Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD June 17, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

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

The Zoning Board of Appeals members reviewed the draft minutes of the May 20, 2013 meeting. Upon motion of Member Trzcinski, and seconded by Member Hannan, the draft minutes of the May 20, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Ransen Caola concerning property located at 11 Maplehurst Drive (Tax Map No. 90.12-5-8). The Zoning Board opened a public hearing concerning the application. The Notice of Public Hearing was read into the record, noting that such notice had been published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Mr. Ransen Caola was present on the application. Chairman Steinbach inquired whether there were any changes to the proposal after the initial presentation by Mr. Caola. Mr. Caola stated that there was no change to the application, and that he was seeking to replace an existing shed with a detached garage, and is seeking the area variance to allow a side yard setback of 4 feet and a rear yard setback of 8 feet. Chairman Steinbach opened the floor for receipt of public comment. Initially, Chairman Steinbach called for any public comment in favor of the application. Hearing none, Chairman Steinbach requested receipt of any public comment opposing the application. There were no comments received from the public, either in favor or

in opposition to the application. Chairman Steinbach inquired whether any of the Zoning Board members had any questions or comments on the application. Hearing none, Chairman Steinbach called for a motion to close the public hearing. Member Hannan made a motion to close the public hearing, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the public hearing closed concerning the Caola area variance application. Thereupon, Attorney Gilchrist noted that an area variance application for a single family residence is a Type II action under the State Environmental Quality Review Act, and that a determination of environmental significance is not required. The Zoning Board members then deliberated on the application and factors for an area variance. First, the Zoning Board members discussed whether the granting of the area variance would result in an undesirable change in the neighborhood, and determined that this would not result in an undesirable change as a shed already exists in the general location on the lot, and a detached garage would be consistent with the character of the surrounding area. The Zoning Board members then deliberated as to whether there was some other feasible method available to the Applicant for this project. Member Trzcinski stated that given the layout of the lot and topography, the project could not easily be accomplished through another method. Chairman Steinbach also felt that the requested variance was reasonable, and could not be accomplished through another feasible method. Mr. Caola did note that the other side of his property included a natural drainage swale, and that he did not want to change that natural drainage flow. The Zoning Board members then considered whether the variance would result in an adverse impact upon the physical environment, and determined that this application would not result in an adverse physical impact to the environment or the surrounding area. The Zoning Board members then discussed whether the requested variance was substantial, and determined that while the variances were large, they were not significant to the point of denying the application, particularly in light of the fact that a shed already existed in

the general location of the proposed detached garage, and that the use was consistent with surrounding properties. The Zoning Board members also determined that the requested variance was not self-created, as the property owner is limited by the site in terms of the existing drainage swale, and determined that it was important to maintain the existing swale for drainage purposes. The Zoning Board members also felt it significant that there was already existing 10' x 10' shed that was being replaced by this detached garage. Following such deliberation, Member Hannan made a motion to approve the area variances requested by Caola for 11 Maplehurst Drive, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variances granted.

The next item of business on the agenda was the special use permit application submitted by Daniel Smith for property located at 899 Hoosick Road (Tax Map No. 92.-6-6.2). The Zoning Board opened the public hearing on this special use permit application. The Notice of Public Hearing was read into the record, noting that the 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. Daniel J. Smith was present on the application. Chairman Steinbach inquired whether there were any changes to this special use permit application following the initial presentation at last month's meeting. Mr. Smith stated that there were no changes being proposed. Chairman Steinbach then opened the floor for receipt of public comment. Chairman Steinbach first called for any public comment in favor of the special use permit application. Hearing none, Chairman Steinbach then requested receipt of any comment opposing the special use permit application. Bill Brazee, 901 Hoosick Road, raised several issues. Mr. Brazee owns property next to Mr. Smith, located at the corner of Wyman Road. Mr. Brazee stated that the Zoning Board members should go out and look at the proposed site, because in his opinion the back of that lot is always wet. Further, Mr. Brazee stated that a garage which was already built

on the lot is too close to the lot line, and that a lot of concrete and stone had been added to this lot which has increased the surface water runoff. Mr. Brazee stated that each time water drains off of this lot, it impacts his property. Mr. Brazee stated that Mr. Smith has told him for the past year to year and a half that he would be installing gutters on the buildings and would direct stormwater away from Mr. Brazee's property, but that no gutters had been installed. Mr. Brazee handed up photographs of stormwater runoff from the recent storms, and said that his property was being impacted by the runoff from the Smith lot. Mr. Brazee stated that he was very concerned that adding a paved parking lot on the rear of this lot will only result in more runoff impacting his property. Mr. Brazee also stated that he felt the lot was small, and that Mr. Smith had already been parking vehicles on Wyman Road because there is no room on this lot, and was concerned about parking in the future. Mr. Brazee concluded that he felt a dentist office for this area would be a good thing, but not at this particular location. Mike Van de Mark, 909 Hoosick Road, also spoke in opposition to the application. Mr. Van de Mark stated that his lot was situated on the opposite corner of Wyman Road. Mr. Van de Mark was concerned about the total quantity of groundwater used for the dental office proposal, because his lot and the other lots in this area all relied on wells for potable water. He was very concerned about the impact of this dental office use on the aquifer, and whether this would impact availability of water to the surrounding lots. Mr. Van de Mark also had concern about access to a rear parking area, since Hoosick Road was a very busy road. Chairman Steinbach inquired whether there were any further comments from the public. Hearing none, Chairman Steinbach asked whether any of the Zoning Board members had questions or comments. Member Schmidt stated that the comment regarding surface water runoff was significant, and wanted Mr. Smith to address that. Mr. Smith stated that the gutters which Mr. Brazee talked about were sitting on the lot and were ready to be installed, but hadn't been installed this Spring because of the wet conditions. Mr. Smith stated

that gutters would be installed on both sides of the building, and would be installed during the week of June 17. Member Trzcinski asked where the stormwater from the gutters would be directed. Mr. Smith stated that the water would be directed away from Mr. Brazee's lot, and that he would install a drywell if necessary to handle the stormwater runoff. Member Hannan asked whether Mr. Smith had retained any contractor for the conversion of this house and construction of the parking lot. Mr. Smith stated that he had not yet retained a contractor, and was waiting to see if this proposal was approved by the Town. Mr. Hannan inquired what his construction schedule would be. Mr. Smith stated that he would be able to renovate this house to a dental office in approximately 8 months to a year. Member Hannan then asked when the gutters would be going up on the existing building. Mr. Smith confirmed that gutters would be going up during the week of June 17. Member Hannan then asked about projected water consumption for a dental office. Mr. Smith stated that the projected water consumption would be the same as a residential use, and possibly less than the average residential use. Member Hannan requested that additional information on projected water use for a dental office be submitted by Mr. Smith. Mr. Smith stated that he would supply that information to the Zoning Board. Chairman Steinbach inquired whether this was the first site to be developed by Mr. Smith as a dental office. Mr. Smith confirmed that this would be the first time he was developing a site for a dental office use, but that he had been in the dental equipment sales and service business for 17 years and had been involved in the development of dental offices in that capacity. Member Trzcinski commented that in her experience, dental offices usually have a lot of clean water running in conjunction with dental hygienists, and did want additional information on the total projected water consumption. Mr. Smith stated that he was projecting this dental office to have one dentist, and possibly one to two dental hygienists, and would supply projected water consumption for an office of that size. Chairman Steinbach inquired as to the total number of parking spaces and

layout of the parking spaces presented by Mr. Smith. Mr. Smith stated that he is using a parking space size of 9' x 16', and that site allows a total of 14 parking spaces, including a handicap space next to the building. Chairman Steinbach stated that Mr. Smith should work with the Building Department on the total number of required parking spaces, and the parking space layout plan. Member Trzcinski stated that she wanted to make sure there was adequate room to move cars within the parking lot so that there would be no cars backing out onto Hoosick Road. Member Balistreri asked about the current use of the building. Mr. Smith stated that he was living at the house at the present time. Chairman Steinbach confirmed that the Zoning Board was requiring additional information on projected water consumption, information about surface water management and runoff, and the parking space and parking lot plan. Member Schmidt stated that he would suggest that the public hearing be left open so that this additional information can be submitted and considered. Member Schmidt stated that the key issue for him is the surface water runoff and potential impact on surrounding lots. Member Schmidt also stated that he would like to see the gutters installed, and how those gutters handle runoff during a storm. The Zoning Board members generally concurred. Member Balistreri made a motion to keep the public hearing open and adjourn this matter to the July meeting, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing kept open and the matter adjourned to the July 15 meeting for further discussion.

The third item of business on the agenda was the area variance application submitted by Dariusz Imbierowicz for property located at 13 Packer Avenue. The Zoning Board opened the public hearing on this application. The Notice of Public Hearing was read into the record, noting that the notice had been 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 inquired whether Mr. Dariusz Imbierowicz was present. Barbara Imbierowicz, wife of Dariusz

Imbierowicz, and stated that Dariusz Imbierowicz was not able to attend the meeting due to work commitments. The Zoning Board members noted that at the May meeting, they had made it quite clear to Mr. Imbierowicz that they wanted him present in order to respond to any comments from the public or questions of the Board members. The Zoning Board members reviewed the history of this matter, including the prior area variance application submitted in 2012, and the fact that Mr. Imbierowicz also failed to appear for the Zoning Board meetings on the 2012 area variance application. Mrs. Imbierowicz stated that she did reside at the residence. The Zoning Board members generally stated that they were concerned that the pool installation, which is the subject of this area variance application, had already been completed by the property owner, and that an area variance was being sought after the fact. This had resulted in enforcement action in 2012 and the prior area variance application in 2012, which the Zoning Board members noted was not properly pursued by Mr. Imbierowicz. Given that the public hearing had been opened, Chairman Steinbach opened the floor for receipt of any public comment. There were no members of the public present, and no public comment was received. Chairman Steinbach then inquired whether any of the Zoning Board members had questions for Mrs. Imbierowicz. Member Balistreri asked that, despite the fact that the pool was already constructed, was there a reason why the pool could not have been constructed in a manner that was within the setback requirements of the Brunswick Code. Mrs. Imbierowicz generally felt that there was not enough room on the lot for the installation of the pool. Member Balistreri stated that the pool installed was 25’ x 15’, and that in his opinion, a smaller pool may not have resulted in setback violations. Mrs. Imbierowicz generally stated that all of her neighbors had pools generally of that size and generally as close to property lines, and that they did not think this would be an issue with the Town. Member Schmidt stated that this application must be considered as if this were a request to construct a pool, rather than seeking an after-the-fact approval following installation of the pool. In his

opinion, Member Schmidt stated that if this were a request to install the pool initially, it would be his opinion that a smaller pool should be installed so that it met the setback requirements. The Zoning Board members generally discussed whether to keep the public hearing open, and given the history of this matter, determined that they would like Mr. Imbierowicz present to respond to questions concerning the pool installation. Mrs. Imbierowicz stated that she was a co-owner of the property, that they were immigrants from Poland, and that they bought the home at 13 Packer Avenue about 7 years ago, and that they installed the pool thinking that there was not a problem since their neighbors also had pools. Regarding the application from last year, Mrs. Imbierowicz stated that both she and her husband did not understand the proper procedures, and that they thought once the application was filed, the Zoning Board would just decide without the need for them to attend any meetings. Member Trzcinski reminded her that the Zoning Board had sent letters in three successive months requesting Mr. Imbierowicz's attendance at a Zoning Board meeting, but that Mr. Imbierowicz did not attend any of the meetings last year. Member Schmidt also stated that the variance application should have been pursued by Imbierowicz during the Winter, rather than waiting until the Spring to apply for the area variance when the Summer season was upon them. Mrs. Imbierowicz stated that they did not think anything would be done by the Zoning Board over the course of the Winter, and made the application when they were set to use the pool again. Chairman Steinbach then made a motion to keep the public hearing open and adjourn this matter until the July meeting. The motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing on the Imbierowicz area variance application was kept open and adjourned to the July 15 meeting for further discussion. The Zoning Board members reiterated that they would like Mr. Imbierowicz present at the July 15 meeting on this application.

There was one item of new business discussed. A sign variance application has been received from McDonald's USA, LLC for proposed signage as part of its renovation of the McDonald's located at 780 Hoosick Road. The Zoning Board members generally reviewed the written application, and determined that additional information is required, including elevations and visual presentation of the proposed signs on the renovated restaurant building. It is noted that there was no one present for the application at this meeting, and the application was adjourned until the July meeting for receipt of additional information and presentation of the project by the Applicant's consultants.

Thereupon, the meeting was adjourned.

The index for the June 17, 2013 meeting is as follows:

1. Caola – area variance – approved.
2. Smith – special use permit application – 7/15/13 (public hearing to continue).
3. Imbierowicz – area variance application – 7/15/13 (public hearing to continue).
4. McDonald's USA, LLC – sign variance – 7/15/13.

The proposed agenda for the July 15, 2013 meeting currently is as follows:

1. Smith – special use permit (public hearing to continue).
2. Imbierowicz – area variance (public hearing to continue).
3. McDonald's USA, LLC – sign variance.