

Town of Bristol

Zoning Board of Appeals

February 12, 2013

Draft Minutes

Members Present: Chairman Steve Smiley, Jen Sanford, Patti Giordano, Marty Snyder, and Secretary Sandra Riker

Others Present: Julie Woloson, Bill Grove, Nate Harvey, Edie Thomas, Carole Harvey, and Mary Costa

The meeting was opened at 7:00 pm with the Pledge of Allegiance.

Minutes: The minutes of January 15th were reviewed and there were no corrections or changes. A motion was made by Jen Sanford with a second by Patti Giordano to accept the minutes of January 15, 2013 as written. All Board members present agreed.

Special Use Permit for Café Sol:

Julie Woloson described her project to the Board. She would like to have a restaurant that featured carry out and casual dining, with the emphasis on carry out. She will also be applying for a liquor license for beer and wine once the project is underway. Her hours would be based on the seasons with dinners offered Thursday through Saturday and Saturday and Sunday brunch. She will work with the needs of the community in establishing her hours.

She told the Board that the interior of the building at 4503 State Route 64 had been gutted and the first floor will be finished to suit her business.

The public hearing was then opened. The secretary advised the Board she had sent out 20 neighbor notification letters (those within 500 feet). Two had been returned non deliverable and the only respondent was Mrs. Thomas who is present this evening. Mrs. Thomas said she is good with the improvement to the neighborhood and has only one concern: that being outside lighting. Ms. Woloson advised her that the lighting would be dark sky compliant and would not be directed at her home. There were no other comments from the people present. The public hearing was then closed.

Bill Grove said the State Department of Transportation has dictated the driveway arrangement for the property. Given the small size of the property the driveway design puts the north east corner of the driveway closer than 10' (feet) to the rear lot line presenting another problem, the need for an area variance to address this issue. The minor highway entrance permit is on file with the D.O.T. and has been advised by Greg Trost of that department a permit will be issued for the driveway. Some of the other requirements of that permit are to establish a planting at grade with a maximum height of 42" at the front of the building to discourage people from parking and or driving out that way. They will need arrows to direct the flow of traffic. Woloson said that she would like to have flowers and herbs in the planting area for use in the preparation of food. She would also like a walkway in the planting.

Sanford asked if County Road 32 is a problem. Grove said there will be no access from County Road 32, the concern by Sanford is to the steep slopes behind the parcel in question. Grove said the slopes were on the neighboring parcel and that Richards had cleaned out an area back of the building for the driveway access. He felt that the bank is stabilized at present and will be doing what is necessary to maintain permanent access to the driveway.

Giordano mentioned that the ZBA is reviewing the Special Use Permit this evening and any approval would be contingent on Site Plan approval by the Planning Board and all other permits and code requirements are met.

There was some confusion over which of the allowed special uses in the C-B district should be used. Woloson said it would be an eat-in restaurant with a take-out counter and because of the limited size the carry out would be encouraged. Nate Harvey suggested to the ZBA that they think about the spirit of the meaning of the allowed uses. He went on to advise the Board that the Planning Board is working on some changes in the current zoning regulations to give the ZBA some latitude in their findings for a Special Use Permit. It was determined that Article 10, Section IV, C 5 would be the criteria: Drive-in Restaurants.

After further discussion the following motion was made with regard to a Special Use Permit:

Whereas, under Article 18-Special Use Permits Section I. B. 1. The property is in compliance with all ordinances, regulations, resolutions and laws and codes of the Town of Bristol except for the rear lot line setback of a driveway must be a minimum of 10 feet from the lot line and will need to have an Area Variance in order to conform to this regulations, and

Whereas, under B. 2. The proposed use is not detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use or improvements in the neighborhood, or to the general welfare of the Town, and

Whereas, under B.3. a-j the proposed use is not detrimental to the adjacent or neighboring properties when taking into account:

- ***a. Ingress and Egress will be compliant with the New York State Department of Transportation Minor Entrance permit and its requirements to fulfill this permit.***
- ***b. The site plan shows 16 parking spaces and 1 handicap will meet the requirements of parking subject to Article Seven of the Local Law.***
- ***c. All Board members agreed that as presented it will be compatible with the general character of the area.***
- ***d. The sign will be mounted on the building and compliant with Article Nine of the local law.***
- ***e. with regard to noise level, odors, and air pollution the applicant will be mindful of the requirements set forth by the Department of Health with regard to exhaust of kitchen fumes. Outside garbage storage will be contained and picked up on a regular basis.***
- ***f. Outdoor lighting and hours of operation will be addressed in the Site Plan review done by the Planning Board.***
- ***g. There will be no outside storage or display.***
- ***h. The Board is satisfied with the buffering from surrounding properties as proposed in the Site Plan. There is a stockade fence belonging to the neighbor to the south and lilac bushes along the fence which is on the property line.***

- *i. There are adequate utilities including but not limited to, water (public), sewer (a high water alarm system holding tank that is adequate for the number of people that may occupy the building), electricity, and gas.*
- *J. Site Plan under local law #2 of 2011 will be addressed by the Planning Board as well as the SEQR requirement as they will be acting as the Lead Agency.*

A motion was made by Jen Sanford with a second by Marty Snyder to approve the special use permit for Julie Woloson to operate as Café Sol at 4503 State Route 64 in the Town of Bristol contingent on:

- 1. Planning Board acceptance of the Site Plan and SEQR, and*
- 2. The area variance required for the rear lot line setback has been approved, and*
- 3. All necessary permits are acquired from local and state agencies, such as but not limited to the Code Enforcement Office, Department of Health, and Department of Transportation.*

The Board polled as follows: Giordano, aye, Smiley aye, Sanford aye, and Snyder aye.

Area Variance:

Under Article V-Construction Provisions Section IV Driveways: Driveway must be located at least 10 feet from any existing property line. Location of driveway must have approval of the highway department having jurisdiction. The driveway as specified by the New York State Department of Transportation is closer than 10 feet to the rear property line on the south west side of the parcel, 124.19-2-17.100 therefore creating a need for an Area Variance for its placement. The requested setback for the driveway is 1.5 feet where 10 feet is required as a minimum.

The following decision was made by the Zoning Board of Appeals:

Whereas, the driveway as designed by the New York State Department of Transportation will not produce an undesirable change on the neighborhood as it is laid out to create the best traffic flow onto State Route 64 at the corner of County Road 32, and

Whereas, there is not an alternate location for the driveway given the size of the lot, and

Whereas, the variance is substantial, it only effects a small portion of the driveway in question, and

Whereas, the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood (Giordano, Smiley, and Snyder agreed with this but Sanford felt the Final Site Plan should make note of the fact the drainage maybe a problem in the area of the reduced setback due to the steep slope on the adjacent property and propose a solution for this issue), and

Whereas, the alleged difficulty is not self-created because due to the small size of the property and this is the driveway required by the Department of Transportation and a fire lane must be 10 feet in width.

A motion was made by Marty Snyder with a second by Jen Sanford to grant the area variance request to reduce the rear driveway setback to 1.5 feet. The Board polled as follows:

Giordano aye, Smiley aye, Sanford aye, and Snyder aye.

Posting of Minutes: The secretary advised the ZBA of the Planning Board's decision on how minutes should be posted to the website and the timeliness of their presentation to the public: The Board said they would like to have the minutes made public 2 weeks after the meeting has been held, these minutes should be marked as "draft only or unapproved" and made available only in the town clerk's office. At that time the "draft" minutes will be forwarded to the Planning Board for their review, any changes will be made at the next scheduled meeting and after approval may be posted to the website. Posting of unapproved minutes would only lead to confusion and possible misunderstanding. All decisions and resolutions should be made available to the applicant within 5 days of the meeting. The ZBA Board expressed an interest to follow the same path as the Planning Board concerning this matter. Snyder made a suggestion that the "draft" minutes contain a watermark of Draft to further clarify that these minutes have not been finally approved. ***A motion was made by Giordano with a second by Smiley to have "unapproved" minutes of a ZBA meeting made available to the public at the town clerk's office 2 (two) weeks after the meeting with the minutes then being forwarded to the Board for their review and final approval at the next meeting, after such time they may be made available on the website.***

Comprehensive Plan: The Chairman advised the Board he had received an email from the Supervisor and Town Board asking to have a committee put together to review the Comprehensive Plan of 2007 for any possible updates or changes that might be needed. The Town Board will be looking for a volunteer or two from the Planning Board and the ZBA. They will also have 1 or 2 people from the community. Jen Sanford said she would be willing to volunteer and Marty Snyder said he would consider it. Patti Giordano said she had served on the committee for the 2007 plan and had the layout on her computer. She will send it on to the secretary for use with this review. She mentioned that in 2007 one of the goals was to make the town policies to be more user friendly towards light industry but she did not feel that this was accomplished.

A motion was made by Giordano to adjourn the meeting with a second by Jen Sanford.

Respectfully submitted,

Sandra Riker

Town of Bristol

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03/12/13: The minutes of February were approved as written with a motion by Patti Giordano and a second by Marty Snyder. All Board members agreed.