

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS SPECIAL MEETING HELD NOVEMBER 26, 2019

PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, MARTIN STEINBACH, WILLIAM SHOVER and PATRICIA CURRAN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The special meeting was noticed for further review of the application for use variance submitted by Carol Young for property located at 45 Norfolk Street.

Chairperson Clemente reviewed the history of the property, including a special use permit having been issued for 45 Norfolk Street for the construction of a duplex in or about 1985; that at some point in time the property began to be utilized as a four-unit multi-family structure, without having a special use permit issued by the Zoning Board of Appeals for use of the building as a four-unit multi-family use; the property was sold to Young as a four-unit multi-family structure; that the property is now located in the R-9 Zoning District under the 2017 Brunswick Zoning Law, which does not allow four-unit multi-family structures as a permitted use; that consequently, Young had applied for a use variance to bring the property into compliance with the current Brunswick Zoning Law; that the Zoning Board of Appeals had noticed and held a public hearing on the application; that the Town record shows that there have been no violations concerning this property, that there have been no parking issues identified at this property, that there have been no complaints received concerning the use of the property as a four-unit multi-family structure; that there is adequate on-site parking, with two driveways being located at the site, and that the building

has proper ingress and egress; that the property has been inspected and does meet requirements for use as a four-unit multi-family structure. Chairperson Clemente noted that the Zoning Board of Appeals had requested additional economic proof from the applicant, specifically a cost estimate as to the cost needed to renovate the structure from a four-unit multi-family to a two-unit duplex. Kevin Avery was present on behalf of applicant Young, and noted that he had provided to the Town a contractor estimate prepared by Geary Dry Wall LLC d/b/a Geary Interiors and Exteriors, which listed out the work needed to renovate the building from a four-unit multi-family to a two-unit duplex. Mr. Avery reviewed the contractor estimate in detail, noting that the work included significant electrical work, foundation work, framing work, and interior work. Mr. Avery stated that the contractor estimate totals \$89,300 to renovate the structure from a four-unit multi-family to a two-unit duplex, and that this estimate should be considered very conservative, as there could be unanticipated additional work once the renovations started. Mr. Avery also stated that the contractor estimate does not include the cost for new kitchen appliances, since the old appliances could not be reinstalled following the kitchen renovations. Mr. Avery also stated that he had discussed the matter with the prior owner's attorney, who indicated to him that the structure had always been a four-unit as far as he knew, and that the property had been sold to Young as a four-unit multi-family. Mr. Avery reviewed the economic proof submitted on this use variance application. This includes a current purchase contract to sell the property as a four-unit multi-family structure at \$249,900. Mr. Avery had previously submitted several comparables of sales for two-unit duplexes in the relevant market, and estimates that this structure would sell as a two-unit duplex at approximately \$180,000–\$190,000. Mr. Avery has now submitted information concerning the necessary costs to renovate the structure from the current four-unit multi-family to a two-unit duplex, so as to make the structure compliant with the current Brunswick Zoning Law

in the event the use variance is not granted. That estimate to renovate the structure to a two-unit duplex totals \$89,300. Chairperson Clemente inquired whether the Zoning Board members deemed the economic proof sufficient to move forward with deliberation on the application. All members concurred that this economic proof was adequate. Chairperson Clemente generally reviewed the standards for consideration of the use variance application under the Brunswick Zoning Law. As the first order of business, Chairperson Clemente noted that the Zoning Board needed to make a determination of environmental significance under SEQRA. Attorney Gilchrist reviewed the standard for the determination of environmental significance under SEQRA. Chairperson Clemente noted that the applicant had submitted an Environmental Assessment Form, and considering the information set forth on the Environmental Assessment Form as well as the additional information in the application record, Chairperson Clemente made a motion to adopt a negative declaration under SEQRA, stating that the continued use of the property as a four-unit multi-family structure in the event the use variance is granted will not result in any significant adverse environmental impact. Member Shover seconded the motion. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members reviewed and deliberated on the elements for consideration of the use variance application. As to whether the applicant cannot realize a reasonable economic return from the property for uses allowed under the Brunswick Zoning Law, as demonstrated by competent financial evidence, the Zoning Board noted that the record does include proof of a sales contract for the property as a four-unit multi-family structure in the amount of \$249,900; proof of comparable sales in the relevant market for two-unit duplexes in the amount of \$180,000–\$190,000; and contractor estimates to renovate the structure at this location from a current four-unit multi-family structure to a two-unit duplex, in the amount of \$89,300. When considering the

required renovation costs to sell the property as a two-unit duplex, the economic return on the property as demonstrated by competent financial proof in the record is approximately \$90,000–\$100,000; whereas, the economic return on the sale of the property in the current four-unit multi-family structure status is approximately \$250,000. Member Schmidt stated that he did not feel there was a reasonable economic return on the property without granting the variance, and Member Shover agreed with that comment. All members concurred. As to whether the alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood, all agreed that this situation is indeed very unique and that the structure has been utilized as a four-unit multi-family structure for decades; that the property has been assessed as a four-unit multi-family structure for decades; and that the Rensselaer County records pertaining to the property identify this as multi-family apartment. All members concurred that this situation is unique, and does not apply to a substantial portion of the neighborhood or district. As to whether granting the requested use variance would alter the essential character of the neighborhood, Member Steinbach pointed out that this has been a four-unit multi-family structure for decades, and continued use of the property as a four-unit multi-family structure would not change the character of the existing neighborhood at all; and further that it was not likely that this issue would come up again and that the situation was quite unique. Member Shover asked whether this property was ever utilized as a two-unit duplex, or whether it was always utilized as a four-unit multi-family structure despite the special use permit having been issued for a two-unit duplex. Mr. Avery stated that it was not likely that the property had ever been used a two-unit duplex, as the contractor who prepared the renovation estimate noted that the structural framing, plumbing, and electric service all appear to have been initially constructed as a four-unit multi-family building. Member Shover concurred that the continued use of this structure as a four-unit multi-family

building would not result in any change in the character of the neighborhood. As to whether the alleged hardship is self-created, all members concurred that this situation was not self-created by the current owner Young, who had purchased this property several years ago as a four-unit multi-family structure, and that the property had been used a four-unit multi-family structure for several years prior to Young's ownership. The Zoning Board members then considered the material submitted on this application, including the financial information, and in consideration of the deliberation on each of the required elements for the use variance, Member Schmidt made a motion to approve the use variance, which motion was seconded by Member Shover. The motion was unanimously approved, and the use variance granted.

The index for the November 26, 2019 special meeting is as follows:

1. Young - Use variance - Granted.