

## **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 NOVEMBER 21, 2016**

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

ALSO PRESENT was KAREN GUASTELLA, Brunswick Building Department.

The Zoning Board members reviewed the draft minutes of the October 17, 2016 meeting. Upon motion of Member Clemente, seconded by Member Sclafani, the draft minutes of the October 17, 2016 meeting were unanimously approved without amendment.

Chairman Steinbach noted that the special use permit application and use variance application submitted by Cellco Partnership d/b/a Verizon Wireless is adjourned to the December 19 meeting. The applicant did submit additional technical information, but the Zoning Board's consulting engineer and the Zoning Board members had not had adequate time to review that material, and the matter is placed on the December 19 agenda for further discussion.

The first item of business on the agenda was the area variance application submitted by Helen Rezey for property located at 6 Greene Street. Helen Rezey, the property owner, and Christopher Dohert were present for applicant. Chairman Steinbach inquired whether there were any changes to the application. Mr. Dohert stated there was one change to the proposal, which was to maintain the shed in its current general location on the lot, but to turn the shed 90 degrees in order to allow better access, and also to slightly relocate the shed so that it is three feet from the fence line along the neighboring property and three feet from the fence line toward the public road. Chairman Steinbach

asked whether this affected the extent of the requested variances. Ms. Guastella stated that this did reduce the extent of the requested variances, both as to the rear yard setback and side yard setback. Regarding the rear yard setback, Ms. Guastella stated that a 20-foot setback is required, and the applicant was initially proposing to have the shed directly on the property line, but now the shed will be three feet from the line, and the request is for a 17-foot variance. Ms. Guastella stated that a 10-yard setback is required for the side yard and the shed was initially to be placed on the property line, but by repositioning the shed three feet from the lot line, a 7-foot variance is requested regarding the side yard setback. Ms. Guastella confirmed that the percentage of lot coverage variance is unaffected by the change in location of the shed. Member Clemente asked whether the old tin shed, which is on the property currently and which is shown on the concept plan, is to remain or to be removed. The applicants stated that the tin shed is still used to store yard equipment, while the new proposed shed is to be used for a motorcycle and recreational vehicle, and the applicant's intent is to keep the tin shed in its current location. The Zoning Board then opened the public hearing on the variance applications. 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 opened the floor for receipt of public comment. Linda Motzer, 12 Greene Street, stated that she owns the property that abuts the Rezey backyard, and that she had no objection to any of the requested variances as long as the shed remains three feet from the side yard and rear yard property lines. There were no further public comments. 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 on the Rezey area variance applications was closed. The Zoning Board members determined that they were prepared to proceed with deliberation and action on the variance applications. Attorney Gilchrist

stated that while the variances from side yard and rear yard setback requirements for this residential lot is a Type 2 action under SEQRA, the requested variance for percentage of lot coverage is subject to SEQRA review, and that the Zoning Board did need to make a SEQRA determination concerning that variance application. Chairman Steinbach inquired whether the shed would be placed on a concrete slab. Mr. Dobert stated that there will be no foundation or concrete slab, rather the pre-fabricated shed will be delivered to the site and placed on blocks. Member Schmidt stated that he did not see any environmental impact concern regarding the installation of the shed. Member Sclafani stated that she concurred, particularly since there was no foundation or permanent concrete slab being installed with the shed. Member Clemente also concurred, stating that she did not see any significant stormwater runoff or erosion concern. Based on this deliberation, Chairman Steinbach made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Schmidt. The motion was unanimously approved, and a SEQRA negative declaration adopted with respect to the application for variance from percentage of lot coverage. The Zoning Board then determined to address all three variance requests simultaneously in terms of considering elements for the requested area variances. During deliberation, the Zoning Board members determined and found that the requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties, finding that there are a number of sheds located in yards in the immediate neighborhood, that the shed will have a “cottage” style and will fit in with the character of the neighborhood, and that the adjoining neighbor raised no objection regarding the installation of the shed at the proposed location; that there was not a feasible alternative available in this case, as the lot is very small and installation of the shed in an alternate location was not feasible, and that while a smaller shed could be used, a shed with smaller dimensions will not meet the goal of the applicant to store a motorcycle and recreational vehicle, and that the applicants did take into account the concerns

of the adjoining neighbor in slightly relocating the shed three feet away from the side and rear lot lines; that the requested variances were substantial based on the numbers, but that the small size of the lot was a relevant consideration on this element; that the variances would not result in an adverse environmental or physical effect, noting that a SEQRA negative declaration had been adopted on the action; and that the need for the variances could be considered not to be self-created, given the small size of the lot under consideration. Given this deliberation and findings, the Zoning Board moved forward to act upon the variance requests. Member Shover made a motion to approve the rear yard setback variance, side yard setback variance, and variance for percentage of lot coverage as requested, which motion was seconded by Member Sclafani. The motion was unanimously approved, and the variance requests were granted on the Rezey application. Chairman Steinbach directed the applicants to coordinate with the Building Department on all required building permits and inspections.

The next item of business on the agenda was the referral of the Bank of America application for amendment to the Brunswick Square Planned Development District. The Town Board is seeking a recommendation from the Zoning Board of Appeals on this application. The applicant seeks the PDD amendment to allow the installation of a stand-alone ATM kiosk within the parking lot of the Brunswick Square shopping center. Attorney Gilchrist noted that Paul Mutch, P.E., engineer for the applicant, had contacted him and inquired whether an appearance was necessary before the Zoning Board, or whether the Zoning Board would merely be deliberating on the recommendation similar in the process before the Planning Board. Attorney Gilchrist advised the Zoning Board members that he told Mr. Mutch the Zoning Board would likely be reviewing the Planning Board recommendation and finalizing its own recommendation, and that an appearance was not required. The Zoning Board members concurred. The Zoning Board members then reviewed the Planning Board recommendation through resolution dated October 20. The Zoning Board members found that the Planning Board

resolution addressed the same concerns raised by the Zoning Board in prior meetings, and generally agreed with the negative recommendation advanced by the Planning Board. Member Sclafani stated that she would like the Zoning Board recommendation to emphasize the concern regarding the proximity of the proposed ATM kiosk to the existing CDTA bus stop, particularly regarding pedestrian safety. Member Clemente concurred, stating that the Zoning Board had raised this issue previously, and that no additional information had been submitted to address this safety concern. The Zoning Board members then unanimously concurred that a letter should be sent to the Town Board stating that the Zoning Board supported and concurred in the Planning Board resolution, but further to emphasize and reaffirm the Zoning Board's concern regarding pedestrian safety as it pertains to proximity of the proposed ATM kiosk to the existing CDTA bus stop location. The Zoning Board directed attorney Gilchrist to prepare a letter confirming its findings and recommendation, and forward that letter to the Town Board for consideration.

The next item of business on the agenda was the application submitted by Nigro Companies/Golub Corporation, seeking an amendment to the Brunswick Plaza Planned Development District to allow the construction of a drive-thru pharmacy on the east side of the existing Price Chopper/Market 32 building located in the Brunswick Plaza. Attorney Gilchrist noted that the Brunswick Town Board had retained the engineering firm of Kestner Engineers, Mark Kestner, P.E., as review engineer on the application, and that Mark Kestner was present at the meeting. Ronald Laberge, P.E. was present for the applicant, together with representatives of Golub Corporation. Chairman Steinbach requested Mr. Laberge to present a brief summary of the proposal, and whether there were any changes since the last time the Zoning Board considered the matter. Mr. Laberge presented a review of the proposal, reviewing the concept plan, and stating that there had been no changes since the prior presentation. Chairman Steinbach asked whether the proposal would

negatively impact overall parking in the Brunswick Plaza. Mr. Kestner stated that the Planning Board had considered the parking issue as well, and that the Brunswick Plaza currently has 590 parking spaces, four of which are used for a cart corral, resulting in 586 usable parking spaces. Mr. Kestner stated that the current proposal would eliminate 15 parking spaces on the east side of the Price Chopper building. A representative of Golub Corporation stated there were 71 parking spaces on the east side of the Price Chopper building used primarily for employee parking, and that the drive-thru pharmacy would eliminate 15 spaces, resulting in 56 spaces to the east side of the building. The Golub Corporation representative stated that the store had a maximum of 60 employees during any particular shift, but that it is more typical to have approximately 30 employee cars parked on the east side of the building during any shift, and that this proposal will not create any parking issues for employees or customers on the east side of the building. Member Clemente requested Mr. Laberge to review the traffic flow resulting from the drive-thru pharmacy proposal. Mr. Laberge reviewed the proposal to have a drive-thru lane associated with the pharmacy, maintain the two-way parking lane immediately to the east, and did review the current route for CDTA busses when picking up patrons at the current bus stop location. Member Shover inquired whether the proposal is to continue two-way traffic immediately east of the proposed drive-thru lane. The applicant is seeking to continue the two-way travel lane, and the matter was then discussed by the Zoning Board members. Mr. Kestner stated that the Planning Board was concerned regarding the two-way traffic immediately adjacent to the drive-thru lane, particularly since the CDTA bus stop is located adjacent to the two-way travel lane. Mr. Kestner stated that the Planning Board felt this traffic circulation issue was not fatal to the PDD amendment on a concept basis, but did seek to have the right to review the travel circulation issue and pedestrian safety in connection with its site plan review jurisdiction in the event that the Town Board approved the PDD amendment. Member Clemente asked the applicant whether CDTA

would agree to modify the bus circulation route at this location. The applicant stated that it had not yet approached CDTA on that issue. Mr. Kestner also noted the Planning Board had questions regarding the initial installation of the bus stop location, since there was no record of that having been reviewed by the Town. Member Schmidt asked whether the Planning Board would retain jurisdiction regarding the traffic circulation issue with the CDTA busses. Attorney Gilchrist stated that the Planning Board had provided in its recommendation to the Town Board that the Planning Board sought to retain jurisdiction to address traffic circulation and require modifications, if necessary, and that the Town Board would need to address that issue in its resolution acting upon the PDD amendment application. The Zoning Board members then generally reviewed the Planning Board recommendation, and determined that it adequately addressed the Zoning Board's comments and concerns, and unanimously determined to support and concur in the Planning Board recommendation to the Town Board. The Zoning Board directed attorney Gilchrist to prepare a letter confirming its concurrence in the Planning Board recommendation, and forward that letter to the Town Board for consideration.

Chairman Steinbach again confirmed that discussion on the special use permit and variance applications submitted by Cellco Partnership d/b/a Verizon Wireless is adjourned to the December 19 meeting.

The next item of business on the agenda was the special use permit application submitted by Cumberland Farms. Cumberland Farms has submitted a special use permit application and site plan application to the Town for a proposed Cumberland Farms store to be located at the corner of Hoosick Road and Hillcrest Avenue. The special use permit is required in connection with the filling station, as Cumberland Farms is proposing to include a 6-pump fuel island in connection with the proposed Cumberland Farms store. Stefanie Bitter, Esq., applicant attorney, was present, together with Scott

Shearing of Bohler Engineering and Wendy Holsberger of Creighton Manning. Attorney Bitter reviewed the proposal, by which Cumberland Farms seeks to construct a 4,786 square foot convenience store with a 6-pump fuel island at 630 Hoosick Road, on a 1.3-acre site that has frontage on Hoosick Road and Hillcrest Avenue; that the current use of the site includes a residence with associated outbuildings, which would be demolished in the event the Cumberland Farms store is constructed; that access from Hoosick Road is proposed through the existing entrance-way for the Advanced Auto Parts store, which was identified as phase 1 of the overall site development, with the Cumberland Farms being phase 2; that a separate access point is proposed on Hillcrest Avenue; that Creighton Manning had prepared a full traffic impact assessment report for consideration by the Town; that the site is located in the B-15 and R-9 Zoning Districts, but that no commercial use is being proposed within the R-9 District, and limited solely to the B-15 Zoning District; that the special use permit application is required in connection with the installation of the 6-pump fuel island, for which the Planning Board had completed its recommendation; that the Planning Board had thoroughly reviewed and considered the traffic impact assessment report prepared by Creighton Manning when deliberating on its recommendation; that Cumberland Farms will coordinate with the Brunswick No. 1 Fire Department on any comments regarding fire code compliance; that the site is served by public water and public sewer; that adequate parking is proposed; that the use is complimentary to the surrounding mixed commercial area; that an adequate vegetation buffer is being proposed to the rear of the site and an overall landscaping and vegetation plan is proposed; the use is pedestrian-friendly, including outdoor seating areas as well as bicycle access; that the proposal will not create a traffic hazard, as the traffic impact assessment report concludes that the majority of the customers will consist of existing pass-by traffic; that there will be only a 5% increase in traffic as a result of the action, which computes to approximately one car per minute during the AM peak and



PM peak hours, which is not significant in relation to current conditions. Attorney Bitter then generally reviewed the Planning Board recommendation. Member Clemente asked whether there was a sidewalk proposed in the front of the store. Mr. Shearing showed the sidewalk location on the site plan. Member Shover wanted to hear additional information regarding the traffic impact assessment report. Wendy Holsberger, P.E. of Creighton Manning, generally reviewed the traffic impact assessment report dated October 31, 2016, including pass-by traffic percentages; new trips generated by the project during the AM peak hour and PM peak hour; “no build” and “build” conditions for 2017; that there will not be a significant delay added to either Hillcrest Avenue or the existing commercial entrance on Hoosick Road; and there would not be significant impact to levels of service at nearby intersections. Member Shover asked whether a traffic signal was being proposed at Hillcrest Avenue. Ms. Holsberger stated that the projected volume from this action did not warrant a light installation at Hillcrest Avenue. Member Schmidt asked whether the traffic impact assessment report studied the amount of time it took to exit from Hillcrest Avenue onto Hoosick Road. Ms. Holsberger stated that the traffic impact assessment report did analyze this issue in terms of level of service analysis, and reviewed the peak hour current conditions, 2017 “no build” conditions, and 2017 “build” conditions when taking a left turn out of Hillcrest Avenue. Member Clemente inquired about the option of creating an internal access road for the commercial uses along Hoosick Road, thereby eliminating the number of curb cuts. Ms. Holsberger stated that she understood the concept, but that this project did not generate traffic to warrant this mitigation, but that it might remain a long-term concept plan for the Hoosick Road corridor. The Zoning Board members then generally discussed the completeness of the application, including the recommendation of the Planning Board, and determined that the special use permit application is complete for scheduling and holding the public

hearing. The Zoning Board members set the public hearing on the special use permit application for its December 19 meeting to commence at 6:00pm.

There were no new items of business discussed.

The index for the November 21, 2016 meeting is as follows:

1. Rezey - Area variances - Granted
2. Bank of America - Brunswick Square Planned Development District Amendment Recommendation - Completed
3. Nigro Companies/Golub Corporation - Brunswick Plaza Planned Development District Amendment Recommendation - Completed
4. Cellco Partnership d/b/a Verizon Wireless - Special use permit and variance applications - 12/19/2016
5. Cumberland Farms - Special use permit - 12/19/2016 (public hearing to commence at 6:00pm)

The proposed agenda for the December 19, 2016 meeting currently is as follows:

1. Cumberland Farms - Special use permit (public hearing to commence at 6:00pm)
2. Cellco Partnership d/b/a Verizon Wireless - Special use permit and use variance