

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 September 17, 2012, at 6:00 P.M.

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

Also present were Ronald A. D'Alessandro, Deputy 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. In advance of the meeting, attorney D'Alessandro circulated a proposed agenda to the members via email. A copy of said agenda is attached hereto.

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

The first item of business was the Pledge of Allegiance.

The next item of business was approval of the August 20, 2012, Minutes. Member Trzcinski made a motion to approve the Minutes. The motion was seconded by Member Steinbach. The motion carried 5-0.

The next item of business was an application regarding an area variance for a propose lot line alteration by Mr. Gary H. Lucier. ZBA attorney D'Alessandro read the notice aloud. In his presentation, Mr. Lucier indicated that he has more land than he needs, and that he wishes to develop two lots on a four acre parcel to generate personal revenue. Mr. Lucier, requested clarification on the variance computations, which were given by Kreiger. In his clarification, Mr. Kreiger referred to the lot map and reiterated that Mr. Lucier's proposal would result in a side yard setback of 3' where 15' is required. The members of the ZBA had the following questions/comments:

Chairman Hannan:

(Q) Are you clear for your own interest as to what you are asking, or do you want to confer with someone?

(A) Yes.

Member Steinbach

(Q) Are there any alternatives?

(A) Yes, moving garage or maintaining a single lot.

(Q) Can you move the driveway away from the garage?

(A) No, not without going onto someone else's grounds.

Member Schmidt

(Q) Any chance from you buying property from neighbors?

(A) No.

Member Trzcinski

(Q) Has fire department been approached?

(A) Not to my knowledge (answer given by John Kreiger).

Chairman Hannan then asked if any members of the public were in favor of the variance. None were present. Chairman Hannan then asked if any members of the public were in opposition to the variance. Mr. John Chuhta of 61 Colehammer Avenue appeared and indicated that the opposed lot alteration will only worsen traffic on Colehammer Avenue. In making this point, Mr. Chuhta, indicated that Colehammer Avenue currently sits on the border between two school districts (Brittonkill and Averill Park). Mr. Chuhta indicates that school busses and other large vehicles already have a difficult time making turns at the end of Colehammer Avenue and the additional of another lot will only worsen the spatial limitations. Mr. Chuhta then had the following question:

(Q) Can you locate one driveway on other side of the garage?

(A) No, it would go through front yard and swimming pool that is currently there.

ZBA Attorney D'Alessandro then read aloud a letter from concerned citizens Mr. Robert and Janis Spilker who oppose the proposed variance. A copy of the letter is attached hereto.

Upon completion of the formal presentation, ZBA Attorney D'Alessandro proposed to classify the action as a type two action under SEQRA. A motion was so made by Member Steinbach. The motion was seconded by Member Schmidt. The motion carried 5-0.

ZBA Attorney D'Alessandro then read aloud the criteria for granting an area variance. Chairman Hannan indicated that he believed the need for this variance was self-created and that Mr. Lucier should consult a surveyor. Members Trzcinski and Schmidt indicated that Mr. Lucier does not appear to meet any of the requirements for a variance. A motion was made by member Schmidt to deny the variance. The motion was seconded by Member Trzcinski. The motion carried 5-0.

The next item of business was an application regarding a proposed area variance to accommodate a swimming pool by owners-applicants Mr. and Mrs. Dariusz and Barbara

Imbierowicz, who failed to appear. The ZBA agreed 5-0 to provide Mr. and Mrs. Dariusz and Barbara Imbierowicz with a third and final chance to appear on October 15, 2012. It was further noted, however, the proposed swimming pool had already been installed without ZBA approval of the application. Code enforcement office Kreiger was instructed to contact owners-applicants to address the issue

The next order of business was a presentation on an upcoming matter, namely, a use variance by Mr. Gary Morris to use an existing structure at 1974 Hoosick Road for office space and corresponding storage by Mr. John Gavin of Gavin Parker landscaping. In his presentation, Mr. Gavin indicated that there would be no retail traffic, and that most of the vehicles would go home with employees leaving 2-3 vehicles overnight at the site. He also indicated that he would improve the current site with landscaping to add to the aesthetics. It was further indicated that under previous use, the site was utilized as a wood transfer station.

The next order of business was an application for a Special Use Permit (SUP) by Reiser Brothers, Inc. (c/o Henry Reiser, President) owner-applicant for construction of a filling station and commercial store on a lot located on the corner of State Route 278 and State Route 2. Appearing with owner-applicant was Mr. Scott Reese, a landscape architect for the proposed project. ZBA attorney D'Alessandro read aloud the notice. In his presentation, Mr. Reese addressed each of the seven points in the criteria for granting a SUP.

(1) The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare: During peak use periods, people have been using overflow parking and walking across crossing State Route 2 to Stewarts. The proposed project would provide a better alternative than crossing a state highway.

(2) The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities: NYS Department of Transportation (DOT) recommended the location for the good access. There is an existing 16" water main and fire hydrant to which the proposed establishments may connect. Police and fire are in very close proximity and waste disposal will be handled through transfer station.

(3) The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance. Applicant is providing adequate parking and meets site plan regulations put forth by town of Brunswick.

(4) Neighborhood character and surrounding property values are reasonably safeguarded: The site is already zoned B-15 and there is already a filling station. To add to the buffering with the adjoining neighborhood, owner-applicant is constructing a berm, and is adding additional plantings on top of the hill to provide additional screening.

(5) The special use will not cause undue traffic congestion or create a traffic hazard: Traffic has dropped over time. There is already traffic there. The proposed project will simply service existing traffic and should not result in additional traffic being re-routed to the area.

(6) All conditions or standards contained in the Zoning Ordinance for the special use are satisfied. The application and proposal was believed to be in compliance with applicable ordinances by Mr. Reese.

(7) All governmental authorities having jurisdiction have given necessary approval: The proposed project is pending approval of planning board who referred the matter to the ZBA for the SUP. The sanitary elements of the proposed project are being reviewed by Rensselaer County Department of Health. Storm water run-off is in compliance DEC guidelines.

The members of the ZBA had the following questions/comments:

Member Trzcinski

(Q) What kind of gas station is proposed?

(A) A convenience store with filling station having similar hours to Stewarts. Currently, we have no tenants on board, pending approval of the project.

(Q) The plantings, why did they stop there? Why not continue them around (in referring to a particular location on the site plan)?

(A) The earth and berm provide screening?

(Q) What is the proposed height of the canopy for the island?

(A) No higher than the peak of the roof.

(C) The roof and the canopy are still visible from the house on the hill.

Member Steinbach

(Q) I am not familiar with all of planning board activities. Did a sound study get performed?

(A) That was addressed in SEQR and no substantial adverse impact was found. We are 30 feet downhill from residents.

(Q) When you look at the map, I am most concerned with people at top of hill. What about lighting?

(A) Lighting is located on plans. Lighting was a concern, we are proposing lights that just shine downward and minimize impact on the surrounding neighborhood.

Member Schmidt

(Q) What are going to be your hours?

(A) Monday through Sunday 4:30AM - 11PM, the same as Stewarts.

Chairman Hannan then asked if any members of the public were in favor of the variance. The following resident appeared in favor:

Ken Clark - 15 Langmore Lane.

(C) I think it is a good idea, it is currently an “eye sore.” The project provides a good alternative to Stewarts. Right now, there is nothing there.

Chairman Hannan then asked if any members of the public were in opposition to the variance. The following residence appeared in opposition:

John McCarthy - 81 N. Langmore Lane

(C) When we bought property in August 2011, we asked what plans were with that property. Mr. Reiser told us he planned to build a small operation, nothing like the scope he is proposing now. But after researching, we have discovered that he has had this plan in play since 2009. Moreover, this is going forward despite the strong opposition. Currently, we don't like the light, noise, construction length, and invasiveness.

Conard Holton - 28 Tamarac Road

(C) It (the project) seems illogical and undermining to quality of life. Also, (the project) doesn't make sense from a business point of view. Current commercial businesses struggle. Also, with the traffic condition already dangerous, this will worsen the problem. Once we do this, there is no going back.

The members of the ZBA then had the following additional questions for owner-applicant:

Chairman Hannan

(Q) Were you planning to build and flip?

(A - Reiser) Yes, sell it off.

(C) People have spent a lot of money buying homes from you (Mr. Reiser). The fact that Dr. McCarthy is accusing Reiser of lying is disconcerting.

(Q) Do you have any other options for that parcel?

(A - Reese) No, the corner is ideal for filling station and convenience store. We have addressed their concerns for closest neighbors with burms. Also, they bought when it was zoned commercial. We are building the convenience store to fit the colonial/siding style of the houses. It will match the development.

(Q): Do you have any way the building is going to look like physically?

(A - Reiser) Yes, we presented at planning board. The structure will have a colonial style to match the housing.

(C) I would like to see greater detail of what is going to happen. It sounds like things will have to change because we don't know who will want to come in and what they will want.

(A - Reese) Parameters are being set.

(Q) Is this site/project on the market?

(A- Reiser) It is not currently listed. We can set deed restrictions on look and feel. This will also be a lot smaller than the Cumberland Farms.

Upon completion of the presentation and question/answer portion, Chairman Hannan made a motion to continue the matter to the October 15, 2012 ZBA hearing with the request that owner-applicant bring some details (e.g., plans, mock-ups, etc.) of what the structure would look like so that the ZBA member may make a fully informed decision. The motion was seconded by Member Schmidt. The motion carried 5-0

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

Dated: Brunswick, N.Y.
September 24, 2012

Respectfully submitted,

Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board

Secretary