

Town of Bristol
Planning Board
December 2, 2013

Members Present: Chairman Nate Harvey, Joann Rogers, Bob Drayn, Bob Stryker and Secretary Sandra Riker

Excused: Bob Raeman

Others Present: Dave Werder, Mike Koelsch, Pete Wojtas, Fran Morgante, Lynn Cronise, Darryl Tilton and son, students from Honeoye Central Government Class

Minutes: The November 4th minutes were approved as written with a motion by Joann Rogers and a second by Bob Stryker. All Board members present agreed.

Werder Minor Subdivision: Mr. Werder is requesting a one lot subdivision to his lands at 7538 Route 20A in the town. He is dividing the lot into two parcels one being 13.644 acres and the second that has the house and accessory building on it is 6.5 acres in size.

The Secretary advised that the neighbors had been notified and a public hearing notice was posted on November 25th. The Chairman then opened the public hearing. When asked if anyone had comments on this application the Secretary said she had received a positive response from Patti Giordano and Dave Fuller with regard to the application. Darryl Tilton said he had no opposition to the subdivision but wished to express his concerns regarding soil erosion, steep slopes, and Stormwater runoff on to adjacent parcels. He told the Board that he was already experiencing Stormwater and erosion damage to his parcels that bound the Werder property as a result of the house built by Werder and was very concerned if anyone built on the piece being divided off that more problems would occur. He said that he felt the contours on the survey map were incomplete in that they did not reflect the swales and basins on the parcel. He was also aware of an R.G. &E. easement on the parcel that was not included on the map. He cited parts of Article Thirteen of the zoning regulations that deals with Steep Slopes and wanted to know why there was not a plan from a licensed engineer showing and certifying the drainage courses and their effects of run-off on to adjacent properties. He then referred to Section IV of Article Thirteen that referred to completion of a soil erosion and Stormwater control plan for development in the Steep Slope Overlay and wanted to know why this is not done. The Board advised him that at this point in time this is not necessary for this subdivision proposal but would be addressed when the purchaser of Lot 2 proposed development.

The Board asked Mr. Werder about the framed barn on Lot 2. He said that the barn has been there prior to the widening of Route 20A. It has no electric to it at this time. The public hearing was then closed.

The Board asked if there was any access for Lot 2 from Coon Run. Darryl Tilton stated that through a court decision made a few years ago it was determined that he owns the section of Coon Run from Route 20A to the back of the Tilton parcel, and there will be no access to Lot 2 other than from Route 20A. The frontage on 20A is approximately 500' and there is plenty of room for road access to lot 2.

A decision was made by the Board to ask Mr. Werder to have the survey map revised to include:

- ***Complete contours showing increments at 2' to 5' so the swale and low areas are defined***
- ***The easement regarding RG&E should be identified on the map***

The Chairman said it would not be necessary to reopen the public hearing but the Board will continue it's review after the revised map is presented.

Koelsch Steep Slope Application:

The Chairman read the following comments from an email written by him on November 12, 2013 to the Planning Board members:

- **What is this project-**1) it's not a driveway 2) it's not a foundation 3) it does change the landscape.
- **What is Excavating-**Town Definition=A site used for the purpose of removal of stone, sand, gravel, or other minerals for sale or profit. It does not include topsoil removal or the temporary removal of earth for cellars, basements, roadbeds, cemeteries, etc. (END) Therefore to my mind this pathway does not qualify as excavation, at least as defined by our Town zoning definition.
- **Mr. Kenyon's Response-**according to the first response it would appear that this is a property owner utilizing their own property. At our last Pb mtg. we discussed that it may be excavating, but looking at our definition, I really don't see a good fit with that either.
- **Other Considerations-**I truly have no axe to grind in this situation. I do not know either participant (I am not implying anyone else does either) just mentioning that I am free of that burden. So I'm trying to consider the "Spirit of the Law" in regards to steep slopes. We really don't have "excavation" taking place here, but there is no doubt it truly is a steep slopes location. My thought is the law is intended to protect everyone from excessive soil erosion, flooding and harm. I don't see this path altering the amount of water coming down the hill, and it may have some impact on the water flow direction but that would be a minor impact. Yes, I know this is not my field of study, but this is a minor amount of soil disturbance.

So, at this point I'm leaning toward letting Mr. Koelsch complete his ATV trail or pathway.

The CEO measured the pathway with Mr. Koelsch on November 14, 2013 and commented as follows: "Distance from neighbor's property line and the edge of the pathway was approximately 5 feet plus or minus. Mr. Koelsch agreed and stated he would move it over to the north to achieve the 10 feet needed. Measurement was taken at the southwest corner of the pathway up to the first tree with surveyors tape on it. Rest of the pathway was approximately 10 feet plus or minus with the measure device I had at my disposal."

The Town zoning definition for driveway was reviewed again: Driveway- A roadway providing a means of access from a street to a property or off-street parking area. An access way may also

be deemed a driveway. Said driveway/access way shall be a minimum of ten (10) feet from any lot line.

The Planning Board came to the following decision regarding the Koelsch Steep Slope Application: It is the decision of the Planning Board of the Town of Bristol to reject the Steep Slope Application of Michael Koelsch dated July 2, 2013 as it is deemed incomplete. The Town Attorney expressed his opinion to the Board saying a person has the right to use his property in any way that is not regulated by town code. The Board's concern should be with public health, safety, and welfare and unless we can point to a specific portion of the code we do not have the authority to deal with the issue. Under definitions of a driveway in Bristol Zoning Law an "access way" may be deemed a driveway. Therefore, an access way must not be closer than 10 feet to the property line at any point. There is no clear definition of Access Way in the Town zoning regulations. It will now be the determination of the Code Enforcement Officer if an application is necessary or if Mr. Koelsch may proceed with his pathway as it is laid out at present. Nate Harvey, Joann Rogers, Bob Stryker, and Bob Drayn agreed with this decision and Bob Raeman was not present for the vote.

Proposed Zoning Changes: see attached.

Other Business: The technical review from Ontario County Planning of Draft Local Law regarding HVHF was not available.

Nate Harvey agreed to be Chairman for one more year.

Bob Drayn, Jr. agreed to another term as a Board Member.

The meeting was then adjourned with a motion by Bob Drayn.

Respectfully submitted,

Sandra Riker

Secretary to the Town of Bristol
Planning Board

Proposed Changes to the Current Zoning Regulations
October 27, 2013

Articles 10 & 11

Any use or business not specifically mentioned in this chapter which, in the consideration of the Zoning Board of appeals, is similar in nature and scale to a use or business permitted within the A-C District listed above.

This will be added to the list of permitted uses for all districts.

Article 18

ARTICLE EIGHTEEN – SPECIAL USE PERMITS

Intent. {Amended date by L.L. #. -2013}

Section 1: Because of their unique characteristics, it is recognized that certain uses require special consideration by the Zoning Board of Appeals before a permit is issued for the use of land within the town. The uses that require special permits are listed in Article Ten-Uses Permitted in Use Districts. The Zoning Board of Appeals is also authorized to consider any use not listed in Article Ten to determine its similarity to other permitted uses. All special uses shall conform to the bulk and area restrictions of the Zoning District in which it is located. An approved Special Use Permit would generate an Operating Permit.

This will be the new Intent for special use permits providing the ZBA some latitude in determining special use permits.

Article 12 & 14 regarding Mobile Homes not located in a designated Park area (these are covered under Article 15 Mobile Home Parks).

Article 12-Special Regulations to read:

Section II Non-Conforming Uses: Abandonment/Restoration

A manufactured/mobile home shall be deemed abandoned when there occurs a cessation of any use or activity by an apparent act or failure to act on the part of the owner or tenant to reinstate such use within a period of one (1) year from the date of cessation or discontinuance. Nothing contained in this Local Law shall be construed to prevent the restoration within one (1) year of any building or structure damaged or destroyed by fire or calamity. Property left vacant without calamity shall be immediately transferred to current regulations, i.e. setbacks, etc.

Article Twelve Section II Non-Conforming Use: Abandonment/Restoration are as follows: A manufactured/mobile home shall be deemed abandoned when there occurs a cessation of any use or activity by an apparent act or failure to act on the part of the owner or tenant to reinstate such use within a period of one (1) year from the date of cessation or discontinuance. Nothing contained in this Local Law shall be construed to prevent the restoration within one (1) year of any building or structure damaged or destroyed by fire or calamity. Property left vacant without calamity shall be immediately transferred to current regulations, i.e. setbacks, etc.

Article 14 Section II Manufactured Homes Allowed with Special Use Permit

A. Replacement of existing manufactured/mobile home:

Manufactured/mobile homes legally in existence on or before 1972 may be continued and may be replaced provided that the replacement complies with Section III, A through the end of the Article, except that an existing manufactured/mobile home may be replaced by a

manufactured/mobile home of the same size or larger, provided the manufactured/mobile home has not been vacant or abandoned for more than one (1) year. After one (1) year all current specifications under Section III A-the end of the Article must be met.

Addition to Section III

J. Property left vacant without calamity shall be immediately regulated under current regulations and must meet all setback requirements and conditions.

Private Drives in Major and Minor Subdivisions:

Possible Changes to Article Four, Section 12, B (2) of the Minor Subdivision Regulations, Article Four, Section 18, C (2) of the Major Subdivisions and under Article V-Construction Provisions Section IV. Driveways read:

Driveways: Refer to Design Criteria and Construction Specifications for Land Development of the Town of Bristol. Driveway must be located at least ten (10) feet from any existing property line. Location of driveway must have the approval of the highway department having jurisdiction.

Private Driveway. A private drive may serve a maximum of three lots. The length of the private drive may vary, but shall be designed for convenience to traffic, effective police and fire protection, safety, and ease of maintenance and the R.O.W. will be a minimum of 66' in accordance with zoning regulations.

Ponds

Definitions need to be added to both Major and Minor Subdivision regulations to read the same as in the overall Zoning Regulations.

Under Article Five-Construction Provisions shall read:

All ponds existing prior to January 201x will be grandfathered. All ponds including farm, water conservancy and fire protection ponds shall not be established any closer than fifty (50) feet to any property line or any road right of way. A site plan must be submitted with the application. To protect adjacent properties the Code Enforcement Officer may require site plan review and approval by the Planning Board. To qualify as a fire protection pond it must be reviewed and approved by the Bristol Volunteer Fire Department.

Home Occupations-

Under Article Three Definitions shall read:

60. Home Occupation. Any activity carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall be conducted entirely within the principal dwelling unit and/or in a properly permitted, approved, and fully enclosed accessory building. Such uses shall not employ more than one full-time equivalent employee other than the members of the immediate family.

Temporary Special Event Permit

This provision is being made available for residents to conduct a limited endeavor to investigate the possibilities for a longer term investment. It involves the use of: Private Property for Commercial gain on a one time basis. Each additional event would require a new permit application.

A site plan must be submitted with the application to the CEO and must include the following criteria for each event:

1. Number of expected attendees including staff
2. Potable water test if applicable
3. Emergency Vehicle access
4. Parking Plan – No parking on roadside or driveways
5. Rest Room Facilities being provided
6. Outside Lighting being provided and location if applicable
7. Any Food and Beverage being provided must be done in compliance with all existing laws. Any licenses or permits required must be on site and available for inspection. It is the responsibility of the applicant to make sure all necessary permits and licenses have been obtained.
8. Responsibility to meet the criteria above rests with the property owner.

If needed the CEO may forward the application to the planning board for review and approval. Enforcement- It shall be the duty of the Code Enforcement Officer or his delegate to administer the provisions of this Temporary Special Event permit. If necessary, enforcement of this regulation will be differed to local enforcement departments. (the Ontario County Sheriff's office or New York State Police.)

Article Thirteen-Steep Slope Regulations

Amended to read:

Section IV. Erosion and Stormwater Control

- A. A soil erosion and Stormwater Control Plan for development in the Steep Slope Overlay District shall be submitted to the Town of Bristol in connections with any application for a Site Plan, Subdivision proposal prior to development, Building Permit, Special Use Permit or Variance.

January 7, 2014 a motion was made by Bob Stryker and a second by Bob Drayn to accept the minutes of December 2, 2013 as corrected with changes to the last paragraph on page one under Werder Subdivision to reflect the owner of lands next to lot2 as being Daryl Tilton and on page 2 of Werder Subdivision under the decision of the Board to continue it's review rather than make a decision. All Board members agreed.