

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 JANUARY 25, 2016

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

ABSENT was CHAIRMAN MARTIN STEINBACH.

ALSO PRESENT was MICHAEL CZORNYJ, Brunswick Building Department.

Member Clemente served as acting chair for the meeting.

The members of the Zoning Board of Appeals acknowledged for the record the public service and contributions to the Brunswick community made by Caroline Trczinski as a member of the Brunswick Zoning Board of Appeals for many years, and thanked her for her service on the Board.

The Zoning Board members welcomed Candace Sclafani as a new member of the Brunswick Zoning Board of Appeals.

The Zoning Board members reviewed the draft minutes of the December 21, 2015 meeting. Upon motion of Member Shover, seconded by Member Schmidt, the minutes of the December 21, 2015 meeting were unanimously approved without amendment (Member Sclafani abstaining, as not present at the December 21 meeting).

The first item of business on the agenda was the area variance application submitted by William Barber for property located at 121 Brunswick Road and Oxford Circle. The applicant seeks a side yard setback variance for the construction of a garage at this location. Attorney

Gilchrist stated that he has researched this application and reviewed the matter with the Building Department. This parcel located at 121 Brunswick Road and Oxford Circle is situated at the intersection of Brunswick Road and Oxford Circle, and constitutes a corner lot. The applicant has informed the Brunswick Building Department that he has acquired an additional lot located to the rear of this parcel, in the northerly direction. There remains only one additional parcel located to the north before intersecting the Oxford Circle cross-street. The applicant has informed the Brunswick Building Department that it is his intent, if it has not been completed already, to legally merge the additional parcel he acquired immediately to the north of 121 Brunswick Road into his original parcel, maintaining one tax parcel but larger in size. This would result in only two lots existing along the intersections of Brunswick Road and Oxford Circle, and create a situation where back-to-back corner lots are created. Pursuant to the area and bulk table of the Brunswick Zoning Ordinance, in a situation where back-to-back corner lots exist, the side yard setback for accessory garages is reduced to 10 feet from the side yard lot line adjacent to the public road. In this case, this would result in back-to-back corner lots with an accessory garage located approximately 11 feet from the side yard lot line adjacent to Oxford Circle, negating the need for a side yard setback variance. Based on this research and review, the Brunswick Zoning Board of Appeals determined to adjourn this matter, subject to proof being submitted by the applicant that the legal merger of parcels has been completed so as to create legal back-to-back corner lots at this location. This matter has been adjourned without date, pending submission of proof of legal merger of the subject parcels by the applicant to the Brunswick Building Department. Douglas Hoag, 28 Oxford Circle and owner of the remaining back-to-back corner lot in this situation, requested a further explanation on this matter from the Zoning Board of Appeals, which was provided. This matter is adjourned without date.

The next item of business on the agenda was the continuation of a public hearing on the area variance application submitted by Daniel Smith for property located at 899 Hoosick Road. The applicant seeks an area variance with respect to the height of a garage constructed at this location, and also a side yard setback variance with respect to the garage structure. The applicant, Daniel Smith, failed to appear. Attorney Gilchrist stated that he had reviewed the comment letter submitted by the attorney for the adjacent property owners, Brazee, and determined that an additional variance is required in this matter. Specifically, after reviewing the matter with the Brunswick Building Department, it is determined that a variance for percentage of lot coverage for private garages in this Zoning District is required. The application will need to be amended, and the public hearing re-noticed to include the additional variance required in this matter. Member Clemente noted that the public hearing had been noticed to be continued this evening, and members of the public may be present who wish to provide additional comment at this time. Member Clemente opened the floor for receipt of any additional public comment at this time. Attorney Robert Panasci, representing the adjacent property owner, Brazee, submitted additional photographs for consideration by the Zoning Board in this matter, and stated that in light of the amendment to the application and continuation of the public hearing at the next Zoning Board meeting, he will allow the Zoning Board members time to review the additional photographs and be present at the next Zoning Board meeting. The Zoning Board members determined that the February meeting will be held on February 22, rather than February 15, which is President's Day. This matter will be re-noticed for public hearing to be scheduled for the February 22, 2016 meeting commencing at 6:00 p.m.

The next item of business on the agenda was an area variance application submitted by Voland Organization, LLC for property located at 830 Hoosick Road. The applicant seeks an area

variance with respect to the height of an ornamental gable-type addition to the flat roof of the existing building at this location. Ken Voland of Voland Organization, LLC was present. Member Clemente inquired whether there were any changes to the application since the December meeting. Mr. Voland stated there were no changes to the application. The Zoning Board then opened a public hearing on this application. The notice of public hearing was read into the record, noting that such notice had been published in the Troy Record, placed on the Town Signboard, posted on the Town Website, and mailed to owners of adjacent properties. Mr. Voland presented an overview of the proposed action, where he seeks to add an ornamental gable-type addition to the flat roof of the existing building to dress up the property and make it more aesthetically pleasing. Mr. Voland stated that he proposed to add three ornamental façades, and the two façades on each end of the building had already been completed as they are below 30 feet in height, but that he was looking to make the building distinct and have the center façade be a little higher, which resulted in a total façade height of 32 feet above grade, where a 30 foot height limit is set in the Brunswick Zoning Code for this Zoning District. Mr. Voland stated that he was looking for the height variance to allow the completion of the construction of the façade. Member Clemente opened the floor for the receipt of public comment. No members of the public wished to provide comment. Member Clemente asked Mr. Czornyj whether any written comments had been received. Mr. Czornyj noted that an email with comments on the proposal had been received from the Brunswick #1 Fire Department, and distributed a copy of those comments to the Zoning Board members for review. Mr. Czornyj also noted that the Brunswick #1 Fire Department Chief, Gus Scifo, was present at the meeting. Attorney Gilchrist generally reviewed the comments of the Fire Department, which identified the State Fire Code provisions pertaining to aerial fire apparatus access roads. The Fire Code states that for buildings or portions of buildings or facilities exceeding

30 feet in height must include an adequate fire apparatus access road, which the Fire Code states must have a minimum width of 26 feet. Mr. Scifo had measured the access driveway both in front of this commercial building, as well as completely around the back of the building, and noted that the width of the road is only 23 feet wide at its maximum. The Brunswick #1 Fire Department states that it will not bring emergency response vehicles onto the front access road to this building, due to this Fire Code requirement, and would therefore need to fight any fire at this location from Hoosick Road. Mr. Scifo was present, and confirmed the Brunswick #1 Fire Department comments, but stated for the record that the Brunswick #1 Fire Department was neither for nor against this application, but was simply providing information to the Zoning Board members to take into account during their deliberations. Mr. Voland stated that this building was built into the hill, and that the front of the building was two floors, but with the topographic grade, the back of the building had only one floor of access. Mr. Scifo stated that this does not change the Fire Code requirements, and that any fire at this structure would need to be fought from Hoosick Road. Member Shover confirmed that the extent that the variance was two feet over the 30 foot height limit. Member Czornyj confirmed the height measurements. Member Schmidt asked Mr. Scifo whether the Brunswick #1 Fire Department would fight a fire at this location from Hoosick Road if the center gable was measured to 30 feet only, instead of 32 feet. Mr. Scifo stated that the Brunswick #1 Fire Department would fight the fire from Hoosick Road even if the center gable was limited to 30 feet, and that the additional two feet would not affect how the fire needed to be fought at this location. Mr. Scifo stated that the building is simply too close to the front curb along Hoosick Road to allow safe access for fire apparatus. The Zoning Board members concluded that the area variance would therefore have no impact on firefighting response at this location. Member Clemente inquired whether there were any further public comments on this application. Hearing

none, Member Shover made a motion to close the public hearing on the Voland Organization area variance application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing closed. Member Clemente then inquired whether the Zoning Board was prepared to proceed with deliberations on this application. The Zoning Board members concurred that deliberations at this time should proceed. Attorney Gilchrist stated that the Zoning Board must first make a determination of environmental significance under the State Environmental Quality Review Act, as this application seeks an area variance in connection with a commercial facility. Attorney Gilchrist reviewed the standards for adoption of a positive declaration and a negative declaration under SEQRA. Member Clemente stated that in her opinion, the applicant seeks to improve the aesthetic nature of the existing building, and no other changes are proposed for the facility. Member Clemente also stated that the type of ornamental façade being proposed was consistent with other commercial establishments at this location, including the Ace Hardware Store and Tractor Supply. The remaining Zoning Board members concurred that no potential significant adverse environmental impact is anticipated. Member Schmidt then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Shover. The motion was unanimously approved, and a SEQRA negative declaration adopted. The Zoning Board then deliberated on the elements to be considered in connection with an area variance, and determined that this variance would not produce an undesirable change in the character of the neighborhood nor create a detriment to nearby properties; that the requested variance was not substantial; that the variance would not have an adverse effect on the physical or environmental conditions in the neighborhood or district; and while the requested variance is self-created, that factor is relevant but not determinative. The Zoning Board also determined that there was an alternative, which was to limit the center façade

to a total of 30 feet in height, but that defeats the purpose of the applicant in terms of creating a differential façade on the building. Also, the Zoning Board members acknowledged the comments of the Brunswick #1 Fire Department, but noted that firefighting response would not be affected by requiring the center façade to remain at 30 feet or allowing the façade to be built to 32 feet in height. Based on these deliberations on the elements for the area variance, and in balancing the benefit to the applicant as weighed against any detriment to the community at large and neighborhood in particular, the Zoning Board members determined to grant the requested area variance. Member Shover made a motion to approve the variance, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the requested area variance allowing a 32 foot high gable-type façade to the existing commercial building located at 830 Hoosick Road was granted.

The next item of business on the agenda was the special use permit application submitted by Kevin Hayes for property located at 10 Victoria Avenue. The applicant seeks a special use permit for a multi-family use at this location. Kevin Hayes was present. Member Clemente asked whether there were any changes to the application since the December meeting. Mr. Hayes stated there were no changes to the application. The Zoning Board then opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the notice had been published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of adjacent properties. Mr. Hayes presented an overview of the special use permit request, stating that his parents had purchased the house in 1956, and at that time it was used as a two-family house. Since the time his parents purchased the house in 1956, this location had always been occupied and used as a two-family house. Mr. Hayes stated that his parents are deceased, that he inherited this location, and that he was looking to sell the property. Upon

preparation for sale, it was discovered that the Town of Brunswick records identify this property as a one-family location, and that he wants to correct the record on this and make the Town records consistent with the use of this location as a two-family residence as it has been for the past 60 years. The Zoning Board then opened the floor for receipt of public comment. Charles Golden, 318 Pinewoods Avenue, stated that his son is the owner of property located at 12 Victoria Avenue, that this location has always been used as a two-family home, that there is ample parking provided for the two-family home, that parking has never been an issue to his knowledge, and that he supports the issuance of the special use permit in this matter. Sherry Calautti, 5 Victoria Avenue, questioned Mr. Hayes as to whether the lot located to the rear of the house would be sold with the property. Mr. Hayes stated that the lot would be sold with the property. Member Clemente asked whether there were any written comments received by the Building Department. Mr. Czornyj stated no written comments had been received. Member Clemente asked whether there were any further questions or comments by the Zoning Board members. There were no additional questions or comments from the Zoning Board members. Thereupon, Member Schmidt made a motion to close the public hearing on the Hayes special use permit application, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the public hearing closed. Member Clemente asked whether the Zoning Board members were prepared to proceed with deliberations. The Zoning Board members proceeded to deliberate on this application. Attorney Gilchrist stated that the first determination for the Zoning Board members was to make a determination of environmental significance under SEQRA, and reviewed the standards for adoption of a negative declaration and positive declaration under SEQRA. The Zoning Board members generally concurred that the applicant is not seeking any new use or additional construction activities at this location, but merely seeks a special use permit to confirm the use of

the property as it has been used for the past 60 years. Based upon no changes to the property, Member Schmidt made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Shover. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members reviewed the special use permit application and standards, determining that the special use permit would not result in any negative impact to the public health, safety, or general welfare; that the two-family unit was located so that it had adequate transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; the Zoning Board also found that there was adequate parking spaces available for use of the facility as a two-unit building; that the use of the structure as a two-unit facility would not negatively impact neighborhood character, as the property had been used as a two-unit facility for the past 60 years; and that the special use permit to allow the continued use of the building as a two-unit facility would not cause undue traffic congestion or create traffic hazards. Member Clemente confirmed that each of the units has two bedrooms, and Mr. Hayes stated that each unit has two bedrooms and that adequate parking exists for these units. Member Clemente confirmed with the applicant the parking area layout at this location, and the Zoning Board found that adequate parking is available for use of the property as a two-unit facility. Based on these deliberations and findings, Member Sclafani made a motion to approve the special use permit for use of 10 Victoria Avenue as a two-unit residential facility, which motion was seconded by Member Schmidt. The motion was unanimously approved, and a special use permit issued for use of 10 Victoria Avenue as a two-unit residential facility.

The next item of business on the agenda was the special use permit application submitted by MHH Enterprises, LLC for property located at 1 Cortland Street. The applicant seeks a special use permit for a multi-family use at this location. Thomas Chenaille was present for the applicant,

stating that the principal of MHH Enterprises, LLC unfortunately had health issues, but had notified the Brunswick Building Department of his inability to attend the meeting and authorized Mr. Chenaille to represent the applicant. Mr. Chenaille stated that he was a previous owner of the property with the principal of MHH Enterprises, and was familiar with the property. Member Clemente asked Mr. Chenaille to present a brief overview. Mr. Chenaille stated that the property located at 1 Cortland Street had been used as a 6-unit facility for residential purposes for several years, and that each of the units had separate gas meters and electric service. Mr. Chenaille stated that when the current owner sought to refinance the property, a review of the Town records showed that while the facility is identified as multi-family use, there were records in the Brunswick Building Department indicating that the facility was used as a 4-unit facility rather than as a 6-unit facility. The applicant is seeking to update and correct the Town records on this point. The Zoning Board then opened the public hearing on the application. The Notice of Public Hearing was read into the record, noting that the public hearing notice had been published in the Troy Record, placed on the Town Signboard, posted on the Town Website, and mailed to owners of adjacent properties. The Zoning Board opened the floor for receipt of public comment. John Mainello, 4 Joseph Street, stated that he was the owner of property adjacent to 1 Cortland Street, that to his knowledge this location had always been used as a 6-unit multi-family facility, that the current owners were very good landlords and property maintenance had been much better than in the past. Member Shover asked whether the property was currently being used as a 6-unit facility. Mr. Chenaille stated that the current use is 6 units. Member Shover asked whether there was adequate parking for 6 units. Mr. Chenaille stated that there were 6 off-street parking spaces, and that there had been no issues regarding parking availability in the past. Mr. Mainello concurred in that statement. Member Clemente asked about the total number of bedrooms in each unit. Mr. Chenaille stated that there

were three 1-bedroom units, two 2-bedroom units, and one 3-bedroom unit. Member Clemente requested any additional public comment on the application. Hearing none, Member Sclafani made a motion to close the public hearing, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. Member Clemente asked whether the Zoning Board was prepared to proceed with deliberations on the application. The Zoning Board proceeded to deliberate on the application. Attorney Gilchrist stated that the Zoning Board must first make a determination of environmental significance under SEQRA, and reviewed the standards for adoption of a positive declaration and negative declaration under SEQRA. The Zoning Board members generally concurred that there were no proposed changes in use on the property, nor any additional construction or alteration of the property, and concluded that there were no potential significant adverse environmental impacts from this application. Member Schmidt then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Shover. The motion was unanimously approved, and a SEQRA negative declaration adopted. The Zoning Board then proceeded to deliberate on the application. The Zoning Board members discussed the parking for this facility. The information on the application as well as from public comment showed that there had not been any issues concerning availability of parking or traffic congestion from past use of this location as a 6-unit facility. Member Schmidt commented that the availability of additional off-street parking may be more significant for proposed new construction, but that the record in this case showed the facility has been used for 6 units over a period of years without any issue concerning availability of parking or traffic congestion. Member Sclafani noted that if parking or traffic congestion had been a problem in the past, she would anticipate public comment to that effect during the public hearing. It was also noted that the Town records indicated multi-family use for this location, but information in the

Building Department identified the use as 4 units as opposed to 6 units, and that the application merely sought to address Building Department records without any changes proposed for the facility. The Zoning Board proceeded to determine that the continued use of property located at 1 Cortland Street as a 6-unit multi-family facility would not negatively impact public health, safety or general welfare; that past use of the facility showed that there were no issues concerning availability of transportation facilities, water supply, fire and police protection, waste disposal or similar facilities; that the record disclosed adequate parking for use of this property as a 6-unit residential facility; that the continued use of this location as a 6-unit residential facility would not negatively impair neighborhood character or surrounding properties; and that the special use permit would not cause undue traffic congestion or create any traffic hazard. Based on these deliberations and findings, Member Sclafani made a motion to approve this special use permit for 1 Cortland Street to be used as a 6-unit multi-family residential facility, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the special use permit issued for 1 Cortland Street for use of that location as a 6-unit multi-family residential facility.

One item of new business was discussed.

An area variance application has been submitted by Reiser Builders, Inc. for property located at 3 Brook Hill Road. Henry Reiser of Reiser Builders, Inc. was present, and explained that in connection with construction of a new home at 3 Brook Hill Road, and based upon a final survey prepared after the home had been constructed, it was determined that the house was placed a distance of 21 feet 6 inches from the right side line, as opposed to the required 25 foot setback for the right side property line. Mr. Reiser explained that the site had been surveyed prior to construction, including a location for the National Grid power installation, and that it appeared that in connection with the installation of the power at this location, certain survey stakes had been

relocated in the field, resulting in the final house placement being 21 feet 6 inches from the right side property line as opposed to 25 feet. Mr. Reiser stated that this does not impact the appearance of the Brook Hill subdivision, and that the lot immediately adjacent to 3 Brook Hill Road has the house location approximately 70 to 80 feet off the property line, and did not anticipate any objection from the owner of this parcel. The Zoning Board members reviewed the application materials, and found them to be complete for purposes of moving this matter to public hearing. The public hearing on this application is scheduled for the February 22, 2016 meeting, to commence at 6:15 p.m.

The index for the January 25, 2016 meeting is as follows:

1. William Barber - Area variance - adjourned without date;
2. Daniel Smith - Area variance - 2/22/2016 (public hearing to continue at 6:00 p.m.);
3. Voland Organization, LLC - Area variance - Granted;
4. Kevin Hayes - Special use permit - Granted;
5. MHH Enterprises, LLC - Special use permit - Granted;
6. Reiser Builders, Inc. - Area variance - 2/22/2016 (public hearing to commence at 6:15 p.m.).

The proposed agenda for the February 22, 2016 meeting currently is as follows:

1. Smith – Area variance (public hearing to continue at 6:00 p.m.);
3. Reiser Builders, Inc. - Area variance (public hearing to commence at 6:15 p.m.).