

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 APRIL 17, 2023

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

ABSENT was PATRICIA CURRAN.

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 March 20, 2023 regular meeting were reviewed. Chairperson Clemente noted two clarifications: on page 2, third line from the bottom of the page, “major accidents” should be clarified as “major automobile accidents”, and on page 9, line 13, the Herrington Farms property is near the project site, not abutting it. Chairperson Clemente made a motion to approve the minutes of the March 20, 2023 regular meeting subject to the noted clarifications, which was seconded by Member Schmidt. The motion was unanimously approved, and the minutes of the March 20, 2023 regular meeting were approved subject to the noted clarifications.

The first item of business on the agenda was an application for two sign variances submitted by Form and Forge/Thomas Dingley in connection with the ACE Hardware store located at 831 Hoosick Road. Thomas Dingley was present to review the application. Mr. Dingley stated that he was looking to replace an existing monument sign with a digital sign, which required one variance, and a second variance for the total number of signs on the property. Attorney Gilchrist

stated that after the ACE Hardware at 831 Hoosick Road was approved by the Brunswick Planning Board many years ago, the owner of that ACE Hardware retained his firm to represent other ACE Hardware stores in the area, and that while he has represented other ACE Hardware stores, he has not done any legal work for the ACE Hardware at 831 Hoosick Road. Attorney Gilchrist stated that he wanted to disclose that for the record and that he would recuse himself from representing the Zoning Board if either the applicant or Zoning Board members objected to him continuing to represent the Zoning Board on this matter. Mr. Dingley stated that he had no objection to Attorney Gilchrist representing the Zoning Board on this issue. The Zoning Board members consented to Attorney Gilchrist continuing to represent the Zoning Board on this matter. 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 reviewed the increase in square footage of the existing monument sign and the proposed electronic sign, citing the application materials, noting that the new digital sign is proposed to be 36.48 square feet. Chairperson Clemente asked if there was space on the proposed digital sign for the local 9-1-1 address to be located. Mr. Dingley stated that he had not included the 9-1-1 address in prior drawings of the proposed sign, but that there was space where it could be included, and that a revised drawing showing the 9-1-1 address on the sign would be submitted. Mr. Dingley also stated that the writing on the digital sign would not change that often, changing weekly at the most. Chairperson Clemente stated that the applicant should consult the Town Zoning Law for the

restrictions on digital signs as to how often they can change, as the regulations clearly spell out the rules. 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 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 stated that as the application was for a non-residential variance, a Short Environmental Assessment Form (EAF) had been submitted by the applicant. Chairperson Clemente stated that the action had no potential significant adverse environmental impact and made a motion for a negative declaration on the project under SEQRA, which was seconded by Member Mainello. 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 variances application. As to whether the requested variances would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Mainello stated that the digital sign would be consistent with the signage along Hoosick Road. Chairperson Clemente disagreed, stating that while there are many signs for businesses along Hoosick Road, there are not many electronic signs along that stretch of Hoosick Road. Chairperson Clemente also stated that while an electronic sign would not be in the character of the neighborhood, it is an allowable use under the Town Zoning Law. As to whether a feasible alternative is available, Chairperson Clemente stated that the current sign at the location is outdated and that the applicant is seeking to increase commercial traffic to the business. As to whether the requested variances are substantial, Chairperson Clemente stated that the variances would not be substantial. As to whether the variances would create an adverse environmental or physical impact, Chairperson Clemente stated that there would be no adverse

impact to traffic, noise, dust, or stormwater runoff, and that the Town Zoning Law defines the regulations for the illumination of an electronic sign. As to whether the difficulty giving rise to the need for the variances is self-created, Member Lockrow stated that it was self-created, but that being self-created is not determinative in this case, and that digital signs are allowed under the Town Zoning Law. Chairperson Clemente asked if there were any further questions from the Zoning Board members, and there were not. Attorney Gilchrist stated that requiring the addition of the 9-1-1 address to the sign could be a condition for the Zoning Board to consider. Member Mainello made a motion to grant the sign variances subject to the condition identified by Attorney Gilchrist, which was seconded by Member Schmidt. The motion was unanimously approved and the sign variances were granted subject to the stated condition. Chairperson Clemente directed the applicant to continue working with the Town Building Department on this matter.

The second item of business on the agenda was an appeal submitted by Charles Bulson for property located at 63 Indian Creek Lane. Attorney Gilchrist recused himself from this matter. Christopher Langlois, Esq., who is serving as special counsel to the Zoning Board for the appeal, joined the Zoning Board. Mr. Langlois stated that at the Zoning Board's last meeting on March 20, the Zoning Board made a determination by vote to dismiss the appeal for a lack of jurisdiction. Mr. Langlois stated that he had drafted a written decision to memorialize the determination, which could be adopted by the Zoning Board by motion. Chairperson Clemente stated that the Zoning Board members had reviewed the written decision and made a motion to approve that written decision, which was seconded by Member Schmidt. The motion was unanimously approved and the written decision was approved. Mr. Langlois stated that a copy of the written decision would be filed in the office of the Town Clerk, and that a copy would be provided to the applicant's attorneys as well.

The Zoning Board discussed three items of new business.

The first item of new business was an area variance application submitted by Lisa Messick for property located at 5 Easy Street. Lisa Messick was present to review the application. Mrs. Messick stated that she was looking to construct an above-ground pool on her property and that she was seeking three area variances: two front setback variances, due to the property being a corner lot, and a rear setback variance. Mrs. Messick stated that 60 feet of front setback is required and she is proposing front setbacks of 36 feet off Easy Street and 10.5 feet off Downing Street, and that 20 feet of rear setback is required and she is proposing 11 feet of rear setback. Chairperson Clemente asked if there were any alternative locations where the pool could be placed on her property. Mrs. Messick stated that if she put the pool in the backyard, then it would be too close to her adjacent neighbor (her mother-in-law), the pool would be impacted by a septic system, and she would need to build a retaining wall. Chairperson Clemente asked about a fence included on the drawing submitted with the application. Mrs. Messick stated that she was looking to build a fence on her property for privacy. Mrs. Messick also stated that the location for the pool was chosen so that she would not be too close to her adjacent neighbor. Chairperson Clemente asked if the Zoning Board members had permission to visit the property, and Mrs. Messick stated that the Zoning Board members had permission. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for May 15, 2023 at 6:00pm.

The second item of new business was an area variance submitted by Usman Rashid for property located at 793 Pawling Avenue. Mr. Rashid and a representative from Howard Hanna Real Estate were present to review the application. The representative stated that the applicant was seeking to construct a 1,000 square foot building on the property for storage and that he was

seeking an area variance for the building. Chairperson Clemente asked if the proposed building met all required setbacks. Mr. Golden stated that it met all setbacks, noting that the property was an existing substandard lot for size. Chairperson Clemente asked if the building met the requirements for lot coverage. Mr. Golden confirmed that the proposal met all requirements for lot coverage. Mr. Golden also noted that an application had previously been submitted to build on the same property, and that this was an entirely separate application. Chairperson Clemente noted that no drawing had been submitted with the application and asked if the application could be considered complete without a drawing. Attorney Gilchrist stated that he would like to review the issue of building on a substandard lot with the Building Department to determine any required Zoning Board review. Member Mainello made a motion to table the application, which was seconded by Member Schmidt. The motion was unanimously approved and the application was tabled. This matter is placed on the May 15, 2023 agenda for further discussion.

The third item of new business was a sign variance application submitted by Lawrence Josenski Jr. for property located at 666 Hoosick Road. Lawrence Josenski Jr. was present to review the application. Mr. Josenski stated that he was seeking sign variances for the Aroma Joe's coffee shop, specifically for a menu board and a sign of the Aroma Joe's logo, which he called a "stoosh." Chairperson Clemente asked if there were any potential alternatives. Mr. Josenski stated that the menu board was needed to see the coffee shop's products, and that there was no intercom, just two windows, so the menu panel was needed. Mr. Golden reviewed the proposed sign locations on the building with the Zoning Board. Chairperson Clemente asked what the hours of operation were for the coffee shop. Mr. Josenski stated that the hours were 5:00am to 9:00pm, seven days a week. Chairperson Clemente asked what lighting the signs would have. Mr. Josenski stated that both signs would be lit, that the menu board would have backlighting, and that the "stoosh" logo would

also have backlighting, with a subtle halo-effect. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for May 15, 2023 at 6:15pm. Mr. Josenski stated that he was looking to open the store on May 8 and asked if it would be possible for the Zoning Board to approve temporary signage for the store. Attorney Gilchrist stated that that issue was not under the jurisdiction of the Zoning Board and that it should be reviewed by the Building Department.

The index for the April 17, 2023 regular meeting is as follows:

1. Dingley – sign variances (approved with condition).
2. Bulson – appeal (written decision on appeal dismissal approved).
3. Messick – area variance (May 15, 2023).
4. Rashid – area variance (May 15, 2023).
5. Josenski – sign variance (May 15, 2023).

The proposed agenda for the May 15, 2023 regular meeting is as follows:

1. Messick – area variance (public hearing to commence at 6:00pm).
2. Josenski – sign variance (public hearing to commence at 6:15pm).
3. Rashid – area variance.