

Zoning Board of Appeals

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING HELD JUNE 21, 2021

PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, PATRICIA CURRAN, and JOHN MAINELLO III.

ABSENT was ADRIAN MORIN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The draft minutes of the May 17, 2021 regular meeting were reviewed. Chairperson Clemente noted four corrections: on page 4, paragraph 1, line 2, the structure has already been demolished; on page 8, paragraph 2, line 4, “10-foot by 10-foot” should be “12-foot by 12-foot”; on page 8, paragraph 2, line 6, “is” should be “if”; and on page 8, paragraph 3, line 4, “sight” should be “site”. Chairperson Clemente made a motion to approve the minutes of the May 17, 2021 regular meeting subject to the noted corrections, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the May 17, 2021 regular meeting were approved subject to the noted corrections.

The first item of business on the agenda was an application for an area variance submitted by Kenneth Maurer for property located at 6 Michael Street. The applicant seeks to build a 12-foot by 12-foot deck at the front of his house. Kenneth Maurer and Shannon Haverty were present to review the project. Chairperson Clemente asked Mr. Maurer if he had made any changes to the application since the last Zoning Board meeting and he said he had not. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and

mailed to owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. Member Curran asked what the purpose of the deck was. Mr. Maurer stated that the house currently has concrete steps in front of it, which were built by a previous owner and are now falling apart and are dangerous, and that the deck will be built over those steps for safety reasons. Member Curran asked what the deck will be made from. Mr. Maurer stated that the deck would be made of wood with a PVC railing. Chairperson Clemente stated that this was a Type II action under SEQRA, which does not require any further SEQRA review. The Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente stated that this action would not be out of place as many homes in that neighborhood also have decks. As to whether a feasible alternative is available, Chairperson Clemente stated that there was not as it is more cost effective to build the deck over the collapsing concrete steps than to demolish and rebuild the steps. As to whether the requested variance is substantial, Chairperson Clemente noted that the structure is only 22 feet from the front property line, which is existing non-conforming, and that building a deck in front of a house that is existing non-conforming will not be substantial. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente said it would not, as no adverse air, water, stormwater, traffic, or

visual impacts are anticipated. As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that it was not as the deck is to be built over existing concrete steps built by a previous owner of the property that are now collapsing. Chairperson Clemente asked if there should be any conditions with the approval of this variance and the Zoning Board agreed that the record did not support imposition of any conditions. Member Curran made a motion to grant the area variance, which was seconded by Member Schmidt. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The second item of business on the agenda was an application for an area variance submitted by William Bridgewater for property located at 8 Tarbell Avenue. The applicant seeks to extend the porch located at the front of his house. William Bridgewater was present to review the project. Chairperson Clemente asked Mr. Bridgewater if he had made any changes to the application since the last Zoning Board meeting and he said that he had not. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente stated that this was a Type II action under SEQRA, which does not require any further SEQRA review. The

Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente stated that this action would not be out of place as many homes in that neighborhood also have porches and/or decks. As to whether a feasible alternative is available, Member Curran stated that as the property is already non-conforming for setback, there is no other option available. As to whether the requested variance is substantial, Member Curran stated that on the numbers it is, but that since the house is also already non-conforming, the variance is not substantial in this case. As to whether the variance would create an adverse environmental or physical impact, Member Mainello stated that it would not, and would actually increase the property value. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it is not, as Mr. Bridgewater is just correcting an existing structural issue. Chairperson Clemente asked if there should be any conditions with the approval of this variance and the Zoning Board agreed that the record did not support imposition of any conditions. Member Curran made a motion to grant the area variance, which was seconded by Member Schmidt. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The third item of business on the agenda was an application for an area variance submitted by Michael Robidoux for property located at 8 Flower Road. The applicant seeks to replace the front deck and stairs and side deck stairs and landing with a new front deck and stairs and side deck stairs and landing. Michael Robidoux was present to review the project. Chairperson Clemente asked Mr. Robidoux if he had made any changes to the application since the last Zoning Board meeting and he said that he had not. The Notice of Public Hearing was read into the record

by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente stated that the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente stated that this was a Type II action under SEQRA, which does not require any further SEQRA review. The Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairperson Clemente stated that this action would not be out of place as many homes in that neighborhood also have porches and decks, and that there are trees and vegetation on many neighboring properties to provide screening. As to whether a feasible alternative is available, Chairperson Clemente stated that this action is due to the deterioration of the existing deck and that it would be very expensive to fix it, so a total replacement is cheaper. As to whether the requested variance is substantial, Chairperson Clemente noted that the property is in a business overlay district, that 75 feet of setback is required, and that the applicant is proposing 36.75 feet of setback to the left and 57 feet of setback to the right. Member Curran stated that the variance would not be substantial in this case given the current location of the house. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that it would not, as no adverse air, water, stormwater, traffic, or visual impacts are anticipated.

As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that it is not because the existing deck and stairs are deteriorating and need to be replaced and this is being done for safety reasons. Chairperson Clemente asked if there should be any conditions with the approval of this variance and the Zoning Board agreed that the record did not support imposition of any conditions. Member Curran made a motion to grant the area variance, which was seconded by Member Mainello. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

There were no new items of business to discuss.

The Zoning Board of Appeals then returned to one item of old business, which was area variance applications submitted by Atlas Renewable Energy for property located on Oakwood Avenue. Melissa Currier, Project Engineer from C.T. Male Associates, was present to review the application. Ms. Currier said she had presented the project at the last Planning Board meeting on June 17, not for any decision on the project, just to update the Board. Ms. Currier then gave an update on the project, stating that the applicant is working in parallel with NYS DEC on the brownfield remediation on the project site. Ms. Currier stated that the applicant needs setback variances to meet the size needs in order to make the project economically viable. Ms. Currier then reviewed the project map, showing that the project will meet the 100-foot setback from Oakwood Avenue required by Town zoning laws; however, only 70 feet of setback is proposed from Farrell Road, which will require an area variance. Ms. Currier stated that another area variance will be required for setbacks from internal lot lines on the project site, which are all owned by the same entity. Ms. Currier stated that another variance is needed for the above-ground utility poles into the project site. Ms. Currier stated that the applicant will keep the existing visual buffer along

Oakwood Avenue, removing no vegetation. Ms. Carrier then asked if the Zoning Board members had any immediate questions or concerns about the project. The Zoning Board members discussed the project site, confirming that 70 feet of setback from Farrell Road is being requested to the south, 50 feet of setback from a nearby paintball field is being requested to the east, and no variance is needed to the north because the project is near a lease line, not a lot line. A representative of Atlas Renewables then reviewed the proposed economic requirements for the site, stated that there will be no disturbance to the wetlands on the project site, and stated that the brownfield remediation may require a cap on the project site, which will result in site disturbance, but which will not result in site grading as the project will follow existing terrain, and utility lines on-site will be above-grade. Member Mainello asked what type of solar project this is, either commercial or community solar. The company representative stated that it will be a 5 MW community solar project, and that any resident who receives electricity from National Grid is eligible to apply to receive power from the project. The company representative also stated that the above-ground poles proposed for the site to the north will connect to existing utility poles. Mr. Golden asked if there would be a switch gear on the site. The company representative confirmed that it would, and that the site will also have a recloser to turn off the site in an emergency. Mr. Golden asked how many utility poles will be added to the site. The company representative stated that it still being determined by National Grid. Member Curran asked if the project would be visible from nearby Highpointe Drive. Ms. Carrier stated that the applicant will be keeping the existing vegetation along Oakwood Avenue and that while full visual assessment has yet to be completed, preliminary visual analysis shows no impact. Member Mainello asked if there would be any visual impact to the Brunswick Meadows residential development due to this project. Ms. Carrier stated that she was not sure what if any impacts there would be to Brunswick Meadows and that full visual assessment would address that.

Member Curran asked what the panel height would be. Ms. Currier stated that the panels will all be a uniform height but will follow existing terrain, meaning that some sections of panels will be at a slightly higher elevation than others. Attorney Gilchrist then discussed procedure for the Zoning Board concerning this application. Chairperson Clemente stated that having a full visual impact and assessment report will be required to fully consider the application and hold a public hearing. Member Mainello asked if the property owner would be allowed to develop the remaining land outside the footprint of the solar project if this project were to be approved. Ms. Currier stated that this would need to be reviewed if and when the property owner applied to develop the remaining land, and that the setback requirements would be considered at that time. Ms. Currier also stated that there is no plan to develop the remaining land at this time, and reiterated that there is no variance needed to the north of the project site for this project. There were no other comments or questions from the Zoning Board. Chairperson Clemente asked Ms. Currier if the applicant would like to be put on the agenda for the Zoning Board's next meeting and Ms. Currier said yes, pending submission of the project's visual impact assessment report. Chairperson Clemente clarified that this would be another update on the project, not a public hearing. This matter is tentatively placed on the July 19 agenda for further discussion.

The index for the June 21, 2021 meeting is as follows:

1. Maurer – area variance (approved).
2. Bridgewater – area variance (approved).
3. Robidoux – area variances (approved).
4. Atlas Renewable Energy – area variances (July 19, 2021).

The proposed agenda for the July 19, 2021 meeting is currently as follows:

1. Atlas Renewable Energy – area variances (tentative).