

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 20, 2022

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

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Chairperson Clemente reviewed the agenda for the meeting, as posted on the Town sign board and Town website. The draft minutes of the May 16, 2022 regular meeting were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the May 16, 2022 regular meeting without correction, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the May 16, 2022 regular meeting were approved.

The draft minutes of the May 19, 2022 joint special meeting with the Planning Board were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the May 19, 2022 joint special meeting without correction, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the May 19, 2022 joint special meeting were approved.

The first item of business on the agenda was an area variance application submitted by Peter Hickey for property located at 5 Heather Ridge Road. Member Mainello recused himself. Mr. Hickey was not present, but his father-in-law was to review the application. Mr. Golden noted that he had spoken with Mr. Hickey earlier that day and that Mr. Hickey had said that he would

not be present, but that someone else would be in attendance on his behalf for the public hearing. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Eastwick Press, 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 asked the applicant's representative to briefly describe the project, and if there had been any changes to the application since the last Zoning Board meeting. The applicant's representative stated that the area variance was for the construction of a pool on the property and that there had been no changes to the application since the last Zoning Board meeting. 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. Chairperson Clemente noted that the applicant is seeking a right-side setback variance, with 10 feet of setback proposed where 25 feet of setback is required under the Brunswick Zoning Law, and that the project is 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 it would not, as there are pools at other properties in the neighborhood and that the right side of the property is buffered by vegetation. As to whether a feasible alternative is available, Member Curran stated that the proposed location of the pool is the

only viable location due to the location of the septic system and the topography of the property, and Chairperson Clemente agreed. As to whether the requested variance is substantial, Chairperson Clemente stated that it was not due to the layout of the lot, and the amount of vegetation for buffering. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that there would be no environmental impacts post-construction, or the need for emergency services. As to whether the difficulty giving rise to the need for the variance is self-created, Member Curran stated that it was not due to the topography of the lot. Chairperson Clemente asked the Zoning Board members if there were any further questions, and there were not. Member Schmidt made a motion to grant the area variance, which was seconded by Member Curran. 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.

Member Mainello returned to the meeting.

The second item of business on the agenda was an application for three area variances submitted by Brian Lee for property located at 662 Pinewoods Avenue. Brian Lee was present to review the application. Chairperson Clemente asked Mr. Lee to briefly describe the project, and if there had been any changes to the application since the last Zoning Board meeting. Mr. Lee stated that he is looking to take down an existing garage on his property and build a larger garage in the same general location, and that the location is necessary due to the location of a septic system and driveway on the property, and that the property being a corner lot required significant setbacks. Mr. Lee also stated that there had been no changes to the application. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Eastwick Press, 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. Member Curran asked what the size of the new garage was going to be. Mr. Lee stated that it would be 32-feet by 32-feet with a 32-foot by 12-foot carport. Member Curran asked what the total square footage of the new structure would be. Mr. Lee and the Zoning Board members calculated the total square footage of the new structure to be 1,408 square feet. Mr. Golden stated that he must have miscalculated the total square footage earlier, and that one of the three area variance applications, for total square footage of an accessory structure, was not necessary. Member Schmidt stated that he had driven by the property to see the location of the current garage, that he was uncomfortable with the garage being so close to Grandview Drive, and that he thought it would be possible to move the garage back about 4 feet so it would be 10 feet off Grandview Drive. Mr. Lee stated that there is a steep slope 3-4 feet back from the proposed location of the garage. Warren Lashway, the project's contractor, was also present and stated that moving the garage back would require grading, but confirmed that it could be done if necessary. Member Mainello stated that according to the application, it appeared that it was 6 feet from the edge of the property line to the structure, but 20 feet from the edge of the pavement on Grandview Drive to the edge of the structure, and asked Mr. Lee if that was correct. Mr. Lee stated that it is 6 feet from the road right-of-way to the edge of the where the garage will be, but 20 feet from the edge of pavement on Grandview Drive to the edge of the where the garage will be. Member Schmidt stated that he would still be more comfortable if the garage was moved back about 4 feet. Member

Mainello noted that there will not be an entrance door on the side of the garage facing Grandview Drive, meaning that there would not be an access issue if the garage was not moved back. The Zoning Board members discussed the location of the garage and reviewed the site map. Member Mainello stated that the proposed location was adequate given that the structure would be 20 feet off the pavement. Member Lockrow stated that only 6 feet of space sounded close, but 20 feet between the garage and edge of the pavement was not an issue. Member Lockrow asked if there was anything between the location of the garage and the edge of Grandview Drive, such as a drainage ditch or a culvert, and Mr. Lee stated that there was not, that there was only grass. Chairperson Clemente asked for clarification on the measurements on the application and the site map, specifically what the precise measurements were for the front setback and right-side setback. After discussion, the Zoning Board members determined that the front setback off Pinewoods Avenue was to be 104 feet, while the right-side setback was to be 65 feet. Member Lockrow asked if the carport portion of the garage was included in the 32-foot by 32-foot or measurements, or was an extra area. Mr. Lee stated that the carport was an extra area. Mr. Lee also noted that Grandview Drive is not a long road and has a dead end, which leads to a farm field. 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 noted that the project is a Type II action under SEQRA, which does not require any further SEQRA review. Chairperson Clemente also noted 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. The Zoning Board then reviewed the elements for consideration on the area variance application, addressing both setback variances together. 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 it would not as the current garage is old and falling down, and that while the new garage will be larger, it will still be consistent with the rest of the neighborhood and be a visual improvement on the lot. As to whether a feasible alternative is available, Member Mainello stated that the proposed location is the best location due to being the same general location as the current garage, and that a better alternative location is not feasible due to the location of the driveway on the property. As to whether the requested variance is substantial, Chairperson Clemente noted that that the lot is a corner lot with two front setbacks. Member Curran stated that the variance is not substantial as it is replacing an existing garage in the same location. Chairperson Clemente also noted that the lot was already small to begin with, with limited area for accessory structures. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that there would be no adverse impacts post-construction. Member Lockrow stated that the action would actually improve the aesthetics of the neighborhood. As to whether the difficulty giving rise to the need for the variance is self-created, Chairperson Clemente stated that it was, but that this would not be determinative in this case. Chairperson Clemente asked the Zoning Board members if there were any further questions, and there were not. Member Curran made a motion to grant the area variances, which was seconded by Member Mainello. The motion was unanimously approved and the area variances were 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 two use variances submitted by Brunswick Solar, LLC and Sycaway Solar, LLC, subsidiaries of Atlas Renewables, LLC for property on Shippey Lane and Brunswick Road. Lluís Torrent, of Atlas Renewables, and David Brennan, Esq., were present to review the application. Mr. Brennan handed out copies of a

memorandum prepared by his office and a written decision by the Zoning Board of Appeals of the Town of Binghamton granting a use variance for a solar project by applying the Rosenberg standard, which had been discussed at the Brunswick Zoning Board's last meeting on May 16. Mr. Brennan stated that he received the written decision late in the previous week. Mr. Brennan stated that he was handing his recommendation out so the Zoning Board members had plenty of time to read and review it before discussing it thoroughly at the Zoning Board's July meeting. Chairperson Clemente stated that at the Zoning Board's last meeting on May 16, Mr. Torrent had stated that the applicant was working on visual simulations for additional sites requested by the Zoning Board, and asked if those visual simulations were ready to be presented. Mr. Torrent stated that those visual simulations had been completed, but that he did not have them presently and that he would present them at the Zoning Board's July meeting. Chairperson Clemente asked if all substations the applicant had analyzed were located in Brunswick, or if the applicant had also analyzed substations in other municipalities as well, which had been brought up by Ron Laberge, P.E., and the Zoning Board's May 16 meeting. Mr. Torrent stated that three substations in Brunswick had been analyzed, as well as substations in other municipalities, including the City of Troy, and that there were no other sites with the required acreage for the project near a substation, and that this information was included in a submittal dated May 6 from the applicant to the Zoning Board. This matter is placed on the July 18, 2022 agenda for further discussion.

The fourth item of business was an area variance application submitted by North Troy Solar, LLC, a subsidiary of Atlas Renewables, LLC for property on Oakwood Avenue and Farrell Road. Lluís Torrent was present for the applicant. Mr. Torrent reviewed the area variance being sought, stating that it was for above-ground utility poles and that the applicant is requesting 9 poles. Mr. Torrent then reviewed the history of the application, stating that an area adjacent to the

project site had been previously approved as a Planned Development District (PDD), that another area adjacent to the project site was zoned residential, and the project site is zoned light industrial. Mr. Torrent reviewed the interconnection location on Oakwood Avenue, stating that the project will need to cross the former incinerator site, that NYS DEC had recommended the area for crossing, and that 3 utility poles were proposed over the former incinerator site. Mr. Torrent stated that 6 additional utility poles were needed to connect to National Grid, that the applicant was working to decrease those additional 6 poles to only 4 or 5, but that National Grid was currently requiring the 6 poles for interconnection. Mr. Torrent also reviewed the visual impacts on the site. Chairperson Clemente asked if the utility poles could be added to the visual simulations. Mr. Torrent stated that it could be done and that updated simulations showing the utility poles on the site would be submitted for the next Zoning Board meeting. Chairperson Clemente also asked if the vantage point of each simulation could be identified. Mr. Torrent stated that he would do so and submit updated simulations for the next Zoning Board meeting. Mr. Golden asked why National Grid was requiring 9 utility poles. Mr. Torrent stated that it is because of the type of equipment National Grid is requiring the applicant to use, and reiterated that the applicant is working with National Grid to decrease the total number of poles from 9 to 7 or 8. Chairperson Clemente asked if the visual simulations from Bells Lane should include the utility poles. The Zoning Board discussed the distance from Bells Lane to the project site, and concluded that a simulation from Bells Lane would not be necessary to show where the utility poles would be. Chairperson Clemente stated that according to the minutes of a previous Planning Board meeting, the nearest road to the site is 1,000 feet away, and asked if that was accurate. Mr. Torrent stated that the solar panels would 1,000 feet from the nearest road, not the utility poles. Mr. Torrent then reviewed a visual impact simulation from Bells Lane to the solar panel location, and reviewed the

maintenance of the existing trees around the panel location. Attorney Gilchrist stated that the Planning Board had discussed the possibility at its last meeting on June 16 of a joint public hearing on the North Troy Solar applications before both the Planning and Zoning Boards at its July 7 meeting at 7:00pm, and asked if the Zoning Board would be interested in participating in a joint public hearing on this project. The Zoning Board members stated that they also wanted to hold a joint public hearing, agreeing to hold a special meeting on July 7 at 7:00pm to do so. Mr. Torrent stated that he would supply the updated visual impact simulation to the Zoning Board prior to the joint public hearing on July 7. Mr. Torrent also stated that the wetland delineation report had been completed and submitted, and that he is working with the Planning Board to address comments on the project's stormwater pollution prevention plan (SWPPP). A special meeting of the Zoning Board of Appeals will be held on July 7, 2022 and a joint public hearing with the Planning Board will be held regarding the North Troy Solar applications on July 7, 2022 at 7:00pm.

The index for the June 20, 2022 regular meeting is as follows:

1. Hickey – area variance (approved).
2. Lee – area variances (approved).
3. Atlas Renewables (Brunswick & Sycaway Solar) – use variances (July 18, 2022).
4. Atlas Renewables (North Troy Solar) – area variance (July 7, 2022).

The proposed agenda for the July 7, 2022 special meeting is currently as follows:

1. Atlas Renewables (North Troy Solar) – area variance
(joint public hearing to commence at 7:00pm).

The proposed agenda for the July 18, 2022 regular meeting is currently as follows:

1. Atlas Renewables (Brunswick & Sycaway Solar) – use variances.
2. Leon – use variance.