



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

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## **Planning Board Special Meeting Agenda Short-Term Rentals**

**Wednesday, December 7, 2022 at 6:30 pm**

Meeting in-person or by joining Zoom

<https://us02web.zoom.us/j/89443589087?pwd=azZTWdJ5WDRnMUNUdFJrUmluWE95QT09>

Meeting ID 89443589087, Password 224520

### **Call to Order**

### **Pledge of Allegiance**

### **Reading of Vision Statement**

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

### **Meeting Etiquette**

### **Minutes**

Approval of September 21, 2022, October 19, 2022 and November 16, 2022 Planning Board Meeting Minutes

### **Short-Term Rental Old Business**

#### **Public Hearing**

##### Short-Term Rental Application 2022-0038

Owner: The Land House LLC  
Local Contact: Rachel Pasquarelli  
Property: 6442 Co Rd 33  
Tax Map #: 183.00-1-28.111  
Zoned: R3 (Residential 3 Acres)  
Sleeping Occupancy: 6  
Parking Spaces: 4

##### Short-Term Rental Application 2022-0039

Owner: D and E Enterprises LLC  
Local Contact: Kathleen Busch  
Property: 6400 Bills Rd  
Tax Map #: 178.00-1-1.120  
Zoned: R3 (Residential 3 Acres)  
Sleeping Occupancy: 4  
Parking Spaces: 3

Short-Term Rental Application 2022-0040

Owner: DP Fuller Family Limited Partnership  
Local Contact: Steven Fuller  
Property: 14 A Northstar Drive  
Tax Map #: 167.71-1-14.200  
Zoned: PD (Planned Development)  
Sleeping Occupancy: 6  
Parking Spaces: 3

Short-Term Rental Application 2022-0041

Owner: Rajat Asani and Bhavmeet Shah  
Local Contact: Haven Vacation Rental Management LLC  
Property: 6345 Co Rd 33  
Tax Map #: 183.00-1-17.130  
Zoned: R5 (Residential 5 Acre)  
Sleeping Occupancy: 6  
Parking Spaces: 4

Short-Term Rental Application 2022-0042

Owner: Warner Properties LLC  
Local Contact: Stephen Warner  
Property: 10 Pinewood Lane  
Tax Map #: 183.36-1-2.300  
Zoned: R5 (Residential 5 Acre)  
Sleeping Occupancy: 4  
Parking Spaces: 2

Short-Term Rental Application 2022-0044

Owner: Daniel P. Bajda & Lindsay A. Bajda  
Local Contact: Lindsay Bajda  
Property: 21 Cliffside Drive  
Tax Map #: 168.16-1-6.021  
Zoned: PD (Planned Development)  
Sleeping Occupancy: 4  
Parking Spaces: 2

Short-Term Rental Application 2022-0045

Owner: JBear Associates New York LLC  
Local Contact: Brooke Ward  
Property: 7148 S Gannett Hill Rd  
Tax Map #: 194.00-1-1.212  
Zoned: R5 (Residential 5 Acre)  
Sleeping Occupancy: 8  
Parking Spaces: 4

Short-Term Rental Application 2022-0046

Owner: Cabin Culture LLC  
Local Contact: Pamela Giancursio  
Property: 5601 St Rt 64  
Tax Map #: 167.00-1-49.120  
Zoned: NC (Neighborhood Commercial)  
Sleeping Occupancy: 10 (Unit A = 2; Unit B = 4; Unit C = 4)  
Parking Spaces: 7

Short-Term Rental Application 2022-0047

Owner: James Collins  
Local Contact: Kathleen Varney, Vacasa  
Property: 40 Cliffside Drive  
Tax Map #: 168.16-1-6.040  
Zoned: PD (Planned Development)  
Sleeping Occupancy: 4  
Parking Spaces: 1

**Short-Term Rental New Business**

Short-Term Rental Operating Permit 2021-0056 Complaint

Owner: Ian M. Boni  
Property: 6836 Co Rd 34  
Tax Map #: 177.00-1-35.000

**Other**

**Motion to Adjourn**

**Town of South Bristol Planning Board  
Special Short-Term Rental Meeting Minutes  
Wednesday, December 7, 2022**

**Present:** David Bowen  
Jill Gordon  
Jason Inda  
Michael McCabe  
Frederick McIntyre  
Sam Seymour  
Kevin Stahl

**Guests:** In-person: Dan Crowley, Alan Pearce, Scott Martin, Deborah Callaway, Amy Merrill, Stephen Warner, Joe & Rachel Pasquarelli, Steven Fuller, Kathleen Busch, Brooke Ward, Tim Newmann, Stephanie Sheedy  
Zoom: James Collins, Rajat Asani, Lindsay Bajda, Marissa Cool, Pam Giancursio

**Call to Order**

The meeting of the Town of South Bristol Planning Board was called to order at 6:30 pm. All Board members were present.

Chairman Bowen: This is a special meeting to address short-term rental applications that were in the hopper before a short-term rental moratorium went into place.

**Reading of Vision Statement**

Kevin Stahl read the Comprehensive Plan Vision Statement.

**Meeting Etiquette**

Chairman Bowen reviewed the meeting etiquette.

**Minutes**

Sam Seymour moved to approve the September 21, 2022 meeting minutes as written. Kevin Stahl seconded the motion. The motion was unanimously adopted by all Board members present.

**Short-Term Rental Old Business**

Legal Notice of Public Hearing

Please take notice that the Town of South Bristol Planning Board will hold a public hearing on the following short-term rental applications where owners are seeking a short-term rental operating permit:

2022-0038

Owner: The Land House LLC

Property: 6442 Co Rd 33

Tax Map #: 183.00-1-28.111

Town of South Bristol Planning Board Meeting Minutes 12.07.2022 Approved

2022-0039

Owner: D and E Enterprises LLC

Property: 6400 Bills Rd

Tax Map #: 178.00-1-1.120

2022-0040

Owner: DP Fuller Family Limited Partnership

Property: 14 A Northstar Dr

Tax Map #: 167.71-1-14.200

2022-0041

Owner: Rajat Asani and Bhavmeet Shah

Property: 6345 Co Rd 33

Tax Map #: 183.00-1-17.130

2022-0042

Owner: Warner Properties LLC

Property: 10 Pinewood Ln

Tax Map #: 183.36-1-2.300

2022-0044

Owner: Daniel P. Bajda and Lindsay A. Bajda

Property: 21 Cliffside Dr

Tax Map #: 168.16-1-6.021

2022-0045

Owner: JBear Associates New York LLC

Property: 7148 S Gannett Hill Rd

Tax Map #: 194.00-1-1.212

2022-0046

Owner: Cabin Culture LLC

Property: 5601 St Rt 64

Tax Map #: 167.00-1-49.120

2022-0047

Owner: James Collins

Property: 40 Cliffside Dr

Tax Map #: 168.16-1-6.040

Said hearing will take place on the 7th day of December, 2022 beginning at 6:30 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

Short-Term Rental Application 2022-0038

Owner: The Land House LLC  
Local Contact: Rachel Pasquarelli  
Property: 6442 Co Rd 33  
Tax Map #: 183.00-1-28.111  
Zoned: R3 (Residential 3 Acres)  
Sleeping Occupancy: 6  
Parking Spaces: 4

Joseph Pasquarelli: Thank you. We are the Land House LLC. This is Rachel Pasquarelli and I am Joe Pasquarelli. Rachel Pasquarelli is the local contact, 6442 Co Rd 33. Sleeping occupancy is noted on here as six, but we had recently sent in an amendment to go for eight. Parking spaces four.

Chairman Bowen: Okay. Thank you. We did get the completed septic system inspection report. Does anyone on the board have any questions concerning that report? My understanding it was approved up to eight, is that right Scott?

Scott Martin: Yes.

Chairman Bowen: Did we get any written comments?

Diane Graham: No.

Chairman Bowen: Are there any public comments on this application or any on Zoom? Hearing none.

I move that based on a review of amended short-term rental permit application 2022-0038 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Jill Gordon seconded the motion.

Roll Call Vote:

David Bowen – Aye  
Jill Gordon – Aye  
Jason Inda – Aye  
Michael McCabe – Aye  
Frederick McIntyre – Aye  
Sam Seymour – Aye  
Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

Joseph Pasquarelli: Do you mail the permit to us or do we come pick it up?

Diane Graham: It will be emailed and mailed.

Joseph Pasquarelli: Thank you. Appreciate it.

Chairman Bowen: Thank you.

Unknown: I have a question on how it is going to affect my rights. If I have a neighbor that is renting out to hunters that are coming and do not know the boundaries.

Chairman Bowen: Why don't you have a seat right there and we will get to you in a minute.

Short-Term Rental Application 2022-0039

Owner: D and E Enterprises LLC

Local Contact: Kathleen Busch

Property: 6400 Bills Rd

Tax Map #: 178.00-1-1.120

Zoned: R3 (Residential 3 Acres)

Sleeping Occupancy: 4

Parking Spaces: 3

Kathleen Busch: Hello, I am Kathleen Busch contact for D and E Enterprises.

Chairman Bowen: For the record reintroduce the application and what it is you are seeking?

Kathleen Busch: We are seeking short-term rental permit for two bedrooms. There are three parking spaces.

Chairman Bowen: It is a single-family house?

Kathleen Busch: Yes. 6400 Bills Road.

Chairman Bowen: Did we get any written comments?

Diane Graham: No.

Chairman Bowen: Can you approach the microphone and give us your name and address?

Tim Newmann: I am Tim Newmann. I live at 6331 West Hollow Rd. It is neighboring one of the properties up in question.

Chairman Bowen: Is it for this property? You are on West Hollow Road.

Tim Newmann: It is not on this property. I have general concerns over this. How it affects property owner's rights. I have rights now to own horses, chickens, or whatever. If I have a short-term rental place next to me, I am going to have people coming in that I am unfamiliar with. There is going to be people maybe wanting to hunt. My boundary lines are not marked. There is going to be people in the woods at times, I do not know. I do not know their level of what goes on. Do they let their kids run around on the property during hunting season? If they are responsible hunters, I want to know who is next to me.

Diane Graham: Was this on a particular application?

Tim Newmann: It is my neighbor one of ones. I did not realize that was the one. They are not the people I have seen there.

Chairman Bowen: It is very difficult to deal with hypotheticals. Do you have access to the internet and Town of South Bristol website? Did you review the short-term rental law that is in our zoning law?

Tim Newmann: Okay.

Chairman Bowen: In the short-term rental law there is a procedure for complaints by neighbors or anybody else.

Tim Newmann: I thought this was an informational meeting. It is not necessarily a complaint. I want to know how it is going to affect me, I guess.

Chairman Bowen: Unfortunately, your neighbors have left the building.

Tim Newmann: The representative neighbors I have not seen them there.

Diane Graham: They will be sending you their short-term rental permit once issued and you will be getting a copy if you were one of the neighbors I sent a legal notice to. Did you receive a legal notice?

Tim Newmann: I did.

Diane Graham: You would be one of the ones that will receive the short-term rental permit. If you have any questions, you can contact the local contact if you have something that comes up. You can call them directly.

Tim Newmann: Alright. I received a list of the people who were applying.

Diane Graham: That was the legal notice. You are one of the neighbors that will receive the short-term rental permit in the mail.

Tim Newmann: Okay.

Diane Graham: When you get that, if you have questions you can call Rachel Pasquarelli. She is the owner.

Tim Newmann: Okay. I do not know. I met the owners of the property and they were not here.

Scott Martin: Those were the owners.

Tim Newmann: That is not Rajat Asani.

Diane Graham: We have not come to that application yet. If you want to grab an agenda, we are going in that order.

Tim Newmann: Okay.



Chairman Bowen: Ms. Busch, we will proceed. Was there anyone on Zoom that wanted to comment on the Bills Road property? Anyone else in the audience? Hearing none.

I move that based on a review of short-term rental permit application 2022-0039 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Jason Inda seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued. Thank you.

Kathleen Busch: Thank you.

Chairman Bowen: Before we get to the next application Mr. Newmann and anybody else in the audience. After tonight's meeting there is going to be a short-term rental moratorium in the Town of South Bristol. Although I do not have confirmation of that at this point I am assuming the Town Board will have some public meetings to address the short-term rental situation in the town. At which time hopefully people can come forward and express concerns, questions, direction for any modifications, amendments, deletions from the statute as it is currently written. Keep a look out for that Mr. Newmann and we will get to your neighbors in a few minutes.

Short-Term Rental Application 2022-0040

Owner: DP Fuller Family Limited Partnership

Local Contact: Steven Fuller

Property: 14 A Northstar Drive

Tax Map #: 167.71-1-14.200

Zoned: PD (Planned Development)

Sleeping Occupancy: 6

Parking Spaces: 3

Steven Fuller: Hi, my name is Steve Fuller. I am here representing DP Fuller Family Limited Partnership seeking a short-term rental permit from the Town of South Bristol for unit 14A. A townhouse on Northstar Drive at the base of Bristol Mountain. Occupancy of six with three parking spaces.

Chairman Bowen: You said that is a townhouse right there on the resort property?

Steven Fuller: Correct.

Chairman Bowen: The resort has contact people there including yourself for any renters who have issues?

Steven Fuller: Correct.

Chairman Bowen: Or neighbors who may have issues?

Steven Fuller: Correct.

Chairman Bowen: I do not see any action items on this. Any written comments received, Diane?

Diane Graham: No.

Chairman Bowen: Any board questions or comments? Are there any public comments? Questions from anybody on Zoom? Hearing none.

I move that based on a review of short-term rental permit application 2022-0040 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Michael McCabe seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued. Thank you.

Steven Fuller: Will do. Thank you. Have a good evening.

Chairman Bowen: Thank you.

Short-Term Rental Application 2022-0041

Owner: Rajat Asani and Bhavmeet Shah

Local Contact: Haven Vacation Rental Management LLC

Property: 6345 Co Rd 33

Tax Map #: 183.00-1-17.130

Zoned: R5 (Residential 5 Acre)

Sleeping Occupancy: 6

Parking Spaces: 4

Amy Merrill: I am Amy Merrill with Haven Vacation Rental Management. We are applying for a short-term rental permit for 6345 Co Rd 33 for a sleeping occupancy of six and four parking spaces.

Chairman Bowen: Is that a single-family residence?

Amy Merrill: It is.

Chairman Bowen: Any written comments, Diane?

Diane Graham: No.

Chairman Bowen: Any board comments or questions? Anybody on Zoom want to make any comments or anyone in the audience?

Diane Graham: Is this the property?

Tim Newmann: This is the one. I live next door at 6331. My name is Tim Newmann. I have concerns about people I do not know on the property especially during hunting season. My son and I hunt. Neighbors hunt. I am concerned about kids being up in the woods. I am concerned with people renting the property to hunt that I do not know. I do not know their practices and when they are going to be in the woods. I have a relationship with my neighbors. We talk to each other. I feel uncomfortable having that possibility there. I do not know if they have a dog. I do not have chickens now, but my wife wants to. I do not know what restrictions this is going to mean for me.

Jason Inda: There should not be any restrictions for you assuming that they stay on their property. Are you concerned about somebody trespassing on your property or concerned about them being in the woods on their property?

Tim Newmann: There is no markers in the woods.

Jason Inda: Right. There is a property line per se.

Tim Newmann: They are not going to know it.

Amy Merrill: We do provide a copy of the property boundaries aerial view so that all of our guests know exactly where the property boundaries are.

Tim Newmann: I do not know the exact property lines. I do not know how you do. An aerial view you are saying that you can walk up there and know where the property line is?

Amy Merrill: They would have an idea. They can see from the road where the property lines are. There is a trail that runs through the property that connects to the park. They can hike up that trail and go over to the county park. We do not allow hunters and that property does not allow animals.

Tim Newmann: Is that going to be on the permit?

Amy Merrill: I do not believe the permit addresses that, but our rental agreement does. We do have a rental agreement that we require our guests to sign.

Tim Newmann: Once the permit is issued you have the right to write whatever rules you want if it is not on the permit.

Chairman Bowen: Mr. Newmann in the permit application process the owners do provide their proposed rental contract that would be used for any future rentals based upon the permit granted. If there are rules in there barring hunting or any other activities then they would be in there.

Tim Newmann: Okay.

Chairman Bowen: He does not get a copy of their lease?

Tim Newmann: If the rules were to change, what would be the process in changing those?

Chairman Bowen: We have no way of knowing until the owner has to reapply for a permit in two years. At that time we would see any changes in their proposed contract.

Amy Merrill: The owners have no desire. They do not hunt themselves. They do not desire to have anyone on their property that hunts. Their insurance does not allow that. That is not going to be a permitted use at the property. They do not allow pets at the property. There will not be any pets from that property running loose. That is all within our renter's agreement. We do screen potential guests.

Tim Newmann: Okay.

Amy Merrill: The owner is on Zoom.

Rajat Asani: Even based on the insurance I have crossed out and shut down all the hunting stands. So we do not plan to use it for anything. There is a boundary around the hunting stands where we have said no use. We do not intend on using this for any hunting.

Tim Newmann: Are they aware there are hunters around and you should be wearing orange in the woods if you are up in hunting season?

Amy Merrill: We can make that a regular communication with our guests that goes out to each guest.

Tim Newmann: Alright. Okay.

Diane Graham: Amy's company will be the local contact.

Amy Merrill: I am right on Main Street in Naples. You can call me at any time.

Tim Newmann: Okay. You are going to be maintaining the property?

Amy Merrill: Yes. I can give you my card so you have my contact information.

Tim Newmann: Okay. Thank you.

Chairman Bowen: Mr. Newmann, you will get a copy of the permit, which will have all of her contact information on it.

Tim Newmann: Okay.

Chairman Bowen: Any issues you can call her and as I mentioned before the short-term rental law has a complaint procedure in it so if for any reason you have any complaints that you feel they are violating the terms of their permit, you have the right to come over to these two gentlemen here who are the code enforcement officers of the town and provide them with a written complaint. If you provide a written complaint, then it comes before us for a hearing then we can potentially take action on the permit.

Tim Newmann: My primary concern is safety for both them and us to make sure that is maintained.

Amy Merrill: Absolutely. That is our concern as well.

Tim Newmann: Okay.

Chairman Bowen: Appreciate all your comments, sir. Thank you. Any other comments? None on Zoom and none in-person? Any board comments after what we have heard? Hearing none.

I move that based on a review of short-term rental permit application 2022-0041 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Kevin Stahl seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued. Thank you.

Amy Merrill: Thank you.

Short-Term Rental Application 2022-0042

Owner: Warner Properties LLC  
Local Contact: Stephen Warner  
Property: 10 Pinewood Lane  
Tax Map #: 183.36-1-2.300  
Zoned: R5 (Residential 5 Acre)  
Sleeping Occupancy: 4  
Parking Spaces: 2

Stephen Warner: Good evening. My name is Stephen Warner. I am here for the application on 10 Pinewood Lane. It is a two bedroom townhouse in Hidden Hollow Townhouses. Looking for a permit of four occupancy. It has two parking spaces.

Chairman Bowen: Just for the record how many bedrooms are in the townhouse?

Stephen Warner: There are two bedrooms.

Chairman Bowen: I think there was some discussion last time about septic and being proactive on the septic system there.

Stephen Warner: Yes. We are keeping track of it. We are having it inspected. That was the first time I had heard that there was even a question about it because I was at the meeting before when my neighbor got approved and it was not mentioned at all. He is right next to me. If we have to deal with it, we will deal with it.

Chairman Bowen: Any written comments, Diane?

Diane Graham: No.

Chairman Bowen: Is there any public comment on this from the audience or anyone on Zoom? Any board comments or questions? Hearing none.

I move that based on a review of short-term rental permit application 2022-0042 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Jill Gordon seconded the motion.

Roll Call Vote:

David Bowen – Aye  
Jill Gordon – Aye  
Jason Inda – Aye  
Michael McCabe – Aye  
Frederick McIntyre – Aye  
Sam Seymour – Aye  
Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

Stephen Warner: I do not have any yet. It is still in process.

Chairman Bowen: Thanks very much.

Short-Term Rental Application 2022-0044

Owner: Daniel P. Bajda & Lindsay A. Bajda

Local Contact: Lindsay Bajda

Property: 21 Cliffside Drive

Tax Map #: 168.16-1-6.021

Zoned: PD (Planned Development)

Sleeping Occupancy: 4

Parking Spaces: 2

Lindsay Bajda: Hi, I am Lindsay Bajda. The owner of 21 Cliffside Drive. We are applying for a short-term rental permit for a two bedroom, two and half bath condo in Bristol Harbour with one guaranteed parking spot and a maximum occupancy of four people.

Chairman Bowen: There is overflow parking because you only have one designated spot?

Lindsay Bajda: There are two spots in our garage and there is a least ten spots in the garage one up and over from us. There is a whole section for visitor parking.

Chairman Bowen: Thank you. Any comments or questions from the board?

Diane Graham: No written comments.

Chairman Bowen: Any public comments or questions from anyone on Zoom? Hearing none.

I move that based on a review of short-term rental permit application 2022-0044 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Kevin Stahl seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

Lindsay Bajda: Alright. Thank you.

Short-Term Rental Application 2022-0045

Owner: JBear Associates New York LLC  
Local Contact: Brooke Ward  
Property: 7148 S Gannett Hill Rd  
Tax Map #: 194.00-1-1.212  
Zoned: R5 (Residential 5 Acre)  
Sleeping Occupancy: 8  
Parking Spaces: 4

Brooke Ward: Brooke Ward representing the Ellsworths.

Chairman Bowen: Please re-introduce the application for the record.

Brooke Ward: Four bedrooms with eight people and four parking spaces.

Chairman Bowen: This is a repurposed barn on the property?

Brooke Ward: Yes.

Chairman Bowen: I did not ask this before. Was there any intent to use this as any sort of wedding venue or anything like that?

Brooke Ward: No.

Chairman Bowen: One of the action items was providing a copy of the driveway right-of-way agreement. We did receive a filed driveway, utility and access agreement over the neighboring lands in the favor of JBear Associates New York. Does anyone on the board have any questions about that driveway agreement? We do have a hand up in the audience. Please approach the microphone and identify yourself.

Deborah Callaway: I am Deborah Callaway. I live at 7146 S Gannett Hill Rd, which is the next door property to JBears. My main concern is the shared driveway. It is about a quarter of a mile long. There is no problem sharing the drive. That is not a problem, but maintaining the driveway for guests is a problem. It is a dirt road and not maintained by the town or county. It is JBear and us. I do not mind plowing it one time a day, but if you have guests that are coming and going. You are going to want that road clear all the time. I would expect to be able to get to my rental if I was renting. The problem is he wants to split the plowing equally as we have in the past. If it plowed, we share the cost. That is not fair if we are not using the road. He is using the road to make money.

Chairman Bowen: Are you in and out every day?

Deborah Callaway: No. Not at all. Not any way shape or form. We are capable of plowing it for ourselves. We never had to plow to get in or out. We have a tractor and scraper and walk behind snow blower if we wanted to use it for that.



Chairman Bowen: Any response ma'am?

Brooke Ward: Well, we have Ryan. So they have tagged teamed it as far as I know. I could be wrong. Is that how you see it or not so much?

Deborah Callaway: No. Ryan is no problem. He has never charged us for plowing. Dave plows when we need to get out or expecting a shipment like a UPS or FedEx. It's the windy days and there are many that cause the snow to drift that your average automobile would not be able to get up that road. I expect that the property will be rented throughout the winter months. The ski resort is a big draw. The guest, I assume, will want to come and ski. They leave early in the morning to get to the slopes. They will want it plowed bright and early. They will want to come home perhaps at noon or certainly by evening and it will have to be plowed again. If I needed the road plowed once would certainly be all that I would need. There is no way that I want to pay shared maintenance as long as we defined shared maintenance as plowing. Resurfacing the road, gravel, plowing down the berm in the middle. We have done that for five years. No problem. It is the possible plowing multiple times a day calling for a snow plow, which is a \$100 a trip.

Brooke Ward: I would never ask you guys or J. I would not support him in asking you guys to plow it all.

Deborah Callaway: I know you wouldn't. It has already been asked though. We have done it when the house was occupied and the plow came multiple times per day we were charged. I do not expect to be any different.

Brooke Ward: I will not work for him if that is the case.

Deborah Callaway: I appreciate it. I do. Brooke and I are good friends and this is her job. I do not want to jeopardize her job in any way shape or form. I just want the potential for abuse. It just is not fair. I turned down a house fifteen-seventeen years ago because it was a shared driveway. It was a house in town that only maybe a hundred feet long. I did not want to get into the problem or shared maintenance driveway, shared parking. There is plenty of parking at the barn. That is one more problem. There is nothing that signifies the barn as the rental property. It does not have a number on it. Multiple entities like the people who were inspecting for the upcoming hearings. They come to our house and think they were inspecting our house for this rental property. I said no it is the barn next door. You know that it is close. It was the barn for the property that we have.

Brooke Ward: It should have numbers on it. I had told J when they were here pick out some numbers, tell me where you want them and I will have Ryan put them up.

Deborah Callaway: Is matters. It really does. Even for post office and UPS.

Chairman Bowen: Do you object to some sort of sign that says barn this way or I am not sure how it is laid out up there.

Deborah Callaway: My house is on the right and the barn is on the left.

Chairman Bowen: Is there a contact for snow plow contractor shown in the house or listed in the rental contract?

Brooke Ward: It will be definitely. He will on and if we need to get somebody else some backup to make sure that it is always safe to get in and out then that is a priority.

Chairman Bowen: Are you satisfied with that?

Deborah Callaway: Oh sure. Anything that Brooke says is fine. It is just that I had to bring it up. I am sure we are not the only property that share a driveway and that will have to come even if this is not the right meeting for it. The meeting to come after the moratorium. These things need to be addressed. Thank you for hearing me.

Chairman Bowen: Thank you very much. Anybody else? Anybody on Zoom? Any board questions or comments?

Jill Gordon: A condition that the barn be labeled before the permit to try to avoid any further confusion.

Brooke Ward: Yes.

Chairman Bowen: I move that based on a review of short-term rental permit application 2022-0045 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022 and comments made during the meeting the Planning Board hereby approves the granting of a short-term rental operating permit to the owner conditioned upon signage being installed directing tenants to the barn property and a listing of a snow plow contractor in the rental agreement and posted inside the residence itself. Jill Gordon seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

I guess you will deal with the signage as well. Do you guys want to inspect for that or just send a picture to Diane of the sign and any listing of the snow plow contractor in the lease? You can send that page of the lease over to Diane. Thank you very much.

Brooke Ward: Okay. Thank you very much.

Short-Term Rental Application 2022-0046

Owner: Cabin Culture LLC

Local Contact: Pamela Giancursio

Property: 5601 St Rt 64

Tax Map #: 167.00-1-49.120

Zoned: NC (Neighborhood Commercial)

Sleeping Occupancy: 10 (Unit A = 2; Unit B = 4; Unit C = 4)

Parking Spaces: 7

Chairman Bowen: Hello, please identify yourself and re-introduce your application and property.

Pam Giancursio: Sure. I am representing Cabin Culture LLC and I am the contact as well. Our property has three units. Total occupancy of ten. We have a studio which would accommodate two. Then we have two other units that accommodate four.

Diane Graham: You have parking for seven?

Pam Giancursio: Yes. Sorry.

Chairman Bowen: You have them identified as Unit A is the two person, Unit B is four person occupancy and Unit C is four person occupancy?

Pam Giancursio: We do.

Chairman Bowen: Are there any written comments, Diane?

Diane Graham: No.

Chairman Bowen: Any public comments? Any questions on Zoom? Any questions or comments from board members? Hearing none.

I move that based on a review of short-term rental permit application 2022-0046 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Jason Inda seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

Pam Giancursio: Okay. I will. Thank you so much.

Chairman Bowen: Thank you.

Short-Term Rental Application 2022-0047

Owner: James Collins  
Local Contact: Kathleen Varney, Vacasa  
Property: 40 Cliffside Drive  
Tax Map #: 168.16-1-6.040  
Zoned: PD (Planned Development)  
Sleeping Occupancy: 4  
Parking Spaces: 1

Diane Graham: We have two people on Zoom. Please identify yourselves.

James Collins: I am James Collins.

Marissa Cool: I am Marissa Cool. I work with Kathleen. We are the local contact for Vacasa.

Chairman Bowen: Mr. Collins can you re-introduce your property and what it is you are seeking for the record.

James Collins: A short-term rental for 40 Cliffside Drive. It is two bedroom, two and half bath. I am sorry one and half bath. One parking space with overflow and sleeping occupancy of four.

Chairman Bowen: Have you had any issues with parking in the past?

James Collins: No.

Chairman Bowen: Have you rented it in the past?

James Collins: I have not. I am unaware of any issues.

Chairman Bowen: Do we have any written comments, Diane?

Diane Graham: No.

Chairman Bowen: Any public comments? Anyone on Zoom? Any board member comments or questions? Hearing none.

I move that based on a review of short-term rental permit application 2022-0047 and the testimony presented at the Planning Board meeting on November 16, 2022 and public hearing on December 7, 2022, the Planning Board hereby approves the granting of a short-term rental operating permit to the owner. Kevin Stahl seconded the motion.

Roll Call Vote:

David Bowen – Aye

Jill Gordon – Aye

Jason Inda – Aye

Michael McCabe – Aye

Frederick McIntyre – Aye

Sam Seymour – Aye

Kevin Stahl – Aye

Motion carried.

Chairman Bowen: Please email Diane all your advertising websites listing identifiers before the short-term rental operating permit will be issued.

James Collins: Sure will.

Marissa Cool: Will do.

James Collins: Thank you for your time.

Chairman Bowen: Thank you. At this point I will declare the short-term rental public hearings closed.

**Short-Term Rental New Business**

Short-Term Rental Operating Permit 2021-0056 Complaint Hearing

Owner: Ian M. Boni

Property: 6836 Co Rd 34

Tax Map #: 177.00-1-35.000

Chairman Bowen: Do we have anyone present on this matter?

Diane Graham: I do not see anybody on Zoom. I do not see the owner in the room.

Chairman Bowen: Alright. Sir, do you want to identify yourself?

Dan Crowley: Good evening. My name is Dan Crowley. I own the property at 6830 Co Rd 34. I am the author of the two complaints that you are in possession of.

There is a couple of avenues I would like to discuss. I will say right up front I do not know this is necessarily the venue for a larger conversation that I think needs to be had as it relates to a right-of-way. Maybe it is during public comments during the moratorium. If it is okay to wander that way a little bit, let me know. I can address the two complaints specifically. I think there is a broader issue or comment that I feel I need to make to the board.

Chairman Bowen: You can say whatever you want tonight.

Dan Crowley: Okay. The two specific complaints involve trespassing and property damage that either were caused by or done by people that Mr. Boni had staying at his property. The first complaint that I had filed I think it was in October or November.

Diane Graham: September 12<sup>th</sup>.

Dan Crowley: September 12<sup>th</sup> thank you.

Diane Graham: And November 22<sup>nd</sup>.

Dan Crowley: November 22<sup>nd</sup> was the second. There had been other instances before my first official complaint, but I tried to deal directly with Mr. Boni. They were really not resolved satisfactorily in my opinion, of course. In September I decided okay the trespassing is still happening so I am going to file a complaint.

Chairman Bowen: Just so we all know because we do not know what happened prior to these. Why don't you tell us what was going on prior to September.

Dan Crowley: Okay. I will try to be brief. In September of 2021 I was in and spoke in support of Mr. Boni's short-term rental operating permit. I had notice that he applied and the reason obviously is because I am a neighbor, but the other reason that I was particularly interested is that Mr. Boni accesses his property through a right-of-way over my property. I was concerned that the operation of a short-term rental business would change the nature of the use of the right-of-way. Not unlike the other driveway we heard about I think the total length of driveway is over a quarter mile. The portion that Mr. Boni is allowed to use comes up off of County Road 34 and makes a switchback turn and traverses over my property over to his property 6836.

Chairman Bowen: It is a hard left, right?

Dan Crowley: It is a hard steep left. Yes.

Chairman Bowen: Your driveway continues in?

Dan Crowley: Continues on straight. That is correct.

Chairman Bowen: You have put up a chain and a couple of posts there in the meantime?

Dan Crowley: Yes.

Chairman Bowen: Just so the board understands.

Dan Crowley: I spoke to Ian before I had spoken in support of his permit. He told me the fellow he bought the property from, which is also the fellow that I bought my property from, had owned them both said, yes he talked to this fellow and he was going to put his own driveway in off of County Road 34 so he would not have to use my property to access his. I told him that is probably the best solution. At that point and time I knew how steep and how hard that turn is to make and in particular in the snow. It is literally impassable even if it is plowed. If there is any slippery condition, sometimes when it is even wet or muddy except the most capable four by four cannot make that turn. What happened is he assured me he was building his own driveway. I put him in contact with a contractor. I am building a house up there so I have a guy who does bulldozer work. Cory Rogers lives right up the road. He went through the spring and summer of 2022. I talked to him in April 2022. He made an appointment to meet with the excavator.

Missed that appointment and then nothing else ever happened. I never heard from him. What had happened during the winter is I still live in Michigan primarily. I am building a house to move here. I am half way through it. So I am not here all the time. I had come during the winter months January, February of 2022. There is truck tracks and snow plow had gone way up on to my property and I had not been there. I called my brother who I have plow it if I need it plowed. Have you been down to the property? He said, no. I finally figured out it was a fellow that Ian had staying at his property. I called him and asked what is going on? You cannot trespass up on to my property. He basically said, it is impossible to make the turn without going up on to your property and turning around and coming back down hill and get a running start to go up the driveway that goes to his property. Could I please let him continue to do it for the winter because he was going to be building his driveway in the spring or summer and it was not going to be an issue? In the spirit of cooperation I said sure. I said for this winter only you can go up this far and make a turn and come back down so that you can get up your driveway. So that settled itself. Throughout the course of the summer I was there clearing trees doing all of my stuff. There were two occasions prior to the one where I had made the complaint where cars would show up there. I would say can I help you. They say we are looking for such and such 6836. It is the first turn. Go back down. I had let Ian know about this. He had talked about he was going to put signage up. There is nothing at the foot of the driveway. There is no mailbox. There is nothing. Half way up the driveway there is no signage that indicates where to go to get 6836. People drove on up. At that point I got the chain and put it across. That was great when I was not there, but when I am there I do not put it up and take it down every time I come and go. It happened again in September and that is when I made the complaint. It was 7:00 o'clock on a Sunday morning. I was working on my house and this lovely elderly gentleman comes walking down the driveway with his dog. I asked him can I help you. He said, oh I am just walking my dog. I said this is private property. He did not seem to really understand. I said, are you staying at Ian Boni's cabin? He said, yes Ian that is the guy's name. I said okay. So I texted Ian. I said, I just had another one of your guests walking his dog on my property. We are not talking he is twenty feet over the line. He is 700 feet past that part of the driveway up and all the way down to where my new house is. It is not like it is an oops! I am a few feet over. His response at the time and I have the text message I could look at it. It was basically something like good luck in court, too bad was his response in September. That is when I filed the complaint with Scott and Alan. His response there was a lot of back and forth where I would email Alan and I think Ian would. Alan sort of mediated it, but it was never really addressed. Not sorry. Not it will not happen again. I think finally he said, that he had put a map up inside his cabin letting people know where the driveway stuff was. So that was fine. In November I am trying to give you everything in order.

Chairman Bowen: By the way I assume that there is no signage put up.

Dan Crowley: No. There has never been signage put up. I have asked him. I think it presents a problem for fire safety. Somebody says there is a fire at 6836 and the fire department goes up the driveway. Where is it, right?

Chairman Bowen: They end up at your place.

Dan Crowley: They could, but and would I am sure because you are going up the driveway it feels natural to just go straight. I apologize if I am jumping around. There has been a lot. I spoke to Alan and Scott. I said, listen the core issue is I am having issues with Ian's use of the right-of-way in general. There is a driveway agreement in place and I can get to the specifics of that in a little bit. Alan advised me the two of you need to work it out. Suggested we meet. Mr. Boni scheduled a meeting at his attorney's office I think it was like October 28<sup>th</sup> or 29<sup>th</sup>. Alan gave us to the end of October to get it done that was when his

attorney was available. I went. We met. I basically presented him with the driveway agreement. I said, I had this driveway agreement put in place when I bought the property in December of 2020. The driveway agreement goes past the original right-of-way language, which was written in 1960 something. The only two restrictions in the original right-of-way were you cannot have a junkyard and you cannot have a mobile home park. That was it. The new driveway agreement it was written so that the guy I bought the property from, Chuck Potter, his use of the right-of-way was limited to "normal ingress and egress". That is the allowed use of the shared driveway. By my understanding that agreement is effective upon all heirs, successors, assigns and all that stuff. It goes with the property. At that meeting I gave him the agreement and I said, I think what it comes down to is your definition of normal because it very specifically says in the agreement normal ingress and egress. I am here to say that it my contention that the operating of a short-term rental business is not normal ingress and egress. I think if it were normal then there would not be countless hours and countless dollars and time spent on a whole new law to manage the situation if it was normal so I do not think it is normal. It was never my intention when I bought the property to have the person using the right-of-way operate a rental business with lots of traffic over that right-of-way. That is my position. I spoke in support of his operating permit even though that condition existed because of the promises that he made that he was going to build his own driveway. Spoke no problem. I have a lot of friends that are tree guys. We will clear the trees. We will get it done. Yes, I will get your contractor. I want to have my own driveway anyway because it is unpassable in the winter and lots of things. If I knew in September of 2021 what I know today I would not have spoken in support of that permit. I think that in general the granting of a short-term rental operating permit changes the nature of the use of an existing right-of-way. It just does. I know in back and forth in emails Ian had made arguments that it is not commercial. I think what he is referring to is the zoning designation. No, it is not designated at commercial activity from a zoning standpoint, but there is no denying that it is a business activity. I guess in my opinion I do not think that the driveway agreement that is in place as a civil between he and I allows for that use. That is the deeper issue. I think that second complaint and issue that happened in November immediately after we had this meeting. I will back up. At the meeting I offered to Ian. I said, look have you been out and actually walked the topography up there? It is steep. I spent a year and a half clearing a house site up there. I know. It is rough to work in that environment. I told him maybe a solution is this. I want you to have your own driveway. Maybe down at the base right off of County Road 34 I would be willing to explore your driveway entering on my property and then immediately turning and heading for your property to you have more of a runway to be able to lessen the grade. My only requirement would be that his entrance would be 100 feet from my entrance. A separate driveway so I did not have to deal with the traffic and the trespassing and all the stuff that has gone on. He took that and ran with it. I think he met with two different excavators sent me a text said he had gotten an estimate from one gentleman that the driveway was going cost between fifty and seventy-five thousand dollars. The Army Corp of Engineers had to get involved. I called Bill Grove who did my site plan and said, does this make sense to you? He said, no. He also said, that even if the Army Corp had to get involved he said it was a couple thousand bucks to get a permit. I do not know where all that came from. I know that Cory Rogers also met with him. Cory had indicated years prior that he could put the driveway in for \$10,000. When I talked with him he said, the price of diesel has gone up. It will probably be \$20,000 or \$30,000 now, but not that number. Immediately after that Ian basically said the driveway is out of the question. I am not spending that money. I am not going to do it. It leads me to here we are today and I think the use does not comport with the legal agreement that is in place. Therefore, if a driveway is out of the question, then in my opinion a short-term rental business is out of the question. Immediately after that assertion I was actually down in the code enforcement office talking to Scott and Alan about something for my house and I got a call from Cory Rogers, the excavator. He said, are you here in Bristol. I said, yes. I am down at the town hall what is going on. He goes I am on your driveway. I said, okay. What are you doing? He said, Ian wants me to do some work up here. I am thinking he is having you start work on his driveway, great,



but why are you on my driveway? He said, I am at the turn. I said hold on Cory so you are what? He said, well Ian wants me kind of change the grade and make this turn easier for him to get up and down. I said sit still for a minute. I went up there and he explained to me Ian wanted to him to move an embankment, widen the driveway, change the grade of the driveway. I got up there and he has his big bulldozer and a roller like construction equipment offloaded on the driveway. I told him load your stuff up and take it home. I said, you can tell Ian that I did not give you permission to make changes to my property and if he has a problem with that he can call me. He called me. He was upset. I said, the answer is no. You do not have permission to alter my property for your convenience. You just don't. The thing that Ian does not understand and I am trying to remember who was here when I went for my site plan approval half of County Road 34 was up here because the driveway that goes up there apparently years ago washed out. The driveway ended up in the pond on the neighbor's property down below. Those neighbors were very concerned about activity that was going on up there. Basically, at this time of year in November-December if you want to make some changes to that steep slope on that driveway, on that hillside that makes it unstable and it fails and it ends up in the pond. Well, now I have bigger problems. I said, no. The final piece is that after all that happened we got snow. I just happened to be here this time. I heard some noise like an engine revving. I heard what I thought was a man's voice shout something from inside my cabin the A-frame that is up there. I went out to the back looked over the deck and here comes a white pick-up truck backing up the driveway. I can see down. It backs past the chain and posted signs up on to my driveway. Gets a running start makes the turn and heads up to Ian's. I could not believe it. It is a year later and here we are. It is the exact same thing that is happening. I have told him absolutely not. I have put up signs. I walked the length of the driveway and put up posted signs. The whole way across my property over to his property to try to mark it. I called the police. When I got down to the bottom of the driveway whoever it was and I have seen the same truck. I have been here for three weeks straight. I have seen the same truck four times a week. Somebody is staying up there in this truck. I do not know who it is. When I got down to look at what was happening in the snow and I took all the pictures and sent them to Alan and Scott. Whoever it was had made three attempts to back in the driveway. One of which, went squarely over the top of the mailbox and flattened it. The second of which, went into the ditch. The third, he made it. Backed all the way up onto my property and got his running start and went up. That was the second formal complaint that I filed. There is a lot there. I thank you for listening to me, but I am of the opinion that I do not think he should have an operating permit. I think that A. it is not consistent with the use that is in the legal agreement that I have in place and B. he does not address complaints. He is a repeat offender on trespassing. There is not signage. God forbid somebody has a medical emergency up there. If the driveway is so dangerous like he claims then what if an ambulance cannot get up there. I think there is a whole lot of issues that are unresolved that make this really not the best candidate as a property for a short-term rental.

Chairman Bowen: Did you talk to him about the mailbox at all? Has he addressed that?

Dan Crowley: He got the pictures in an email. No, he did acknowledge that his person who was staying there did it. He did not offer to pay for it. He did not even mention it. He basically sent an email back saying I could read it, but it was something to the effect of I am the boy who cried wolf. Everybody is going to get tired of hearing the complaints that I have. The Board has already said that they are not interested in this so I am going to do what I am going to do with or without you. That was his response.

Chairman Bowen: Yes. I saw that email. I think you both got an email that I wrote to Alan. Alan got a hold of me and asked for my input on it. I did not realize it was going to be sent to you and Mr. Boni. I apologize that it may have further entrenched his position. It was not intended to be the word of the Planning Board. It was just me.

Dan Crowley: To address that specifically if I could. I think you are a hundred percent right as it relates to the current statute. The statute is silent as it relates to rights-of-way. I think that, in my opinion, during the moratorium there is room to have it addressed in the statute. I read the statute. It is not there. I think that if an applicant does not control the access to their property over their own property then there can be some special consideration.

Chairman Bowen: Since you got that driveway agreement in 2020 I looked at it and there is a word for maintenance. I believe it is to be shared. Having someone define what maintenance means is rather difficult, but what has been the historical respect of the word maintenance since 2020 in terms of maintaining the road, plowing the road?

Dan Crowley: If I need to get in, I take care of it. Neither party in the agreement or in the original right-of-way is compelled in any way to perform maintenance. There is no obligation established legally for who is responsible for maintaining the driveway. Up to this point, I do not live here. I haven't formally maintained it. What I did do in the spring was rent a piece of equipment for a day to repair all the damage that Ian's guest did the prior winter. I maintained it. I am a do-it-yourself guy. When I need something done on my place, I do it. The short answer is there has been no formal maintenance of the driveway since I have owned it by a third party in any way. It has been me. I trim the branches. I clean the culvert out. I rake the leaves. I fix the gravel. I take care of it.

Chairman Bowen: You are right about the short-term rental law not being very specific and certainly does not address driveways. It does talk about conduct on the premises, which is unreasonable under the circumstances in which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance. That is pretty vague language. There is some at the beginning about protecting neighborhood character, etc.

Dan Crowley: It is also very broad.

Chairman Bowen: Being conscious of neighbors. It does not say please be conscious of neighbors and do not trespass on their property, which would be very helpful to us as a Board trying to find violations. I do not want to get into the commercial versus residential. There had been people on the board who would say well a short-term rental is a commercial use. It is really not a commercial use. It is a commercial enterprise. It is a commercial business of the owner, but the use of the property remains residential as opposed to a transforming into a commercial use. It is still being used as a house. That is a debate for another day.

Dan Crowley: I think that is right. I will give a guest appearance to a first cousin of mine is on the Planning Board in Canadice, Kate Crowley. They are looking in earnest to what South Bristol does because they are implementing their own short-term rental process there. She used to be on the Board in Victor. Victor outlawed them. Victor said no. You cannot do them is the last I heard. I think there are municipalities that say it does not comport with our stated goal or whatever and say you cannot have them. It is interesting. I will be a hundred percent forthcoming. I have subdivided my property. Down the road I had thought I would like to get a short-term rental permit because I have the little A-frame up there and it is something I can do. I have a whole new appreciation for it. I will tell you. People have asked me are you going to rent that out. I am like I thought I was going to, but now I am not sure.

Chairman Bowen: Unfortunately, short-term rental is a 21<sup>st</sup> century creature. Every municipality is battling over the issue. South Bristol being no exception. At this point I will open it up to the Board for any questions or comments they may have on this.

Kevin Stahl: Scott, you did not see any code violations, right?

Scott Martin: No.

Chairman Bowen: What kind of code? Do you mean short-term rental law?

Kevin Stahl: As far as the permit and what the codes are for this permit. There really hasn't been any violations as far as I understand.

Jason Inda: What about signage on the corner?

Scott Martin: There is not any.

Jill Gordon: Was that part of the original permit?

Scott Martin: The original permit was issued long before me or Alan were here.

Kevin Stahl: My only comments was going to be I am not a lawyer. I do not want to get into the legal end of what is normal and what is not normal for that driveway. As a Board member, issuing a short-term rental permit I would be more concerned about the safety of getting emergency vehicle to that home if something were to happen. To me that is the only thing I can see where we can debate on it.

Jill Gordon: We have had other permits that were not allowed or were not going to do winter rentals due to difficult access in the winters.

Chairman Bowen: Have we?

Jill Gordon: Yes, on Blackberry.

Chairman Bowen: Anybody else have any?

Frederick McIntyre: There was an issue with the bridge with our friend Webster. They prevented him from using his facility until he got the new bridge.

Jason Inda: I believe in that instance we did not issue the permit. The permit has already been issued here.

Jill Gordon: Right.

Jason Inda: We did not issue the permit until he fixed the bridge. This permit is outstanding. I think at this point we have to look into whether we see enough conditions to suspend, revoke. I do not think we have any powers to issue fines as far as I read.

Chairman Bowen: No.

Jason Inda: I think that was another discussion that Dan Marshall had at some point for a more macro look at this, which I am sure will happen after the moratorium is in effect.

Chairman Bowen: Mr. Crowley, do you have those emails in front of you? What was the date of Mr. Boni's email?

Dan Crowley: On my phone I do. One second.

Chairman Bowen: I have it, but I have too many emails I have not deleted here from my good friend Diane so it is very difficult for me to find them for quick access.

Dan Crowley: Which email?

Chairman Bowen: The one that he responded to you. The boy wolf.

Sam Seymour: Looks like November 20<sup>th</sup> Ian sent that.

Jason Inda: Yes. It was November 20<sup>th</sup>.

Chairman Bowen: I would not for the record Mr. Boni is not here. He was given notice is that correct?

Diane Graham: Yes. He was given the same email.

Chairman Bowen: Mr. Boni has chosen not to attend tonight's meeting. I reviewed his email of November 20<sup>th</sup>, which was I guess snarky is the term people use these days. It was not sympathetic, empathetic or mature in dealing with the issue you raised with him. He reviewed the emails that I sent or at least the one email I sent and he was rather flippant about that I guess.

According to short-term rental, which is section 170-71 of the South Bristol zoning law under subsection J. Grounds for Suspension or Revocation of Permit Planning Board may suspend or revoke a short-term rental permit by application from code enforcement officer based upon among others any of the following grounds: Any conduct on the premises, which is unreasonable under the circumstances in which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance. That is under subsection 5.

I do not know if it is a code enforcement issue that you Scott or Alan need to specifically site this as a nuisance or one of those issues, but at least the way I am looking at this. This driveway clearly presents a danger, safety hazard in the winter time. We have had ongoing trespasses, which have not been addressed by the owner. There is a section at the beginning of the law that talks about being conscious of the neighbors, which I think trespassing would fall under that category. At least I think the Board has to take a vote on this, which I am not suggesting we do right now. I wanted to put forth on the record that I think there is enough there that we can seriously take a look at suspending the permit at least for winter time. We will see what the temperature is with the Board about revocation as well or any other remedies that we have. Unless you have any further comments, I will thank you for your attendance, your comments, your thoroughness with that we can end and the Board can discuss it. If that is alright with you?

Dan Crowley: It is fine with me. I talk a lot. Thank you for being patient and I hope it was not too hard to follow.

Chairman Bowen: Things work better when people talk a lot.

Frederick McIntyre: What did the police officer say to you when you called him on the property?

Dan Crowley: A lot. At the end of the day he basically said, look this sucks. He said, would a judge in this guy's interpretation of the law find or uphold criminal trespass? He said, no. It would be a civil trespassing issue. He did say the destruction of property is a criminal mischief in the 4<sup>th</sup> degree. He wrote up a report of which I have a copy. He asked me, do you want me to go up there and talk to the guy? I asked him, give me some guidance? He said from the sounds of things he I do not know. Would there be some retribution from this guy or something like that? I said, I do not know. He said, if it were me, I wouldn't. I explained to him the Board and the local law. He said, I would pursue that. He was willing. I will go talk to the guy and he said, if you think you want to press charges, you go right ahead. He did not think a judge would uphold the criminal charge.

Frederick McIntyre: Is this state police?

Dan Crowley: Yes, sir.

Frederick McIntyre: Do you want a copy of that report?

Chairman Burgie: Do you have one with you?

Dan Crowley: I have emailed it to Diane. It was in that group I sent you. So everything I sent to my attorney. I sent him the police report, the survey.

Alan Pearce: Code Enforcement has that copy. I have been dealing with this for months and so has Crowley. I am really encourage you guys to vote now because if we can go back to September 15<sup>th</sup> of 2021 when Crowley was here along with Boni one of the board members asked Mr. Boni who is going to deal with the complaints? He is the local contact. He is not here right now. You have heard all of what Crowley says. I think you have enough where you could make a pretty accurate decision right now because this has been ongoing for going on years.

Jason Inda: I would caution you as to encouraging the Board to vote one way or another as you need some separation there. You are a code enforcement officer for the Planning Board. I do not want you to say something they you maybe should not say on the record.

Alan Pearce: Okay. I want to say one more thing. Actions speak louder than words and Mr. Boni is not present. Again, September 15, 2021 one of you I forgot who asked Mr. Boni who deals with the complaints. He has not dealt with one complaint and he is not here right now. I still suggest, but okay.

Michael McCabe: I think I agree with Jason just said. That kind of encouragement isn't appropriate, but if I understand your role, your role is to observe and if you see a violation report it to the board. Are you doing that?

Alan Pearce: I have been trying to get this to the Planning Board for the last couple of months. Thank you Mr. Bowen. For every complaint that comes to code enforcement in the code for short-term rentals it has to go to the Planning Board within 30 days. That was my failure. It should have been last month for the first complaint from September 12<sup>th</sup>. So I do apologize for that. I am still learning.

Michael McCabe: Do you have one or is one forthcoming?

Alan Pearce: They are both here tonight. You heard both September 12<sup>th</sup> complaint and November 22<sup>nd</sup>.

Michael McCabe: Excuse me if I am not interpreting this correctly. You guys are reporting it as a complaint not this gentlemen?

Alan Pearce: No. It came from this gentleman here then I bring it to you.

Chairman Bowen: You mentioned about four-wheel drive vehicles being able to negotiate that turn. I do not have a great photograph of what happens after one makes that turn and heads up to Mr. Boni's cabin.

Dan Crowley: Straight up hill.

Chairman Bowen: I am assuming it is kind of steep. If somebody is renting that cabin in the winter, what kind of vehicle are they going to need? What kind of road conditions are they going to need to negotiate that?

Dan Crowley: In my opinion you would need a heavy four-wheel drive truck or SUV. I saw very specifically in the fall when there were leaves on ground and it rained on them and people slid off. If you do not have a four-wheel drive vehicle that is true four-wheel drive when you make that turn, it twists the chassis of the car so that the angle of it so there are two tires that do not want to touch. It is that severe. What would you need, I do not know. I think about a rear-wheel drive ambulance. Could that get up there? I do not know.

Alan Pearce: I do not think so. There is a reason for code enforcement to have the authority to revoke the permit just for that, truly. If you cannot get an ambulance up there, it is not legal. This was before Scott and I were here, but now we have to deal with this. I think that is reason enough to be honest. Especially in the winter. There is no way an ambulance is getting up there.

Dan Crowley: The day we had the snow the state police cruiser had a Tahoe four-wheel drive. I met him at the bottom. He came up and he wanted to stop where the trespassing happened at the corner. He stopped. I said, maybe you should keep going. He said, no, I will be fine. He put it in and hit the gas and he went sideways first. He figured it out and got the rest of the way up, but that was just on my portion of the driveway not on the steep part. I do not think I can definitely or expertly say what you would need to have. Ian himself in many emails has said that turn is impossible even with four-wheel drive in the winter. As late as September he said in an email he was just going to close it up tight for the winter. That was going to be it because nobody can get up there.

Jill Gordon: Do we have copies of all those emails?

Dan Crowley: Alan has most of them, but I can organize them for you by date and get them into pdf and get them over to Diane. That would be no problem.

Jill Gordon: That would be appreciated.

Dan Crowley: The interesting part is that when I met with him and his attorney, David Whitcomb. I do not know if any of you know him in Canandaigua. It seems that the legal argument of all the email messages from Mr. Boni is that all of his maintenance people, his cleaning people, his plow people, anyone who supports the property is exempt from the actions or oversight of the committee. The only traffic or people that the Planning Board has any oversight over are actual short-term renters. I believe he may be on to something, I do not know. The gentleman that destroyed the mailbox. The gentleman that is staying there now he is just renting it not through VRBO. He is just a tenant paying monthly rent. Mr. Boni's says so it is my tenant. The Planning Board can't do anything about that. He said that. May or may not be right. It has the touch of an attorney. No offence to any attorney's in the room.

Frederick McIntyre: He is staying there more than 30 days?

Dan Crowley: The tenant. Yes.

Frederick McIntyre: Is that a violation of the short-term rental?

Sam Seymour: No. The short-term rental does not address long-term rentals.

Frederick McIntyre: Doesn't it say it is from 1-2 days no more than 30 days?

Sam Seymour: It is an attempt to identify what a short-term rental is.

Frederick McIntyre: So he is not using it as a short-term rental?

Sam Seymour: Right.

Frederick McIntyre: So why does he need a short-term rental permit for?

Chairman Bowen: If he rents it on a short-term basis, he needs a permit. If he has someone in there six months a year, he does not need a permit.

Dan Crowley: Which is what he did last winter. This guy stayed up there like January, February and March. It is the same guy. Nobody would know to back up from the road to get onto my property to make a running start other than the guy who did it last year. No short-term rental guest would know that. Somebody coming up from New Jersey. It is the same guy.

Chairman Bowen: Anything else?

Frederick McIntyre: If somebody was to slip off that curve, is there a steep slope on that curve.

Dan Crowley: Yes.

Frederick McIntyre: So the car could roll if it fell off it?

Dan Crowley: Yes. Of any of the slopes. All of them have a downhill side. All of them have an uphill side.

Frederick McIntyre: So it is dangerous to go up there in the winter?

Dan Crowley: I think if you slip off the trees would keep you from getting to far down the slope. RG&E was up there and cleared a big right-of-way under the line. There is some clear path there now. After I told Ian that he cannot bulldoze the driveway to make it work for him, and therefore, destroy my access he came back in an email of which I will provide a copy. He said, okay that is fine. I will instruct my plow guy to risk his life and if he happens to slide off the driveway then that is on you.

Frederick McIntyre: Not if he slips on his driveway.

Dan Crowley: But it is my property. So the one thing Ian did do is he made me an additional insured on his commercial liability insurance policy covering specifically the operation of a short-term rental at that address.

Diane Graham: Just for the short-term rental?

Dan Crowley: I believe that is what the certificate says. The actual rider language that I requested and the certificate said as it relates to the operation of a short-term rental, which now appears to be incomplete.

Chairman Bowen: You might want to get it for everything year-round.

Dan Crowley: Yes. Agreed. Good luck on that though.

Chairman Bowen: If there is nothing else, I move at this point to end this meeting for purposes of the Board entertaining a discussion amongst itself and reviewing the additional documentation that you are going to forward the police report and the emails.

Dan Crowley: Okay. Thank you.

Chairman Bowen: We can make a determination whether it is tonight or some other time. I would say it would be no later than the next Planning Board meeting, which is scheduled for January 18. Then someone will get back to you.

Dan Crowley: Thank you. Thanks for listening. I appreciate it.

Following the hearing the Board had a discussion about driveway safety, emergency services access, advertising websites, and permit renewal process. It was determined that the Board did not provide Mr. Boni with notice in the manner required by the short-term rental law. It was decided that the Board would need to hold another hearing on January 18 and provide Mr. Boni with the required first class mail notice ahead of time. The Board will review any additional documents, Diane will find the advertising website link and share with the Board. At the next meeting the Board should be prepared to make a decision which would be either taking no action, attaching conditions to the short-term rental permit, suspending the short-term rental permit and/or revoking the permit. If it is revoked, the owner cannot come back until at least one year elapses regardless of when his initial permit expires.



**Other**

There was a discussion about the Planning Board meeting dates for next year. The Board agreed to hold regular meetings in November and December.

There was a reminder about Board training hours.

**Motion to Adjourn**

Being no further business, David Bowen moved to adjourn the meeting. Jason Inda seconded the motion. The motion was unanimously adopted and the meeting was adjourned at 8:46 pm.

Respectfully submitted,

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

Diane Scholtz Graham  
Board Assistant