

Town of Bristol
Zoning Board of Appeals
November 19, 2019

Upcoming
Meeting Dates:
December 17
2019

Members Present: Steve Smiley (acting Chair), Donna Beretta, Jen Sanford, John Krebbeks and Sandra Riker

Excused: Marty Snyder

Others: Code Officer Chris Jensen, Harry Pratt, Mr. & Mrs. Koelsch and John Bluhm

Pratt Use Variance: The Pratt's have purchased a town home in Canandaigua so Mr. Pratt purchased his parcel on the corner of County Road 32 and Day Road to provide him a place for the following: a 30' x 66' building to accommodate a 30' x 30' woodworking shop for his own use, and the remainder of the building for a small office with a half bath as well as storage space for his boat, jet ski and other items . The building is very attractive and would give him a place to go and do his hobbies. He will have a septic system designed to accommodate the bathroom facilities. He described the building as a non-habitable accessory structure with a bath room. He could understand the questions being raised if this were to be a commercial building but that is not his intent.

On October 17, 2019 Code Officer Jensen made a Zoning Law Determination that is attached at the end of these minutes.

Public hearing was opened by Steve Smiley. Mr. Koelsch said he was here in support for Pratt's project and looked forward to having him as a neighbor. John Bluhm said he had recently purchased a parcel on State Rte. 64 that the only structure on it is a metal storage building (this was part of a recently subdivided parcel that originally had a home, garage and the metal building; when subdivided the metal building is the only structure on one parcel.) Bluhm said he was here to learn how it might be able to use the building and the parcel.

The Secretary reported Terry Peters a neighbor to the parcel purchased by Pratt called and advised her he had no problem with Pratt's proposed building and his only concern that the process for the septic system be followed carefully.

The Secretary shared this additional information: at the meeting on October 19th Bruce Kennedy and Mike Koelsch stated they were pleased with Mr. Pratt's project and looked forward to having him as a neighbor. This comment was also provided by Mike and Cathy McGuire.

The County Planning Board met on November 13th and made the following determination:

212 - 2019 Town of Bristol Zoning Board of Appeals Class: 2 Referral Type: Use Variance Applicant: Pratt, Harry Tax Map No(s): 124.00-2-41.230 Brief Description: Use variance to construct an 1,800 SF accessory structure with water, wastewater, and electric service on Day Road in the Town of Bristol. Use variance needed because there is no principal single-family or two-family use.

<https://www.co.ontario.ny.us/DocumentCenter/View/20208/212-19-Aerial> The project site is a 7.8-acre lot created in April 2019. The structure is intended to house a woodworking shop for personal use.

According to On Cor, the lot and all adjacent land are in an agricultural district. The site is not constrained by floodplains or wetlands. There are areas of 16 to 30 and 31-60 % slope along the CR 32 frontage and the western half of the Day Road frontage.

Comments:

1. The applicant should be advised that any accessory building used for a home occupation may not exceed 750 SF.
2. Referring body to remember that when granting permission to establish a use of property not otherwise permitted in the zoning district, the applicant must prove “unnecessary hardship”. To prove this, NYS law requires the applicant to show all of the following:
 - a. 1. That the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district (actual “dollars and centers” proof must be submitted);
3. That the property is being affected by unique, or at least highly uncommon circumstances;
4. That the variance, if granted, will not alter the essential character of the neighborhood;
5. That the hardship is not self-created. If any one or more of the above factors is not proven, State law requires that the ZBA must deny the variance. CPB Comments

a. Approval of a use variance allows a use to continue in perpetuity. The Board also sets a precedent regarding the rigor of proof required regarding each of the hardship standards.

b. Based on the materials received, it appears the applicant has not documented proof of unnecessary hardship based on the four-prong test in NYS statute.

Board Motion: A motion to retain referral 212-2019 as Class 2 and send back to referring body with comments and recommendation for disapproval. Motion made by: S. Groet Seconded by: P. Passavant
Vote: 16 in favor, 0 opposed, 0 abstention Motion carried

If the ZBA Board of Bristol were to override this decision it would require a super majority vote (majority plus one.)

After reviewing the County Planning Board comments and with no further comments from the public or Board the public hearing was closed.

SEQR Review:

After review of all questions a motion was made by Steve Smiley with a second by Jen Sanford to declare a Negative Declaration. All Board members present agreed.

The Criteria for a Use Variance was reviewed and the following determination was made by the ZBA Board.

1. Regarding the inability to make a reasonable financial return on the property: All Board members agreed the applicant did not answer the question as stated-it refers to exhausting all

of the allowed uses for the parcel and whether or not a reasonable financial return could be made through them. Board polled as follows: Smiley No, Sanford No, Krebbeks No, and Beretta No.

2. The alleged hardship relating to the property is unique-Board polled as follows: Smiley No, Sanford No, Krebbeks No, and Beretta No.
3. Granting of a Use Variance will not alter the essential character of the zoning district or neighborhood. After discussion concerning the altering of the Codes to accommodate an accessory structure with habitable floor area. Board polled as follow: Smiley No, Sanford No, Krebbeks No, and Beretta No.
4. The alleged hardship has been self-created. The Board polled as follows: Smiley Yes, Krebbeks Yes, Beretta Yes, and Sanford No.

A motion was made by Jen Sanford with a second by Steve Smiley to deny the Use Variance request made by Harry Pratt to put an accessory structure with habitable facilities on a vacant parcel located in the A-C district of the Town of Bristol.

Other Business: Code Officer Jensen shared a proposed addition to Article Six -Provisions applicable to all use districts:

- Except as otherwise stated in Town Code, one (1) thousand (1,000) square foot unhabitable structure shall be allowed on vacant lots with no primary building or use and may be used for storage of materials, equipment, and other personal property. Such accessory building shall be subject to the setback and height requirements contained in the Zoning Schedule for the underlying zoning district.
- Accessory buildings shall not be used as habitable space.
- Detached accessory buildings with a building footprint of less than 1,000 square feet shall not exceed 16 feet in height.
- Detached accessory buildings with a building footprint of more than 1,000 square feet or greater shall not exceed 22 feet in height.

The above will go to the Planning Board for review and then on to the Town Board, along with the recommendation to increase lot coverages for all districts as our current number of 5% is low by today's standards.

A motion by John Krebbeks with a second by Donna Beretta was made stating the Zoning Board of Appeals support the above stated changes.

Minutes: The minutes of October 22, 2019 were reviewed and Jen Sanford said under Pratt Use Variance; that Day Road was incorrectly identified as Dugway Road. Upon that correction Steve Smiley made a motion to approve the minutes as corrected with a second by John Krebbeks. All Board members present agreed.

A motion to adjourn the meeting was made by Jen Sanford.

Respectfully submitted,

Sandra Riker

Secretary to the Planning and ZBA Boards

Minutes approved on December 17, 2019 with motion by Steve Smiley and second by Jen Sanford. All present agreed except Martin Snyder who abstained due to absence at the November meeting.

Town of Bristol

6740 County Road 32 • Canandaigua, NY 14424 • (585) 229-2400

ZONING LAW DETERMINATION

PROPERTY OWNER: Harry Pratt
PROPERTY ADDRESS: 0000 Day Road
TAX MAP NUMBER: 124.00-2-41.230
ZONING DISTRICT: A-C Agricultural Conservation

DETERMINATION REFERENCE:

- Application to construct a 1,980sq.ft. (30'x66') accessory structure with water, electric, and wastewater services upon a vacant parcel. Received for review by Town on 10/14/2019.
- Application for a use variance to construct an accessory structure on a vacant lot.
- Application reads that the accessory structure is not a dwelling and does not contain any habitable floor area.
- Per Town Code Definition, an Accessory Building is a detached building on the same lot with and of a nature customarily incidental and subordinate to the principal structure.
- The parcel is vacant and therefore does not have an existing principal structure.
- Per Town Code a Principal Structure is a building in which is conducted the main or principal use of the lot on which said building is situated.

PROJECT DESCRIPTION:

- Construction of a 1,980sq.ft. (30'x66') accessory structure with water, electric, and wastewater services upon a vacant parcel.

DETERMINATION:

- As there is no principal structure on the parcel for the accessory structure to be subordinate or incidental to, a use variance is required.

REFERRAL TO ONTARIO COUNTY PLANNING BOARD) FOR:

- This application is required to be reviewed by the Ontario County Planning Board as it pertains to a use variance and the parcel is within 500ft. of a County Road.

REFERRAL TO ZONING BOARD of APPEALS FOR:

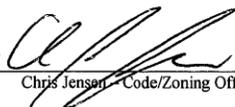
- A use variance is required as applicant is proposing construction of an accessory structure when there is no principal structure for the accessory structure to be subordinate or incidental to.

REFERRAL TO PLANNING BOARD FOR:

- Site plan approval is required as the proposed accessory structure is not accessory to a single or two-family dwelling.

CODE SECTIONS: Local Law #2 of 2011 – Section III – Site Plan Review
Local Law #3 of 2011 – Article 3 – Section II – Definitions
Local Law #3 of 2011 – Article 10 – Section I – Uses permitted in A-C District

DATE: 10/15/2019

BY: 
Chris Jensen, Code/Zoning Officer

NYS Town Law, Section 267-a(5)(b), an appeal may be made to the ZBA within 60 days of the date of this determination.

c: Binder
Property File
Property Owner
Town Clerk

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