

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 MARCH 18, 2019

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

ABSENT was PATRICIA CURRAN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The Zoning Board members reviewed the draft minutes of the February 25, 2019 meeting. Upon motion of Member Clemente, seconded by Member Shover, the minutes of the February 25, 2019 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Craig Horton and Jennifer Tedisco for property located at 25 Cranston Lane. The applicants seek an area variance to permit a rear yard setback of 30 feet 6 inches where a rear yard setback of 35 feet is required under the Brunswick Zoning Law. The applicants were present, together with their surveyor, Brian Holbritten. Chairman Steinbach inquired whether there were any changes or additions to the application. Mr. Holbritten stated there were no changes or additions, and the application remains the same as presented at the last Zoning Board meeting. Chairman Steinbach requested the applicant to present an overview of the proposal. Mr. Holbritten provided an overview of the project, by which the owners seek to construct a 19-foot by 20-foot addition to the existing residential home on the lot. Mr. Holbritten explained that this would result in a rear yard setback for the addition of 30 feet 6 inches, where the Brunswick Zoning Law requires a 35-foot

rear yard setback. Chairman Steinbach asked if there were any questions from members of the Zoning Board. Member Clemente inquired about the existence of a road that was shown on a map but was never built, and whether that impacted how the Cranston lot was oriented in terms of rear lot line versus front lot line. Mr. Holbriiter explained that a paper street does exist, located off Cranston and which would have connected to Banbury, but the paper street was never constructed. Mr. Holbriiter explained that this may explain why the existing home on the Cranston lot appears to have the front of the home facing the side lot line rather than facing Cranston, as the existing home would have been facing the front lot line if the paper street had in fact been constructed. This results in a situation where the proposed addition would have been adjacent to the side yard lot line if the paper street had been constructed, but now is located to the rear lot line given that Cranston is the street which dictates the front line for this lot. Mr. Holbriiter explained that the proposed addition is a single-story addition and designed to maintain the existing roof line, which results in the addition technically encroaching into the rear yard setback requirement. Member Clemente also inquired about a wood lot and stockade fence located on an adjacent parcel. Mr. Holbriiter explained that the owner of the adjacent parcel had installed a stockade fence for privacy around a pool, and that the area of the adjacent lot outside of the stockade fence provides additional buffer to the proposed addition to the house on the Horton/Tedisco lot. The Zoning Board then opened a public hearing on the area variance application. 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 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 present at the meeting wished to provide any comment. Chairman Steinbach did note for the record that an email had been received from Mary Anne

Webb, 4112 Pinewoods Avenue, stating that she was opposed to the variance application, stating that her reasons for her opposition are: (1) setbacks prevent crowding from property of others; (2) property value can be influenced as a result of the crowding; and (3) setbacks are designed for environmental protection/safety/privacy. Having received no other public comments, Member Clemente made a motion to close the public hearing on the Horton/Tedisco area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. The Zoning Board members determined to proceed with deliberation on the application. Attorney Gilchrist noted that the application had been forwarded to the Rensselaer County Planning Department, and that the notification of zoning review action had been received from the Rensselaer County Planning Department, noting that the proposal does not have a major impact on County plans and that local consideration shall prevail. Attorney Gilchrist also noted that the application seeks an area variance in connection with the residential use, constituting a Type 2 action under SEQRA. Attorney Gilchrist then reviewed the standards for determining the area variance application. As to whether the area variance would create an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Schmidt stated he did not feel this would be inconsistent with the character of the neighborhood, and would not create a detriment to any nearby properties; Member Clemente concurred, stating that this neighborhood, and this property in particular, is a well-established, family-friendly neighborhood in the R-15 Zoning District, that the proposed amount of living space for the house on the Horton/Tedisco lot is consistent with the surrounding properties, that the proposed addition would continue the existing building lines and be limited to a single-story addition consistent with the existing home, and that she felt it fits nicely into the neighborhood; all members concurred with Member Clemente's comments. As to whether a feasible alternative

existed, Member Schmidt stated that locating the addition to the home in any other way would not maintain the existing building line and roofline, which would create more of a visual impact to the area; Member Shover concurred, noting that this was the only location available for the building extension in order for it to be consistent with existing building lines and roofline. As to whether the requested variance was substantial, Member Clemente stated she did not feel this was a substantial variance, but rather the requested variance was appropriate to maintain existing building and rooflines and also to maintain the character of this neighborhood; Chairman Steinbach concurred, stating that this was the appropriate area for the house addition given the history of the lot and the fact that a paper street is located adjacent to this lot which, if built, would have made this particular rear lot line a side lot line, which would not have required any variance for the extension; all members concurred in these comments. As to whether the requested variance would result in an adverse effect on the physical or environmental conditions in the neighborhood, Member Clemente noted that the proposed addition would be consistent with the styles and size of surrounding homes in the neighborhood, that this addition would not result in any impairment to the environment, and that the building addition would not have any effect on safety or privacy concerns for the neighborhood; Chairman Steinbach also stated that the proposed addition was appropriate visually, as it keeps the existing building line and looks appropriate on this particular residential lot. As to whether the difficulty requiring the area variance is self-created, Chairman Steinbach noted that in a sense, the request for the building addition is self-created, but given the circumstances of this proposal, particularly with regard to the paper street shown on the map, this factor is not determinative; Member Schmidt stated that he felt in this case, given the existence of the paper street, the difficulty necessitating the rear yard setback should not be considered self-created. Based on these deliberations, and considering these factors, and in 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 Schmidt made a motion to approve the requested area variance, which motion was seconded by Member Clemente. The motion was unanimously approved, and the area variance granted allowing a rear yard setback of 30 feet 6 inches. Chairman Steinbach directed the applicant to coordinate with the Brunswick Building Department for all building permit and inspection requirements.

The next item of business on the agenda was the area variance application submitted by Chad and Emily Murphy for property located at 3 Gene Avenue. The applicants seek an area variance for a proposed 18-foot by 24-foot addition to the rear of the existing structure at 3 Gene Avenue, which has a pre-existing nonconforming front yard setback of 21 feet 9 inches where a setback of 30 feet is required. The applicants seek the area variance in this case to expand a nonconforming structure. The applicants were present. Chairman Steinbach inquired whether there were any changes or additions to the application. Emily Murphy stated there were no changes or additions to the application, and provided a brief overview of the proposal. Ms. Murphy stated that they are looking to construct an 18-foot by 24-foot addition to the rear of their existing home, but learned that the existing home is located only 21 feet 9 inches from the front yard lot line, making the house a nonconforming structure since a 30-foot front yard setback is required under the Brunswick Zoning Law. 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 had 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 opened the floor for receipt of public comment. No members of the public wished to provide any comment. The Zoning Board members confirmed that there were no written

comments received on this application. Member Shover then made a motion to close the public hearing on the Murphy area variance application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing closed. The Zoning Board members determined to proceed with deliberation on the application. Attorney Gilchrist noted that the application had been forwarded to the Rensselaer County Department of Planning, and that a notification of zoning review application had been received from the Rensselaer County Planning Department, noting that the proposal does not have a major impact on County plans and that local consideration shall prevail, also noting that the applicant is not increasing the nonconformity of the property. Attorney Gilchrist noted that this was an area variance sought in connection with residential use, constituting a Type 2 action under SEQRA. Attorney Gilchrist again reviewed the standards for consideration by the Zoning Board on the area variance application. As to whether the requested variance resulted in undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Clemente stated that no detrimental effects or impact to the neighborhood character would result, that the property was well-kept, and that the proposed home addition was an appropriate expansion in this well-maintained neighborhood; Chairman Steinbach noted that the appearance of the home on the lot from the public road would be maintained, that the front and side views would be consistent, and that this addition was located in the back, and would otherwise comply with the rear yard setback requirements except for the unique situation where the home itself is considered nonconforming due to the existing setback from the front lot line. As to whether there is a feasible alternative available to the applicants, Member Shover noted that there were no feasible alternatives, as the house is located where it is and any expansion to the home would require the area variance given the home's status as a nonconforming structure. As to whether the requested variance is

substantial, Chairman Steinbach noted that this was a unique circumstance, and looking at this lot within the neighborhood in general, the variance should not be considered substantial; the Zoning Board members concurred in this comment. As to whether the requested variance would result in an adverse impact on the physical or environmental conditions in the neighborhood, Member Clemente noted that the proposed house addition was located in a level, well-graded area, that there would be no drainage impacts, and that there would be no adverse visual impacts; all members concurred. As to whether the difficulty requiring the area variance was self-created, Member Shover felt that this was a unique circumstance, and that the difficulty is not self-created, as all the houses in this particular neighborhood are also located approximately 21 feet 9 inches from the roadway, and that this was clearly the result of the initial buildout of this neighborhood. Based on the consideration of these factors, and the deliberation of the facts of this application, and in 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 Shover then made a motion to approve the requested area variance allowing the proposed addition to this nonconforming residential structure, which motion was seconded by Member Clemente. The motion was unanimously approved, and the area variance granted. Chairman Steinbach directed the applicants to coordinate with the Brunswick Building Department on all building permit and inspection requirements.

One item of new business was discussed. An area variance application has been submitted by Charles D. Alund, Jr. for property located at 63 North Langmore Lane. Mr. Alund was present. Chairman Steinbach requested Mr. Alund to generally review the proposal. Mr. Alund also handed up a series of color photographs depicting the lot and the proposed 16-foot by 16-foot garden shed which would require the area variance, and specifically a front yard setback variance. The

applicant is seeking a front yard variance to allow the garden shed to be 44 feet from the front yard lot line, where the Brunswick Zoning Law requires a 60-foot front yard setback. It is noted that the applicant's lot at 63 North Langmore Lane is a corner lot, resulting in two front yard lot lines. Mr. Alund then used the color photos to explain the grade of the lot, location of existing structures and equipment, and proposed location of the garden shed. Mr. Alund also explained that other areas of the lot are not available for locating the garden shed, noting the location of the septic system on the lot as well as the location of electric power lines. Mr. Alund also explained that the shed would be used to enclose all of the equipment which he is now storing outside on the lot, as well as additional equipment which he is currently storing in the two-car garage. The Zoning Board members concurred that the application materials are complete, and scheduled this matter for public hearing for the April 15 meeting to commence at 6:00pm. The Zoning Board also confirmed that Mr. Alund consented to the Zoning Board members accessing the property for review. Mr. Alund also noted for the record that he appreciated the assistance and courtesy of the Brunswick Building Department in connection with his proposal.

The index for the March 18, 2019 meeting is as follows:

1. Horton/Tedisco - Area variance - Approved;
2. Murphy - Area variance - Approved;
3. Alund - Area variance - April 15, 2019 (public hearing to commence at 6:00pm).

The proposed agenda for the April 15, 2019 meeting currently is as follows:

1. Alund - Area variance (public hearing to commence at 6:00pm).