

# **Zoning Board of Appeals**

TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, New York 12180

## **MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD May 20, 2013**

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, and CAROLINE TRZCINSKI.

ABSENT were MEMBER SCHMIDT and MEMBER CASEY.

ALSO PRESENT was DANIEL BRUNS, Town Building Department and Code Enforcement Office.

The Zoning Board of Appeals members reviewed the draft minutes of the April 22, 2013 meeting. Upon motion of Member Trzcinski, which motion was seconded by Member Hannan, the minutes of the April 22, 2013 meeting were unanimously approved without correction.

The first item of business on the agenda was the application for an area variance submitted by Michael Groudas for property located at 7 Mellon Avenue (Tax Map ID# 101.8-10-14). Mr. Groudas seeks to replace and enlarge an existing shed, and requests a variance from the side-yard and rear-yard setback requirements contained in the Brunswick Zoning Ordinance. Mr. Groudas seeks a side-yard setback of 8', where a minimum setback of 10' is required; and a rear-yard setback of 8', where a minimum setback of 20' is required. Mr. Groudas was present, and gave a general review of the proposal. Chairman Steinbach inquired whether there were any changes to the application since the meeting of April 22. Mr. Groudas stated that there were no changes. Chairman Steinbach noted that the Zoning Board would now open the public hearing on this application. The notice of public hearing was read into the record, and the public hearing notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach then opened the

floor for the receipt of any public comment. No persons wished to provide any comment on this application. After allowing sufficient time for any public comment, Member Trzcinski made a motion to close the public hearing, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing closed on the Groudas area variance application. Member Trzcinski stated that she had visited the property, and that in her opinion the proposed location for the shed was the only place to realistically place the shed on the property. Member Hannan had no questions or comments on the application. Chairman Steinbach stated that he would entertain a motion on the application. Attorney Gilchrist noted that an area variance for a single-family, two-family, or three-family residence is a Type II action under SEQRA, and no SEQRA determination is required. Member Hannan then made a motion to approve the area variance application, finding that the requested variance did not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, that the proposal could not be achieved by some other feasible method, that the area variance was not substantial, and that the requested variance would not have an adverse effect on the physical or environmental conditions in the neighborhood. Member Trzcinski seconded the motion with the stated findings. The motion was unanimously approved, and the area variance granted.

The second item of business on the agenda was the area variance application submitted by Terrence Matthews for property located at 43 East Road (Tax Map #102.1-2-23). Mr. Matthews seeks to construct a front porch to the home located at 43 East Road. Mr. Matthews seeks a variance from the front-yard setback requirements contained in the Brunswick Zoning Ordinance. Mr. Matthews seeks a front-yard setback of 42', where a minimum setback of 50' is required. Mr. Matthews was present, and gave a general overview of the project. Chairman Steinbach inquired whether there were any changes to this project since the meeting held April

22. Mr. Matthews said there were no changes to the project, although Mr. Kreiger did note at the April 22 meeting that Mr. Matthews needed to determine whether a step would also be required in connection with the porch construction. Mr. Matthews did confirm that one step would be added to the front of the porch, and so a front setback of a little less than 42' would be needed. The Zoning Board members understood this small amendment. Chairman Steinbach then stated the Zoning Board would open the public hearing on this application. The notice of public hearing was read into the record, and the public hearing notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach then opened the floor for the receipt of public comment. Elaina Webster, 46 East Road, was present and inquired as to the size and purpose of the front porch. Mr. Matthews stated that he was seeking only to construct an open front porch to the home, that it would not be enclosed and would not be screened. Mr. Matthews confirmed that the porch would only be used for quiet enjoyment of the home and property. Upon hearing no further public comments, the Zoning Board closed the public hearing. Chairman Steinbach then inquired whether there was any home located directly across the street from Mr. Matthews parcel. Mr. Matthews said the land directly across the street from his home is vacant, and that he only has neighbors on the side of his property. One of his neighbors was Elaina Webster, who spoke at the public hearing. Mr. Matthews did confirm that he did speak with his other neighbor, and that they did not have an issue with the project. Chairman Steinbach inquired whether any architectural or contractor drawings had been prepared yet. Mr. Matthews said no drawings had yet been prepared. Chairman Steinbach noted that such drawings would need to be prepared in connection with the building permit application that would be reviewed by the Building Department. Member Trzcinski noted that she had visited the property, and that there appeared to be some building materials at the property. Mr. Matthews confirmed that building materials

were at the property, but they were there in connection with enlarging a patio in the rear of the home. Mr. Matthews confirmed that no work had commenced on the front porch, and that the only work done in the front yard was landscaping. Member Trzcinski commented that the addition of the front porch would enhance the home and the property. Member Hannan had no questions or comments on the application. Chairman Steinbach inquired whether there were any further questions or comments on the application. Hearing none, Member Hannan made a motion to approve the area variance subject to compliance with all building permit requirements with the Town Building Department, and finding that the variance would not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, that the area variance was not substantial, that the Applicant could not achieve construction of a front porch in the manner requested without the minimal variance, and the variance would not have an adverse effect on the physical or environmental condition of the neighborhood. Member Trzcinski seconded the motion subject to the stated condition and findings. The motion was unanimously approved, and the area variance granted. Attorney Gilchrist noted for the record that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action under SEQRA, and no SEQRA determination was required.

There were two items of new business discussed.

The first item of new business discussed was a special use permit application submitted by Daniel J. Smith for property located at 899 Hoosick Road (Tax Map #92.-6-6.2). Mr. Smith was present to discuss the application. Mr. Smith seeks a special use permit to allow the use of this residential home as a dental office. Mr. Smith explained that there would be no structural changes made to the home, with the only addition being the construction of a rear parking lot for 14 off street parking spaces. Mr. Smith explained that the lot was large enough for 14 parking

spaces, with adequate area to maneuver vehicles in the rear of the lot. Mr. Smith confirmed that the use of the property would be for a dental office, and that Mr. Smith would be leasing the property for use as a professional dental office. Member Hannan inquired whether the existing garage would remain in the rear of the lot. Mr. Smith stated that the garage would remain in its current location. Member Trzcinski inquired whether the Zoning Board members could have access to the property for a site visit. Mr. Smith confirmed the Zoning Board members could visit the property at any time. Mr. Smith explained that he had already removed trees that had existed on the rear of the lot, but that nothing else had been done at the property. Member Trzcinski asked whether anyone would be living at the home, or whether an apartment would be available in the house. Mr. Smith stated that there would be no residential use, and the building would be limited to a professional office. Member Hannan inquired whether Mr. Smith had any dentist ready to move into the location. Mr. Smith stated that several dentists have made inquiry with him regarding the site, and there was significant interest in having a dental office on Route 7. Chairman Steinbach inquired whether there were any more questions or comments at this time. The Zoning Board members had no further questions at this time, but did want the opportunity to visit the property. The Zoning Board members also concurred that adequate information was included in the application for purpose of conducting the public hearing. A public hearing will be held on this application at the June 17 meeting to commence at 6:00 p.m.

The second item of new business discussed was an area variance application submitted by Dariusz Imbienowicz, for property located at 13 Packer Avenue. Mr. Imbienowicz was present, together with his son Matthew Imbienowicz. Zoning Board members stated that this Applicant also had an area variance application for the installation of a pool was submitted in 2012, but the Applicant failed to appear on the application. This application seeks an area variance from the side-yard and rear-yard setback requirements of the Brunswick Zoning

Ordinance. The Applicant proposes an 8' side-yard setback, whereas the Brunswick Code requires a 10' side-yard setback. The Applicant seeks a rear-yard setback of 8', where the Brunswick Code requires a 20' rear-yard setback. The Zoning Board members noted that this pool has already been installed, and that a variance was not obtained prior to the installation. The Applicants stated that they were not aware that they needed a variance prior to the pool installation. After further discussion regarding the history of this matter, Chairman Steinbach determined that the Zoning Board would address the current area variance application on its merits. Chairman Steinbach inquired of the Zoning Board members whether there were any questions regarding the application materials. Neither Member Trzcinski nor Member Hannan had any questions at this time, but did want the opportunity to visit the site. Eric Smith, 7 Kemp Avenue, was also present, and requested the opportunity to speak to the Zoning Board members on this matter. Chairman Steinbach allowed Mr. Smith to speak. Mr. Smith stated that he was the owner of the closest residential property near this site, that he had no issue whatsoever with the pool location, and that in his opinion the Imbienowiczs were well meaning people that have no ill will nor ill intention, but that they just didn't realize that they needed a variance. Mr. Smith stated that he had recently applied for an area variance for a pool installation, that the area variance had been denied, but that he did install a pool on his property meeting the setback requirements. After having gone through that process, Mr. Smith informed the Imbienowiczs to go to the Town and get this matter cleared up, and that he had no opposition whatsoever to the location of the pool that was already installed. Chairman Steinbach thanked Mr. Smith for his comment for the record. Chairman Steinbach inquired whether the Zoning Board members considered the application complete for purposes of holding the public hearing. The Zoning Board members concurred that the information was adequate to hold the public hearing. Accordingly, a public hearing will be held on this application at the June 17

meeting commencing at 6:00 p.m. Chairman Steinbach made it clear on the record to the Imbienowiczs that they needed to be present at the June 17 meeting on this application.

The index for the May 20, 2013 Zoning Board of Appeals meeting is as follows:

1. Groudas – area variance – granted.
2. Matthews – area variance – granted.
3. Smith – special use permit application – 6/17/13 (public hearing).
4. Imbienowicz – area variance application – 6/17/13 (public hearing).

The proposed agenda for the June 17, 2013 meeting currently is as follows:

1. Caola – area variance (public hearing).
2. Smith – special use permit (public hearing).
3. Imbienowicz – area variance (public hearing).