

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 15, 2024

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

ABSENT was JOHN MAINELLO III.

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 18, 2024 regular meeting were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the March 18, 2024 regular meeting without correction, which was seconded by Member Curran. The motion was unanimously approved, and the minutes of the March 18, 2024 regular meeting were approved.

The first item of business on the agenda was an area variance application submitted by Rebecca Del Gaizo and Jason Del Gaizo for property located at 22 Otsego Avenue. Jason Del Gaizo was present to review the application. Chairperson Clemente asked Mr. Del Gaizo to briefly review the application, and if there had been any changes made to the application since the last Zoning Board meeting. Mr. Del Gaizo stated that there had been no changes made to the application, and stated that he and his wife were looking to build a covered front porch at the front of their house, and were seeking an area variance for front setback. 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. There were no questions or comments from the Zoning Board members. 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. The Zoning Board then reviewed the elements for consideration on the area variance requested in the 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, Member Curran stated that the porch would be similar to porches on neighboring houses and would therefore fit into the existing character of the neighborhood. As to whether a feasible alternative was available, Member Schmidt stated that there was not as all lots on that section of Otsego Avenue are small. As to whether the requested variance was substantial, Chairperson Clemente stated that 30 feet of front setback was required, that the applicants were proying 5 feet of front setback, and that the current pre-cast steps at the front of their house were already within the area of encroachment, meaning the variance would not be substantial in this case. As to whether the variance would create an adverse environmental impact, Chairperson Clemente stated that there would be no impact at all to noise, odor, runoff, etc. due to the porch. As to whether the difficulty giving rise to the need for the variance was self-created, Member Curran stated that the house was already nonconforming, that the steps were already encroaching, and that the need for the variance was not self-created in this case. Chairperson

Clemente stated that the project was a Type II action under SEQRA, which does not require any further SEQRA review. Chairperson Clemente stated that the Zoning Board needed to balance the benefit to the applicants with any potential detriments to the surrounding neighborhood. Member Lockrow stated that there would be no detriment to the neighborhood, that the porch would improve the look of the neighborhood, and that the porch would help the house conform with the neighborhood. Member Lockrow made a motion to grant the area variance, which was seconded by Member Schmidt. The motion was unanimously approved and the area variance was granted. Chairperson Clemente directed the applicants to continue working with the Town Building Department on this matter.

The second item of business on the agenda was an area variance application submitted by Anusa Masambo for property located on Greene Street. No one was present for the applicant. Mr. Golden stated that he had not heard from the applicant as to whether he would be attending the current meeting. Chairperson Clemente stated that the Zoning Board was planning to continue the public hearing, which was opened at the previous meeting on March 18, and take additional public comment and questions and/or comments from the Zoning Board. Chairperson Clemente stated that the applicant submitted responses to public comments since the last Zoning Board meeting and that she had hoped to review those responses with the applicant. Mr. Golden stated that he had placed a call to the applicant and left a message with him. Chairperson Clemente stated that the Zoning Board would hold on the continuation of the public hearing until the applicant confirmed his attendance or not for this meeting.

The third item of business on the agenda was an application for area variances submitted by Justin Haas for property located at the corner of NYS Route 7 and Carrolls Grove Road. Justin Haas and Tess Healey, of VanGuilder Engineering, PLLC, were present to review the application.

Chairperson Clemente stated that new information had been submitted since the last meeting and asked Mr. Haas to review that information. Mr. Haas stated that a revised map had been submitted, which removed shading from a small area on the site not owned by the site owner, and which added the parking area, entrance gate, and vegetation. Mr. Haas stated that responses to public comments made at the last Zoning Board meeting were also submitted. Chairperson Clemente asked Mr. Haas and Ms. Healey to review the responses to public comments. Ms. Healey stated that the updated map shows shrubbery at the front of the property along Hoosick Road. Ms. Healey stated that the applicant would not complete a full landscaping plan until approvals from the Zoning Board were in place and would do the required engineering work when the project went before the Planning Board for site plan review. Chairperson Clemente stated that an element that the Zoning Board would consider in making its determination on the area variances was the impact to the neighborhood, so the Zoning Board would need additional information on the site's landscaping. Ms. Healey noted that the site had already been cleared and that adding trees would be a visual improvement. Chairperson Clemente stated that she understood that the applicant did not want to pay for a full landscaping plan if the approvals were not going to be given, but reiterated that landscaping information would be necessary to make determinations on the area variances. Ms. Healey discussed the detention pond, stating that it would be attractive and would be designed per NYS Department of Conservation (DEC) requirements. Chairperson Clemente asked if the DEC requirements had been communicated to the applicant in a letter and asked if the Zoning Board could have a copy of that letter. Ms. Healey stated that the applicant did not currently have the DEC requirements and that a detailed Stormwater Pollution Prevention Plan (SWPPP) would be outsourced to another consultant, who would contact and work with DEC and meet all DEC requirements. Chairperson Clemente asked if the size of the detention pond would affect the

number of storage units on the site. Ms. Healey confirmed that the size of the detention pond would impact the number of proposed units on the site, and that the number of units had already been reduced. Chairperson Clemente asked if the number of buildings and storage units could be reduced further if necessary. Ms. Healey confirmed that the number of buildings and stage units could be reduced further. Chairperson Clemente asked how many storage units were currently being proposed. Mr. Haas stated that 168 total units within 2 full-sized buildings and 1 partially-sized building were being proposed. Chairperson Clemente asked if any economic analysis of the project had been completed. Mr. Haas stated that he could not afford to lose any more units or parts of the buildings, as the project would no longer be economically viable at that point. Chairperson Clemente stated that the Zoning Board had also received updated information on the requested area variances since the last meeting. Chairperson Clemente stated that the applicant was requesting a front setback variance, proposing 33 feet of setback off Hoosick Road where 75 feet of setback was required, and a rear setback variance, proposing 30 feet of setback from the rear property line where 50 feet of setback was required. Member Curran noted that a 4-foot by 6-foot monument sign that would be 4 feet off the ground was proposed for the site, and asked if any sign variances were required. Mr. Golden stated that no sign variances were needed as the proposed sign met all requirements for a monument sign under the Town Code. Mr. Golden stated that the sign was proposed to be off Hoosick Road and close to Carrolls Grove Road, and would be subject to a sign application. Chairperson Clemente stated that the Zoning Board needed to consider the character of the area when making a determination on the area variances, and would require a rendering of the proposed buildings. Mr. Haas stated that a rendering had been included when the application was first submitted, which the Zoning Board reviewed. Chairperson Clemente asked what color the proposed buildings would be. Mr. Haas stated that the final coloring of the buildings

had not yet been decided. Chairperson Clemente stated that the buildings should be consistent with the surrounding area. Chairperson Clemente stated that the Zoning Board understood the applicant's dilemma with the amount of money being invested in the project without knowing if the variances would be improved. Chairperson Clemente then opened the floor for additional public comments. Kerry Franklin, who owned the property behind the project site, asked for information on lighting at the site, noting that no lighting plan had been submitted with the application, and asked what the proposed rear setback would be. Tom Daley, of 1356 NYS Route 7, asked if there would be privacy fencing between the site and the adjacent properties. Mr. Daley also asked how existing drainage on the site would be handled, stating that a French drain was installed at the back of the parcel, which then turns at a right angle toward an open ditch along the Daley lot. Chairperson Clemente asked Mr. Haas to address the new public comments. Mr. Haas stated that the site would have solar lighting, which would be downlit, mounted to the buildings, specifically every other bay. Chairperson Clemente asked why the lighting would be attached to every other bay. Mr. Haas stated that every other bay would result in no dark spots on the site and not result in any excessive light pollution. Chairperson Clemente asked how high the lights would be. Mr. Haas stated that the lights would be 8 feet high and attached to the building. Chairperson Clemente asked about the rear setback. Mr. Haas reiterated that 50 feet of rear setback was required and that 30 feet of setback was being proposed. Chairperson Clemente asked if there would be rear screening on the site. Mr. Haas stated that he would have a chain-link fence across the back of the property, which could include slats if necessary. Chairperson Clemente asked about potential fencing between the project site and the Daley property. Mr. Haas stated that a chain-link fence with slats could be installed or trees could be planted along the property line with the Daley property. Mr. Daley stated that a chain-link fence would not look attractive and asked if another

type of fencing could be installed. Chairperson Clemente asked for clarification on the drainage issue. Mr. Haas stated that the existing drain collects up-slope water, meaning that it could not be added to as a result of his project, and that the French drain would be maintained. Butch Farrell, the owner of the project site, was also present and stated that there had been drainage issues at the rear of his property, that he added a French drain to the property to dry out the site, that he sold a piece of his property to the Daleys with the ditch existing, and that there had never been any concern by the Daleys over the drainage issues on the site until now. Mr. Farrell also stated that the open ditch drain was partially on the project site and partially on the Daley property. Mr. Golden stated that there was a paper street between the project site and the Franklin property and that there was no existing residence between the project site and the Franklin property. Chairperson Clemente stated that the Zoning Board could close the public hearing and discuss whether there was enough information to make a determination. The Zoning Board members agreed to close the public hearing. Chairperson Clemente asked if there were any further public comments, and there were none. Chairperson Clemente 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. Chairperson Clemente stated that she did not believe the Zoning Board had enough information to make a determination, specifically requiring more information on lighting, fencing, and landscaping, and asked the applicant to provide additional information on those three points. Member Lockrow asked what the turn-off time would be for the lighting. Member Lockrow also asked for more information on the fencing as the height of the fence would need to be considered in relation to the visual impact on the neighbors. Member Curran stated that additional information would be needed on the color of the buildings. Member Curran asked if the sign would have lighting. Mr. Haas confirmed that the sign would be lit. Member Lockrow asked if the site would

be open 24 hours a day, and Mr. Haas confirmed that it would. Mr. Golden asked what lighting impacts a 24/7 operation would have on the neighborhood. Chairperson Clemente noted that the application stated that the gate to the site would only work from 8:00AM to 8:00PM, but that the business would be open 24 hours a day, and asked for clarification. Mr. Haas clarified that while the storage units themselves could be opened at any time, the gate to the site would only work from 8:00AM to 8:00PM, seven days a week, meaning that business hours would be from 8:00AM to 8:00PM seven days a week. Mr. Haas also stated that since the gate would be locked from 8:00PM to 8:00AM and the lights were motion-activated, there would not be lights going on and off throughout the night. Member Lockrow asked if the buildings containing the storage units would have metal roofs. Mr. Haas confirmed that the buildings would have metal roofs as the entire buildings would metal. Member Schmidt asked if the Zoning Board had enough information to make a determination if the size of the retention pond and final number of units were not known. Attorney Gilchrist stated that the Zoning Board could only address the area variance applications before it, and that if the number of storage units or buildings on the site changed in the future in a way that would affect the setbacks and the area variances, an application to amend the variances or seeking new variances would be required. Attorney Gilchrist also stated that the Zoning Board must make a State Environmental Quality Review Act (SEQRA) determination on the application, that stormwater impacts would be part of the SEQRA review, and that the Zoning Board could request comments from Wayne Bonesteel, Review Engineer to the Planning Board, on the stormwater impacts to the site. Ms. Healey stated that she had spoken to Mr. Bonesteel, who had told her that the stormwater plan could conceptually work on the site. Chairperson Clemente stated that she would like to have a letter from Mr. Bonesteel with written comments concerning the stormwater plan, which the Zoning Board members could review. Member Lockrow asked if there

would be outdoor storage on the site, and Mr. Haas stated that there would not be. Chairperson Clemente summarized the additional requested information, stating that Zoning Board wanted information on fencing, lighting, vegetation, design and color of the metal buildings, and a letter from Mr. Bonesteel concerning the stormwater plan, the latter of which the Zoning Board would request directly from Mr. Bonesteel. This matter is placed on the May 20, 2024 agenda for further deliberation.

The Zoning Board then discussed new business.

The first item of new business was an area variance application submitted by Travis Bradley for property located at 3 Watson Avenue. Travis Bradley was present to review the application. Mr. Bradley stated that he was looking to build an above-ground pool on his property and that he required a front setback variance. Mr. Bradley stated that he was requesting 29 feet of front setback where 60 feet of setback is required. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. Chairperson Clemente asked if the Zoning Board members had permission to visit the property. Mr. Bradley stated that the Zoning Board members had permission to visit his property. A public hearing on this application is scheduled for May 20, 2024 at 6:00pm.

Anusa Masambo was present at the meeting at this point, so the Zoning Board returned to its scheduled agenda.

The second item of business on the agenda was an area variance application submitted by Anusa Masambo for property located on Greene Street. Anusa Masambo was present to review the application. Chairperson Clemente stated that the applicant had submitted responses to public comments made at the last Zoning Board meeting via letter dated April 11, specifically providing 9 key points concerning construction activity issues, and briefly reviewed those responses.

Chairperson Clemente asked how the boundaries on the property would be marked. Mr. Masambo stated that a silt fence and a wire or wood fence would be placed around the site to secure it during construction. Clemente asked if these fences would be temporary or permanent. Mr. Masambo stated that these fences would be temporary. Chairperson Clemente continued reviewing the written responses, stating that applicant proposed that the site supervisor's duties should include daily housekeeping and cleanup, and that the staging area for equipment and materials should be off-site given the confines of the site. Chairperson Clemente then opened the floor for additional public comments. Tom Dinova, of 38 Greene Street, asked where equipment would be stored, and noted that Sycaway Creamery used a nearby site as a staging area for trucks. Mr. Dinova stated that there had been a shed on his property that was discovered to be partially on the applicant's property when an updated survey was done, that the applicant agreed to take down and remove the shed, that the shed was taken down, that the pieces of the shed had been left on his property, that his wife had raised this issue at the last Zoning Board meeting, but that the pieces of the shed were still on his property. Mr. Dinova stated that the site had been abandoned for many years, that he had witnessed trash and gasoline being dumped on the site many times, and asked if any environmental review was required for the site. Mr. Dinova stated that there was a big tree near his property line, that a large branch from that tree had fallen onto his roof after a recent storm, and asked if the applicant could cut down that tree. Mr. Dinova stated that other neighbors were concerned about the site, specifically the impact trucks could have on their properties. Mr. Dinova also stated that the rear of the project site sloped upwards, that the earth on that slope was degrading, and that a fence on the rear neighbor's lot along the property line could be affected in the future. Chairperson Clemente asked Mr. Golden if the Building Department had all information concerning the proposed house on the site, and if the Building Department was confident that the

house could be built and stay within the required setbacks. Mr. Golden confirmed that the Building Department had all required information and that the house could be built within the required setbacks. Chairperson Clemente noted that two site plans had been submitted, each with a different orientation for the house, and asked for clarification, specifically whether the proposed garage would be built to the right or left of the house. Mr. Masambo stated that the garage would be built to the left of the house. Chairperson Clemente reviewed the report/chart made by the Building Department comparing square footages of properties in the neighborhood. Chairperson Clemente stated that the proposed house would have a smaller footprint (first floor and garage) than other lots on Greene Street, and that the percentage of occupancy calculated on a 9,000 square foot structure would be lower for this area of Greene Street. Chairperson Clemente also stated that the percentage of lot occupancy on the actual parcel size would be lower for this lot than other lots in this area of Greene Street. Member Curran noted that the existing houses on Greene Street were built before the current Zoning Law was adopted, that the parcel is now in a R-9 residential zoning district, and that there must have been a reason that 9,000 square feet is now required for a lot in a R-9 district. Chairperson Clemente asked if there were any further public comments, 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. Attorney Gilchrist stated that he would like to review “key measures” from the applicant’s responses to public comments with respect to whether such measures were proper and enforceable conditions concerning a land use decision, and the appropriateness of potential conditions for action by the Zoning Board. This matter is placed on the May 20, 2024 agenda for further deliberation.

The Zoning Board then returned to new business.

The second item of new business was an application for area variances submitted by Alexander Hyra for property located at 302 Carrolls Grove Road. Alexander Hyra 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. Mr. Hyra stated that he was planning to build a garage for storage, that his backyard was not a viable location for the garage due to a leach field, that he was proposing to build the garage in his front yard where there would be vegetation to screen it from his neighbors, and that it would be consistent with other accessory structures in the neighborhood. Chairperson Clemente asked if the applicant had considered other locations on his property for the garage. Mr. Hyra stated that the grading of his property, and the location of a well and septic system, limited the potential location of the garage, and that the proposed location was the only viable location for the garage that was close to the existing driveway. Mr. Hyra stated that he was also seeking a variance for having an accessory structure in front of a primary structure. Mr. Golden stated that the application should be amended to state that 40 feet of front setback was being requested. Chairperson Clemente asked about the size of the proposed garage. Mr. Hyra stated that the garage would be 30 feet by 50 feet. Chairperson Clemente asked what the garage would be made of. Mr. Hyra stated that the garage would be a steel building, that it would be 12 feet tall on a 2-foot tall concrete slab, totaling 14 feet of height. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. Chairperson Clemente asked if the Zoning Board members had permission to visit the property. Mr. Hyra stated that the Zoning Board members had permission to visit his property. A public hearing on this application is scheduled for May 20, 2024 at 6:15pm or as soon thereafter as may be heard.

The index for the April 15, 2024 regular meeting is as follows:

1. Del Gaizo – area variance (approved).
2. Haas – area variances (May 20, 2024).
3. Bradley – area variance (May 20, 2024).
4. Masambo – area variance (May 20, 2024).
4. Hyra – area variances (May 20, 2024).

The proposed agenda for the May 20, 2024 regular meeting is as follows:

1. Bradley – area variance (public hearing to commence at 6:00pm).
2. Hyra – area variances (public hearing to commence at 6:15pm).
3. Haas – area variances.
4. Masambo – area variance.