

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD MAY 21, 2018

PRESENT were MARTIN STEINBACH, CHAIRMAN, ANN CLEMENTE, E. JOHN SCHMIDT, CANDACE SCLAFANI, and WILLIAM SHOVER.

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

The Zoning Board members reviewed the draft minutes of the April 16, 2018 meeting. Upon motion of Chairman Steinbach, seconded by Member Sclafani, the April 16, 2018 minutes were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by John and Theresa Kaschak for property located at 19 Brunswick Sportsman Road. The applicants were present, together with Brian Holbritter, LLS. Chairman Steinbach inquired whether there were any changes or additions to the application following the last meeting. Mr. Holbritter stated that there were no changes to the plan, and that the original application documents were correct. The Zoning Board then opened the public hearing on the application. The notice of public hearing was read into the record, with the notice having been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of properties within 300 feet of the project site. Chairman Steinbach opened the floor for receipt of public comment. No members of the public wished to provide any comment on this application. Member Shover then made a motion to close the public hearing on the Kaschak area variance application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public

hearing closed. Chairman Steinbach requested that Mr. Holbriiter review the proposal before the Board. Mr. Holbriiter stated that the Kaschak family has owned the property at 19 Brunswick Sportsman Road for a significant period of time, and had originally placed a mobile home on the property. The Kaschaks thereafter purchased additional acreage and combined the additional acreage with their original parcel. After the additional property acquisition, the Kaschaks built a new house on the same lot, having both the house and the mobile home on the same lot. For several years, the Kaschaks have rented the mobile home out to third parties, most recently to their daughter. Mr. Holbriiter explained that the Kaschaks now seek to sell the property, and would like to be able to divide off the mobile home onto its own parcel rather than have to sell the house and the mobile home together as one lot. Mr. Holbriiter explained that the mobile home had originally been placed on a lot that was approximately 25,000 square feet but, as stated previously, that lot had been combined with additional acreage. Mr. Holbriiter explained that the current proposal is to again place the mobile home on an approximate 25,000 square foot lot, but with a slightly different configuration than the original lot line. Mr. Holbriiter explained that there is adequate property to have created a 40,000 square foot lot for the mobile home which would be in compliance with the underlying zoning district minimum lot size, but that this would result in an irregular lot shape which would not benefit either resulting parcels. Mr. Holbriiter explained that the house and mobile home each has its own connection to public water, its own separate septic system, and its own access onto the public road. Chairman Steinbach wanted to confirm that all setbacks were met regarding the house and mobile home on the proposed lots. Mr. Holbriiter and Ms. Guastella confirmed that all other setbacks are met, and that the only area variance requested is the total square footage of the lot, as the proposed lot for the mobile home is 24,500 square feet where the Zoning Law requires 40,000 square feet. Mr. Holbriiter did state that in close proximity

to this property, the Brunswick Zoning Law includes an R-25 Zoning District with homes on similarly sized lots as that proposed for the mobile home, and that the size of the lot will not be out of character with that general location. The Zoning Board determined to proceed with deliberation on the application. Attorney Gilchrist stated that the Zoning Board must first review the Environmental Assessment Form and application documents, and make a determination of environmental significance under SEQRA. Upon review of these record documents, Member Clemente made a motion to adopt a negative declaration under SEQRA, stating that this action will not result in any significant adverse environmental impact. It is noted that no new structures are being proposed, and no grading or other construction activities will occur. Chairman Steinbach seconded the motion to adopt the SEQRA negative declaration. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members deliberated on the application for the proposed area variance for the substandard lot size. As to whether the area variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairman Steinbach noted that no new houses are being proposed, that the existing house and mobile home have been in their current location for several years, and that this proposal will not result in any change to the character of the area or create any detriment to nearby properties. Attorney Gilchrist noted for the record that the Brunswick Building Department has determined that the mobile home located on the proposed substandard lot is a nonconforming use, and will be allowed to continue to be used as a mobile home in the event the variance is granted and the Brunswick Planning Board subsequently grants subdivision approval. As to whether a feasible alternative to the variance is available to the applicant, the Zoning Board members found that while an alternative is available that would meet the minimum lot size for this zoning district, this would result in an irregular shaped lot that did

not benefit either of the resulting two lots; in particular, Member Clemente stated that she felt this was the most reasonable method of dividing the lot into two parcels, that the mobile home had originally been located on an approximate 25,000 square foot lot, that the proposed subdivision would maintain existing 911 addresses, and that both lots meet all other required setbacks and have their own independent water and septic facilities. As to whether the requested variance is substantial, the Zoning Board members found that the variance from a 40,000 square foot minimum lot size to 24,500 square foot lot size is substantial, but Member Schmidt noted that there were several lots in close proximity to this property located in the R-25 Zoning District, and that the proposed lot on which the mobile home would sit is consistent with nearby residential properties; Chairman Steinbach found that while the variance can be deemed substantial, the proposed lot size for the mobile home does make sense in this case; and the Zoning Board members noted that while this factor is found to be a substantial variance, the particular facts and circumstances of this application are unique, with particular regard to the original lot size on which the mobile home had been placed, a subsequent property acquisition and merger into the same lot, and now the proposal is to divide the mobile home lot from the larger parcel in a manner substantially similar to the original lot on which the mobile home was placed, and the unique property location of these proposed lots at the intersection of NYS Route 2 and Brunswick Sportsman Road. As to whether this proposed variance would result in any physical or environmental detriment, Member Sclafani stated that this proposal does not have that result as no new building construction is being proposed, and that the existing house and mobile home have been in their current location for several years; all members concurred in this finding. As to whether the need for the area variance is self-created, Chairman Steinbach stated that this application and need for an area variance can be deemed to be self-created, but in this case it is not

a determinative factor, noting for the record the particular circumstance of this matter where the mobile home had originally been placed on an approximate 25,000 square foot lot, and that the current proposal is to divide the mobile home from the merged larger lot and have it placed on an approximate 25,000 square foot lot, and that these factors are significant. The Zoning Board members concurred in that finding. The Zoning Board stated it was prepared to act on this application. Member Clemente then made a motion to approve the area variance, stating that based on the factors reviewed and considered by the Zoning Board, and in balancing the benefit to the applicant as opposed to any detriment to the neighborhood in particular and the Town of Brunswick in general, the area variance should be granted in this matter. Chairman Steinbach seconded the motion. The motion was unanimously approved, and the area variance granted with respect to minimum lot size. The applicants were directed to proceed to the Brunswick Planning Board to address the proposed subdivision. It is noted for the record that a recommendation had been received from the Rensselaer County Department of Economic Development and Planning on this application, noting that the action did not conflict with County plans, and that local consideration shall prevail.

The next item of business on the agenda was the sign variance application submitted by AJ Signs/ValuSpace for the ValuSpace self-storage facility located at 850 Hoosick Road. The application seeks variances including total number of signs for the facility, cumulative square footage of all proposed wall signage, and square footage for a proposed free-standing, monument-type sign. Chairman Steinbach noted that the Zoning Board held its public hearing on this application at the April 16 meeting, and that the public hearing had been closed at that meeting. The Zoning Board is continuing its deliberation on this application at this meeting. Chairman

Steinbach noted that based on the discussion at the April meeting, the applicant has proposed revisions to the signage at this facility as follows:

1. Regarding the total square footage of wall signage at this facility, the Brunswick Sign Law allows a total of 300 square feet, and the applicant originally proposed a total of 543 square feet of wall signage; the applicant has reduced the size of the wall signage to 446.33 square feet, thereby reducing the variance request from 243 square feet down to 146.33 square feet. The specific reductions include reducing the ValuSpace logo sign from 390 square feet to 256 square feet; the “self-storage” letters from 52 square feet to 45.25 square feet; and the “temperature controlled” letters from 101 square feet to 87.25 square feet.
2. The proposed free-standing, monument-type sign is not changed, as the Zoning Board did not raise any significant issue regarding that sign at the April meeting.
3. The total number of signs for this facility are also unchanged, and the applicant is seeking a total of four signs whereas only two signs are permitted under the Brunswick Zoning Law.

The Zoning Board members all confirmed that they have been in receipt of the updated information. Chairman Steinbach stated that he appreciated the reduction in the total signage for this facility, and most particularly on the logo sign, as discussed at the April meeting. Representatives of ValuSpace were present at the meeting, including Michael Choppa and Robert Gorman, ValuSpace employees. The Zoning Board members confirmed that the only change to the application was the size of the wall signage, but that the proposed locations of all the signs are unchanged. The applicant stated that all the locations remain the same, and the only change has been reducing the total size of the signs. Chairman Steinbach asked whether the applicant is still

requesting to have the signs illuminated. The applicant stated that the signs are proposed to be illuminated, with LED back lighting. The Zoning Board members then reviewed the details of the reduction in the square footage size of the wall signs. Member Clemente raised an issue concerning the limit in the Brunswick Zoning law regarding illumination of commercial signs near residential areas. The applicant stated that the illuminated signage proposed for this facility faces the Hoosick Road corridor, and that there will be no impact in terms of signage lighting to any homes located on McChesney Avenue to the rear, and that there is only one residential home located on the opposite side of Hoosick Road on Betts Road, but there is no line of sight between these proposed illuminated signs and that residence. Member Clemente discussed this issue with Ms. Guastella, and Ms. Guastella stated that she will confirm the distances to any nearby residences upon review of the sign application. The Zoning Board members asked the hours when the signs would be illuminated. The applicant stated that their general practice is to have the signs illuminated from dusk to dawn. It was confirmed on the record that while customers with written agreements to store at this facility have 24/7 access to the facility, these customers need to have prior approval of facility management to access the facility outside of the normal operating hours, and that access outside of the normal operating hours is rare. Chairman Steinbach did have a question about lighting to the rear of the facility in the area of access to storage units. The applicant stated that there are no pole lights in that area, and that the lighting is limited to wall lighting which is all down lighting. The applicant also stated that there is a significant hill to rear of this facility and that any homes on McChesney Avenue are on the opposite side of that hill. The Zoning Board members determined that they were prepared to proceed with deliberation and action on this application. The Zoning Board stated that it would consider all three of the requested sign variances together when reviewing the variance standards. It is noted for the record that the

recommendation of the Rensselaer County Planning Department has been received, dated March 27, 2018, in which the only comment provided was the wall-mounted signs could be made slightly smaller to reduce the area coverage. It is noted that the applicant did comply with that comment, and the total area of the wall signage has been reduced. The Zoning Board proceeded to review the Environmental Assessment Form and application documents in order to make a determination under SEQRA. Chairman Steinbach stated that in his opinion, the signage is consistent with signs located along the Hoosick Road corridor, and proceeded to make a motion to adopt a negative declaration under SEQRA. The motion was seconded by Member Clemente. The motion was unanimously approved, and a SEQRA negative declaration adopted. The Zoning Board proceeded to deliberate on the sign variance standards. As to whether the signage would result in an undesirable change in the character of the area or create a detriment to nearby properties, Member Schmidt stated that in his opinion, this signage was consistent and did fit into the character of the Hoosick Road commercial corridor; Member Shover noted that this was adjacent to the existing Tractor Supply Store with its signage, and felt that this facility would be consistent; and Member Sclafani concurred that she felt the signage was consistent with the Hoosick Road corridor. As to whether a feasible alternative existed, the Zoning Board members confirmed that the applicant has already provided an alternative by reducing the square footage of the wall signage, and all members of the Zoning Board concurred that the reduction in square footage of wall signage addressed their comments at the April meeting. As to whether the requested sign variances are substantial, Chairman Steinbach stated that while increasing the total number of signs from two to four could be deemed substantial, in this case he did not feel they were substantial given the size and location of the structure; further, Chairman Steinbach felt that the alternative proposed at this meeting is an improvement over the original plan, that the wall signage is not substantial when considering this

specific location and building size, and that the free-standing monument-type sign is appropriate for this location. Member Sclafani agreed, stating that the first proposal for the sign variance was substantial, as noted at the April meeting, but that the applicant has addressed those comments by reducing the total size of the wall signage and coming up with a much better plan. As to whether the requested sign variance would result in an adverse physical or environmental impact, the Zoning Board members noted that a SEQRA negative declaration has been adopted, and that the proposed signs will not result in any visual impact as they are consistent with other buildings and signs located on the Hoosick Road corridor. As to whether the need for the variance is self-created, Chairman Steinbach noted that the request for the variance is self-created, but not determinative in this case; Chairman Steinbach noted that the proposed sign variances will result in signage proportionate to the size of this building, and that signage of this type along the Hoosick Road corridor is not out of character. The Zoning Board members then proceeded to act on the application. In consideration of the information contained in the application documents and Environmental Assessment Form, and based on a review of the factors with respect to the requested sign variances, and in light of the reduction in total wall signage square footage presented by the applicant at this meeting, Chairman Steinbach made a motion to grant the sign variance requests consistent with the reduced plan presented at the May meeting, which motion was seconded by Member Shover. The motion was unanimously approved, and the sign variances granted. The applicant was directed to the Brunswick Building Department for the appropriate sign permits.

One item of new business was discussed. Donald Gregware of DMG Contracting Inc. was present on behalf of Martin Dunbar for property located at 34 Stone Arabia Drive. The applicant is seeking a rear yard setback variance in connection with the construction of a single story addition to the existing residence located at 34 Stone Arabia Drive. The Brunswick Zoning Law requires

a 35-foot setback at this location, and a setback of 20.66 feet is proposed, with the applicant seeking a 14.33-foot variance. Both Mr. Gregware and Mr. Dunbar were present. Chairman Steinbach requested Mr. Gregware to review the proposal. Mr. Gregware did review the proposal, including the site survey and proposed layout of the addition to the home. The Zoning Board members reviewed the application documents and, following discussion, determined the application documents to be complete, and scheduled this matter for public hearing at the June meeting to commence at 6:00pm. It was confirmed that the property owner consented to the Zoning Board members going onto the property prior to the June meeting. This matter is scheduled for public hearing for the June 18, 2018 meeting to commence at 6:00pm.

The index for the May 21, 2018 meeting is as follows:

1. Kaschak - Area variance - Granted;
2. AJ Signs/ValuSpace - Sign variances - Granted;
3. Gregware/Dunbar - Area variance - June 18, 2018 (public hearing to commence at 6:00pm).

The proposed agenda for the June 18, 2018 meeting of the Zoning Board of Appeals currently is as follows:

1. Gregware/Dunbar - Area variance (Public hearing to commence at 6:00pm).