

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 OCTOBER 16, 2017

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

ABSENT was MARTIN STEINBACH, CHAIRMAN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Member Clemente served as acting Chair for the meeting.

The Zoning Board members reviewed the draft minutes of the September 18, 2017 meeting. Upon motion of Member Schmidt, seconded by Member Sclafani, the minutes of the September 18, 2017 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Jeffrey Stannard for property located at 303/307 Town Office Road. The Zoning Board members confirmed that the public hearing on these two area variance requests had been held and closed; that, through subsequent deliberation, the Zoning Board had required Mr. Stannard to provide updated information on his plan concerning well and septic location as well as slope information; and that a final map with these changes stamped by a licensed land surveyor was required. Mr. Stannard has now submitted to the Zoning Board for review an updated map showing septic system location as well as grade change, with that map being stamped by a licensed land surveyor. The Zoning Board members asked whether Mr. Stannard had any further information or submittals on the application. Mr. Stannard said he had no additional information or submittals. Member Shover

wanted to confirm that public water served both 303 and 307 Town Office Road at the present time, even though there is a well shown on one of the parcels. Mr. Stannard confirmed that public water served both of the parcels. Member Schmidt stated that he felt the updated map satisfies the request by the Zoning Board for map information, and Member Shover concurred. Member Clemente asked whether the Zoning Board members were ready to proceed with deliberation on the area variance requests. The Zoning Board members concurred that the application was ready for determination. Attorney Gilchrist stated that there were two area variances being considered, one with respect to proposed lot size and the second with respect to proposed lot width. In consideration of the application materials, the Zoning Board members determined to address both requested area variances together. Thereupon, upon review of the environmental assessment form filed with the application, and in consideration of the application materials, Member Schmidt made a motion to adopt a negative declaration under SEQRA, stating that he did not feel any significant environmental impacts would result from this action. Member Shover concurred, and seconded the stated motion. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members deliberated on the elements for the requested area variances, considering both area variances together. As to whether the requested variances would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Clemente stated that the character of the area would remain unchanged, since the applicant is seeking only to subdivide the property and keep the existing buildings unchanged, and that there would be no visual or other impact created. All Zoning Board members concurred. As to whether there was a feasible alternative available to the applicant, Member Schmidt stated that he felt there was no feasible alternative other than tearing down one of the buildings to meet setback requirements and size requirements, which he did not feel was

feasible. Member Clemente concurred, and stated that the applicant was simply trying to be in compliance with the Zoning Law requirements, and in this case reinstitute a property boundary line for which a variance is needed. As to whether the requested variances were substantial, Member Clemente stated that the variances can be considered substantial based solely on the numbers, but that the applicant in this case was simply trying to reinstitute lot lines following the original parcel layouts on which the existing homes were constructed, and in that respect the variances should not be deemed substantial. The Zoning Board members concurred. As to whether the requested variances would result in any adverse physical change to the area, Member Sclafani stated that she felt there would be no physical changes as no proposed construction or grading is included, and Member Clemente stated that no impact to existing septic systems would result as the septic systems had been properly located. The Zoning Board members concurred. As to whether the need for the variance was self-created, Member Clemente stated that the need was self-created, but in this case the applicant was only seeking to reinstitute original lot lines and felt that this was a significant factor on the application. The Zoning Board members then stated based on review of these elements, and in consideration of the benefit to the applicant in granting the variances as opposed to any detriment to the neighborhood in particular and community at large, the requested area variances should be granted. Member Schmidt then made a motion to approve the requested area variances, which motion was seconded by Member Shover. The motion was unanimously approved, and the area variances granted. The Zoning Board then directed Mr. Stannard to the Planning Board to continue and complete the subdivision review process before the Planning Board.

The next item of business on the agenda was the area variance application submitted by PV Engineers, P.C. c/o Borrego Solar Systems, Inc. for property located at 138 Brick Church Road.

Rob Garrity of Borrego Solar Systems was present. The Zoning Board members noted for the record that the Brunswick Building Department had issued a written determination, dated October 13, 2017 regarding the need for an area variance for proposed above-ground utility installation into the project site while the Brunswick Zoning Law requires all such electric installation facilities to be underground. The Building Department letter dated October 13, 2017 is made a part of this record. The Zoning Board stated that the public hearing on the area variance application remained open and will be continued at this meeting. The Zoning Board members also noted for the record that the recommendation of the Rensselaer County Department of Economic Development and Planning concerning the requested area variances has been received, and is dated October 6, 2017, and it determines that the proposal does not conflict with County plans and that local consideration shall prevail. Member Clemente requested Mr. Garrity to identify on the project plans where the proposed electric poles would be located to bring the electric utility into the project site. Mr. Garrity reviewed the proposed pole locations, which will generally be located where the existing driveway to the Gendron home is located off Brick Church Road. Mr. Garrity stated that three poles would be installed for each solar collector system, with the first pole being approximately 100 feet off Brick Church Road, and each pole thereafter having a distance of 35 feet between poles. Mr. Garrity stated that the poles would be installed on each side of the access driveway, as New York Public Service Commission regulations require each solar system to have its own separate interconnection. Member Clemente asked what style of utility pole will be used. Mr. Garrity stated that a standard 40-foot wooden telephone pole would be used, which is generally buried six feet into the ground and results in approximately 34 feet above grade for the pole. Mr. Garrity stated that National Grid would be installing the utility poles. Member Clemente asked how deep the underground electric utility is placed once it does go underground on the project site.

Mr. Garrity stated that he was not certain as to the depth, but the installation would be in compliance with the National Electric Code. Mr. Garrity then reviewed the photosimulations submitted with the application, which depict the proposed location of the utility poles, utility lines, the improved driveway, and includes the tree removal needed for the improvement to the driveway and installation of the utility poles. Member Clemente asked whether the Zoning Board members were interested in visiting the site to walk the proposed location of the poles. The Zoning Board members did have interest in doing a site visit, and the individual members will visit the site prior to the next Zoning Board meeting. Attorney Gilchrist confirmed that the area variance application form provides owner consent for access to the property, and Mr. Garrity confirmed that the owner would consent to such site visits by the Zoning Board members. Member Clemente then opened the floor for receipt of any additional public comment on the area variance applications. No further members of the public wished to comment. Thereupon, Member Schmidt made a motion to close the public hearing on the area variance applications, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing on the area variance application was closed. This matter is placed on the November 20 agenda for further discussion.

One item of new business was discussed.

An area variance application has been submitted by Edward and Martha Holland for property located at 4 Easy Street. Edward Holland was present, and explained the application. Mr. Holland stated that he seeks to construct an addition to his house, and seeks to keep the same building line. Mr. Holland's house currently is located 30 feet from the front lot line, and under the current Brunswick Zoning Law, a front yard setback of 35 feet is required in this Zoning District. The extension to this nonconforming structure thus requires an area variance. Mr. Holland confirmed that he is seeking to keep the same building line for his proposed addition, and

that the addition would be located 30 feet from the front yard lot line, whereas the Zoning Law does require a 35-foot setback. Member Shover asked whether the well and septic had been located on the plan. Mr. Holland identified where the well and septic is located on the plans submitted with the application. The Zoning Board members concurred that the application was complete, and the matter should be scheduled for public hearing. The Zoning Board set the public hearing for this application for its November 20 meeting to commence at 6:00pm.

The index for the October 16, 2017 meeting is as follows:

1. Stannard - Area variances - Granted.
2. PV Engineers P.C. c/o Borrego Solar Systems, Inc. - Area variances - November 20, 2017.
3. Holland - Area variance - November 20, 2017 (Public hearing to commence at 6:00pm).

The proposed agenda for the November 20, 2017 meeting currently is as follows:

1. Holland - Area variance (public hearing to commence at 6:00pm);
2. PV Engineers c/o Borrego Solar Systems - Area variances.