

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on May 16, 2011, at 6:00 P.M.

Present at the meeting were: E. John Schmidt, Member
Mark Cipperly, Member
Caroline Trzcinski, Member
Martin Steinbach, Member
James Hannan, Chairman

Also present were Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

The Chairman called the Regular Meeting to order at 6:00 P.M.

The first item of business was approval of the April, 2011 Minutes. Member Trzcinski made a motion to approve the Minutes without changes. Member Steinbach seconded. The motion carried 5 - 0.

The next item of business was the the appeal and petition of WAL-MART REAL ESTATE BUSINESS TRUST, owner-applicant, dated April 11, 2011, for variances pursuant to the Sign Law of the Town of Brunswick, in connection with the construction and erection of signage for the proposed Wal-Mart Supercenter expansion at 760 Hoosick Road, in the Town of Brunswick, because the proposed signage

1. violates the maximum permitted sign area for the store of 300 sq. ft. in that 667 sq. ft. is proposed; and
2. violates the maximum square footage permitted for a freestanding sign of 35 sq. ft. per side in that 110 sq. ft. per side is proposed; and
3. violates the maximum permitted number of signs for the store of two (2), in that six (6) signs are proposed.

Attorney Cioffi read the Notice of Public Hearing aloud. Also on the agenda is consideration of a referral from the Town Board regarding Wal-Mart's pending request to amend its Planned Development District designation in connection with the proposed Super Center expansion at its existing location.

Present on behalf of Wal-Mart were Mary Elizabeth Slevin, Esq., Adam Fishel, P.E., Project Manager, and Charles Jordan, Architect, of APD Engineering & Architecture, PLLC. Attorney Slevin stated that the original PDD designation under which the Wal-Mart store was built was granted in 1991, when a different retailer was involved. In 1995, amendments to the PDD specific to Wal-mart were made. Wal-mart now seeks an amendment to the existing PDD in connection with the proposed Super Center expansion. Additionally, she stated, sign variances are requested for the expanded building. She stated that although she could not find any variances on record with regard to the signage on the existing building, the current signage does violate the standards.

Attorney Cioffi noted that a May 4, 2011, letter from Kelly Pronti, Esq., submitted in support of the variances, appears to be at odds with the variances requested in the application. Attorney Slevin agreed and stated that Ms. Pronti's letter refers to sign standards which had been subsequently superseded by the Town. Attorney Slevin stated that the letter would be redone.

Adam Fishel stated that Wal-mart is looking to expand its existing store. The Hoosick Road entrance will be reconfigured. The McChesney Avenue entrance will remain the same. The proposed PDD amendment includes the DiGiovanni parcel across the street from the store on McChesney Avenue, which is to be used for stormwater management and wetlands mitigation. The existing pond on that property will be moved. The DiGiovanni parcel will be used to help meet green space requirements. Some of the green space near the Hoosick Road entrance is proposed to be lost to add parking spaces. Mr. Fishel stated that total green space will be at 34% under the proposal. The current plan allows for 32% green space. The Board expressed concern over the loss of green space on Hoosick Road. Mr. Fishel noted that the proposed pylon sign will include decorative plantings. The proposed Super Center will not have a Tire & Lube. It will have a full grocery section.

In regard to the sign variances, Architect Jordan stated that the existing facade of the building will be changed to add two new vestibules. There will be signs for "Market", "Outdoor Living" and "Home & Pharmacy". The Wal-mart sign in the middle will be about 290 sq.ft. The proposed total signage on the building only, without the pylon sign, is about 508 sq. ft. The free-standing pylon sign is needed because motorists cannot currently see the building or the signage on the building until they are past it. The pylon sign is now requested to be 95 sq. ft. per side.

Attorney Cioffi asked Mr. Kreiger to research exactly what signage is currently allowed for the existing building, and whether any of it is the result of variances.

The Chairman then asked for public comment. Dorothy Murray, 126 McChesney Avenue, stated that the Town has required Wal-mart to make adjustments over the years for things such as lighting, noise, delivery trucks, delivery hours, etc., for the benefit of persons living nearby. She asked whether having a grocery department will mean that there will now be overnight deliveries. She is concerned that there will be an increase in trash and trash pick-up. She is concerned about the loss of green space and the use of the DiGiovanni parcel to meet the requirement.

Did Maly, Jr., 5 Riccardi Lane, stated that you can't see the existing signage on the building well from Hoosick Road. He also noted that this proposal does not look like a Super Center, just a large Wal-mart. There is no Tire & Lube and no gas station.

The Chairman said that he is concerned about the loss of green space in the front and of the use of the DiGiovanni parcel to satisfy the green space requirement in part. He does appreciate the need for growth. Noise, lighting, truck deliveries and trash pick-up are certainly issues. Attorney Slevin stated that she will bring the concerns of the neighbors back to Wal-mart. Wal-mart wants to be a good neighbor. This project will also alleviate a current flooding problem at McChesney Avenue because significant changes are being proposed for the culverting. She understands the green space concerns, but there is just not enough space for parking along Route 7 unless some of the current green space is used. This is one of the reasons why Wal-mart was considering a new location rather than expanding. This proposal is the only alternative available.

Member Trzcinski said that she is concerned about the pylon sign. It is too high. It should be no higher than the highest sign currently on Route 7. Mr. Fishel stated that the sign has to be high so that people unfamiliar with the area will be able to discern where the Wal-mart is. It is a safety concern. Member Trzcinski stated that the sign does not need to be 30 feet high.

Members Steinbach and Cipperly stated that truck traffic is an issue. Mr. Fishel acknowledged that it was a concern. Wal-mart trucks are not allowed to use the McChesney Avenue entrance, but Wal-mart cannot control what other trucks do. The Chairman reiterated that green space in the front, truck traffic and trash pick-up are issues of concern. Margaret Maly, 5 Riccardi Lane, stated that she is concerned that the expansion will increase traffic. It is hard for her to get out of Riccardi Lane as it is. She is also concerned that green space will be lost from across the creek. Also, that the expansion will affect the flow of water. Mr. Fishel stated that they are not touching anything beyond Wal-mart's property line. The expansion will not effect drainage in any way. They do need to move the pond so it can drain into the wetlands area to provide water. Any additional traffic should be minimal.

Attorney Cioffi stated that the Board could not act on the sign variances at this time because the Town Board had declared itself lead agency under SEQRA and no SEQRA determination has been made. Attorney Slevin agreed but asked that the Board act on the PDD referral at this time. Attorney Cioffi stated that the Board usually does written decisions on referrals. It was left that Wal-mart would return to provide additional information if required by the Board. Other wise, the Board will issue a decision on the referral in due course.

The next item of business was a letter from Charles Alund requesting a rehearing regarding a decision issued by this Board pertaining to a variance application for a shed at 63 North Langmore Lane. Attorney Cioffi read the letter. The decision was issued in October, 2010. Mr. Keiger stated that Mr. Alund is seeking a change in the decision. Attorney Cioffi read Town Law, Section 267-a, subd. 12., which deals with rehearings, aloud. He then explained that the procedure is generally as follows: In order for a rehearing to occur, a Board member must make a motion for a rehearing. Then, there must be a second. Unless the rehearing motion passes unanimously, the rehearing will not occur. If the rehearing motion does pass unanimously, a new hearing must be held on the same notice requirements as the original hearing. Any decision after such rehearing to reverse, annul or modify the original order must also be by unanimous vote.

After some discussion, the Chairman made a motion to grant the request for a rehearing. Member Schmidt seconded. The matter was put to a roll call vote. Members Steinbach and

Trzcinski voted in the negative while the others voted in the affirmative. There being no unanimous vote to grant the rehearing, the motion was declared defeated.

There being no further business, Member Trzcinski made a motion to adjourn. Member Steinbach seconded. The motion carried 5 - 0.

Dated: Brunswick, N.Y.
May 28, 2011

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary