

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 20, 2017

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

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

Chairman Steinbach noted that the Stewart's Shops special use permit application and the Cellco Partnership d/b/a Verizon Wireless special use permit and use variance applications are adjourned to the April 17 meeting.

The draft minutes of the February 27, 2017 meeting were reviewed. Upon motion of Chairman Steinbach, seconded by Member Clemente, the draft minutes of the February 27, 2017 meeting were unanimously approved without amendment (Member Schmidt abstaining).

The first item of business on the agenda was the area variance application submitted by Robert and Donna Welch for property located at 19 Muriel Drive. Robert and Donna Welch were present. Chairman Steinbach inquired whether there were any changes to the application since the discussion held at the February meeting. Mr. Welch indicated there were no changes to the application and presented an overview of the proposal, which seeks to enclose an existing exterior deck and convert it to a great room, that will include radiant heat but have no plumbing; that the deck is located on the backside of the house and will have no impact to his neighbors given the existence of several mature trees. Mr. Welch reviewed the lot layout, which includes a very narrow lot presenting challenges to compliance with setbacks, and also the unique layout of the lot that

has the rear of the home technically facing the front lot line. The required setbacks were reviewed for this location. At this location a front yard setback of 50 feet is required, whereas the owner seeks to have the room located 34.1 feet from the front lot line, requiring a 15.9 foot setback variance from the front lot line. At this location a side yard setback of 25 feet is required, whereas the proposed room will be 13.7 feet from the side yard line, requiring a variance of 11.3 feet from the side yard lot line. Mr. Welch noted that the Town had previously issued a building permit to install the deck at its current location, with no variances required. Mr. Welch also noted that given the unique orientation of the lot, the front of the house does not face the front lot line, but rather the rear of the house technically faces the front lot line, which results in the addition off the back of the house requiring a front yard setback variance. Member Clemente asked whether the property owner will be maintaining the existing mature evergreens located to the rear of the proposed addition. Mr. Welch stated that the mature evergreens will be maintained. 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 was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of adjacent properties. Chairman Steinbach opened the floor for receipt of public comment. Terry Heiser, 15 Muriel Drive, had a question about whether anything would be constructed in the front yard or in the front of the house, given that a front yard setback variance is being requested. The Zoning Board members and the applicant explained that the front of the house does not technically face what would be considered the front lot line, but given the orientation of the house on the lot, it is the rear of the house that faces the front lot line, and the extension off the rear of the house technically requires a front yard setback variance. Mr. Welch confirmed that there will be no changes to the front of the house. There were no further public comments received. Member Clemente 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. Chairman Steinbach noted that given the orientation of the house on the lot, there would be no visual change noted from the front of the house, and that the neighbors facing the front of the home would not see any noticeable change on the lot. The Zoning Board members then determined to proceed with deliberation on the application. Attorney Gilchrist noted that the applicants seek an area variance in connection with a residential use, which constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board members also determined to consider both the front yard setback and the sideyard setback together when considering the elements for the area variance. As to whether the proposed variances would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Schmidt stated that the proposed variances would not have any negative effect on the neighborhood, as the enclosure of the existing deck would not be noticeable from the surrounding properties, which statement was concurred by the other Zoning Board members, including Member Sclafani, who stated that it is difficult to see the back deck from the surrounding properties, as the area is screened by the existing mature trees. As to whether there was a feasible alternative available to the property owner, Member Schmidt stated that any addition to the rear of the existing home would need variances given the unique shape of the lot and the orientation of the home on the lot; Member Clemente noted that the property owners did work with the Building Department to reach the most feasible layout for enclosure for the great room, which should be noted on the record; the remaining Zoning Board members concurred in that opinion. Whether the requested variances are substantial, Chairman Steinbach noted that, when looking at the numbers alone, a variance of 17 feet from the front yard setback and a variance of 12 feet from the side yard setback would be considered substantial, but that when considering

this particular lot and the configuration of the house on the lot, it is not substantial in this setting given the uniqueness and limitations of the lot; Member Clemente concurred, stating that the raw data would lead to a conclusion that the variances are substantial, but the lot layout, slope, and house orientation should be considered on this element. As to whether the proposed variances would have an adverse effect on the physical or environmental conditions in the neighborhood, the Zoning Board members concurred that there would be no adverse physical or environmental impacts, that the drainage would remain the same, and that the visual impact was mitigated by the existence of mature trees, with Member Clemente noting that the property owners have agreed to maintain the existing mature evergreen trees. As to whether the difficulty requiring the area variances was self-created, Member Schmidt noted that the house was already built with the orientation on the lot when the current owners purchased the home, and that the need for the variances was not created by these particular home-owners; this opinion was concurred by the remaining Zoning Board members. The Zoning Board members then considered these findings in balancing between the benefit gained by the property owners in obtaining the variances as weighed against any detriment to the surrounding neighborhood in particular and the Town in general. Member Clemente then made a motion to approve both the front yard setback and side yard setback variances based on these factors and deliberations, which motion was seconded by Member Shover. The motion was unanimously approved, and the front yard and side yard setback variances granted. The Zoning Board members did not require any conditions on the variance approvals, but did note for the record that the property owners have agreed to maintain existing mature evergreen trees on the lot to provide screening. The property owners were directed to coordinate with the Brunswick Building Department for required building permits associated with the project.

The next item of business on the agenda was the referral by the Brunswick Town Board for a recommendation on the proposed amendment to the Capital District Properties Planned Development District. William Hoblock of Capital District Properties was present. Chairman Steinbach asked Mr. Hoblock whether there were any changes to the proposal. Mr. Hoblock stated there were no changes. The Zoning Board continued its deliberations on a recommendation. Member Schmidt stated that he had a concern that any monetary contribution made by the applicant should not be tied to the total number of units, but should be a set amount, since the developer may not build as many units as might be approved by the Town. Member Shover asked whether the proposed monetary contribution of \$300,000.00 was based on an estimated construction cost for the youth baseball fields. Mr. Hoblock stated it was not tied to construction costs, but rather is based on a figure of \$1,200 per unit, for a total contribution of \$300,000. Mr. Hoblock stated that the estimate of \$1,200 per unit is based on what other municipalities in the area generally require on a per unit basis for a public benefit contribution. Mr. Hoblock did note that the Town Board review engineer requested an estimate for construction costs for the youth baseball fields, which is being prepared for review by the Town Board. Chairman Steinbach asked whether there was any flexibility on the number of units, and whether this would impact the monetary contribution to the Town. Mr. Hoblock stated that this project started with a higher number of proposed units, but the Town required the total number of units to be reduced, which ultimately results in a lower monetary contribution based on a per unit contribution. Chairman Steinbach stated that rather than paying a monetary contribution to the Town on a per unit basis, a set total payment amount should be required regardless of how many units are ultimately built. Mr. Hoblock stated that payments are generally tied to the construction of units, rather than an upfront financial burden to project development, and that cash flow from constructed units

provides the basis for revenue and payments to the Town for the monetary contribution. Member Shover had questions regarding the access points for the project, which is primarily from Hoosick Road with an emergency access to Lord Avenue. Member Shover noted the traffic issues confronting Hoosick Road. Member Schmidt stated this was not the normal Planned Development District situation, but here the project developer is trying to change a condition that was previously required by the Town Board, and in Member Schmidt's opinion, the Town does need to know what the original condition construction costs would be to fully assess whether a monetary contribution is comparable. Member Schmidt stated that in this case, those costs would include the construction of the youth baseball fields, and purchase of the additional 39 acres over which the access road would be built. Mr. Hoblock responded by stating that the 25 acres on which the youth baseball fields were proposed is now landlocked, and that even if the 39-acre parcel had been purchased, the property would have been developed, not with more apartments but rather with single family homes. Member Schmidt felt that the proposed monetary contribution was not sufficient, and when the ultimate monetary contribution amount is established, it should not be tied to total number of units. Member Sclafani stated that she did understand how the monetary contribution was calculated, and she was comfortable with having a monetary contribution based on total number of units. The remaining Zoning Board members generally concurred with Member Sclafani. Member Clemente stated that while the Zoning Board may consider a positive recommendation on the proposed amendment, she felt that the monetary contribution should continue to be reserved and dedicated for recreation options for the Town, and should not be used for general fund purposes. The remaining Zoning Board members concurred in that point. The Zoning Board members directed Attorney Gilchrist to prepare a draft written recommendation for

review by the Zoning Board members at the April 17 meeting. This matter is placed on the April 17 agenda for further discussion.

There were no items of new business.

The index for the March 20, 2017 meeting is as follows:

1. Welch - Area variances - Granted;
2. Stewart's Shops - Special use permit - April 17, 2017;
3. Capital District Properties - Recommendation to Town Board on Hudson Hills PDD Amendment - April 17, 2017;
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance - April 17, 2017.

The proposed agenda for the April 17, 2017 meeting currently is as follows:

1. Capital District Properties - Recommendation to Town Board on Hudson Hills PDD Amendment;
2. Stewart's Shops - Special use permit;
3. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance.