

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 OCTOBER 17, 2016

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

ABSENT was CHAIRMAN MARTIN STEINBACH.

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

Member Clemente was chosen as Acting Chairman for the meeting by consensus.

Member Clemente reviewed the agenda for the October 17 meeting as posted on the Town signboard and on the Town website.

The Zoning Board members entertained discussion with several Town residents concerning the agenda item on the special use permit application submitted by Cellco Partnership d/b/a Verizon Wireless for construction of a new major telecommunications facility. Procedure concerning the application was discussed, including the requirement for a public hearing on the application which will be scheduled for a future date.

The draft minutes of the September 19, 2016 meeting were reviewed. One correction was noted at page 1, correcting the fact that Member Shover was present and participated at the September 19 meeting. Subject to that correction, Member Sclafani made a motion to approve the draft minutes of the September 19 meeting, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the September 19, 2016 minutes approved as corrected.

The first item of business on the agenda was the sign variance application submitted by Sign Studio, Inc. on behalf of Rensselaer Honda for the Rensselaer Honda dealership located at 770 Hoosick Road. Sarah Manley of Sign Studio, Inc. was present on the application. The applicant is seeking a sign variance in connection with the renovation of the Rensselaer Honda facility to add five additional wall signs to the exterior of the Rensselaer Honda facility building. The Zoning Board 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 500 feet of the project site. Member Clemente opened the floor for receipt of public comment. No members of the public wished to comment on the application. The Zoning Board also noted that no letters had been received concerning the application. Member Shover asked whether the pylon sign was going to be the same size and location as the previous sign at the Rensselaer Honda dealership. Ms. Manley stated that the new sign would be a replacement in kind. Member Clemente asked about the directional signs, and inquired whether they could be turned off during non-business hours. Ms. Manley stated that the directional signs could be turned off when the dealership is not in operation. Member Sclafani noted that the total square footage for signs at this location, including the five additional signs being requested, are still within the total square footage allowed for signs at this location. It was confirmed that the total square footage is in compliance with the Town sign law, and the variance deals only with the total number of signs at this facility. It is confirmed that the Town sign law allows two signs, and this variance seeks an additional five exterior wall signs, including directional signs for the service area. Hearing no further comment, and no further questions from members of the Zoning Board of Appeals, Member Sclafani made a motion to close the public hearing on the Sign Studio/Rensselaer Honda sign variance application, which motion was seconded by Member Shover.

The motion was unanimously approved, and the public hearing closed. Member Clemente stated that the Zoning Board of Appeals was in a position to proceed to deliberation on the application. Attorney Gilchrist stated that the Zoning Board of Appeals must first make its determination of environmental significance under SEQRA. Member Sclafani stated that in her opinion, no significant adverse environmental impact would result from this action pertaining to total number of signs at this facility, as the general area is already commercial in nature including a number of commercial signs, and that this specific location has been a car dealership for years and would not be a significant change from existing conditions. Member Clemente concurred, stating that it was significant that this is a renovation project as opposed to a new project. Member Shover then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Sclafani. The motion was unanimously approved, and a SEQRA negative declaration adopted. The Zoning Board members then proceeded to deliberate on the sign variance request. The Zoning Board members concurred that this variance for total number of signs would not result in any change in the character of the area or create detriment to nearby properties, as the area is already commercial in nature, that the neighboring properties to this facility include McDonalds and Walmart, that the depth of the building location from the front lot line is relevant in connection with the requested number of signs; that while an alternative could be permitting less total number of signs at this facility, in this case it is not feasible as the Honda logo and Rensselaer Honda dealership names should be on the building, that a sign indicating the service area should be included, and that directional signage is actually beneficial to customers using this facility, with Member Shover noting that this would be consistent with the signage approved for the nearby Carbone Subaru dealership facility; that while the variance could be deemed substantial, it is significant that the total square footage of the signs at this facility are in compliance with Town Code, with Member Clemente stating that while the total number of signs may

be viewed as substantial, the placement of the signs are both appropriate and functional for customer convenience; that there will be no adverse physical or environmental impact from the variance, with Member Clemente noting that the applicant has agreed to a condition that the directional signs would be extinguished during off-business hours; and that while the need for the variance can be determined to be self-created, the directional signs add to the safety of customers in the service center area, and that this factor should not be determinative of the application. Member Schmidt noted that he felt this was an appropriate balance between allowing the variance for customer safety with the agreement by the owner to keep the directional signs extinguished during off-business hours. Based on these findings and deliberations, Member Clemente made a motion to approve the sign variance application subject to the condition that the directional signs be extinguished during off-business hours. Member Shover seconded the motion subject to the stated condition. The motion was unanimously approved, and the sign variance application approved subject to the stated condition. The Zoning Board directed Ms. Manley to coordinate with the Town Building Department on permitting requirements for the requested signs.

The next item of business on the agenda was the area variance application submitted by Michael Vickers for property located off Krieger Lane. This application pertains to the requirement under the New York Town Law that a building lot have a minimum of 15 feet of frontage on a public highway, and the Vickers lot located off Krieger Lane does not have such road frontage. If a building lot does not have the required road frontage, the New York Town Law allows for an application for an area variance to provide access to the building lot by private easement or right-of-way. Mr. Vickers has submitted his deed for the building lot, which does include a 40-foot wide common easement off of Krieger Lane to access his building lot. The Zoning Board had previously opened a public hearing on this application, which public hearing is continued at this meeting. Member Sclafani noted that a

letter had been received from the Center Brunswick Fire Company which includes comments on emergency vehicle access requirements for this building lot. Member Sclafani read the letter from the Center Brunswick Fire Company into the record. The Center Brunswick Fire Company does comment that the road leading to the Vickers building lot should be at least 26 feet wide and paved for fire apparatus, and have no more than a 6% grade. In addition, the Center Brunswick Fire Company recommends that any driveway over 150 feet require a turnaround large enough for fire apparatus. The Center Brunswick Fire Company also recommends that each building lot off of the common driveway have its own separate driveway off of the common roadway leading to the residence. The Fire Department also questioned whether a walk-through of any residence to be constructed will be offered after completion, and whether the homes would have integrated fire alarms. Michael Vickers was present at the meeting, and acknowledged the comments of the Center Brunswick Fire Company, and stated on the record that he would comply with the recommendations of the Center Brunswick Fire Company in its comment letter concerning road construction. Member Shover had questions regarding the Vickers lot layout, which was reviewed with Mr. Vickers on a map. Mr. Vickers also stated that while he had submitted an application to the Brunswick Planning Board to subdivide his building lot into two lots, he did not have any present plan to subdivide the property at this time, and only wants to build one house currently on his building lot. Member Schmidt raised a question regarding the Fire Department's comment concerning a separate driveway for each residence. It was discussed that each building lot would have its own driveway off of the common road to be constructed, which would comply with the Fire Department's comment. The Zoning Board also stated that a written private roadway maintenance agreement between the Vickers lot and the other lots that have access from the 40-foot wide common easement must be prepared and reviewed by the Town, and the executed agreement filed with the Town Building Department.

Member Clemente then opened the floor for receipt of any additional public comment on this application. Hearing none, Member Sclafani made a motion to close the public hearing on the Vickers area variance application, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. Member Clemente stated that the Zoning Board was prepared to proceed to deliberate on the area variance application. Attorney Gilchrist noted that while the application seeks an area variance for a residential use, which would constitute a Type 2 action under SEQRA, this particular area variance is distinct in that it is authorized under the Town Law to provide access for a building lot by private right-of-way or easement rather than public road, and counseled the Zoning Board that it should make a determination of environmental significance under SEQRA. Member Schmidt stated that he did not feel the area variance allowing access to a building lot via a private right-of-way would result in any significant adverse environmental impact. Member Clemente concurred, stating that the road will need to be constructed properly, including appropriate drainage and paving materials under the review of the Town, and would not result in any significant adverse environmental impact. Member Clemente then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Sclafani. The motion was unanimously approved, and a SEQRA negative declaration adopted. The Zoning Board of Appeals then proceeded to deliberate on the elements for the area variance. The Zoning Board members concurred that allowing access to this building lot via private right-of-way or easement would not result in any adverse change in the character of the area or create a detriment to nearby properties, as the general area includes a number of residential homes as well as large open fields, and adding one residential home with a private road over a private easement would not result in any change in the character of the area, also noting that there was no opposition submitted by any neighbor in the general area; that in this case, a feasible alternative did not exist, with the Zoning

Board noting that the Brunswick Planning Board had previously approved a subdivision creating this building lot owned by Vickers with access via private easement, and that Vickers would simply be employing the use of the deeded private right-of-way consistent with the Planning Board approval of the subdivision; that whether the variance was deemed substantial is not relevant in this case as there is no applicable standard by which to make such determination; that there would be no adverse physical or environmental impact from accessing the Vickers building lot via private right-of-way; and that the need for the variance was not self-created as the building lot had previously been approved by the Brunswick Planning Board with access served by private right-of-way. The Zoning Board discussed the conditions in the comment letter submitted by the Center Brunswick Fire Company, noting that the roadway providing access to the Vickers lot should be required to be 26 feet wide of pavement, with appropriate drainage, with a turnaround constructed at the terminus of the roadway, and at no more than a 6% grade, with Member Shover stating that a plan identifying these road specifications should be submitted and approved by the Building Department prior to any work being completed. The Zoning Board also determined that the Fire Department's questions regarding a walk-through of the completed residence as well as integrated fire alarms in the residence were not typical requirements for residential construction, but did appreciate the comments being submitted by the Fire Department. The Zoning Board members also concurred that a written private roadway maintenance agreement should be prepared and reviewed by the Town, and then executed and filed with the Building Department. Based on these findings and deliberations, Member Sclafani made a motion to approve the area variance which will allow access via private right-of-way to the Vickers building lot subject to the following conditions:

1. The private road to be constructed within the 40-foot private right-of-way must be 26 feet wide, paved, with proper drainage, and a turnaround constructed at the terminus, at no more than a 6% grade;
2. A plan for the road specifications and construction must be prepared and approved by the Town Building Department prior to road construction;
3. A written private roadway maintenance agreement must be prepared and reviewed by the Town; and
4. The written private roadway maintenance agreement must be executed and filed with the Building Department prior to road construction.

Member Schmidt seconded the motion subject to the stated conditions. The motion was unanimously approved, and the area variance granted subject to the stated conditions, allowing access to the Vickers building lot via private right-of-way.

The next item of business on the agenda was the referral from the Brunswick Town Board on the application submitted by Bank of America to amend the Brunswick Square Plaza Planned Development District to allow the installation of a stand-alone kiosk in the parking lot at the Brunswick Square Plaza. Paul Mutch, of Stonefield Engineering was present for the applicant. Mr. Mutch presented an overview of the proposal. Member Sclafani stated she had a few concerns regarding the proposed project, including its proximity to the CDTA bus stop, that it is proposed to be located 12 feet from the front lot line adjacent to Hoosick Road, and that the ATM kiosk should be considered in another location in the plaza so that it was not in proximity to the CDTA bus stop and would not create any potential pedestrian safety issue. Member Clemente concurred, stating that the proposed location of the kiosk does raise a concern regarding safety of pedestrians; that CDTA busses enter the plaza parking lot in an easterly direction on Hoosick Road in an area where there is

no signage and the busses may come in at an increased speed to get up the incline that exists in that entrance driveway; and she also has a safety concern regarding the potential of cars lining up in the area of the ATM kiosk; and that a pedestrian safety study should be performed. Member Clemente did state she is not concerned regarding the kiosk affecting the character of the area, since the area is generally commercial in nature already, but did have a concern regarding pedestrian safety. Member Shover also had a concern regarding the location of the kiosk 12 feet from the front lot line, and reviewed the plan sheet with Mr. Mutch regarding the location of the kiosk on the site. Member Clemente had a concern regarding snow storage and removal in the area of the CDTA bus shelter. Member Shover also stated he had a concern regarding the lighting for the ATM kiosk and any impact on Hoosick Road. The Zoning Board members concurred that they would like to receive the written recommendation of the Planning Board to consider the Planning Board recommendation in making their final recommendation, and placed this matter on the November 21 agenda for further discussion.

The next item of business on the agenda was the special use permit and use variance application submitted by Cellco Partnership d/b/a Verizon Wireless. The applicant seeks a special use permit and use variance in connection with installation of a proposed major telecommunications tower on property located on Creek Road and Menemsha Lane. Member Clemente noted that the Zoning Board had retained a consulting review engineer on this application, and that Ronald Laberge, P.E. of Laberge Group was present at the meeting. Member Clemente requested that Mr. Laberge review his October 14, 2016 letter to the Zoning Board of Appeals concerning his review of the application materials. Mr. Laberge reviewed his letter dated October 14, 2016, which he stated was in the nature of a completeness review of the application materials pursuant to the Town's telecommunication law. Mr. Laberge did note that the site plan submittal was incomplete, and that additional information regarding grading, drainage, and landscaping must be provided; that the visual

assessment performed is not complete; that a structural evaluation of the proposed tower should be submitted; and that the visual assessment within the SEQRA environmental assessment form is incomplete. Mr. Laberge did say that the RF Engineering report submitted with the application is acceptable. Mr. Laberge did report that information concerning substantiation of need for the cell tower in relation to the Verizon service area was submitted, and that Verizon did look at the possibility of co-location on an existing high-tension power line but that the option was not feasible due to height and safety concerns. Mr. Laberge did note the application materials discussed three potential sites on the parcel, with one location being identified as the preferred location. Mr. Laberge concluded that more detail is required on the site plan, more detail is required on tower design, and additional visual simulations must be submitted for review. Member Clemente had a question concerning the substantiation of need. Mr. Laberge did state that the location of a cell tower in this general area is reasonable, and that the tower need for that service area has been shown. David Brennan, Esq., of the law firm Young Sommer, was present, representing Verizon on the application. Mr. Brennan stated that he was in receipt of the Laberge Group letter dated October 14, and that responses to these comments would be prepared by Verizon. Mr. Brennan did present an overview of the application for members of the public in attendance, including description of the proposed monopole tower, the parcel on which the tower is proposed, a description of the service gap in the NYS Route 2/Eagle Mills/Pinewoods/Menemsha Lane area, and the three options to locate the monopole tower on the parcel. Mr. Brennan did indicate that the site plan will be advanced, and that the request for additional structural design detail and vegetation will be reviewed. Mr. Brennan stated that the SEQRA environmental assessment form will be updated and additional photo simulations will be advanced. Mr. Brennan did state that it was the applicant's request that the full stormwater pollution prevention plan be prepared at the time a final location is identified for the monopole tower, as a change in

location will affect the preparation of the full stormwater pollution prevention plan. Mr. Brennan requested that the matter be placed on the November Zoning Board of Appeals agenda, but that it may be necessary to advance any substantive discussion on the application until the December meeting if the applicant is not able to address Mr. Laberge's comments in advance of the November meeting date. The Zoning Board tentatively placed this application on the November 21 agenda. The Zoning Board members entertained additional questions regarding procedure from members of the public.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Helen Rezey for property located at 6 Greene Street. The applicant is proposing to install a 10-foot by 16-foot shed, and the proposed location requires three variances, including a rear yard setback, side yard setback, and percentage of lot coverage. Christopher Dobert was present on behalf of Ms. Rezey, and handed up a letter from Ms. Rezey authorizing Mr. Dobert to appear on her behalf at this meeting. The Zoning Board members reviewed the application documents. Mr. Dobert stated that the proposed use of the new shed was to store a motorcycle and 3-wheeler inside the shed and not outside exposed to the elements. Member Clemente had a question on the schematic submitted with the application which shows a "tin shed" on the property, and asked if that was intended to remain after the new shed is installed. Mr. Dobert stated that the old tin shed would be removed after the new shed is installed. The Zoning Board members determined the application materials to be complete, and scheduled a public hearing on this application for the November 21 meeting to commence at 6:00pm. Mr. Dobert did consent to Zoning Board member access to the property to review the site.

The second item of new business discussed was a special use permit application submitted by Cumberland Farms, for a proposed Cumberland Farms store to be located at the corner of Hoosick

Road and Hillcrest Avenue. Stefanie Bitter, Esq. was present representing the applicant, together with Jim Gillespie of Bohler Engineering. Ms. Bitter stated that the site is located at 630 Hoosick Road, and that a site plan application is currently pending before the Brunswick Planning Board. The special use permit application is required in connection with the proposed gas pumps/canopy/filling station. Ms. Bitter stated that Cumberland Farms is proposing to construct a 4,786 square foot store with a 6-pump gasoline filling area on a 1.3-acre parcel located at the intersection of Hoosick Road and Hillcrest Avenue. There is an existing home and accessory buildings on the parcel which will be removed. Cumberland Farms will be leasing the property from Arax Properties. Cumberland Farms is proposing to use the existing access off Hoosick Road to the Arax Properties commercial site, and a new proposed access off of Hillcrest Avenue. Ms. Bitter stated that Creighton Manning has been retained to perform a traffic assessment. The property is located in a B-15 Zoning District with the rear portion of the property located in the R-9 Zoning District, but Ms. Bitter stated that no commercial activity is being proposed within the R-9 area. Ms. Bitter reviewed photographs showing similar Cumberland Farms stores located in Cohoes, Latham, and Colonie. Ms. Bitter stated that the underground storage tanks for fuel storage being proposed are state of the art. Ms. Bitter stated Cumberland Farms would work with the Brunswick No. 1 Fire Department on any issues concerning emergency access. The site is served by public water and public sewer. A total of 34 parking spaces are proposed, including 22 separate parking spaces and 12 spaces within the fuel filling area. The Cumberland Farms store is proposed to operate on a 24/7 basis. Ms. Bitter stated that no variances are required for the construction of the buildings or fuel pumps, but if the site plan is approved, variances for signage would likely be filed. Mr. Gillespie presented photo simulations of the existing site with the proposed Cumberland Farms store superimposed. Member Shover asked whether a traffic signal was proposed at Hillcrest Avenue. Mr. Gillespie stated that there was no traffic signal

proposed for Hillcrest Avenue, and it was his understanding that NYSDOT is currently reviewing a proposal to install a traffic light at the Lord Avenue/Planet Fitness location. This matter is tentatively placed on the November 21 meeting agenda, pending coordination with the Brunswick Planning Board on the site plan application and recommendation on the special use permit application.

One additional item of new business was also discussed. Nigro Companies and Golub Corporation had presented an application to amend the Brunswick Plaza Planned Development District (Price Chopper Plaza) to the Brunswick Town Board at its meeting held October 13, at which meeting the Town Board referred the application to both the Brunswick Planning Board and the Brunswick Zoning Board of Appeals for review and recommendation. The Zoning Board members received the application materials at the October 17 meeting. Ronald Laberge, P.E. of Laberge Group was present, representing Golub Corporation in connection with the PDD amendment application. The Zoning Board entertained a presentation by Mr. Laberge concerning the proposed amendment. Mr. Laberge reviewed the plan to construct a drive-thru pharmacy at the existing Price Chopper store, which will be located on the east side of the current building. Mr. Laberge stated there would be no change to greenspace as the area proposed for the drive-thru pharmacy is currently paved, but that the site would lose 13 parking spaces for the construction of the drive-thru pharmacy. Mr. Laberge stated that Golub Corporation had reviewed the proposal with CDTA regarding the bus shelter located in proximity to the proposed drive-thru pharmacy, and that CDTA has reviewed and approved the plan and that it will not result in any change in circulation for the CDTA bus route. Mr. Laberge identified an area of a sidewalk bump-out in the area of the drive lane for pedestrian safety. Member Shover had a question regarding access to the drive-thru pharmacy. Mr. Laberge reviewed the proposed traffic plan, and stated that signage could be installed to make clear to customers the traffic pattern for the pharmacy drive-thru. Member Shover had some questions regarding back-up area for

remaining parking spaces in relation to the drive-thru pharmacy driving lane. There was discussion concerning the distance between the remaining parking spaces and the drive-thru lane. Elevations of the proposed drive-thru pharmacy were also presented and reviewed by the Zoning Board. This matter is placed on the November 21 agenda for further discussion.

The index for the October 17, 2016 meeting is as follows:

1. Sign Studio, Inc./Rensselaer Honda - Sign variance - Granted with condition;
2. Vickers - Area variance - Granted with conditions;
3. Bank of America - Brunswick Square Planned Development District Amendment Recommendation - 11/21/2016;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance application - 11/21/2016;
5. Rezey - Area variance - 11/21/2016 (public hearing to commence at 6:00pm);
6. Cumberland Farms - Special use permit - 11/21/2016; and
7. Brunswick Plaza Planned Development District Amendment - Referral from Brunswick Town Board for Recommendation - 11/21/2016.

The proposed agenda for the November 21, 2016 meeting currently is as follows:

1. Rezey - Area variance (public hearing to commence at 6:00pm);
2. Bank of America - Brunswick Square Planned Development District Amendment Recommendation;
3. Nigro Companies/Golub Corporation - Brunswick Plaza Planned Development District Amendment Recommendation;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance; and
5. Cumberland Farms - Special use permit.