

Town of South Bristol Zoning Board of Appeals Meeting Minutes Wednesday, November 30, 2022

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

Guests: In-person: Jeremy Fields, Cathy Fields
Zoom: Charles Ryan, Joe Ryan, Scott Martin

Call to Order

The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:03 pm followed by the Pledge of Allegiance.

Chairman Burgie: We have one item on the agenda to discuss extending a fence that the Zoning Board of Appeals approved a variance earlier and it continues that fence on to the end of his property. We will discuss that in a moment.

There was a roll call of board members with all present.

Minutes

The September 28, 2022 Zoning Board of Appeals meeting minutes were deferred to the next meeting.

Rules of Order

Chairman Burgie read the Rules of Order.

New Business

Public Hearing

Area Variance Application 2022-0043

Owner: Charles F Ryan II
Representative: Charles Ryan
Property: 5689 Shore Drive
Tax Map #: 168.20-1-4.100
Zoned: LR (Lake Residential)

Legal Notice of Public Hearing

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

2022-0043 for property owned by Charles F. Ryan II located at 5689 Shore Drive, tax map #168.20-1-4.100. The property owner is requesting a fence height variance of 24 inches for an eight foot height where six foot height is allowed per town code, to extend the existing eight foot high fence approximately 75 feet south, to provide additional screening along the common property line with 5687 Shore Drive.

Said hearing will take place on the 30th day of November, 2022 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: Scott, the Code Enforcement Officer would you explain the rationale for refusal of a permit? Actually I am getting it backwards. Mr. Ryan would you explain your reason for what you are requesting?

Charles Ryan: Hopefully, I think many of the board members are still on from February of 2021, which is when we came with the first application and appreciate you granting. Since that time the area between our two properties in the 75 feet distance that we are talking about has opened up a lot more. We were thinking that some screening that was there might suffice, but it turns out some of it died and some of it was scrubbed. There were several ash trees that were a liability issue on the neighbor's property and our property so we ended up in that area taking them down. In anticipation of hopefully adding on to the fence that is there and the reason being as I said in some emails recently and I think Mr. Burgie you may have been out there recently.

Chairman Burgie: Yes. I will talk about that in a minute, but I was there today.

Charles Ryan: Okay. We would like to be assured of some privacy and buffering no matter what happens to buffer what is there now at 5687 and who knows what might happen in the future that might not be visually exciting from our viewpoint. Basically, we want to replace what was some vegetation, which was not very good it turned out and continue a fence 24 inches higher than what is allowed. Almost a quarter of our property right up to the driveway as it shows on the map there in the red line that you have.

Chairman Burgie: Okay. Thank you. Mr. Martin would you please explain the rationale for the refusal of the permit? Scott, are you muted?

Diane Graham: Scott, can you hear us?

Chairman Burgie: I think I can probably address it for him since he cannot reach us. The maximum height of a fence in the Town of South Bristol is six foot unless there is a scenic view then it is limited to four feet. This is a not a case that there is a scenic view where they are looking to build the extension of the fence, but the maximum height is normally six feet and they are asking for eight foot, which is a two foot variance on the height of the fence. The CEO is not allowed to grant the permit because it exceeded the height limits in the town code. If you can hear me, then you can say yes that is right or not. If not, we will move on.

Any visitation reports? I will address mine last. Anybody go down and see it?

Jonathan Gage: No. Not this time.

Chairman Burgie: You have before?

Jonathan: I have before. Yes.

Martin Gordon: I was there about a month and a half ago via the water. There was still a lot vehicles on the neighboring property I noticed. The trees had been taken down along the lot line. The fence was quite visible from the water, which is not too pretty honestly.

Chairman Burgie: The fence was visible from the water. Was it blocking a scenic view from the water?

Martin Gordon: There are not many fences like that at the waterfront/lakefront. Depending on how you interpret scenic view. If you are trying to look out past the fence, you are blocking the scenic view of the lake. I guess I do not know if I should speak now or wait? I am afraid of the precedent we are setting.

Chairman Burgie: Save the discussion until we get to that point. Thank you. We definitely want to hear that.

John Holtz: I was down there. I cannot remember if it was Sunday or Monday. I took a couple of pictures which I submitted and they are available to look at. I could see a couple of things. It looked like old fence posts that were right along the fence line or property line. At least one of them was sticking, I believe, over the property line. It is in the photograph. I did not know how far out right of ways or whatever property lines go out into the water, but a dock that I do not know who it belongs to seemed to have drifted past or anchored past where the fence/property line. It was over into Ryan's waterfront. There is also a dumpster there and uncovered dumpster that when I was walking around Ryan's property I noticed little bits of trash. I am not saying it came from the dumpster, but looking around I could see where it could be easily on a windy day things could blow out of the dumpster. It looked like while there is some construction equipment parked next to or in close proximity to the property line. It is all in the photograph. That is what I saw.

Barbara Howard: That was today?

John Holtz: It was Sunday or Monday I cannot remember which day it was. I think it was Sunday because the Bills played on Thursday.

Diane Graham: Did you see the documents I gave the chairman? I thought you were sitting next to him. The pictures with the emails.

John Holtz: Yes. Those are the ones I took.

Diane Graham: No. The other ones that the chairman has.

John Holtz: I did see that on email at home. These are not what I saw when I did the site visit. This time I see the dumpster is not there and the construction equipment piece excavator or whatever it was is not there either. I was just reporting on what was there when I did my visit.

Diane Graham: Right. I wanted you to see them.

John Holtz: Yes. I saw you emailed these to me.

Diane Graham: I think two out of the three I emailed you.

Barbara Howard: The ones that came from Chuck to you and the rest of us talked about all the stuff that had been done.

Diane Graham: In response to the email. Yes.

Barbara Howard: I do not know if everybody checked their emails at 6:00 pm.

Diane Graham: No. That is why it is in the meeting documents folder too.

Chairman Burgie: Yes. I did go down there this afternoon and was looking around and taking some pictures including the large shovel. What do you call that shovel?

Martin Gordon: Excavator.

Chairman Burgie: Excavator next to the dumpster and things that were spread on the ground outside the dumpster. As I was standing there, a truck pulled up behind me and I thought, oh no, now I am blocked in. Mr. Fields steps out and looks around, then comes up and introduces himself again and we talk. Before I left was in the excavator moving everything off the ground. I saw that into the dumpster and he told me he was going to move the excavator back on the other side of his garage and also the dumpster was going to be removed soon or was moved over there. Which one?

Jeremy Fields: Yes. That is correct. It will be removed, but it has been moved.

Chairman Burgie: It has been moved and it will be removed? Okay. So both of those are away from the fence line and away from Mr. Ryan's property at this point. He also has a statement to make when we get to public input on the application that has been requested here. From the standpoint of looking across the area that Mr. Ryan wants to build the eight foot high fence there is no scenic view. There is no view, whatsoever, other than when I was there at the construction equipment, the dumpster and the hillside above which Mr. Fields house is being built. From his side of the property, Mr. Fields side, there is really no view either. The grass on Mr. Ryan's side and it does not look across the water. There is no view issue here in what I saw. What he is requesting is an extension of the fence that we already approved based upon separation from visual issues with equipment being stored on the neighbor's property. As I said, it is an extension of the existing fence that we have already approved. We will let you make your statement when we get to that point. Anybody else? Carol did you get a chance to look at it?

Carol Dulski: No. I am out of town. I did not have the opportunity.

Chairman Burgie: The next item is to determine the SEQR status (State Environmental Quality Review Act). We are required to do that for a variance, special use or anything of that nature that is being considered. I find in the SEQR regulations paragraph 617.5 (c)(12) is a Type II action. A Type II action requires no further study. This paragraph includes construction, expansion, or placement of minor accessory appurtenant residential structures including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or any other buildings not changing land use or density. When we get to the findings that will be our first finding that it is a Type II action under paragraph 617.5 (c)(12) requires no further action on our part. Any comment on that?

Here is where I will open it up to the public hearing. You are the public today. So if you would like to make a statement about this application you are welcome to.

Jeremy Fields: I will reiterate. I actually support the variance. I think it is a good thing. Chuck and I both look at the sides of each other's garages or houses. I think it is a good variance. I think it is appropriate in this case. There is no scenic view or impedance at all. We are totally in support of the variance. We look to do it anyways. I had talked to Chuck previously. We are good with it. We support it.

Chairman Burgie: That is good. Thank you. Any other comments from the public? Anyone on Zoom? Then I will close the public hearing.

Do we have any public or municipal officer's documentation appropriate to this case?

Carol Dulski: May I ask was that Jeremy talking?

Chairman Burgie: Yes. That was Jeremy Fields speaking.

Carol Dulski: Thank you.

Chairman Burgie: Diane, do we have any public or municipal officer's documentation?

Diane Graham: We received an archeological site determination letter of no impact on October 25, 2022.

Chairman Burgie: Okay. Thank you. Then I open it up to discussion of the board members or questions?

Jonathan Gage: Correct if I am off on this observation, when you extend a fence to the edge of the driveway, does it create a blind spot going in and out. If it does, then I would recommend putting one of those mirrors so you can look as you are entering or leaving the property. I cannot tell from the photo of the driveway. Do you know what I mean, Mr. Ryan?

Charles Ryan: I do know what you mean. That is a good thought. I do not think it is necessary, but certainly that would be a good thing.

Jonathan Gage: Traffic is probably minimal there anyway, but if you need to put up one of those mirrors the pole on the other side of the driveway you might be able to put that up there. Try it and see if you do need it.

Charles Ryan: That is a good thought, if necessary. The driveway in the 5687 Shore Drive got moved, but I think it is far enough away where we are pulling out of our driveway we would see a car coming out from the right, but maybe Jeremy will let us put a mirror up on his property if we need to.

Barbara Howard: Piggybacking on that. Is there anything that requires either of them to talk to the highway department or state department of transportation to make sure they are, not in fact, causing a hazard? They took down trees and did all kinds of things all over the place. I would hate for him to have that fence up and say guess what you are too close to the road so we do not end up with a mess afterwards.

Chairman Burgie: Is that a private drive from the roadway all the way in to where it y's off into your two parts of the driveway?

Charles Ryan: Yes, it is.

Jeremy Fields: Yes. It is a private drive.

Chairman Burgie: I am guessing it is 200 feet from the road.

Jeremy Fields: Yes. At least 200 feet.

Chairman Burgie: Other? Marty you definitely had something.

Martin Gordon: Yes. I have a concern that the precedent we are setting is not a good one. Neighbors often say, not so much around here, but in other parts I do not like what I see on your property so I am going to put up a big high fence. We have restrictions against that for good reason. I would suggest maybe a temporary solution and that is allow the fence to be put up until the property next door to Mr. Ryan is finished being used as a staging area for construction. At which point the fence can be taken down. As a matter of fact, I would suggest that the whole fence at that point be taken down because it serves no purpose.

John Holtz: In that case you are saying that you would have an agreement or an understanding or a contract that there will never be another instance, which would require the fence to be put back up. I do not know if you can do that. To say there will never be construction again.

Martin Gordon: If there is construction, you put the fence back up. Construction has to end at some point.

Chairman Burgie: Cannot put the fence back up without a variance. The variance is not time limited. The variance goes with the property once granted.

Martin Gordon: That is why is very cautious about granting yet another variance for a fence.

Chairman Burgie: We talked about this at length when we decided to grant the first variance for the six foot high there was some scenic view there so there was a variance of two foot there and the eight foot high there was not a scenic view for the majority of the fence. That is a two foot variance also. Six foot is allowed. Once the variance is approved we cannot take it back. It goes with the property. That is the part you see from the lake. The extension of that I am not sure that you would even see it from the lake.

Martin Gordon: Here is my question can you modify a variance if somebody wants a new variance? Say put a stipulation in that if we give you this new variance once the construction is done and the equipment is gone both fences come down.

Chairman Burgie: I do not know the answer to that question. I would have to ask the town lawyer to research that.

Martin Gordon: I think what we are doing here is we are trying to shield something that is not going to be there all the time. So it is a permanent fix for a temporary issue.

Chairman Burgie: Both neighbors, which are the only people who see that from the land side, support doing it.

Martin Gordon: What every other town resident sees that we are allowing them to put up a big giant fence. What are they going to do when they have issues?

Charles Ryan: Can you take the application on its own merits?

John Holtz: I do not know if we are setting precedent here. We are just granting a variance in one instance. Anybody else who wants to put up a fence will have to go through the same process.

Chairman Burgie: That is correct. It does not change the code, it only varies the code for this one instance. Someone else could come in and possibly use that as part of their rationale for why they should be given it also.

John Holtz: Sure.

Chairman Burgie: We would have to look at their specific situation and is it applicable. This is not in precedent because it is not a precedent. In this case they are trying to say well they can do it. Why can't I do it? Every case is going to be an individual look at your specific circumstances. Does it harm the town and the neighbors around or is there a greater good in this than any drawback or concern to the rest of the town.

Martin Gordon: I do not disagree that it temporarily helps two parties. As I said before, it is a permanent solution for hopefully a temporary issue.

Chairman Burgie: If we did not grant this variance, he would have every legal right under our code to put up a six foot fence there. So the fence could go up. It is just the matter of six or eight feet as an extension to it. With a six foot fence as an extension to the eight foot fence be a better solution or a worse solution? I am throwing things out there. I did not see what you saw from the water as to whether or not that really is a significant factor in this discussion. Did you take a picture or anything that we could see from what you saw, did you?

Martin Gordon: I would have to look. I may have a picture.

Jonathan Gage: Do you think, Marty, that six foot fence would be less aesthetically displeasing than and eight foot fence in this case or either one because the nature of the fence there would be in your view.

Martin Gordon: Do you mean a six foot would be better than an eight foot.

Jonathan Gage: Would you still find it offensive as a precedent then? That would not matter in that case because they got automatic approval anyway.

Martin Gordon: I live in this town because I do not like fences.

Jonathan Gage: Okay.

Chairman Burgie: Your honesty, thank you.

Cathy Fields: Aesthetically, I think to have an eight foot fence and then go down to a six foot fence as the neighbor it is not as pleasing. I think the fence should be uniform looking at it from our side.

Barbara Howard: I would agree with that. I am not there right now and I remember the other thing. It seems sort of odd to have a long eight foot fence and then you drop down to six. If you put a fence up there maybe it should match.

Chairman Burgie: The town code allows the fence. Since there is no scenic view in that situation where he is talking about building allows him six foot. The CEO will grant a permit for a six foot fence unless we authorize a variance to an eight foot to be consistent with the fence that exists right now. Your first question can we put a stipulation that we will grant this, but when it is not needed anymore take the whole thing down. I do not think we can do that. First of all, we cannot force him to take it down below six foot so he can cut it off at six foot and be perfectly legal there. The whole fence would still exist. I do not know the answer to it. I had not thought about that aspect, but I do not think we can put in a stipulation that you have to take it down when it is no longer needed.

Martin Gordon: I wanted to make sure we were considering all things.

Chairman Burgie: I am glad you did. That is what the discussion is for.

Barbara Howard: I am doing the same thing you are doing. What if we did not approve the variance because the variance stays with the property? Is there anything in the code that lets approve a temporary fence? They do it for construction, right? They put up fences and dig ditches and do all kinds of things to keep run-off from construction. Is there something along those ways then it would come down. I am just throwing it out there.

Chairman Burgie: I am not privy to anything that I have read in the code that allows that type of fence to be put up only for the construction period. There is not any construction going on there right now anyway. This is storage of equipment that is actually supporting the building of his home on the next lot.

Jonathan Gage: That is all I have.

John Holtz: It seems to me the two parties that are involved on it 24/7/365 basically agree that it should happen.

Martin Gordon: That is an important point because if we respect property rights then we should be the ones to let them decide. We might have to deal with something later because of this decision. Another party coming forward and saying I want an eight foot fence too, but that is on us and they have to apply.

Chairman Burgie: Again, every case we have to look at the specific instance and circumstances surrounding that and not say well we did it before so we are going to do it automatically here. Carol?

Carol Dulski: I agree that if both parties are for it. A temporary I think that is just silly. How do you say something is going to be placed there and then have a temporary? I think the two parties both agree to the fence do the eight foot.

Charles Ryan: Someone on the Zoning Board summarized the first discussion when we did this a couple of years ago we are really talking about the 24 inches. Summarized it into a small distance everyone can imagine.

Chairman Burgie: The 24 inches being the two foot variance that we granted?

Charles Ryan: Correct.

Chairman Burgie: As I remember the discussion was actually wanting to build a ten foot fence at that time and our discussion was we needed to go with the minimum variance that is necessary to allow you to accomplish what you are trying to do without impacting the community at large. We came to the decision at that point that a six foot fence where there is a scenic view and an eight foot fence where there was not a scenic view was a reasonable compromise to allow you to accomplish what you wanted without going overboard.

Charles Ryan: Right. We went through the first application I think ten foot all the way down that length and then came up with this solution, which we thought was a fair solution.

Chairman Burgie: Any other discussion or questions? Anybody have anything to add? The next step is to determine the findings.

Finding 1:

Thomas Burgie made a motion that this variance request is a Type II action under paragraph 617.5 (c)(12), of the SEQR regulation “*construction expansion or placement of minor accessory appurtenant residential structures including fences...or other buildings not changing the land use or density*” and therefore, requires no further review. Barbara Howard seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Martin Gordon: I do not want the board getting into a spot where we are voting illegally. It is my understanding that the state in their new requirements for the video conferencing, basically before it is okay for us to video conference in and vote. I do not believe we can do that anymore.

Diane Graham: We can. It is a local law for the town.

Martin Gordon: Cool.

Chairman Burgie: You good?

Martin Gordon: Yes. I just wanted to make sure.

Diane Graham: The Town Board passed that so we could have our board meeting virtually as well.

Barbara Howard: Everybody started doing them virtually with a lot those rules and policies.

Martin Gordon: Then it was up to the locality to pass a law. Good.

Chairman Burgie: We are going to step through each one of these findings that we are required to make. Anyone wants to step in and read one of these make a finding please.

Finding 2:

Jonathan Gage made a motion that an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the setback variance. Barbara Howard seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding 3:

Thomas Burgie made a motion that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the area variance. Carol Dulski seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding 4:

Thomas Burgie made a motion the requested area variance is not substantial. Barbara Howard seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding 5:

Thomas Burgie made a motion that the variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Barbara Howard seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Finding 6:

Barbara Howard made a motion that the alleged difficulty was not self-created. Thomas Burgie seconded the motion.

All in favor.

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

Nays: 0

Motion carried.

Chairman Burgie: Are there any other findings are necessary in this case? We have already documented that the one neighbor is in support of it. Anything else? Any conditions required in this?

John Holtz: One thing I thought of and I do not know if it is a good idea or not based on some of the conversation about this being a new structure close to a roadway that forks. Perhaps maybe some sort of reflector should be on that outer part of the fence just when somebody is going down the driveway a light would catch it and know that they cannot cut across. Just for a safety feature. I do not know if it is a good idea or not?

Barbara Howard: What if we temper it a little bit and ask them to convince us or have someone in the highway department say yes you need a mirror or no you do not need a mirror. Somebody who is an expert at it.

John Holtz: I am not talking about a mirror when you are exiting the property maybe. It is coming in. Maybe somebody who never knew the thing was there before all of sudden we make it a six foot round reflecting disk or something. Six inch or four inch some type of reflector.

Martin Gordon: You just put a setback away from the access drive?

Chairman Burgie: Away from the access road?

Martin Gordon: There is an access drive in the northwest corner and the fence looks like it goes within maybe a foot of the access drive. Why not make that two feet that way nobody will hit it unless they are off the access drive. I do not know how good that instrument survey is.

Chairman Burgie: To be honest with you driving in over that access driveway to the split there is more hazards along that twisting around the rocks and trees and whatever then the fence presents itself. You have to be careful going in there especially backing out if you try and do that.

John Holtz: I guess I do not know if it is a good idea or not. It is just an idea that I would throw out to this esteemed panel.

Chairman Burgie: This comes to the safety of the two parties driving in an out of their own driveways.

John Holtz: Visitors to the fork. People who are not familiar with it.

Barbara Howard: I think that is a good idea, but it is a private driveway. You would hope that the owner on both sides if there was a danger. If there is an issue, I would hope that the owner's would say there is an issue

John Holtz: We do not have to make it a condition. I would recommend it.

Chairman Burgie: It is a good recommendation.

Barbara Howard: Yes. A good recommendation.

Chairman Burgie: I think I would put one up to be sure. Any other discussion on conditions? I would like to petition a board member to offer a motion to approve or deny the applicant's request for a two foot variance for this section of fence.

Jonathan Gage made a motion to approve applicants request for a fence height variance of 24 inches where six foot height is allowed per town code to extend the existing eight foot high fence approximately 75 south. Barbara Howard seconded the motion.

Roll Call Vote:

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

Motion carried.

Chairman Burgie: You do have your variance. You can get the permit from the CEO and build your fence.

Charles Ryan: No we cannot. We have to go to the Planning Board.

Chairman Burgie: Yes. The site plan has to be reviewed. That has to be approved. You are true.

Charles Ryan: It was contingent upon your board's action. Thank you very much for your time on the discussion especially on a night like this and we are the only item and it is a blistery dark night. We appreciate it.

Chairman Burgie: Good luck with the construction and the neighbors.

Charles Ryan: Yes sir.

Other

Chairman Burgie: Jeremy, we had a side discussion. Do you want to describe anything to the board of what you will be applying for or save that when you actually have the application and discuss it with us at that point?

Jeremey Fields: We could just walk through real quick.

Diane Graham: He submitted an application. We are just waiting for pieces.

Chairman Burgie: We are going to change the application because what was submitted. The fence is not part of the special use application. So it has to be changed. He is going to take a look at that and work with Scott to work that portion of it.

Jeremy Fields: We will resubmit it. Just so everybody know the fence is already replaced. The existing fence that was there the buffalo have been moved. They are grazing over there. We did get a permit for that. We do have a conformance certificate on that. This just happened to pop up because of the problems with Bristol Harbour. It came to everybody's attention over this hundred foot setback thing. The town as a whole we need to figure out kind of how to solve this because if you go across the street to my neighbor, the Caprinis. They have a fence that does up to the property line. If you come to the top of Hicks Road, Paul, has fences that cross property lines. I do not believe and I know it was not the intent in an R-3 district being a three acre parcel to have all these farmers and all this agricultural land that all farmers always run their fences up their hedge rows or their property lines. Then all these farmers would have to come back in here and go through this process to replace a fence. It is going to create a monster of a problem for the town if every time somebody has to come in here to do this. In my research I thought well maybe this was just because you label it as cattle/livestock. When you go to Ithaca and look at their definition of livestock, it is everything from turkeys all the way down to horses, to sheep, to goats. I actually brought it with me tonight because I was going to share it with you guys. It will become a huge problem. Small people with a few acres have chickens and so how do you have a hundred foot setback with sheep and chickens and goats. It does not work. I think somehow we fell into this mix. We have to figure out how to do this. I know from going to the Town of Canandaigua a month ago and fencing in a 170 acre parcel there on Middle Cheshire Road. I am right up against a development. I am in a residential area, but it is an agricultural property. We did not have to do this. There is something. Something is broke. I do not know what it is. I think we have a work around now. It should not be this difficult.

Chairman Burgie: I think part of the confusion though is it the fence that is causing the special use, which then requires the SEQR or is the grazing up to the property line that requires a special use. I think from what I have heard and my looking at our code this afternoon it is not necessarily broken, but it is not understood what we were really trying to do.

Jeremy Fields: Right.

Chairman Burgie: I think we can take it into pieces here. You already have the fence.

Jeremy Fields: Right.

Chairman Burgie: We are just asking for grazing up to the property line and that is a special use that is allowed in this district and should not require anything special from SEQR to graze livestock on grass.

Diane Graham: It is showing an archeological site so you have to answer that in the SEQR.

Chairman Burgie: I want to see the SEQR that was filed and understand what was actually being asked for then we will have more discussion on that.

Martin Gordon: Do any of the rest of us know anything about this?

Chairman Burgie: No. He has not given us the application yet. I am sorry. This has to do with a special use application that he is trying to get through to graze his bison up the property line, which is where the fence is. Our code requires a special use permit if they are grazing, if they are being stabled within one hundred feet of the property line. That is the bottom line. Whether or not Canandaigua has that same requirement I do not know. That is in our town code requiring the special use. The special use permit in our town code requires a SEQR.

Martin Gordon: Where is the location?

Jeremy Fields: It actually applies to all R-3. I am on Hicks Road.

Martin Gordon: What is the property adjacent to?

Jeremy Fields: 6045 is across the street from it. It is actually part of the Caprini Farm. It may be a four generation farm that has been there.

Martin Gordon: Is this abutting Bristol Harbour?

Jeremy Fields: No. It is not adjoining. It is a whole parcel into between it. This is actually the Bachman's property.

Martin Gordon: How wide is that parcel in-between? Is it wide or narrow?

Jeremy Fields: We are talking about a 20 acre parcel.

Martin Gordon: That does not tell me how wide it is.

Jeremy Fields: Probably 800 feet of frontage.

Martin Gordon: What I am trying to figure out is that you want to graze up to the property line. That property line, how close is it to?

Jeremy Fields: I own the next property too. Then I bought up to Jonathan's property.

Martin Gordon: I thought I heard Bristol Harbour in here somewhere.

Jeremy Fields: That is what brought this to the forefront because we had the issues with Bristol Harbour in the Planned Development. So then I bought the property next door to it and re-fenced it. It had existing fence around the whole thing. It was all one farm at one time. We put up a new fence and then all of a sudden somebody said oh well your fence is within a 100 feet of a property line. Everybody's fence from Hicks Road to State Route 21 are all that way.

Chairman Burgie: The fence being on the property line is a red herring. There is nothing wrong with that. It is the grazing up to within a 100 feet of that. You could put in a new fence that can constrain to keep them a 100 feet from the property line and you would not need a special use. That is an option, but that is not necessary.

Martin Gordon: It seems like people are messing with each other here.

Chairman Burgie: We will be hearing about that later after sorting through the issue of is the fence the issue or is the grazing the issue with the SEQR because it is not going to be an issue with the special use application if he can get a positive response from the state on SEQR.

Cathy Fields: I heard you mention stabling. Is there a difference between stabling and grazing?

Chairman Burgie: Yes.

Jeremy Fields: Maybe that is your avenue.

Cathy Fields: We are not stabling within a hundred feet of the road.

Jonathan Gage: The only barn you have is way over far more than that.

Jeremy Fields: That is true.

Chairman Burgie: We can look into the definition of what is intended by stabling in the code.

Jeremy Fields: That would actually make more sense. It would be a structure within a 100 feet of the property line not an actual fence. It is a good point.

Chairman Burgie: We can ask the town attorney for his opinion on that and see if that gives us anything.

John Holtz: I could see the stabling within a hundred feet makes sense, but grazing does not make sense.

Martin Gordon: It makes no sense. Unless we are anti-farm.

Jeremy Fields: It is hard to believe we are here trying to get to this.

Chairman Burgie: We agree. It specifically the wording is permitted principal uses in an R-3. Customary agricultural uses, but excluding stabling of any livestock within 100 feet of any lot line. That becomes a special use permit if they are being stabled within 100 feet.

Martin Gordon: It does not say anything about grazing, right?

Jonathan Gage: No.

Chairman Burgie: What is intended by stabling?

Martin Gordon: Stabling means where the animals live in a structure.

Chairman Burgie: We will have to go to the lawyer to see his reading about this.

Jeremy Fields: You talk about Pandora's Box.

Chairman Burgie: I understand.

John Holtz: I think once he talks to the lawyer you will be fine.

Diane Graham: Is there a structure for the bison or do they roam the land? So they are roaming. They are stabled within the fence, I guess? I do not know.

Martin Gordon: It is a structure.

Diane Graham: There is no structure. They roam the land.

Martin Gordon: There is no stable. Stable is a structure.

John Holtz: Do the animal's free range or do they have a place to go into? Is there a barn for them?

Jeremy Fields: No.

Chairman Burgie: That is the next question to ask. What was intended in that word stabling? Is it intended the corral around them or is it a specific intent of stabling being some kind of a structure. Let's ask that question as see where it goes.

Jeremy Fields: Yes.

Chairman Burgie: You may not need a special use if that is the case. Okay?

Jeremy Fields: Great. Thank you guys.

Chairman Burgie: Thank you. Good to see you.

Town Code Review

There was a discussion about town code review, special use permits, special events venue, and short-term rentals.

The Planning Board and Zoning Board of Appeals members are invited to attend the Town Board meeting on December 12th at 6:00 pm for an MRB Group presentation on the town code review final draft. Diane will email you the final draft from MRB Group to review.

Motion to Adjourn

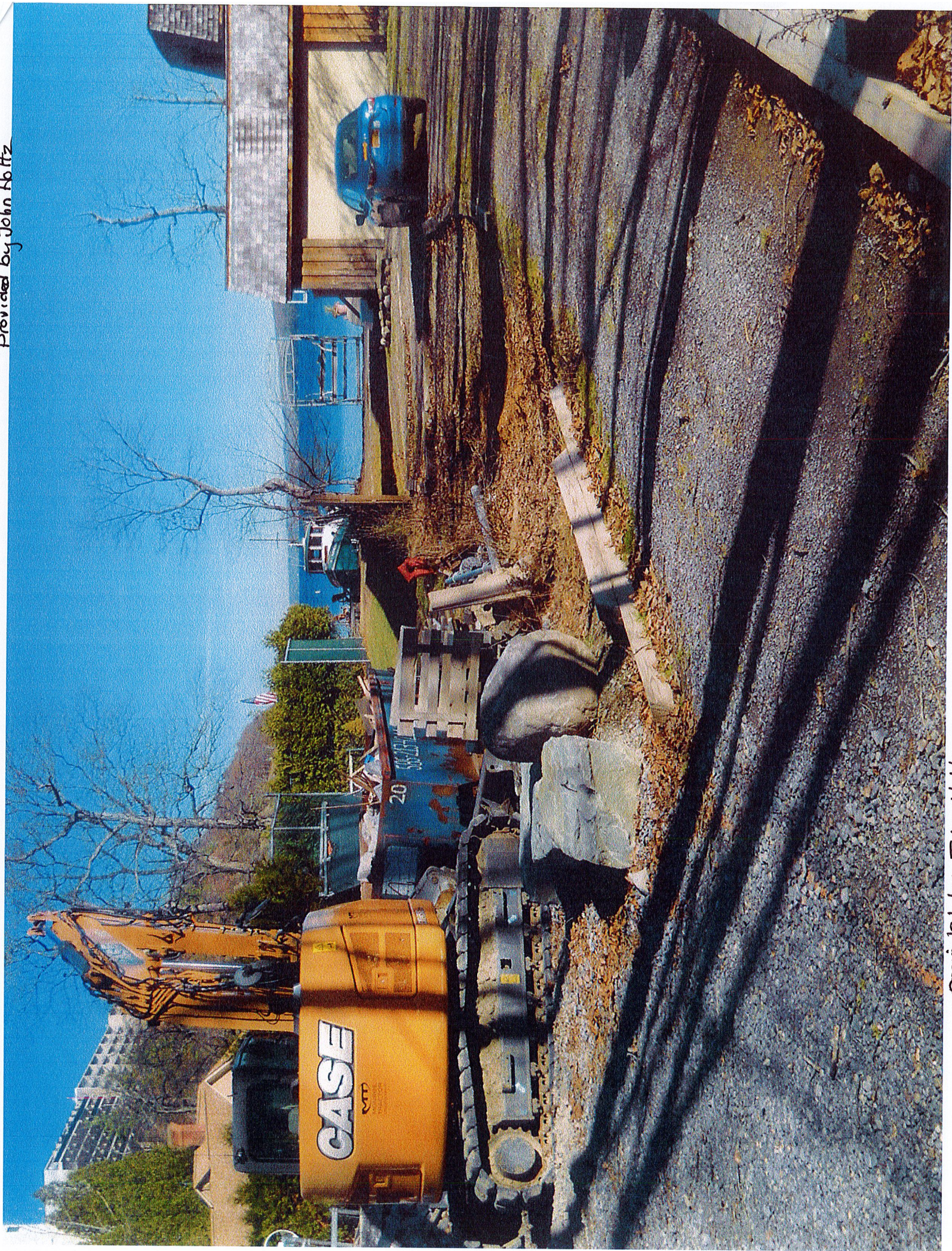
Being no further business, Martin Gordon moved to adjourn the meeting. Barbara Howard seconded the motion. The motion was unanimously adopted, and the meeting was adjourned at 8:19 pm.

Respectfully submitted,



Diane Scholtz Graham
Board Assistant

Appendix – Email comments and photos



provided by John Holtz



provided by John Holtz

admin@southbristolny.org

From: Jeremy Fields <jeremyfields5683@gmail.com>
Sent: Wednesday, November 30, 2022 5:12 PM
To: admin@southbristolny.org
Cc: Alan M. Pearce
Subject: We support Chucks fence.
Attachments: 20221023_154513.jpg; 20221130_163901.jpg

Tom and board we support the fence height variance requested by Chuck. Since they have removed all the trees and natural vegetation between our properties we now have a direct view of their house, front yard, boats and boat hoist and as we are year round residence it will be nice to minimize the view of his cottage and all the seasonal items when on the land.

See attached photo of our view in support of the variance for any height he is requesting taller the better

Best regards,

Jeremy owner of the 2 neighboring parcels one of which chuck sold me..

Attached are the view.

First is Our view of his home and second is a view from his back yard from 3 weeks ago.

Please share our support of his request





From: Chuck Ryan <cryan@homesbyryan.com>
Sent: Wednesday, November 30, 2022 5:51 PM
To: admin@southbristolny.org; 'Barbara Howard'; 'Carol Dulski'; 'John Holtz'; 'Jonathan Gage'; 'Martin Gordon'; 'Thomas Burgie'
Cc: 'Scott L. Martin'; 'Barbara Howard 2'; 'Carol Dulski 2'; 'John Holtz 2'; 'Jonathan Gage 2'; 'Martin Gordon 2'; 'Thomas Burgie 2'; 'Alan M. Pearce'; 'Joe Ryan'
Subject: RE: We support Chucks fence.
Attachments: Proposed Fence Location (aerial).pdf

Thanks for forwarding.

Appreciate the supportive note from Jeremy but a couple of clarifications are in order:

- **WE** only removed scrub vegetation and dead ash trees in the 75' area in which we are proposing the fence. There are photos in our application of this area before and after. **JEREMY** – not us - removed 30' high arbs between our two properties along the 144' length of fence that exists – that is why we installed that fence. Attached is an aerial photo from our first fence application showing those arbs before removal. (He claimed they were on his property but we were not convinced.)
- When Jeremy writes that he is "owner of the 2 neighboring parcels one of which chuck sold me.." it should be noted that we did not own 5687 Shore Drive when he bought it. Our company only acted as the real estate broker in the transaction, representing the SELLER. He had his own broker. Point being we did not own 5687 Shore Drive personally.
- Finally, the whole reason for our fence applications was brought on by Jeremy's transformation of 5687 Shore Drive into a junkyard and eyesore from our property! For him to turn it around and saying HE now wants to "minimize the view of his (our) cottage and all the seasonal items when on the land" is laughable given what we've had to endure the last two years.

"See" you soon!

Chuck Ryan

From: admin@southbristolny.org <admin@southbristolny.org>
Sent: Wednesday, November 30, 2022 5:21 PM
To: 'Barbara Howard' <barbara.howard@southbristolny.org>; 'Carol Dulski' <carol.dulski@southbristolny.org>; 'John Holtz' <john.holtz@southbristolny.org>; 'Jonathan Gage' <jonathan.gage@southbristolny.org>; 'Martin Gordon' <martin.gordon@southbristolny.org>; 'Thomas Burgie' <thomas.burgie@southbristolny.org>
Cc: Scott L. Martin <ceo@townofsbny.org>; 'Chuck Ryan' <cryan@homesbyryan.com>; 'Barbara Howard 2' <mrs.barbarahoward@gmail.com>; 'Carol Dulski 2' <skidutchess@roadrunner.com>; 'John Holtz 2' <berbyacres@msn.com>; 'Jonathan Gage 2' <jonathanvgage1@gmail.com>; 'Martin Gordon 2' <megite@rit.edu>; 'Thomas Burgie 2' <honigan@aol.com>; Alan M. Pearce <deputyceo@southbristolny.org>
Subject: FW: We support Chucks fence.

Please review for tonight's meeting. Thank you. Diane

From: Jeremy Fields [<mailto:jeremyfields5683@gmail.com>]

Sent: Wednesday, November 30, 2022 5:12 PM

To: admin@southbristolny.org

Cc: Alan M. Pearce <deputyceo@southbristolny.org>

Subject: We support Chucks fence.

Tom and board we support the fence height variance requested by Chuck. Since they have removed all the trees and natural vegetation between our properties we now have a direct view of their house, front yard, boats and boat hoist and as we are year round residence it will be nice to minimize the view of his cottage and all the seasonal items when on the land.

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Best regards,

Jeremy owner of the 2 neighboring parcels one of which chuck sold me..

Attached are the view.

First is Our view of his home and second is a view from his back yard from 3 weeks ago.

Please share our support of his request

5687 & 5689 Shore Drive



admin@southbristolny.org

From: Jeremy Fields <jeremyfields5683@gmail.com>
Sent: Wednesday, November 30, 2022 5:00 PM
To: admin@southbristolny.org
Subject: Tom asked for some pictures
Attachments: 20221130_163439.jpg; 20221130_163454.jpg; 20221130_163425.jpg

Tom,

Here are the photos from after we saw eachother tonight.

Excavator up in the woods on the new driveway. Moved dumpster and re installed temp fence to hide and protect site.



