special use is not required.

Jonathan Gage: Do you want to address the neighbor's correspondence we received?

Chairman Burgie: It is covered by the right of way agreement. That is not our responsibility or purview in my opinion. If we did address it, then it could fall on us to enforce the right of way agreement. That is not our job.

Jonathan Gage: Good. Just wanted to clarify.

Bill Grove: Because we had to come before the Board and we are this far along, we thought we were applying for use as a second residence. It has our minds thinking in that direction. I asked Mark if he thought if at any time in the future he may change his mind.

Mark Conners: Let's say this falls down.

Bill Grove: Would he rebuild it as a second residence if he had approval. So probably something we should talk about. I do not know at this time if it makes sense to put that off until we know what that would look like.

Chairman Burgie: Yes. You are going to have to provide a site plan. You are going to have to provide us the details so that we know that does not cause undo harm to neighboring properties. To say we might rebuild that at some point as a second residence. We do not know what that is. So we could not grant it anyway. I do not see any purpose in doing it. If you did want to, you would have to come back for a

special use permit. Let me just caveat special use since most people haven't dealt with this at all. This is a special use that is allowed by the Town Code for a lake residential. You are not asking for any waiver, variance or anything of that nature. It is allowed. If there are two residences on the same property, the Town Board has decided that this is a case that just needs a little bit more oversight. Not just the Code Enforcement Officer granting a permit, but have a Board look at some specific requirements. If it meets those requirements, we are required by law to give you the special use permit. Court case and state law says we are required to give you the permit if it meets those special use requirements that are established by the Town Board. If it fails to meet even one of them, we cannot give it to you. We cannot vary the special use requirements. If not met, we cannot give it to you. The criteria are really quite easy to deal with.

- The owner of the lot must own all structures on the lot.
- Additional residential structures permitted a special use shall not be leased or rented.
- All such structures shall have the same postal address.

Actually the emergency response wants the same number with an A and B.

- All such structures shall be served by the same access road or driveway for emergency vehicles.
- A site plan shall be submitted with the application for the Planning Board review and approval.
- Landscaping when found necessary by the Planning Board shall be provided.

Those are easy to me. It is not an issue if you decide to put a second residence on the property. Your application for the special use has all of those in the list, so that you know what it is that you must meet. It is not a big deal. To ask us to approve it tonight based upon not having a second residence on there that you might build, well we really cannot do that.

Bill Grove: Okay. Yes.

Chairman Burgie: If you are happy with that, I am going to concur with Phil Sommer that if it does not meet all the requirements for a residence he cannot grant a Certificate of Occupancy, then you do not need a special use permit. He will just give you the permit for your primary residence.

Mark Conners: Okay.

Diane Graham: Are we voting?

Barbara Howard: We probably should.

Chairman Burgie: Should we?

Robert Bacon: We should document the multiple points that we mentioned and vote on it.

Chairman Burgie: Okay. Do you want to start? What is the first finding?

Finding #1

Robert Bacon moved the claimed second residence is really a storage structure that does not have heat, kitchen, living room and does not have a current Certificate of Occupancy, therefore, does not meet as a primary or secondary residence.

Bill Grove: Are we sure that it does not have a Certificate of Occupancy as a residence, but as an existing structure?

Diane Graham: Any work that has been permitted on that would be a Certificate of Compliance.

Karen Conners: It is falling down.

Diane Graham: Without going back through the records to see if there was ever a Certificate of Compliance for anything to build it probably predated Town Code.

Robert Bacon: Right.

Mark Conners: I was told that those sort of things started in the early 1970s. This was done in the 1950s.

Diane Graham: Town Code started in 1969.

Mark Conners: This was a conversation a few years ago. So I sent in photos with Oliver Chadwick at age 15 standing next to the bedroom door. That is why I thought it went away.

Martin Gordon: Who is Oliver Chadwick?

Mark Conners: They are the Long Family from Longs Point.

Martin Gordon: Okay.

Thomas Burgie seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #2

Chairman Burgie moved since the storage shed/garage does not meet the requirements of a residence a special use permit is not required. Robert Bacon seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

**Other**

Chairman Burgie shared that the Planning Board Chairman had tendered his resignation effective July 1 and moving to Canandaigua. There are open positions on the Planning Board.

Diane Graham shared that Chairman James Ely was nominated and won the NY Planning Federation John O. Cross Award for Outstanding Planning Board Chair. There will be an email invitation for Board members to attend the award presentation June 9 in-person or online.

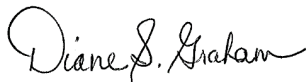
New NYMIR training site NEOGOV and annual NYS Compliance Discrimination and Harassment training.

Board discussed training opportunities/credit and special use neighbor's letter.

**Motion to Adjourn**

Being no further business, Robert Bacon moved to adjourn the meeting. Martin Gordon seconded the motion. The motion was unanimously accepted and the meeting was adjourned at 7:55 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane S. Graham".

Diane Scholtz Graham  
Board Assistant