

## **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 19, 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 May 15, 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 May 15, 2023 regular meeting without correction, which was seconded by Member Curran. The motion was unanimously approved, and the minutes of the May 15, 2023 regular meeting were approved.

The first item of business on the agenda was an application for area variances submitted by Paul McKeon for property located at 168 McChesney Avenue. Paul McKeon was present to review the application. Chairperson Clemente stated that the applicant was seeking two area variances in connection with the construction of a garage. 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. Member Curran asked if a tree in the front yard was going to be removed to make space for the proposed garage. Mr. McKeon stated that the tree had already been taken down, and would have been taken down even if the garage was not built as the tree was diseased and dying and branches were falling off. 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 variances requested in the 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 they would not as there were other properties in the area with detached secondary structures and that the proposed garage would be consistent. As to whether a feasible alternative was available, Member Curran stated that there was not due to the slope of the property and locations of the septic tank and leachfield, and that there was not enough room on the other side of the property for the garage. As to whether the requested variances were substantial, Chairperson Clemente noted that a side yard setback of 12.74 feet was proposed where 25 feet of setback was required, and a front yard setback of 20.8 feet was proposed where 75 feet of setback was required, and the lot size was 0.46 acres. Member Mainello stated that the front yard setback variance was substantial, but that the applicant was confined by the space limitations on the parcel. As to whether the variances would create an adverse environmental impact, Chairperson Clemente stated that

they would not have any adverse impacts, including no adverse impacts to noise, dust, and traffic. As to whether the difficulty giving rise to the need for the variances was self-created, Chairperson Clemente stated that the difficulty was self-created, but that it was not determinative in this case. Chairperson Clemente asked the Zoning Board members if there were any further questions or comments, and there was not. Member Lockrow made a motion to grant the two area variances, which was seconded by Member Schmidt. The motion was unanimously approved and the two 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 area variances submitted by Peter Grande on property located at 12 Pickering Lane. Peter Grande was present to review the application. Chairperson Clemente stated that the applicant was seeking two area variances in connection with the construction of a deck. 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. Robin Donovan, who lives behind the applicant on Broadview Terrace, stated that she objected to the application on several grounds: the applicant was seeking setbacks despite not having an updated survey, she had significant issues accessing her property due to a driveway constructed by the applicant and believed that the access issue should be dealt with first, that the applicant uses security cameras to spy on her and other neighbors and the deck being built on a slope would allow the cameras to see over fences and into people's homes, that the applicant had threatened her with physical violence, that the applicant had harassed the surveyor she had hired to survey her property and removed survey markers, that the applicant parks on Broadview

Terrace in front of her property instead of in his own driveway, that the driveway issue is even greater for her because she is handicapped and cannot access her own driveway, and that she had been harassed by the applicant for more than two years. Ms. Donovan asked why the applicant was allowed to put in the driveway in the first place when it has caused her so many problems. Ms. Donovan stated that she had to put up a fence for privacy, but that the deck would allow the security cameras set up by the applicant to look over the fence and into her home. Ms. Donovan asked the Zoning Board how she could stop the harassment from the applicant. Chairperson Clemente stated that the Zoning Board only had jurisdiction to review the record provided by the Building Department, and that the applicant had only applied for the variances for the deck, not anything related to a driveway or security camera use. Attorney Gilchrist confirmed that the Zoning Board has limited jurisdiction, that the Town Highway Department has jurisdiction over driveway issues, that the Building Department has jurisdiction over any building issues, and advised Ms. Donovan to seek legal counsel for any other issues. Ms. Donovan confirmed that she had retained a lawyer. There were no further public comments. Chairperson Clemente asked Mr. Golden if there had been any written comments on the application. Mr. Golden stated that the Town had received one written comment via email from Steve O'Connor and Rose Anne O'Connor, of 4 Broadview Terrace, dated June 14, 2023, which Mr. Golden then read in full as part of the record. Chairperson Clemente noted that a Google Maps image of the site with lot lines added had been provided to the Zoning Board by the Building Department, but confirmed that no survey had been submitted with the application. Chairperson Clemente asked Mr. Grande to describe the deck elevation. Mr. Grande confirmed that the deck would be on a slope and that it would be 32 inches off the ground. Mr. Golden noted that the applicant had not submitted any actual building plans, so the Building Department and Zoning Board could not know what the deck

would look like. Chairperson Clemente stated that applicants generally provide some sort of picture, such as a drawing or rendering, of what they are proposing to build, and asked Mr. Grande if he could provide a visual representation of the proposed deck. Mr. Grande stated that he would provide that information. Mr. Grande also stated that the Zoning Board members could visit his property to look at the security cameras he has, all of which point toward his house, not away from it, and not toward neighboring homes. Chairperson Clemente reiterated that the Zoning Board only has jurisdiction over the application seeking variances for the deck, not anything involving security cameras. Member Mainello stated that the rendering or drawing that the applicant submits should show the elevation of the deck for the entire area that the deck would cover, including the exterior dimensions of the deck with topographical data. Mr. Grande asked if he could respond to the verbal comments and written letter concerning his use of security cameras on his property. Chairperson Clemente reiterated that the Zoning Board only had jurisdiction with respect to the variances sought for the deck. Mr. Grande asked if he decreased the total square footage of the proposed deck, which would increase the proposed setbacks, if he would still require variances from the Zoning Board. Mr. Golden stated that Mr. Grande's house is an existing nonconforming structure, meaning that any alterations to the house, such as building a deck off the house, would require an area variance. Chairperson Clemente asked Mr. Grande to respond to his neighbor's concerns over the deck, which could allow him to see into neighboring yards and homes, as that was relevant to the issue of whether the location of the deck relative to the lot lines could cause a detriment to nearby properties. Mr. Grande stated that he can already see his neighbor's properties from his property, and that some of his neighbors also have decks, meaning that they can also see into other neighboring yards, including his yard. Member Mainello asked if there was a privacy fence between his property and his neighbor's property, and whether the deck would have a fence or just

a railing. Mr. Grande stated that there is currently a fence between his property and his adjacent neighbor's property, and that he is also planning to build a gazebo with a fence around it on his deck in the future. Member Curran asked if the existing privacy fence belonged to Mr. Grande or his neighbor. Mr. Grande stated that it belonged to his neighbor. Member Lockrow stated that a survey of the property would confirm the lot line and extent of the required variance and that a survey should be provided. Chairperson Clemente reviewed that the Zoning Board was looking for a rendering of what the deck would look like and a perimeter measurement of the lot with topography noted, and also a survey of the property. Chairperson Clemente asked if the public hearing should remain open or if it should be closed. Attorney Gilchrist stated that the Zoning Board could keep the public hearing open or close it, and that it was entirely within the Zoning Board's discretion. Chairperson Clemente asked if any Zoning Board members thought it was necessary to keep the public hearing open, and the Board members felt that the public hearing should be closed. Member Mainello made a motion to close the public hearing, which was seconded by Member Lockrow. The motion was unanimously approved, and the public hearing was closed. This matter is placed on the July 17, 2023 agenda for further discussion.

The Zoning Board discussed two items of new business.

The first item of new business was an application for sign variances submitted by Matthew Signs, LLC for property located at 4005 NYS Route 2. A representative from Matthew Signs, LLC was present to review the application. The representative stated that the site was the Cobble Pond Farms convenience store and that the applicant was seeking to add a diesel canopy to the site, which will require a variance, and that the site is over the allowable number of total signs and square footage for signs. Mr. Golden stated that the applicant was proposing 30 total signs on the site, that the Town Zoning Law allows two signs, and that a previous variance had been granted

for the site for two additional signs. Chairperson Clemente noted that based on that information, that the applicant is seeking a variance for 26 additional signs. Chairperson Clemente also noted that the applicant is proposing 369.6 square feet for signs where 300 square feet is allowed, and that the fuel price sign is proposed to be 15 feet high where such a sign is only allowed to be 8 feet high. Mr. Golden stated that he saw the current application as an opportunity to clean up the signage on the site and make sure all signage is compliant with the Zoning Code. The representative agreed that this opportunity should be taken to make all signage on the site Zoning Code compliant. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for July 17, 2023 at 6:00pm.

The second item of new business was an area variance application submitted by Mildred Fuller for property located at 6 Johnson Street. Mildred Fuller was present to review the application. Mr. Golden stated that the application was in connection with a lot line adjustment currently before the Planning Board. Mr. Golden also stated that three variances were being requested: a front setback variance, a side setback variance, and a variance for having an accessory structure in front of a primary structure. Mrs. Fuller stated that when she and her husband purchased their property, she thought that the accessory structure, a garage, was part of the lot, that she and her family had used the garage for years, that her adjacent neighbor had a survey of her property prepared and discovered that part of the garage was on the neighbor's lot, that the neighbor is now selling her lot, and that both Mrs. Fuller and her neighbor want to get a lot line adjustment and transfer of title to the property on which the garage sits so that Mrs. Fuller and her husband own the entirety of the 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 July 17, 2023 at 6:15pm.

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

1. McKeon – area variances (approved).
2. Grande – area variances (July 17, 2023).
3. Matthew Signs, LLC – sign variances (July 17, 2023).
4. Fuller – area variances (July 17, 2023).

The proposed agenda for the July 17, 2023 regular meeting is as follows:

1. Matthew Signs, LLC – sign variances (public hearing to commence at 6:00pm).
2. Fuller – area variances (public hearing to commence at 6:15pm).
3. Grande – area variances.