



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

Zoning Board of Appeals Meeting Agenda

Wednesday, September 22, 2021
7:00 pm

Hybrid meeting in-person (face mask required) or Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/86357538030?pwd=ThhBMGc5a2ljVng2UDZuVHBjekxyUT09>

Meeting ID: 863 5753 8030, Passcode: 453172

Call to Order

Pledge of Allegiance

Minutes

Approval of June 23, 2021 Zoning Board of Appeals Meeting Minutes

Rules of Order

Old Business

New Business

Special Use Permit Application 2021-0034

Owner: James A. Spillane

Representative: James Spillane

Property: 5740 Stid Hill Road

Tax Map #: 177.00-1-8.000

Zoned: R5 (Residential 5 Acre)

Other

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, September 22, 2021

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

Excused: Barbara Howard

Guests: James & Theresa Spillane
Phil Sommer

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:00 pm followed by the Pledge of Allegiance. There was a roll call of board members with all present except for Barbara Howard.

Chairman Burgie explained that the special use permit for a second residence on the same property is not against the Town Code. As long as the applicant/property owner meets the special requirements in §170-38, the Board is required by law to approve the special use permit. If it does not meet one of those requirements, the Board is not allowed to grant the special use permit.

Minutes

Chairman Burgie called for a motion to approve the June 23, 2021 Zoning Board of Appeals meeting minutes as written. Martin Gordon moved to approve the meeting minutes. Robert Bacon seconded the motion. The motion was unanimously adopted by all board members present.

Rules of Order

Robert Bacon read the Rules of Order.

New Business

Special Use Permit Application #2021-0024

Owner: Daniel P. Crowley
Representative: Bill Grove
Property: 6830 Co Rd 34
Tax Map #: 177.00-1-33.000
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:

2021-0034 for property owned by James A. Spillane located at 5740 Stid Hill Road, tax map #177.00-1-8.000. The applicant/property owners are looking for a special use permit to allow a second residential structure on the same lot per Town Code §170-38.

Said hearing will take place on the 22nd day of September, 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

Chairman Burgie: This is your opportunity to tell us what it is you would like to do.

James Spillane: We purchased the property on Stid Hill last September. Our plan was always to find property in this area to build a house to retire on. It just happened that things with the market the way it was things went a little faster and we sold our house. It expedited the process a little bit more. We want to build our permanent house there and we have a very small residence that is on there now. All of about 500 square feet. We want to maintain that for our own personal use. Primarily if we have friends/family. Most likely would be my mother-in-law that will stay with us occasionally. Our intent is to have that small cottage in front just personal use. We have no interest in renting. I own several rental properties and there is no way I want take that on for our permanent residence.

Chairman Burgie: Okay. Thank you. We normally ask in the variance the Code Enforcement Officer to explain the rationale for refusal of the permit. Well, he is not refusing the permit. We are here to review it and to make sure that it meets the requirements before he grants the permit under our authority. It meets all setback and dimensional requirements and everything of that nature? There is no variance involved?

Phil Sommer: No.

Chairman Burgie: Thank you. Any visitation reports?

Jonathan Gage: I stopped out Saturday and looked at it from the road because the pictures of it were very indicative of the area. I saw that it was in a pretty secluded area. There is a house across the road. It is set back where the proposed area is such that I did not think it would be visible from most any place around there.

Robert Bacon: I stopped yesterday morning. Nobody was home. I drove up to the cabin and walked up to the level area where the primary residence is proposed to be built. I got to see your pole barn from the distance. It falls accurately on the drawing as we said earlier. There are no problems with setbacks. It looks like it is consistent with the neighborhood in terms of the homes set quite a ways back. They are secluded. The only neighbor you can probably see is the one across the street. Property has a beautiful view of Canandaigua Lake. The only question I would have is do you really want a cabin in front of your primary residence? I know you will be looking over the top, but it will be in front of your primary residence.

James Spillane: We thought about that, but the way the design of the house and height we are going to be at it won't be a problem. I actually like the look of that little cottage in front as well.

Robert Bacon: Okay.

Carol Dulski: I went up yesterday as well. Nice view. I did not go all the way up. I looked at the shed. Sorry, the small home. I see why you want to build a bigger one. I did not see any issues.

Theresa Spillane: I need my mother to stay there and not with me.

John Holtz: I did a site visit on Sunday and then I went back again today. Sorry about the family animosity.

Theresa Spillane: I love my mother. I want to keep it that way.

John Holtz: Rather going through the expense of up above and everything. Did you ever consider just adding on to the cabin or building on that? You are not going to rent it. I am assuming the people who are going to be in it is somebody you don't have big problems with.

Theresa Spillane: I do not have a problem with my Mom. I just want to keep it that way. We have a son that lives with us that is 30. He is autistic and he may choose to have his own space. As we get older, may go down there as well. Maybe go down to hang out, watch television, fish in the pond or whatever. We have a lot of family that lives out of town. It would be nice for them to come and feel like they have their own space when they stay. There is a kitchen and bathroom there instead of sharing bathrooms with us. People as they get older sometimes like their privacy a little bit more. I know I do. It was an old hunting cabin. I am a brat and there is no way I would live there even adding on to it. I want my house.

John Holtz: I did not say do not build a house.

James Spillane: Add on to it. We would have literally had to take it down to add on with the house that we want to build.

John Holtz: Whatever that structure is to the far end of the driveway. I paced off about 90 feet. That is a big house 90 foot long. If it was 70, you could still have your driveway. The reason I am asking is, we can get into it later in the discussion. I was on the comprehensive plan committee. We talked about hilltop preservation. When you are up there, it seems like you are almost at the crest of the hill. I do not know if you are or not?

James Spillane: Oh no. The hill goes up quite a bit above us.

Theresa Spillane: Our neighbor lives behind us.

John Holtz: It looks like I could see light through the trees down pretty low into the trees.

James Spillane: Our neighbor Mitch Makowski is on the top of the hill.

John Holtz: Where is he to the north of you?

Robert Bacon: To the south.

James Spillane: No. He is to the west of us. If you are saying you are looking up the hill, you go up another 400 yards and now you are at the top of the hill. His place is at the very top of the hill.

Martin Gordon: You are about 1800 feet where the proposed house is, 1802 to be exact. Your existing cabin is about at 40-50 feet lower than that. So you gain that extra 50 feet for the view and then the hill goes up another probably 200 feet behind you.

Theresa Spillane: It is probably another reason we wanted to go up is it affords a much better view of the lake.

Martin Gordon: I rode my bike up there today. My bicycle. No, I am just kidding. I want to though.

Theresa Spillane: I am like oh my god that is so impressive.

Martin Gordon: It is one of my bucket list things, but I drove up today. I looked from the road and seems like you meet all the requirements. A neat location and beautiful view.

Theresa Spillane: Thank you.

Chairman Burgie: I did not get a chance to go up. It sounds like a beautiful property. I love what I see on the topographic here. I am sure you have a gorgeous place and a nice view of the lake. I live down in the valley. I see the hills around me. There is no view of the lake. I envy you. Any other comments on visitations? If not, the first thing we need to determine is the SEQR status State Environmental Quality Review Act. That is the impact to the environment around you and the wildlife. This is a Type II action as I read it paragraph 617.5(c)(11) of the SEQR regulation. States that the construction or expansion of a single family or two family or three family residence on an improved lot including provision for necessary utility connections as provided in 617.5(c)(13) and the installation, maintenance and/or upgrade of the drinking water well or a septic system or both in the conveyances of land in connection thereof is a Type II action. A Type II action requires no further study. The state has already determined that this is the probability is it a very low impact of the environment then, therefore, we are not required to do anything else with it. We will capture that as our first finding when we get to that point. Findings when we get to the point are the documentary evidence of what we have considered in making our decision. If it ever did go to court and someone reviewed it, we have addressed all of those things that we are required to address. I will open it up for public hearing. Is there anybody else on the Zoom, Diane?

Diane Graham: There is not.

Chairman Burgie: Then obviously there is not anybody else here other than the Board and you two. I will close the public hearing. I have not seen any public or municipal officer's documentation or letters of support or negative. Do we have anything?

Diane Graham: No.

Chairman Burgie: I did see that this was not required to go to the Ontario County Planning Board.

Diane Graham: Correct.

Chairman Burgie: Zoning Board of Appeals discussion and debate period. I open it up for discussion.

Town of South Bristol Zoning Board of Appeals Meeting Minutes 09.22.2021 Approved

Robert Bacon: Just for understanding. I guess if I look at the drawing and understand this correctly you are going to put in a brand new septic system, correct?

James Spillane: Yes.

Robert Bacon: I did not see any notation for a new well. Are you going to share the existing well?

James Spillane: Yes. We are going to share the existing well. We had Bill Grove look at the well study right before we bought the property. He said that it was more than sufficient to support the new house.

Robert Bacon: Okay. Good. That is it.

Chairman Burgie: Any other discussions, questions, comments or anything?

John Holtz: I will be the bad guy in the crew here. I am not against the second residence. You have only been in town for a year. Like I said, I was on this comprehensive plan committee. I would really encourage you, if you do not have it already, to get the Town's Comprehensive Plan so you can get an idea of what South Bristol residents think about their town and what they want to protect. Like I said, I was worried about the only thing I thought about was going up into the hill. That is why I was wondering if you were going near the top. I copied a couple of pages out of the Comprehensive Plan and want to make you aware of them.

James Spillane: I am sorry. What is it called again?

John Holtz: The comprehensive plan.

Diane Graham: It is on our website.

John Holtz: It was done in 2019?

Chairman Burgie: 2018. It is about that.

John Holtz: One of the things is hilltop protection. I did not know you were that far below the hill. What I saw I thought you were close.

Theresa Spillane: What is cleared is almost exactly what is going to be cleared for the building of the structure. It says a lot since every one of our neighbors got a note that if they were not happy with what we were doing they could have shown up here tonight, correct?

Chairman Burgie: Correct.

Theresa Spillane: Is that right?

Robert Bacon: That is correct.

Theresa Spillane: Okay. No one is here.

John Holtz: Silence is golden.

Theresa Spillane: We have been looking in this area for many years. We just happened to find it last year.

John Holtz: I am not trying to be a bad guy.

Theresa Spillane: Oh no. No. I am not trying to be a pain in the butt either. We are just not rolling into town willy-nilly trying to ruin everybody's life.

Martin Gordon: I do not know if this would help you envision where they are.

John Holtz: I was up there twice. I loved your barn.

[Martin Gordon showed John Holtz the hilltop terrain on his device.]

James Spillane: What I like about the property, John, when it goes up, there is a pitch then we have the cabin then there is another pitch and then there is a flat area and then it pitches up again. The flat area above where the current little house is "the shed" is a perfect place for the second residence. To Martin's point the additional land goes way up there. What I also liked about the property is it is literally a square. If you look at where we are building, we are in the front corner of the property with all the rest of our property behind us and to the south.

John Holtz: I just have the site plan not the whole property. This is my last part here. When they questioned the Town residents with a Town wide survey, 75% of the people said protecting local view shed was at the top of their list. That was the top thing in the comprehensive plan. Your view is great. I would love your view. I am stuck looking at Mill Creek just like Tom. Everybody you can see they can see you.

James Spillane: Right. Yes.

Theresa Spillane: We see one person.

John Holtz: If you leave the light on at night, part of the reasons people live out here. We talk about this on lake-frontage a lot incremental loss. Incremental loss along the lake. We are going to have incremental loss along our ridgetops too. That is something I want to make you are aware of.

James Spillane: I think it is a great question. I like the fact you have to go through this process because it protects us as owners. It protects that from happening in the future. I totally agree with you. By the way, the barn. You saw the barn? I do not know if you noticed we are starting to do the siding. That is all pine we took off from the clearing. I had that milled. We did reuse the resources.

Chairman Burgie: Very nice.

Martin Gordon: What is the term you used, the view?

John Holtz: View shed.

Martin Gordon: View shed, okay.

Theresa Spillane: View shed and watershed and all these.

Martin Gordon: Unlike Cohocton that did not really care about that.

James Spillane: All the windmills? You can see them from our view. You can see the lights.

John Holtz: So you know what I am talking about?

James Spillane: Absolutely. I get it.

Theresa Spillane: We like having to go through hoops to get approval. That means once we are living up there if somebody buys property they have to do the same thing.

John Holtz: I want to encourage you to look online.

James Spillane: I am going to look at it. When you look at our site, our neighbor Steven and Nancy Mason, the way their house sits they cannot see our property. It is positioned a little bit to the south of where we are going to be.

Martin Gordon: They are on the other side of the road?

James Spillane: Yes. We really wanted to minimize the number of trees we took down for the view. I was a stickler about it. I only want to take down what we absolutely need for the view. If you look down, Steven and Nancy's house is over to the right so they will not be able to see us. To your point about the lights, I see their lights shining up in their trees every night. That is fine. We are good with that.

John Holtz: Welcome to the neighborhood and just wanted you to be aware of your neighbors.

Theresa Spillane: We live in Victor. There is no street lights. There is no Town lights. We are used to dark. We are totally cool with that.

John Holtz: Oh good.

Theresa Spillane: We are very private people. As we get older the amount of people grows less and less. Except for you all fine people.

Chairman Burgie: Anyone else have anything? I would like to as part of the discussion before we get into findings just review, what you saw in the application, the things we are going to be documenting as findings.

1. SEQR status.
2. The use is or is not consistent with the Comprehensive Plan of our Town. As John pointed out it is very important that it does not violate the principle of what we are trying to do here.
3. The use is or is not consistent with the purposes of the zoning law of our town.
4. The use will or will not adversely affect the character of the neighborhood.

5. The use will or will not be detrimental to nearby properties.
6. The use will or will not have an adverse impact on the physical or environmental conditions of the neighborhood.

Those are general requirements that we review for any variance, special use and anything of that nature. These are the specifics to putting a second residence on one property.

- A. The owner of the lot must own all structures on the lot. True?

James Spillane: Yes.

Chairman Burgie:

- B. Additional residential structures permitted as special use shall not be leased or rented. You have already addressed that?

James Spillane: Correct.

Chairman Burgie:

- C. All such structures shall have the same postal address. A slight modification of that we are going to have an A and B, correct?

Phil Sommer: Yes.

Chairman Burgie: I am going to address that with the Board after we are done here. We recommended that two years ago, I think. The Planning Board is going to take that up to actually work on changing the code to make it an A and B. That is what the emergency services want.

Ralph Endres: If you could let me add upon that, Jim and Theresa, the concern here is in the event that you put a call into the 911 center. Where do you go?

James Spillane: Right.

Ralph Endres: In your case it is pretty obvious one is in front of the other. We do have properties where there physically separated and precious time can be lost in the event it was either a law enforcement call or a medical call. We started two years ago. We raised the concerns that we have to have a way to uniquely identify what the destination is. As you have family and friends stay at the cabin. Make sure they know if they were to call, it is a call to the front cabin. That saves precious time. Somebody has a heart attack you cannot wait any length of time. Okay.

James Spillane: Okay.

Chairman Burgie:

- D. All such structures shall be served by the same access road or driveway for emergency vehicles.

E. The site plan shall be submitted with the application for the Planning Board review and approval.

Has that been submitted?

James Spillane: Yes.

Chairman Burgie: Site plan?

James Spillane: Yes.

Chairman Burgie:

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

We are not going to address that. They may say based upon this we want certain landscaping done. Those are the special conditions that if you meet every one of them, then we are going to document that in the findings. As I said, we are required in that case to grant the special use permit. Anybody have any discussion on that? If not, let us address the findings.

Finding #1

Thomas Burgie moved that this is a Type II action under SEQR regulation paragraph 617.5(c)(11) construction or expansion of a single-family residence on an approved lot including provision for necessary utility connections as provided in 617.5(c)(13) and the installation, maintenance and/or upgrade of a drinking water well or a septic system or both on conveyance of the land in connection thereof. That makes it a Type II action no further review is required. Robert Bacon seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #2

Robert Bacon moved that the proposed building of a second primary residence is consistent with the Town Comprehensive Plan as we earlier noted about the view shed. Carol Dulski seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #3

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

All in favor.

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

Nays: 0

Motion carried.

Martin Gordon: Do each of these have to be separate or can you combine them into one motion?

Chairman Burgie: We will make a combined motion for the grouping at the bottom. Each one of those should be addressed separately I believe.

Robert Bacon: If you do not address separately, it is subject to interpretation whether you covered it.

Finding #4

Robert Bacon moved that the proposed permit does not adversely affect the character of the neighborhood as we mentioned there is a number of residents very consistent with what you are doing on Stid Hill.

Jonathan Gage seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #5

Martin Gordon moved that the use will not be detrimental to nearby properties. Thomas Burgie seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #6

Jonathan Gage moved that the use will not have an adverse impact on the physical or environmental conditions of the neighborhood. Martin Gordon seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding #7

Thomas Burgie moved that this application does meet all of the special use requirements in paragraph §170-38 additional residential structures on the same lot. Robert Bacon seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Chairman Burgie: Are there any other findings in this?

Jonathan Gage: I think the only other one would be a reminder under the condition here about the septic system. It says Canandaigua Watershed approval required that is a reiteration of that here. I do not know if we need to make a finding of it or is it already established there or not.

Chairman Burgie: Without that can the permit be issued?

Phil Sommer: No. It would be approved by the Planning Board.

Jonathan Gage: So it would not be approved. So it is already covered. Okay.

Chairman Burgie: So we will not need to do that.

Robert Bacon: I think I would like to add another motion and reiterate it is part of the six requirements for the special use permit that our applicant has stated that they will not lease the property. I will make the motion that the proposed development, the cabin will not be leased to either family or friends.

Chairman Burgie: And the home.

Robert Bacon: Both cannot be leased.

Diane Graham: Any owner thereof. It goes with the land.

Robert Bacon: So the special permit does get attached to the parcel?

Diane Graham: So if they sell the property, the new owner has to follow the same rules. Do you still want to do a motion?

Robert Bacon: It probably does not make sense. We have already said it. It is covered. I am good. Cancel that motion.

Diane Graham: Okay.

Martin Gordon: I have always had a question about this. Under B it says, additional residential structures permitted as special use shall not be leased or rented. What about the existing?

Chairman Burgie: If you read the Town code dealing with special use permits in this case the intent of it stated in the Town code is to allow for the gathering of family members. It is not allowed to renting out or leasing the property. It is to allow you to make use of your property by gathering your family members together. It does imply by intent. It then implies to both.

Martin Gordon: Okay. At least we know.

Diane Graham: The next owner would need to know that too.

James Spillane: The next owner will be my daughter.

Chairman Burgie: Do we need any other findings?

James Spillane: Jonathan, you brought up about the septic. Did I hear you said it wouldn't?

Phil Sommer: No. It has to be approved. You have to have an approved septic/site plan?

Theresa Spillane: I thought we did?

Phil Sommer: You do. It is just a stipulation to get approval from the Planning Board.

James Spillane: Okay. I got you because that is what Bill had provided. Never mind. Thank you.

Chairman Burgie: Any conditions required? Anybody feel that a condition should be imposed here? No. I would like to petition the Board members to offer a motion to approve or deny the applicant's request.

Martin Gordon moved to approve a special use permit for a second residence on the same lot. Robert Bacon seconded the motion.

Vote of the Board:

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

Motion carried.

Other

Chairman Burgie shared that the Planning Board recommended to the Town Board by resolution below based on the Zoning Board of Appeals recommendation to Planning Board to review code §170-38 (C) All such structures shall have the same postal address to better identify the residential structures in case of an emergency.

Resolution 1-2021

At a meeting of the Planning Board of the Town of South Bristol on the 15th day of September, 2021, it was:

RESOLVED, that the South Bristol Planning Board recommends that the South Bristol Town Board take appropriate steps to amend §170-38 Additional Residential Structures on Same Lot as follows:

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

D. All such structures shall have the same postal address. When entering the property, the first structure shall be numbered and lettered A and the second numbered and lettered B.

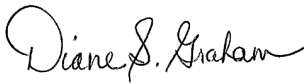
By Order of the Planning Board of the Town of South Bristol.

Diane Graham reminded Board about their annual training requirements due before the end of the year.

Motion to Adjourn

Being no further business, Robert Bacon moved to adjourn the meeting. Jonathan Gage seconded the motion. The motion was unanimously adopted and the meeting was adjourned at 8:02 pm.

Respectfully submitted,

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

Diane Scholtz Graham
Board Assistant