

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 DECEMBER 16, 2019

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

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Chairperson Clemente reviewed the agenda for the meeting as posted on the Town signboard and Town website. Chairperson Clemente noted that the use variance applications submitted by Rensselaer Plateau Alliance/Rensselaer Land Trust are adjourned. Attorney Gilchrist reviewed with the Board members the procedural time frames for making a determination on the use variance applications following the close of the public hearing. Following further discussion, it was determined that the Board would contact the applicants to secure consent on extension of the time frames for determination on the use variance applications, and if that consent was not obtained, the Zoning Board of Appeals would hold a special meeting to address the use variance applications on December 19, 2019 at 6:00pm. In the event a special meeting is required, the necessary posting and publication of the notice of that special meeting will be completed.

The draft minutes of the regular meeting of the Zoning Board of Appeals held November 18, 2019 were reviewed. Upon motion of Member Shover, seconded by Member Schmidt, the minutes of the November 18, 2019 regular meeting were unanimously approved without amendment.

The draft minutes of the special meeting of the Zoning Board of Appeals held November 26, 2019 were reviewed. Upon motion of Member Shover, seconded by Member Schmidt, the minutes

of the special meeting of the Zoning Board of Appeals held November 26, 2019 were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Brown/Trifocal Brewing Inc. for property located at 138 Brick Church Road. The applicant seeks area variances for use of an existing garage structure as a craft brewery at that location. Alex Brown of Trifocal Brewing Inc. was present. Chairperson Clemente requested that Mr. Brown provide any updates to the Board, and also to provide a presentation of the project. Mr. Brown stated that he is proposing to operate a small craft brewery at 138 Brick Church Road; he seeks to utilize and re-use an existing building on that location for the brewing operation; he is proposing 15 parking spaces in connection with the business; that his proposal is to manufacture beer and also have a small taproom area in the building for beer tastings; that he had previously made amendments to the proposed site plan to relocate the on-site well and leach field in response to comments from the Rensselaer County Department of Health; that he is continuing to coordinate with the New York State Department of Transportation for the proposed driveways for ingress and egress; and that his proposed site plan and special use permit applications remain pending at the Brunswick Planning Board. Chairperson Clemente asked about the proposed width of the driveways. Mr. Brown stated that he had met with the New York State Department of Transportation, and that the driveways will be 16 feet in width. The Zoning Board then opened a public hearing on the area variance applications. The notice of public hearing was read into the record, with Chairperson Clemente 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. Stephanie Delsignore, 132 Brick Church Road, stated that she had several concerns regarding the proposal; that she had concerns regarding the distance of the proposed septic system for the business from her

existing septic system for her home; that if the business proposed to drill a new well, she was concerned regarding what would happen to her water pressure on her residential lot, which also relies on a well for her water; that the proposed parking lot will be right in front of her house, and she is concerned about noise; that this business proposal will decrease her residential property value; that high winds already impact her property, and that this proposal will be removing trees on the project site that currently block the wind, and that this proposal will further impact her house by wind damage, including damage to her roof; that she is concerned about the dumpster location, including the smell of hops and mash, and whether the dumpster would be emptied every day; that her concerns are submitted as a resident of the Town of Brunswick; that she purchased her home because it is secluded and safe, and a commercial parking lot is now being positioned in a location that will impact her house; that she is concerned that people will use her driveway thinking they would be going to the brewery, and that her home will be impacted by these cars; and that she generally has a lot of concern regarding this proposal. Judy Weinman, 122 Brick Church Road, discussed what a craft farm brewery licensure includes, and that it is not limited to brewing beer and selling beer but also includes the ability to sell any New York-produced distillery product, and therefore this will effectively be opening a bar; that she had provided written comments to the Planning Board, and it was confirmed that her written comments which had been submitted to the Planning Board were available to the Zoning Board members to review in connection with the area variance applications; that she had concerns regarding traffic, the parking lot, and the value of her home; that Mr. Brown purchased the property as is, and he is now asking the Town to make an accommodation for his business, and therefore the need for the variance should be considered self-created; that under his craft brewery license, Mr. Brown could open a bar, a hotel, or a catering hall, and that this is a slippery slope since Mr. Brown has a lot of land and could expand his business; that the businesses surrounding this area are agri-

businesses and not retail in nature; and that she has concern regarding impact to school busses dropping kids off in the afternoon in this area, which will create a risk. Clay Danish, 142 Brick Church Road, asked whether the comment letter he submitted to the Planning Board had been answered by the applicant yet, and also had questions regarding hours of operation for the business. Mr. Golden confirmed that the written comments received by the Planning Board on the site plan and special use permit applications had been sent to the Zoning Board members, and Chairperson Clemente confirmed that they will part of the Zoning Board record as well. Attorney Gilchrist stated that the applicant will need to respond to public comments in writing, and that Attorney Gilchrist understands that the applicant is continuing to prepare the written responses to the public comments. Member Steinbach had questions concerning Mr. Brown's business plan, and confirmed that this will be limited to a family business without any outside investors. Member Steinbach also inquired whether there were plans for future development on the rest of Mr. Brown's land. Mr. Brown stated that he could grow hops or barley in the future, but he is not proposing any additional development or use of his remaining land at this time. Member Steinbach asked whether Mr. Brown plans to operate a hotel or lodging in the future. Mr. Brown said he had no plans to do so. Member Steinbach asked whether the current proposal consisted of brewing beer and having a taproom for tastings only. Mr. Brown confirmed that is all that he is requesting in his special use permit and site plan applications and area variance applications. Member Steinbach asked about the hours of operation being proposed. Mr. Brown stated that his current proposal is to have his tasting room open on Thursday through Sunday, 11am to 9pm, but that he would be open to modification if required by the Town. Member Shover had a question regarding the use of the existing residential house on the property. Mr. Brown confirmed that he lives there, and will continue to live on site. Stephanie Delsignore also stated that she had a concern regarding the potential fire hazard if the brewery operation were left

unattended for any period of time. Deborah Gordon, 122 Brick Church Road, stated that the application also requested approval for a patio as well as having food trucks on site, and that serving beer and other spirits outdoors would lead to outdoor noise, which would result in more impact to the neighborhood. Chairperson Clemente then inquired whether there were any further members of the public wishing to provide comment on the area variance applications. Hearing none, Member Shover made a motion to close the public hearing on the area variance applications, which motion was seconded by Member Steinbach. The motion was unanimously approved, and the public hearing closed. Chairperson Clemente stated that the Zoning Board could proceed with deliberation, but the Zoning Board should allow the applicant time to respond to the public comments in writing to complete the record before the Zoning Board. Member Shover did want information regarding the separation of the well and septic being proposed for this business to the existing well and septic location on the Delsignore lot. Member Shover also asked whether the property had been surveyed. Mr. Brown stated that the property had previously been surveyed, that he had located certain survey pins in the field, and that he placed the property line on his site plan consistent with the metes and bounds description in his deed, which was done at the request of the Planning Board. Attorney Gilchrist confirmed that the Brunswick Planning Board engineer had requested Mr. Brown to place the property line on the site plan consistent with the metes and bounds description in his deed. Chairperson Clemente inquired whether Mr. Brown would be prepared with his response to public comments by the Zoning Board's January meeting. Mr. Brown inquired whether his written responses should include the responses to the Planning Board public hearing comments and also the Zoning Board public hearing comments. The Zoning Board stated that copies of the written comments received by the Planning Board were part of the Zoning Board record so that Mr. Brown should respond to both the Planning Board and Zoning Board public hearing comments together.

Member Steinbach stated that a full response to all public comments will help the Zoning Board in its deliberation. The Zoning Board stated that due to the Martin Luther King holiday, the regular business meeting of the Zoning Board will be held January 27, 2020. This matter is placed on the January 27, 2020 agenda for further discussion.

The next item of business on the agenda was the area variance application submitted by Anthony Arcoleo for property located at 346 Bulson Road. The applicant seeks an area variance to allow an existing garage structure to remain closer to the front lot line than a proposed new home on the property located at 346 Bulson Road. Anthony Arcoleo was present. Chairperson Clemente asked whether there were any changes or additions to the application. Mr. Arcoleo stated there were no changes to the application, and that the property owner is simply trying to utilize the existing garage building in the same location while building a new home on the lot. The Zoning Board then opened a public hearing on the application. The notice of public hearing was read into the record, with Chairperson Clemente 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. Chairperson Clemente confirmed that this is an existing accessory garage, and that the area variance seeks approval to keep the existing garage in its current location when constructing the new home on the property. Chairperson Clemente then opened the floor for receipt of public comment. No members of the public wished to provide any comment. Mr. Golden confirmed that no written comments had been received on the application. Chairperson Clemente inquired whether any members of the Zoning Board had questions on the application. Hearing none, Chairperson Clemente then made a motion to close the public hearing, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. The Zoning Board proceeded to deliberate on the application. Chairperson Clemente noted that this area

variance seeks a setback variance for a residential use and constitutes a Type 2 action under SEQRA. The Zoning Board members then reviewed the elements to consider the area variance request. As to whether the proposed variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente noted that this was an existing garage structure which had been in the same location for years; that this is a rural residential area; and that the continued use of the existing garage structure should not create a detriment to any neighboring properties. All Zoning Board members concurred. As to whether there was a feasible alternative, Member Shover noted that the only alternative would be to demolish the existing structure or to move it, but he did not view that as reasonable in this case. Chairperson Clemente noted that this was an existing garage structure in good working order, and did not see any reasonable basis to require its removal or change its location on the lot. As to whether the requested variance is substantial, Chairperson Clemente noted this was an A-40 Zoning District, and did not feel that the extent of the variance was substantial relative to the area, and also took into account that it is an existing structure. All Zoning Board members concurred. As to whether the variance would have an adverse effect on the physical or environmental conditions in the neighborhood, all Zoning Board members concurred that there would be no adverse impact; that this was an existing structure; and that removing or moving this structure would have more of an adverse environmental impact than keeping the structure in its current location. As to whether the difficulty is self-created, the Zoning Board members noted that this is an existing garage structure which has been in the same location for several years, and did not feel that the situation was self-created. Chairperson Clemente then stated, given the deliberation on the elements and balancing the benefit to the applicant in granting the area variance as opposed to any detriment to the neighborhood in particular or the Town at large, that the Zoning Board should entertain a motion to act on this application. Member Steinbach then made a

motion to grant the area variance as requested with no conditions, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variance granted. Chairperson Clemente directed the applicant to continue to coordinate with the Building Department on this project.

The next item of business on the agenda was the sign variance application submitted by AJ Sign Company for the Brunswick Church for property located at 42 White Church Lane. Emma VanVorst, of AJ Sign Company was present for the applicant. Chairperson Clemente requested that Ms. VanVorst generally review the proposal. Ms. VanVorst reviewed the overall size and height of the proposed sign, noting that there was discussion at the last Zoning Board of Appeals meeting about the possibility of amending this application to address the issues of overall size and height, but Ms. VanVorst indicated that she had reviewed this with her client and that no changes were being proposed at this time. Ms. VanVorst indicated that the height of the sign is necessitated in part by the need for room at the bottom of the sign to the existing grade, and that from the bottom of the sign to the existing grade is a total of 38 inches being proposed, and that this area is required for snow storage. Ms. VanVorst did indicate that the Brunswick Church did consider other adjustments, but that none are being proposed at this time. Ms. VanVorst stated that the current wooden sign at this location is 10 feet 2 inches tall and 94 inches wide, with a message board that is 42 inches high and 90 inches wide. Ms. VanVorst stated that the message area of the proposed digital sign is 36 inches high and 84 inches wide. As to the top area of the sign being proposed, Ms. VanVorst stated that the arched design was important to the church as it was part of their overall branding effort. The Zoning Board then opened the public hearing on this sign variance application. The notice of public hearing was read into the record, with Chairperson Clemente 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 within 300 feet of the project site. Chairperson Clemente did note that Mr. Golden had delivered additional written notices of the public hearing to property owners within 300 feet of the proposed sign itself, and it was determined that the parcel on which the sign is placed is different than the parcel on which the church is located, and that the mailing to owners of properties within 300 feet was based on the church building parcel itself and not on the parcel on which the sign is being proposed, and when this was learned, Mr. Golden had hand-delivered additional public hearing notices to a number of properties located within 300 feet of the parcel on which the sign is proposed to be located. Chairperson Clemente opened the floor for receipt of public comment. Jennifer Polley stated that she was submitting a written letter on behalf of her parents who live at 18 White Church Lane, and was not happy that written notice of the public hearing was provided by Mr. Golden only a few days before the public hearing; Ms. Polley then read a letter from her parents, stating that they were outraged over the proposed digital sign; that the White Church Lane and NYS Route 351 intersection is busy and dangerous, and that this would only add a new danger and distraction; the parking lot signs in front of the church for “yield” and “no exit” are not followed by the parishioners, and they would not be confident that any rules for this digital sign would be followed either; that this area is not suburban but rural in nature; that this sign would result in visual pollution; that this sign would be on for 16 hours a day; asked why a digital sign is being proposed, and what is wrong with the current wooden sign; that the proposed digital sign is double the size allowed under the Brunswick Sign Law; that this would impact surrounding property values, as the proposed sign is electronic and significantly larger than the law allows; that this sign does not protect the character of the area, is a distraction, and is a hazard; that the Brunswick Sign Law does allow a sign to be operated from 11pm to 7am, but the church wants to operate the sign at 5am; that this hamlet area is not Route 7; that the recommendation from the County Planning Department stated that local consideration shall

prevail, and that “local consideration” is the neighbors; that the neighbors to this proposed sign will be negatively impacted; that the Town did not adequately provide notice of the public hearing to those property owners located within 300 feet of the sign; and questioned whether any Zoning Board members were a member of the Brunswick Church. Jennifer Polley also stated that while she no longer lives on White Church Lane, she grew up there and had moved away and then come back to Brunswick; that the Brunswick Church used to be a welcoming place and a good neighbor, had the character of a small town church, with the whole area having a feel of a small town; that the church has now grown and is pushing out its neighbors; that the church does not follow its own signs in the parking lots; that it is her understanding that the older members of the church do not want this sign changed, and that in terms of the younger members, they will not be enticed to attend events through a digital sign but rather through social media; a digital sign is not better, and will only impact the neighbors. Dorothy Arthur, 86 White Church Lane, stated that she had lived at this location for 34 years, and agrees with all of the comments of the Polleys; that her house was built in 1793, that she was drawn to this location by its beauty, peace, and quality of life; that this area has always had the feel of being in another time and she loved this area; that there have been severe changes brought about by the expansion of the church, including destruction of old growth trees as well as building a large, imposing new church building; that the sign being proposed is garish and an eyesore and will be completely out of place; that the lights from this sign will be shining directly into her windows, and will be very disturbing and intrusive for hours on end; that when the lights were initially put on the wooden sign they were impacting her property and she contacted the church and they were immediately adjusted, but she does not feel that this same approach would happen with the proposed digital sign; that the size being proposed is enormous, and will not likely attract new members to the church; that the church should try to attract new members through social media and not a garish digital

sign; that the sign being proposed is appropriate for a commercial area, but not White Church Lane, and that the sign is completely out of character for this residential area; and that the church has no regard for its neighbors. Bill Darling, Sr. stated that he owns property at 66 White Church Lane; that he is opposed to the sign variance; that the sign being proposed is more than twice what is allowable in terms of height and square footage under the Brunswick Sign Law; that a digital sign is not consistent with a residential area; that the property he owns is historically known as the Marsh Link Pollock Farm and built in the early 1800s, and is an historic site on state and federal registers; that his neighbors' houses were built even earlier than the 1800s; and provided a written comment letter to the Zoning Board for the record. Deyva Arthur, deed owner to 86 White Church Lane, stated that there was no compelling reason to approve a sign variance in this case; that the proposed sign is completely out of character with the community and the environment; that the area used to be idyllic, but now with the expansion of the church, there is a very large parking lot with lights creating light pollution and that this proposed digital sign will only further impact the area; that the Brunswick Church said that they would work with the neighbors to reduce the impact of the church expansion project, but that the church did not do so; that a digital sign at this location is entirely inappropriate. Louis Hutter, White Church Road, also raised issues concerning the public hearing notices provided; that while the church building itself is located at 42 White Church Lane, the sign is located on a parcel at 230 White Church Road, and that his property is 175 feet from the existing sign, and that he did not receive a written notice in the mail; that the Town has a sign law which is very specific, and that the intent of the sign law is that signs not be excessive in size; that the existing wooden sign is not even in compliance with the existing Brunswick Sign Law; that nonconforming signs are addressed in the Brunswick Sign Law, and that the existing sign dimensions should not be allowed to be used for comparison in connection with the new proposed digital sign; that the Town is not enforcing its

sign laws; that with the church expansion that had been completed over the last several years, a lot of stuff had been ramrodded in; that the new sign is proposed as a marketing tool, and is not merely a church sign to identify events; that this would be more in the nature of a billboard in a residential area; that the Brunswick Sign Law says a sign should not be operated between 11pm and 7am, but the church wants to turn this sign on at 5am; had a question concerning the proposed illumination for the non-digital display area; that this would be a third sign for this intersection of White Church Lane and Route 351, which includes a sign for the baseball field, a sign for the food pantry, and this new proposed sign for the church, and that this would result in a significant cluster of signs in one location; that this proposed sign is not on the same parcel as the church building, that the Brunswick Sign Law requires the sign to be on the same parcel as the building, and that the Brunswick Church elected not to merge all of its various parcels that it owns but to keep them separate, which raises an issue with the church sign in its current location; that this intersection of Route 351, White Church Road, and White Church Lane is significant and includes significant turn movements, and this proposal should be reviewed by NYSDOT and the Town Highway Department; that he was speaking at the urgency of several residents who feels there is no compelling reason for this sign variance; that there are several other churches in the Town of Brunswick that have signs like the existing wooden sign for the Brunswick Church, and if the sign variance is allowed, other churches might follow; that the Brunswick Sign Law should be followed and the variance not granted. Ed O'Neill, 229 White Church Road, stated that he has lived at this location for 19 years and agrees with the concerns of his neighbors; that the sign will be a distraction and cause a safety concern; that this is out of character with the neighborhood; and that he had concerns regarding the existing wooden sign as well. Rod Owens of Pine Creek Farm LLC, residing at 615 Farm-to-Market Road, stated that he resides ¼ mile to the south of this location for the sign; that he supports the prior comments submitted at this public

hearing; that there is no compelling reason to grant a variance; that the Brunswick Sign Law is a balance between rural settings and signs; that it would be a gross dereliction if the Town approved this sign variance for the hamlet of White Church; that vehicles on Route 351, especially proceeding south to north, often exceed 55mph, and that this digital sign would be a significant traffic hazard and health and safety concern. Donald Henderson, 29 Roberts Drive, stated that he was a member of the Brunswick Planning Board, but that he was here speaking as a private citizen and any comments he made should not be construed as an opinion of the Brunswick Planning Board or any of its members; asked whether the proposed digital sign would simply display letters like the digital sign at Tamarac High School or have a rolling billboard like a commercial sign; that he objects to the sign because it appears to be commercial in nature and not consistent with the residential character of the area, and that the area is not commercially zoned; that this proposed sign would nearly double the sign law regulation for sign height and nearly double the size for the display area; that he had concerns regarding the brightness of the sign, and country living is not consistent with the use of an electronic sign; that there were safety issues presented, as drivers on Route 351 might be paying attention to a scrolling digital sign rather than driving and result in accidents; that a commercial sign, regardless of size, was not consistent with the rural character of the White Church Lane area. Chairperson Clemente asked Ms. VanVorst whether there was any representative of the Brunswick Church present. Ms. VanVorst stated that there was no representative of the Brunswick Church present. Chairperson Clemente noted that despite the efforts of Mr. Golden in providing additional written notice to property owners of this public hearing, there was an issue concerning the adequacy of the public notice for this public hearing given that the church parcel at 42 White Church Lane was used for identifying properties within 300 feet, while the sign was located on a different parcel. Attorney Gilchrist stated that this public hearing should be continued and the notice corrected, and that this

public hearing should be re-noticed and continued at the Zoning Board's January meeting to comply with procedural requirements of the Brunswick Zoning Law in terms of public hearings on variances. Attorney Gilchrist noted that all comments received at this meeting would be part of the public hearing record, and that additional comments received at the continued public hearing at the January meeting would also be part of the public hearing record on this application. Attorney Gilchrist also stated that the applicant would need to respond to all public hearing comments in writing. Ms. VanVorst asked whether she should respond to the comments received at the December meeting prior to the continued January public hearing. Attorney Gilchrist stated that this was up to the applicant, but repeated that all public comments received, both at the December meeting as well as the continued public hearing at the January meeting, will need to be responded to in writing by the applicant. Member Steinbach concurred, stating that if the applicant wanted to respond to the comments received at this meeting prior to the January meeting, the Zoning Board would certainly take those responses into consideration, but repeated that all public comments received, including the public comments received at the continued public hearing at the January meeting, will need to be responded to in writing by the applicant. The Zoning Board discussed the adequacy of the record on photosimulation of the sign as well as information on the existing sign light brightness. Ms. VanVorst stated she would review those issues and supply additional information to the Zoning Board. Chairperson Clemente stated that this public hearing is adjourned, and will be re-noticed and continued at its meeting to be held January 27, 2020 at 6:00pm.

The next item of business on the agenda was an area variance application submitted by Brian Gingeresky for property located at 10 Sandford Avenue. The applicant seeks an area variance for a front lot line setback for a proposed porch addition to the existing home, as well as an area variance for a rear lot line setback for a proposed addition to a detached garage structure located at 10 Sandford

Avenue. Brian Gingeresky was present. Chairperson Clemente inquired whether there were any changes or additions to the application. Mr. Gingeresky stated there were no changes or additions to the application. The Zoning Board then opened a public hearing on this area variance application. The notice of public hearing was read into the record, with Chairperson Clemente 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. Chairperson Clemente opened the floor for receipt of public comment. No members of the public wished to provide any comment on this application. Chairperson Clemente asked whether any Zoning Board members had any questions. Member Shover had a question regarding the proposed garage addition, and Mr. Gingeresky confirmed that he was going to use existing sidewalls but expand out the structure to create a two-car garage. Chairperson Clemente inquired whether there were any further questions by the Zoning Board members. Hearing none, Member Shover made a motion to close the public hearing on this area variance application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing closed. The Zoning Board members were prepared to proceed to deliberate and act on this application. Chairperson Clemente noted that this application seeks a lot line variance for a residential use, and constitutes a Type 2 action under SEQRA. Chairperson Clemente then discussed the elements for consideration of this area variance application with the Zoning Board members. As to whether these requested area variances would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, all members concurred that the proposed additions are consistent with the character of the neighborhood and would not result in any undesirable change or create a detriment to nearby properties; Chairperson Clemente noted that the Rensselaer County Planning Department also stated that this does not conflict with County plans and that local consideration shall prevail. As

to whether a feasible alternative is available, Member Shover noted that this lot is very small and areas for additions to both the house and garage are limited by the size of the lot, and that he did not feel there was a feasible alternative available; Chairperson Clemente concurred, finding that a feasible alternative did not exist for the proposed additions given the size of the lot. As to whether the requested variances are substantial, it was noted that this lot is located in the R-9 Zoning District, and that the size of the proposed variances should not be considered substantial given the consistency with uses surrounding this parcel and the minimal impact to any neighbors. As to whether the proposed variances would result in any adverse effect on the physical or environmental conditions in the neighborhood, Chairperson Clemente noted that Mr. Gingeresky had worked on good plans for these expansions, taking into account his neighbors, and protecting the character of the neighborhood, and did not feel that any adverse effect on environmental or physical conditions would result; all members concurred. As to whether the need for the area variances is self-created, all members of the Zoning Board concurred that the need for the variance can be considered self-created, but stated that this element is not determinative on this application, particularly given the small size of this lot and the building plans that have been presented to the Zoning Board. Chairperson Clemente stated that in consideration of these elements, and balancing the benefit the applicant in granting the area variances as opposed to any detriment to the neighborhood in particular or Town in general, she would entertain a motion for action on this application. Member Shover made a motion to approve the area variances without any conditions, which motion was seconded by Member Steinbach. The motion was unanimously approved, and the requested area variances granted. Chairperson Clemente directed Mr. Gingeresky to continue to coordinate with the Brunswick Building Department.

The next item of business on the agenda was an area variance application submitted by Frederick Stafford for property located at 681 Farm to Market Road (Route 351). Frederick Stafford

was present. Chairperson Clemente asked whether there were any changes or additions to the application, which seeks approval to allow construction of an accessory structure closer to the front lot line of this parcel than the main residential structure. Mr. Stafford stated that there were no changes or additions to the application. Chairperson Clemente wanted to confirm that this proposal was not to replace an existing structure, but would be adding a new structure to the lot. Mr. Stafford stated that it is a proposed new structure. Chairperson Clemente confirmed that this was a proposed woodshed, and would be used for the storage of wood only for heating his home. Mr. Stafford stated that was correct. Chairperson Clemente inquired what the woodshed would be constructed of. Mr. Stafford stated it would be made of wood with a metal roof. Chairperson Clemente asked whether there would be any concrete slab on which the woodshed would rest. Mr. Stafford stated there would not be a concrete slab, but that cement block piers would be used. The Zoning Board then opened the floor for receipt of public comment. Alice Busman, 689 Farm to Market Road, stated she lived adjacent to Mr. Stafford; that she requested denial of the area variance application; that she did not feel there was clear information on the application; that she was not sure what the building would look like; that she was not clear as to what materials would be stored in this building; and requested that the balance of her comments which she has set forth in a letter to the Zoning Board be considered, and handed up her written comments. Chairperson Clemente directed Mr. Golden to make copies of the written comments for all of the Zoning Board members for review. Rod Owens, of Pine Creek Farm LLC, 615 Farm to Market Road, stated that he was the owner of the property immediately to the south of Mr. Stafford's parcel, whereas Ms. Busman lived immediately to the north; that he had no objection to this application, as the proposed woodshed is a wood framed building and that use of woodsheds is in keeping with the character of the area; that while he was respectful to the comments of Ms. Busman, she was located to the north and that this proposal would not have any impact to his

property located to the south. Chairperson Clemente inquired of the Zoning Board members whether they wanted to review the written comments of Ms. Busman at this meeting, or would need additional time to consider those comments and place this matter on the Board's January meeting agenda for deliberation. The Board members ultimately determined that review of Ms. Busman's written comments at this meeting was appropriate, and that they would have adequate time to consider these comments. Chairperson Clemente then made a motion to close the public hearing on the Stafford area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. Chairperson Clemente again confirmed with the applicant that the proposed woodshed was a wood building with a metal roof; that concrete blocks would be used to support the woodshed and that this would not be a poured concrete slab; that the proposed woodshed was 10 feet by 16 feet in size, and that the application documents included photographs of the type of proposed structure to be installed; and that the application materials showed the proposed location of the woodshed on Mr. Stafford's lot. Mr. Stafford stated all of those statements were correct. The Zoning Board members then reviewed Ms. Busman's written comment letter, stating that a number of the issues raised in her comment letter concerning the size and materials of the structure, its location, and the materials to be stored in the woodshed had been addressed. Member Schmidt stated that the first page of Ms. Busman's comment letter speaks to the issues relevant to the area variance, and that the rest of her comments in her letter touched on other land use issues on Mr. Stafford's property, but were not relevant to the area variance application. Chairperson Clemente agreed, stated that the remaining comments of Ms. Busman may be an enforcement matter for the Brunswick Building Department, but were not relevant to the area variance application. Chairperson Clemente appreciated the concerns of Ms. Busman, but stated that the issues and concerns she raised that were relevant to the area variance application have been addressed. Member

Steinbach wanted to confirm that the picture submitted on the application depicting the proposed woodshed was accurate, and that this type of structure would be installed by Mr. Stafford. Mr. Stafford stated it was correct that the picture accurately portrayed the type of woodshed he would install and, though he would be reinforcing the structure, the woodshed would look as depicted in the picture. Member Steinbach asked whether Mr. Stafford heats his entire home with wood. Mr. Stafford stated that he only heats one half of the house with wood, and the woodshed would be located in proximity to that half of the house. Member Steinbach asked Mr. Stafford where he obtained his wood. Mr. Stafford stated he buys wood from a local source. Chairperson Clemente confirmed that the Zoning Board members had adequate time to review the full comment letter of Ms. Busman, and all members stated they had adequate time to review and consider Ms. Busman's comments, and were prepared to act on the application. Chairperson Clemente then noted that the application seeks an area variance for a residential use, and constitutes a Type 2 action under SEQRA. The Zoning Board members then reviewed the required elements for the area variance request. As to whether the requested variance would produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente noted that other properties in the area have accessory structures, that the proposed woodshed would not be out of character with the area, that the proposed woodshed was an attractive structure, and that this proposal would not result in an undesirable change in the character of the area or create a detriment to nearby properties. All members concurred. It is noted that the Rensselaer County Planning Department also commented that the application does not conflict with County plans, and that local consideration shall prevail. As to whether there was a feasible alternative available, the Zoning Board members considered the location of the woodshed in relation to a number of mature trees, and determined that a feasible alternative was not available unless a significant number of trees were removed. As to whether the requested

variance was substantial, the Zoning Board members stated that the woodshed is proposed to be 3 feet in front of the front lot line of the house, and that this is a very large rural lot, and that the Zoning Board members did not feel that this was a substantial variance in this case. The Zoning Board members also concurred that the requested variance would not produce an adverse effect on the physical or environmental conditions in the neighborhood. The Zoning Board members also concurred that the need for the variance may be considered self-created, but was not determinative in this case. Chairperson Clemente then stated that based upon consideration of these elements, and balancing the benefit to the applicant in granting the variance as opposed to any detriment to the neighborhood in particular or the Town in general, she would entertain a motion for action on this application. Member Schmidt made a motion to approve the requested area variance without any conditions, which motion was seconded by Member Shover. The motion was unanimously approved, and the area variance granted. Chairperson Clemente directed Mr. Stafford to coordinate with the Brunswick Building Department. Chairperson Clemente also noted that the additional comments of Ms. Busman should be reviewed by the Brunswick Building Department.

The next item of business on the agenda was the use variance application submitted by Blue Sky Towers III, LLC and Cellco Partnership d/b/a Verizon Wireless. David Brennan, Esq., project attorney, was present for the applicant. Mr. Brennan confirmed that he had appeared before the Brunswick Planning Board at its December 5 meeting, and that the Planning Board was agreeable to a joint public hearing on this application with the Zoning Board of Appeals, and suggested that the joint public hearing be held on January 16, but that the Planning Board was also agreeable to the January Zoning Board meeting date of January 27. There was discussion concerning procedural steps regarding notification for the public hearing. Chairperson Clemente inquired whether the use variance application sought a location with a tower at 150 feet, or whether the tower would be at 80

feet or 240 feet. Mr. Brennan stated that the applicant was proposing the location for a 150 foot tower, which is generally located at the middle part of the property on the hill or slope, and that the applicant had submitted alternative sites at the top of the hill with a tower of 80 feet in height and also at the bottom of the hill with a tower of 240 feet in height. Mr. Brennan stated that certainly the public hearing comments would raise issues concerning the preferred location as well as the alternative locations, and that these issues would be discussed as the project review continued. Mr. Brennan also confirmed that the Planning Board had raised the issue of a further alternative location where a tower height of approximately 190 feet could be used which would not require the use of a light at the top of the tower. Attorney Gilchrist noted for the record that the review engineer for this application, Laberge Group, determined that the application was complete for purposes of opening the public hearing, and that Laberge Group would be reviewing the written response to comments submitted by the applicant as the project review continued. Chairperson Clemente stated that she was agreeable to scheduling the joint public hearing for January 16 at the regular Planning Board meeting, and all Zoning Board members concurred. It was determined that a notice of special meeting would be published for the Zoning Board of Appeals for the January 16 date, and that a joint public hearing would be held with the Planning Board on this application on January 16 to commence at 7:00pm. There was also discussion concerning placement of the application documents on the Town website.

The index for the December 16, 2019 meeting is as follows:

1. Brown/Trifocal Brewing Inc. - Area variance - 1/27/2020;
2. Arcoleo - Area variance - Granted;
3. AJ Sign Company - Sign variance - 1/27/2020 (public hearing to continue at 6:00pm);
4. Gingersky - Area variances - Granted;
5. Stafford - Area variance - Granted;

6. Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless - Use variance - 1/16/2020 (special meeting; joint public hearing with the Brunswick Planning Board to commence at 7:00pm);
7. Rensselaer Plateau Alliance/Rensselaer Land Trust - Use variances - Adjourned without date (time for determination on use variance application extended upon consent of the applicants).

The proposed agenda for the January 16, 2020 special meeting currently is as follows:

1. Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless - Use variance - (joint public hearing with the Brunswick Planning Board to commence at 7:00pm);

The proposed agenda for the January 27, 2020 regular meeting currently is as follows:

1. AJ Sign Company - Sign variance - Public hearing to continue at 6:00pm;
2. Brown/Trifocal Brewing Inc. - Area variance.