

**TOWN OF BRUNSWICK**  
**ZONING BOARD OF APPEALS**

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

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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 June 20, 2011, at 6:00 P.M.

Present at the meeting were: 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 May, 2011 Minutes. Member Trzcinski made a motion to approve the Minutes without changes. Member Steinbach seconded. The motion carried 3 - 0.

Chairman Hannan stated that he received a letter from Theresa Backner, Esq., representing Oakwood Property Management LLC, dated June 14, 2011, inquiring as to when the Board would hear Oakwood's appeal of the Notice of Violation issued by Mr. Kreiger last year now that the Memorandum of Understanding between the Town and Oakwood which stayed that proceeding is no longer effective. Christopher McDonald, from Ms. Backner's office, was present. Chairman Hannan stated that the appeal would be heard on July 18, 2011, at 6:00 P.M.. He also stated that he would be recusing himself from further involvement in the appeal due to an existing business relationship involving Oakwood. He also noted that Member Steinbach had already recused himself. Attorney Cioffi will send out the appropriate notice and arrange for its publication.

The next item of business was consideration of the application of WAL-MART REAL ESTATE BUSINESS TRUST to amend its Planned Development District designation for its existing Store located at 760 Hoosick Road to allow a proposed Super Center expansion at that site. The matter is currently before the Town Board, which has referred the issue to this Board for a recommendation. Present on behalf of Wal-Mart was Mary Elizabeth Slevin, Esq.

Attorney Cioffi stated that the Board Members have before them a draft Response to Referral as well as a draft Resolution adopting the same. Attorney Cioffi noted that the Board Members had been provided with the draft Response to Referral well in advance of the meeting. The draft Response provides for a generally favorable recommendation, subject to some qualifications. The Chairman asked whether anyone wished to offer the Resolution. Member Trzcinski offered the

Resolution. Member Steinbach seconded. The matter was put to a roll call vote and all Members present voted in the affirmative. The Resolution was declared duly adopted.

The next item of business was the appeal and petition of SCOTT GULLIE, owner-applicant, dated May 13, 2011, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool on a lot located at 28 Greene Street, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 20 feet is required and 3 feet is proposed, and also violates the side yard setback in that 10 feet is required and 8 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. There was no appearance by the applicant. Member Steinbach made a motion to put the matter over to the July 18 meeting. Member Trzcinski seconded. The motion carried 3 - 0.

The Chairman asked whether anyone present wished to speak. Kevin Sharpe, Cropseyville, said that he purchased property in 2001 near the Callanan Industries mine. In 2002, Callanan purchased another parcel of 40 acres located between his parcel and the existing mine. That parcel is zoned agricultural, but Callanan is mining on it. Callanan is quarrying within 25 feet of his parcel. DEC is aware of this. Mr. Sharpe felt that there is a zoning violation and asked whether the Board could do anything about it. Attorney Cioffi stated that this was the first he had heard of it and neither he nor the Board could comment until the matter was reviewed. Mr. Kreiger stated that he would look into it and advise.

Michael Schongar, Lindsay Drive, asked a procedural question about quorum and voting requirements for the Board. He also stated that the Board should uphold the Notice of Violation issued in connection with the activities of Oakwood Properties LLC.

There being no further business, Member Steinbach made a motion to adjourn. Member Trzcinski seconded. The motion carried 3 - 0.

Dated: Brunswick, N.Y.  
June 27, 2011

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**June 20, 2011**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, an application having been filed by the Wal-Mart Real Estate Business Trust seeking to amend the existing Brunswick Square Planned Development District in which the existing Wal-Mart Store located at 620 Hoosick Road operates; and

**WHEREAS**, the Town Board having referred the application to this Board for comment; and

**WHEREAS**, the Board having caused to be prepared a written Response to Referral with respect to the said referral, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Response to Referral be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Trzcinski and seconded by Member Steinbach, was duly put to a roll call vote as follows:

|                         |               |        |
|-------------------------|---------------|--------|
| <b>MEMBER CIPPERLY</b>  | <b>VOTING</b> | Absent |
| <b>MEMBER SCHMIDT</b>   | <b>VOTING</b> | Absent |
| <b>MEMBER STEINBACH</b> | <b>VOTING</b> | Aye    |
| <b>MEMBER TRZCINSKI</b> | <b>VOTING</b> | Aye    |
| <b>CHAIRMAN HANNAN</b>  | <b>VOTING</b> | Aye    |

The foregoing Resolution was thereupon declared duly adopted.

Dated: June 20, 2011

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

WAL-MART REAL ESTATE BUSINESS TRUST

Applicant

RESPONSE TO  
REFERRAL

For the Amendment of the Brunswick Square Planned  
Development District Under the Zoning Ordinance of the TOWN  
OF BRUNSWICK

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The Town Board has received an application from the Wal-Mart Real Estate Business Trust seeking to amend the existing Brunswick Square Planned Development District in which the existing Wal-Mart Store located at 620 Hoosick Road operates. Essentially, the applicant is seeking to expand the existing Store into a "Super Center", to include the offering for sale of a full line of groceries. The Tire & Lube operation at the existing Store would be discontinued. Various physical changes to the site are proposed, including a revised landscaping plan along Hoosick Road and changes to the berm and greenspace area near the southern portion of the site and entrance onto McChesney Avenue. Pursuant to the Zoning Ordinance, the application has been referred to this Board for comment.

The Zoning Board of Appeals adopts a generally positive recommendation on this proposal, subject to the continuing thorough and careful review of the same by the Town Board which is now ongoing, and, subsequently, by the Planning Board in the context of site plan approval should the project progress to that point. From a zoning perspective, the use of the site is not appreciably changing. The existing Wal-Mart Store has been in operation for over 15 years and is a fixture at this location. The general public and the neighbors who reside nearby have become accustomed to the store and have generally adjusted to its impacts. Expansion of the current store is deemed preferable to building a new store in town at a different location.

All that said, the Board does have some concerns. First, the proposal includes taking some of the existing green space near the Hoosick Road entrance and converting it into parking spaces. This appears to be driven by some inflexible Wal-Mart policy regarding the number of parking spaces it requires at its stores. The Board believes that this proposal should be carefully reviewed and considered by the Town Board and the Planning Board in the context of their respective reviews. The elimination of the green space along the Route 7 entrance will, in the opinion of the Board, have a negative impact on the appearance of the site, and is not in keeping with the rural character of the town, even on its main commercial corridor. Similarly, the Board is concerned that the proposal also involves meeting the project green space requirement, in part, by utilizing the "DiGiovanni" parcel now owned by Wal-Mart, located across the road on McChesney Avenue. Separated by the road, the DiGiovanni parcel "appears" as a separate parcel, and the use of that parcel to satisfy the

greenspace requirement for the store parcel should carefully be examined from an aesthetic and practical standpoint. Careful consideration should also be given to whether the expansion will significantly increase the impacts of the store on adjacent properties. Adding the grocery line may well result in increased deliveries, especially overnight and early morning truck traffic, and increased trash pick-up. These impacts should be carefully considered.

Dated: Brunswick, New York  
June 20, 2011