

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 MAY 15, 2023

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 April 17, 2023 regular meeting were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the April 17, 2023 regular meeting without correction, which was seconded by Member Lockrow. The motion was unanimously approved, and the minutes of the April 17, 2023 regular meeting were approved.

The first item of business on the agenda was an application for three area variances submitted by Lisa Messick for property located at 5 Easy Street. Lisa Messick was present to review the application. Chairperson Clemente asked the applicant if there had been any changes made to the application since the last Zoning Board meeting. Mrs. Messick stated that there had been no changes made to the application. Mrs. Messick stated that she was looking to install a pool on her property, and reviewed the general location of the pool on her property and the requested area variances. 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 whether the pool could be located anywhere else on the property, given the location of the septic system and leachfield. Mrs. Messick confirmed that there was no other location for the pool due to the septic system and leachfield. Chairperson Clemente asked if a fence would be installed around the pool. Mrs. Messick confirmed that she planned to build a fence around the pool. Mr. Golden discussed the fence requirements. Chairperson Clemente asked for confirmation that the pool would not be in front of the primary structure on the property, as it was unclear on the drawing of the property submitted with the application. Mr. Golden confirmed that the pool would not be in front of the primary structure. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Mainello. The motion was unanimously approved, and the public hearing was closed. Chairperson Clemente stated that the project was 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. 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 Curran stated that it would not as there were already pools and accessory structures at other properties in the neighborhood. As to whether a feasible alternative is available, Chairperson Clemente stated that there was not due to the location of the septic system and the topography of the lot. As to whether the requested variances were

substantial, Chairperson Clemente stated that the applicant was seeking three variances which would not be substantial in this case due to the lot being a corner lot in an R-15 residential zoning district. As to whether the variance would create an adverse environmental or physical impact, Chairperson Clemente stated that the project would have no adverse impacts, including no adverse impacts to traffic, drainage, dust, noise, or odor. As to whether the difficulty giving rise to the need for the variance is self-created, Member Lockrow stated that it was, but that it was not determinative in this case. Member Curran made a motion to grant the three area variances, which was seconded by Member Lockrow. The motion was unanimously approved and the three area variances were granted. 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 application for three sign variances submitted by Lawrence Josenski Jr. for property located at 666 Hoosick Road. Lawrence Josenski Jr. was present to review the application. Chairperson Clemente asked the applicant if there had been any changes made to the application since the last Zoning Board meeting. Mr. Josenski stated that there had been no changes made to the application. Mr. Josenski also stated that the Town Building Department had granted a temporary sign permit since the last Zoning Board meeting and that the Aroma Joe's coffee shop had opened on May 8. It was noted that the requested variances also included total number of signs and location of a sign on the building. 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 for confirmation that the coffee shop's

hours of operation were 5:00 AM to 9:00 PM. Mr. Josenski confirmed those were the hours of operation. Chairperson Clemente asked if those hours of operation were seven days a week. Mr. Josenski confirmed the hours of operation were seven days a week. Member Lockrow asked if the proposed menu board would look the same as the temporary menu board currently in place. Mr. Josenski confirmed that the proposed menu board would look exactly the same as the temporary menu board and that it would also be mounted on the wall of the building. 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 the application was for a non-residential variance, 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 Curran. The Zoning Board voted unanimously to declare a negative declaration on the project under SEQRA. 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. 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 Curran stated that there are other drive-thru restaurants nearby and the proposed signage would be consistent with those sites. As to whether a feasible alternative is available, Member Mainello stated that space on the property is limited, so the proposed locations are the only locations for the signs. As to whether the requested variances are substantial, Chairperson Clemente stated that the two requested signs would only result in two more signs than are allowed under the Town Zoning Law, that one of the signs would be on the side of the building, and that the variances would not

be substantial. As to whether the variances would create an adverse environmental or physical impact, Member Curran stated that the application was only to place signs and would involve no construction, so there would be no negative environmental impact. As to whether the difficulty giving rise to the need for the variances is self-created, Member Mainello stated that it was, but that it was not a significant factor due to the location of the coffee shop in the commercial corridor on Hoosick Road and the variance is limited to signs on the building. Chairperson Clemente stated that the Zoning Board often requires illuminated signs to be turned off during off hours and asked the Zoning Board members if the signs being illuminated only during business hours should be a condition on the application. The Zoning Board members agreed that the signs being illuminated only during business hours, and must be turned off when the business is not operating, should be a condition on the application. Member Lockrow made a motion to grant the three sign variances subject to the stated condition, which was seconded by Member Curran. The motion was unanimously approved and the three 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 third item of business on the agenda was an area variance application submitted by Usman Rashid for property located at 793 Pawling Avenue. A representative from Howard Hanna Real Estate was present to review the application. Chairperson Clemente stated that an issue raised at the previous Zoning Board meeting on April 17 was the size of the lot and the fact that it is an existing nonconforming lot. Mr. Golden handed out copies of page 113 of the Brunswick Zoning Law, reviewing Section 160-104(D) of the Zoning Law, which concerns the use of existing nonconforming lots. Mr. Golden stated that the Howard Hanna representative had stated that a building that may be constructed on the lot would be consistent with the Brunswick Zoning Law

for size in the applicable zoning district. Mr. Golden stated that his determination was that the only nonconformity was for the size of the lot, that the proposed building would meet all required setbacks, and that any use or building proposed for the lot will require site plan review before the Planning Board. Mr. Golden also stated that the specific business within the proposed building must be known at the time a site plan is submitted to the Planning Board. Attorney Gilchrist clarified that given the Building Department determination, an area variance from the Zoning Board of Appeals is not required at this time, that a substandard lot may be developed under Brunswick Zoning Law Section 160-104(D) provided it meets the requirements of that section, that the specific use for the lot must be identified, that the applicant needs to coordinate with the Town Building Department on the Brunswick Zoning Law requirements for the specific use, and that site plan by the Planning Board will be required.

The Zoning Board discussed two items of new business.

The first item of new business was an area variance application submitted by Paul McKeon for property located at 168 McChesney Avenue. Paul McKeon was present to review the application. Mr. McKeon stated that he was seeking two setback variances for the construction of a two-car garage on his property. Mr. McKeon stated that he was seeking a front setback variance to allow the garage to be located 20 feet from the front lot line, where 75 feet of setback is required, and a right side setback variance to allow the garage to be located 12.74 feet from the side lot line, where 25 feet of setback is required. Mr. McKeon stated that when he bought his house in 1978, there was an attached one-car garage, but he and his wife converted it into a family room when they had children, but now need a garage, particularly during the winter months. Chairperson Clemente asked if there was a possible alternate location for the garage on the property. Mr. McKeon stated that it would be difficult to build the garage anywhere else due to a significant

slope on the site, which would require the construction of a large retaining wall, as well as the location of a septic system and leachfield on the property. Mr. McKeon also stated that if he were to build a retaining wall and build the garage elsewhere on the property, it would be very far from his house and not be worth it to build. Chairperson Clemente asked if the Zoning Board members had permission to visit the property, and Mr. McKeon 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 June 19, 2023 at 6:00pm.

The second item of new business was an area variance application submitted by Peter Grande for property located at 12 Pickering Lane. Peter Grande was present to review the application. Mr. Grande stated that he was looking to build a 16-foot by 20-foot deck off his house, and that he might expand the deck in the future. Mr. Grande stated that he was seeking a left side setback variance to allow the deck to be located 8 feet from the side lot line, where 15 feet of setback is required, and a right side setback variance regarding his existing nonconforming house that is located 10 feet from the right side lot line, where 15 feet of setback is required. Mr. Golden stated that the house is an existing nonconforming structure. Chairperson Clemente asked when the house was built. Mr. Grande stated that his home is a small cottage built in 1929 and is under 900 square feet. Chairperson Clemente asked if any trees would be removed from the property to build the deck. Mr. Grande stated that no trees would be removed. Chairperson Clemente asked if the Zoning Board members had permission to visit the property, and Mr. Grande 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 June 19, 2023 at 6:15pm.

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

1. Messick – area variances (approved).
2. Josenski – sign variances (approved with condition).
3. Rashid – area variance (withdrawn).
4. McKeon – area variances (June 19, 2023).
5. Grande – area variances (June 19, 2023).

The proposed agenda for the June 19, 2023 regular meeting is as follows:

1. McKeon – area variances (public hearing to commence at 6:00pm).
2. Grande – area variances (public hearing to commence at 6:15pm).