

## Town of Bristol

Planning Board

August 5, 2013

Minutes

**Members Present:** Nate Harvey Chairman, Joann Rogers, Bob Drayn, Bob Stryker, and Secretary Sandra Riker. Bob Raeman was excused but had returned his packet for August with comments and thoughts regarding each of the applications on the agenda. His comments will be noted in each application.

**Others Present:** Fran Morgante, Ed Summerhays, the Ellisons, Charlie and Catherine Gascon, Croft Gorsline and wife, Dan Seely, Laurence Karz, Frank Webster, Julie Cramer, Ed Zink, Bob Bernatovich and wife

**Minutes:** *There was a motion by Bob Stryker with a second by Bob Drayn to accept the July 1<sup>st</sup> minutes as written. The Board polled as follows: Nate Harvey abstain, Joann Rogers aye, Bob Drayn aye, Bob Stryker aye, and Sandra Riker (as alternate) aye.*

**Charles Gascon Minor Subdivision:** The public hearing notice was read by the Secretary and she stated that the neighbors within 500' had been notified and there was no response to the notification. The Chairman then opened the public hearing and asked if anyone present wished to comment on this hearing. No one replied. The public hearing was then closed. The questions were then opened to the Board members. Bob Raeman had no comments regarding this application. The Board asked about the conditions of driveways and road frontage. Gascon told the Board it was flat and open lands so there should be no concerns for a blind driveway. There were no other concerns from the Board. The Environmental Impact Statement was then reviewed. All questions received a no answer reflecting that there will be no environmental impact upon the area with regard to this subdivision.

**A motion was made by Joann Rogers to approve the Gascon one lot subdivision of 20+/- acres from the 24.133 acres +/- belonging to him at 4458 Kear Road also known as 124.00-2-30.100. The 4.133 acres remaining acres will be retained by the Gascons. This motion was seconded by Bob Drayn. Board polled as follows: Nate Harvey aye, Joann Rogers aye, Bob Drayn aye, Bob Stryker aye.**

The secretary advised Mr. Gascon that the maps and subdivision approval document would be ready for him to pick up within two days. He will then take the maps to County and the documentation to his lawyer to proceed with the sale of the subdivided land.

**Gorsline Major Subdivision:** The public hearing notice was read by the Secretary and she advised that the neighbors within 500' had been notified. There are a few people here this evening they are the Ellisons, Laurence Karz, Fran Morgante, and the Bernatovichs. The public hearing was then opened by the Chairman. Mr. Bernatovich expressed his concern over access lines as drawn on the map to the remaining 54.667 acres +/- . The Chairman stated that this is a proposal for subdivision of the lands belonging to Croft Gorsline and as presented does not meet our preliminary major subdivision requirements.

Fran Morgante said she had recently had her own parcel on Evert Road surveyed and looked at by Ontario County Soil and Water because of her concerns of the negative impact on her well, lands and pond if the subdivision was approved. Her parcel is bordered by Gorsline lands on three sides. She added there is a stream through the property owned by Gorsline next to her parcel and it runs under the access road for the

54.667 acres that is to the back of her parcel. The Chairman advised her that any run-off causing possible soil erosion, septic systems and driveways would be addressed with a site plan that is part of the Major Subdivision regulations of the Town of Bristol. Mr. Karz said he had no comment regarding the proposed subdivision was merely interested in seeing the configuration of the parcels given his lands are bordered on two sides by the Gorsline property.

Concerns by the Board were as follows:

- One R.O.W. is labeled as 58.63 which is less than the required 66' in the zoning regulations. Mr. Summerhays said there actually is 66' but cannot be drawn as such on the map because it is at right angles given the curve of the road. The Chairman asked if the lines were drawn parallel would it reflect the 66', Summerhays replied yes. This would need to be drawn as such.
- Another concern with this R.O.W. is that it is a 13% steep slope area and will probably require more than the prescribed 66' width to actually access the back parcel. It would be necessary to do grading that would require cuts and fills in the land. The Board asked if the parcels could be reconfigured to provide greater access to the back parcel. Mr. Seely (real estate agent) said there are four proposed sales contracts out based on the map provided this evening. Summerhays said he would need to research the contracts to see if such changes could be made. The lots should be sold "subject to zoning".
- He made the point that this is merely a division of Gorsline lands and they do not know the intent of the buyers with regard to their use of the property. It was said that the buyer for Lot 4 was considering building at this time.
- The Board asked if the Highway Superintendent had been contacted regarding possible driveways for these parcels. He has not at this time.
- The Board asked about utilities on the parcels and whether or not all properties could have access to the utilities. Summerhays replied there are electric poles at the road and this was the only utility involved with the lands. There is no public water or sewers available on the land. At this point the Board thought the Town Engineer should be contacted for input to this major subdivision and reminded Summerhays the applicant would be responsible for that cost. Summerhays questioned why would the Town Engineer need to be involved if there are no improvements proposed at this time. He went on to say that if the parcels were greater than 5 acres in size the Department of Health would have no input regarding placement of septic and leach fields on the parcels. (the Secretary contacted Ontario County Soil and Water and George Barden, the Canandaigua Lake Watershed Inspector, and they advised her that this is misstated and should be that if lots are greater than 5 acres in size they do not fall under the real property tax law but under town zoning the Code Enforcement Officer needs to make sure that the regulations and requirements under NYS Article 75A are met regarding proper soil tests, and the septic system is designed and approved by a licensed engineer, and its placement meets all zoning requirements of the town.)
- The Board asked if the site distance chart in the regulations had been consulted by the Surveyor with regard to driveway placements. It was determined that if a speed limit sign was not present on a road the speed limit would be 55 mph, taking this into consideration a driveway that is located on the bends in the road would require a minimum stopping sight distance of 450' according to the AASHTO table in the Major Subdivision requirements. As addressed to the map presented the site distance would not be met.
- Summerhays said he did not understand why all of these issues need to be addressed at this time; they are merely presenting a map showing the 5 parcels that would be established with the division of

Gorsline's 123.882 +/- acres on Evert Road. The only reason the map is being presented as a major subdivision is there are four proposed sale contracts involved and whether or not they will be used as building lots is not part of the concern of the owner of the parent parcel.

- The Chairman asked what Summerhays wished to accomplish this evening. He said that he had hoped that this map would be considered as both preliminary and final for approval. The Board agreed at best this could be considered as sketch plan and preliminary but given the lack of documentation would suggest that this be tabled as well as keeping the public hearing open until such time as a reply to the questions raised from the Town Attorney regarding this application and what is required at this time are answered. Summerhays asked to be placed on the September agenda provided the answers from the attorney were provided and if they have addressed all of the preliminary major subdivision applications required by town zoning.
- ***A motion was made by Joann Rogers to leave open the public hearing and application until the September meeting which will be September 3<sup>rd</sup> at 7:00 pm. The Board polled as follows: Nate Harvey aye, Bob Stryker aye, Bob Drayn aye, Joann Rogers aye. Comments from Bob Raeman were as follows:***
  - ***54.768 Ac remaining land is 5<sup>th</sup> lot created by subdivision.***
  - ***Access to the 54.768 ac does not conform to a 66' width and will need to be brought into the regulations in order for the project to be approved.***
  - ***What is tax map # 137.00-2-8.000 and was this part of the original 123.8 ac? 137.00-2-8.000 is a parcel that belongs to Kerry James and is not part of the lands owned by Gorsline.***

The questions for the town attorney (as a result of tonight's meeting) are attached to the end of this month's minutes.

#### **Cramer/Sierzchula Subdivision of lands on Morrow Hill Road:**

The previous application of May 20<sup>th</sup> was tabled and then denied at the July 1<sup>st</sup> meeting. The Board advised Ms. Cramer at that time they would not require an additional application fee if a corrected map and application was presented. The new application was presented on July 20, 2013 with an updated map. All comments with regard to the prior application have been addressed with the new document. A public hearing notice has been posted for this meeting; it was read by the Secretary.

The Chairman opened the public hearing, it is noted there was no comments from anyone present at this meeting. The public hearing was then closed. The Environmental Impact Statement was reviewed and determined the approval of this subdivision would not have an adverse impact upon the environment. The map was then reviewed and found to meet the requirements necessary for a minor subdivision and annexation of the ¼ acre subdivided lands to be annexed to the neighbor Ed Zink's property at the time of subdivision.

***A motion was made by Bob Drayn to accept the subdivision/annexation map of lands belonging to Christopher Sierzchula & Julie Cramer on Morrow Hill Road, under tax map # 150.00-3-57.110 and the ¼ acre subdivided parcel would then be annexed to lands owned by Edward Zink on Morrow Hill Road under tax map # 150.00-3-6.000. A second to this motion was made by Joann Rogers. The Board polled as follows: Nate Harvey aye, Bob Stryker aye, Bob Drayn aye, Joann Rogers aye. Bob Raeman had no comment with regard to this application.***

Ms. Cramer will call Rocco Venezia for the Mylar of the map to be dropped off to the Secretary so the necessary signatures can be taken care of, and copies of the application and approval will be ready for her to pick up along with the maps to be filed at the County Clerk's office in one week.

**Gardner & Dugo Parcel Combination:** There is no one present to address the Board regarding this application. The Secretary advised the Board an application for parcel combination of lands belonging to Terrence Gardner and Donna Dugo was submitted by them on July 22, 2013. They wish to combine the three lots owned by them under tax map # 137.00-2-28.100, 28.200, 28.300 located on Fawn Ridge and Logan Roads in the town. They have owned the three parcels since 1997. They now wish to combine the three adjacent parcels into one parcel. The application has an Appendix A showing the meets and bounds of the three parcels combined. Tax bills showing the tax bills are current also are attached. It is noted that parcel #2 has a 60' R.O.W. to Fawn Ridge. There were no other concerns raised by the Board and all other criteria are in order.

***A motion was made by Bob Stryker to accept the parcel combination request of Terrence Gardner and his wife Donna Dugo to combine parcels 137.00-2-28.100, 28.200, and 28.300 into one parcel. A second was made by Bob Drayn. The Board polled as follows: Nate Harvey aye, Joann Rogers aye, Bob Stryker aye, Bob Drayn aye. Bob Raeman had no comment with regard to this application.***

***The approved combination will now go to the Assessor for her review and signature. She will then forward it to Real Property Tax Mapping to finish the changes necessary.***

**Webster informational meeting regarding minor subdivision:**

Frank Webster has 265 acres of land at 5263 Deuel Road with a 25' R.O.W. to Song Road. He is suggesting two possible scenarios:

1. Parcel of 160 acres that has house and buildings on it to be retained by him and 105 acres being subdivided off with a R.O.W. of 25' in width that was deeded back in 1964 prior to zoning in the town of Bristol.
2. Parcel of 90 acres with house and buildings retained by him and two parcels being subdivided off. One parcel would be 90 acres and the second 85 acres again using the 25' R.O.W. as access to the two parcels.

His question is: if he did either of the two possible scenarios would is the 25' R.O.W. enough to make the parcels usable as building lots. The Board stated that the current zoning says a minimum of 66' R.O.W. is necessary for a building lot be it one or two parcels. In the Board's opinion the current R.O.W. would need to be increased in size and or the 25' R.O.W. could be a convenience for the new owners and an additional R.O.W. of the current accepted size be created.

Bob Raeman's comments are as follows:

- R.O.W. needs to be 66' in width.
- Who owns the lands that the R.O.W. crosses? Mr. Webster said he owns the R.O.W.

Mr. Webster would like the Town Attorney to be consulted for his interpretation of this problem. It will be added to the questions submitted to Mr. Kenyon (town attorney) for his input. Mr. Kenyon was contacted and advised the Secretary and Planning chair that:

- The Board needs to see a copy of the Deeded Right of Way to review the exact wording and the privileges it conveys.

- The 25' R.O.W. may be a convenience for the owner but will not meet the legal requirements under current zoning regulations.
- Existing lands are served by the legal access plus the 25' R.O.W. to the new lots.

**Informational Meeting First United Methodist Church land locked lands on Hundred Acre Way under tax map# 138.00-1-23.000:** Gail Herbert trustee for the Church raises the following questions.

The only access to this parcel is a 25' R.O.W. that was granted by Wrobel to the Church somewhere back in 1990. The Church is no longer eligible for a tax exemption status under current NYS guidelines and feels the only answer is to sell the property. However, if divided parts of it would be landlocked unless purchased by owners of land that are adjacent to it and are willing to annex it to their lands as well. The problem is there are several school districts involved and some parcels are in more than one school district. Per Mr. Kenyon this is not a problem from the zoning and development purpose but the Real Property laws 102 states that for the purpose of taxation they cannot be combined therefore the new parcel would have two tax bills. The taxation and assessing is not an issue for the Planning Board to address only the zoning and development of the parcel.

There is one neighbor interested in buying 30 acres and his existing parcel is in the same school district as the piece in question. Mr. Herbert is concerned that the requirement regarding school districts would limit who would be able to use this land. He would like clarification from County Planning and the Town Attorney with regard to the school district requirement.

He also inquired if the 25' R.O.W. could be extended and the Board advised him this was a legal question that should be addressed by the owner of the R.O.W...

The Secretary will contact Real Property Tax Services and add this question to the list for Bill Kenyon. When she has an answer she will contact Mr. Herbert and the Board.

**Fran Morgante-application for a home occupation as an event planner at 7275 Evert Road in the town of Bristol:**

A public hearing notice was placed in the Messenger Post Now newspaper one week prior to the August 5<sup>th</sup> meeting of the Planning Board. The public hearing notice was read by the Secretary.

The Chairman opened the public hearing. There were no comments from the public so the hearing was then closed.

The Board proceeded to address their questions to the application.

- Bob Raeman 's comments are now noted:
  - How many people? How many parking spaces and emergency vehicle access? Rest Rooms? Food?
  - The following points are made by him for addressing:
    - Dumpster for garbage.
    - Seasonal Operation
    - Rent-a-John
    - Water Supply
    - 125 people maximum capacity
    - Fire review w/ Phil Sommers (CEO) and Fire Chief Eric Dey
    - No parking on the road or in the driveway
    - Adequate lighting for the parking area
    - End by 11:00 pm at the latest (this could be subject to change if a noise ordinance is put into effect with a different time frame.)

- No landscape Changes
- Food to be catered

All of the above will be considered in the final approval of a site plan if the Board feels this would be a good fit for the neighborhood.

Additional concerns by the Board were raised:

- Is there adequate lighting in the accessory structure to support any celebratory events held there?  
Morgante replied there will be a 200 amp service for both the inside and outside of the barn.
  - The outside lighting on the barn will be placed at all four corners and should provide adequate lighting to the parking area. Parking will be near the barn.
  - With regard to emergency vehicle access-the CEO Officer and Fire Chief will take the largest fire truck needed in the event of a fire to determine the amount of space necessary; a truck of that size would be used to pump water from her pond for firefighting. They will determine the minimum amount of space necessary to get around the barn and to the pond.
  - If she chooses to have a tent or tents set up for activities outside of the accessory structure they will need to be placed in such a way as to not interfere with the space needed for emergency vehicles.
  - This will be a seasonal occupation and any events will be held between May and October in a year.
  - There should not be a problem with noise or glare from outside lighting for neighbors in that the closest one at this time is within 1200' of the Morgante property. Laurence Karz reminded the Board that if the Gorsline Major Subdivision is granted there could possibly be neighbors next door to the Morgante property.
  - Karz reminded the Board he had expressed his opposition to Ms. Morgante being able to use her accessory structure as a celebratory gathering place earlier in the year. His question now is how late events would be able to last. The Board said if approved the events would have a shutoff time of 11:00 pm at the latest.(maybe subject to change.)
  - With regard to permitting processes involved: Morgante said there would be none for her but the leaser would need to make sure the caterer would have the proper documentation from the Department of Health. Her main concern is having adequate liability insurance.
  - The only additional construction on the property will be to provide landscaping around the barn and the electrical work necessary to have lighting on the barn.
  - Morgante will be responsible for proper clean up after every event-She said that it is in the lease agreement she has for any event holder to make sure the garbage is taken care of properly.

The Board asked if there were any events planned for this season. Morgante replied possibly for the fall and maybe one in August. A site plan will need to be provided for record in the Code Enforcement Office if this is approved.

They asked if the Highway Superintendent had looked at the possible increase in traffic and the Secretary provided a letter of address dated August 12, 2013.

***A motion was made to accept the Site Plan and conditions set forth by the Planning Board of the Town Bristol to allow Frances Morgante to operate as an Event Planner for Celebratory Gatherings on her lands known as 7275 Evert Road, tax map # 137.00-2-12.200. She will be using her accessory structure for such events. The Environmental Impact Statement was reviewed by the Board and determined that if approved there will no environmental impact imposed on the area.***

**The conditions are as follows:**

- **There will be an annual review prior to the first event of the year for the following:**
  - Fire inspection**
  - Potable water test done on the well to verify water quality and filed in the Code Enforcement Office**
- **A generic copy of the lease agreement between owner of property and event renter on file in the Code Office**
- **A site plan will be provided to the Code Enforcement Office reflecting the following points of concern prior to each event:**
  - **This will be of seasonal use- May to October**
  - **No event will be allowed past 11:00 pm. See above.**
  - **Prior to each event a site plan for the specific event including the date of the event will be provided for the CEO to determine the maximum number of people allowed. This will also be provided to the Fire Department for their reference in case of emergency.**
  - **A maximum # of people allowed for such gatherings to be determined by the Code Enforcement Officer. There will 3 different situations addressed and is subject to change with each event:**
    - **People standing only based on square footage only is 305 maximum**
    - **People and chairs provided for them -218**
    - **People with table and chairs 97- based on 7 person table**
  - **Placement of trash removal receptacles.**
  - **Parking in areas designated only. There will be no parking allowed on the road or in the driveway.**
  - **Access area for Emergency Vehicles.**
  - **Outside Lighting placement to provide adequate lighting to the parking area and said lighting should be dark sky compliant to avoid glare to any other residences in the area**
  - **Emergency Vehicle access will be reviewed through a visit by the Fire Chief and appropriate vehicle needed to fight a possible fire in the accessory structure. This distance will be included in the final approval provided to Ms. Morgante and put on file in the CEO office and with the fire department for pre-staging access of emergency vehicles. As determined-a 60' clear radius will be maintained around the barn and there will be no parking between the barn and the pond or in the driveway. A detailed drawing of this is on file with the fire department.**
  - **Sound levels will be of normal range and not exceed legal limits to cause undue hardship to neighboring properties.**
  - **Sanitary facilities will be provided by the use of Portable toilets.**
  - **Water for other uses is available at the barn via access from the home.**
  - **Any food or beverage for such events will be provided through a caterer who has obtained the necessary permits from the appropriate facilities i.e. Department of Health and can be provided to the Code Office if required.**
  - **Future alterations will be minor in nature. These could be to lighting or landscaping of the accessory structure.**
  - **If the conditions are not met it could result in the discontinuance of this allowed use.**

***This motion was made by Bob Drayn with a second by Bob Stryker. The Board polled as follows: Nate Harvey aye, Joann Rogers aye, Bob Stryker aye, Bob Drayn aye. The comments of Bob Raeman were recorded at the beginning of this meeting and addressed with the conditions set forth.***

**Possible Zoning Changes:** Due to the late hour it was agreed to address these issues at the next meeting.

**Noise Ordinance-**The Secretary advised the Board that this was presented to County Planning for Technical Review. The Board agreed to address the noise ordinance after their opinion is stated.

The meeting was then adjourned,

Respectfully submitted,

*Sandra Riker*

Town of Bristol

Planning Board Secretary

Questions submitted to the Town Attorney as a result of tonight's meeting are as follows:

1. With regard to a major subdivision-a parcel is being divided into 5 lots, 4 to be conveyed to individual buyers and the 5th to be retained by the owner of the lands. We are told there are no plans at present to develop any of the lots into building lots, how much of the major subdivision process needs to be followed at this point? Is a subdivision map showing the 4 lots and appropriate access to the remaining lands sufficient?

a. Do we have to do SEQR at this time, if they are only selling the lots and not developing them? Yes, based on the division of the lots.

2. A parcel is being subdivided into two or three lots with the parent piece having frontage of 158' and has a deeded R.O.W. of 25' in width to another part of the parcel (that will be subdivided off).

With regard to deeded R.O.W.:

a. What is a deeded R.O.W.? It is a legal document and must be read to determine its purpose. There are many things it could be used for such as transportation, utilities, and it may or may not be maintained.

b. If a R.O.W. was deeded in 1964(prior to our zoning laws) and is only 25' in width does this supersede our current zoning regulations that requiring 66' in width? Yes, see answer to a.

c. with regard to grandfathering does this supersede current zoning as well? See Bob Stryker email forwarded to you. No, once the R.O.W. gets to the lands to be developed it will need to be widen to meet current regulations.

3. A parcel is 90 acres in size and the only access to it is a 25' deeded R.O.W. It is surrounded by lands that are in more than one school district.

a. Can a parcel be annexed to another if they are in 2 different school districts? Yes according to Mr. Kenyon for zoning and developmental purposes but not according to Real Property Tax law 102 so it would be drawn as two tax parcels.

b. if one parcel is in two school districts how does this work? i.e. homes in White Tail Hills subdivision. See answer to 3.a.

c. if the deeded R.O.W. is 25' wide is it possible to extend it at that width? From the end of the current 25' R.O.W. it could be continued on at the present required width (66'). How would that fit with our current zoning regulations requiring a 66' wide R.O.W.? see answer above.

As for "grandfathering" a project because a right of way exists or any type of grandfathering, this could be a good future training session. Per Bob Stryker: "The first automobiles did not have any brakes, seat belts, windshields, fenders or lights. Top speed was about 20 mph. If I buy one is it ok to come to the next board meeting via Route 64. We will have to get done prior to dark however, as I am scared of the dark. I shouldn't have to register it with the DMV because the DMV did not exist back then." I shared this with Bill Kenyon for opinion as well as the New York Planning Federation for their comments and a possible topic for upcoming training. Lael Locke of the NYPF suggested it was indeed a good topic because it seems to cause a great deal of confusion for many Boards.

September 5, 2013- A motion was made by Nate Harvey and seconded by Joann Rogers to accept the above minutes were accepted by the Board on September 3, 2013. All Board members agreed.