

Town of Bristol  
Planning Board  
Minutes  
February 3, 2014

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

**Members Excused:** Bob Raeman

**Others Present:** Mr. & Mrs. Gorsline, Ed Summerhays, Dan Seeley, Jeff Harloff, Tim Fox, Fran Morgante, and Nick Cohen

The meeting was opened with the Pledge of Allegiance.

**Gorsline Informational**

Mr. Summerhays advised the Board that since the major subdivision the owner of Lot 3 would like to add additional acreage to his parcel. The acreage would come from the remaining lands of Mr. Gorsline. His question is "As it affects two existing parcels and it is only an adjustment of the boundary line between the parcels, does this fall within the definition of a minor subdivision?" He referred to Article I, Section II B of our Zoning Regulations. "The provisions contained herein shall apply to all land within the corporate limits of the Town of Bristol. All Minor Subdivisions of land within the town shall be designed and submitted for approval in compliance with the standards and procedures set forth. Minor lot line changes, which do not create a new lot will be reviewed administratively by the Planning Board and will not require a public hearing.

The Board determined that the correct procedure is that of a Minor Subdivision because of the amount of acreage involved:

- This will determine that two revised lots will still meet all requirements
- Will not create the Gorsline remaining acres to be landlocked but has adequate road frontage
- This process will protect both the applicant and the Town as having done due diligence to meet the zoning requirements.
- It is noted that the remaining Gorsline acreage is in Steep Slopes and only .6 of an acre is suitable for building, therefore when this piece is developed they will need to follow the Steep Slope Regulations.
- The 9 additional acres being picked up by Mr. Harloff (owner of lot 3) is pretty flat and wooded.
- There will be no change in road frontage for either parcel.
- The three year Moratorium for Minor Subdivision regarding further division of the remaining Gorsline parcel will be in effect
- A land hook showing the lands being annexed to the Harloff parcel need to be included on the Final Map presented.

Mr. Summerhays asked if he provided the appropriate map for approval with the Minor Subdivision application would it be necessary for the applicant to come to the meeting next month when it is presented. The Board said that would be up to the applicant. The Secretary advised him there is a \$50.00 fee for a one lot subdivision and the materials need to be in 2 weeks prior to the March meeting date of March 3<sup>rd</sup>. because it is necessary to hold a public hearing with regard to the Minor Subdivision.

### **Minutes of January 7, 2014**

The minutes were reviewed and Bob Stryker suggested that the actual emails between Bill Kenyon (Town Attorney) and the Secretary be included in the minutes as Exhibit A, etc. A motion was made by Bob Drayn to approve the minutes as corrected with a second by Joann Rogers. All Board members present agreed.

### **Fox Combination:**

We have a response from Robin Johnson at Real Property Tax Department and it is attached to the end of the minutes as Exhibit A.

According to the Town Attorney a "Lot" as defined by the Bristol Zoning Regulations may have more than one tax parcel.

Under Definitions:

#66 in Town Zoning 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.

67. Lot Area. An area of land, which is determined by the limits of the lot, lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public street right-of-way shall not be including in calculating lot area.

Under Article six Provisions applicable to all use districts Section IV reads No lot shall have erected thereon more than one (1) principal use building.

We have no definition for Tax Parcel or parcel as referred to by County Real Property Tax.

It is the Board's understanding that a Lot may be divided by special use district, municipal districts, and school districts and it may be combined over a public road, why not a private drive?

The Planning Board would like guidance from Real Property Tax Service, the Assessor and or the County Attorney as to how we can ensure that the fourth tax parcel is not allowed as a building lot. This was the reason why we chose to have Mr. Fox combine the two lots creating only one buildable lot. Our Zoning Regulations say that only three lots are allowed on a private drive. The Secretary will contact the appropriate people and email the response to the Board Members as well as Mr. Fox. The Chairman asked specifically to request to our Assessor Kelly Ducar-"How we can prevent this two tax parcel one lot" situation from being split into two "lots" in the future, if at all possible."

**Proposed Zoning Changes:**

The Board was satisfied with all but the information for Ponds. It will be changed to read:  
Ponds:

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 will be no closer than fifty (50) feet from its high water mark to any property line or any edge of a road right of way. A site plan must be submitted with the application to the Code Enforcement Office. To protect adjacent properties the Code Enforcement Officer may require site plan review and approval by the Town Planning Board. To qualify as a fire protection pond it must be reviewed and approved by the Bristol Volunteer Fire Department.

Definitions need to be in Major, Minor Subdivision Regulations as well as the overall Zoning Regulations.

***A motion was made by Nate Harvey with a second by Bob Drayn to have the Secretary make the revision to Ponds and forward all Proposed Zoning Changes to the Town Board, Town Attorney, and County Planning Board for their review and approvals. All Board Members present agreed.***

**Charge of September 5** from the Town Board to the Planning Board: to develop zoning laws pertaining to High Volume Hydrofracking of Natural Gas, a Heavy Industry as described in the NYS SGEIS.

The Board is concerned that they do not have the expertise necessary in completing the Long Form SEQRA process that this charge will require. They would like the guidance from the Town Board as to who will be provided to answer the SEQRA questions. The Chairman suggested the Board take some time before the next meeting and review this document so they can pose their questions and concerns to the Town Board at their meeting in March. He also asked that they review the documents provided from the Inter Muni group regarding Road Use Laws and zoning regulations.

The meeting was then adjourned.

Respectfully submitted,

*Sandra Riker*

Secretary for the Town of Bristol  
Planning Board

The minutes of February 3, 2014 were accepted with comments from the Chairman regarding Exhibit A regarding parcel combinations with a motion by Joann Rogers and a second by Bob Drayn. All Board members present agreed, and Bob Raeman was absent.

Exhibit A:

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. (The Chairman disagrees with this statement and cited an example of a lot that is in both Richmond and Bristol.)

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 portions 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 B..O.W. on the private drive. Why would this be any different than combining two parcels that are separated by a public highway, which they do.

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=5gnvmnhmOtngd> 2/5/2014

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 or 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.