

Planning Board Meeting      DRAFT  
February 20, 2013

Present:	Jim Ely, Chairman Jason Inda Ann Jacobs Bessie Tyrrell	Guests:	Dan Fuller Tom Fromberger Beth Hickman
Absent:	Amy Detweiler Ralph Endres Jim Schartzer		

The regular meeting of the Town of South Bristol Planning Board was called to order at 7:00 P.M. followed by the Pledge of Allegiance. All board members were present with the exception of Amy Detweiler, Ralph Endres and Jim Schartzer.

Board member, Ann Jacobs, read the Comprehensive Plan Vision Statement out loud.

There were enough board members present to have a quorum to vote (4 of 7) on any of the agenda items. Therefore, Jim Ely called for a motion to approve the January 16, 2013 as written. Bessie Tyrrell made said motion which was seconded by Ann Jacobs. Those present in favor of approving the January 16, 2013 minutes were Jim Ely, Bessie Tyrrell and Ann Jacobs who had attended the January 16, 2013 meeting and the vote carried. Jason Inda did not vote as he was not present at the January meeting. With regard to the board's December 19, 2012 minutes it was noted that approval of those minutes would be carried over to the board's next regular meeting due to the fact that there was not a quorum of the board members present who had attended the December meeting.

Old Business

Bristol Mountain Ski Resort-Request for Site Plan Approval-Additional Town Homes

Dan Fuller came forward and introduced Tom Fromberger of the MRB Group, the engineer for the project. Dan said that he thought it would be a good idea to have Tom present since the board might have some technical questions after having a chance to look over the plans submitted with their formal application for site plan approval.

Dan then reviewed the plan briefly. He said what they were planning to do was to extend their development at the base of Bristol Mountain around the Galaxy chair which would consist of 36 town homes. He said that their intentions were to sell those and have those whole ownership. Dan noted that the drawings they submitted included the landscape, lighting, road configuration, grading and storm water details.

Tom Fromberger then told the board that being that it was such a tight site and on the mountainside utilities would be a big component in trying to work them in amongst all the town homes. He said that it had been a challenge. Tom said that he felt that the

clustering of the town homes was going to be nice for the visibility and the accessibility to the ski slopes.

Bessie Tyrrell then asked what the back of the units would look like. Dan showed the board a rendering from the ski side. Jim Ely said he understood the idea was to ski to their front door. Tom Fromberger said that was correct that they could ski in and ski out. Dan said so really the front would be the ski side. Jim Ely asked if each unit would have a garage. Dan said they would and that most would have a one-car garage and that there were a few that could stack them back to back. Jim also asked if there would be extra parking available. Dan said there would be an overflow parking lot for guests so if people came and they have a car in the driveway and one in the garage and then had another guest come then that guest would park in the overflow parking lot and walk up to the unit. Dan said that all the trash and recycling would also be down in that area as well.

Jim Ely then asked about the maintenance of the driveway and the parking area. Dan said that it would be taken care of by a contractor for the Homeowners' Association so there would be no town responsibility. Dan said that it would be an Association much like the one Northstar Village has where they contract with a maintenance company to do the trash removal, lawn mowing, etc. Jim then asked until such time as a Homeowners' Association is formed who would be responsible. Dan said that the sponsor would be them and Lecesse until the units were sold and the Homeowners' Association was formed.

Bessie Tyrrell then asked how the units would be phased in or sold first and whether it would depend upon who wanted what. Tom Fromberger said that he felt that it would mostly likely be the units closest to the utilities which would require less infrastructure to get up and running. Tom added that the project had not been broken up into phases yet.

Jim Ely then asked whether the new homeowners who purchase one of the units could easily get to the recreational facilities. Tom Fromberger then pointed out the "ski back" area around the Galaxy trail. He said that there was also a trail in between the town homes that they could walk.

Bessie Tyrrell then asked about lighting. Tom Fromberger said that they had a couple of pole lights that they were considering but that they had not defined the locations for them yet. He said that their idea was to use perhaps a carriage style. Dan Fuller added that they might use something similar to what did in their service yard when they changed their lighting over to dark sky lighting for the summertime. Tom Fromberger added that each of the town homes would have entry lights and that they would have some lighting in the dumpster area as well.

Jim Ely then asked how long they estimated it would take to fill out the building process. Dan Fuller told Jim that their initial thought was three years involving three different building seasons. Dan said that they would like to start building the units this summer. Bessie Tyrrell asked if they had any interested buyers yet. Dan said that he had a rendering displayed in the lodge recently and he said a lot of people had filled out cards

requesting more information about the town homes when the information becomes available.

Dan said that he had met with the board of Northstar Village Homeowners' Association and had gone over all the plans and details just to bring them up to date and to see if they had any concerns.

Bessie Tyrrell then asked about garbage disposal. Dan said that they would contract with someone like Pratt's Disposal and have them pick up the garbage on a regular basis. He said that was what they do now at Northstar Village. She then asked about runoff and melting snow. Tom Fromberger said that what the storm water regulations require was breaking it down into smaller sections which was what they had achieved. He said that there was a main channel already that kind of diverts the flow which they were going to keep, and that there was also another water bar that helps to protect the down slope areas from water. Tom added that there was a culvert that sends that storm water in that direction currently. He said the area was kind of isolated due to the current ski back. Bessie Tyrrell noted that there was not a lot of snow making above it. Tom agreed and went on to say that in those areas they have a couple of water quality features, one is in here and one is down in this location and another is proposed in here (pointing to site plan) that would filter the water and keep it nice and clean and then it goes into more storm water quantity mitigation and that then gets put out towards Mud Creek. Tom said it was a two-stage process required by new regulations.

Bessie then asked if there would be much tree removal involved with the project. Tom said that they were trying to keep a cabin feeling. He said that there was a large cluster but that in the process of building and construction he thought that the homes may get twisted a little bit if there is a tree that they want to save. He said that they were looking at maybe making some adjustments to help keep as many trees as possible and to screen the parking areas. Jim Ely then asked if trees were removed whether they would be planting some additional trees. Tom said that they would be. The board was then shown their landscaping plan. It was pointed out on the plan some rock features and some small ground vegetation as well as the addition of 48 deciduous trees. It was also noted that they were still working on the layout for some shrubs.

Bessie then asked about noise abatement. Jason Inda then said that he thought noise was to be expected in connection with such a facility. Dan Fuller then told the board that they had talked about changing some of the grooming schedules. He said, for example, some of the grooming activity might be scheduled right after they close in the evening rather than at 2:00 A.M. or 3:00 A.M. Dan added, however, that snowmaking would continue as the temperature permits.

Bessie Tyrrell then made a motion that the board schedule the public hearing on the application for the board's March 20, 2013 meeting. Jason Inda seconded the motion. The motion was unanimously accepted.

Comprehensive Plan Action Items (Quick Update)

There were no updates given.

Proposed Changes to Zoning Regulations-Comments from Town Attorney

Jim Ely recapped the fact that the board had some conversation at their last regular meeting about kennels triggered by the controversy in the Town of Gorham where they had received a proposal for an operation involving somewhere between 500 and 600 dogs and that they had sort of rescinded that. Jim said that Gorham had settled on defining a kennel as 20 dogs. Jim said that based on the Planning Board's conversation at the last meeting he had come up with a proposed definition for kennel as well as the criteria to be met in order to have a kennel. Jim then proceeded to read his proposed definition for a kennel to replace the current definitions in town code for private and commercial kennels as follows: "Kennel – Any premises on which more than four but no more than eight dogs six months old or older are kept, for any purpose including boarding and/or breeding". Jim said the number was up for discussion. He also reminded the board that the town attorney was very clear in his comments to the board that a limit on the number of dogs should be established. Jim went on to say that he had eliminated the distinction between private and commercial kennels due to the fact that there was a general sense that there currently are no commercial kennels in town. Based on his proposed definition, Jim said someone could have up to eight dogs including puppies six months or older for any purpose and not precluding private sales. He noted that anyone with four or less dogs would not need a kennel permit. Jim said that he had also come up with a revised list of criteria for a kennel which consisted of a combination of the current criteria in the code for private and commercial kennels. Jim's proposed criteria was as follows: "170-25. Kennels

Kennels may be allowed as a special use in any district, provided that:

- A. Shelters for animals shall not be closer than 100 feet to any lot line.
- B. No outdoor area enclosed by fences shall be located closer than 50 feet from any lot line.
- C. No kennel shall be located closer than 300 feet from an existing residential dwelling on an adjacent lot.
- D. There shall be no incineration of any animal waste/refuse upon the premises.
- E. The application shall contain provisions for:
  - (1) Location of shelter(s) and fenced enclosures on the property.\*
  - (2) Approximate location of neighboring homes.\*
  - (3) Adequate measures to prevent offensive noise and odor.
  - (4) Disposal of all animal wastes.
  - (5) Disposal of dead animals.
  - (6) Adequate measures to control rodents.
- F. Regular veterinary care shall be required, and a record of such care shall be maintained and available for inspection.
- G. All applications for this special use permit are subject to site plan review and approval by the Planning Board.
- H. As part of the application process for this special use permit, the applicant must provide written consent for members of the Zoning Board of Appeals and the Code Enforcement Officer to enter upon the subject premises for the

purpose of inspecting it in connection with the special use permit application and for inspecting the subject premises for any code violations.

- I. Kennels with more than eight dogs six months or older are contrary to the Comprehensive Plan and general intent of the Zoning Code of the Town of South Bristol, and are not compatible with the health, safety, or general welfare of the citizens of the Town, and are, therefore, not permitted within the boundaries of the Town of South Bristol.

\*Note: A copy of the tax map is acceptable for these purposes.”

Jim then explained that the language in Item (I) was taken from the section in town code regarding Industrial Windmills not being allowed in the town. He said he felt it was the consensus of the board at their last meeting that they did not want to see puppy mills in the town. He went on to say that he thought allowing for eight dogs was pretty generous and then he asked for any comments on his proposed criteria and/or new definition for kennels.

The board secretary then noted that during the board’s review of the current zoning regulations they had added some proposed language with regard to applications to the ZBA for both variances and special use permits to the effect that as part of the application the applicant must provide written consent to allow the Zoning Board of Appeals members to enter onto the subject property for purposes of inspecting it relative to the special use permit application. Therefore, she said it might not be necessary to include similar language regarding the ZBA entering upon the premises in Item H as proposed by Jim. She proposed that Item (H) perhaps read as follows: “As part of the application process for this special use permit, applicant shall provide written consent for the Code Enforcement Officer to enter upon the subject premises for the purpose of inspecting the subject premises for compliance with the special use permit as issued as well as for any code violations”.

Ann Jacobs then asked if there was anyone in the town who raises animals for hunting dogs. No one on the board could think of anyone. Jason Inda then questioned whether the town should prohibit someone from being able to do that on their property. Jim Ely then said that he had checked with the town attorney who had advised that the town was not legally obligated to allow commercial kennels. Jim added that as far as he could make out other towns were adopting similar limitations in light of the controversy in the Town of Gorham. Jason Inda asked if the numbers proposed by other towns were consistent. Jim said that some of the numbers were 4 dogs or 3 dogs so he felt that 8 dogs was pretty generous. Jason then said that he felt the limit of 8 dogs was adequate and that it should not create a problem for anyone. Ann Jacobs then made a motion that the board adopt the proposed language as amended. Bessie Tyrrell seconded the motion. The motion was unanimously accepted.

The board then took a look at the language currently in town code regarding subdivision approval expiration (Section 149-19(K)). The board secretary refreshed their memory that former chairperson Jeanne Loberg had recommend that the board propose changing the number of days within which an approved final plat must be filed in the County Clerk’s

office indicated in the current Section 149-19(K) from 60 days to 62 days so that town code would read the same as current NYS Town Law with regard to the expiration of a subdivision approval. She said that when she went to type up that change which the board had agreed to propose she noticed that the rest of the language in current Section 149-19(K) read just about identical to NYS Town Law with regard to the expiration of a subdivision approval. The secretary suggested that the board consider proposing to the Town Board to have Section 149-19(K) of town code read exactly like current NYS Town Law. She said she thought what might have happened was back when the town adopted Section 149-19(K) many years ago it was written to read as NYS Town Law did back then and over the years NYS Town Law probably had changed slightly resulting in town code being slightly out of date. The board members felt that the change should be made as proposed. Jim Ely made a motion that the board propose changing current Section 149-19(K) of town code to read exactly as current NYS Town Law with regard to the expiration of subdivision approval. Bessie Tyrrell seconded the motion. The motion was unanimously accepted.

The board then discussed the board's proposed definition for "fill". It was noted that when the board submitted their packet of proposed changes to the current town zoning regulations to the town attorney for his review it had contained a proposed new definition entitled "Fill" and that the town attorney had he raised some questions in connection with the definition. It was also pointed out that board member, Jim Schartzter, had volunteered to contact Naples to see what they used as a definition for "fill" as a way for the board to start addressing the town attorney's concerns. In addition, it was indicated that the town attorney also had raised a question as to whether the purpose and intent of depositing fill actually was to increase the utility of a site or to simply raise the elevation to prevent flooding. Some discussion followed. It was noted during discussion that the purpose and intent of depositing fill actually was for both. The board then turned its attention to how they were going to define "fill". Jim Schartzter's submission, obtained from Naples, was as follows: "Fill – Any activity which deposits natural or artificial materials so as to modify the surface or subsurface conditions of land, lakes, ponds, and water sources". The board then reviewed the proposed definition they had come up with as follows: "Fill – Any solid materials such as soil, gravel, stone, concrete or other non-burnable construction materials deposited for the purpose and intent of increasing the utility of a site. Materials such as, but not limited to, wood, metal, insulation, drywall and shingles are prohibited from being used as fill material".

Jason Inda then asked what section of the code related to the new "fill" definition. The board secretary then read out loud to the board a proposed new section to town code that the board had come up with which read: "170-69. Filling of Land. A building permit shall be required for filling of land if it will result in an obstruction of a scenic view. Before a permit shall be issued, a site plan review by the Planning Board shall be required. The application to the Planning Board shall include such information as how much fill will be brought in, what materials will be involved, the duration of the fill operation, etc. Once a fill permit has been issued and before any future building on the site begins, a geological test shall be conducted to determine if the site is stable enough to support any proposed structure". It was noted that the board needed to decide if they felt that the Naples definition would work in connection with the proposed new section

regarding filling of land. It was pointed out that the portion of proposed new Section 170-69 stating that a building permit will be required for filling of land if it will result in an obstruction of a scenic view was subjective. However, then it was also pointed out that there were a couple of other sections currently in town code that also was subjective in connection with obstruction of a scenic view. The board secretary said that was correct and that for those other sections usually what happened was if someone did not agree with Jack Centner's determination regarding an obstruction of a scenic view they appealed his determination to the ZBA and then the ZBA would render a decision either agreeing with Jack or overturning his determination. Jason Inda said that his only concern was not allowing people to use wood as fill material. He said he understood that to use it when building a structure it would not be stable but someone might want to use it to build a berm of some kind. He also said that he was getting into building mounds of wood and covering it with dirt and growing his food on top of that. Jason pointed out that the board's currently proposed definition for fill would prevent him from doing so. He said he wanted to be sure that the proposed definition rang true with the intent of the regulation. It was noted during discussion that the Naples definition did not exclude wood. Jason then said that he felt that the board's proposed definition for "fill" was a little too limited. He also pointed out that the proposed new Section 170-69 calls for a site plan review and approval by the Planning Board during which the board would be able to determine how much fill will be brought in, what materials will be involved, etc. The board members agreed to eliminate their original proposed definition for fill to be added to town code and replace it with the one used by Naples.

Chairman Ely then said he thought that the board had now completed their review of current town zoning regulations and had addressed the town attorney's comments. The board secretary then pointed out that the only thing that the Planning Board did not have yet was something back from the Zoning Board regarding those special uses currently in town code for which there was no criteria for the ZBA to use in making a decision on an application for those uses. She reminded the board that they had sent a list of those special uses to the ZBA some time back requesting their input as to what they would like to see for criteria for those special uses. The consensus of the board was that due to the fact that they had spent the last two years conducting their review of the zoning regulations and had made several much-needed proposed changes that they would send the document to the Town Board now rather than delay any longer noting that the remaining special use criteria from the ZBA could be added sometime in the future. Bessie Tyrrell then made a motion that the board send the board's proposed changes to the zoning regulations which was seconded by Ann Jacobs. The motion was unanimously accepted.

#### New Business

Board Vacancies-Chairman Ely told the board that he had received copies of the letters of interest that Judy Hanley had received in connection with the two vacancies on the PB and the two vacancies on the ZBA. He said he had attempted to contact some of them by email while he was away and that he was hoping to have a chance to touch base with the various applicants in the next few days or weeks to explain the duties of the Planning Board and what their responsibilities would be to gauge their interest and then the board

could, hopefully, have a discussion at their next regular meeting. He said there may be some other letters of interest coming in as well.

July Workshop-The board secretary said that she wanted to let the board know way in advance that she and her husband had paid in advance last August for a week up north the first week in July which now was in conflict with the board's recent establishment of workshops the first week of every month. Chairman Ely said he also had some conflicts in connection with things he had previously scheduled. The board secretary said that she could work around that first week in July by having the board meet the second Wednesday of the month or whatever would work, if they were agreeable. She said she just wanted to let the board know way ahead of time so their July workshop could be rescheduled to another date.

Ann Jacobs then said that in reading the minutes of the Town Board it had been pointed out that the Planning Board really did not have the full six months of the moratorium to complete their hydrofracking work due to the approval process involved to get anything adopted and that it was more like four months.

#### Public Comment Time

Beth Hickman was asked if she had any comments. She did not.

#### Other Business To Come Before The Board

March 9 Town Hall Open House-The board secretary said that the Town Clerk had asked her to remind the board members of the March 9 Open House at the Town Hall from 9:00 A.M. until Noon in celebration of the town's 175<sup>th</sup> anniversary.

Training Opportunities-The board secretary said that she had hard copies of the training opportunities which she had emailed to the board members recently. She said if any of the members had not printed it out she would be glad to give them a hard copy.

There being no other business to come before the board, Chairman Ely called for a motion to adjourn. Jason Inda made said motion which was seconded by Ann Jacobs. The motion was unanimously accepted and the meeting adjourned at 8:30 P.M.

Respectfully submitted,

Debra Minute  
Recording Secretary