

Zoning Board of Appeals Meeting
June 24, 2015

APPROVED

Present: Bob Bacon
John Holtz
Tom Burgie, Chairman
Bert Crofton
Jon Gage

Guests: Kevin & Michelle Webb
Phil Sommer-Code
Enforcement Officer

Absent: Tom Brahm
Carol Dulski

The regular June meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:35 P.M. followed by the Pledge of Allegiance. A roll call of board members was taken and all board members were present, with the exception of Carol Dulski and Tom Brahm.

Chairman Burgie then called for a motion to approve the April 22, 2015, meeting minutes as written. Bob Bacon made said motion which was seconded by Jonathan Gage. The motion was unanimously accepted, with the exception of John Holtz who did not vote as he was absent from last meeting.

Old Business

There was no old business.

New Business

FRONT SETBACK VARIANCE- KEVIN AND MICHELLE WEBB

The rules of the Zoning Board were read by Chairman Burgie.

Chairman Burgie: I would like to read the Legal Notice into the minutes that was printed into the Daily Messenger.

PLEASE TAKE NOTICE that the Town of South Bristol Zoning Board of Appeals will hold a public hearing on the following application:

Application #15-038Z, Kevin and Michelle Webb, for property owned by them, located at 6615 County Road 12, Tax Map #184.00-1-91.220, request to install a 12' x 16' pre-built shed with a 30-foot front setback where 50 feet is required being a variance to Section 170-14A (the Zoning Schedule) of Town Code.

SAID HEARING will take place on the 24th day of June, 2015, beginning at 7:30 o'clock p.m. at the Town Hall, 6500 Gannett Hill Road, in the Hamlet of Bristol Springs, NY.

All interested parties may appear in person or by representative.

Chairman Burgie: Tell us what you would like to do.

Michelle Webb: What we would like to do, is install a 12' x 16' Amish-built shed on the property. There is a turnaround off our main drive way that does not meet the setback for this area that we want to put the building in. The building will be nestled in some trees right off that parking area.

We had taken a look around the property and that seems to be, not only the most convenient, but that's the place it needs to go because the rest of the property has very steep slopes. We looked at both sides of the property—one side of the property we do not want to put it on—as we had plans drawn up by an architect—as being the only area on the property that we could add an addition to our home. That is in our future plans--that is why we do not want to use that side of the house.

The proposed building, looks very pleasing to the eye—it's natural redwood in color with a gable roof. The roofing actually matches the current roof on our home. It has windows with shutters. It does not look like just some tin building. So the structure actually goes with the property. Its use is not intended to store a vehicle. Its use is to store some of our seasonal equipment, recreational equipment like a 4-wheeler, lawn mower—has an area for a small workshop. That's really it. That seems like the right place. It's not going to be an eyesore. It's not going to obstruct any kind of view. We will be taking out a few trees, but we will be able to leave the more prominent beautiful trees on the property. So, we are asking for this variance, 17-foot variance.

Chairman Burgie: I think you applied for a 20-foot variance in discussing it with Phil, the Code Enforcement Officer, before the meeting—it is 20-feet.

Kevin Webb: We thought we would put something bigger over there, but as the years go on, and with the snow, it's kind of inconvenient with the kids' stuff--we would have to track stuff from here all the way over there. It would be really tough to get things back and forth over that far. We thought it would just be more convenient here at the end of the driveway where everything is. Imagine in the winter trying to get from here to there.

Michelle Webb: The way I have it pictured, it will look natural.

Chairman Burgie: Ok, Phil, would you like to explain refusal of the building permit?

Phil Sommer: It did not meet the 50-foot setback. After talking with Michelle, I agreed that you should go with the variance, because if you really look at the maps that were provided to you for steep slopes, there is no other place on that property where they would not incur a lot of costs to try to work on steep slopes to put that size shed on there. So I went over there and I looked at it, and that seems the place where that shed would naturally go.

Chairman Burgie: Anyone have the opportunity to visit and see the property?

Bert Crofton: I did—a week or so ago. I am somewhat concerned about the fact that we are granting a variance where there is adequate space, although where convenient to the rear of the house and possibly to the side. My main concern is as you drive down road, other than the house right next to the subject, everything looks to be invisible because it is that far off the road, or very well kept.

This is going to mean more stuff in front. There is a trailer there that seems to be there most of the time, and a car that seems to be in the front most of the time.

Michelle Webb: Can I respond to that? The trailer will be off the side of the property. We have to have it fixed. We only own two cars and the only time we have the car out front is when our children are playing in the driveway and we put cones up so they don't go past the cones. But other than that, our cars are parked in the driveway—one of them is normally parked in the garage, we are moving things out of the basement.

Chairman Burgie: So you don't normally have your cars out front?

Michelle Webb: No, it's not normally where we park them. I can get rid of that trailer tomorrow. We haven't had the opportunity to fix it—we were moving things. Kevin also owns another property over of Rt. 245 and that's where the trailer came from and just needs to be fixed.

Chairman Burgie: Is that where it is normally located—over on Rt. 245?

Kevin Webb: Or I can back it in there on the side where no one can see it.

Chairman Burgie: That really isn't a bearing on the variance, just a concern.

Michelle Webb: Overall, the house is very well maintained. We have the pool, footers poured on the side of the house for the back deck steps—we are doing improvements to it and we put the lumber in the garage so we can finish the stairs and deck off the back, so we can't park in there right now.

Kevin Webb: With the kids—the 3 girls—you wouldn't believe their bikes and the toys. We are constantly trying to hide them. We just don't have a place to hide these things. And to try to drag this stuff down and around the garage, and back up to the driveway for them to use, it's just very inconvenient.

Bob Bacon: We understand.

John Holtz: I was there yesterday, and I didn't know the road was going to be closed so I'm glad I went. It looked like to, just looking at the property, that it was a natural spot. It looked like that driveway addition was made for something in the future. I see you cleared some trees out and cut some branches in preparation.

Basically, I was trying to see if it would interfere with any view of any neighbor, but that was a non-factor. I commend you for being able to put your car in your garage—I haven't done that in years.

Bob Bacon: I did stop on Monday. I talked with you briefly Michelle and introduced myself. I agree with John, there really isn't any obstruction from a view prospective. It sounds like it's the most logical place with the extension of the turnaround. The one question I did have was on the more flat area of the property, to the north of the house, is that where your septic tank is?

Kevin Webb: Yes. The septic tank is there and the stairs off our back deck are going to come down and there is going to be a ramp right there. There's going to be a patio there and that's where we are going to hide those garbage cans. That's kind of the plan of what's going to happen to that area.

Michelle Webb: We measured between the garage and the rock retaining wall and there was only 14' there. He can barely get the mower in that area.

Bob Bacon: That was the only other option I saw there—was in the side yard. I assume based on how flat it was that there was a leach bed or septic system there. You wouldn't want to build on top of that.

Kevin Webb: Or in front—the tank is right there.

Michelle Webb: We had challenges when we put the pool in. We had the architect come out and we had the option of one single room. I said is there an option B, he said no. So we kind of know what we want for our further plans on the property.

Bob Bacon: I like the fact that you are going to keep the trees around the shed, it will help blend it in.

Kevin Webb: We have a couple little windows, a planter, and a couple little bushes out there, it will be kind of nice.

Bob Bacon: I understand about clutter. My son is in the process of moving from one house to another. My barns full of his stuff!

Jonathan Gage: I, too, went down and looked this afternoon and met Michelle. I always think, when adding things on, being a life-long up state New Yorker, think of how it is affected in the winter time. So, I looked around the yard and thought there is a nice open spot next to the pool there, but I thought 'wow', if you had a snow blower or something down there, it would be a monster keeping it open so you want to have close access to things. Then Michelle saying about putting an addition on the other side of the house, that I saw was a good spot for that, especially how she said it would step back, that would look good in that way. I can envision the shed there with the trees around it. I think going down the road, it wouldn't be anything anyone would notice that much. I was also looking as I was going up and down the road, at places such as that, not so much on County Road 12, but in general,

I saw a few places where things were out like that—I guess they didn't really seem out of the ordinary to me. So I thought that spot at the end of the turnaround would be adequate.

Chairman Burgie: Basically, everything you said was my impression also. The fact that the shed will be fitting into the trees, you won't even see it coming from the North—all you going to see is trees. Now coming from the South, you'll see it, but projecting out, you'll say what view is it blocking? The view of your pool down the hill or the pond way down back. There really is no other view to be obstructed or anything, so it's not causing a problem in the location that you are talking about putting it.

We did walk over to the end of the house and look at where you are talking about putting on the addition, even then you are going to have a significant backfill in there to put anything. If you put the shed there, you wouldn't be adding on to the house, ever. There's no other location. It looks like the natural spot for it, right there at the end of the turnaround. It looks most likely it was created for something to be put there. I didn't see any detriment to the neighborhood or visual impact or anything of that nature. It's certainly not going to block anyone's access down road or their view from the road or anything of that nature.

Any other comments from visitation?

We need to determine SEQR (State Environment Quality Review) status. The SEQR review is required whenever any kind of construction is done. We need to look at whether there is any impact. There really is three different categories.

One is Type I, where we have to do a full review of potential impacts. This is not a Type I.

Type II, is where there is a list of actions that are not subject to further review. This falls under Type II, under paragraph 617.5 (c)(10)..."*construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density.*"

So there is no further action required and we will capture that when we get to findings.

Here is where we open it up to a public hearing. So the public can now comment. There is no public to comment, so we will close the public hearing.

Are there any public or municipal officer's documentation as appropriate to this case or any neighbor's write in?

Phil Sommer: No.

Chairman Burgie: That is closed also.

We open it up for Zoning Board of Appeals members' discussion and debate.

John Holtz: I had a question I was thinking about. It's just going to be set on the land, not affixed to anything? How easy would it be to move once you got this variance, if you decided to move it? Is there any issue with that?

Kevin Webb: It's on skids. It's not going to be attached to the ground. It could be moved, pulled out of there and moved to another location if need be.

John Holtz: I was just wondering. Is it anything we have to be concerned with next month after we say ok, would you move it to a different spot?

Chairman Burgie: The variance can be granted subject to that specific location that they talked about. It could always be moved back where a variance is not required. They could not move it to another location where a variance is required.

John Holtz: If they were to? I'm just trying to learn here. Say they scooted it 4 feet closer?

Chairman Burgie: Well, then they would be in violation.

Phil Sommer: If it pleases the Board, when they place it, I'll go out and measure it. If that's what you are looking for to make sure they are within what you granted them.

Chairman Burgie: Looking at the extension, their turnaround, there's no obvious reason for them to go closer to the road. There is maybe 2 feet on either side based on the width of the turnaround.

John Holtz: I'm not saying they are going to, I'm just wondering.

Chairman Burgie: The positive way to look at that is it's not permanent. We are not putting in a foundation, we are not putting in bricks—it's on skids—it could be moved. In the event, years down the road, County Road 12 is widened and it became an issue—slim probability.

John Holtz: Can I ask one more question, because I don't know? If we grant a variance for 20 feet, and they want to put a shed right next to it, further away from the road, like a Siamese twin, does that mean they don't need a variance for that shed because it's already been granted?

Phil Sommer: No, you are granting a variance for this shed. If they come in for another one—it would be another variance.

Chairman Burgie: If they put another one further from the road, it would no longer require a variance.

John Holtz: That's what I mean. If they put one on the house side, they already been granted a variance twice so they wouldn't have to go through this again?

Phil Sommer: If they met the setbacks, they wouldn't have to. If they didn't, they would have to go for a variance.

John Holtz: So this is for only one shed. So even though we grant one for 20 feet, they put one for 26 feet, they still have to go for a variance?

Bob Bacon: To answer your question—if it was a Siamese twin, another 12' x 16' shed, you are currently at a 30-foot setback, so if you had a 12-foot wide shed, we'd be at 42 feet, so we'd be asking for a variance of 8 feet. That's being technical.

John Holtz: It just popped into my mind, sorry. I don't mean to drag this out.

Bob Bacon: I think the only question I would put on the table, which we have already discussed, was the fact that the alternate location is over the septic or leach bed. So we did look at other options.

Chairman Burgie: It's time to determine the findings. Anyone have any findings?

Bert Crofton: Chairman, what's a finding?

Chairman Burgie: A finding is the evidence we are going to use to support the decision we are going to make. As an example, we are going to address 5-key points.

Whether an undesirable change will be produced in the *character of the neighborhood* or a *detriment to nearby properties* will be created.

1. I would like to propose a finding that no undesirable change will be produced in the character of the neighborhood and no detriment to the nearby properties will be created by this variance. Bert Crofton seconded the motion. The motion was unanimously carried.

Whether the benefit sought by the applicant can be achieved by some *method*, feasible for the applicant to pursue, other than an area variance.

2. I would like to propose a finding that we have considered other options on the property and that there is no feasible area that the applicants' can pursue to achieve their goals. Jonathan Gage seconded the motion. The motion was unanimously carried.
3. I would like to propose the finding that, as discussed earlier, under SEQR, this is a Type II action and requires no further review. John Holtz seconded the motion. Motion was unanimously carried.

4. I propose that the requested area variance is not *substantial*. Bob Bacon seconded the motion. The motion was unanimously carried.
5. The proposed variance will not have an adverse effect or impact on the *physical or environmental conditions* in the neighborhood or district. Bert Crofton seconded the motion. The motion was unanimously carried.
6. I propose that the alleged difficulty was not *self-created*. Seconded by Bob Bacon. Motion was unanimously carried.

Bob Bacon:

7. I propose the finding that the section to the north of the house is fairly flat, but is currently occupied by the septic tank and leach fields and is, therefore, not feasible to place the shed. Motion seconded by Chairman Burgie. Motion was unanimously carried.

Chairman Burgie: Would someone like to make a motion to approve or deny the applicants' request?

Bob Bacon: I make the motion that we approve the application for Kevin and Michelle Webb, to approve the 20-foot variance for the 12' x 16' portable shed in the location document in the application. Motion was seconded by Bert Crofton. The motion was unanimously carried.

There being no other business to come before the board, Chairman Burgie called for a motion to adjourn. Bob Bacon made said motion which was seconded by Jonathan Gage. The motion was unanimously accepted and the meeting adjourned at 8:15 p.m.

Respectfully submitted,

Colleen Converse
Recording Secretary