

## **Zoning Board of Appeals**

TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, New York 12180

### **MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD MAY 15, 2017**

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

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

Chairman Steinbach reviewed the agenda for the meeting, noting that the special use permit and use variance application submitted by Cellco Partnership d/b/a Verizon Wireless will be adjourned without date. Chairman Steinbach noted that following the April 17, 2017 meeting, the applicant had not contacted the Town concerning scheduling and holding the balloon test for the proposed cell tower location, nor had the Zoning Board's consulting engineer, Ronald Laberge, P.E. received any further technical information concerning alternative sites. Chairman Steinbach stated that this matter has been adjourned without date, pending contact from the applicant.

The draft minutes of the April 17, 2017 meeting were reviewed. Upon motion of Member Shover, seconded by Member Clemente, the April 17, 2017 minutes were unanimously approved without amendment.

The first item of business on the agenda was the sign variance application submitted by Signworks Sign Corp for installation of signage at the drive-thru pharmacy area at the Market 32 store in the Brunswick Plaza. Fred Early of Signworks Sign Corp and Michael Kaufman of Golub Corporation were present for the applicant. Mr. Early generally reviewed the proposed signage for the drive-thru pharmacy, which will be signs labeled "entry", "exit", and "pharmacy drive-thru". Mr. Early stated that the additional signage totals approximately 10 square feet and will be illuminated

with low lighting, that it will not be seen from the Route 7 corridor, and that the signs are primarily for internal traffic circulation and identification of the drive-thru pharmacy area. Mr. Early stated that while the entry and exit and directional sign will be painted on the pavement, this is not effective during the winter season, and the additional signage for purposes of direction and location is primarily for safety and identification purposes. Mr. Early stated the letters will be white in color, and placed against the surface of the canopy at the drive-thru pharmacy. The Zoning Board then opened a 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 adjacent properties. The Zoning Board opened the floor for receipt of public comment. Larry Bonesteel, 9 Harris Avenue, had a question concerning the height of the drive-thru pharmacy canopy. Mr. Early and Mr. Kaufman stated that the height was typical for drive-thru facilities, and is approximately 9 to 10 feet in height. There were no further public comments. Member Clemente 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 proceeded to deliberate on the merits of the application. Attorney Gilchrist stated that the first issue to be addressed is a determination of environmental significance under SEQRA. Member Sclafani stated that in her opinion, the variance for the additional drive-thru pharmacy signage was not significant, was being placed in an existing commercial area, would not be seen or create any visual impact from the Route 7 corridor, and also noted that a negative declaration had been adopted for the prior sign variance for the exterior of the Market 32 building. Based on this, Member Sclafani made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Schmidt. The motion was unanimously approved, and a SEQRA negative declaration adopted. Attorney Gilchrist then reviewed the elements to be considered in connection with the sign variance. The Zoning Board members found that the requested variance for

additional signage at the drive-thru pharmacy would not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties; that there was not a feasible alternative in that the signage is required to be located in the area of the drive-thru pharmacy; that the addition of 10 square feet of signage at this location is not a substantial variance; that the sign variance would not result in an adverse effect on physical or environmental conditions in the immediate area; and that while the need for the variance could be considered self-created, this did not negate consideration of granting the sign variance. Based on these findings, Member Clemente made a motion to grant the sign variance, which motion was seconded by Chairman Steinbach. The motion was unanimously approved, and the sign variance granted in this case for the addition of signage at the drive-thru pharmacy at the Market 32 store in the Brunswick Plaza. The applicant was directed to coordinate with the Brunswick Building Department on the signage installation.

The second item of business on the agenda was the area variance application submitted by Cuiping Lin for property located at 14 Ledgewood Drive. The applicant seeks a rear yard setback variance with respect to installation of an in-ground pool on the property. Cuiping Lin was present for the application, and generally reviewed the application request for the installation of a pool in the backyard in a location that requires a rear yard setback variance. At this location, a rear yard setback of 35 feet is required, and a variance of 17 feet is being requested so that the pool can be located 18 feet from the rear property line. All other setback requirements are met regarding the pool location. The Zoning Board opened a 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 adjacent properties. The Board opened the floor for the receipt of public comment. No members of the public wished to comment on the application. Member Clemente asked a question concerning the existing vegetation located to the rear of the Lin lot, and whether that vegetation would remain after the pool installation. Ms. Lin

stated that only one tree would be removed in connection with installing the pool, and the remainder of the vegetation would remain in place. Member Clemente asked whether the pool would be located in an area where there is an existing garden. Ms. Lin stated that the garden will be removed, and the pool will be located in the prior garden location. Member Clemente had no further questions. No other member of the Zoning Board had any questions on the application. Member Clemente then made a motion to close the public hearing on the Lin area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. The Zoning Board then proceeded to deliberate on the application. Attorney Gilchrist noted that the application seeks an area variance in connection with a residential project, and constitutes a Type 2 action under SEQRA. The Zoning Board members then proceeded to deliberate on the elements to be considered in connection with the area variance request. Chairman Steinbach first stated that he felt the grant of the variance to allow the pool installation in the requested location would not result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, as there are a number of pools in the rear yards in various locations throughout this neighborhood; all members of the Zoning Board agreed. Member Sclafani further stated that she visited the property and did not feel there was a feasible or viable alternate location given the layout of the lot, and further noted that a professional pool installation company had identified the most appropriate location for the pool in the rear yard. Member Clemente stated that she felt this was not a substantial variance in this case, given that the property to the rear of the proposed pool location is heavily wooded and vegetated; Chairman Steinbach concurred, stating that it was not likely that this vegetated and wooded area would ever be developed at this location. Member Sclafani stated that the requested rear yard setback variance would not result in an adverse physical or environmental impact in the neighborhood, but rather felt the pool installation would fit in the surrounding character of the neighborhood with no detrimental impact. All Zoning Board members concurred. Member

Clemente then stated that she felt the need for the rear yard setback was not self-created due to limitations in the rear yard based on topography, with all members concurring. Based on these deliberations, Chairman Steinbach made a motion to grant the requested rear yard setback variance, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the area variance granted. The applicant was directed to coordinate with the Building Department on necessary permit for the pool installation.

The next item of business on the agenda was the special use permit application submitted by Stewart's Shops, which seeks approval to construct a 3,900 square foot Stewart's convenience store with a 4-pump fuel island at 1001 Hoosick Road. Chad Fowler of Stewart's Shops was present, together with Linda Stancliffe and Mark Nadolny of Creighton Manning present for the applicant. Mr. Fowler stated that the applicant was present to update the Zoning Board on the issues of the historic house on the property as well as to address comments concerning traffic. Mr. Fowler stated that the New York Office of Parks, Recreation and Historic Preservation had determined that it is not feasible to move and relocate the historic house currently located on the lot, and that the State Historic Preservation Office (SHPO) had sent a letter to Stewart's Shops dated May 3, 2017 to that effect. A copy of the May 3, 2017 SHPO letter was submitted for the record. Mr. Fowler reviewed the letter, including the recommendations that were made by SHPO to mitigate the impact of this project upon the historic building. Chairman Steinbach inquired as to the status of any response by Stewart's Shops to the SHPO recommendations for mitigation, and the time frame in which Stewart's was proposing to respond. Mr. Fowler stated that Stewart's would look to work with the State, and hoped to complete the municipal review while Stewart's works with the State on addressing the mitigations proposed by SHPO. Attorney Gilchrist stated that the Zoning Board of Appeals will need to make a determination of environmental significance under SEQRA with respect to its permit jurisdiction, and in order to make its determination of environmental significance with respect to the impact of this action upon

historic buildings, any proposed mitigation measures will need to be in the record for consideration by the Zoning Board. In this regard, attorney Gilchrist stated that Stewart's should be prepared to submit a narrative response as well as elevations of the proposed building and any renderings of the site which would address the proposed mitigation measures recommended by SHPO. Mr. Fowler stated that he understood this, and that Stewart's would prepare the required submission for review by the Town. Linda Stancliffe reviewed minor modifications to the site plan for the project, limited to turning radius areas within the site, and indicated that the revised site plan would be submitted to the Planning Board. Mr. Nadolny addressed the traffic issues on the project, stating that he had followed up with the Rensselaer County Planning Department on its comment concerning a "backdoor" option for the project and that the County did not have any specific alternative in mind when it made the comment but merely stated that, conceptually, an alternative east-west exit should be considered if the Route 7 corridor was congested and traffic flow was held up onto Route 7. The County had also commented about the seasonal fluctuation in traffic volumes on Route 7, but Mr. Nadolny stated that the action being proposed will not significantly add to existing traffic conditions, and the seasonal fluctuations do not directly impact the review of this project. Mr. Nadolny did state that NYSDOT had signed off on the concept plan for adding the two-way turning lane on Route 7, and the plans are being pursued on that issue. With respect to the comment on moving a "stop bar" to the eastern side of Sweetmilk Creek Road on Route 7 so that the westbound traffic would stop before Sweetmilk Creek Road as it approached the signalized intersection at Route 142/Route 7, Mr. Nadolny stated that NYSDOT does not recommend having an unsignalized intersection entering a signalized intersection as this was not consistent with sound traffic engineering standards, and that NYSDOT did not consider relocating the "stop bar" as being feasible. Mr. Nadolny stated that the applicant could propose adding signage along Route 7 prohibiting blocking the side road, and that this could be pursued with NYSDOT. The Zoning Board asked whether the improvements being

proposed for the Route 7 corridor could be constructed within the existing NYSDOT right-of-way. Ms. Stancliffe stated that the proposed improvements can be constructed within the existing NYSDOT right-of-way, but that two driveways on the south side of Route 7 will need to obtain variances for grades entering onto Route 7. Mr. Stancliffe stated that Creighton Manning is advancing the plans for the Route 7 reconstruction work, which will be submitted to NYSDOT. The Zoning Board placed this matter on the June 19 agenda for further discussion, and the applicant will be submitting additional information to address the proposed mitigation measures outlined in the May 3, 2017 SHPO letter, which may include a project narrative and building elevations as well as a rendering of the site. This matter is placed on the June 19 agenda for further discussion.

The special use permit and use variance applications submitted by Cellco Partnership d/b/a Verizon Wireless is adjourned without date.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Marc Phillips for property located at 3892 NY Route 2. The applicant is seeking a side yard setback variance for the installation of a 16-foot by 16-foot accessory structure. Mr. Phillips was present, and stated that when he first purchased the property, a shed was located approximately 8 feet from the side yard lot line, but that he had removed that structure and had a trampoline in that location for his children, and that he was now seeking to build the same type of structure in the same location, which will be approximately 16 feet by 16 feet. In order to do so, Mr. Phillips stated that a side yard setback variance is requested at this time. Mr. Phillips also stated that the remainder of his rear yard is subject to a fairly steep elevation increase, and that the proposed location is one of the limited areas on the lot for the accessory structure. The Zoning Board members reviewed the application materials submitted, and deemed them complete for scheduling the public hearing. This matter is scheduled for public hearing at the June 19, 2017 meeting to commence at 6:00pm.

The second item of new business discussed was a sign variance application submitted by Cumberland Farms for the approved Cumberland Farms store located at 630 Hoosick Road. Stefanie Bitter, Esq., project attorney, and Jim Gillespie of Bohler Engineering, project engineer, were present on the application. The applicant is seeking three sign variances. First, the applicant is seeking a variance on the total number of signs allowed at this location; the sign law allows a total of 2 signs, whereas the applicant seeks a total number of 11 signs. Ms. Bitter stated that the applicant is seeking one free-standing pole sign in the front of the site along the Route 7 corridor, two wall signs on the Cumberland Farms building, two signs on the canopy over the pump island, and six small directional signs to identify ingress and egress lanes to the Cumberland Farms, primarily due to the fact that a shared entrance off of Route 7 is being used with the adjacent Advance Auto store. The applicant is also seeking a variance for total square footage of the signs, with the Town sign law allowing 300 square feet, while the applicant seeks a total of 370.32 square feet for signage on the site. The applicant seeks a third variance on location of free-standing signs, with the Town sign law requiring a pole sign setback from the public highway right-of-way equal to the height of the sign. Here, the applicant is seeking to install a 25-foot pole sign, but is requesting a setback from the Route 7 right-of-way of 5 feet, thus seeking a 20-foot variance. The applicant is also seeking a variance for placement of the directional signs outside of the Cumberland Farms parcel, which it is leasing from the underlying property owner. Ms. Bitter stated that the directional signs will be located within the area owned by the underlying property owner, but would be on the parcel leased to the adjacent Advance Auto store. The Zoning Board members reviewed the application materials, and had questions concerning the directional signs, the location of the pole sign, and the location of other Cumberland Farms stores that had the directional signs. The Zoning Board members also had questions concerning the need for the pole sign in the location, with Mr. Gillespie responding by identifying the location of the Advance Auto pole sign and its impact on sight lines for the

Cumberland Farms signage for cars traveling in an easterly direction on Route 7. The Zoning Board requested additional information on the application, including specifications for the pole-mounted sign, as well as data concerning structural integrity, wind force, and safety issues. Having reviewed the application materials, the Zoning Board members determined that the application materials were complete for purposes of scheduling the public hearing, which will be held at the June 19, 2017 meeting to commence at 6:15pm. This matter is placed on the June 19 agenda.

The index for the May 15, 2017 meeting is as follows:

1. Signworks Sign Corp - Sign variance - Granted;
2. Lin - Area variance - Granted;
3. Stewart's Shops - Special use permit - June 19, 2017;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance - Adjourned without date;
5. Phillips - Area variance - June 19, 2017 (public hearing to commence at 6:00pm);
6. Cumberland Farms - Sign variance - June 19, 2017 (public hearing to commence at 6:15pm).

The proposed agenda for the June 19, 2017 meeting currently is as follows:

1. Phillips - Area variance (public hearing to commence at 6:00pm);
2. Cumberland Farms - Sign variance (public hearing to commence at 6:15pm);
3. Stewart's Shops - Special use permit.