

## **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 AUGUST 21, 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 July 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 July 17, 2023 regular meeting without correction, which was seconded by Member Curran. The motion was unanimously approved, and the minutes of the July 17, 2023 regular meeting were approved.

The first item of business on the agenda was an application for area variances submitted by Peter Grande for property located at 12 Pickering Lane. No one was present to review the application. Chairperson Clemente noted that this was the second consecutive meeting where the applicant was on the agenda, but was not present. Mr. Golden stated that he would contact the applicant as to whether the application was still being pursued.

The second item of business on the agenda was an application for area and sign variances submitted by Maries Muse, LLC for property located at 727-737 Hoosick Road and 4 Mohawk Avenue. Tim Freitag, from Bohler Engineering; Paul Van Cott, an attorney from Whiteman Osterman & Hanna, LLP; and Clint Madsen, from Chick-fil-A, the restaurant on the west parcel

on the site, were present to review the application. Chairperson Clemente stated that the Planning Board had stated that it would serve as Lead Agency for the project at its July 20 meeting and had sent the Notice of Intent to Establish Lead Agency shortly thereafter. Chairperson Clemente also stated that the Zoning Board had agreed at its last meeting on July 17 to hold a joint public hearing with the Planning Board on the applications pending before both Boards. Mr. Freitag stated that the area variance application before the Zoning Board had been updated and supplemented based on comments from the previous Zoning Board meeting, and had been resubmitted to the Town on August 18. Mr. Freitag stated that there were only minor changes made to the site plan, specifically adding pedestrian connectivity to Hoosick Road from the project site via a sidewalk, and the addition of a trash enclosure at the drive-thru entrance with a roofed shed, which was considered an accessory structure. Mr. Freitag also noted that there were two canopies proposed for the drive-thru, but that the canopy on the eastern side of the building was attached to the building and therefore was not considered an accessory structure, and that the application had been updated to reflect that. Mr. Van Cott reviewed the two accessory structures on the site, the trash enclosure and one of the canopies, stating that each accessory structure required two variances, including for setback and being located in front of the primary structure, and that another variance was required for overall square footage of the two accessory structures, resulting in five variances total for the accessory structures. Mr. Van Cott stated that a variance was also required for the parking spots to the rear of the western part of the project site, as they were too close to the adjacent residential area. Mr. Van Cott reviewed the applicant's basis for the site layout, stating that there were no feasible alternatives for the site for the proposed use, noting that if the applicant proposed to flip the site 180 degrees, many variances would still be required. Mr. Van Cott stated that the stacking of vehicles on the site was critical, as it would prevent traffic backing up onto Hoosick Road and

would promote appropriate internal traffic circulation and safety. Mr. Van Cott also stated that the applicant was working with surrounding property owners on screening options. Mr. Freitag stated that the applicant was working with a landscape architect on fencing and screening, which was currently in the design phase and would be presented to those property owners soon. Member Curran asked what the maximum number of cars was that could be safely stacked on the site. Mr. Freitag stated that 34 cars could be stacked across the two lanes, that ten more cars could be stacked if the third lane were to be used, and that the stacking of cars was addressed in detail in the traffic study. Member Curran asked if the applicant had considered having only one drive-thru lane on the site in order to meet the front setback requirements. Mr. Freitag stated that the restaurant chain that will be on the site currently has a canopy design for two lanes, with a third if necessary, which would help avoid traffic backups onto Hoosick Road and/or Mohawk Avenue. Mr. Van Cott stated that having multiple drive-thru lanes decreases the time of customers to be on the site and reduces on-site circulation time. Member Mainello asked what the buildout timeframe was for the site. Mr. Freitag stated that both the eastern and western sides of the site would be constructed simultaneously. Member Mainello stated that the Chick-fil-A that had recently opened in Clifton Park was having serious problems with traffic circulation and overflow, and that it was using adjacent parcels for traffic stacking, and asked how the applicant would prevent such issues on the Hoosick Road site. Mr. Freitag stated that the applicant would be owner of both the east and west parcels on the site, and that he would review the issue of traffic overflowing between the two parcels with the applicant. Mr. Freitag stated that the Chick-fil-A proposed for Brunswick would be in the second phase of Chick-fil-A locations proposed for the Capital District, meaning that there would likely be less traffic as customers would have other Chick-fil-A restaurants in the area to go to. Mr. Freitag also stated that Chick-fil-A works with local police and fire departments, as

well as the municipality, when opening a restaurant to mitigate traffic and safety concerns. Mr. Van Cott reviewed the sign variances being sought by the applicant, stating that there were 12 signs proposed for the site, seven directional signs and five advertising signs, and that only two signs are allowed on the site according to the Town Zoning Code, so the applicant is seeking a variance for ten signs on the site. Mr. Van Cott reviewed each of the five advertising signs, stating that one sign would be over the entrance at the rear of the building, one sign on each side of the building, one sign on the front of the building, and one freestanding sign. Mr. Van Cott also stated that variances were required for having one sign on the back of the building, one sign on each side of the building, and for the overall square footage of the signs, as 300 square feet of signage is allowed and the applicant is proposing 314.05 square feet of signage. Mr. Van Cott stated that the proposed signage was consistent with other businesses along Hoosick Road, especially other quick-serve restaurants. Mr. Van Cott stated that there were no other alternatives for the site that would not also require sign variances, and that the proposed signage was consistent with the current fast-food industry needs and was critical to the business. Chairperson Clemente asked what the “vinyl banner” mentioned in the application was. Mr. Freitag stated that it was a sign that would be used only during construction. Chairperson Clemente asked about the reader board described in the application. Mr. Freitag stated that the reader board would be on the freestanding sign. Chairperson Clemente asked what the square footage would be of the reader portion of the freestanding sign. Mr. Freitag stated that it would be 32 inches x 48 inches per side. Member Mainello asked if a pedestrian walkway or crosswalk in front of the parking on the rear of the site could be added. Mr. Freitag stated that it could be added to the site plan. Chairperson Clemente stated that there were no further questions from the Zoning Board and that the Zoning Board would

wait for the Planning Board to review the site plan and consider a public hearing date. This matter is placed on the September 18, 2023 agenda for further deliberation.

The third item of business on the agenda was an appeal submitted by Charles Bulson for property located at 63 Indian Creek Lane. Robert Tietjen, attorney for the appellant, and Charles Bulson were present. 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 the appeal currently before the Zoning Board was a separate appeal from the appeal before the Board earlier in the year, and reviewed the new appeal request, stating that the Zoning Board must address whether the appeal is ready for a public hearing. Mr. Langlois stated that the appeal raised the issue of Zoning Board members discussing the matter with the Building Department, that the appellant had asserted that this raised a conflict issue, and that the appellant believed that some members of the Zoning Board should recuse themselves as Attorney Gilchrist had. Member Curran stated that she would recuse herself. Mr. Langlois stated to the other four Zoning Board members that the appellant had the right to have his appeal heard by an impartial panel, and that the issue was whether the other four Zoning Board members could hear and decide the appeal without bias, either for or against the matter, and render an independent judgment based on the record. Mr. Langlois stated that if a Zoning Board member felt they could not be impartial, then they should recuse themselves, and that if they could be impartial, then they did not need to recuse themselves. The four remaining Zoning Board members stated that they had no conflict on the matter and could decide the appeal impartially based on the record. Mr. Langlois stated that the Zoning Board could schedule a public hearing on the appeal. Member Schmidt asked what specifically was being sought by the appellant in the current appeal. Mr. Langlois reviewed the appeal, stating that the appellant disagreed with the Building Department's interpretation of

the Brunswick Zoning Law concerning his application for a building permit, and that the appellant was appealing to Zoning Board for a ruling on whose interpretation was correct. Mr. Langlois stated that a public hearing must be held on the appeal. Chairperson Clemente stated that the next Zoning Board meeting was September 18 and that the public hearing would be held at that meeting at 6:00pm. Mr. Langlois stated that the Zoning Board would send out the public notices for the hearing.

Member Curran and Attorney Gilchrist returned to the Zoning Board for the continuation of the meeting.

There was no new business to discuss.

The index for the August 21, 2023 regular meeting is as follows:

1. Grande – area variances (tabled).
2. Maries Muse, LLC – area variances and sign variances (September 18, 2023).
3. Bulson – appeal (September 18, 2023).

The proposed agenda for the September 18, 2023 regular meeting is as follows:

1. Bulson – appeal (public hearing to commence at 6:00pm).
2. Maries Muse, LLC – area variances and sign variances.