

Town of Bristol
Planning Board
Meeting Minutes
March 4, 2013

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

Others Present: Greg & Kim Ward, Natalie & Franz Luntz-Martin, Nick Cohen, Tim & Laura Fox, Julie Woloson, Bill Grove, Eivind Rynning, Steve Richards, Diane Greg , and Supervisor Robert Green

Robert Green, Supervisor: Supervisor Green advised the Planning Board that he and Sandra Riker had attended a Webinar concerning “Fracking and Resource Extraction and Community Planning”. Attached are the notes from that event. We learned from that Webinar that municipalities are moving away from the idea of a BAN and working with zoning and comprehensive plans with regard to whether or not fracking and resource extraction can be an allowed use in a municipality. By definition provided by County Planning it has been determined that both extraction and injection of natural resources are considered to be a heavy industry. There is nothing in our comprehensive plan to date that deals with heavy industry in the town, although there are currently 10 gas companies that have leases for gas wells that go back to the 1940s & 50s. The Supervisor is asking the Planning Board to look at the Comprehensive Plan and heavy industry. The town along with 5 other in Ontario County has contracted with Boylan Code law firm of Rochester to help draft zoning policies and regulations with regard to heavy industry and all of its components including high volume hydrofracturing but not exclusive to that business alone. He went on to say that the Focus Panel appointed by the Town Board would be providing their recommendations in the near future perhaps as soon as the April Town Board meeting, they have already made the recommendation to extend the current moratorium for another year.

Nate commented that he as Chairman of the Planning Board will want involvement by the town’s attorney Bill Kenyon as the planning board moves ahead with this issue. He feels that we need to be very careful with the preexisting conditions that have been established. The Supervisor said he would like to see the direction of this issue away from emotion and proceed with a logical course that involves both the Comprehensive Plan and Zoning Regulations.

Minutes of February 4, 2013: The minutes were reviewed by the Board and the following changes need to be made: On page 2 regarding the configuration of the ten acre parcel another sentence should be added to say; it would be a separate parcel from the parent parcel. Further on in this discussion the word proceed should be used not precede. With those corrections made the minutes of February 4th were approved with a motion by Robert Raeman and a second by Robert Stryker. All Board members agreed.

McKee/Ward Subdivision Annexation:

Greg Ward advised the Board that he is purchasing the remaining 15 acres +/- located on the west side of Buckelew Road from Scott McKee. McKee also owns 20 acres +/- on the east side of Buckelew Road.

The Secretary advised the Board that a public hearing notice and notification letters had been sent out prior to this meeting. The public hearing was opened. The secretary told the Board she had four responses to the neighbor notification letter. Mrs. Gruschow who owns property on the east side of Buckelew Road called to inquire about the subdivision, she did not indicate she had a problem with it but merely interested. She would advise her daughter Debra Collins, another property owner on the east side of Buckelew of the subdivision of McKee lands and annexation of Ward's property. One notification letter was returned because of address problems. Scott McKee called and said he was anxious to have the sale and transfer completed. None of the people present had any comment to the application. The public hearing was closed.

The Chairman asked for comments from the Board. The Board commented that while the map looked okay there is an issue with the fact there is mention of a parcel "B" but there is no parcel "A" shown. The way the map is drawn lends interpretation that Ward would be acquiring all of the remaining lands of McKee, on both the east and west side of Buckelew Road. There is no mention of the size of the remaining lands belonging to McKee and what the new acreage will be for Ward. They feel the map needs to be labeled more clearly and a better description of the actions to be taken shown. They will table their decision until next month when a corrected map can be provided.

Ward said McKee will be very disappointed with the delay in the application. The Board sympathized with him but said they only meet once a month and the map as presented is confusing and could cause problems in the future if recorded the way it is shown. There will not be an additional charge for the resubmittal of the map next month.

Tim Fox Informational Meeting:

Fox advised the Board he had spoken with the Assessor regarding the assessment of a stand-alone lot. She said the first 2 acres would be assessed as a building lot and the remaining acreage would be assessed as vacant land. He has contacted Jeremy Years regarding the surveying of the property and if the lands were to be annexed to his original parcel the fee would be greater than just the surveying of the new parcel because he would be surveying both parcels. Fox told the Board the surveying costs out way the difference in tax costs for the two parcels to be combined. He wishes to proceed with creating the fifth parcel on the private drive by having the new parcel be a stand-alone lot. He reminded the Board that the zoning is written in such a way that would allow the Board to approve a fifth lot on the private drive. The Board asked if approved as a fifth lot what would prevent it from being sold in the future as a building lot. Fox said it is not his intent to sell the new parcel but to keep it as buffering for the parcel he now owns. He said that he feels it is in his best interest financial to keep the two parcels separate.

The Board advised him that if the parcels were combined or not the only piece that needs surveying is the new parcel. His original parcel was surveyed 7 years ago and nothing has changed. They are concerned with setting a precedent in creating five lots on a private drive,

the Chairman feels that this is an area in the zoning regulations that should be changed to make it definite whether 3 or 5 lots can be allowed on a private drive and not leaving it up to the decision of whatever Planning Board is sitting at that time. They cautioned Fox not to assume the Board will find favor with creating 5 lots on a private drive. Fox said if it is not accepted as a fifth parcel then he will need to readdress the action.

The Board said in order to look at this as the fifth parcel on the private drive they would need to see the easements and survey necessary for the parcel and they would then review it as a building lot, if it was not acceptable as this it would need to be combined to the other parcel belonging to Fox on the private drive.

M. S. Bristol Properties, LLC Site Plan:

Nate Harvey advised the Board that when the time to vote on this Site Plan arrived he would need to abstain because his son-in-law works for Mr. Richards.

1. The Secretary advised the Board that the Zoning Board of Appeals had addressed and approved conditionally the Special Use Permit for a restaurant to be placed in the building at 4503 State Route 64 based on:
 - a. Site Plan approval by the Planning Board
 - b. SEQRA approval by the Lead Agency (Planning Board)
 - c. All other permits approved by the Code Enforcement Office, Dept. of Health, and the State Dept. of Transportation.
2. The Area Variance to reduce the setback requirement for the northeast corner of the driveway to be reduced to 1.5' instead of the required 10' per zoning regulations was approved at the February ZBA meeting. The driveway placement was proposed by Greg Trost of Dept. of Transportation to move the flow of traffic as far away from the intersection of County Road 32 and State Route 64.
3. With regard to the High Water holding tank an update from Sheryl Robbins, Public Health Engineer indicated the application would not be reviewed until the week of March 18th.

Some of the other areas of concern discussed were:

- With regard to holding tank the Dept. of Health recommended that the sewage system be designed to hold 35 gals per person per day based on the seating capacity for the restaurant. Therefore if seating capacity is determined to be between 30 and 35 people a holding tank would need to be a minimum 1225 gallons. The tank as proposed is 1500 gallons. D.O.H. may require a larger tank and would be determined by them when they review the application. Based on similar situations a tank of this size would need to be pumped out at least once over 2 weeks or depending on the success of the business more often than that.
- Grease Trap: Craig Jackson, of the D.E.C. on February 1st sent an email to the Secretary advising a grease trap would not be required if all waste flows into a holding tank that will be used for pump out and disposal.
- The Water Service per Steve Richards is 1" in size and should be adequate.
- Richards advised the Board that a backflow device is required by the D.O.H. for the water service.

- The question was raised regarding grading of the parcel: Grove said the N.E. corner will be graded with a pitch towards the road providing a way for the water to sheet towards Route 64 which is past practice. He added there is a catch basin in front of the store on Route 64 and all waters would be directed to that area.
- The Catch Basin is in front of the building where the planting area will be with a walkway through the center that would line up with the Catch Basin.
- The parcel will be all gravel except for the R.O.W. that the D.O.T. has determined needs to be paved.
- A concern was raised with regarding to parking. Grove said he had designed the parking spaces on the diagonal to allow for backing out into the traffic flow pattern. He agreed that perhaps they should be on more of a diagonal so the number of spaces might need to be reduced. The original had called for more than enough so there is room to accomplish this. There was also mentioned a concern on how the parking spots would be designated given the gravel surface of the parking area.
- The Board asked who had surveyed the parcel, Grove replied Jeremy Years. It was noted his stamp was not on the site plan. The survey map with the surveyor's stamp has been presented to the Code Enforcement Office but was not included at tonight's meeting. Grove had combined his site plan drawing with the surveyor's map.
- Questions regarding the easements listed on the Site Plan, they were on the original survey map. The Board asked that the one with regard to water rights be researched before the final site plan is presented. It is in Liber 114 page 457. The Board asked if there were any agreements with the neighbor with regard to boundary line or the 25' R.O.W. that shows on the site plan. There is no agreement with regard to the boundary line and the R.O.W. is on the neighbor's property. The Secretary had researched both of these and found the boundary line was established by James Marianacci and the Holdens (previous owners of the parcel now owned by Richards). The R.O.W. was established in 1910 by the Milk Association and the owners of the parcel in order to get to the milk house on the parcel now belonging to Edith Thomas.
- The Board inquired about storage space: there will be no outside storage except for a dumpster in the rear corner that will be enclosed. It is possible to use the second floor for storage and that would be accessed from outside by stairs on the back deck.
- Lighting: the outside lighting will be recessed can lights on the porch overhang, there is no other proposed outside lighting. The question was raised if there would be enough to provide lighting to the parking lot. It will be up to the Code Enforcement Officer to approve the lighting. The requirement regarding the parking lot lighting has not been mentioned before but the Board would like to know that the parking area will be lighted during the hours of operation.
- It was noted there were no calculations with regard to the water runoff from the back parcel and how it would be handled.
- The Board would like to know that a plan is in place to protect the catch basin from any silt or erosion until the parcel is stabilized and how it will be handled. This may require some sort of silt fencing to protect the planting beds until they are stabilized.

- There will be 1 handicap parking space as determined by the seating capacity of the restaurant. There will be approximately 28 seats and 2 to 3 employees including the owner making a requirement of 12 to 13 parking spaces necessary as determined by the zoning regulations.
- Signage: It will be attached to the building.
- The Board would like to have a letter from the fire department signing off on the restricted access to the back of the building. The Secretary will notify them and ask that they respond by our next meeting.
- It is noted that County Planning reviewed this application in November 2012 and sent back recommendations to be followed; the applicant and the Planning Board of Bristol are working to meet all of their recommendations.

In view of all of the above the Board asks to have the following items added to the Final Site Plan that may be presented as soon as their next meeting:

1. To add a note regarding the outlets on the holding tank
2. The typo with regard to watertight to 691.0' is removed.
3. Water Service is 1" in size is added.
4. Proposed contours are placed.
5. A statement regarding the easements mentioned on the survey map.
6. Lighting notes regarding the parking area and that it has been addressed by the C.E.O.
7. A note regarding a sign off letter from the D.E.C. With regard to the cleanup of the property.
8. Parking to be defined
9. Dumpster placement and enclosure
10. Steep Slopes must be addressed including quantifying water flow (run off & on the parcel from the parcel behind 4503 State Rte. 64) refer to Article Thirteen pg. 41-42 of the zoning regulations. A storm water pollution plan needs to be added.
11. A note regarding no work in the R.O.W.
12. The walkway through the planting bed is shown.
13. Stabilization of the back of the lot behind the building is addressed.
14. Total acreage is shown on the plan.

It was determined that the D.O.T. will proceed with the minor highway application once SEQRA is completed. The Board then reviewed the SEQRA and as follows:

- A. The action does not exceed a type one threshold.
- B. This action will not receive a coordinated review process.
- C. 1-7 were answered by no.
- D. The project will not have an impact on the environmental characteristics that would cause the establishment of a CEA.
- E. There is not likely to be any controversy related to potential adverse environmental impacts.

Based on the above answers a Neg. Dec. was declared for SEQRA by the Planning Board of the Town of Bristol for the Site Plan presented by MS Bristol Properties for lands owned by them at 4503 State Route 64 in the town of Bristol.

The Board suggested that perhaps a larger holding tank might be a better option for the parcel to reduce the frequency that it would be needed to be pumped out. Richards and Grove said they would consider this.

If the plan is turned in by March 18th it can be on the agenda for the April meeting and possibly approved pending the D.O.H. and D.O.T. decisions. The only variable to the plan is with regard to the calculations to be made determining water run off and on the property. The Board will not be asking for any other additional information beyond those stated above. They advised Richards and Julie Woloson they could go to the C.E.O. for permit approvals to do the work to the inside of the building. This is not an area of concern for the Planning Board, their concern is with the site plan regulations and how they are addressed.

Possible Zoning Changes:

The Secretary advised the Board that the areas of interest to be reviewed by the Town Board for comment were provided to them at the last Town Board meeting but they did not get a chance to review or comment on them. She will provide them again for the March meeting. Fran Morgante told the Board she had met Glen Cooke at the last Town Board meeting. He is part of the WOLCDC. It is an organization that helps promote small and low impact businesses in Western Ontario and Livingston Counties. He had Fran speak at a meeting held at the Bristol Town Library and as a result many people expressed an interest in her pursuit to be able to use her barn for gatherings.

Under Zoning Changes to be addressed Nate would like to add the clause in the minor subdivision regulations addressing the number of parcels on a private drive. He feels it should be a definite number and not left to the discretion of the Planning Board to exceed that number.

The meeting was then adjourned.

Respectfully submitted,

Sandra Riker

Town of Bristol

Planning Board Secretary

Town of Bristol
March 3, 2013

Thoughts from County Planning regarding HVHF (Heavy Industry)

On February 13, 2013 Bob Green and I attended a webinar on “Fracking and Resource Extraction and Community planning” hosted by the Ontario County Planning Department. Unfortunately it was poorly attended even though the invitation had been extended to all communities in Ontario County, Bob, I and one other guest were the only attendees and Maria Rudzinski, Senior Planner and Tom Harvey the head of the Department came in to join us. The presenters were: Allison Mouch, Community Planning Bureau Chief, Montana Dept. of Commerce, Erica Levine Powers, and Master of Regional Planning Program, University at Albany, New York, and Hannah Wiseman, Assistant Professor, Florida State University.

Erica Powers recently sat on a panel of experts at the American Bar Association Midyear Meeting where the topic was: ***Beyond the Fracking Wars: Lawyers Learn the Basics of Unconventional Oil and Gas Exploration***. This is also a title of a book coming out in April by Powers and the other attorney on the panel. Some of the comments from the panel were:

- Public pressure has been to deny drilling permits even though many towns have very little law on their books despite the fact it has been going on in towns for a very long time and the attorneys would favor an administrative process rather than zoning battles which can go on for a very long time.
- Powers made the point “ it is not if but when” because it is spreading over the country given the shale deposits are widespread and it is a very complex industry
- Fracking is complex because it involves so many specialized companies: construction crews, drilling specialists, water suppliers, truck drivers, etc.
- The economic benefits of fracturing according to the 2011 report by U.S. Dept. of Energy over 200,000 new jobs were created associated with the domestic production of shale gas.
- Sudden increase in jobs and income, surge in demand for housing and public services can create a “boom and bust” cycle. Communities can effectively plan for this cycle by taking stock of current housing, update land use ordinances, allow permitting for temporary housing and define key terms such as man camps. Noise and light ordinances should also be addressed, and local governments should review their school and law enforcement strategies.
- When the bust occurs after drillings ends communities will see a decline in tax revenues and jobs are relocated or lost. By utilizing temporary housing, finding adaptive use for facilities used during the boom and by saving revenues that came in can minimize this impact. They cited one Colorado County as using the profits from drilling to invest in solar energy.

In the Webinar they stressed the need for proactive planning at the local level as well as regional and state levels. The shale deposits do not follow boundaries defined by town, county, and state, making it necessary for all to work together to ensure the safety to the people and

the environment.

Impacts at the local level can involve bonding and road use agreements. If Home Rule is allowed to stand then the individual towns will have to deal with the issues of HVHF and a question as to the expertise of a local Zoning Board and the permitting process. The use of variances would become the norm and it would be difficult for a local board to deal with this. They suggested there would be a need for a County level Board to handle the permitting process.

A question and answer session followed the webinar but we were unable to pose a question with regard to how Bristol should proceed as a rural community that does not have a place for heavy industry but does have a business that would fall into that category given the definition for heavy industry would include all extraction and management of all natural resources.

After the webinar Bob and I chatted with Maria and Tom with regard to heavy industry in Bristol and the best way to proceed. The way our current zoning is written there is no mention of heavy industry, therefore, we have nothing to deny or ban and if we did so it would leave us open for lawsuits that were both capricious and arbitrary. We need to go back to our Comprehensive Plan and update it to reaffirm the town's position that heavy industry is not an allowable use. A list could be included to reiterate the problems that would arise regarding water, noise, pollution, and danger to health, safety of our citizens, and that our current infrastructure would be unable to support heavy industry in our town. This would substantiate the claim that it does not fit with our comprehensive plan. In turn this would set the stage for zoning regulations to support this premise. We should also reaffirm the current land use and industries that are compatible with the mission statement for the town as well as reaffirming the goals and objectives of the comprehensive plan as written and say that we have studied the use and find that it is not an allowable use given it is inconsistent with the comprehensive plan for the town of Bristol.

Tom and Maria offered their help when it came time to wordsmith the appendices to the Comprehensive Plan for this topic.

Sandra Riker
Secretary Town of Bristol
Planning, Zoning Board of Appeals, and Focus Panel

The above minutes were approved by the Planning Board at their April 1, 2013 meeting with a motion by Bob Stryker and a second by Bob Raeman. All Board members agreed.