Town of South Bristol
6500 West Gannett Hill Road
Naples, NY 14512-9216
585.374.6341

Zoning Board of Appeals Meeting Agenda

Wednesday, August 26, 2026
7:30 pm

Meeting in-person or by Zoom Link
Meeting ID 876 2839 5098, Passcode 254088

Call to Order

Pledge of Allegiance

Approval of July 22, 2026, meeting minutes as written or corrected

Opening Statement

Old Business

Application for Appeal 2026-0005

Applicant: Mark Boylan, 6164 Bopple Hill Rd
Tax Maps: 178.00-1-29.110; 178.14.-1-16.000
Representative: Melissa M. Valle, Harter, Secrest & Emery LLP

Owners: Clark H. Kreuter, Verner C. Kreuter IV
Property: 5884 Seneca Point Rd
Tax Map: 178.14-1-15.000
Zoned: LR (Lake Residential)

Motion to Adjourn

Town of South Bristol Zoning Board of Appeals Meeting Minutes
Wednesday, August 26, 2026

Present Elizabeth Caprini
Jason Fox
Martin Gordon
Jonathan Heiderich
Barbara Howard

Excused Richard Riedman

Guests In-Person: Mark Boylan, Mallory Smith, Stephen Cowley, Lisa Moore, Judy Voss
Zoom: MJ Boylan, Nick & Clark Kreuter, David Bowen, Meg Fuller, Judy Voss, T.B., Owner

Call to Order
The meeting of the Town of South Bristol Zoning Board of Appeals was called to order at 7:30 pm followed by the Pledge of Allegiance.

Board roll call was taken with all members present except for Richard Riedman.

Chairperson Howard: Yes, and the reason that we have five is that we've had one person resign, and we have one person that was going to be gone anyway. So, we are still down to five, which means our quorum is here, and our majority is three.

Meeting Minutes
Chairperson Howard: All right, the first order of business is to approve the minutes of July 22nd as corrected. Do we have a motion?

Elizabeth Caprini: A motion that we approve.

Martin Gordon: Are there, what are the corrections?

Chairperson Howard: They were sent to you. Put out on the —

Diane Graham: I moved you up.

Martin Gordon: Okay.

Jonathan Heiderich: The other one, it was a spelling of my name.

Diane Graham: Yes. And then a board member, I wasn't sure who spoke, so I just kept it as board member.

Chairperson Howard: We can guess, but we're not sure. So, let's look at this board member.

Diane Graham: Yes.

Chairperson Howard: Do we have a second?

Diane Graham: Marty. Martin.

Martin Gordon: Marty. Well, whatever.

Diane Graham: I'm trying to be formal, I guess. All in favor.

All Board Members: Ayes.

Diane Graham: Any nays? Motion carried.

Opening Statement
Chairperson Howard: The Boylan family has filed an appeal of the decision made by South Bristol's CEO to issue a certificate of non-conformity to the Kreuters. I apologize if I am mispronouncing it. The objective of tonight's meeting is to continue our discussion based on the information presented at last month's meeting and hearing. The public portion of the discussion was closed on 7/22; therefore, we will not have an opportunity for the public to speak tonight. That said we need to move from the table the discussion that we tabled last week. Do I have a motion?

Elizabeth Caprini: Can you? I'm sorry. Read that again.

Chairperson Howard: Sure.

Elizabeth Caprini: We need.

Chairperson Howard: It's a straight way we need to remove from the table. Is it Roberts parliamentary procedure wording. We're basically untabling it.

Martin Gordon: So, moved.

Chairperson Howard: Do I have a second?

Elizabeth Caprini: Second.

Chairperson Howard: Okay.

Elizabeth Caprini: Got it.

Chairperson Howard: Oh, and there is no discussion. It's either aye or nay. All in favor.

Board Members: Aye.

Chairperson Howard: Any nays? The motion carries.

<u>Application for Appeal 2026-0005</u>
Applicant: Mark Boylan, 6164 Bopple Hill Rd
Tax Maps: 178.00-1-29.110; 178.14.-1-16.000
Representative: Melissa M. Valle, Harter, Secrest & Emery LLP

Owners: Clark H. Kreuter, Verner C. Kreuter IV
Property: 5884 Seneca Point Rd
Tax Map: 178.14-1-15.000
Zoned: LR (Lake Residential)

Chairperson Howard: Okay, now this time our work is in front of us, and we need to work toward a resolution of the issue. We have developed, with our attorney's assistance, a generic resolution for the interpretation appeal, which is what it's called when…

Diane Graham: Can you talk into the microphone, please?

Chairperson Howard: Sorry, I was doing pretty good before.

Diane Graham: Bring it closer if it helps.

Chairperson Howard: In my face. Okay. And all of the members have a copy of it with a manual correction that was done just a few minutes ago to change the date to the proper date.

Martin Gordon: So, can I ask for some time to review this? Because it was just placed in front of me now. So, these were just handed out just before the meeting, right?

Chairperson Howard: But it's a working document for us to go through and work through.

Martin Gordon: Okay, okay, so we're gonna go through each section?

Chairperson Howard: Yes, yes. I'm not necessarily sure that we have to read all. Jeff, do we have to read everything out loud in order to get it in the record?

Jeff Graff: I mean, it was just given out, and I know it's lengthy. It may be helpful just to go through each section. In case anybody has a question of why or whether it's relevant.

Elizabeth Caprini: Can we take turns reading paragraphs or something?

Jeff Graff: However, you want to do. I mean, I'm happy to read it if you want, or…

Diane Graham: Oh, that would be great.

Chairperson Howard: That would be better.

Elizabeth Caprini: You hear that, Marty?

Jeff Graff: And again, this is just a draft I was writing this to try and kind of lay the foundation for the decision that you should be making.

WHEREAS, the Applicant submitted the above application to the Town of South Bristol Zoning Board of Appeals, here and after ZBA, appealing the code enforcement officers, here and after CEO, issuance of certificate of nonconformity number 2026-0003, claiming the CEO improperly granted such certificate of nonconformity for the use of a recreational vehicle here and after RV on property in the Lake Residential District located at 5884 Seneca Point Road. Here and after the property, identified as tax map number 178.14-1-15.000, and owned by Clark H. Kreuter and Vern C. Kreuter IV. That's the first paragraph. You're okay with that?

WHEREAS, the CEO issued a certificate of nonconformity number 2026-0003 for the property dated February 3, 2026, for the use, “for the use of one recreational vehicle RV on a vacant lot in the lake residential zone for a maximum of 160 days in a calendar year. RV must be owned by the owner of the vacant lot and be provided with water, electrical service, and have adequate sewage disposal. RV cannot be located closer than 15 feet from a building on a neighboring lot or closer than 10 feet to the site or rear lot line.”

So that's just stating what the code enforcement officer included.

WHEREAS, Section 170-80 of the Zoning Law of the Town of South Bristol provides in part that the law, “the lawful use of buildings or properties existing at the date of the adoption of this chapter may be continued.”

WHEREAS, Section 170-81 A. and B. of the Zoning Law of the Town of South Bristol empowers the CEO to issue a certificate of nonconformity, “upon written application by the owner of record,” and upon such owner providing, “sufficient documentation and other proof reasonably required by the code enforcement officer to demonstrate that the property, structure, parcel of land or use became non-conforming upon the effective date of this chapter and solely because of the adoption of this chapter.”

That's sort of the foundation of where we're getting to this.

WHEREAS, by Local Law 1 of 2024, effective December 31, 2024, the Town Board enacted a new Paragraph C. to Section 170-64, Storage and Use of Recreational Vehicles of the Zoning Law of the Town of South Bristol to read as follows:

Paragraph C, Use: Owners of a vacant lot located in the Town of South Bristol may occupy and use a maximum of one recreational vehicle on their vacant lot. Provided that:

1. The recreational vehicle is owned solely by one or more of the owners of the vacant lot.
2. The length of stay is no longer than 160 days.
3. The recreational vehicle has been provided with water supply, electrical services, and an adequate self-contained sewage disposal system.
4. The recreational vehicle is not located closer than 15 feet to any building on a neighboring lot and no closer than 10 feet to the side or rear lot line.

So that's establishing what the law was at the time in question.

The next, whereas this, I think Barbara pointed this out, I have a date wrong. The effective date of Local Law 4 of 2025 shouldn't be October 14th, it should be November 24th, because that's the date it was filed with New York State. So, throughout here, any time October 14th, 2025, is used it should be changed to November 24th.

WHEREAS, by Local Law 4 of 2025, effective November 24th, 2025, the Town Board repealed Paragraph C. of Section 170-64 as it was adopted by Local Law 1 of 2024 and replaced it with a new Paragraph C. to read as follows, and then I showed in the written resolution the cross-outs of what was deleted and the underlines of what was added.

So, the new paragraph C. reads:

C. Use: Owners of a vacant lot located in the Town of South Bristol, except owners of a vacant lot in the Lake Residential District, may occupy and use a maximum of one recreational vehicle on their vacant lot, provided that:

1. The recreational vehicle is owned solely by one or more of the owners of the vacant lot.
2. The occupancy and use shall not exceed 160 days in a calendar year, January 1 to December 31st.
3. The recreational vehicle has been provided with water supply, electrical services, and a self-contained sewage disposal system.
4. No sewage system shall be disposed of on the vacant lot.
5. The placement of the recreational vehicle shall comply with all setback requirements of the underlying district in which it is located.

WHEREAS, Section 170-92 B. of the Zoning Law of the Town of South Bristol empowers the ZBA to "hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer or body in the enforcement of this chapter," and to "reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination, as in its opinion, ought to be made in accordance with New York State Town Law Section 267."

So that's what gives you the power to interpret the code enforcement officer's determination.

WHEREAS, the ZBA opened, held, and closed a public hearing on this interpretation application on July 22, 2026, permitting all those persons who wanted to speak or provide written comments to do so. And that's the last of the whereas.

So, is that okay? All right.

Now, therefore, be it resolved. I'm just reading as a draft. This isn't for immediate action.

NOW, THEREFORE, BE IT RESOLVED, The ZBA makes the following determinations. Number one, the wording number one and two I'll just explain the way that the statute reads on non-conformities, it says that it's how the law existed at the "date of adoption of this chapter," which was 1969, and then again in 2023.

And so, what I'm establishing here is that this board is of the opinion that it not only applies to the date that the original law was adopted, but also any amendments through the years that are adopted, if those amendments are what cause the nonconformities.

And because the specific wording in the zoning code only relates to the adoption of the code, I added that as just a clarification that, since we're dealing with an amendment and not the adoption of the code, that we're moving that way. So, um, I suggest you make the findings in one and two that:

1. The wording in section 170-80 of the Zoning Law of the Town of South Bristol providing that, "the lawful use of buildings or properties existing at the date of the adoption of this chapter may be continued," permits equally the continuation of any lawful use of buildings or properties existing at the date of any amendment to this chapter being adopted.

2. The wording in section 170-81 B. of the Zoning Law of the Town of South Bristol referring to a "property structure, parcel of land or use becoming non-conforming upon the effective date of this chapter and solely because of the adoption of this chapter," applies equally to a property structure, parcel of land,

or use becoming non-conforming upon the effective date of any amendment to this chapter, and solely because of the adoption of any amendment to this chapter. Okay.

3. Section 170-80 and Section 170-81 of the Zoning Law of the Town of South Bristol empowered the CEO to issue a certificate of nonconformity for the property, provided that the owner's use of the property to occupy and use one RV on it lawfully existed prior to Local Law 4 of 2025 taking effect…

Diane Graham: Oh, I missed one.

Jeff Graff: On November 25th, 2025. Meaning that the property had to be in compliance with paragraph C. of Section 170-64 as that paragraph C. was written prior to Local Law 4 of 2025 taking effect and pursuant to Local Law 1 of 2024. Okay.

Now, numbers 4. through 6. require this board to make a decision, because now these are the certain elements of the law, so 4 through 6, and then 7.A. through G. I guess I would pass the baton back to you as a board to go through these, because this is walking you through the various elements of that paragraph C.

4. The property was or was not, that's your decision, a vacant lot located in the Town of South Bristol on February 3rd, 2026, the date the CEO issued certificate of nonconformity number 2026-0003, and during all times relevant to this appeal.

5. Property was or was not located in the Lake Residential District on February 3, 2026, the date the CEO issued certificate of nonconformity number 2026-0003, and during all times relevant to this appeal.

6. The owners of the property did or did not have more than one RV on the property prior to, and again, that would be November 25th, 2025.

Dinae Graham: 24.

Chairperson Howard: It's 11/24/25.

Jeff Graff: It’s 11/24?

Diane Graham: Yes.

Jeff Graff: Sorry, my bad.

Diane Graham: So, anything with 25 helped.

Jeff Graff: I don't know if your board wants to go through those, or you want me to finish just going through the whole thing, and then you guys back up to make your various decisions?

Chairperson Howard: I'm open to opinions.

Jonathan Heiderich: Doesn't matter to me either way.

Chairperson Howard: Well, if we go through them all with you, then we know what's coming ahead of us.

Elizabeth Caprini: Okay.

Chairperson Howard: So, maybe that is a good idea.

Jeff Graff: So, do you want me to finish?

Chairperson Howard: Yeah, go ahead.

Jeff Graff: Okay.

7. In reviewing the four conditions that existed in paragraph C. of section 170-64 prior to such paragraph being amended by the adoption of Local Law 4 of 25 on November 24th, 2025, that permitted owners of vacant land located in the Town of South Bristol to occupy and use a maximum of one recreational vehicle on their vacant lot.

The ZBA makes the following findings:

A. Sufficient evidence has been provided to show all of these will be November 24th, 2025, the recreational vehicle located on the property was or was not owned solely by one or more of the owners of the property.
B. Sufficient evidence has been provided to show that prior to November 24th, 2025, the length of stay of the RV on the property was or was not longer than 160 days.
C. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not provided with water supply.
D. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not provided with electrical services.
E. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not provided with an adequate self-contained sewage disposal system.
F. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not located closer than 15 feet to any building on a neighboring lot.
G. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not located closer than 10 feet to the side or rear lot line.

8. Based on all those findings, based on the ZBA's findings of the four conditions that existed in paragraph C. of section 170-64 prior to such paragraph being amended by the adoption of Local Law 4 of 2025 on November 24, 2025.

And based on the ZBA's other findings set forth above, the ZBA hereby determines that the RV located on the property on November 24th, 2025, was or was not lawfully existing pursuant to paragraph C. of Section 170-64. As that paragraph C. existed prior to its amendment by Local Law 4 of 2025, effective November 24th, 2025.

9. Based on the ZBA’s determination of whether the RV on the property on November 24th, 2025, was lawfully existing. The ZBA hereby determines that certificate of nonconformity number 2026-0003 issued by the CEO and dated February 3, 2026, was or was not properly issued, and as a result, you hereby either reverse, wholly affirm, partly affirm, or modify that certificate. And if you partly affirm or modify I left room for you to explain how you're doing that.

Okay. Any questions?

Chairperson Howard: Jeff, I have a question relative to the date. We're saying prior to. Does that mean any time ever prior to or does that mean from the last time that they…?

Jeff Graff: The way that the law refers to on the adoption of the code, existing at the date of adoption of the chapter. The idea is certainly that, you know, the day before the law went into effect this is what the situation was. I don't think it's meant to think of every moment prior to that date going back to infinity. I think we're just looking to establish that when November 24th, 2025, came around. This was what the status quo of the RV and what the property was, because it has to have been lawfully existing when the law went into effect on that, on that date.

Chairperson Howard: Thank you. Okay, let's back up then.

Diane Graham: When they go through it and say was or was not, do they have to do a motion for each one?

Jeff Graff: I would not for each specific one. I think they can come to a consensus.

Diane Graham: Okay.

Jeff Graff: Again, an unofficial consensus on all of them, so that at the conclusion, a board member can make a resolution on the entirety of the resolution with the consensus answers and that'll give you something to work on as a whole, but if your board thinks it better to go one resolution for each one that is up to you. I wrote it with the idea that you would make your way through it.

Chairperson Howard: Yeah, I think we should take them one at a time and come to at some point, we may have to work around consensus, but I don't think we need to vote for everywhere is, or where.

Martin Gordon: If we're gonna vote on this, I have a question for you that probably should be off the record.

Chairperson Howard: I don't think we can go off the record.

Jeff Graff: I mean, it you want to see where things go.

Martin Gordon: Well, if we're gonna vote on this, then I need to ask you now. If we're not going to vote, then I can wait.

Chairperson Howard: Well, no, we can't.

Jeff Graff: You can meet with your attorney outside of executive session. It's just with the board in open session I guess that would be a decision for the Board as a whole to make whether to pause the meeting to meet with council, and we could come back in session after that, but I leave that to the board's decision.

Martin Gordon: So, are we gonna have a motion for each one of these? That's my question.

Elizabeth Caprini: That was asked.

Jeff Graff: What I was saying is, you theoretically could do it either way. I wrote it with the idea that your board would have a discussion on the entirety of these to kind of make your case then you you're free to kind of float back and forth, because something that you answer at number five may trigger something you kind of discussed at number one, you know something like that, so that your board could have a consensus. If at the end somebody makes a motion for the resolution based on what the consensus

answers were, that would be the motion that it, you know, this one was, was not, and yeah, your board could then vote that particular version down and discuss, okay, well, what do we need to get a consensus, and maybe we need to talk about this one particular question and answer and go from there.

Elizabeth Caprini: Okay.

Chairperson Howard: Does it make sense to go through them the first time through and get an idea of where people stand? For instance, if everybody's in agreement with number four do we need to take time? And do we need to and you're saying…

Elizabeth Caprini: Come closer please.

Jonathan Heiderich: Sorry. My bad hearing.

Chairperson Howard: Well, it's my bad voice, too.

Jonathan Heiderich: No, no, that's all right. I can hear now that I moved a little bit.

Jeff Graff: I mean, if you want me to, I can kind of repeat the questions, and then your board can kind of come up with a consensus, and between me and Diane, we can just kind of keep track of what the consensus appears to be, and then at the conclusion you know, I'll kind of read back to you what your answers were, and if that seems to be what somebody wants to make a motion on, with each of those answers stated then you can go from there.

Chairperson Howard: I'd like some feedback from the rest of the board. In terms of how you want to proceed.

Martin Gordon: I'm sorry, I didn't hear.

Chairperson Howard: Some feedback on how you want to proceed.

Martin Gordon: Why don't we just try going through and see what people think?

Elizabeth Caprini: I agree.

Diane Graham: Yes, please talk into the microphones.

Martin Gordon: Sorry.

Jeff Graff: Well, let's go to number four first.

Martin Gordon: Four. Oh, gotcha. Yep.

Jeff Graff: Yeah, I think these may be the least controversial.

Martin Gordon: So, I have a question on this one, actually. Is this how it is in the tax rolls? It defined in the tax rolls because we have a code for vacant lot. There is also like an occupancy code one. It was in the certificate that was issued. I don't know if I have a copy of it here.

Chairperson Howard: It's in your — do you have your binder?

Martin Gordon: Might be in there.

Chairperson Howard: It's 11 and 12.

Martin Gordon: Eleven and twelve.

Chairperson Howard: Yep. First one is the application, and the second is the actual certificate.

Martin Gordon: All right. But there is another printed certificate of nonconformance conformity that was in our, in our electronic files. I don't see that in here. But if it's the same, it's fine. It says Zoning District Lake Residential. It's on that other thing that we don't have. It's in our electronic files.

Chairperson Howard: But it is on the Kreuter's residence.

Martin Gordon: It's the certificate of nonconformity that was printed out with the conditions. It's not the handwritten one.

Chairperson Howard: What is it that it says, Marty?

Martin Gordon: I thought we'd have that stuff here.

Jeff Graff: I guess what I would say is that since this particular section is part of the zoning code and I just looked, there's not a specific definition of the word vacant in the zoning code. You're probably not aware of one either, right? So, I guess I would say your board should decide kind of on your own reasonable standard whether it meets the definition. Whether it meets the definition, or whether you think it was vacant or not, based on how you understand the word vacant to be used.

Jason Fox: That's fair.

Jeff Graff: Because, again, there's not a specific definition that we can provide you from the Zoning Code, which means you're just using your life experience as to what vacant means. You know, the tax rolls, that's a very specific…You know, kind of thing.

Martin Gordon: Your answer helps a lot.

Jeff Graff: Okay.

Martin Gordon: Thank you.

Jeff Graff: So again, that's for the board to kind of come to a consensus whether this was a vacant lot on February 3rd, 2026.

Chairperson Howard: Given the fact that we know February is, um, it's not a good time to have a… trailer, fifth wheel or whatever else. The lot probably was exactly empty.
Sorry.

Martin Gordon: Can you repeat what you said?

Chairperson Howard: Yeah. If I understand correctly, they're asking whether or not the date that the CEO issued a certificate of nonconformity was that a vacant lot?

Martin Gordon: Right, yeah.

Chairperson Howard: In February, yes, it was a vacant lot.

Martin Gordon: So, I believe there's a barn on the…

Chairperson Howard: It doesn't belong to — it belongs — it goes to the other Boylan's. The barn is not Kreuters.

Martin Gordon: Okay, so even in the rear of the property, that structure is not…It, I mean. Okay.

Chairperson Howard: It only has to be 10 or 15 feet. That's not very much.

Elizabeth Caprini: The rear of the property goes quite a ways.

Martin Gordon: What's that?

Elizabeth Caprini: The rear of the property goes quite a ways up the hill, and I believe it's all woods and vacant.

Martin Gordon: That's what I'm questioning, I thought there was a building back there.

Chairperson Howard: It's still… it's still in all the setbacks.

Martin Gordon: What's that?

Chairperson Howard: It's within all the setbacks.

Martin Gordon: It doesn't matter, there's a building on the lot, so does that make the lot vacant or not vacant?

Jonathan Heiderich: My opinion is it would be vacant if there's no dwelling unit on it, but that's just my interpretation.

Martin Gordon: Okay. All right.

Jonathan Heiderich: I may be wrong, but that's how I look at it.

Martin Gordon: Right.

Chairperson Howard: I think it's a good explanation. I like it as well.

Martin Gordon: Okay. It sounds like we're going to say was.

Elizabeth Caprini: I agree.

Jason Fox: Yes.

Jonathan Heiderich: Yes, very much.

Diane Graham: Was the consensus five?

Board Members: Yes.

Diane Graham: Okay.

Jeff Graff: Number five, the property was or was not located in the Lake Residential District on February 3, 2026.

: That's pretty simple. Yes. Consensus was? Yes. Yes. All five.

Diane Graham: The consensus was “was”?

Board Members: Yes.

Diane Graham: All five.

Jeff Graff: Number six, the owners of the property did or did not have more than one RV on the property prior to November 24th, 2025.

Martin Gordon: Did.

Jonathan Heiderich: At one point they did, but…where do we make the decision off of at 11/20/24. At that point in that time, it was down to one, but before that, they had two.

Martin Gordon: It's prior to.

Jeff Graff: At what point did they have two?

Jonathan Heiderich: Very early on in this, there was two on there, but then they removed one of them and it came down to one RV, so I guess my question is at what where is that?

Chairperson Howard: That's kind of the question I was asking earlier.

Jeff Graff: The way that we're saying that 170-80 should be read. Is that the law, the zoning law permits the continuation of any lawful use of buildings or properties existing at the date of any amendment, at the date of any amendment. So, we're trying to establish whether they were in compliance with the law at November 24th, 2025, meaning they had one and only one RV when this law went into effect on November 24th, 2025.

Martin Gordon: That's not what this is saying.

Jeff Graff: I understand, and we can change that to…

Martin Gordon: But I also think it's very relevant in that there were three notices of violation issued for too many RVs on that property.

Chairperson Howard: That's not true.

Jonathan Heideich: I think there was only two for more than one RV there that were issued within a couple days of each other, and then the third one was because the way I read the violation notice was because it had been there for more than 160.

Martin Gordon: You're correct, yep.

Jeff Graff: If we changed it to read instead of prior to, if we said on November 23rd, 2025.

Jason Fox: And it did not.

Martin Gordon: I don't agree that we should be going on a snapshot on a certain date. That's not really what we're supposed to be doing. It's prior compliance. It's not compliance on a date.

Jason Fox: Isn't his guidance based on the date of adoption of the amendment? The condition? Is that what, that's what I'm under.

Jeff Graff: The way the law reads, it refers to the date of the adoption of the chapter, at the date of the adoption of the chapter. We're saying it's at the date of the amendment, which is November 24th, 2025.

Jonathan Heiderich: Even if we wrote this to be at the date the town passed in the fall.

Diane Graham: One person.

Chairperson Howard: I need a gavel. One person at a time.

Jonathan Heiderich: Sorry.

Chairperson Howard: No, it's okay, John. Go ahead.

Jonathan Heiderich: I was just saying, even if we change the date in this to say the date that the town passed the resolution in October to give us a…

Diane Graham: November.

Jonathan Heiderich: Yeah, that's when it was filed. When it was actually adopted, it was October, but then it was effective in November. At that point, there was only one.

Chairperson Howard: Let me try to clarify a little bit. The town board approved on the 13th or 14th of 2025 and it wasn't filed with the state until 11/24 of 2025. So, it became effective as of 11/24/25.

Jonathan Heiderich: Right, I understand that. I'm saying on either one of those days my understanding is there was only one RV.

Martin Gordon: So I have a question, um… say they just removed everything… was anything there on the 24th of 25? It's a portable unit. Who said no?

Diane Graham: No one's commenting from the audience. Thank you.

Elizabeth Caprini: This says, after the two illegal RVs were removed from the property, our office contacted the town again on October 13th, 2025. That's in Harder Seacrest's.

Chairperson Howard: That is Exhibit 7.

Jeff Graff: The job of the code enforcement officer when he was deciding whether or not to issue the certificate of nonconformity was to look back when the law, when this local law went into effect, and to make a decision with that snapshot were they in compliance with the law when the law went into effect, such that they can continue to use that, despite the law. Now making them not in conform, in conformity. and so if you're thinking about it from the code enforcement officer's standpoint, he's looking at a date. He's looking at a snapshot of November 24th, 23rd, however we want to think about it. If anybody has a better word, you know, I'm open to it.

Martin Gordon: So, we have a, I think, a dilemma in some respect. I don't. I don't know if I'm not going to refer to what I'm thinking of, and that's Schrodinger's cat. It's like if you look at it, it's not there, but if you don't look at it, it's there. So, basically, what happened is if all this was removed prior to November 24, 2025, there was no pre-existing anything. It was brought in after the law was changed, so we shouldn't even be debating this.

Jeff Graff: So, are you saying there was actually no RV on the property on November? And I'm not answering this, I'm asking.

Martin Gordon: If there was nothing there, nothing there, the RV was not there on the 24th and that's the date we're looking at, then there was no pre-existing anything.

Elizabeth Caprini: But there was a…they had the document from the code officer.

Martin Gordon: So, we can't be saying it's there, but it's not there.

Jeff Graff: No, but you can say it was not there.

Martin Gordon: It was not there. And that's…

Jeff Graff: If it's binding.

Martin Gordon: But if it's not there then there's nothing to issue a certificate of nonconformity because it wasn't there.

Jeff Graff: You're looking to see if, again, at the totality of these findings, whether they were in compliance with the law on that date. The law is the law was written at the time that they may occupy and use a maximum of one recreational vehicle.

Jason Fox: Up to 160 days.

Martin Gordon: Right.

Jason Fox: Theoretically, depending on when that window starts.

Martin Gordon: But if it wasn't there, that's my point.

Elizabeth Caprini: But he was trying to respect or abide by his permit to be there. He would have been…

Jeff Graff: All this, particular finding is trying to establish is, was there or was there not more than one RV on the property on that date. Okay. And whether we're at one or zero. Right? They did not exceed one.

Jason Fox: Which is the guideline.

Martin Gordon: But if there was zero.

Jeff Graff: You can get to that at a later time.

Martin Gordon: Okay. Alright.

Jeff Graff: But this is just trying to establish that one element of whether you really what we're trying to establish here is, if you guys find that they had two or three. Well, then they were in violation. So, this finding is really just to establish whether they had violated that specific provision by having more than one. So, whether we're at one or zero they did not exceed the maximum.

Martin Gordon: But what I'm saying is that opens up another…I guess, reason why we should or should not accept the appeal.

Jeff Graff: Which the later findings will get.

Martin Gordon: Okay, we'll move on.

Chairperson Howard: I just want to follow up that on October 13th of 2025, there was a letter to Dan Marshall as Town Supervisor, in which it was signed by Harter, Seacrest, and Emery. Melissa was the attorney of record for Boylan at the time. And the letter says, however, while the two illegal vehicles were removed from the property, the illegal makeshift sewer system still remained. But they acknowledge in that, in that letter that the that the illegal trailers are gone in that letter.

Jeff Graff: So, is the board's consensus that they did or did not have more than one RV?

Chairperson Howard: Did not.

Jonathan Heiderich: Did not have more than one.

Elizabeth Caprini: Did not.

Jeff Graff: Okay. Did not.

Chairperson Howard: Consensus.

Jason Fox: Did not.

Martin Gordon: Did.

Jeff Graff: Did not have more than one, right?

Jason Fox: Correct.

Diane Graham: Correct. Four to one.

Jeff Graff: Okay, then A., you'd be finding sufficient evidence has been provided to show that prior to November 24th, 2025, the recreational vehicle located on the property was or was not owned solely by one or more of the owners of the property.

Diane Graham: Which one are we on?

Martin Gordon: I personally have not seen a title or registration, so I don't know. Wasn't provided to us.

Chairperson Howard: I'm pretty sure that when the CEO checked on who was submitting the application for the certificate, that he would have checked as well to find out whether or not they were the owners.

Jason Fox: And it was stated in the record.

Chairperson Howard: And it was.

Martin Gordon: But we're not… they're not sworn under oath, and we don't have any sufficient evidence.

Jason Fox: I think that's our determination to make.

Chairperson Howard: I think I'm comfortable saying that if we were told a number of different times in legal documents that they were the owners, that they were the owners.

Martin Gordon: This says sufficient evidence has been provided to show. Has anybody seen it on this board?

Jason Fox: I think that's where each one of us has to make that determination.

Chairperson Howard: And I can tell you, if you look at the maps in Ontario County, it shows you who the owners are.

Martin Gordon: Not, not for RV.

Chairperson Howard: The property.

Martin Gordon: Oh no, this is referring to the RV.

Elizabeth Caprini: It is.

Martin Gordon: If we can find it now, and I can see it, then I'll say it was. Otherwise, I'm going to say it was not.

Jonathan Heiderich: I don't think we got any particular written documentation, but I remember hearing from people that I believe are owners of the RV and the property. That it was their RV.

Jeff Graff: I will just point out in the context of a zoning hearing, whether it was written evidence or verbal that's testimony or statements. You're free to weigh all of that as to how much weight you give that. So, if, for instance, the code enforcement officer said he did you can give that whatever weight you feel that's worth, even if he doesn't present you a copy of it. You might think a copy would be better and clearer, and it might, but it doesn't mean that you have to ignore it if that was what was said by somebody, you know, that you give credence to.

Elizabeth Caprini: So, we've definitely touched on a couple things that need to be tightened up, whether in a application process, owner of the property, buildings on the property, and now owners of the RV. We've touched on that needs to be firmed up in the code or in the application process, absolutely. But as far as keeping this moving along, it's not a motion.

Chairperson Howard: I would say that I'm comfortable that they owned the recreational vehicle.

Elizabeth Caprini: So, you're saying was?

Chairperson Howard: Was owned. Yes.

Jason Fox: Was.

Jonathan Heiderich: I would agree with that. Was.

Diane Graham: Okay.

Elizabeth Caprini: I agree.

Jeff Graff: All right, so we'll put that down as a consensus was.

Elizabeth Caprini: Did you guys?

Chairperson Howard: I'm not sure what Marty is saying?

Martin Gordon: I'm not saying.

Chairperson Howard: Okay. Consensus.

Elizabeth Caprini: Four.

Jeff Graff: B. Sufficient evidence has been provided to show that prior to November 24th, 2025, the length of stay of the RV on the property was or was not longer than 160 days.

Jonathan Heiderich: I think that's a was because of the last violation notice that was issued. That it was there for more than 160 days.

Chairperson Howard: But again, we go back to, and I'm questioning, should the wording be…should we be thinking of it as the date of 11/23, or prior to 11/24?

Jason Fox: Yeah, it's as of the date, correct?

Jeff Graff: Prior to November 24th, 2025 was the RV there longer than 160 days. That's the question. Because that's how number two of paragraph C. reads that it provided that the length of stay is no longer than 160 days. That's, you have to find whether it was longer than 160 days.

Elizabeth Caprini: I didn't catch that when it was the one that that was anything the code officer addressed, or…

Jonathan Heiderich: Well, the reason I'm saying that third violation was referenced, the 160 days, was if you look at when they issued it, they didn't specify that in the actual violation notice, but they attach a copy of the code, and you can see that what was highlighted was the section about 160 days. Even though it's copied to us in black and white, you can see that part of it had been highlighted.

Elizabeth Caprini: Okay.

Jonathan Heiderich: So, I may, I may be wrong. I'm, I'm not saying I'm right there, but that's… that's how I looked at it. It was one of the reasons I asked Scott at the hearing about the interpretation of the 160 days.

Diane Graham: There are three photographs with date time stamps that were attached. I can read the date of them June 15, 2025, July 22, 2025, and September 13, 2025.

Elizabeth Caprini: And the RV is on the lot in all three of those?

Diane Graham: Yes.

Elizabeth Caprini: And it was June 15 was the first one, September 25 was the last one.

Diane Graham: And the last one was September 13.

Jonathan Heiderich: That would be less than 160 days because 160 days is five and a half months. So, maybe I'm interpreting that violation notice wrong, but…

Elizabeth Caprini: And this statement or this finding is, again, sufficient evidence has been provided.

Martin Gordon: So why were the notices of violation issued for this? I mean, they say that it was there longer than 160 days, so I would think it was.

Chairperson Howard: The first notice of violation for having too many trailers was November 21st, subsequently on August…

Martin Gordon: Okay, so then we should go back and change the one to two if we're gonna do that.

Chairperson Howard: No, there weren't two.

Martin Gordon: You just said there were two.

Chairperson Howard: On November 21st of 2024 is when the violation regarding extra trailers.

Martin Gordon: So, we're saying that we're using the photos to discern nothing then.

Chairperson Howard: I guess is what I'm trying to say, is that there was… it's a little deceiving in that it looks like there was four different notices of violation in the October 13th of 2025 and November 24, 2025, where it was re-sent because there was a concern about the address, and so it was re-sent. So those two are really only one and they both were in questioning of the 160 days. Actually, one of them, I think, was still the two trailers.

Martin Gordon: I would say it was.

Elizabeth Caprini: Sufficient evidence was provided to show?

Martin Gordon: Yep.

Chairperson Howard: Can you share that evidence with us then?

Martin Gordon: You just mentioned it. It's the notices of violation in the pictures. But that doesn't tell us anything about 160 days.

Martin Gordon: The notices of violation do, because they highlight that. Okay, so the notices of length stay, notice of violations regarding that section of town code were issued on November 21st, 2024, August 19th, 2025, and August 26th, 2025.

Chairperson Howard: Correct. And they all had to do with the trailer.

Martin Gordon: And they all had to do with the lengths to stay longer than 160 days. We can go look at the notices of violation.

Chairperson Howard: Well, I can tell you right now that the August 19th and the August 26th the second one was re-sent because there is concern about the address. So, that was really only one.

Martin Gordon: So, there's two. There's only two, then. Okay.

Chairperson Howard: I guess I haven't seen anything that tells me when they've been there and when they've gone.

Martin Gordon: I'm sorry, I don't understand.

Chairperson Howard: Well, I don't think anybody's been keeping track of what days the trailer was there and what days it wasn't there.

Martin Gordon: That's why the notices were issued because they were in violation

Chairperson Howard: Of the two trailers.

Martin Gordon: No, this is the 160 days.

Chairperson Howard: Okay.

Jonathan Heiderich: But we also…thinking back to last month we heard people say that, I believe it was Scott, said that no one like Barbara just said, no one, no one was counting days. So, when we're looking at this from sufficient evidence. What is sufficient evidence? The, the photos that we have that are date stamped that was less than 160 days, or this violation notice that highlights that section.

Martin Gordon: I would say the notice of violation that highlights that section.

Jonathan Heiderich: But we got conflicting information. So, is that sufficient to say one weighs more than the other?

Jason Fox: Not in my mind.

Jonathan Heiderich: And that's why I bring up, because initially I was with Martin, but now I'm after Diane gave us the dates from the photos I'm not 100% sure there.

Martin Gordon: But those photos were not part of the notice of violation, and I'm not sure why she brought that up.

Diane Graham: They're in the certificate of nonconformity.

Jonathan Heiderich: They're attached to that. I just couldn't find it when she read the dates. But I remember seeing them, I just didn't remember the dates. So, which way is more heavily, or do we take them. Do they wash each other out? I'm leaning towards they wash each other up. Because I can't weigh — I personally am not willing to sit here and say one weighs more than the other.

Jason Fox: I tend to lean that way as well, and I mean, you brought up sufficient evidence before, and it's kind of why I'm looking at it that way for this instance because it's not definitive as far as how that determination was made.

Jonathan Heiderich: And I think we need to need to take a look at this in the everything equal, and if you got two things equal negating each other, then…That we don't have, we can't say one way is more than the other as far as what way we go.

Chairperson Howard: I agree. I don't know if they were there for more than 160 days or not.

Jonathan Heiderich: So, the question is, is there sufficient evidence provided to show that they were there less than… or were or were not there longer than 160 days? I would say there isn't sufficient evidence to say they were there more than 160 days, because we're not saying one piece of evidence weighs more than the other, so we don't have sufficient evidence that they were there longer than 160 days.

Martin Gordon: That's sort of circular logic, but, I mean, we do have notices of violation, specifically issued by our CEO, and that said that they were and that, I believe, carries a lot more weight than photographs.

Jonathan Heiderich: That's the interpretation of the violation notice, because no one ever asked him specifically last month that question, and that's on us. We didn't ask that question, so we have to make an interpretation.

Martin Gordon: What didn't we ask him?

Jonathan Heiderich: We didn't ask what the specific violation was that caused that notice to go out.

Jason Fox: We didn’t ask which day was the RV parked on the site. You know, there's no mechanism to log number of days.

Jonathan Heiderich: I asked about his interpretation about 160 days.

Martin Gordon: So, at 18:11 of the video from our last meeting, Scott, and you can go back and review this, was talking about the 160 days. So, he was talking about the 160 days per calendar year. Old code just said 160 days period. Okay.

Jonathan Heiderich: That's specific to a question I asked him.

Martin Gordon: Right. And I think at that time, the rest of his response was it was issued because it was there longer than 160 days. We can watch, I mean, you brought up the pictures, Diane, why can't we just watch the video?

Elizabeth Caprini: I believe what you just read.

Chairperson Howard: Marty, could you tell me again where, what the — It's at the — Notice, no, no, the notice of violation, okay, with respect to the 160 days. Can you show me that or tell me where you found that?

Martin Gordon: Sorry, I didn't understand.

Jason Fox: Can you show her violations where it says it exceeded 160 days today.

Chairperson Howard: Yes, thank you.

Martin Gordon: They're in here somewhere, aren't they?

Elizabeth Caprini: I also want to note that there, if there was a violation, for example, the second camper, RV. That was removed, and there needs to be a little bit of grace saying, yup, they were notified, and they addressed it. I think that's part of working with residents and court officers.

Chairperson Howard: Sorry if it helps any exhibit two, five, six are all notice of violations.

Elizabeth Caprini: The certificates.

Martin Gordon: Okay, so notice of violation dated November 21st, 2024 it says “there enclosed are sections of the town code pertaining to this issue and a memo explaining our rationale.”

Chairperson Howard: And where's…

Martin Gordon: This is notice of violation November 21st, 2024.

Diane Graham: Did you say 2024?

Martin Gordon: It's exhibit two.

Chairperson Howard: I don't see anything either, the town code, or the rationale. The only thing that was put in a binder from Harter, Secrest & Emery was the notice of violation. Nothing in here tells me what the violation is about.

Martin Gordon: Okay, so let's move to the August 19th, because it wasn't attached, apparently. So that's, exhibit five. “Enclosed are section of the town code,” and I'm on Exhibit 5, I'm reading Notice of Violation Order to Remedy. Second sentence, this is the second notice we have sent with the first being sent November 2024. Enclosed are the sections, right? So, they're referring back to November 2024. It's the same violations. Enclosed are sections of the town code pertaining to this issue and a memo explaining our rationale. If you turn the page, there's our code. Turn the page again. Section 170-64 C.2. is circled and highlighted. I don't know how it can be more clear.

Elizabeth Caprini: Well, but he also, I'm sorry, Marty, but to be very specific, he also highlighted storage, and noted, excuse me, he noted barn on property. And we know that's not the case. I do. I've seen the aerials.

Martin Gordon: Yeah, yeah, yeah. No, that's fine. That's fine. But just because there's a note on here regarding something that's not relevant to the question.

Elizabeth Caprini: But also circled the length of stay could be. Just, he's pointing that out to the owners.

Martin Gordon: So, he goes on and there's a barn on property, Section C., highlighted, storage or recreation of vehicles. Then he goes to that section and goes right to C.2. length of stay is no longer than 160 days, so that’s in violation. That's why it was issued. I mean, it was issued because there was a barn on the property, no?

Elizabeth Caprini: No, I'm just saying he was pointing these… I'm not assuming that that's why it was…

Martin Gordon: Yeah. I'm not assuming anything, I'm just going by what's written down here.

Chairperson Howard: Okay, vote.

Martin Gordon: And this also refers back to the first notice being sent in 2024. This is exhibit five. So that means that the same thing was said. Circle length of stay is no longer than 160 days.

Elizabeth Caprini: Pertaining to this issue. So, back to B. sufficient evidence has been provided to show that prior to 11/24/25, the length of stay of the RV on the property was or was not longer than 160 days. Sufficient evidence has been provided. Are we saying was or was not?

Jason Fox: Do we want to take a roll call on that? Once we've debated it for a bit. I think we know where most of us are at.

Chairperson Howard: Sure.

Jonathan Heiderich: Well, I'm, I'm on again, so…

Martin Gordon: What's that?

Jonathan Heiderich: I'm, I'm thinking right now, so…

Jason Fox: Do we want to move on to the other one’s D through G, which I believe are a little more clear.

Chairperson Howard: Yeah.

Jason Fox: Let's see where are.

Chairperson Howard: Let's do this so we can move on.

Martin Gordon: C.

Diane Graham: C.

Martin Gordon: C. Yeah.

Jason Fox: And then we can come back.

Martin Gordon: Yeah, I'm just, I'm going to question a lot of these because we don't have I don't believe we have sufficient evidence. Okay. There's water, I guess I would, let's go through them. We'll, we'll work one at a time.

Chairperson Howard: Okay. But let's remember we're talking about sufficient and its sort of like without a without a doubt. If there's a reasonable doubt.

Martin Gordon: Sufficient, yes.

Chairperson Howard: But what I'm saying is —

Martin Gordon: Sufficient, what does that mean? Is it more probable than not? Which means 51%, sure.

Chairperson Howard: Okay. However, you want to make sure that's your definition of sufficient evidence.

Jason Fox: Well, given my assumption may be incorrect on these being a little more, clear, why don't we just have a roll call on the one we're on right now.

Chairperson Howard: Okay, I don't think we need an official roll call. We'll just go down the line. John, are you ready?

Jonathan Heiderich: Yeah, I'll make a decision.

Chairperson Howard: Are you…

Elizabeth Caprini: On B.?

Chairperson Howard: On C.

Elizabeth Caprini: Okay, C. addresses the water.

Jonathan Heiderich: B.

Elizabeth Caprini: Are we going to B?

Jonathan Heiderich: Going back to B.

Chairperson Howard: I thought we were moving along from B. Okay.

Jonathan Heiderich: If you want me to vote right now, I'm gonna say that.

Martin Gordon: Are we doing B?

Chairperson Howard: This is a straw vote. This is not an official vote.

Martin Gordon: Are we doing B or C?

Jason Fox: Just to see if we have consensus on the line item.

Martin Gordon: And which one B. or C.?

Diane Graham: B.

Martin Gordon: B, okay.

Elizabeth Caprini: Length of stay of the RV was or was not longer than 160.

Chairperson Howard: As of 11/24.

Jonathan Heiderich: I don't think we have sufficient evidence to say that it was longer than 160 days, so I'm going to say it was not.

Jason Fox: Was not.

Chairperson Howard: Was not.

Elizabeth Caprini: Was not.

Martin Gordon: Was. And what you just said was not the question. It's not sufficient evidence is provided to show that prior to 11/24/25, the length of stay on RV of the property was not longer than 160 days. It's we're asking if it's sufficient evidence is provided to show that it was there longer than 160 days.

Chairperson Howard: No, because the violation is…

Jonathan Heiderich: But we have to answer the question.

Martin Gordon: So, you were still, we're going back to that date, that specific point in time.

Chairperson Howard: I think that…

Martin Gordon: If we're going to do that on a recess, then I'd like to talk with Jeff.

Chairperson Howard: Jeff, I thought you had already made it clear that it was a snapshot.

Jeff Graff: Right. The code enforcement officer's job when deciding whether or not to issue a certificate of nonconformity is to make his decision of whether that property was lawful when the zoning law was, in this case, amended to make it unlawful. He's looking at that snapshot, in this case, November 24th, 2025. That's, therefore, your job on this appeal to decide whether or not his issuance of that certificate was proper or improper. What I would say, if you want to meet with me, it would be the whole board. It wouldn't just be you by yourself.

Martin Gordon: That's fine.

Jeff Graff: But the board would have to make a decision that it's okay.

Jason Fox: A motion for a brief recess is that.

Diane Graham: But we'd have to leave the room?

Jeff Graff: Or we go out. The law permits, as an exception to the open meetings law, a conference with attorneys to exercise attorney-client privilege. So, it's not an executive session, it's a meeting with the attorney as soon as that advice is given, that exercise is over, and they must return to an open meeting.

Diane Graham: Do we have to comment on those? We don't have to comment on that. Okay.

Jeff Graff: No.

Chairperson Howard: Do we need to have a vote?

Jeff Graff: If you're looking to do this, it would need to be a vote, a concurrence of the board, that you're okay doing this. If not, then that's your decision.

Jason Fox: We should vote on it.

Chairperson Howard: Go ahead.

Jason Fox: I make a motion to have the recess to speak to our attorney

Elizabeth Caprini: I'll second.

Diane Graham: Who was the second, Elizabeth?

Elizabeth Caprini: Yes.

Diane Graham: All in favor?

Board Members: Ayes.

Diane Graham: Any nays?

Chairperson Howard: Nay.

Diane Graham: Barb Howard, nay. That’s 4 out of 5.

Chairperson Howard: We're going to go into a brief recess to meet with our attorney.

Diane Graham: Well, you don't have to leave. We're going to have to go somewhere else.

Jeff Graff: Where we are doing it that is up to you, chair.

Diane Graham: We're going to have to use the room down the hall.

Elizabeth Caprini: Maybe because of the Zoom?

Diane Graham: Because of Zoom and recording.

Jonathan Heiderich: Okay, because of the Zoom.

Diane Graham: Yeah. In the kitchen or my office, probably my office.

Chairperson Howard: Back in session.

Diane Graham: What?

Chairperson Howard: Back in session at 8:52.

Diane Graham: So, you made your motion back or something?

Chairperson Howard: Yes, I guess we have to move to come back.

Jonathan Heiderich: We have to make a motion to come back into session I make that motion.

Martin Gordon: Second.

Chairperson Howard: In favor?

Board Members: Aye.

Diane Graham: All in favor? Ayes. Any nays? Motion carried.

Martin Gordon: We're on C.

Jeff Graff: Before you went up, I believe the concessive vote was not longer than 160 days. Is that what we're marking down? Okay. So, then C is about water supply, whether there's sufficient evidence provided to show that the RV on the property was or was not provided with water supply prior to November 24th, 2025.

Chairperson Howard: I'm gonna say they had water, they wouldn't be living there.

Martin Gordon: They had what?

Chairperson Howard: They wouldn't be living there.

Elizabeth Caprini: So, that's our evidence that they were there and stayed there.

Chairperson Howard: That's my evidence. It doesn't have to be yours. I just think that there would be several people in the town that would know that they didn't have water.

Jonathan Heiderich: I agree.

Jason Fox: Agreed.

Martin Gordon: I'm just gonna be consistent I actually agree with that, but I'm gonna say was not because-the same reason.

Chairperson Howard: Yeah, it's okay.

Elizabeth Caprini: Four was, one wasn't.

Diane Graham: Thank you. Four to one on letter C.

Jeff Graff: D. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not provided with electrical services.

Chairperson Howard: I'm going to say again, was.

Martin Gordon: I'm going to say was because I actually saw the connection.

Jonathan Heiderich: Same here. I could see that one when I drove by once.

Jeff Graff: All right. E. Sufficient evidence has been provided to show that prior to November 24, 2025, the RV on the property was or was not provided with an adequate self-contained sewage disposal system.

Chairperson Howard: So I… After listening to all the descriptions of septic versus sewage…

Martin Gordon: Well, I'd like to, um, just refer to some documents in this discussion. So, the first one is the Town of South Bristol Code Part 2 General Legislation, Chapter 139, Sanitary Waste Disposal. And there's a section that gives definitions and one definition is for sewage disposal facility, and I'll read it to you.

Any approved units or system of units or devices designed to treat, purify, dissolve, and dissolves, and I think that's a typo, should say dissolve *and/or distribute sewage. The minimum standard of design and placement of every element of the sewage disposal facility shall be in accordance with 10 NYCRR Appendix 75A, which is New York State, Title 10, Department of Health, Chapter 2, Part 75, Standards for Individual On-Site Water Supply and Individual On-Site Wastewater Treatment Systems, Appendix 75A.* And I'll read out of this *75-A-10, Other Systems. Holding tanks.*

Holding tanks shall not be permitted for new home construction, except where occupancy of a home is permitted. While the sewage treatment system is under consideration, tank size shall be based upon 5 days design flow, or 1,000 gallons, whichever is greater, and meet the same construction as a septic tank, except for that the holding tank shall not have an outlet. Holding tanks are not acceptable for long-term use on year-round residences.

So, we were debating, first of all, what a sewage disposal system was, and I believe it's defined in our town code. Okay, a holding tank is not… and I'll read this again. Holding tank is not one of the units or systems of units to treat, purify, dissolve, or distribute sewage. It's the whole sewage.

Chairperson Howard: It's to dispose of it, in this particular case.

Martin Gordon: It… no, that's not what it says. The town… the… again, I'll refer to town code General Legislation, Chapter 139. Disposal Facility.

Chairperson Howard: Can you give me that code number again?

Martin Gordon: Yeah, do you want to see it?

Chairperson Howard: No, just read me the number.

Martin Gordon: It is, Part two. General Legislation, Chapter 139, Sanitary Waste Disposal.

Chairperson Howard: And this is part two of what?

Martin Gordon: Part two is the Town of South Bristol, New York, code…okay, 10/14/25, part two, General Legislation, Chapter 139, Sanitary Waste Disposal. And in that, there's a section, I believe it's 139-2, I believe, but I cut it off here. Is the, yeah, it is 139, Section 139-2 definitions and in the definition, sewage disposal facility, any approved units or system of units or devices designed to treat, purify, dissolve, and/or distribute sewage.

Jason Fox: In my estimation, I'd go back to sufficient evidence. It doesn't specify type of dwelling, temporary, full-time based on that.

Martin Gordon: But it defines what a sewage disposal system is because system is stated under facility and the other…And I'm not, am I allowed, this is…Am I allowed to, use my certifications and all that, because I brought this up at the last meeting regarding what a self-contained sewage disposal system is. Am I allowed to say that again?

Jeff Graff: You can't bring new evidence in. You can bring your life experience to the table here. How you…

Martin Gordon: So, as an engineer, as a registered professional engineer in the State of New York, I would read the town code and go with that definition. Nowhere in there does it say that a holding tank is sewage disposal facility, not disposing of, it's holding it.

Jason Fox: But aren't there the specific requirements for the RV on the site that don't necessarily have to align with that?

Martin Gordon: This is section, C.3., actually, that we're talking about here, sufficient evidence has been provided to show that prior to 11/24, the RV and the property was provided with an adequate, self-contained sewage disposal system. So, not only is it a sewage disposal system, but it needs to be self-contained, and I believe there was testimony talking about the number of times per year that it's pumped out. Externally, not self-contained.

Elizabeth Caprini: And sewage system or septic systems have more than one part.

Martin Gordon: And this, this is not a septic system, this is a sewage disposal system, which a septic system is a type of.

Elizabeth Caprini: And septic systems have D boxes, they have lines, they have separate pieces that handle the sewage differently and or have to be pumped.

Chairperson Howard: But Marty is correct. There's a difference between a septic system and a disposal system. The septic means you're treating it. It's a point. If it's called a septic system, then it's being treated for septic.

Martin Gordon: You know, I say sewage disposal would be like an incinerating toilet or a composting toilet or a septic system. Not a holding tank.

Jeff Graff: I, I just, I, I, and I said this to Marty earlier, this is a different section of the law than the zoning law. Okay, so the reading from Chapter 139, the applicability of this section it says in 139-1 B. *This chapter shall govern the disposal of sanitary wastes and the treatment of sewage by regulating all on site individual wastewater treatment systems on site.* Right. Again, we're talking about an RV system.

Martin Gordon: We don't have one.

Jeff Graff: Okay, right? I'm just drawing the distinction that I don't think that this section of the code is meant to define an RV sewage disposal system. I understand you wanting to use it to kind of give a frame of reference, but I don't believe that Chapter 139 is discussing RV systems. It's meant to apply to on-site systems.

Martin Gordon: So why would there be any… it's an on-site system, we either have it or we don't. So, like, what you're saying is this code speaks to permanent residences that have a septic system or sewage disposal system.

Jeff Graff: That is correct.

Martin Gordon: Okay. It does not say it excludes RVs. It is silent on that.

Jeff Graff: Furthermore, I guess that would be for this board. If you, if you feel that an RV system would be on site.

Chairperson Howard: I have a question. This sounds like new information.

Jeff Graff: Well, it's part of the code. You know how the town code is out there. It doesn't have to be entered into evidence per se. So that's why it is what it is but there's lots of chapters of the town code. That doesn't mean they're all relevant to your discussion here tonight.

Elizabeth Caprini: There is evidence that the due diligence, I believe, was done by contacting the watershed inspector. That is part of…

Martin Gordon: And I have a clarification on that as well. The communication that is in evidence between Scott and Tyler Ohle only mentions, I believe, where is it? It's like… He doesn't mention the self-contained part. It's just adequate sewage disposal.

Elizabeth Caprini: But the owner did clarify the process with myself, and with the CEO.

Martin Gordon: Was that in our…

Elizabeth Caprini: Yes.

Martin Gordon: Where is that?

Elizabeth Caprini: It was in part of our…

Martin Gordon: Minutes from last time.

Elizabeth Caprini: At some point in the discussions. I shared that it was explained to me by the property owner and verified by me with the CEO how the system worked.

Martin Gordon: Right, but he also said that the tank is normally empty.

Elizabeth Caprini: I heard that.

Martin Gordon: And yeah, and you know we also talked about, the owner mentioned the capacity is 200 gallons, right? So, 200 gallons is not a lot and so, therefore, that sewage is being dumped into the holding tank. So, the fact that he said the holding tank is normally empty. It's not. It normally has sewage in it.

Elizabeth Caprini: No, it stays in the camper.

Martin Gordon: It can't. It basically the amount of sewage generated by a person…

Elizabeth Caprini: On a weekend maybe they're not for weeks in at a time. I can vouch for that. They're there for maybe three-day weekends, four-day weekends, and then have it pumped.

Martin Gordon: Yeah.

Elizabeth Caprini: You're looking at full time to use by a family of four. I don't know.

Martin Gordon: No. This is for RVs. This is for RVs about five gallons a day for black water, which is the smelly stuff and fifteen gallons a day for gray water, which is like shower and dish water per person. Per person. Per day.

Elizabeth Caprini: They're not there for full-time any means.

Martin Gordon: It's fine. Just do the math. And it's like that 200-gallon tank gets full pretty quick and then they have to dump it into the holding tank and then it gets drained twice a year, I think he said. But what he said to us was, it's normally empty, the holding tank. That is not true. It's physically impossible. You're defying the laws of physics. You can't… you can break the laws of man, you cannot break the laws of physics.

Elizabeth Caprini: Absolutely not. And I'm just saying, I was satisfied that they are down for a certain number of days over this period, 160 days. So, if they're there seven weekends two people. I'm not sure if you want to divide that.

Martin Gordon: How do we know it's two people? I thought… I mean, was there any…

Elizabeth Caprini: It's definitely not a family… were your things… what is that?

Martin Gordon: No, this is per person. Per person. A person generates five gallons.

Elizabeth Caprini: A day.

Martin Gordon: A day of weight of black water and fifteen of shower water and sink water and all that other stuff per day.

Elizabeth Caprini: Do we want to say they're probably doing their showers in the lake? Sorry, Marty.

Martin Gordon: Yeah, I don't know.

Chairperson Howard: Can you tell me where you've got those numbers from? I missed it. Your five gallons of…

Martin Gordon: Um, that is just general engineering principle, design principle for an RV holding tank.

Jason Fox: So based on your experience.

Martin Gordon: It's based on my experience, and yeah, that's based on my experience.

Chairperson Howard: Okay, thank you.

Martin Gordon: And it's not as much as would be generated in a residential house. They have special numbers for RVs. I was very conservative in my numbers.

Jason Fox: So, if we take your conservative estimates and say that they're accurate, we still can make our own determination based on the statements that were made by the owners. If the frequency of emptying the tank is accurate or not.

Martin Gordon: Yeah, twice a year. But why? So. I guess my question is if they're claiming it's normally empty, and they only put… and this is what was said, verbatim, we can look… we only put sewage into the holding tanks when they come to pump it out, because they can't suck it right out of the camper, that's true.

Jason Fox: They said it was a method of transfer.

Martin Gordon: That is true. What they… what they were a little dishonest on is that 200 gallons, and that's part of its gray water, part of its black water in the camper.

Jason Fox: I thought they said 250.

Martin Gordon: They said 200. We can go back and check, but it's… I listened to it through that piece.

Elizabeth Caprini: I said 200…

Martin Gordon: And they agreed.

Elizibeth Caprini: And I think that's what I said, because it was where I broke order, and I said, right, Clark?

Martin Gordon: No.

Elizabeth Caprini: You know, to Kreuters. And I think I said that, and honestly, because I was being conservative, I think Kreuter's told me 225.

Martin Gordon: What's that?

Elizabeth Caprini: Kreuter's told me 225.

Martin Gordon: Per the specs on the camper, I looked it up, it's 200.

Elizabeth Caprini: There you go.

Martin Gordon: So, it's a matter of there is normally sewage in that holding tank.

Jason Fox: I haven't physically inspected the holding tank, have you?

Martin Gordon: Uh, no, but if they go to the bathroom, unless they're going to the bathroom in the lake.

Jason Fox: I'm just saying that's an assumption we would be making without verifying it.

Elizabeth Caprini: Or the woods.

Martin Gordon: A lot of the stuff we haven't verified.

Jason Fox: Well, that's where the sufficient evidence part comes in.

Chairperson Howard: Aren't there actually

Martin Gordon: I don't, honestly, as…I have actually another conflict for you, Jeff. So as a registered professional engineer, I'm bound and uphold to protect the health, safety, and welfare of the public. If I'm aware that this is occurring, I need to report it. Okay, the board doesn't necessarily have to report anything.

So now, if we're saying you know, I've done some calculations, and I believe that it's my professional duty, and I could lose my license if I don't report this. Do I have a duty to this board, or do I have a duty to my profession, or should I recuse myself from this argument?

Jeff Graff: I'm not your personal attorney. I'm the Zoning Board's attorney, so I can't advise you personally on what you should or shouldn't do relative to your license.

Chairperson Howard: Aren't there actually sort of two holding tanks, that there's a holding tank that's physically on or under the camper, and then there's a second one that's the temporary one that's in the yard?

Martin Gordon: Yeah, there's one that's attached, there's actually two on the camper: one holds, like, the sink water, shower water, and all that. It's called a gray water tank.

Jason Fox: Right.

Chairperson Howard: Right.

Martin Gordon: And then there's another tank that holds all the smelly water from the toilets. That's the black water tank. And the total capacity is 200 gallons.

Chairperson Howard: Between the two?

Jason Fox: For both combined?

Martin Gordon: Both combined.

Jonathan Heiderich: And the gray is probably bigger than the black. The gray is probably bigger than the black, because it is on mine. The gray tank is quite a bit bigger on my RV than…

Martin Gordon: Yes, yes, yeah, yep.

Jason Fox: But we didn't ask the clarifying question on frequency of and I'm not an RV owner, so I don't know.

Martin Gordon: Of pump out? Yeah, that was answered. That was answered.

Jason Fox: For total pump out, but is there the ability to pump out one versus the other? Because I would expect that the gray water would fill up much quicker.

Martin Gordon: Yes.

Jason Fox: And if the frequency is you know, maybe that's what's…

Martin Gordon: Well, the other thing that people do is drip the gray water, which means they're disposing of that gray water on site.

Jonathan Heiderich: But we have no evidence of that.

Martin Gordon: If they're claiming, if they're only pumping out twice a year, then what are you doing with the rest of your greywater? Are you dumping it on the ground? There was a hole… when I went there, I took pictures. I didn't go on a property. There was a hose underneath, white PVC pipe. I saw the end of it I don't know what it was. I don't want to guess, but the issue is, you are correct, the gray water tank is bigger. The only way for them to get rid of the gray water or black water is to dump everything into the holding tank all at once and then select it. Yeah.

Jason Fox: Okay.

Elizabeth Caprini: Could that line have been the AC?

Martin Gordon: I don't know.

Elizabeth Caprini: Yeah.

Jason Fox: That's kind of my point, though. We don't know.

Martin Gordon: AC is on the roof, so it just usually drains off. So, I don't, I don't know. But it's like, begs the question what do they do with the gray water?

Chairperson Howard: Well, I guess I'm not convinced that the gray water matter is not being taken care of. I've seen campers, RVs, whatever, that have the two separate tanks, and that you can empty each of them separately.

Martin Gordon: Right.

Chairperson Howard: So, that you're not dumping all the black in the water, right?

Martin Gordon: But they said they couldn't pump out from the camper. They had to dump it first.

Jason Fox: Because of the way the trucks connect. They can't connect directly to the camper.

Martin Gordon: Yep.

Chairperson Howard: But it doesn't mean that they can't separately dump one into the holding tank and pump it out, and then the other one.

Jason Fox: And that's where I go back to sufficient evidence. With the evidence we have I'm not comfortable making an assumption on anything beyond what we've been presented and what we've looked at.

Martin Gordon: So, we were presented with the capacity of the trailer, which was 200 gallons.

Jason Fox: Statement by the owners.

Martin Gordon: Statement by the owner that it gets pumped out twice a year, so then what are they doing with the rest of that stuff they're generating?

Elizabeth Caprini: And how much are the actual gallons?

Martin Gordon: Oh, that's true. Yeah.

Jonathan Heiderich: And we have no mechanism for inspections of how often they pump that. Nor do we have the manpower in the town to do it.

Martin Gordon: I mean, they said they'd get it pumped twice. Right, I remember that. Yeah.

Jason Fox: And that's my issue, is that you may be 100% accurate, but based on the information we've been provided, your statement says it's being pumped twice, that it's only being used as a temporary holding tank. We don't have any evidence other than your math and your professional judgment to say otherwise. If we had…

Martin Gordon: Is it self-contained?

Jason Fox: Yeah, definitely. I believe it is.

Elizabeth Caprini: Why wouldn't you say it is?

Martin Gordon: This has got to be taken off-site, that's not self-contained. Self-contained means it has to be taken off-site. Self-contained means self-sufficient composting toilet, biodegradable toilet, septic system.

Elizabeth Caprini: Septic systems are pumped.

Martin Gordon: Once every five years.

Chairperson Howard: Depending on how you use it.

Martin Gordon: Yeah, but they don't have a septic system.

Elizabeth Caprini: That's true. It's not completely self-contained according to what you're saying.

Martin Gordon: I'm sorry, say that again. I want to make sure.

Elizabeth Caprini: According to what you're saying about self-contained, it's all treatment on-site septic systems, part of that absolutely goes off-site at some point.

Martin Gordon: At some point, correct.

Elizabeth Caprini: Yeah, it better. You better pump your system.

Martin Gordon: Yeah, yeah.

Chairperson Howard: This is a sewage disposal system.

Martin Gordon: And that's a holding tank not sewage disposal.

Chairperson Howard: But it doesn't say it.

Martin Gordon: The other issue with the tank, and I think there was another violation for the tank, because it was supposed to be temporary, and then it got buried, and they didn't remove it, so I think there was something that said, put a tarp over it. Somebody said, put a tarp over it. Well, that doesn't remove it, it's still there. It's not a temporary structure, that's…

Elizabeth Caprini: It couldn't… it can't be buried, was what was disclosed.

Martin Gordon: Yeah, because there's a question about how much load can be put on the top of it. So, if you drive over it, you fracture it, you step on it, you fall into it. I mean, what… we're just… This isn't the intent of that. The intent of the code is to prevent this, but we're… It's up to us to decide how to do that on this appeal.

Jason Fox: So based on that, in my estimation, it was, there was sufficient evidence for item E.

Diane Graham: Can you, is that was or wasn't?

Jason Fox: Was.

Diane Graham: Was.

Elizabeth Caprini: I'm going to say there was as well, but I do think it goes to our list of things that need to be adjusted or addressed. For example, when the camper came, when it left, dates need to be, RV ownership needs to be, waste system needs to be to be addressed, but for me, I'm going to say was E. Not in this case, I'm saying in general, is that make any sense?

Jonathan Heiderich: I understand what you're saying.

Elizabeth Caprini: Thank you.

Jonathan Heiderich: And as far as answering this question.: Where I struggle a little bit is with that external tank and not with what Martin's talking about with numbers and stuff, but whether that should even be considered as part of the system and or and or being allowed. If we look at it just from the aspect of the RV, I would say that the RV has adequate self-contained sewage disposal system. How it's maintained is something we have no way of dealing with in this session.

Chairperson Howard: Good point.

Martin Gordon: I would say we do have a way of dealing with it. And it's seeing that the, you know, not approving, you know, basically upholding the appeal because if we don't, you know, if we don't think people ought to be doing that holding tank 50 feet, within 50 feet of Canandaigua Lake what are we opening ourselves up to? I mean, this is… it's an appeal, but you say we have no control. We actually do. Our control is through this, whether we uphold the appeal or not.

Jason Fox: So, a question for you on this, then.

Martin Gordon: Yeah.

Jason Fox: I'm saying was based on what I've seen and heard and read. Would the mechanism not be, if this proceeded to then have something brought up to verify afterwards that this is is or is not functioning the way it's been conveyed to us, and if it is not then there would be an issue with that instance. There would be another violation afterwards. And wouldn't that be the mechanism to address it given the information we have currently? Because I understand your concern and if I had definitive evidence, you know, a verification, other than an opinion, I might go a different way, but in lieu of that.

Martin Gordon: And this is why…And I don't know if I'm, I think I'm permitted to say this. That's why I believe, in my personal opinion, the public hearing was closed too soon. We need more evidence, and this ought to be reheard because a lot of these things, it's like, well, best we have, I guess we have to go with it. Well, we don't have to go with it. We could have a rehearing.

Chairperson Howard: Oh, we have to make a decision first before we can do that.

Martin Gordon: That's true. That's true.

Chairperson Howard: I have a question, though. John just said something about the fifth wheel, I guess is a proper term for it. Doesn't it have a septic, or not a septic, but a sewage disposal system within the fifth wheeler? I mean, isn't there something that's going into in the fifth wheeler? I mean, does it…

Martin Gordon: It's a tank.

Chairperson Howard: Okay, but that tank is holding all of the sewage.

Martin Gordon: Yes.

Chairperson Howard: So, isn't that, in and of itself, a self-contained sewage disposal system? When they empty the tank, it's gone. They empty the tank on the campers.

Martin Gordon: If they drive it off-site to a dumping station? Yes.

Jason Fox: And so maybe I answered my question with this back and forth, because maybe that's our mechanism is partly affirmed, but that could be the way to address it is that would address your concern, but it's just a thought.

Chairperson Howard: I guess I'm not sure what…

Jason Fox: So, we have the option to reverse, wholly affirm, partly affirm.

Chairperson Howard: I see, okay, okay.

Jason Fox: And if we affirmed with the modification.

Chairperson Howard: Correct.

Jason Fox: The recommendation could be to address that specific component and the holding tank.

Chairperson Howard: I understand now. Thank you.

Jason Fox: Mm-hmm.

Chairperson Howard: So where are we with?

Jonathan Heiderich: My answer, because it was at me, it was, if we look at it just from the RV standpoint, that it does have sufficient self-containing. So was.

Elizabeth Caprini: Was.

Chairperson Howard: Was.

Martin Gordon: Was not.

Diane Graham: So, 4-1 is that the consensus?

Board members: Yes. Thank you.

Jeff Graff: Okay, F. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not located closer than 15 feet to any building on a neighboring lot.

Jonathan Heiderich: Personal observations would say and I think there was a…

Elizabeth Caprini: Well, my evidence would be that I would think the CEO code officers confirmed that there it was not located closer than 15 feet to any building on the neighboring.

Martin Gordon: And again, I'm going to say I agree with this was, because you can see it. There's no building there. It's 15 feet. It was.

Jonathan Heiderich: We've all driven down Seneca Point Road at some point in time. We can see that.

Martin Gordon: It was not.

Jason Fox: Located closer than 15 feet.

Elizabeth Caprini: Was not.

Chairperson Howard: Was not.

Jonathan Heiderich: Was not.

Chairperson Howard: And the issue does show up again.

Martin Gordon: Yeah.

Jeff Graff: And then G. Sufficient evidence has been provided to show that prior to November 24th, 2025, the RV on the property was or was not located closer than ten feet to the side or rear lot line. And this would be of its own property.

Martin Gordon: this one, I say there was a site map that looks like it was modified. I don't see a seal from an engineer, or a surveyor, or an architect. It shows that that's a certified map and it's very close to being ten feet to the one side. It's the lot line.

Elizabeth Caprini: To the south?

Martin Gordon: To the south. And I don't think we can really discern that without a survey being done.

Elizabeth Caprini: I go to the code officers doing that part in their evidence. I don't have a map.

Martin Gordon: This is the site map that was provided. Looks like somebody modified it, which is not legal. This is done by surveyors already.

Jonathan Heiderich: Right.

Martin Gordon: Somebody modified, submitted as a site plan. It's not stamped.

Chairperson Howard: Marty, you guys gotta talk into the microphone.

Martin Gordon: Yeah, so we're looking at two documents. One is this site plan that was submitted. Looks like somebody added to an existing survey. Different writing. Okay. It looks like the site land surveyors, Freeland-Parinello did survey the two lots, but they did not survey the location of the RV and if you look where the RV is in the picture and again, I went back and looked at it from the public access, that looks very close to being within that ten feet. You can't really, yeah. South. Because the lot line is not on the driveway.

Elizabeth Caprini: Note this pull-off or parking area. It's on Kreuter’s lot.

Martin Gordon: Yeah, it's right here. Yeah, this we're looking, this is south. That’s north. Yeah, that's the pull-off right here.

Jason Fox: And so, the line is just basically in between there and the tree.

Elizabeth Caprini: This is south.

Martin Gordon: Yeah, right. That's north. That's north. That's south.

Chairperson Howard: Speak up.

Elizabeth Caprini: I thought you meant this. I would say.

Martin Gordon: I'm sorry.

Elizabeth Caprini: No, no, no. So, this is the little pull-off that's on Kreuter's lot.

Martin Gordon: Yes.

Elizabeth Caprini: And that is on the survey.

Martin Gordon: Yeah. Yep. There's the lot line there.

Jason Fox: And so that's your concern?

Martin Gordon: This, this here, that's not there anymore. That was stored there previously. This is an old, Google Earth imagery from sometime prior. It says 2024, but it's not accurate, because we know there's a thing there now.

Elizabeth Caprini: See what the whole width of the lot is?

Martin Gordon: Yeah, it's right down here 81.15.

Jason Fox: I think it's over 10 feet.

Martin Gordon: We, again, I'm just being consistent. There was no survey done. There was just a site map provided by, I'm guessing, Kreuter that gives dimensions.

Jason Fox: Is it required in this instance to have the survey?

Martin Gordon: Uh, it says sitemap, so typically…

Jason Fox: But I mean, the site map would show permanent structures.

Martin Gordon: Site maps are usually prepared by an engineer.

Elizabeth Caprini: But we take the code officer's measurements all the time for height, for setbacks, for… and I think it did say in some of the documentation, the code officers did confirm it was 15 feet from the...

Martin Gordon: They looked at that thing that was provided. I don't know, and we can't ask them a question now, but…fifteen feet shown in that segment.

Chairperson Howard: I'm comfortable with the fact that I've seen a number of drawings and/or site plans, and that they're always checked very carefully by the CEO or the Deputy CEO, so I'm confident in his testimony.

Jason Fox: Agreed.

Elizabeth Caprini: Agreed.

Diane Graham: So, what is this?

Elizabeth Caprini: Sufficient evidence has been provided to show that the RV on the property was or was not located closer than 10 feet to the side or rear lot line.

Diane Graham: And so, what is the consensus?

Jonathan Heiderich: Was not.

Jason Fox: Was not.

Chairperson Howard: Was not.

Diane Graham: Was not – all five?

Chairperson Howard: Located closer.

Jason Fox: Then ten feet.

Jonathan Heiderich: Was not.

Martin Gordon: I said, and I say sufficient evidence has not been provided, so it was located closer.

Diane Graham: So, 4-1 is the consensus, okay.

Jeff Graff: All right, so number eight, now you've made all the individual findings.

Based on the ZBA's findings of the four conditions that existed in paragraph C. of section 170-64, prior to such paragraph being amended by the adoption of Local Law 4 of 25 on November 24th, 2025, and based on the ZBA's other findings, which is referring to four, five, and six set forth above, the ZBA hereby determines that the RV located on the property on November 24th, 2025 was or was not lawfully existing pursuant to paragraph C. of 170-64, as that paragraph C. existed prior to its amendment by Local Law 4 of 2025.

Jonathan Heiderich: Based on everything else, I would say it was.

Jason Fox: I agree.

Elizabeth Caprini: It was.

Chairperson Howard: It was.

Martin Gordon: It was not.

Diane Graham: So, 4-1? Was not 4-1.

Jeff Graff: No, was.

Diane Graham: Was?

Jeff Graff: Was lawfully existed.

Diane Graham: Oh, thank you. Sorry.

Jeff Graff: And so number nine, based on the ZBA's determination of whether the RV on the property on November 24th, 2025, was lawfully existing, the ZBA hereby determines that certificate of nonconformity number 2026-0003 issued by the CEO and dated February 3, 2026, was or was not properly issued.

And then, as a result, the ZBA hereby reverses, wholly affirms, partly affirms, or modifies.

So, you probably want to take both of those together, because, like you were talking about, maybe partially affirming, which that would probably mean that you're thinking it was not properly issued because you think it should be partly affirmed this way, if you're thinking it was to be wholly affirmed, I think that would be where you would answer that it was properly issued because that's talking about in its entirety, but that's up to you.

Chairperson Howard: What about modifies?

Jeff Graff: Again, I think if you are either reversing, partly affirming or modifying then you're finding something amiss with how the code enforcement officer did it, and you would say that it was not properly issued, and then you would set forth whether it was, you know, wholly wrong and you reverse it. You're affirming part of it. And not making any changes or you're modifying it in some way. I would say you could partly affirm it and modify, you know, there's some leeway there as to what you could do, but that's how I would read that.

Martin Gordon: Anybody else really warm?

Board member: Yes.

Diane Graham: Yes.

Jonathan Heiderich: I think he got turned off because people were getting cold. Now it's getting warm in here.

Chairperson Howard: It was getting cold in here. It's now warm. No, I'm fine now.

Diane Graham: I have one for you.

Chairperson Howard: I know you do.

Elizabeth Caprini: So, do the partly affirmed and modified what does that do to the situation?

Jeff Graff: So, when you're reviewing a determination by a code enforcement officer, the law basically puts you in his shoes. So, this is basically, how would you have issued or answered the question of whether you should issue a certificate of nonconformity and, you know, do go back to the, this is the second whereas on page one is where I quoted exactly what the code enforcement officer said on the certificate of nonconformity, and there's a lot there, and you may decide that you agree with all of it, some of it, none of it. You may agree that in theory, the whole thing is good, but you should change this piece of it, in which case you're modifying it and partially affirming it. You know, but that's… you're looking at the actual thing that he issued, which is in the second whereas, as well as on the actual certificate of nonconformity, and now you're standing in his shoes and saying how you would have issued it. If you like exactly how it's written, you would answer was and wholly affirms. If you dislike the entirety of it, you would answer was not and reverses. If you like some of it, think some of it should be amended, I think you would answer, was not issued correctly, and then partly affirms and modifies, or some variation there. Then down below, you'd have to say, what would those modifications be, or what's the part that you're affirming?

Elizabeth Caprini: Then the resident would have to abide by.

Jeff Graff: Your decision would unless you wholly affirm the code enforcement officer's decision, your ruling then takes the place of the code enforcement officer's ruling.

Chairperson Howard: So, let me get this straight in order for us to reverse, wholly affirm, other than wholly affirm, partly affirm and modifies, we have to say that he was not properly issued.

Jeff Graff: If you're gonna change it in any way, or completely reverse it then I, to me, I think you're saying it was not properly issued.

Jonathan Heiderich: I would agree with that.

Jeff Graff: I think you're saying it was properly issued if you agree with 100% of it.

Jason Fox: And it's based on our interpretation of the point in time in which the CEO made the determination. Based on the knowledge.

Jeff Graff: And based on all the findings, you just…

Martin Gordon: Can we see the final certificate of nonconformity, not the handwritten one.

Jeff Graff: It is. I think it's one of the last exhibits.

Chairperson Howard: I have the original right here.

Martin Gordon: It is the handwritten one.

Jeff Graff: It's actually the very last page of the…

Martin Gordon: Okay. Okay. Okay. I have it here, Exhibit 12. Yep, I didn't see that. Thanks. So you know, one thing I point out is the town, you know, the way this certificate of nonconformity was issued in the notes it says, and we were talking a lot about the self-contained, you know, adequate self-contained sewage disposal. This doesn't say that. This is adequate sewage disposal.

Elizabeth Caprini: Wow.

Chairperson Howard: I'm sorry to say that again.

Martin Gordon: Under the notes.

Chairperson Howard: Inadequate. Okay.

Jason Fox: Like in the last — I think that goes back to the guidance that was given. What was the gentleman's name?

Elizabeth Caprini: Tyler Ohle.

Jason Fox: Tyler Ohle, but, I mean, that's…

Martin Gordon: And that's where I'm like, Tyler was not…

Jason Fox: And see, that's kind of where I go back and forth, where I can understand the idea of partly affirms, but going back to where the CEO was at the time of the determination, with everything he knew. I understand why the determination was made.

Martin Gordon: So, Tyler is being consulted for the holding tanks. That's it.

Jonathan Heiderich: So, Jason, are you saying that you would partially affirm with modifications to that part of it, or…

Jason Fox: I think I'm landing at, based on the guidance we were given about putting ourselves in the CEO's shoes at the time of the determination with the information he had at that time that I would wholly affirm and not modify.

Elizabeth Caprini: Are we ready to take a count on that?

Jonathan Heiderich: Where are you? What do you think, Barbara? Because you look like you got something to say.

Chairperson Howard: I guess. I go back to Marty's concern about the sewer disposal issue and I'm trying to figure out a way of… I think actually, if you want to know the real truth, I think that Scott should not have done the notice of violation into December, or whatever it was, because I think the system is there, now is probably adequate and they have the backup in the fifth wheeler. So that's where, you know, I would like to… if all else fails, I would like to be able to do something about making sure that temporary, whatever you want to call it, is actually reasonable, which I think Tyler's told us there's no, it's not addressed at all in what he had, so… But I don't know how to do that, and I'm not sure I can do what I want to do, so…

Jeff Graff: Yeah, I'm not sure you're referring to the certificate of nonconformity.

Chairperson Howard: No, I am, but what I would have said that that would have, if, if that was not. If the notice of violation, okay, that was right about the same time as the law changed, I think that that would have made it clearer that the system is okay, the disposal system is okay, in my mind, and in everybody else's. So… but I'm not… so I'm… what I'm saying is… I'm not getting… no, I know, I'm not trying to change anything, I'm trying to say that that's the basis for my thought processes that it seems to be the septic disposal system or sewage disposal system seems to be the craw.

Jeff Graff: And I would say, Jason, it's not just what would you have made with the information he had. What would you do now with the information you now have?

Jason Fox: Entirety.

Jeff Graff: Yeah, because you now have perhaps more information or different information and now you're being asked, in essence, how would you issue this certificate of nonconformity with what you have?

Jonathan Heiderich: And I thought you were going to say something different than you did, because I thought you were going to say what… I think it would have been better worded where it says adequate sewage disposal, that it would have said that what the code says of self-contained. RV specifically self-contained word it something like that so it has to be... it's not gonna be an easy solution for the Kreuters, but they're gonna have to figure out how to get the RV's tanks emptied some way other than that tank on the ground because that's not self-contained to the RV itself, which is what I read the code as saying. That's me. I think that Martin's probably not… not 100% agreeing with me, but not disagreeing 100% with me either.

Martin Gordon: I… you're right, you're correct. You're correct.

Jonathan Heiderich: And… and if that means they have to move it to go someplace where they can go to a dump station, or find a different pumping company, because I've been to plenty of campgrounds where the honey wagon comes around and dumps if you're not at a full hookup site and you're there for more than three or four days. So, there are options, it's just maybe not with the particular company that they're currently using or they need to — that company needs to do some research on how to do things. I don't know, but the code specifically talks about self-contained. To me, that means within the RV and if that means that there's something else has to be done on their part to get it emptied it's not the ideal solution for them, but I think that that's the way the wording in that note should have been.

Jason Fox: And I see that point. And on the surface, I agree with it. Where I have an issue is making the leap from the statements that were made during the open meeting, it stated that it's just a holding tank. I'm taking them at face value. And I'm not comfortable saying that somebody that made a statement before this body was lying to us. So that's where I go back on they made the statement, we have no evidence to the contrary other than some anecdotal conversations to pivot from that. That's my opinion.

Jonathan Heiderich: And I see your point. I just keep going back, in my head, to what the wording in the code is, and how I interpret that to when it says self-contained, that means to me it has to stay within the RV until it's removed by a sewage company from the RV or dumped into an approved disposal system like you would find it at every-day campground. Um, that's my interpretation of things. I'm just one of five people here. I think we would… I guess the term would be partially affirm and make that modification in the wording of the notes.

Jason Fox: Right.

Elizabeth Caprini: Which would say.

Jonathan Heiderich: Which would say that the current external tank has to be removed, and the sewage disposal system has to be 100% contained within the RV and disposal has to meet other New York State Environmental Codes for Sewage Disposal, or however you want to word that, I don't know the specific…

Jeff Graff: Maybe getting beyond paragraph C. to go that far?

Jonathan Heiderich: Okay, and that's why I wasn't sure how to word it, but…

Jeff Graff: I think you, at the beginning, where you were talking about must be self-contained and if your interpretation is that the holding tank makes it not self-contained to then very clearly say that the holding tank can't be present. Again, that's… that would truly be a modification of what the code enforcement officer issued.

Jonathan Heiderich: And like I said, I know that's not an ideal situation for the Kreuters, but it is my interpretation of the wording of the code and that's, like I said, it's just me, one of five people tonight.

Chairperson Howard: No, I agree with your comments about the self-containment.

Jonathan Heiderich: So, I guess to take this continue in this conversation in the direction it needs to go, my would be that, the first part was not, and that we partially affirm or modify whichever one is recommended to check, and then write in the comments of how we would reword the notes where it talks

about have adequate sewage disposal, and say adequate self-contained to the RV and removal of any external tanks. That's, I don't know if that's…

Elizabeth Caprini: And then you're saying it would be a set different system to drain the…

Jonathan Heiderich: They would have to figure out a different way of getting rid of their pump, doing their pumping.

Elizabeth Caprini: Because obviously Warner's doesn't have the right setup.

Jonathan Heiderich: Yeah, but there's got to there's if they if they. I don't know around here who does it, but I know I've been RVing for 30 years and before that, when I was a kid, we were RVers. There are every campground you go to, if you're in a place without full hookups, there are services that will come around and take care of it.

Elizabeth Caprini: Right from the RV.

Jonathan Heiderich: Right from the RV. So that there are available ways to do it whether Warner's can do it, I don't know. I haven't used Warner's for anything since my father used one when I was a kid. So, I don't know what their ability is, but I do know that there is ability to do it directly from the RV. It requires two people. I know that because somebody has to be in the RV when they're to open drains so that you because the issue is if you start sucking out the whether it's black water or gray water, without the drain being open, it's not the piping that's the problem, it's the tank itself will collapse because of that suction, but you have to open drains, whether that's the toilet drain or the sink drain. The drain has to be open so that you don't collapse the tank. And usually they use a lower pressure suction than what they would use for pumping your residential septic system out because they're using maximum suction power there when they're pumping 1,500 gallons of stuff up.

Elizabeth Caprini: Can I just do it back to your comparisons, Marty? If the…we can't assume anything, but can we assume the holding tank was 200, and the capacity of the RV was 200? Does 400 jive with your numbers? I'm sorry, I didn't crunch at all.

Martin Gordon: Yeah, no, I can explain it again, so the RV, there's two tanks in the RV, the total volume is 200 gallons.

Elizabeth Caprini: Would 400 be enough? Considering…

Martin Gordon: If it was on the RV.

Elizabeth Caprini: What's on the RV, and what's in the holding tank. Would that be enough capacity for daily numbers that you had? Would 400 gallons be enough? It's a little moot, but if we're using your numbers as part of our decision.

Martin Gordon: Yeah. So. I looked, my calculations are for just, you know, I did for two people. Right? I assumed 212 gallons, by the way, when I did this. I didn't know it was 200. I did 212. So, I said, all right, got 106 gallons total. You're generating fifteen gallons a day per person, you got two people, that's 30 gallons a day total for the two people. That's three and a half days in between pump outs, which is about right when you're RVing. I mean, it's what we usually get.

Jonathan Heiderich: Unless you are very conservative about your water use.

Martin Gordon: Or you drip it. And you know, as well as I, there's people that drip their gray water.

Jonathan Heiderich: Yeah. Until they get caught. Out of places.

Marti Gordon: So maybe, you know, if you're suggesting another part of this is, the ability to inspect to make sure they're not doing that sort of stuff and also not bathing in the lake and all this other things that are unsanitary.

Jonathan Heiderich: I don't know. I don't know if that part of it is within our code enforcement officer's capacity, but inspection to make sure that they're not dripping. It's not going to be an easy task for them to add to everything else they got to do, but I think that that is part of this because it's an adequate system self-contained that they're not dumping some kind of wastewater or sewage onto the ground.

Martin Gordon: I mean, when I've gone by there, there's many more than two people there. It's like a whole family. You know, it's a bunch of people and if they're all using the camper…If there's six people, say six people. It's one dump a day they need to get that gray water tank emptied once a day. So, I did something very conservative, but I suspect…I mean, I have no other way to look at this. They were a little bit disingenuous with us, and they wanted a larger capacity. They didn't have it on their camper, so that's why they put in the ground-based holding tank and just dump it in there. And I don't know how many gallons that is, maybe a thousand. You know, maybe more. I don't know what dimensions, but they're using that as extra capacity, whereas, you know, what you're saying is that's not self-contained, it's not in the camper, it's separate. And the other issue is that's going to be left there permanently? That's not a temporary structure. That's and it's not an RV either. So, we get into the weeds a little bit on that, I know, because, I believe a holding tank at that point becomes a permanent structure. And what do we allow? We don't allow holding tanks. New York State Health Code doesn't allow holding tanks anymore. So, I guess I'm personally agreeing with you too back.

Jonathan Heiderich: So, where do we stand as a whole board so we can finish this tonight?

Diane Graham: I didn't think this meeting would go so long, so…

Jonathan Heiderich: Neither did I, so…

Diane Graham: My Zoom only goes to 10:30.

Jonathan Heiderich: Oh, we're almost to the end.

Diane Graham: Okay.

Jonathan Heiderich: So again, what I had said was we say was not, we partially affirm or modify and change the wording in the notes to say that the sewage system has to be 100% self-contained within the RV.

Chairperson Howard: Just to bring a point in the law 4 of 2025 they repeal the section, and we're given in here the added wording underlined and wording removed. There is a new number four says “no sewage shall be disposed of on a vacant lot.” So, that it sort of addresses your dripping.

Jonathan Heiderich: That's in the new law that went into effect in 2025, correct?

Chairperson Howard: Yes, yes.

Jonathan Heiderich: So, we could add that to part of that note about 100% self-contained to say that nothing can be dripped onto the ground as would as part of the current new code. And that was probably added because of what Marty and I have been saying about what RVers do.

Chairperson Howard: It does take out, by the way, an adequate. It just says a self-contained… took out the adequate. Well, probably because you can't define adequate. Are we ready to —

Jason Fox: How do we proceed?

Jeff Graff: Was there a consensus to Jonathan's?

Jonathan Heiderich: I don't think we've gotten that far with it.

Jeff Graff: I think that's the last piece. You need to come to a consensus on the actual decision, and…I'm working on.

Jason Fox: So, super majority for that.

Jeff Graff: Yeah, I would review what all of your answers were, so you knew for sure what you were voting on, and I'd read kind of how I'm wording so far, what Jonathan's saying, if that's what the consensus ends up being, and then somebody would make a motion as to that? And if it's a second, you'd vote on it.

Elizabeth Caprini: So, you want us to follow through with the was or was not, as well as the, and then the reverse, blah blah blah.

Jeff Graff: Right again. Jonathan has so far come up with, you know, a kind of a complete thought on how to take it through that whole thing, and you guys just need to decide if that's how the board wants to proceed.

Chairperson Howard: I'm okay with it.

Elizabeth Caprini: Can we say what you're okay with?

Chairperson Howard: Yes, the sort of…was not properly issued and partially affirms. If that's the right way.

Diane Graham: So, was not and partially affirms, is that a consensus?

Jonathan Heiderich: I'm good with that.

Jeff Graff: Partially affirms and modifies.

Chairperson Howard: Modifies. I know who didn't. Okay.

Jonathan Heiderich: Can you do both of those?

Jeff Graff: Yeah, that's what I…

Jonathan Heiderich: Yeah, then I would say both of them, partially affirm and modify.

Jeff Graff: Because I think that's most clearly stating what you're…

Jonathan Heiderich: Exactly. I agree. That's what I think we need to do.

Martin Gordon: Are we doing a vote on this too? Because the was not I agree with.

Diane Graham: Consensus. Yeah.

Martin Gordon: Under nine, the first question was not properly issued.

Diane Graham: Correct. Is that what everybody's consensus is?

Jason Fox: I believe it's a consensus, but I believe it's 4 to 1?

Martin Gordon: Who believes that was properly?

Jason Fox: I believe it was.

Elizabeth Caprini: I do too.

Chairperson Howard: I do.

Diane Graham: Oh, so you're saying three to two? Three to two was not?

Chairperson Howard: Are we saying was or was not?

Jonathan Heiderich: Three people say it was not issued correctly, if I heard correctly.

Jason Fox: That is correct.

Elizabeth Caprini: Will Barb?

Chairperson Howard: I think I also said was not.

Diane Graham: So —

Jonathan Heiderich: So, it's Martin, myself, and Barbara say was not. Liz and Jason say it was.

Jason Fox: Correct.

Diane Graham: And then Marty says?

Martin Gordon: Well, we haven't gotten to the next one yet.

Jonathan Heiderich: As far as there was or was not, it was Martin, Barbara and myself, was not. Liz and Jason was, so the majority, if we look at it that way, it was not.

Jeff Graff: And then going with the rest of what you said, you're proposing.

Jonathan Heiderich: I'm proposing that we partially affirm and modify.

Jeff Graff: Affirming of it by modifying it with changing adequate… this is how I'm coming up with what you're saying… changing, in the fourth line, “adequate sewage disposal to read adequate self-contained sewage disposal system, where the existing sewage holding tank is removed from the property and not used by any RV brought onto the property,” and then add to the end of the note “no sewage shall be disposed of on the vacant lot” coming, as Barb said...

Jonathan Heiderich: Coming from the new law.

Jeff Graff: Coming from the new law.

Jonathan Heiderich: I like that.

Elizabeth Caprini: When you first said it, you said sewage self-contained in the RV.

Jonathan Heiderich: Yeah, that's what I did say the first time, specific to the RV.

Jeff Graff: So well, so it would read adequate self-contained sewage disposal system in the RV.

Jonathan Heiderich: In the RV. Yeah, I think that's and thank you, because I think that is better.

Jeff Graff: In the RV. "Where the existing sewage holding tank is removed from the property and not used by any RV brought onto the property." Then you keep the last line that was in there, RV cannot be located closer than 15 feet from a building on a neighboring lot, or closer than 10 feet to the side rear of the lot, and then…At that end sentence from the new law, "no sewage shall be disposed of on the vacant lot."

Jonathan Heiderich: That satisfies what I was thinking.

Chairperson Howard: I think we want to remove the word adequate because it's come out of the code. I mean, we don't have to, but…

Jeff Graff: Again, that's up to you. That's how it read, of course, in the law prior to the new law. Adequate was in there.

Chairperson Howard: Correct.

Jonathan Heiderich: But it's not in the new one, I don't…

Chairperson Howard: It's not in the new one.

Jeff Graff: They deleted adequate.

Jonathan Heiderich: I'm good either way. If you think we should go make it more worded towards the current law of taking adequate out that.

Chairperson Howard: I think adequate is such a word that how do you define it anyway? And it just opens up a bit of debate. What is adequate?

Jeff Graff: So we would change right to change, "adequate sewage disposal".

Jonathan Heiderich: Just strike the word adequate.

Jeff Graff: To self-contained sewage, you know, and remove adequate from it.

Chairperson Howard: Yeah, just remove the word adequate.

Martin Gordon: There's another point of clarity I want to point out here, this certificate of nonconformity stays with the property, meaning the fifth wheel. The certificate, and this is in our code anyways, the certificate of nonconformity stays with the property, since this is not land property, it is a fifth wheel, it stays with that property, so if they ever get a new fifth wheel this doesn't hold.

Jonathan Heiderich: No, I think the nonconformity is how they use the property.

Jeff Graff: I mean, yes, the nonconformity is about the real property and how the real property, the lot or parcel, is being used. In this case, the RV is the subject of how it's being used. So, I mean, if you want to change this certificate of nonconformity stays with the real property, to clarify that piece so somebody doesn't confuse property with the RV. I don't think it was meant to say that this RV could be moved to a different vacant lot in the town and have this.

Chairperson Howard: No, but I think what Marty is saying is that somebody could come in with another fifth wheeler assuming the current owners left, okay, went home, took the fifth wheel with them. If it's with the property, then doesn't that mean that I could go in and buy the land and put our fifth wheeler up. I think that's what Marty's trying to say.

Martin Gordon: So, this is an accessory structure that we're dealing with.

Chairperson Howard: No, it's not.

Jeff Graff: It's a vehicle.

Jason Fox: Thinking of other issues. Sorry, go ahead.

Martin Gordon: Trying to find the part of the law that talks about the issuing a certificate of nonconformity and I believe it says it can be issued for I think, and so I'm just trying to locate that part of the law to clarify.

Jonathan Heiderich: Are you thinking about a time frame or something, Martin?

Martin Gordon: I'm sorry.

Jonathan Heiderich: Are you thinking about some kind of time frame or?

Martin Gordon: I'm just thinking about what the intent is, and whether the nonconformity, what does it apply to?

Jeff Graff: So, a certificate, that's section 170-80 of the Zoning Law.

Martin Gordon: Do we have a copy of that, handy?

Jeff Graff: I mean, I have it on my phone.

Chairperson Howard: I might.

Diane Graham: You can look at my iPad.

Jeff Graff: So, the intent, 170-80 that's the beginning section of non-conforming uses. It says, except as otherwise provided for in this article, the lawful use of buildings or properties existing at the date of the adoption of this chapter may be continued. It is the intent of this article that all non-conforming uses or lots shall not be enlarged upon. That part's not relevant to what we're talking about, but it refers to buildings or properties. And so, we're focused on the properties part because we don't have a building at issue here.

Martin Gordon: Okay, and the properties is the real property, not the property.

Jeff Graff: In the context of the non-conforming sections in the zoning code, yes, that's talking about the lots, the land, and how those are being used, because that's what zoning is about. It's regulating the use of land.

Elizabeth Caprini: Do we want to specify in any of the details anything about documenting when it comes to the property, length of time. When it comes and when it leaves, is it a concern? Because we didn't have that data. And is it a concern that he provides valid ownership, confirm other structures that there aren't other structures on the lot.

Jeff Graff: Well, the note, the existing note says maximum of 160 days in a calendar year. RV must be owned by the owner of the vacant lot.

Elizabeth Caprini: Do we want to request proof of that?

Chairperson Howard: I don't think so.

Elizabeth Caprini: Okay.

Chairperson Howard: We've made a decision based on what we have so I don't think we need, I mean, we've sort of decided that we already have.

Jonathan Heiderich: I think if there are more than 160 days, their neighbors are going to tell us.

Martin Gordon: That didn't work too good for our discussion here because it was unknown. I think it's got to be clear when that thing arrives and when it leaves. It's got to be clear when that arrives and when it leaves. So, they have to notify the town when it arrives, got to notify the town when it leaves.

Elizabeth Caprini: And put that in our thing somehow. And do you want proof of ownership of the…

Jonathan Heiderich: I mean, that's just them sending Scott an email, so I'm not against that. They send them an email when they arrive, and one when they leave, if he's got reason to be down there, he can look to see if it's still there after they said they left.

Martin Gordon: I mean, full disclosure, I don't agree that this should be partially affirmed, I believe it should be reversed. So, I'm just suggesting, for those that want to modify it that might be something else you put in it.

Chairperson Howard: I guess I would not suggest that we go back and get deeds or sale.

Martin Gordon: The title and registration for the camper?

Chairperson Howard: Yeah.

Martin Gordon: Pretty easy. You got it.

Chairperson Howard: I know, but I mean, we asked them to jump through enough hoops in terms of the certificate of nonconformity application.

Martin Gordon: So, we want to make it easy for them.

Chairperson Howard: No, I just don't think we… I mean, how would you be… if you were the one that had to go find a birth certificate and a driver's license for 1942?

Martin Gordon: If all my motor vehicles are registered, and I have the title for them.

Chairperson Howard: Well, so do I, but, you know, it's just, I don't think it's necessary.

Jason Fox: I agree.

Jonathan Heiderich: I think the only other thing that might be worthy of adding to a note in this is to ask for them to notify the CEO when they arrive and when they leave for the 160-day, because it very quickly calculated whether they were here less than or more than with those emails, and it's easily verified if they didn't leave when they said they did.

Elizabeth Caprini: And are you going to somehow ask for proof about the sewage system?

Jason Fox: Just throwing it out, if you are proceeding with the partially modified and removing the holding tank. The mechanism's kind of built in, where they're gonna have to… as long as verification of you know, the other things you discussed, the gray water is not dripping. Any of those kind of things are taken care of. It's going to have to be addressed.

Chairperson Howard: And along those lines, I think we've made a decision based on not having titles and mom's home-made cookies or whatever else that somebody might decide they wanted to have.

Martin Gordon: I mean, I have another question too. When we're debating like, and I know we're not debating a variance, right? We're debating a certificate of nonconformity. Is it the duty of the CEO or us right now to consider character of a neighborhood, or any of those other things that we consider?

Jeff Graff: No.

Martin Gordon: Or is it just…

Jeff Graff: No, those are specific to variance appeals.

Martin Gordon: Yep. So, when the CEO issues a certificate of nonconformity, that should not be considered.

Jeff Graff: I'm not saying shouldn't be considered in the context of what's being appealed if that's a relevant piece of that particular discussion. But unlike an area variance application where New York State law specifically says you must consider the character of the neighbor neighborhood as one of the criteria or one of the determinations in that appeal. That's not a statutorily mandated item to be reviewed or determined by the Zoning Board. This is really determined on its own merits, because this could be about any section of the Zoning Code, you know, so it's all different. But if that plays into your decision, but then it goes into whether the Code Enforcement Officer had the authority to judge the character of the neighborhood in this particular situation.

Martin Gordon: And that's what I'm getting at. You're asking us to put ourselves in his shoes now.

Jeff Graff: Right, and so I suppose the question would be when does the Zoning Code, in empowering him to issue a certificate of nonconformity tell him he has to base his decision on the character of the neighborhood. The section of the section of the Zoning Code certainly doesn't say that. Right? I mean, a strict read of the sectioning question.

Martin Gordon: Yeah, so any, you know, any area variance that he could grant without our…

Jeff Graff: Area variance.

Martin Gordon: Right. That's correct.

Jeff Graff: But this is certificate non-conformity.

Martin Gordon: I guess that's my question is, and I don't think I got a clear answer. Should the CEO when issuing a certificate of nonconformity consider or should have considered the character of the neighborhood and/or now we're being asked to reconsider his decision. Should we and could we consider the character of the neighborhood, because I don't know that any of us would disagree that this clearly changes the character of that neighborhood.

Jeff Graff: The consideration on a nonconformity is whether the use was lawfully existing. Right? And if it was lawfully existing whether or not that was, in your mind, beneficial to the character of the neighborhood really doesn't play a part in it, because the Town Board, prior to November 24th of 2025, had established that that was an allowable use of property in the Town of South Bristol, and that's what the code enforcement officer had to base his decision on. There wasn't an element… I mean, Section C. could have said a lot of conditions, one of which could have been that it's in keeping with the character of the neighborhood. It's not in there. And it wasn't even in the revised law. So, again, you're standing in his shoes, and you have to use the exact same criteria, which is why the resolution was broken down piece by piece like that, to have you review the pieces of the section that you needed to consider.

Martin Gordon: And I guess a related point is we, as the ZBA are sworn to uphold. We are all sworn to uphold the health, safety, and welfare of the town. Are we upholding the welfare of the town in the decision that we make?

Jeff Graff: Yeah, I mean your job is to decide whether or not the code enforcement officer made the determination that you feel was proper. The law, the zoning law, certainly provides, allows non-conformities if all of the various conditions are met. So, because nonconformities have a mechanism for continuing. If you make a finding that those have been met then you are upholding the Zoning Code, because the Zoning Code empowers you to find that a nonconformity could continue.

Martin Gordon: That wasn't really what I was getting at, I was getting at the welfare of the town. So, the welfare of the town means protecting property values, protecting the neighbors' rights. Are we protecting a neighbor's welfare in our decision and another point off of that is when you told us we have to consider that date and time, November 24, 2025, which is when the CEO evaluated this, we now have more information we can look before that and we know that there were notices of violation and we know that it was not in compliance, yet here we are saying everything's good. They complied on that date.

Jeff Graff: And you and your board can make a finding that what he did was improper and vote to reverse it. So, you have that power.

Jonathan Heiderich: I think we need to make a decision.

Chairperson Howard: Do we have a formal motion on the table? I know we…

Jeff Graff: No, but if you want to proceed as we've been discussing then, what I would suggest, I'll…I won't read the whole thing, I'll just go through what the… we believe the consensus was based on all the

discussion, and if somebody's happy with all of those, they can move to adopt this resolution as read or as discussed and go from there.

Jonathan Heiderich: I think that's what we need to do so we can end this.

Chairperson Howard: I agree.

Jeff Graff: All right, so again, first of all, on the written draft resolution, we're changing October 14th, 2025, to November 24th, 2025, throughout, just so we're clear on that.

Diane Graham: 24th, 2025.

Jeff Graff: November 24, 2025.

Diane Graham: Correct?

Jeff Graff: Okay.

4. The property was a vacant lot.

5. The property was located in the Lake Residential District.

6. The owners of the property did not have more than one RV on the property.

A. The recreational vehicle was owned solely by one or more owners.

B. The length of stay was not longer than 160 days.

C. The RV on the property was provided with water supply.

D. The RV on the property was provided with electrical services.

E. The RV was provided with an adequate self-contained sewage disposal system.

F. The RV was not located closer than 15 feet to any building on a neighboring lot.

G. The RV was not located closer than 10 side or lot line.

8. Your determination is that the RV was lawfully existing.

9. You'd be saying that the certificate of nonconformity issued by the CEO was not properly issued, and as a result, the ZBA both partly affirms and modifies.

We would check off then below partly affirmed.

I'm suggesting we add the certificate of nonconformity is affirmed as written, with the inclusion of the following modifications, and then check off modified with the following modifications:

Add to the end of the first sentence with the owner being required to notify the CEO when the RV is brought on the property, and when it is taken off the property.

2. modify in line four of the notes, “adequate sewage disposal,” so that it reads, “self-contained sewage disposal system in the RV where the existing sewage holding tank is removed from the property and not used by any RV brought onto the property.”

3. Add to the end of the note “no sewage shall be disposed of on the vacant lot.”

Martin Gordon: Since we were told to assume that it was on the date, it's not prior to 11/24/25, you told us on that date. Shouldn't it say on 11/24/25, not prior to?

Jason Fox: Or as of.

Martin Gordon: Yeah. No, on, I guess.

Chairperson Howard: It makes sense to me.

Jonathan Heiderich: Sure, I'm not sure where you're talking.

Elizabeth Caprini: I know it. Are you looking at number nine?

Martin Gordon: Anywhere it says prior to 11/24/2025. I think should be changed to say on because that's what we were told to do. That's how our decisions were made.

Chairperson Howard: Correct. No, I agree with you.

Martin Gordon: Even though nothing was there on that date.

Chairperson Howard: Do you know that?

Martin Gordon: Yeah, we just talked about that. Nothing was there.

Elizabeth Caprini: November 24th, 2025.

Elizabeth: Number 9, I think, has a typo in it, if it matters, based on the ZBA's determination of whether the RV on the property on I think you need a "was" in there. Number nine. First sentence. Based on the ZBA's determination of whether the RV on the property, I think you need a was.

Jonathan Heiderich: Was on the property.

Martin Gordon: Second line, first word.

Chairperson Howard: It says was lawfully.

Martin Gordon: Correct. That's right.

Elizabeth Caprini: So, it's all right to say, termination of whether the RV on the property…

Jonathan Heiderich: Don't ask me to do a cram.

Elizabeth Caprini: Excuse me.

Jonathan Heiderich: Especially at 10 o'clock at 10, almost 10:30 at night. I would make a motion that we adopt resolution as was read by Mr. Graff.

Martin Gordon: That doesn't, that does not accurately reflect how we determined this though. It wasn't prior to it was on that date.

Chairperson Howard: And that's what he's saying is it shouldn't, it shouldn't be prior to.

Martin Gordon: No, it's on.

Chairperson Howard: It should be on.

Martin Gordon: Yeah.

Chairperson Howard: And do we agree to that?

Jeff Graff: I didn't change the wording from when we read it earlier, so I'm not sure.

Chairperson Howard: I think he's talking in general within the resolution, the date that it's so easy to…

Martin Gordon: Starting at number six. The owners of the property did not have more than one RV on the property on 11/24/25. And again, in number seven, actually 11/24/25 was omitted, but it should be… I think you inserted it between prior… I'm sorry, between two and such, prior to. It should be on. Anywhere it says prior to should say on because that's what we were asked to do.

Jeff Graff: Again, the language was how the language was when we went through.

Martin Gordon: And even on number nine, it does say on, but the previous stuff says prior to. So, we're being inconsistent.

Jason Fox: Well… I thought we discussed that earlier, and came to the conclusion that that's what the intent was, that it was effective that date. Why do they all say prior to, and then this one says on? I think they all should stay on either they should all say prior to or they all should say on. But we were told to evaluate it on.

Chairperson Howard: Right, and if we were to say prior to, that could be prior to and didn't backward into infinity.

Martin Gordon: And we threw out the notice of violation because it wasn't on that date. It was corrected on that date. So, we didn't consider it. It's on the date.

Elizabeth Caprini: But on that day, it would be…

Jonathan Heiderich: All I can say is I made all my decisions as I was reading it, word for word, on what was printed.

Jeff Graff: So, I think there was a change in the I don't know what because I had it on at one draft and changed it to prior to on a little bit later draft, so I don't know which draft you were given.

Diane Graham: The last one.

Chairperson Howard: The last one prior to.

Jonathan Heiderich: But if we change that one word, it doesn't change my position.

Chairperson Howard. Correct.

Martin Gordon: It's fine. I'm not asking for a change of opinion. I just want to state what we did.

Jonathan Heiderich: If we change all those that say prior to on my motion would be amended to say I make a motion to approve the resolution as amended to where all words of prior to are changed to on.

Jeff Graff: Okay.

Jonathan Heiderich: Otherwise, as read.

Jeff Graff: Okay, so that we can wrap things up here tonight.

Chairperson Howard: Are you putting in, are you amending your motion?

Jonathan Heiderich: I amended the rest, just did.

Diane Graham: So, you made a motion?

Jonathan Heiderich: I made a motion to approve the resolution as read with the one amendment of changing where it says prior to to being on.

Jason Fox: I second.

Chairperson Howard: All in favor?

Board members: Aye.

Chairperson Howard: Anyone opposed?

Martin Gordon: What are we voting on right now?

Jonathan Heiderich: Approving the resolution as was read.

Martin Gordon: Oh, okay. I see. Aye. We're just voting on the amendment right now.

Jonathan Heiderich: No, we're voting. The motion was to approve the resolution as read with the amendment of changing the word prior to on.

Elizabeth Caprini: All the way down through.?

Jonathan Heiderich: All the way through.

Elizabeth Caprini: Partly affirms it with modifications

Martin Gordon: So, it's to approve the resolution?

Jonathan Heiderich: Yes, that would be my motion.

Martin Gordon: Nay.

Chairperson Howard: She's got to do a roll call.

Jonathan Heiderich: So, it's four to one, unless you want to do a roll call and get it.

Chairperson Howard: I think we have to get in the books as well.

Elizabeth Caprini: You're part of that is partially affirms and modifies.

Jonathan Heiderich: Yes, that's what he said.

Elizabeth Caprini: He's saying aye or nay to.

Chairperson Howard: Okay, let's go back and make sure we're clear. John made a motion to accept the revolution. That's not the right word. Resolution.

Jonathan Heiderich: I made the motion to accept the resolution as read with the amendment of changing the words "prior to" to the word "on" as it was read by Mr. Graff. That was seconded by Jason, I believe.

Jason Fox: Correct.

Chairperson Howard: Okay. So, John made the motion. Jason seconded it. And the motion is?

Diane Graham: The changed wording.

Jonathan Heiderich: No. To approve the resolution with the change.

Diane Graham: Oh, got it. Now I'm getting it.

Chairperson Howard: With the amendment.

Jonathan Heiderich: Trying to make it as simple as possible.

Diane Graham: Yes. I'm so sorry.

Elizabeth Caprini: It was everything.

Diane Graham: It was very non-clear to me.

Jonathan Heiderich: Sorry, that was not my intent.

Dinae Graham: All right, so second, and now we're going to do roll call.

Barbara Howard. Aye.

Elizabeth Caprini. Aye

Jason Fox. Aye.

Martin Gordon. Nay.

Jonathan Heiderich. Aye.

Diane Graham: Four ayes, one nay. Motion carried.

Motion to Adjourn
Having no further business, Barbara Howard made a motion to adjourn the meeting. Jonathan Heiderich seconded the motion. The motion was unanimously adopted, and the meeting was adjourned at 10:21 pm.

Respectfully submitted,

Diane S. Graham

Diane Scholtz Graham
Board Assistant