

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD SEPTEMBER 16, 2019

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

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Chairperson Clemente reviewed the agenda for the meeting as posted on the Town signboard and the Town website.

The draft minutes of the August 19, 2019 meeting were reviewed. Upon motion of Member Schmidt, seconded by Member Steinbach, the minutes of the August 19, 2019 meeting were unanimously approved without amendment.

Chairperson Clemente noted that both of the items listed on the meeting agenda have been adjourned to the October meeting. Regarding the use variance application submitted by Blue Sky Towers II, LLC/Cellco Partnership d/b/a Verizon Wireless, Chairperson Clemente explained that the applicant is continuing its efforts to schedule the balloon test; that when an available date is identified for the balloon test, all property owners which had previously been noticed for the balloon test will receive an additional notice concerning the adjourned date, and the notice will be published on the Town signboard, Town website, and will be published in the official newspaper for the Town; and that the balloon test will not take place on Columbus Day weekend in October, and that the balloon test will also not occur on the weekend of October 26 as that date presents a conflict for Zoning Board member attendance. Members of the public had questions concerning

the adjourned balloon test date. Chairperson Clemente confirmed that a minimum of two weeks' written notice will be sent to the same property owner list that had previously been provided written notice of the prior balloon test date; and that the new balloon test date will be posted on the Town signboard, posted on the Town website, and published in the official newspaper for the Town immediately upon the new balloon test date being determined.

The use variance application submitted by Blue Sky Towers II, LLC/Cellco Partnership d/b/a Verizon Wireless, and the area variance application submitted by Brown/Trifocal Brewing Inc., are tentatively placed on the October 21 agenda.

One item of old business was reviewed by the Zoning Board members. The Zoning Board had previously granted an area variance for Frank and Debbie Malone for property located at 137 Bald Mountain Road at its meeting held July 15, 2019. A condition to that use variance was the requirement that a survey be prepared to confirm the setback distance of the proposed accessory apartment structure from the front property line, and that if the surveyed distance was greater than the variance granted at the July 2019 meeting, an amendment for the area variance would need to be sought by the property owner. Mr. Golden distributed a survey which had been prepared for this property. The Zoning Board members determined to further review this matter at the close of this meeting.

There were four items of new business discussed.

The first item of new business discussed was an application submitted by the Rensselaer Plateau Alliance and Rensselaer Land Trust (RPA/RLT) concerning the Taylor plot located off Cole Lane. The application seeks two use variances. Kristina Younger, president of the Rensselaer Land Trust, stated she was present to represent both the Rensselaer Land Trust and the Rensselaer Plateau Alliance. Ms. Younger explained that RPA/RLT had acquired approximately 74 acres of

property in the vicinity of Cole Lane, 9.9 acres of which is located in the Town of Brunswick, with the remaining land located in the City of Troy. The RPA/RLT are looking to have this parcel serve as an outdoor classroom and recreation area for hiking and enjoying nature. Ms. Younger reviewed the two requested use variances. First, concerning the 9.9-acre area located in the Town of Brunswick, the applicable Zoning District under the Brunswick Zoning Law does not allow recreational use as the primary or principal use for the property, and so the RPA/RLT is applying for a use variance to allow outdoor recreation as the primary and principal use of the property. Ms. Younger explained that the second use variance being applied for concerned property located on the opposite side of Cole Lane from the Taylor plot, which RPA/RLT is seeking to utilize for purposes of a trailhead, including a parking area for cars and busses. Ms. Younger explained that the 9.9-acre area which RPA/RLT had acquired has a significant ravine immediately off Cole Lane, which did not serve as an appropriate area for a trailhead without significant grading and filling, which RPA/RLT is seeking to avoid. To provide the area for the trailhead, including an appropriate parking area, RPA/RLT has entered into an agreement with the land owner on the opposite side of Cole Lane, JJ Cillis Builders, for purposes of utilizing an area as the trailhead for this recreational use. Ms. Younger explained that JJ Cillis Builders had previously obtained approval for a major subdivision for this property located off Cole Lane, identified as the Stonehurst Subdivision, and that RPA/RLT is seeking to lease what had been identified as lot 1 on the Stonehurst Subdivision map for use as the trailhead/parking area, with the goal of ultimately acquiring title to that land. Ms. Younger explained that the parking area would remain gravel, with adequate area for the parking of two busses and up to 11 cars. Jim Bonesteel, Executive Director of the Rensselaer Plateau Alliance, joined the meeting. Both Ms. Younger and Mr. Bonesteel explained that the groups were seeking to use the Cillis property for the trailhead, initially with a long-term lease for

that property, and ultimately to buy the property from Cillis. Ms. Younger and Mr. Bonesteel confirmed that the trailhead would not be located on the former Taylor plot which had been acquired by RPA/RLT, but would be located across Cole Lane on the former Cillis property. The Zoning Board reviewed the application materials, and had questions concerning the maps which had been submitted. The Building Department confirmed that the Stonehurst Subdivision plat had not been filed in the Rensselaer County Clerk's Office, and that the Rensselaer County Tax Map for this area does not identify subdivided lots as shown on the Stonehurst Subdivision plat. The Zoning Board members discussed that the Stonehurst Subdivision approval had expired, and that RPA/RLT should submit additional map information clearly delineating the area proposed for the trailhead/parking lot, rather than identifying that trailhead/parking lot area as lot 1 of the former Stonehurst Subdivision. Chairperson Clemente also had a question regarding the land on the Taylor plot directly off Cole Lane, and why this area could not be used for parking. Ms. Younger and Mr. Bonesteel explained that there was a ravine located on the Taylor plot directly off of Cole Lane which prohibits a trailhead/parking area, and that this area located directly off Cole Lane would be used for a 6-foot wide trail only. Ms. Younger and Mr. Bonesteel stated that given the topography, the groups are proposing to use land across Cole Lane for the trailhead/parking area. Mr. Bonesteel and Ms. Younger explained that the current use of the area proposed for the trailhead is mostly grass, and that they are proposing to keep the parking area surface in gravel. The Zoning Board members stated that the application needs to be supplemented with a clear map showing the area of the Taylor plot acquired by RPA/RLT, and also clearly delineating the area across Cole Lane being proposed for the trailhead/parking lot area, particularly in relation to surrounding residential parcels. The Zoning Board requested this information be provided for review at the October 21 meeting. The applicants requested that the public hearing be scheduled for October

21, as the groups are under time pressure in terms of grant availability for this project. The Zoning Board members further discussed the matter, and determined to schedule the public hearing to open at the October 21 meeting, but in the event the additional information on mapping is not provided timely, or there are issues which arise during the public hearing, the public hearing will be kept open and continued at the November meeting. The applicants understood and agreed to this procedure. This matter is scheduled for the October 21, 2019 meeting, with a public hearing to commence at 6:00pm.

The second item of new business discussed was a use variance application submitted by Mark and Carol Young for property located at 45 Norfolk Street. Carol Young was present on the application. Ms. Young explained that she had purchased this property in approximately 2005/2006, and it was improved with a four-unit rental building; that she was now seeking to sell the property, and an interested purchaser inquired with the Brunswick Building Department as to the zoning compliance status for the property; and that the Building Department had discovered that the Town of Brunswick had issued a special use permit for this property allowing a two-unit duplex, but that there is no record of a special use permit having been issued for use of the property as a four-unit rental building. Mr. Golden reviewed the history of the matter, noting that in 1985 a special use permit had been issued allowing a two-unit duplex at this property, but that at some point between 1985 and the time Young purchased the property, the property had been converted to a four-unit rental building without an amended special use permit having been sought. Mr. Golden stated that he had inspected the property, and that the building meets fire code requirements for a four-unit structure, has adequate ingress/egress for each unit, and adequate parking, but that there is no special use permit allowing a four-unit building on file with the Town. Attorney Gilchrist stated that under the prior Brunswick Zoning Ordinance, multi-unit buildings were

allowed in all Zoning Districts upon the issuance of a special use permit from the Brunswick Zoning Board of Appeals. However, Attorney Gilchrist stated that under the current Brunswick Zoning Law, adopted in 2017, a multi-unit structure is not permitted in the R-9 Zoning District, in which 45 Norfolk Street is located. The Zoning Board members reviewed the application materials, determined they were complete for purposes of scheduling the public hearing, and scheduled this matter for the October 21, 2019 meeting, with a public hearing to commence at 6:15pm or as soon thereafter as may be heard. Ms. Young confirmed that the Zoning Board members had her consent to access the property prior to the October 21 meeting.

The next item of business on the agenda was an area variance application submitted by Tim Slyer for property located at 2014 Piney Point Road. Mr. Slyer was present for the application. Mr. Slyer explained that he was proposing to install a 12-foot by 14-foot pre-fabricated shed on his property at 2014 Piney Point Road, but that his backyard was severely limited in terms of available areas for the shed, given the total size of the lot as well as existence of mature trees; that he is proposing to locate the shed in the side yard which has an existing 6-foot high stockade fence, but that the shed would be located five feet off the side yard lot line, where a 15-foot side yard setback is required. Mr. Slyer stated that the alternative was to place the shed in the middle of his backyard, which was not favorable. Mr. Slyer reviewed the application materials, which include specifications for the proposed shed as well as a schematic layout of the lot, including house location, fence location, and proposed shed location. The Zoning Board members reviewed the application materials and deemed them complete for scheduling the public hearing. This matter is placed on the October 21, 2019 agenda, with a public hearing to commence at 6:30pm or as soon thereafter as may be heard.

The next item of new business discussed was an area variance application submitted by Garry Skiff for property located at 4 Greene Street. Mr. Skiff was not present, but the contractor hired to perform the proposed work was present on Mr. Skiff's behalf. The contractor explained that the proposal was to add a front porch/deck to the front of the building located at 4 Greene Street, but that the porch/deck would be within the required front yard setback from Greene Street. The Zoning Board members reviewed the application materials. Mr. Golden noted that he had gone to the site to measure the distance of the proposed porch/deck from the edge of pavement on Greene Street, and that his measurements were not consistent with the measurements included in the area variance application materials. Mr. Golden explained that he had measured a total distance of 17 feet from the front edge of pavement along Greene Street to the existing house, and that the proposed front porch/deck would have a width of 5 feet, resulting in the structure being 12 feet from the edge of pavement along Greene Street, where a front yard setback of 30 feet is required under the Brunswick Zoning Law. The Zoning Board members found the application materials to be in need of correction, and required the applicant to submit updated and corrected application materials on the area variance application. Member Steinbach in particular stated that the owner needed to be present at the October meeting, and be prepared to discuss an updated and accurate map of what he is proposing. This matter is placed on the October 21 agenda for further discussion, particularly regarding completeness of the application so that a public hearing can be scheduled.

The Zoning Board members returned to the one item of old business, the Malone area variance for property located at 137 Bald Mountain Road. The minutes of the July 15, 2019 meeting were reviewed. Those meeting minutes clearly provide that the extent of the front yard setback variance granted was 1.6 feet, resulting in the accessory apartment being located 48.4 feet from the front yard lot line, where a 50-foot front yard setback is required under the Zoning Law.

Those minutes also stated that the applicant was advised that in the event the Zoning Board approved an area variance for 1.6 feet, that was the total extent of the variance allowed, and if the setback of the accessory apartment was determined to be less than 48.4 feet after a survey was completed, the applicant would need to apply to the Town for an amendment to the area variance to allow the increased size of the requested front yard setback variance. It is now determined through the survey submitted by the property owner that the proposed accessory apartment will be located 46.4 feet from the front yard property line, and accordingly, an application to amend the existing area variance will be required. It is noted for the record that the option of having the survey performed prior to the Zoning Board previously acting on the requested 1.6 front yard setback variance was offered to the applicant, but that the applicant sought to have the Zoning Board act on the 1.6 front yard setback variance request, pending a subsequent survey to confirm that setback distance. The applicant was provided notice that in the event the subsequent survey showed a foundation setback from the front property line of less than 48.4 feet, then an amendment to the area variance would be required. The Zoning Board directed the Building Department to contact the property owner regarding this matter.

The index for the September 16, 2019 meeting is as follows:

1. Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless - Use variance - October 21, 2019;
2. Brown/Trifocal Brewing Inc. - Area variance - October 21, 2019;
3. Rensselaer Plateau Alliance/Rensselaer Land Trust - Use variances - October 21, 2019 (public hearing to commence at 6:00pm);
4. Young - Use variance - October 21, 2019 (public hearing to commence at 6:15 or as soon thereafter as may be heard);
5. Slyer - Area variance - October 21, 2019 (public hearing to commence at 6:30pm or as soon thereafter as may be heard);

6. Skiff - Area variance - October 21, 2019;
7. Malone - Area variance - Adjourned without date.

The proposed agenda for the October 21, 2019 meeting currently is as follows:

1. Rensselaer Plateau Alliance/Rensselaer Land Trust - Use variances (public hearing to commence at 6:00pm);
2. Young - Use variance (public hearing to commence at 6:15 or as soon thereafter as may be heard);
3. Slyer - Area variance (public hearing to commence at 6:30pm or as soon thereafter as may be heard);
4. Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless - Use variance;
5. Brown/Trifocal Brewing Inc. - Area variance;
6. Skiff - Area variance.