

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 SEPTEMBER 17, 2018

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

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

The draft minutes of the August 20, 2018 meeting were reviewed. Upon motion of Member Clemente, seconded by Chairman Steinbach, the minutes of the August 20, 2018 meeting were unanimously approved without amendment.

The first item of business on the agenda was an area variance application submitted by Deanna Catherwood for property located at 41 Green Street. The applicant seeks a rear yard setback variance for the installation of an in-ground pool. Deanna Catherwood was present. Chairman Steinbach inquired whether there were any changes to the area variance application since the August 20 meeting. Ms. Catherwood stated that there are no changes to the application, and that she is seeking a rear yard setback variance in order to install an in-ground pool that will be ten feet from her rear yard line, instead of the 20-foot setback required under the Brunswick Zoning Law. 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 all properties located within 300 feet of the project site. Chairman Steinbach noted that a letter addressed to the Zoning Board of Appeals on this application has been received from Leah Powers, 129 Oneida Avenue.

In her letter, Ms. Powers stated that she is a direct neighbor to the northeast of the Catherwood property, and that she has no objection to the requested rear yard setback variance for the in-ground pool. Chairman Steinbach read the letter into the record. Chairman Steinbach opened the floor for receipt of public comment. No other members of the public wished to provide any comment on the application. Thereupon, Member Clemente made a motion to close the public hearing on the Catherwood area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. The Zoning Board members stated that they would proceed to deliberate and act upon the application. Attorney Gilchrist noted that the application seeks an area variance for a single family residential use, and also seeks an individual setback variance, constituting a Type 2 action under SEQRA. Attorney Gilchrist then reviewed the factors for consideration of the area variance with the Zoning Board members. As to whether the requested area variance would result in an undesirable change in the character of the neighborhood, or create a detriment to nearby properties, Member Clemente stated that this application would not result in any change to the character of the neighborhood, as other properties in the neighborhood have pools, decks, and landscaped rear yards, which will be the result of the pool installation at the Catherwood property, and that this would not create any detriment to off-site properties, particularly in light of the neighbor's letter stating she had no objection to the variance. Member Sclafani concurred, stating that the character of this neighborhood would not be changed. As to whether the applicant had a feasible alternative available other than the area variance, Chairman Steinbach noted that this parcel is limited in size, and has an existing back deck on the home; that the pool would be sited properly in terms of the rear yard location in relation to the house and existing deck; that the pool location is in compliance with the front and side yard setback requirements; and that he does not find that a feasible alternative exists in this situation.

Member Shover concurred, stating that the pool is fit symmetrically in the rear yard at the proposed location, and moving the pool ten feet closer to the home and deck is not feasible. As to whether the requested area variance is substantial, Member Clemente stated that the variance is substantial based on the numbers, but the shape and size of this well-maintained residential lot promotes the location of the pool as proposed, and given the particulars of this residential lot, does not feel that the variance is substantial, particularly since the adjoining property owner has no objection. Chairman Steinbach commented that in his opinion, the neighbor stating she had no objection to the pool location is an important factor, and that no other neighbors had raised any objection. As to whether the proposed area variance would result in an adverse effect on the physical or environmental conditions in the neighborhood, Member Sclafani stated she felt the pool did fit into the character of the neighborhood, would not create any detriment, would not create any environmental impact, and is an appropriate use in that location and in keeping with the character of the neighborhood. As to whether the difficulty giving rise to the request for the area variance is self-created, Member Sclafani stated that while the need for the variance is self-created in this case, this factor is not determinative. The Zoning Board members concurred. Chairman Steinbach inquired whether there were any further discussions, questions, or comments on this application. Hearing none, and based on the Zoning Board deliberation, and balancing the benefit to the applicant in granting the variance as opposed to any detriment to the neighborhood in particular or Town in general, Member Clemente made a motion to grant the area variance, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the area variance granted.

The next item of business on the agenda was the sign variance application submitted by Shivam Construction for property located at 1163 Hoosick Road. The applicant seeks a sign

variance for the total number of signs allowed at this location as well as total square footage of the proposed free-standing monument sign in connection with construction of a convenience store at 1163 Hoosick Road. John Brownrigg was present on behalf of the applicant, also noting that he was representing the property owner, Parko Holdings 2, LLC. Chairman Steinbach asked whether there were any changes to the application since the August 20 meeting. Mr. Brownrigg stated there were no changes to the application. Mr. Brownrigg generally reviewed the application, stating that he kept the total square footage of all aggregate signage at this location within the square footage allowed under the Town Code; however, he is requesting a variance for the total number of signs allowed at the site, and also a variance for the size of the single free-standing monument sign proposed for this location. Mr. Brownrigg noted that he is not installing a pylon sign at this location, but rather is proposing a monument sign. Mr. Brownrigg also stated that while a franchisee has not been selected for this location, he has factored in signs for a future franchisee and has merely left them blank for now, but has identified a size for those signs to stay within the total square footage for the total site under the Town Code. Mr. Brownrigg noted that the fuel will be a Sunoco station, but the franchisee for the convenience store and drive-thru have not yet been identified. Mr. Brownrigg explained that he is showing the Sunoco brand of fuel as well as fuel prices on the monument sign, but has also left two sign spaces blank on the monument sign for future franchisees. The Zoning Board opened the public hearing on this 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 all properties located within 300 feet of the project site. Chairman Steinbach opened the floor for receipt of public comment. No members of the public wished to provide any comment. Thereupon, Member Shover made a motion to close the public hearing, which motion

was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. It is noted for the record that a recommendation has been received from the Rensselaer County Department of Economic Development and Planning on this application, stating that the proposed sign variance proposal does not have a major impact on County plans and that local consideration shall prevail. The Zoning Board members discussed the total number of signs being proposed, which in this case the applicant is requesting a total of nine signs for the project site whereas the Town Code limits the total number of signs to two. Member Clemente asked whether safety related signs or directional signs for traffic should be included in the total number of signs for the site, noting that the applicant had included these safety and directional signs in the total number of nine signs being proposed. Chairman Steinbach noted that similar directional and safety signs were discussed in connection with the Cumberland Farms store on Hoosick Road. Ms. Guastella stated that safety and directional signs are not specifically addressed in the Code, but would be discretionary with the Zoning Board members to consider them in the total number of signs for the site. Chairman Steinbach noted that the directional and safety signs were generally at a lower elevation, were smaller in size, and should not be considered the same as advertising or promotional signs. Member Clemente stated that the total number of signs being proposed would look much less substantial if the directional and safety signs were not counted. The Zoning Board members deliberated on the characteristics of promotional and advertising signs as opposed to safety and traffic flow signs on the site. Attorney Gilchrist noted that the Town sign law does not specifically address directional or safety signs, but did review Brunswick Zoning Law Section 160-84 with the Board members, noting that the purpose of the Brunswick Sign Law was intended to regulate outdoor advertising signs but also outdoor signs of all types. Attorney Gilchrist also noted that there was an exception in the Brunswick Sign Law, providing that the

term “sign” does not include any sign erected and maintained pursuant to and in the discharge of any government function or required by any law, Zoning Law, or government regulation. The Board members and the applicant concurred that the on-site directional and traffic flow signs are not required by any law or regulation, but are being provided by the project owner for purposes of on-site safety. The Zoning Board members determined to count the directional and traffic flow signs under the total number of signs for the site, but to emphasize the fact that the Brunswick Sign Law allows two signs, predominantly advertising or promotional signs, whereas a total of five promotional or advertising signs are proposed for this project site, with four of the proposed signs being for the purpose of safety and traffic flow. It was also noted that the applicant had included the square footage of the safety and traffic flow signs in the aggregate square footage of signage for this site. The Zoning Board members also determined that the safety and traffic flow signage did promote the overall public interest, and were not provided for advertising or promotional purposes but for public safety. The Zoning Board members next deliberated on the proposed size of the monument sign. The particulars of the calculation of total square footage for each side of the monument sign were reviewed, and Ms. Guastella confirmed that the square footage calculations were correct. Chairman Steinbach noted that the monument sign was consistent with other monument signs that have been put up along Route 7. The applicant indicated that the monument sign is placed approximately 25 feet off of the travel lane of Route 7, and that it is in a position that will not block the intersection, and nor will it block the adjacent sign for Park East Ventures. Chairman Steinbach asked whether there were any further questions or comments on the application. Hearing none, the Zoning Board members determined that they would deliberate and act upon the application. Attorney Gilchrist stated that a determination of environmental significance under SEQRA must be made, noting that an Environmental Assessment Form had

been submitted, and reviewed the standards for a determination of environmental significance under SEQRA. Chairman Steinbach 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 stated that they would consider all requested variances, including the total number of signs on the project site as well as the square footage of the proposed monument sign, together when the factors for the variance were reviewed. As to whether the proposed sign variances would produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Shover noted that a gas station had been in this location for many years, and Mr. Brownrigg stated that in fact a gas station had been at this location since 1918. Chairman Steinbach noted that the current project will be an improvement to this commercial site, and make it more modern. The Zoning Board members generally concurred that the proposed signage was consistent with historical use at this location, and would not result in any undesirable change in the character of the neighborhood, noting that the area had always included a gas station at this location. As to whether a feasible alternative was available to the applicant, the Zoning Board members generally concurred that the applicant has taken the Code limitations into consideration when preparing the signage for this site, keeping the aggregate square footage for all signs at this site within the total square footage allowable for the project site under the Brunswick Zoning Law, and is seeking only a variance for total number of signs as well as for the square footage of the single monument sign. Member Sclafani noted that the signage for the site needed to take into account the fact that there would be gas plus franchisees occupying the convenience store building. Chairman Steinbach noted that there were only three advertising or promotional signs being proposed above the two signs allowable under the Brunswick Zoning Law, and that the remaining signs served a public safety purpose. As to whether

the requested sign variance is substantial, Chairman Steinbach repeated that he felt there were mitigating circumstances because four of the proposed signs were for public safety purposes in terms of traffic flow and directional signage; Chairman Steinbach also felt that the proposed square footage of the free-standing sign is also mitigated by the fact that a monument sign is being proposed as opposed to a pylon sign, and feels the monument sign is more friendly to the eye. The Board generally concurred that while the variance can be deemed substantial on numbers only, four of the signs are for public safety purposes, and that overall the Board found the requested variance was not substantial. As to whether the requested sign variance would have an adverse impact on the physical or environmental condition of the neighborhood, the Board noted that a SEQRA negative declaration was previously adopted. The Board also noted that the applicant had located the monument sign 25 feet from the travel lanes of Route 7, so as not to create any traffic impact. As to whether the difficulty requiring the sign variance is self-created, Chairman Steinbach stated that the need is self-created, but did not find this factor to be determinative. Members Clemente and Sclafani concurred that some of the signage was required by Sunoco and was standard in the industry. Based on this deliberation, and in balancing the benefit to the applicant in granting the sign variance as opposed to any detriment to the neighborhood in particular or Town in general, Chairman Steinbach made a motion to grant the requested sign variances with respect to the total number of signs on the project site as well as square footage of the free-standing monument sign. Member Shover seconded the motion. The Zoning Board inquired of the applicant as to the hours when the signs would be illuminated. Mr. Brownrigg stated that the free-standing monument sign would be illuminated on a 24-hour/7-day a week basis, but that the remaining signage would be illuminated only when the store was in operation, which is proposed to be 5am to midnight. The Zoning Board members had no further questions or

comments. With regard to the pending motion, the Zoning Board members unanimously approved the motion, and the requested sign variance is granted. This allows this site to have a total number of nine signs, four of which are signage for traffic flow and direction on the site, and five of which are advertising or promotional-type signs; also, this site is allowed to have a free-standing monument sign totaling 55.19 square feet on each side, for a total square footage of both sides of 110.38 square feet. Chairman Steinbach directed the applicant to coordinate with the Building Department regarding the installation of the signage.

There were no new items of business.

The index for the September 17, 2018 meeting is as follows:

1. Catherwood - Area variance - Granted;
2. Shivam Construction - Sign variance - Granted;

There are currently no agenda items for the October 15, 2018 meeting.