

**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 July 18, 2011, at 6:00 P.M.

Present at the meeting were: Caroline Trzcinski, Member  
Martin Steinbach, Member  
E. John Schmidt, Member  
Mark Cipperly, 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 June, 2011 Minutes. Member Trzcinski made a motion to approve the Minutes without changes. Member Steinbach seconded. The motion carried 5 - 0.

Attorney Cioffi stated that the appeals of Oakwood Property Management LLC from the Notices of Violation issued by the Code Enforcement Officer which had been noticed for public hearing this evening were being adjourned to the August 15, 2011, meeting to give the Planning Board an opportunity to provide its advisory opinion prior to the public hearings on the appeals as is required by the Zoning Ordinance.

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.

Scott Gullie appeared. Member Trzcinski stated that she went to the site. She feels that the pool could be placed differently on the property to eliminate or reduce the need for variances. She said that certainly the side yard variance is not needed. Attorney Cioffi noted that if a variance is warranted, the Board can only grant the minimum variance necessary to meet the applicant's objective. Mr. Gullie was asked various questions about the plot plan he provided, which appeared

to show a lot of vacant space where the pool could be located away from the property lines. Mr. Gullie stated that he did not show his garage on the plot plan, nor did he show a stone fireplace built by his grandfather. Those things reduce the available area to place the pool. He indicated on the plot plan where those things were located. There was also discussion about turning the pool. Member Steinbach stated that he did not see any need for a side yard variance at all, and the rear variance could be minimized.

There was no public comment for or against the application. Mr. Gullie said he could move the pool away from the rear line, but it would require additional expense for excavating and fill - at least a few hundred dollars. Member Cipperly noted that moving the pool away from the rear line may actually make it stand out more. Member Steinbach said that even if he moved it an additional 5 feet away from the rear line, it would still be a substantial variance. He is not comfortable with it. Member Cipperly stated that there are clearly alternative locations for the pool on the property. Member Schmidt suggested that the matter be put over to the next meeting and that Mr. Gullie report back on the amount of fill needed and possible alternative locations for the pool. Mr. Gullie stated that he wanted to get the pool in right away so his children would have it for this Summer. Attorney Cioffi noted that the Board was prepared to hear this application at the June meeting, but Mr. Gullie did not appear. Member Cipperly made a motion to continue the public hearing. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of ANDREW and MONICA MARROCHELLO , owners-applicants, dated June 24, 2011, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an in-ground swimming pool on a lot located at 31 Spring Landing Blvd., in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required and 15 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Andrew Marrochello appeared. He stated that they purchased the house 11 years ago and want to put in a pool. Their house is set back a little further from the street than the 3 parallel houses nearby. Their septic system is in the front, and there is a gas line on the side that would need to be moved, and also some trees. The back of the house is the best place for the pool. They also want to put an addition on the back of the house in the future, so that would cut down on the usable area. Member Trzcinski stated that if the pool were simply moved 10 feet closer to the house, there would be no need for a variance. The applicant stated that he wanted to have the option of putting an addition on the rear of his house in the future. He stated that he has a vision for his property and if they are unable to realize that vision, they may decide to move elsewhere.

Attorney Cioffi indicated concern that the need for a variance was being based on some future event which may or may not ever occur. Member Steinbach stated that he was not sure whether the Board could legally do it. Attorney Cioffi stated that he could do some research on the issue. The Chairman asked is anyone from the public wished to comment on the application. There were no comments from the public

The Chairman asked Attorney Cioffi to read the statutory criteria for area variances. Attorney Cioffi stated that the criteria were as follows: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the

granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The Chairman stated that the applicant may need to modify his request. The variance request is based upon a future event. Mr. Marrochello stated that the plans for having an addition on the rear of the house in the future could be modified - but it may be by new owners. They will not stay. He is not going to change the size or shape of the pool. The Chairman stated that he and his wife own a lot of property adjacent to their home. They, too, have a vision of what they would like to do with it, but they, too, are constrained by the Zoning Ordinance.

After some further discussion, a motion was made and seconded to close the public hearing. The motion carried unanimously. The Chairman stated there would be a written decision. The applicant stated that time should not be wasted doing a written decision. He stated that he could see where this matter was going. He stated he does not meet all of the criteria. He said wished he had been told in advance that he did not meet the criteria so he wouldn't have had to leave the family vacation in Maine to drive here for the hearing. He also wouldn't have gone to the trouble of speaking to neighbors and getting their approval. He asked Mr. Krieger if he could come in tomorrow for a building permit for the pool. Mr. Krieger said he could if the proposal met all of the setbacks.

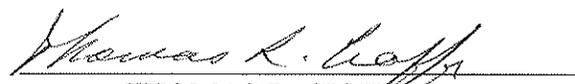
No final action was taken by the Board on the application.

Kevin Sharpe, 5 Woodridge Road, Wynantskill, appeared again regarding his land in Cropsyville near the Callanan Industries mine. In 2002-03, 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. Kreiger stated that he has been looking into the situation. He has the DEC maps. Attorney Cioffi noted that the Zoning Board of Appeals is not a code enforcing body. It is the Code Enforcement Officer who enforces the Zoning Ordinance. Mr. Sharpe can contact Mr. Kreiger directly to ascertain the status of his investigation into the alleged zoning violation.

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

Dated: Brunswick, N.Y.  
July 30, 2011

Respectfully submitted,



THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary