

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 FEBRUARY 22, 2016

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

ALSO PRESENT were MICHAEL CZORNYJ and KAREN GUASTELLA, Brunswick Building Department.

The Zoning Board members reviewed the draft minutes of the January 25, 2016 meeting. Member Clemente had a question concerning the Barber application, noted at page two of the January 25 minutes, and inquired whether the lot merger for the parcels located on Brunswick Road and Oxford Circle had been completed. Mr. Czornyj confirmed that the lot merger had been completed. Upon motion of Member Clemente, seconded by Member Shover, the minutes of the January 25, 2016 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Daniel Smith for property located at 899 Hoosick Road. Daniel Smith was present. The Zoning Board noted that the area variance application had been amended to include an area variance with respect to the percentage of lot coverage for private garages at this location. The public hearing, which had remained open on this application, had been re-noticed to include the additional variance request for percentage of lot coverage. 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 adjacent properties.

Chairman Steinbach then opened the floor for receipt of public comment on the variance requests. Hyde Clark, Esq. of the law firm of Young Sommer, representing the adjacent property owners, Brazee, stated that both the Brazee survey and the Smith survey submitted on the application show an encroachment with part of the extended garage structure going on to the lands of Brazee, and if the area variance is approved, this would result in a taking of the Brazee property; and that Brazee would rely on the prior written comments and other documents submitted by them on this area variance application. There were no further comments from the public. Chairman Steinbach then said he would entertain a motion to close the public hearing. Member Schmidt made a motion to close the public hearing on the Smith area variance application, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed on the Smith area variance application. Chairman Steinbach then reviewed the procedure with attorney Gilchrist. Attorney Gilchrist stated that the Zoning Board now had a period of 62 days in which to render a determination on the area variance application given the close of the public hearing, unless that time frame is extended upon consent of the applicant. Attorney Gilchrist also provided a copy of an email submitted by Brazee to the Brunswick Building Department concerning this matter, which was sent on February 16, 2016, in which the statement was made that the members of the Zoning Board had not yet gone to the Smith property to view the premises. In light of the extensive application documents, public comments, and the statement made concerning Zoning Board members not visiting the property, attorney Gilchrist suggested several matters be confirmed on the record: that the Building Department confirm the complete written record on this Smith area variance application to date, and ensure that each Zoning Board member has a complete copy of the entire record; that each Zoning Board member review that written record and visit the Smith property to view the premises; that the Zoning Board then proceed with deliberations at the

Zoning Board's March meeting, and that the Zoning Board should consider preparing a written decision which could be reviewed at the Zoning Board's April meeting. Attorney Gilchrist stated that this time frame would comply with the 62-day requirement for rendering a determination on the Smith area variance application. Attorney Gilchrist also stated that the issue of surface water runoff had been extensively commented upon on this application, and that the Zoning Board members should devote attention to this issue given that the Zoning Board must determine whether the variance requested will result in any detriment to adjacent and nearby properties. Attorney Gilchrist also stated that the Zoning Board members should consider the information concerning surface water runoff when visiting the Smith property. Attorney Gilchrist noted that the current application record includes comments and photographs from the adjacent property owner, comments and photographs submitted by Smith, as well as a Building Department inspection of the property. Attorney Gilchrist requested that the Zoning Board members look at all of this information concerning surface water runoff. Attorney Gilchrist also informed the Zoning Board that the Brunswick Code did provide the opportunity for the Zoning Board members to retain a professional consultant to assist them in reviewing the surface water runoff issue, if deemed necessary by the Zoning Board members. Chairman Steinbach stated that he felt it appropriate for the Zoning Board members to review the information on surface water runoff submitted to date, and allow the Zoning Board members the opportunity to visit the property before any determination is made to retain an expert consultant on the surface water runoff issue. Member Clemente wanted to correct the record on one point, stating that she had in fact visited the Smith property even though Brazee had commented that no member of the Zoning Board had gone to the Smith property. Member Schmidt also stated that he had in fact visited the property as well. Both Member Clemente and Member Schmidt stated that they would visit the property again, as did the

other Zoning Board members. This matter is adjourned for further deliberation at the March 21 meeting.

The next item of business on the agenda was the area variance application submitted by Resier Builders Inc. for property located at 3 Brook Hill Road. Henry Reiser of Reiser Builders Inc. was present. Chairman Steinbach inquired whether there was any new or additional information on the application. Mr. Reiser stated there was no change to the application. The Zoning Board opened a public hearing on the area variance application, and the notice of public hearing was read into the record, noting that the 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. Mr. Reiser did note for the record that his daughter owned the adjacent residential lot in the Brook Hill subdivision, lot #2, and that while she was unable to attend the meeting, she had no objection to the approval of the area variance, and would submit a letter to that effect if necessary. Member Shover inquired whether there was any survey prepared for the lot and how the placement of the foundation and home had occurred. Mr. Reiser simply confirmed that there was a mistake in the field concerning the survey, which led to the request for the area variance from the right side setback. There were no additional comments. Chairman Steinbach asked for a motion to close the public hearing. Member Clemente made a motion to close the public hearing on the Reiser Builders Inc. area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing on the area variance application by Reiser Builders was closed. Attorney Gilchrist then reviewed the legal standards for consideration of the area variance, and also noted that this application did require a determination of environmental significance under SEQRA. Member Clemente commented that she did not feel there was the

potential for any significant adverse environmental impact concerning the limited variance sought in connection with the house location on this lot, and therefore made a motion to adopt a negative declaration under SEQRA. That motion was seconded by Chairman Steinbach. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members determined that in connection with the requested right side setback variance from the required 25 feet to a total of 21 feet 6 inches, an undesirable change in the character of the neighborhood would not be created; there would be no detriment to nearby properties, noting that the owner of the adjacent lot did not object to the variance approval and final house location; that given the limited nature of the variance sought, requiring the relocation of the house on this lot was not deemed necessary nor feasible; that the requested variance was not substantial; that the requested variance would not have an adverse effect on the physical or environmental conditions in the neighborhood; and while this difficulty requiring the area variance was self-created, this point was relevant but does not preclude the approval of the area variance. In light of these factors, and based upon the application documents and deliberations, Member Schmidt made a motion to grant the area variance, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the area variance granted on the application by Reiser Builders Inc. with respect to 3 Brook Hill Road.

The next item of business on the agenda was the sign variance request submitted by PF Management Group LLC for property located at 668 Hoosick Road. The applicant is proposing the demolition of two existing structures at this location, and the construction of a new Aldi grocery store and Taco Bell restaurant. Chris Kambar, P.E. of APD Engineering, was present for the applicant. Mr. Kambar reviewed the procedural history of this application. This application to the Zoning Board included variance requests with respect to parking space size, total parking space

count, as well as requested sign variances. The public hearing had been held by the Zoning Board concerning all variance requests. The public hearing had been closed, and the Zoning Board had previously acted on the parking space variances, granting the variances both with respect to parking space size and total parking space count. The applicant had consented to adjournment of the determination of the sign variance request pending action by the Brunswick Planning Board on the underlying site plan for the project. Mr. Kamar stated that the Brunswick Planning Board had granted conditional final site plan approval at its meeting held February 18, 2016. The applicant is now requesting the Zoning Board to proceed with its deliberations and determination on the sign variance requests. The applicant is seeking variances for signage both with respect to a freestanding pylon sign and the building-mounted signs. With respect to the pylon sign, the applicant is seeking a variance for total sign size, as well as setback of the pylon sign from the Hoosick Road corridor. With respect to size of the sign, the Brunswick Town Code allows a total of 70 square feet per sign, with 35 square feet per side. Mr. Kamar reviewed the proposed pylon sign, which the applicant is proposing to include two signs, one for the Aldi grocery store and one for the Taco Bell restaurant. Mr. Kamar provided elevations of the proposed signs, which are proposed to be 108 square feet per side total for both the Aldi sign and Taco Bell sign. The applicant is proposing a sign to be approximately 27 feet high, which would require a setback of 27 feet from the Hoosick Road corridor, and the applicant is seeking a 15 foot setback from the Hoosick Road corridor. Mr. Kamar reviewed the proximity of the proposed sign in relation to the existing Planet Fitness sign. Regarding building-mounted signs, Mr. Kamar confirmed that the Town Code allowed two building-mounted signs per building, and the applicant is proposing a total of three building-mounted signs for the Taco Bell restaurant, and a total of four building-mounted signs for the Aldi grocery store. Mr. Kamar showed elevations of the buildings with

the proposed building-mounted signs. On the Taco Bell restaurant, Mr. Kamar reviewed the proposed sign, which includes both the Taco Bell letters and the bell logo, stating that the letters and symbol are combined in one sign. Mr. Kamar also reviewed the proposed building-mounted signs for the Aldi grocery store, which include separate lettering as well as separate logos, totaling four building-mounted signs. The Zoning Board members reviewed the proposed sign elevations. Member Clemente inquired how the dimensions on the pylon signs were reached. Mr. Kamar stated that the Aldi sign was the standard size for the Aldi grocery store chain, and that the Taco Bell sign was sized so that it would be consistent with the size of the Aldi sign. Member Clemente suggested that the Taco Bell sign should be reduced. Chairman Steinbach felt that the total area of the pylon sign was too large, and the other members of the Zoning Board agreed. Chairman Steinbach understood the proposed size of the Aldi sign, given that the Aldi building is approximately 500 feet off the Hoosick Road corridor, but questioned the size of the Taco Bell sign given that the Taco Bell restaurant would be adjacent to the Hoosick Road corridor. Mr. Kamar was agreeable to reducing the size of the Taco Bell sign. The Zoning Board members also suggested that the height of the proposed pylon sign be reduced as well. Upon further deliberation, the Zoning Board members concluded that the pylon sign should be no higher than 25 feet, and that the size of the Taco Bell sign should be reduced so that the total square footage per side for the two signs combined was to be no larger than a total of 88 square feet. The Zoning Board members also concluded that the pylon sign should be located as far off the Hoosick Road corridor as possible without impairing the proposed parking spaces and travel lanes, and that the pylon sign could be located 18 feet off the Hoosick Road corridor. Mr. Kamar and the Zoning Board members discussed these dimensions and location, and Mr. Kamar was agreeable to reducing the height and size of the pylon sign, and also increasing the setback of the pylon sign

from the Hoosick Road corridor. In terms of the building-mounted signs, the Zoning Board members did agree that the building-mounted sign for the Taco Bell restaurant, which includes the lettering and bell symbol, constituted one sign, and that a total of three signs is being proposed for the Taco Bell building. Regarding the Aldi grocery store, the Zoning Board members determined that the distance between the Aldi logo and the lettering required the building-mounted signs to be considered a total of four signs for the Aldi grocery store. The Zoning Board members generally concluded that a total of four signs on the Aldi grocery store was not excessive given the 500 foot distance of the store building from the Hoosick Road corridor. Following such extended discussion and deliberations, the Zoning Board members determined they were ready to proceed with action on the sign variance requests. Attorney Gilchrist stated that a determination of environmental significance under SEQRA with respect to the requested sign variances should be made, with particular regard to potential significant adverse aesthetic impacts. Member Schmidt stated that he did not consider the sign variances to result in any significant adverse environmental effect, including any negative aesthetic effect, considering the nature of the commercial corridor along Hoosick Road. Member Clemente also commented that with reduction of the height and size of the proposed pylon sign, she did not feel there was the potential for any significant adverse environmental impact. Thereupon, Chairman Steinbach made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Clemente. The motion was unanimously approved, and a SEQRA negative declaration adopted. On the sign variance request for the building-mounted signs on the Taco Bell restaurant, Member Sclafani made a motion to approve the requested variance to allow a total of three building-mounted signs on the Taco Bell restaurant, with consideration that each sign included the lettering and bell logo. Member Schmidt seconded the motion. The motion was unanimously approved, and the variance for the building-

mounted signs for the Taco Bell restaurant was approved. On the variance request for the total number of building-mounted signs for the Aldi grocery store, Chairman Steinbach made a motion to approve a total of four building-mounted signs for the Aldi grocery store, noting that the Aldi logo and the lettering constituted separate signage. Member Shover seconded the motion. The motion was unanimously approved, and the variance request allowing a total of four building-mounted signs for the Aldi grocery store was granted. On the variance requests associated with the proposed pylon sign, Member Clemente inquired whether the pylon sign would be lit. Mr. Kamar stated that the sign would be internally lit. Chairman Steinbach did not feel this was a significant issue, given the fact that several other signs along the Hoosick Road corridor were similarly lit 24/7. Mr. Kamar stated that the building-mounted signs for the Aldi store generally are extinguished an hour after closing, and that the Aldi grocery store was proposed to close at 8pm. Mr. Kamar stated that the Taco Bell restaurant is open until 2am, principally for drive-thru service, and that the building-mounted signs would remain lit while the restaurant was open. Regarding the pylon sign, Mr. Kamar stated that the pylon sign would remain lit after the grocery store and Taco Bell closed. The Zoning Board members did not feel this was a significant issue, noting that other signage remained lit along the Hoosick Road corridor. Upon further deliberation, Chairman Steinbach made a motion to approve the sign variance request with respect to the pylon sign, subject to the following conditions:

1. The pylon sign maximum height is 25 feet;
2. The size of the proposed Aldi pylon sign was acceptable, but the proposed Taco Bell pylon sign must be reduced in size, with a total square footage per side for the two signs combined to be no larger than a total of 88 square feet;
3. A minimum setback of 18 feet for the pylon sign from the Hoosick Road right-of-way line.

Member Shover seconded the motion subject to the stated conditions. The motion was unanimously approved, and the sign variance request for the pylon sign was approved subject to the stated conditions.

Two items of new business were discussed.

A use variance application has been submitted by Michael J. Butler, Jr. for property located at 961 Hoosick Road. Mr. Butler was present. Mr. Butler explained that he was seeking to purchase this property, which was previously used as a dental office by Dr. Weinberger, and was located at the intersection of Hoosick Road and Crescent Lane. Mr. Butler stated that the Brunswick Zoning Board of Appeals had previously issued a use variance for this property, but indicated that the use was for a dentist office. Mr. Butler is seeking to use the property as an insurance office, and seeks a modification of the use variance to allow a professional office at this location rather than a limited use as a dentist office. Member Clemente asked whether there were any structural or exterior changes proposed. Mr. Butler stated there were no structural or exterior changes proposed, except for a new sign. Mr. Butler stated that there were nine existing parking spaces, which would be adequate for his proposed insurance office use. Mr. Butler stated that there would only be minor interior renovations. Attorney Gilchrist noted the previous action by the Zoning Board granting the use variance for this location to be used as a dentist office, and requested that the Building Department provide a copy of that Zoning Board record to the Zoning Board members to review in connection with the current application to amend the use variance. The Zoning Board members determined that the application was complete and ready for public hearing. The public hearing is scheduled for March 21, 2016 to commence at 6:00pm.

The second item of new business discussed was a special use permit application submitted by Ken and Joann Nitz for property located at 53 Plank Road. Ken Nitz was present. Mr. Nitz

stated that he had previously constructed an in-law apartment above the garage, had obtained the necessary permits from the Town of Brunswick for that construction and use, but that the Town Building Department had no records concerning the in-law apartment. Mr. Nitz stated that he is seeking to confirm the Town's records on the use of the property, including the use of space above the garage as an in-law apartment, and issuance of final certificates of occupancy for this location. Mr. Nitz stated that the residence was a total of 3,600 square feet, including the current in-law apartment. Mr. Nitz also stated that the Town had assessed the property to include an in-law apartment. The Zoning Board determined that the application was complete for purposes of scheduling a public hearing. This matter is scheduled for public hearing on March 21, 2016 to commence at 6:15pm.

The index for the February 22, 2016 meeting is as follows:

1. Smith - Area variance - 3/21/2016.
2. Reiser Builders Inc. - Area variance - granted.
3. PF Management Group LLC - sign variances - granted subject to conditions.
4. Butler - Use variance - 3/21/2016 (public hearing to commence at 6:00pm).
5. Nitz - Special use permit - 3/21/2016 (public hearing to commence at 6:15pm).

The proposed agenda for the March 21, 2016 meeting currently is as follows:

1. Butler - Use variance (public hearing to commence at 6:00pm).
2. Nitz - Special use permit (public hearing to commence at 6:15pm).
3. Smith - Area variance.