

## **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 APRIL 15, 2019**

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

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The Zoning Board reviewed the draft minutes of the March 18, 2019 meeting. Member Clemente noted one correction, at page 3, line 1, the number “4112” should be changed to “412”. Member Clemente then made a motion to approve the March 18, 2019 minutes subject to the noted correction, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the March 18, 2019 meeting minutes were approved subject to the noted correction.

The first item of business on the agenda was the area variance application submitted by C. Donald Alund, Jr. for property located at 63 North Langmore Lane. The applicant is proposing to install a 16-foot by 16-foot garden shed on the lot located at 63 North Langmore Lane, which constitutes a corner lot, and seeks a front yard setback variance for the proposed location of the garden shed, with the Brunswick Zoning Law requiring a 60-foot front yard setback, whereas Mr. Alund is proposing a 44-foot front yard setback, resulting in a 16-foot variance request. Mr. Alund was present. Chairman Steinbach inquired of Mr. Alund whether there were any changes or corrections to the application since the March meeting. Mr. Alund confirmed that there were no changes or corrections to the area variance application, and that all specifications for the proposed garden shed as described in the application materials remain the same. Chairman Steinbach

inquired whether any Zoning Board members had questions of the applicant at this time. No members had any questions at this time. 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. Ken Clark, 15 Langmore Lane, stated that he had no problem with the area variance request, and that Mr. Alund was a great neighbor; Mr. Clark explained that he lived to the rear of Mr. Alund's property, but in close proximity. Cathy Murray, 69 North Langmore Lane, stated she had no objection to the area variance request, and that installation of the garden shed would aesthetically enhance the neighborhood. Bob Mainello, 8 Woodcut Lane, stated that he lives directly across the street from Mr. Alund; that the proposed shed location would be visible from his front window, his front yard, and his driveway; and that he had no concern or objection to the area variance request, and felt the shed would be an improvement to the neighborhood. No further members of the public present at the meeting wished to provide any comment. Chairman Steinbach noted that an e-mail letter had been received from Helen Potter, 7 Woodcut Lane, dated April 12, 2019, and proceeded to read that e-mail letter into the record in total. Chairman Steinbach stated that the Zoning Board members had just learned of the April 12 correspondence of Potter, and also the prior area variance proceedings before the Zoning Board of Appeals which occurred in 2010 regarding an area variance request for the installation of a garden shed by Mr. Alund at the same site, 63 North Langmore Lane. Chairman Steinbach noted that the Zoning Board members need to have time to consider the full record of the 2010 area variance proceedings as part of its deliberations on the current area variance application, since it is the same location, same owner, and is also a proposal

to install a shed on the property. Chairman Steinbach stated that he would consider closing the public hearing on this application subject to discussion by the Zoning Board members, but to adjourn any deliberation on the area variance application until the Zoning Board members had adequate time to consider the 2010 variance record of proceedings before the Zoning Board of Appeals. Member Clemente had a question for the applicant. Member Clemente noted that the Potter correspondence stated that Potter had no objection to this current area variance application if Mr. Alund removed the existing concrete slab on his property, and Member Clemente inquired whether Mr. Alund intended to remove this concrete slab as part of the current project. Mr. Alund stated that the concrete pad is six inches of concrete with #8 rebar reinforced, and that removal of this slab would be extremely costly. Mr. Alund also questioned the accuracy of the record of proceedings on the Town records from 2010 regarding the prior area variance application, with particular regard to any discussion concerning the concrete slab. Mr. Alund stated that he did have a prior area variance application in 2010, and that the Zoning Board granted the variance, but at a different location for the shed than he had proposed, and that the approved location was at a high point on his property and over his existing septic field. Mr. Alund also stated that there was no mention of the concrete slab being required to be removed in 2010, only that he needed to plant trees between his property and Potter. Mr. Alund again discussed the specifications of the slab that he installed on his lot, again stating that the slab was six inches of reinforced concrete, and would be extremely expensive to remove. Mr. Alund also questioned the relevancy of the concrete slab to his current proposal, since the current proposed location of the garden shed is four feet away from the concrete slab. Chairman Steinbach reiterated that the Zoning Board members needed time to adequately review the 2010 record, and also to take an additional look at the property in light of the 2010 record of proceedings. Mr. Alund stated he had no objection to the

Zoning Board members looking at his property. Mr. Alund repeated that the concrete slab was not part of the structure of the current proposed garden shed, that the shed was in a new location which was at least four feet away from the existing concrete slab, and his current proposed location for the shed is different than in 2010. Member Shover asked why Mr. Alund was not considering using the existing concrete slab for the shed location. Mr. Alund stated there were extensive proceedings on installation of a shed at his property in 2010; that Potter opposed that application in 2010; that he did not want to re-hash the 2010 proceedings; and that is why he didn't add any pictures of his neighbor's property, which he feels is not in compliance with the Brunswick Zoning Law. Chairman Steinbach noted that any impact of his current proposal on the surrounding neighborhood is a relevant consideration on his area variance application, so the condition of his neighbor's property may in fact be relevant and should be a point of discussion during deliberations. Chairman Steinbach again raised the possibility of closing the public hearing, but adjourning any deliberation subject to review of the 2010 record of proceedings. Member Schmidt stated that he disagreed, and felt that the Zoning Board should keep the public hearing open, and at least let the adjoining neighbor Potter speak at the public hearing. Mr. Alund stated that if the Zoning Board was going to consider the 2010 proceedings, his prior application should also be included in the record and considered, since the prior application will provide the specifications of the concrete slab. Chairman Steinbach stated that he felt the public hearing should be closed at this point, and made a motion to close the public hearing on the Alund area variance application, and sought a second for the motion. Member Shover seconded the motion. Upon a vote, the motion to close the public hearing on the Alund area variance application was approved 4-1, with Member Schmidt voting in opposition. Attorney Gilchrist advised the Board that with the close of the public hearing, the Zoning Board had 62 days in which to render a determination on the area

variance application, and that the Zoning Board members should utilize this time period to review the 2010 record of proceedings on the prior area variance application for this project. Attorney Gilchrist then stated that the Potter e-mail correspondence of April 12 referenced several attachments, including specific Zoning Board meeting minutes from 2010 as well as the Zoning Board area variance determination for this location issued in October 2010. Attorney Gilchrist had prepared copies of each of those meeting minutes and Zoning Board determination and provided each Zoning Board member and the Building Department with copies. Attorney Gilchrist then stated that there is no indication that the references in the Potter April 12 e-mail correspondence constitute the complete record of proceedings before the Zoning Board on this matter in 2010, and requested that the Building Department conduct a review of the prior 2010 Alund area variance application, assemble all meeting minutes at which that application was discussed, find the Alund 2010 area variance application in the Building Department records, and provide a complete copy of all application materials, Zoning Board meeting minutes, and Zoning Board determination from the 2010 proceeding concerning the prior Alund area variance application. Mr. Alund stated that he apologized to the Zoning Board members for not notifying the Board of the prior 2010 application or providing the prior record, but felt that this was not relevant since he was proposing a new location for his shed. Attorney Gilchrist stated that the prior 2010 record will speak for itself, and that the Zoning Board's prior deliberations on an area variance request for the installation of a shed at this location should be considered, advising the Zoning Board that while the Zoning Board's deliberation and determination on the current area variance application should be consistent with those prior proceedings, it is noted that the Zoning Board should consider any changed circumstances, including changes in the current application with particular regard to the shed location as well as any changes in the neighborhood from the

2010 proceedings. Mr. Alund stated that the Town's records in 2010 concerning the discussions and deliberations on the prior area variance applications were not accurate or complete. Attorney Gilchrist again stated that the public record will speak for itself. The Zoning Board scheduled this matter for deliberation at its May 20, 2019 meeting commencing at 6:00pm.

There were no items of new business.

The index for the April 15, 2019 meeting is as follows:

1. Alund - Area variance - May 20, 2019.

The proposed agenda for the May 20, 2019 meeting currently is as follows:

1. Alund - Area variance.