

Town of Bristol
Planning Board
January 7, 2014

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

Others Present: Dave Werder, Devin Werder, Fran Morgante, Lynn Cronise, Nick and Cat Cohen, Laura and Tim Fox

Minutes: The December 2, 2013 minutes were amended and then approved with a motion by Bob Stryker and a second by Bob Drayn. All Board members present agreed.

Werder Minor Subdivision: Mr. Werder presented a revised subdivision map showing 5' contours on the map to provide definition to the swales on the parcel. The map also made reference to an easement to R.G. &E, with regard to the overhead utility poles found in liber 392, page 204.

Board member, Bob Stryker provided the group with a photo of the parcel showing 2' contours to indicate the steep slope areas on the parcel.

A public hearing was opened and closed at the December 2nd meeting so the Board proceeded to address SEQR for this application. The following determination was made:

Whereas, the Planning Board is acting as Lead Agency on this application, and a Negative Declaration was determined. The following motion was made by Joann Rogers with a second by Bob Raeman:

Whereas, a public hearing has been held, and

Whereas, the subdivision map has been revised to show 5' contours to reflect steep slopes and swales, and

Whereas, the easement to RG & E for overhead utility lines has been identified, and

Whereas, A Negative Declaration has been found for SEQR,

Therefore, the Planning Board of the Town of Bristol will approve the minor subdivision presented by David and Linda Werder to subdivide the lands belonging to them at 7538 Route 20A, also known as tax map # 123.00-1-54.120 into two lots. All Board members agreed.

Real Property Mapping at County's decision to not honor the parcel combination of lands belonging to Tim and Laura Fox as stated by the Planning Board:

On December 5th Real Property Tax Service Mapping advised the assessor's office in Bristol that they will not combine the two parcels owned by Tim Fox on Oakmount Road. This presents a problem in that the Planning Board agreed to the subdivision based on a parcel combination so a fourth lot would not be added to the private drive the parcels are located on.

Our Town Attorney has indicated that Real Property Tax Service and the Town of Bristol Zoning Regulations do not agree on what constitutes a lot as opposed to a tax parcel. (See attached Exhibit A.) It appears that under our zoning a "lot" can only have one principle use building. The reply from the Town Attorney is attached at the end of the minutes. We are waiting for a reply from Real Property Tax for further clarification. (See Exhibit B.)

Definitions of Lot: in our current zoning it reads:

Lot- A parcel or area of land, the dimensions and extent of which are determined by the latest official records or by the latest approved map of a subdivision of which the lot is a part.

We have no definition regarding Tax Parcel.

FYI: The Town of South Bristol has the following definitions regarding Lots and Parcels.

Lot-A parcel of land having a single tax map identification number, devoted to a certain use and occupied or capable of being occupied by a building or group of buildings that are united by common interest or use. The terms “plat” and “parcel” are included in this definition.

Lot of Record-A lot described by metes and bounds and recorded in the office of the Ontario County Clerk.

Questions from Zoning Board of Appeals regarding proposed changes to current Zoning Regulations:

The purpose of Articles 12 & 14 deal specifically with manufactured mobile homes not located within a mobile home park.

The ZBA questioned what is the difference between vacant and abandonment under Articles 12 & 14? Planning Board states the intent is the same.

The ZBA suggested definitions of both should be added to zoning regulations to help clarify these terms. From the Illustrated Book of Development Definitions by Harvey Moskowitz and Carl Bloom are the following definitions:

- Abandonment: The relinquishment of property, or a cessation of the use of the property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.
- Vacant: refers to the land as undeveloped or unimproved in its natural state before development.

The term “left vacant” applies to both land and structure.

With regard to Temporary Special Event Permit:

There will be a fee determined by the Town Board; the Planning Board would encourage the Town Board to set the fee at a lesser amount than a regular Special Event Permit to encourage its use, and the fact that needs to be applied whenever a Temporary Special Event Permit is issued.

A public hearing and neighbor notification would be necessary whenever the Temporary Special Event Permit is requested.

The desire to have such a permit is the main qualification and it would be allowed in any district.

The ZBA feels there should be a limit on the number of times a Temporary Special Event Permit can be issued in a year.

If the applicant is successful with the Temporary Special Use Permit they could apply to the ZBA for a variance to conduct this activity on a regular basis.

Proposed Zoning Changes: It was agreed the Secretary will email a copy of the Proposed Changes to the Zoning Regulations dated October 27, 2013 and then revised on December 3rd to each of the Planning Board members for their comments and mark ups, they will return them via email to the Secretary for correlation before the next meeting.

Other Business:

The Draft Local Law regarding HVHF being reviewed by County has not been returned as of this meeting.

Charge to Planning Board regarding zoning changes for heavy industry: a September 5th memo from the Town Board to the Planning Board will be included in the next packet.

CEO report:

There were a total of 90 permits issued in 2013 and 62 CC/CO. Phil and Pete will be attending the FLBOA training in March. The County Road 2 property is still secured by the Town.

A motion to adjourn was made by Joann Rogers.

Respectfully submitted,

Sandra Riker
Town of Bristol
Planning Board Secretary

Exhibit A
RE: January meeting
FROM William Kenyon TO You
Show Details
From
• William Kenyon
To
• pzsecbristol@frontier.com

Sandy: The county is not the authority on the definition of "LOT". The confusion relates to the use of the word "Parcel" in the Real Property Tax Law (section 102 (11)). In the statute, the word "PARCEL" means a separately assessed parcel, piece of portion of real

property. A PARCEL may not be bisected by a municipal boundary. The county mapping people and the county real property tax office use the word "Parcel" as a word of art because that word is specifically defined in the law. That relates to the taxing authority not the zoning authority. The confusion results from not distinguishing between the word "parcel" as it relates to real property taxation and the word "LOT" as it relates to zoning codes. In other words you cannot have a "Parcel" that crosses municipal boundary lines because each municipality is a separate taxing authority. However, for zoning purposes, a "LOT" may cross municipal or special district boundaries. Therefore, if I own a lot that is cut in two by the town line, each town will tax the "Parcel" that is located in that town as a separate tax parcel. However, for zoning purposes it is one LOT. For example, the Classy Chassy Car Wash in Canandaigua is located in both the city and town of Canandaigua. The building is located in the city and the parking area is located in the Town. For zoning purposes, assuming that both the City and the town agree on how the LOT will be developed, it remains one lot. For real property tax purposes there is a tax PARCEL in the city and a separate tax PARCEL in the Town. The owner of the car wash receives 2 county tax bills, two school tax bills and one city tax bill. Each tax bill covers only that PARCEL situated in that specific municipality. A LOT consisting of PARCELS in 2 towns may be conveyed by one deed. A LOT in one Town may be located in 2 separate fire districts or two separate school districts. For zoning purposes there is one LOT. For taxation purposes there are two PARCELS. The mapping people only care about PARCELS because their mission in life is to map TAX PARCELS. It may be helpful to consider PARCEL to be shorthand for TAX MAP PARCEL. If the county mapping people go beyond their role of mapping PARCELS for taxation purposes and get into deciding whether 2 or more LOTS may be used as one for USE purposes, then they go beyond the scope of their authority. Give me a call if you need anything further. Happy New Year. Bill

William R. Kenyon, Esq.
Kenyon & Kenyon
11 North Street
Canandaigua, NY 14424
kkbill@rochester.rr.com
585-394-2068
585-394-5227 Fax

Transmission of the information contained herein is not intended to create, and receipt does not constitute, an attorney-client relationship. While the use of E-Mail to transmit confidential information is discouraged, confidential information may be contained in this E-Mail message. If you are not the intended addressee, as indicated in this message, you may not copy or deliver this message to anyone other than the sender. In such case, you should destroy all copies of this message and notify the sender via reply E-Mail or by calling 585-394-2068.

From: pzsecbristol@frontier.com [mailto:pzsecbristol@frontier.com]

Sent: Friday, December 27, 2013 1:46 PM
To: Bill Kenyon
Subject: Fw: January meeting

Bill

Hope your Christmas was wonderful and New Year will be as well. A Request from our Planning Board for your comments and input.
Please comment before our next meeting, January 7th.

Thank you
Sandy Riker

----- Forwarded Message -----

From: "nharvey@rochester.rr.com" <nharvey@rochester.rr.com>
To: Robert Stryker <Robert.Stryker@ny.Nacdnet.net>; "pzsecbristol@frontier.com" <pzsecbristol@frontier.com>; Robert Raeman <raemanr@gmail.com>; JoAnn Rogers <Joann.Rogers@ny.usda.gov>; bob drayn <rdrayn@gmail.com>
Sent: Friday, December 27, 2013 1:22 PM
Subject: Re: January meeting

Sandy,

Why is county mapping the authority on lot definition? Can you check with Bill Kenyon before our next meeting. It seems inconsistent to me since we have lots that are separated by highways, school districts, town lines and zoning districts and probably ag districts as well?????

thanks
Nate

Exhibit B

Subject: RE: parcel combination
From: Johnson, Robin L (Robin.Johnson@co.ontario.ny.us)
To: pzsecbristol@frontier.com;
Date: Wednesday, January 15, 2014 4:33 PM

Hi Sandy,

I don't know what else I can add to Mr. Kenyon's response. If the Bristol Planning Board wants to consider Mr. Fox's property one lot for zoning and planning purposes, that is their prerogative. For property tax purposes, Tax Map Parcels cannot be bisected by municipal boundaries or other tax map parcels.

Robin

From: pzsecbristol@frontier.com [mailto:pzsecbristol@frontier.com]
Sent: Wednesday, January 15, 2014 12:32 PM
To: Johnson, Robin L
Cc: Nate Harvey

Subject: parcel combination

Good Morning Robin:

Nate Harvey (Planning Board Chair) asked me to follow up with you regarding his call to you in December. His question is why will mapping not honor the planning board's action to have Tim Fox combine the second parcel that he has purchased (8/5/13 map filed 33208) from Mrs. Muller? This decision was reached based on the fact that there are 3 parcels on a private drive. This is the maximum number allowed under our zoning regulations. (One parcel belonging to Fox and the other two to Muller). When Fox purchased a portion of Muller parcels it created a fourth parcel on the private drive, this is not acceptable with the Planning Board and the only way they agreed to the subdivision was based on Fox combining both of his parcels to create one lot. On 12/5/13 we were advised that Mapping would not combine the Fox parcels because they felt the parcels are not contiguous. The parcels both have access to the R.O.W. on the private drive. Why would this be any different than combining two parcels that are separated by a public highway, which mapping allows. Attached are comments from Bill Kenyon (town attorney) regarding the situation. Nate is out of town at present and said it would be okay if you contacted me with your answer to our questions.

Thank you for a prompt reply.

<https://us-mg5.mail.yahoo.com/neo/launch?partner=ftr&.rand=5gnvmnhmOtngd2/5/2014>

The minutes of January 7, 2014 were approved with the addition of Exhibits A & B by Bob Drayn and a second by Joann Rogers. The Board polled as follows: Nate aye, Joann aye, Bob Drayn aye, Bob Stryker aye and Bob Raeman was not present to vote.