

## **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 OCTOBER 18, 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 September 13, 2021 regular meeting were reviewed. Chairperson Clemente noted four corrections: on page 5, the last line, “that that” should be shortened to one “that”; on page 7, third line from the bottom, “Planning” should be changed to “Zoning”; on page 7, sixth line from the bottom, “of” should be changed to “if”; and on page 8, line 7, “poles” should be added after “light.” Chairperson Clemente made a motion to approve the minutes of the September 13, 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 September 13, 2021 regular meeting were approved subject to the noted corrections.

The draft minutes of the September 23, 2021 joint special meeting with the Planning Board were reviewed. Chairperson Clemente noted one correction: on page 4, line 7, “directed” should be changed to “directly.” Chairperson Clemente made a motion to approve the minutes of the September 23, 2021 joint special meeting with the Planning Board subject to the noted correction, which motion was seconded by Member Mainello. The motion was unanimously approved, and the minutes of the September 23, 2021 joint special meeting with the Planning Board were approved subject to the noted correction.

Chairperson Clemente noted that the third item on the agenda, a public hearing on the sign variance application submitted by Larry Schepici, had been tabled prior to the meeting. The Schepici public hearing will be re-noticed and held at the Zoning Board's November regular meeting.

The first item of business on the agenda was an application for sign variances submitted by Action Sign Company, LLC for property located at Hoosick Road and Hillcrest Avenue. The applicant seeks the sign variances, including a monument sign and signs on the building, menu board, order point canopy, and clearance bar, for a KFC fast food restaurant. Ken Shaw was present to review the application. Chairperson Clemente asked Mr. Shaw if there had been any changes made to the application since the last Zoning Board meeting and he said that there had not. Mr. Shaw reviewed how the signs were to advertise a KFC restaurant that will be built on a 1.6-acre parcel and reviewed the signs that are proposed to be installed. 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 the 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 asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Chairperson Clemente asked the other Zoning Board members if there were any questions or comments on the application and there were none. Chairperson Clemente noted that Member Schmidt had requested at a previous meeting a site plan showing where the monument sign would be located on the development site, and that such a site plan had been provided to the Zoning Board. 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 asked Mr. Shaw what the purposes of the proposed signs were. Mr. Shaw stated that the purpose of the signs is to identify the building, both to advertise to potential customers driving by, and for pedestrian safety. Chairperson Clemente noted that the Brunswick Zoning Code allows for a commercial business to have two signs, and the applicant is applying for the variance to have eight signs. Member Curran stated that she was concerned over the total number of proposed signs, citing the photographs of other KFC restaurants that the applicant provided. Member Curran stated that the red and white color design of a KFC restaurant already clearly identifies the building and asked if so many additional signs were necessary when the identity of the building is already known. Chairperson Clemente agreed that the color design of the building is an identifier, while the remaining signage also adds to the identification of the building. Chairperson Clemente stated that she wanted to analyze each proposed sign individually. Chairperson Clemente stated that the clearance bar and menu board are distinct as they are not in front of or on the building, and may be necessary for safe pedestrian/customer circulation. Chairperson Clemente stated that the signage on the front of the building can be viewed differently. Chairperson Clemente stated that the location of the monument sign is clear and in a good, visible spot, that it is size compliant, and that the Zoning Board needed to address the monument sign only because it is included in the total number of signs being proposed. Chairperson Clemente asked if the local 9-1-1 number and information would be printed on the monument sign. Mr. Golden stated that the Zoning Board had requested this previously and Mr. Shaw confirmed that it had been asked and he had agreed to it at the Zoning Board's last meeting on September 13. Chairperson Clemente stated that the monument sign, directional/clearance signage, and menu board were all distinct and important to the site. Member Curran stated that if no other Zoning Board members had any issues with the

total number of signs, then she would be fine moving forward. Chairperson Clemente stated that one factor the Zoning Board must consider is whether or not the variance is substantial. Chairperson Clemente brought up the “stencil” signs on both the east and west sides of the building and stated that they must also be reviewed. Member Mainello noted that one of the proposed signs lights up and asked if this would be an issue, mentioning how much time was spent analyzing lighting on a previous project. Mr. Golden stated that the sign that lights up will have downlighting, meaning that there will be no light spillage. Chairperson Clemente stated that three signs, labelled C, D, and E on the site plan, which were the “stencil” signs on the side of the building, were ultimately not necessary and if removed, would reduce the significance of the variance. Member Schmidt agreed, stating that signs C, D, and E could not be seen from Hoosick Road. Chairperson Clemente asked the applicant to discuss the significance of the first two signs, labelled A and B on the site plan. Mr. Shaw explained that there is a difference between signage and branding; specifically, signs advertise the building and draw in customers, while branding accentuates the building. Mr. Shaw stated that the monument sign, the “KFC” sign, and the picture of Colonel Sanders would be considered signs as they help bring in customers, and those signs are the most important as they help advertise the business. Mr. Golden stated that a KFC restaurant’s red and white color design is not trademarked by KFC, meaning it does not qualify as an additional sign. Mr. Shaw agreed, stating that the color design of the restaurant can change over time and that the building’s red and white color design is KFC’s current branding, but may change in the future. Member Curran asked if the “KFC” sign and picture of Colonel Sanders were both needed. Mr. Shaw stated that a KFC restaurant works best with both. Member Curran then asked if signs had to be removed, which would be the least necessary. Mr. Shaw reiterated that the monument sign and the front signage (the “KFC” sign and picture of Colonel Sanders) would be the most

important. Mr. Shaw also admitted that he always applies for the maximum number of signs for KFC restaurants and that usually only some of them are granted, so he is prepared to work with the municipality to come to a mutual decision on the best number of signs for this restaurant. Mr. Shaw stated that the signs proposed for the east side of the building, facing the existing Planet Fitness gym, cannot be seen from Hoosick Road. Mr. Shaw stated that concerning the signs on the west side of the building, the art is important, but the words are not. Mr. Shaw also stated that the pole sign/clearance bar are needed in the drive-thru, but that words printed on it is not necessary, which could be eliminated and reduce the number of signs proposed. Chairperson Clemente summarized the Zoning Board's discussion with the applicant, stating that the applicant now proposes the monument sign, two signs at the front of the restaurant, nothing on the east side of the building, and only one sign on the west side of the building, adding up to four signs total being proposed. Attorney Gilchrist asked to confirm for the record that there would be no signs in the windows of the restaurant, and Mr. Shaw confirmed that there would not be. Chairperson Clemente noted that for SEQRA, a short Environmental Assessment Form (EAF) was submitted. Chairperson Clemente stated that there was no potential for significant environmental impact due to the four signs proposed and made a motion for a negative declaration under SEQRA on the project, which was seconded by Member Curran. The Zoning Board voted unanimously to declare a negative declaration on the project under SEQRA. The Zoning Board then reviewed the elements for consideration on the sign 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, Member Curran stated that it would not as the restaurant is located in a commercial area where many businesses already have signs. Chairperson Clemente noted that the applicant had worked hard to improve the appearance and safety of the building, and worked with the Zoning

Board to determine an acceptable number of signs. As to whether a feasible alternative is available, Chairperson Clemente reiterated that the applicant had initially applied for eight signs, but had worked with the Zoning Board at the current meeting to determine the most acceptable number of signs for both the applicant and the Zoning Board, and a total of four signs has been discussed for this location. As to whether the requested variance is substantial, Member Curran stated that having four signs when two are allowed is not substantial, and that the compromise to decrease the number of signs from eight to four is appropriate. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente noted that a negative declaration under SEQRA had been made. Member Schmidt also noted that the project is already in a commercial district with signage, meaning there will be no additional impact. As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that signs are part of KFC's branding, and Chairperson Clemente noted that this factor is relevant, but not determinative. Chairperson Clemente asked if the Zoning Board members had any final questions, and there were none. Member Curran made a motion to grant the variance for the four signs noted above, which was seconded by Member Mainello. The motion was unanimously approved and the sign 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 area variance application submitted by Elaine Young for property located at 580 Pinewoods Avenue. The applicant seeks an area variance in connection with the construction of a garage, specifically requesting nine feet of setback on the right side of the property when fifteen feet is required. Elaine Young and Paul Bulson were present to review the application. Chairperson Clemente asked Ms. Young and Mr. Bulson if there had been any changes made to the application since the last Zoning Board meeting and Mr. Bulson

said that there had not. Mr. Bulson clarified that even though the Notice of Public Hearing and agenda for the Zoning Board meeting referred to the structure as a garage, he considered it just a shed, and stated that the structure would be 18-feet by 30-feet, one story tall, built with rough-cut boards, have two garage doors and a tin roof, and that he would use brown stain on the structure. 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 the 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 asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Chairperson Clemente asked the other Zoning Board members if there were any questions or comments on the application and there were none. 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 noted that the applicant's neighbor was present at the Zoning Board's previous meeting and stated that he had no objection to the structure. Chairperson Clemente noted that the Zoning Board had requested a drawing of the structure at its previous meeting and that while additional information had been submitted by the applicant, a specific site drawing was not included. Mr. Bulson stated that the requested site drawing was in fact submitted. Mr. Golden stated that he would check his office for the site drawing. Member Schmidt stated that he had visited the project site and that it is obvious where the structure would be built on the property. Chairperson Clemente stated that for the completeness of the record, the Zoning Board should have the site drawing. Attorney Gilchrist stated that since the Zoning Board did request a site drawing at its last meeting, it should be provided and be in the

record; however, if through a site visit the Zoning Board has adequate information and knowledge of the property, then the Zoning Board can move forward. Chairperson Clemente stated that the project 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 there are other sheds and garages in the neighborhood, that there will be trees and vegetation to provide screening for the applicant's neighbors, and that the structure will result in no change to the character of the neighborhood. As to whether a feasible alternative is available, Member Curran stated that the location of the septic system on the property limits the area available for development on the property, necessitating the need for the variance. As to whether the requested variance is substantial, Member Mainello stated that requesting a nine-foot setback when fifteen feet of setback is required is not substantial. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that there would not as there would be no increase in noise, light, or stormwater runoff due to the structure. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it was due to the applicant wanting more space for storage, and while this factor is relevant, it is not determinative. Chairperson Clemente asked if the Zoning Board members had any final questions, and there were none. Member Curran made a motion to grant the area variance, contingent upon the requested site plan or map detailing the location of the structure with measurements being submitted to the Building Department, which was seconded by Member Mainello. The motion was unanimously approved and the area variance was granted subject to the



requested site plan or map detailing the location of the structure with measurements being submitted to the Building Department.

The third item of business on the agenda was a sign variance application submitted by Larry Schepici for property located at 697 Hoosick Road. Chairperson Clemente reiterated that the application and public hearing had been tabled prior to the Zoning Board's meeting and that the public hearing would be re-noticed for the November 15, 2021 meeting at 6:00pm. Chairperson Clemente then listed all of the additional information on the application the Zoning Board had requested and must be submitted by the applicant: a scaled rendering of the sign on the building, the total square footage of the signs, a list of existing and proposed signs, a letter from the property owner, and a corrected application form.

Five items of new business were discussed.

The first item of new business was an area variance application submitted by Thomas Ogden for property located at 12 Colehamer Avenue. Thomas Ogden was present to review the application. Mr. Ogden stated that he is proposing to build a 16-foot by 16-foot shed on a concrete slab on his property, that he had submitted a drawing with the application listing the location of the shed on the property, the dimensions of the shed, and the distance from the shed to the lot lines on the property. Mr. Ogden also stated that he is requesting a rear yard setback variance. Member Curran asked how tall the trees at the back of the property were. Mr. Ogden stated that the trees are about 60 feet tall and 18-20 inches in diameter at the trunk. Mr. Ogden stated that he had spoken to the rear lot owner, who said he approved of the project as long the applicant builds the shed 6 feet away from the rear lot line, which is what is being proposed. Mr. Ogden also stated that a septic system on the property was impacting the location of the proposed shed. Chairperson Clemente asked Mr. Ogden if he had a drawing or depiction of what the shed would look like. Mr.

Ogden stated that he would submit such a drawing to the Building Department. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for November 15, 2021 at 6:15pm.

The second item of new business was a sign variance submitted by AJ Sign Co. for property located on Lord Avenue. Elizabeth Hobbs, representing Hannaford Supermarkets, was present for the applicant. Ms. Hobbs stated that a Hannaford supermarket had recently been approved in Brunswick, and that a standard Hannaford sign package consists of four signs totaling 326 square feet. Ms. Hobbs stated that Hannaford has reduced what they normally ask for to three signs totaling under 300 square feet, and is now requesting a variance for one sign. Ms. Hobbs discussed visibility of the three proposed signs, that the use and scale of the signs is consistent with uses within that zoning district, that the signs would not impact the surrounding neighborhood, and that since the supermarket will be 600 feet from Hoosick Road, Hannaford cannot reduce the number of signs any further. Ms. Hobbs also stated that the signs would use the latest LED lighting technology, meaning there will be no negative effects for neighbors, and that two of the three signs would be on the building over the entrances, meaning they would be part of the overall architectural symmetry of the building. Chairperson Clemente asked if it would be difficult to see the 9-1-1 address on the sign at nighttime. Ms. Hobbs stated that the 9-1-1 address would be lit from the canopy above. Member Curran asked if there would be a sign for the pharmacy on the side of the supermarket. Ms. Hobbs stated that there would not be, and that there would also not be any directional signage to the pharmacy drive-thru. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for November 15, 2021 at 6:30pm.

The third item of new business was an area variance application submitted by Donald Schneider and Kathleen Schneider for property located at 208 Old Siek Road. Donald Schneider and Kathleen Schneider were present to review the application. Mr. Schneider stated that he plans to build a 30-foot by 50-foot metal garage in order to store a boat and other vehicles. Mr. Schneider stated that there is a leachfield behind the house, a well in front of it, and that he will need to use the existing driveway on the property to access the new garage. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for November 15, 2021 at 6:45pm.

The fourth item of new business was a sign variance submitted by Troy Botanical Garden, LLC for property located at 1004 Hoosick Road. Dave Letzelter was present for the applicant to review the application. Mr. Letzelter stated that an 86' x 37' sign is currently in place at the property and that he sought to replace it with an 86' x 86' sign for a new business at the same location with all existing lighting remaining. Mr. Golden stated that there was no issue with the location of the current sign, and there will not be an issue with the location of the proposed sign. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for November 15, 2021 at 7:00pm.

The fifth item of new business was two use variance applications submitted by Atlas Renewables, LLC for commercial solar facilities at two properties, the first located on Shippey Lane at Tax Map Parcel 102.-1-18.12 and the second located on Brunswick Road at Tax Map Parcel 102.-1-16. Dave Brennan, Esq. and Lluís Torrent from Atlas Renewables were present to review the application. Mr. Brennan reviewed the applications, stating that commercial solar is an allowable use in several zoning districts in the Town of Brunswick, including a majority of the eastern part of the Town, but that existing infrastructure is currently stopping commercial solar

projects from connecting to National Grid in the eastern part of the Town. Mr. Brennan stated that the application identifies the zoning districts that allow commercial solar projects and have the infrastructure for a National Grid connection. Mr. Brennan discussed the public utility standards for a use variance, and that the applicant asserts the public utility standards apply to commercial solar use variance applications. Mr. Brennan presented and reviewed a map of National Grid infrastructure in Brunswick. Mr. Brennan stated that the proposed commercial solar sites meet the performance criteria, but do not meet the zoning district requirements. Mr. Brennan stated that he anticipated that the review process for the projects would start in front of the Zoning Board. Mr. Brennan stated that there are usually two issues with solar projects, visibility and pressure on existing agricultural resources, and that the two proposed sites are not visible and would not take agricultural land out of production. Chairperson Clemente noted that the project called for removing a number of trees, so visibility may still be an issue. Mr. Golden asked if the project site would have access from Brunswick Road. Mr. Torrent stated that the project site would be accessed off McChesney Avenue Extension through the neighboring property owned by Michael Flynn, and that the applicant already has an access agreement with Mr. Flynn for that purpose. Mr. Torrent reviewed the proposed connections to the National Grid and the limitations on community solar projects, specifically that projects under 5 MW cannot connect into major transmission lines. Mr. Torrent also stated that 25 MW are able to connect to major transmission lines, but the Atlas Renewables proposed projects are not able to directly connect to major transmission lines. Member Mainello stated that the two proposed projects would max out the distribution lines they would connect to, meaning no other solar projects would be able to connect because no additional capacity would exist in those distribution lines, which would stop making community solar projects economically feasible in the area. Mr. Golden asked what the difference was between

commercial solar projects and community solar projects and the Mr. Torrent discussed these issues. Attorney Gilchrist then discussed the procedure for the application going forward, including the option for the Zoning Board of Appeals to retain a technical consultant to assist in the review of the applications. This matter is placed on the November 15 agenda for further discussion.

The index for the October 18, 2021 meeting is as follows:

1. Action Sign Company, LLC – sign variances (approved).
2. Young – area variance (approved).
3. Ogden – area variance (November 15, 2021).
4. AJ Sign Co. – sign variance (November 15, 2021).
5. Schneider – area variance (November 15, 2021).
6. Troy Botanical Garden, LLC – sign variance (November 15, 2021).
7. Atlas Renewables, LLC – use variances (November 15, 2021).

The proposed agenda for the November 15, 2021 regular meeting is as follows:

1. Schepici – sign variance (public hearing to commence at 6:00pm).
2. Ogden – area variance (public hearing to commence at 6:15pm).
3. AJ Sign Co. – sign variance (public hearing to commence at 6:30pm).
4. Schneider – area variance (public hearing to commence at 6:45pm).
5. Troy Botanical Garden, LLC – sign variance (public hearing to commence at 7:00pm).
6. Atlas Renewables, LLC – use variances.