

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 AUGUST 16, 2021

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

ABSENT was ADRIAN MORIN.

ALSO PRESENT was MICHAEL MCDONALD, Brunswick Building Department.

The draft minutes of the July 19, 2021 regular meeting were reviewed. Chairperson Clemente noted two corrections: on page 6, line 10, “the” is misspelled; and on page 6, line 12, “Planning Board” should be “Zoning Board of Appeals”. Chairperson Clemente made a motion to approve the minutes of the July 19, 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 July 19, 2021 regular meeting were approved subject to the noted corrections.

The first item of business on the agenda was an application for area variances submitted by Atlas Renewable Energy for property located on Oakwood Avenue. This matter was tabled prior to the Zoning Board of Appeals meeting and is adjourned without date.

The second item of business on the agenda was an area variance application submitted by Lord Avenue Property, LLC for property located on Lord Avenue. Walter Lippmann, Project Manager with M.J. Engineering and Land Surveying, P.C., was present for the applicant. Mr. Lippmann stated that he had been at the July 19 Zoning Board meeting for a general update on the project. Mr. Lippmann stated that he submitted a response letter to comments to the Zoning Board on July 29 and reviewed the contents of that letter, stating that the store’s operating hours will be

6:00am to 11:00pm and that the lights in the parking lot will go off at closing, except for security lights, which will remain on for employees as they clean and restock the store. Mr. Lippmann reviewed the temperature of light analysis, discussing the color temperature of lighting in general and of the lights on the project site. Member Curran asked if the color temperature of the lights would impact the height being sought for the poles. Mr. Lippmann stated it would not. Mr. Lippmann reviewed footcandle analysis between 15-foot and 21-foot tall poles and stated that 15-foot tall poles cannot meet the Hannaford requirements for lighting in a parking area. Mr. Lippmann stated that dark sky certified lights would be used, which would be shielded and have downlighting only. Mr. Lippmann noted that multiple stores along Hoosick Road have light poles taller than the 21-foot poles the applicant is proposing, including Walmart, which has 40-foot poles in its parking lot, and Market 32, which has 30-foot poles in its parking lot. Mr. Lippmann then reviewed the landscaping plan for the project site and provided a cross-section of the project site from the surrounding neighborhoods, showing the relative heights of the poles that will be visible due to changes in elevation between these neighborhoods and the project site. Mr. Lippmann reviewed the status of the project in front of the Planning Board, stating that he and Planning Board review engineer Wayne Bonesteel are currently working out the final stormwater issues for the project. Mr. Lippmann then reviewed the project schedule before both the Planning and Zoning Board, stating that a SEQRA determination must be made first by the Planning Board, then the Zoning Board can make a determination on the area variance, then the Planning Board can make a determination on the site plan. Mr. Lippmann also requested a special meeting of the Zoning Board be scheduled in order to consider the area variance, so that the Planning Board could potentially act on the site plan at its second September meeting. The Zoning Board discussed whether or not to hold a special meeting earlier in September and if so, what date to hold said

special meeting. It was noted that September 6 is Labor Day, so September 13 would be the only date available, assuming the Zoning Board wanted to only hold a special meeting on a Monday. The Zoning Board agreed to hold a special meeting on Monday, September 13. Chairperson Clemente asked about the heights of the light poles at the sites Mr. Lippmann cited. Attorney Gilchrist stated that the two projects, Walmart and Market 32, formerly Price Chopper, were both Planned Development District (PDD) projects, and since the proposed Hannaford supermarket is not, those two sites should not be used as a direct comparison for this project. Member Mainello also noted that both Walmart and Price Chopper were done decades ago and had no close neighbors at the time, which this project does, and stated that there must have been a reason why the Town Board put a maximum light pole height of 15 feet in the current Zoning Code when it was passed in 2017. Chairperson Clemente agreed with both Attorney Gilchrist and Member Mainello, while also noting that PDDs are not reviewed by the Zoning Board, so the Zoning Board would have had no input on the pole heights at Walmart and Market 32. Chairperson Clemente asked the applicant if a photo simulation of the project site once the Hannaford supermarket is completed was available and if not, if one could be made and submitted to the Zoning Board. The Zoning Board members agreed that they would like to see that, with Member Schmidt noting that if there is any problem after construction, the Zoning Board will have a simulation of what the project site was supposed to look like for comparison. Attorney Gilchrist suggested that the simulations should show the completed project site both during the day and at night, which the Zoning Board agreed with. This matter is placed on the September 13 special meeting agenda for further discussion.

Three items of new business were discussed. The first was an application for 3 area variances submitted by Richard Wark Jr. for property located at 113 Flower Road. Mr. Wark was present to review the application. Mr. Wark stated that the 3 variances were a front yard setback

variance, as he was requesting 37 feet of setback when at least 70 feet is required, a side yard setback variance, as he was requesting 12 feet of setback when at least 25 feet is required, and a variance for having a secondary structure in front of a primary structure. Mr. Wark stated that he is seeking to build a 24-foot round pool on his property and a deck surrounding said pool, and that the proposed location was chosen due to the lay of the land. Member Curran noted that a prior variance had been granted for this property by the Zoning Board of Appeals earlier in 2021, specifically a front setback variance for the location of a garage on the property, which was also a secondary structure in front of a primary structure, and that this should be noted in the application. Mr. Wark reviewed the map of the project, noting the location of the septic system on the property, which will not be affected by the location of the proposed pool and deck. Chairperson Clemente asked if there was any feasible alternate location on the property for the pool and deck. Mr. Wark stated that there is not as due to the topography of the land, he would need to bring in fill and construct a retaining wall in order to put the pool and deck anywhere else on the lot. Chairperson Clemente stated that the application was complete and that a public hearing would be scheduled for this application on September 20. Mr. Wark stated that he would be unavailable on that date and asked if the public hearing could take place at the special meeting on September 13. Attorney Gilchrist stated that the Zoning Board had the option of changing the date of the regular meeting from September 20 to September 13, eliminating the need for a special meeting. The Zoning Board agreed they would like to change the date of the regular meeting. Member Mainello made a motion to change the date of the Zoning Board's next regular meeting to September 13, which was seconded by Member Curran. The Zoning Board voted unanimously to approve the changing the date of the next regular meeting of the Zoning Board to September 13. A public hearing on this application is scheduled for September 13, 2021 at 6:00pm.

The second item of new business was an application for 4 area variances submitted by Dave Davey for property located at 11 Cleminshaw Avenue. Mr. Davey was present to review the application. Mr. Davey stated that the 4 variances were for front yard setback, left side setback, rear setback, and maximum lot occupancy, and that these 4 variances are necessary because the lot is both a corner lot and double lot. Mr. Davey stated that he is seeking to build a 30-foot by 36-foot 3-car garage with a 10-foot by 10-foot mudroom attached to the house on the property, and that most properties in the area also have garages. The Zoning Board discussed the plans submitted with the application. Chairperson Clemente stated that it would be better if the area where the proposed garage would be built is marked with flags. Mr. Davey stated that the area is already marked with stakes in the ground and tape around the stakes showing the garage area. Chairperson Clemente asked Mr. Davey if he agreed to allow the Zoning Board members access to the property and he said he would. Member Curran asked how many stories the garage would be and Mr. Davey said one story with a small attic above it. Chairperson Clemente noted that a previous variance had been granted on the property in 1976 and asked Mr. Davey if he had any details on that earlier variance. Mr. Davey stated that it was a right side setback variance to add bedrooms to the house. The Zoning Board discussed the lot, the surrounding neighborhood, the location of the proposed garage on the lot, and fences. The Zoning Board also discussed whether or not the application was complete enough for the purpose of a public hearing. Based on that discussion, Chairperson Clemente stated that the application was complete. A public hearing on this application is scheduled for September 13, 2021 at 6:15pm.

The third item of new business was a sign variance application submitted by Action Sign Company, LLC on behalf of KFC for property located on Hoosick Road. Ken Shaw was present to review the application. Mr. Shaw reviewed the overall site, including the project's location

relative to the nearby Aldi's grocery store, Wendy's fast-food restaurant, and Planet Fitness. Mr. Shaw stated that a monument sign is proposed and that because the KFC restaurant will sit further back on the lot, the monument is being proposed for along Hoosick Road. Mr. Shaw stated that the KFC monument sign requires 150 feet of frontage, but the plans only show 120 feet of frontage. The Zoning Board discussed whether only the amount of frontage on Hoosick Road counted, or if the frontage on Hillcrest Avenue would count as well since the KFC will be on a corner lot. Attorney Gilchrist stated that he would discuss the issue of frontage with Charles Golden of the Town Building Department. Chairperson Clemente asked specifically how many signs were needed and where they would be placed on the building. Mr. Shaw stated that 11 signs were being requested, including a menu board, order point canopy, and clearance bar, which would all be toward the rear of the site, as well as the monument sign; there would also signs on the building. Mr. Shaw stated that since 2 signs are allowed under the Town's Zoning Code, 9 sign variances are being sought. Member Curran asked Mr. Shaw if he could provide pictures of other KFCs so that the Zoning Board could get a better idea of what the finished building with all signs posted would look like. Mr. Shaw stated that he could get pictures of other KFC restaurants. Chairperson Clemente asked what the specific purposes of the signs were. Mr. Shaw stated that the two biggest reasons were pedestrian safety and identification/visibility, as a lot of KFC customers order from the restaurant as an impulse buy. Chairperson Clemente asked what signs out of the 11 proposed would be the most important. Mr. Shaw stated that the monument sign on Hoosick Road and the KFC logo of Colonel Sanders on the front of the building would be most important. Member Schmidt asked if there was a picture of the overall area where the KFC will be built, including the Planet Fitness and where the Wendy's will be once the project site is fully built. Mr. Shaw stated

that one should have been provided with the site plan, but he could provide one. This matter is placed on the September 13, 2021 agenda for further discussion.

The index for the August 16, 2021 meeting is as follows:

1. Lord Avenue Property, LLC – area variance (September 13, 2021).
2. Wark – area variances (September 13, 2021).
3. Davey – area variances (September 13, 2021).
4. Action Sign Company, LLC – sign variances (September 13, 2021).

The proposed agenda for the September 13, 2021 meeting is currently as follows:

1. Wark – area variances (public hearing to commence at 6:00pm).
2. Davey – area variances (public hearing to commence at 6:15pm).
3. Lord Avenue Property, LLC – area variance.
4. Action Sign Company, LLC – sign variances.