

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 JULY 18, 2016

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

ABSENT were CHAIRMAN MARTIN STEINBACH, and ANN CLEMENTE

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

Member Shover was identified as acting chair for the meeting.

The draft minutes of the June 20, 2016 meeting were reviewed. Upon motion of Member Sclafani, seconded by Member Schmidt, the draft minutes of the June 20, 2016 meeting were unanimously approved. The draft minutes of the special meeting held June 27, 2016 were reviewed. Upon motion of Member Sclafani, seconded by Member Schmidt, the draft minutes of the special meeting held June 27, 2016 were unanimously approved.

The first item of business on the agenda was an area variance application submitted by Todd Skiba for property located at 11 Walter Road. The applicant is seeking a side yard setback variance with respect to the installation of a 24-foot above ground pool. The applicant was present. Member Shover inquired whether there were any changes or additions to the application. The applicant indicated that there were no changes or additions to the application. Thereupon, the Zoning Board opened a public hearing on the 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. Member

Shover opened the floor for receipt of public comment. No members of the public wished to provide any comment on the application. Thereupon, a motion was made by Member Schmidt to close the public hearing, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the public hearing closed on the Skiba area variance application. Member Sclafani noted for the record that a letter had been received by the Zoning Board dated June 20, 2016 from Andrew Pludrzynski, 13 Walter Road, stating that he had no objection and was in favor of granting the area variance. Member Shover indicated that the Board was prepared to move forward with deliberations on the application. Attorney Gilchrist stated that the application seeks an individual lot line variance and area variance for a single-family residence, and constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board members then proceeded to deliberate on the elements for consideration in connection with the area variance request. As to whether the proposed variance would create an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Sclafani stated that in her opinion, the area variance would not produce any change in the character of the neighborhood, that there are other pools in the neighborhood and that this variance would be consistent with the character of the surrounding properties, and noted that the nearby property owner at 13 Walter Road wrote a letter in favor of granting the area variance. Members Schmidt and Shover concurred in those opinions. As to whether the benefit sought by the applicant can be achieved by some other feasible method, the Zoning Board members observed that the proposed pool location avoids the location of a septic system and leach field and also an existing shed on the property. Member Sclafani observed that moving the pool to another location on the lot, in an area that would avoid the existing septic system and leach field, would likewise require some type of variance given the size of the lot. The Zoning Board members generally concurred

that any other feasible location would require a variance, and so consideration of the current variance request presented a situation where there was no other feasible alternative to obviate the need for a variance. Member Shover did inquire whether a deck was proposed for the above ground pool. The applicant stated that a deck was not proposed at this time. The Zoning Board members confirmed on the record that if a deck is sought to be constructed in the future, it may likewise require an area variance, which would require the applicant to return to the Zoning Board for further variance proceedings. As to whether the requested area variance is substantial, the Zoning Board members identified that a 15 foot setback is required, and a 7 foot setback is requested, for a variance of 8 feet from the 15 foot requirement. The general consensus was that the variance request was substantial, but that a reasonable alternative location was not available and it should not preclude considering granting the requested variance. As to whether the requested variance will produce an adverse effect on the physical or environmental conditions in the neighborhood, all members concurred that no physical or environmental impacts are anticipated. As to whether the difficulty is self-created giving rise to the need for the area variance, Member Sclafani observed that the need for the variance is self-created, but that the lot does have limitations due to the location of the house, septic system and leach field, and that while the requirement is self-created it should not preclude considering the granting of a variance in this case. The remaining Zoning Board members concurred in that opinion. Member Shover asked whether there any further comments. Hearing none, and based on the deliberation and weighing the benefit to the applicant as opposed to any detriment to the neighborhood in particular or Town in general, Member Sclafani made a motion to grant the area variance, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the requested area variance

granted to Skiba for 11 Walter Road. The applicant was directed to coordinate with the Town Building Department with respect to installation of the pool.

The next item of business on the agenda was an area variance request submitted by Eric Fuller for property located at 11 Brunswick Park Drive. The Zoning Board noted that an error had been made in the publication of the notice of public hearing for the Fuller area variance application, and that the Building Department had discussed the error with the applicant. The applicant was not in attendance. The Zoning Board members concurred that the public hearing should be rescheduled for the August 15 meeting to commence at 6:00pm.

Three items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Richard Wiley for property located at 4156 NY Route 2. The applicant was in attendance. The applicant is proposing to install a 40 foot by 40 foot steel structure for the storage of heavy equipment at 4156 NY Route 2. The property is located in the A-40 Zoning District, which allows for a total lot coverage for private garages at 3% of the total lot size. In this case, there is an existing garage on the property totaling 508 square feet, and the applicant is proposing to add a 1,600 square foot steel garage. The resulting total square footage for the private garages on the lot exceeds the 3% maximum lot coverage allowed under the Brunswick Zoning Ordinance, and an area variance is requested. The applicant indicated that he intended to use the new steel building to house a dump truck and backhoe that he now stores outside on his property. The Zoning Board reviewed the application materials, which include the application form, photographs, a plot plan/survey, and environmental assessment form. The Zoning Board members deemed the application materials to be complete, and scheduled a public hearing for this matter for the August 15, 2016 meeting to commence at 6:15pm.

The second item of new business discussed was an area variance application submitted by Michael Vickers for property located off of Krieger Lane. Attorney Gilchrist explained that the applicant is currently before the Town of Brunswick Planning Board, seeking a waiver of subdivision for an existing 5.5 acre lot which is accessed by a deeded easement off of Krieger Lane. The existing lot is identified for use as a single-family residence, but a residence has not been constructed on the lot. The applicant wishes to divide the lot into two lots, thereby creating a new building lot. Attorney Gilchrist explained that the New York Town Law requires a building lot to have a minimum of 15 feet of frontage on a public highway, and if the building lot does not have the required frontage, an application for an area variance may be submitted for consideration. Here, attorney Gilchrist explained that the proposed building lot will not have frontage on a public highway, and access will be obtained only by the deeded easement. Accordingly, the applicant has submitted an area variance request for consideration by the Zoning Board. The applicant was not present, having advised the Town Building Department that he will be out of town for an extended period on business. However, the applicant has submitted written authorization for a representative to appear for him at the further Zoning Board proceedings on the area variance application. The Zoning Board members reviewed the application materials, which include the application form, a plot plan, copy of the relevant deed, and environmental assessment form, plus written authorizations to allow a representative to represent Vickers in further Zoning Board proceedings. The Zoning Board members determined the application materials to be complete, and scheduled a public hearing for this application to be held at the August 15, 2016 meeting to commence at 6:30pm.

The third item of new business discussed was a special use permit application submitted by Daniel Czernecki for property located at 96 North Lake Avenue. Mr. Czernecki was present.

Mr. Czernecki explained that he had constructed an addition to the house located at 96 North Lake Avenue, which was primarily intended to be used as a multi-use open room in connection with the existing home, but that upon the Town Building Department inspection for the certificate of occupancy upon completion of construction, it was determined that a bathroom and efficiency-type kitchen, including a sink and small refrigerator, had been included, and determined that with the existence of a bathroom and efficiency-type kitchen, the area does require a special use permit as an apartment. Mr. Czernecki did confirm that the space would be used as an in-law apartment, and the special use permit application has been submitted for consideration. The Zoning Board members reviewed the application materials, which include the application form, survey plan showing the layout of the structures on the lot as well as layout of the addition to the home, and environmental assessment form. The Zoning Board members determined the application materials to be complete, and scheduled a public hearing for the August 15, 2016 meeting to commence at 6:45pm.

The index for the July 18, 2016 meeting is as follows:

1. Skiba - Area variance - Granted;
2. Fuller - Area variance - August 15, 2016 (public hearing renoticed to commence at 6:00pm);
3. Wiley - Area variance - August 15, 2016 (public hearing to commence at 6:15pm)
4. Vickers - Area variance - August 15, 2016 (public hearing to commence at 6:30pm)
5. Czernecki - Special use permit - August 15, 2016 (public hearing to commence at 6:45pm).

The proposed agenda for the August 15, 2016 meeting currently is as follows:

1. Fuller - Area variance (public hearing to commence at 6:00pm);
2. Wiley - Area variance (public hearing to commence at 6:15pm);

3. Vickers - Area variance (public hearing to commence at 6:30pm);
4. Czernecki - Special use permit (public hearing to commence at 6:45pm).