

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 FEBRUARY 27, 2017

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

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

The draft minutes of the January 23, 2017 meeting were reviewed. Upon motion of Member Clemente, seconded by Member Sclafani, the minutes of the January 23, 2017 meeting were unanimously approved (Member Schmidt abstaining).

Chairman Steinbach noted that the special use permit application submitted by Cellco Partnership d/b/a Verizon Wireless is adjourned to the March 20, 2017 meeting. In addition, the members of the Zoning Board concurred that the recommendation on the proposed amendment to the Hudson Hills Planned Development District is also adjourned to the March 20, 2017 meeting.

The first item of business on the agenda was the special use permit application submitted by Stewart's Shops for property located at 1001 Hoosick Road. The applicant seeks approval to construct a 3,900 square foot Stewart's convenience store with a four-pump fuel island at this location. Chad Fowler of Stewart's Shops was present for the applicant, together with Linda Stancliffe, Registered Landscape Architect, and Mark Nadolny, Traffic Engineer, of Creighton Manning. The Zoning Board opened a public hearing on the special use permit application concerning the proposed four-pump fuel island at this location. 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. Chairman Steinbach requested the applicant to present an overview of the project. Mr. Fowler presented an overview of the proposal, focusing on the location and operation of the four-pump fuel island. Mr. Fowler stated that the current location at the intersection of Route 7 and Route 142 was preferred, but that Stewart's did not have adequate area at that location to expand, and that Stewart's Shops was not able to arrive at an agreement with the Brunswick Grange, located to the rear of the current Stewart's Shop, on either acquisition or relocation of the Brunswick Grange to allow expansion in the current location. Consequently, Mr. Fowler stated that an alternative commercial site was pursued, in the general location of the existing store as Stewart's Shops prefers that area. The property at 1001 Hoosick Road is now zoned for commercial use, and Stewart's is pursuing that location for the expanded Stewart's convenience store. Mr. Fowler stated that the proposed site does raise issues concerning traffic, and the project does include a proposal to widen Route 7 subject to NYSDOT approval, and the existence of a structure on the site which is eligible to be included in the New York State Register of Historic Places. Mr. Fowler also stated that the proposed site does not have an existing public water line, and that Stewart's is proposing to extend the public water from Route 7 to this proposed site. Mr. Fowler noted that there were properties adjacent to 1001 Hoosick Road that relied on a private water line for its potable water supply, and that Stewart's would work with these adjacent property owners on connecting to the extended public water main for their potable water supply. A question was raised as to whether the special use permit was required only for the four-pump fuel island, or whether the special use permit was also required for the proposed sale of kerosene on the site. The Brunswick Zoning Ordinance requires a special use permit for facilities which sell gasoline or other fuel used for the propulsion of vehicles on roads, and that the retail sale of kerosene is not

included within that definition and is not included within the required special use permit as a “filling station”. Mr. Fowler confirmed that the proposed kerosene sales is separate and apart from the gasoline and diesel fuel pumps, is not intended for vehicle use, and will be a separate operation. Linda Stancliffe generally reviewed the proposed site plan, including description of the four-pump fuel island, fuel loading area, reviewed access from Route 7 and Sweetmilk Creek Road, building footprint and required building setbacks, discussed the extension of the public water line, identified location of a proposed private septic system on the site which has received preliminary approval from the Rensselaer County Department of Health, and reviewed proposed parking layout. Chairman Steinbach inquired about a proposed landscaping plan. Ms. Stancliffe stated that Creighton Manning was preparing a landscaping plan, and is working on trying to maintain as many mature trees on the site as possible, but the final landscaping plan is not yet completed. Mr. Nadolny reviewed the traffic assessment report, generally stating that the traffic issue in this project is access, and not generation of traffic. Mr. Nadolny stated that the project would not generate significant new traffic trips, as there is an existing Stewart’s store in that location and the existing customer base is anticipated to continue, that new customers may include existing pass-by traffic, and that there is a limited amount of new trips that would be generated from this project. Mr. Nadolny stated that access is being proposed as full access from Route 7 as well as full access from Sweetmilk Creek Road. Mr. Nadolny generally reviewed the traffic assessment report, identifying the study area intersections, traffic counts which were taken during both the AM and PM peak periods, current traffic levels, projected increase in traffic from the proposed Stewart’s Shop as well as other projects which have been approved but not yet built along the Route 7 corridor, reviewed future “no-build” and “build” conditions, reviewed trip generation computations using ITE standards, reviewed the anticipated new trips in connection with the new

Stewart's store, reviewed the existing level of service for the reviewed intersections which are currently rated at a level "C" and will remain a level of service "C" under future "build" conditions, but did confirm that access is the key issue, and to address that the applicant is proposing to widen Route 7 to include a two-way left turn lane along Route 7 in the area of the access driveway, and that NYSDOT has reviewed the concept proposal and has provided concept approval to the two-way left turn lane at this location. Mr. Nadolny also reviewed traffic queuing at this location, and stated that significant queuing is not anticipated. Chairman Steinbach asked whether members of the Zoning Board had any questions prior to opening the floor for receipt of public comment. Member Clemente asked whether the kerosene retail sale area would have a separate canopy. Mr. Fowler stated the kerosene would be sold from a single tank, and there would be no canopy. The location of the kerosene tank is approximately 25 feet from the front property line adjacent to the four-pump fuel island area. Chairman Steinbach asked whether there was any site protection for the kerosene tank. Mr. Fowler stated that the tank would be up on a curb with bollards installed, and the tank would be located just off the edge of the blacktop. Member Clemente asked about the recommendation letter received from the Rensselaer County Planning Department, which included a "back-door" option for leaving the Stewart's site in the case there is significant traffic queuing on Route 7. Mr. Nadolny stated that Creighton Manning did not observe significant queuing in the area of the project, and certainly not back to the firehouse or Springbrook Road, but that he will look into the issue with the Rensselaer County Planning Department. Mr. Fowler also commented that the current traffic signal at Route 7/Route 142/Sweetmilk Creek Road was not working properly, that the timing is currently not functioning properly, and that NYSDOT is in the process of installing a new traffic signal and had already installed new poles. Member Shover asked whether the traffic counts taken by Creighton Manning were done when the traffic signal

was functioning properly or after it had problems with the timing. Mr. Nadolny stated that the traffic counts were taken when the traffic signal timing was correct, and that Creighton Manning is coordinating with NYSDOT on this issue of traffic queuing and coordination with the timing of the traffic signal at Route 7/Route 142/Sweetmilk Creek Road. Member Clemente asked about the historic structure on the site, and whether the applicant had contacted the State Historic Preservation Office. Mr. Fowler stated that the State Historic Preservation Office had been contacted, and that SHPO had issued a letter stating that the structure was not listed on any federal or state registry of historic places, but is eligible for such listing. Mr. Fowler stated that options were being sought regarding the existing structure other than demolition, including moving the structure to another site. Mr. Fowler stated that Stewart's is under contract to purchase the property, but has not yet closed and will not close on title to this site until all issues have been resolved and approvals for the new store have been obtained, and that the current owner of the property is working on relocating the existing structure. Member Shover inquired whether the proposed widening of Route 7 will be done within the existing public right-of-way. Mr. Nadolny stated that the work will likely be within the public right-of-way, and that detailed plans are being prepared and will be submitted to the Town and NYSDOT. Member Clemente asked whether an archeological assessment had been performed. Mr. Fowler stated that both a phase 1 and phase 2 archeological assessment had been completed, and no archeological items had been found. Member Clemente asked whether there was another existing Stewart's Shop located on a parcel that was equal to the 1-acre parcel size being proposed here. Mr. Fowler stated that a 1–1.5-acre site is typical for Stewart's convenience stores, and that the recently completed Cropseyville store is on a 2-acre site but is more room than is actually required for operation of the store. The Zoning Board then opened the floor for receipt of public comment. Alice Grimsley, representing the

Brunswick Grange, stated that regarding the existing Stewart's store location, there was an agreement in the past between Stewart's and Elliott, whereby land would be transferred to allow the Grange to continue to operate but also allow Stewart's to expand at the current location; and further that a number of trucks park in the Grange parking lot to go to the existing Stewart's store. Jim Burden, 9 Flensburg Drive, representing the Brunswick Church, stated that traffic is a concern, that traffic backs up on Route 7 at this location, and there was a concern with parishioners being able to get in and out of the church parking lot, and that Springbrook would likely be used as a cut-through. John Wright, 978 Hoosick Road, stated that traffic was a concern, he disputes the data and conclusions in the traffic assessment report, that he is not able to get out of Town Office Road in the morning because of the traffic backups, had questions as to how the existing Stewart's store building would be used, what was the proposed lighting for the new store, and whether security cameras would be used since people tend to congregate near the rear of the existing Stewart's store including loud music and restroom use. Wayne Howe, 16 Sweetmilk Creek Road (home), 22 Sweetmilk Creek Road (business), stated that his property is serviced via a private waterline going across 1001 Hoosick Road, and wanted written assurance that public water would be available to his properties in the event the Stewart's Shops proposal is approved; that the rear property line of 1001 Hoosick Road actually runs into the existing Howe Brothers building, and that this issue needs to be resolved as well; that an adequate buffer to his house at 16 Sweetmilk Creek Road will be required in terms of buffering noise and lights; and raised the issue of the triangle-shaped property at the intersection of Route 7 and Sweetmilk Creek Road which is currently used by Howe Brothers to display items, but is not included in 1001 Hoosick Road parcel, and inquired whether Howe Brothers will be allowed to continue to display items on that property. Chairman Steinbach asked Mr. Fowler to respond to these public comments. Mr. Fowler stated

that Stewart's did pursue an agreement with Mr. Elliott many years ago, but that the proposed expansion of the Stewart's Shop at that location was still not big enough for the proposed layout, and that relocating the Grange building was not an option, so that the proposal to relocate to 1001 Hoosick Road is the only viable option. Mr. Fowler stated that while trucks may be currently parking in the Grange parking lot, the new site will be provide adequate on-site parking and that parking off-site is not anticipated, and further that the Stewart's Shops are not designed as a "truck stop". Mr. Fowler also stated that regarding the use of Springbrook as a "cut-through", he stated that this location did have a current Stewart's Shop, that the use of Springbrook as a cut-through has not been an historic issue, that the new location is proposing to add 30 vehicle trips per hour which is not significant and not anticipated to impact the Springbrook neighborhood, and that a significant financial investment is being made by Stewart's to widen Route 7 to provide for adequate access to the Stewart's Shop directly onto Route 7. Chairman Steinbach asked when the traffic study was conducted. The traffic study was conducted in June of 2016, and the AM peak period was identified as 7:00am-9:00am, and the PM peak was identified as 4:00pm-6:00pm. Regarding the future use of the existing Stewart's store, Mr. Fowler stated that the store will be sold or leased, with a restriction that it not be used for gasoline sales or for a convenience-type store, and that the underground storage tanks for petroleum storage at the existing store would be removed. Regarding lighting, Mr. Fowler stated that state of the art LED lights would be used, that they are on a timer, and that the exterior lights go on one hour before the store opens and stay on for one hour after the store closes for safety of the employees. Member Shover asked about proposed hours of operation. Mr. Fowler stated that the existing Stewart's Shops store hours would be maintained, which are generally 5:00am until midnight. Regarding the existing store, Mr. Fowler stated this was a converted gas station which did not have adequate room for an inside

bathroom, but that the new store will be designed to include an interior restroom. Regarding the height of the lights, Mr. Fowler stated that the lights would be approximately 15 feet high, and the lighted sign would be approximately 12 feet high. Chairman Steinbach asked whether there would be security cameras used. Mr. Fowler stated there are security cameras used at all Stewart's and that they are located both inside and outside of the store. Chairman Steinbach asked whether the lighting to be used at this location would be similar to the lighting used in the new Cropseyville Stewart's store. Mr. Fowler stated that the same design would be used. Additional public comments were received. Michelle Mavigliano, 8 Riddler Lane, asked whether the project would proceed if the existing house on the site cannot be moved; that if approved, this site would be removing an historic farmhouse and replacing it with a standard convenience store; and that traffic was a significant concern. Mr. Fowler stated that Stewart's has outgrown the existing store, that there is the need for expansion which is not available at the current site, but that if the existing house is not addressed to the satisfaction of New York State SHPO, then the project will not proceed, and that traffic and the existing structure on the site were key issues for this project. Kathleen Burden, 9 Flensburg Drive, also representing the Brunswick Church, asked whether any other property would need to be taken by the State in order to widen Route 7. Mr. Nadolny stated that final plans are in preparation, but that it is not anticipated that any additional property will need to be taken along Route 7, and that the work will be completed within the existing public right-of-way. Deborah Roscoe, 994 Hoosick Road, stated that she lives right across the street from this site on Route 7, and is very concerned regarding property values. Chester Cordana, 2 Grange Road, stated that the intersection of Route 7 and Route 142 is dangerous, and there have been five accidents recently at the existing Stewart's Shop; that the Route 7/Route 142 intersection is a bottle-neck; that traffic on Route 7 backs up routinely, and that the traffic light does not work

properly; that sanitation is an existing problem at the existing Stewart's Shop; and that NYSDOT has had problems with drainage from the existing Stewart's Shop. Wayne Howe, 16 Sweetmilk Creek Road and 22 Sweetmilk Creek Road, asked whether there would be an adequate buffer provided between this project site and his properties. Mr. Fowler stated that an adequate buffer will be designed into the project. Mr. Fowler also stated that with regard to the issue of sanitation, a septic system designed to the standards of the Rensselaer County Department of Health is in place for the proposed new site, but that if the new site is not approved, Stewart's will continue to operate at the existing location and any sanitation issues will need to be addressed. Mrs. Cordana, 2 Grange Road, asked about the proposed sale of diesel fuel. Mr. Fowler stated that one of the pumps at the fuel canopy would provide diesel fuel, similar to the use at the new Cropseyville Stewart's Store. Mrs. Cordana asked whether this would attract more trucks. Mr. Fowler said this is not anticipated, as the diesel sales are routinely and primarily for pickup trucks. Mrs. Cordana asked whether the kerosene sales would add trucks to this site. Mr. Fowler stated that this was not anticipated. Chester Cordana, 2 Grange Road, provided comment regarding an historic petroleum release from an underground storage tank at the existing Stewart's site, stating that MTBE was an issue and that private wells were impacted. Mr. Fowler stated that the underground storage tanks to be installed at the new location will be compliant with current regulatory standards. Chairman Steinbach inquired whether there were any further public comments. Hearing none, Member Shover made a motion to close the public hearing, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the public hearing closed. The Zoning Board members then discussed procedure, including determination under the State Environmental Quality Review Act on the special use permit application, as well as deliberation on the special use permit application and the standards under the Brunswick Zoning Ordinance. Attorney

Gilchrist stated that the Zoning Board will need to make a determination of environmental significance under SEQRA with respect to the special use permit application, as well as review the application documents and public hearing comments in determining whether to grant or deny the special use permit pursuant under the standards in the Brunswick Zoning Ordinance. Attorney Gilchrist did note that the traffic issues are primarily under the jurisdiction of the New York State Department of Transportation, that NYSDOT had reviewed the traffic assessment report prepared by the applicant, and that NYSDOT concurred in the traffic report conclusions and provided concept approval for the two-way left turn travel lane to be constructed for access onto Route 7, and further that the Planning Board review engineer had likewise reviewed the traffic assessment report for this project, as noted in the Planning Board recommendation on the special use permit. Attorney Gilchrist also stated that the Zoning Board did have a period of 62 days following the close of the public hearing in which to render a decision on the special use permit application. Member Sclafani felt that the Zoning Board members should have time to review the application materials, as well as consider the comments received at the public hearing. It was also noted that Member Schmidt had left the meeting due to illness, and the Zoning Board members felt it was appropriate to have Member Schmidt consider the application as well. Member Clemente also stated that while the traffic issue is primarily under the jurisdiction of the New York State Department of Transportation, she felt that there were traffic concerns, and a difference between the conclusions in the traffic assessment report and general traffic engineering standards, as opposed to real-life observation by people who live in the area. Member Shover stated that NYSDOT had reviewed the traffic assessment report, and that the Zoning Board should rely on NYSDOT comments on that report. The Zoning Board members did generally review and discuss the Planning Board recommendation on the special use permit. The Zoning Board members then

further discussed whether deliberation should proceed at this meeting, or whether the members should have additional time to review the application materials. Member Clemente had a question regarding the historic structure on the site, and whether the Zoning Board needed to consider the impact to historic structures as part of the SEQRA review. Attorney Gilchrist stated that the impact to historic structures is part of the environmental review for the project. Member Clemente stated that she would like to see more information concerning the historic structure, including all correspondence from the New York State Historic Preservation Office, the proposal to relocate the structure, and any additional information on the issue. The Zoning Board members concurred in that observation. The Zoning Board also stated that they would like further information on the triangle-shaped property located in front of the project site adjacent to the Route 7/Sweetmilk Creek Road intersection, including its ownership, and whether it is located within the Route 7 right-of-way. The Zoning Board members concluded that additional information was required from the applicant, and placed this matter on the March 20 agenda for deliberation.

The next item of business on the agenda was the special use permit application submitted by Peter and Darcy Jones for property located at 305 Sweetmilk Creek Road. The applicants seek a special use permit to allow the use of a portion of their residence as an apartment for family use. Peter Jones was present on the application. Chairman Steinbach inquired whether there were any changes to the application. Mr. Jones stated there was no change to the application seeking the special use permit. Mr. Jones also confirmed that there was no proposed expansion to the footprint of the building, and that all proposed work to create the apartment will occur within the existing residential structure. The Zoning Board then opened a public hearing on the application. The notice of public hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town signboard, posted on the Town website, and

mailed to owners of adjacent properties. The floor was opened for receipt of public comment. No members of the public wished to provide comment on the application. Member Clemente then made a motion to close the public hearing, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the public hearing closed. Thereupon, Chairman Steinbach asked whether there were any questions or concerns on the application from the Zoning Board members. Hearing none, Member Clemente made a motion to adopt a negative declaration under SEQRA, stating that the proposal was simply to reconfigure existing interior space in the residential structure, that no expansion was being proposed, and that no impact to the environment would result from the action. Member Shover seconded the motion. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members reviewed the standards for issuance of a standard permit, finding that the addition of the apartment in the interior residential space for family use did not give rise to any concerns regarding transportation facilities, water supply, fire and police protection, waste disposal or other similar facilities; that adequate parking is available on site to handle the proposed apartment use; that the apartment would not impair surrounding neighborhood character or property values as the work was limited to interior renovation and no expansion or other site work is proposed; and that there would be no negative traffic impacts from the proposed apartment use. Chairman Steinbach asked whether there were any final questions or comments regarding the application. Hearing none, Member Clemente made a motion to grant the special use permit, stating that the proposal is consistent with family use and supports the policy of allowing support and care for family members, but the approval is to be subject to the condition that the apartment use in this case is not approved for general rental to the public for commercial rental income. Such motion subject to the stated condition was seconded by Member Shover. The motion was unanimously approved,

and the special use permit granted subject to the condition that the apartment is not approved for general rental to the public for commercial rental income.

There was one item of new business discussed.

An area variance application has been submitted by Robert and Donna Welch for property located at 19 Muriel Drive. Donna Welch was present and stated that they were seeking to enclose an existing deck on the property, but that the structure will require both a front yard and side yard setback variance. The applicant generally reviewed the residential parcel, current house location, and proposed enclosure of the deck, in relation to adjacent properties, and discussion was held by the Board members to fully understand the application. Following such discussion, the members of the Zoning Board deemed the application to be complete, and scheduled a public hearing on this matter for the March 20 meeting to commence at 6:00pm.

The index for the February 27, 2017 meeting is as follows:

1. Stewart's Shops - Special use permit - March 20, 2017;
2. Peter and Darcy Jones - Special use permit - Granted subject to condition;
3. Capital District Properties - Recommendation to Town Board on Hudson Hills PDD Amendment - March 20, 2017;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance - March 20, 2017
5. Welch - Area variance - March 20, 2017 (public hearing to commence at 6:00pm);

The proposed agenda for the March 20, 2017 meeting currently is as follows:

1. Welch - Area variance (public hearing to commence at 6:00pm);
2. Stewart's Shops - Special use permit;
3. Capital District Properties - Recommendation to Town Board on Hudson Hills PDD Amendment;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance.