Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD January 13, 2014

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

ABSENT was MARTIN STEINBACH.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

Given the absence of Chairman Steinbach, Member Trzcinski made a motion to designate Member Hannan as the Acting Chair for the meeting, which was seconded by Member Hannan, and was unanimously approved.

The members of the Zoning Board reviewed the draft minutes of the December 16, 2013 meeting. Upon motion of Member Trzcinski, seconded by Member Schmidt, the minutes of the December 16, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda was the public hearing scheduled on the application of Peter St. Germain, 490 McChesney Avenue Extension, seeking an area variance for the installation of a garage. Attorney Tingley read the notice of public hearing and noted that the notice had been published in the Troy Record on December 25, 2013 and had been posted on the Town's website and the Town sign board, as well as having been sent to the neighboring property owners. The Applicant was present for the public hearing. The Applicant submitted a more detailed sketch plan showing the location of the septic tank, septic lines, and leach fields in relation to the existing driveway and proposed garage location. Member Schmidt asked the Applicant whether he currently drives over and parks above the septic tank, which is shown on

the schematic as being located in the existing parking area. The Applicant responded that he does drive over the septic tank but that the septic tank is reinforced with a concrete manhole cover and steel I-beams. Member Schmidt asked whether the Applicant planned to drive over the area of the septic distribution box or the septic line that leads from the distribution box to the leach field. The Applicant explained that he would not be driving over the distribution box, but that he would be driving over the septic line that runs from the distribution box to the leach fields. He explained that his plan is to reinforce that area so as not to cause damage to the septic line. The Applicant further explained that the septic system was installed approximately 20 years ago, and is therefore a fairly new system. Member Hannan asked the remaining Board members whether any of them had any additional questions for the Applicant, to which none of the members posed any questions. Member Hannan asked for any members of the public to step forward and provide any public comments they wished to provide. No members of the public spoke in favor or against the application, nor did any member of the public submit any comments. Member Schmidt then made a motion to close the public hearing, which was seconded by Member Trzcinski and was unanimously approved.

Attorney Tingley then confirmed for the record that the application seeks an area variance for a residential application, and therefore constitutes a Type II action under SEQRA, and no further SEQRA determination is required. The Zoning Board then deliberated on the application. The Board agreed that the area variance application would not produce an undesirable change in the character of the neighborhood, nor would it produce a detriment to nearby properties if the application was granted. In this regard, Member Schmidt noted that the proximity of the garage to the adjoining property was not a significant issue given that the adjoining property is a farm field. The remaining Board members agreed. With respect to

whether the benefit sought by the Applicant can or cannot be achieved by some method, feasible for the Applicant to pursue, other than an area variance, Member Trzcinski noted that an alternative method could achieve the same objective of constructing a garage, but that the alternative would be expensive because it would require the Applicant to dig up and replace the septic system which had been installed approximately 20 years ago. Member Schmidt agreed, and also noted that the location of the pool also inhibits where the garage can be located on the property. The remaining Zoning Board members concurred. With respect to whether or not the requested area variance was substantial, Attorney Tingley reminded the Board that the variance sought was a 9' variance, which would allow placement of the garage at 16' from the property line, whereas the Zoning Code requires a 25' setback. Member Schmidt did not consider the area variance to be substantial because the Applicant's proposed location of the garage and the area of the proposed variance are along the property line that abuts a cornfield, not a residential use. The other Zoning Board members concurred that the requested variance was not substantial. With respect to whether the proposed area variance would have an adverse effect on the physical or environmental conditions in the neighborhood or district, the Zoning Board noted that the requested variance would have no adverse effect given the setting in which the proposed garage will be located, and because any concerns that Member Schmidt had with respect to the Applicant driving over the septic line had been addressed by the Applicant's proposal to reinforce the ground above the septic lines. With respect to whether the difficulty was self-created, Member Trzcinski commented that, technically, the difficulty was self-created because the septic system was installed in that particular location, but that the septic system was installed 20 years ago, long before the Applicant had likely considered construction of a garage in that area. Member Hannan agreed that the difficulty may have been technically self-created, but that

the Applicant likely did not anticipate building the garage when the septic system or pool were installed. Following the deliberation by the Zoning Board of Appeals, Member Balistreri made a motion to approve the area variance application, which was seconded by Member Trzcinski and was unanimously approved.

The next item of business on the agenda was the area variance applications made by Arthur Durivage for property located at 1009 Cloverlawn Road in connection with a 20' x 22' carport which had been installed at the property. Member Balistreri noted that he had previously recused himself and was recusing himself from participation in the consideration of the application. Member Balistreri then exited the meeting room. Attorney Tingley noted for the record that the Zoning Board had conducted deliberations at its December 16, 2013 meeting and that the Board had directed Attorney Gilchrist to prepare a draft written determination based upon those deliberations. Attorney Tingley further noted that the draft determination had been sent to the Zoning Board Members last week for review. Member Hannan requested that Attorney Tingley read the draft determination into the record and for the benefit of the public, whereupon Attorney Tingley read the draft determination into the record. Following the reading of the determination into the record, the Zoning Board members each noted that they did not propose any changes to the draft determination. Thereupon, a motion was made by Member Trzcinski to adopt the written determination denying the area variance applications, which motion was seconded by Member Schmidt. The motion was passed by a vote of 3/0, with Member Balistreri not participating. Attorney Tingley noted for the Zoning Board that given the Board's determination, his office would finalize the decision and file it in the Town Clerk's Office.

After the Durivage matter was concluded, Member Balistreri reentered the meeting room.

The Zoning Board confirmed that the meeting for February would be held on February 24, 2014 at 6:00 p.m. at Town Hall, given the President's Day holiday on the Board's otherwise regular meeting date.

The index for the January 13, 2014 meeting is as follows:

1. St. Germain – area variance – public hearing.

2. St. Germain – area variance – granted.

3. Durivage – area variances – formal written decision denying the area variances reviewed and adopted.