

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD February 24, 2014

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

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The members of the Zoning Board reviewed the draft minutes of the January 13, 2014 meeting. Member Trzcinski noted that the motion to designate Member Hannan as the Acting Chair for the meeting was seconded by Member Schmidt, not Member Hannan as noted in the draft minutes. The Zoning Board agreed to amend the draft minutes to reflect that Member Schmidt seconded the motion. Upon motion of Member Trzcinski, which was seconded by Member Schmidt, the minutes of the January 13, 2014 meeting were unanimously approved with the noted amendment.

There were no items of old business on the agenda for the February 24, 2014 meeting.

The first item of new business on the agenda was Alta East, Inc. for an area variance and a special use permit for the proposed redevelopment project for property located at 1163 Hoosick Road. Present for the Applicant was John Lapper, Esq., from the firm of Bartliff, Pontiff, Stewart & Rhodes, P.C., along with the Robert Osterhoudt, P.E. from Bohler Engineering, LLC and Mark Dombal from Alta East, Inc. Mr. Lapper generally described the proposed redevelopment project. Mr. Lapper explained that the property is currently under contract to be sold by Mr. Spiak to Alta East, Inc. which is contingent on securing approvals for the proposed redevelopment. Mr. Lapper explained that the need for the area variance arises from the location

of the DOT right-of-way along Route 7. The proposed fuel pump canopy is proposed to be located approximately 60 feet from the edge of the pavement of Route 7, but the DOT right-of-way would be approximately 5 feet from the edge of the canopy as currently proposed. Mr. Lapper also explained that the application included a request for a special use permit for the sale of fuel. The action is an unlisted action, and Mr. Lapper requested that the Board consider performing its own SEQRA review rather than performing a coordinated SEQRA review. Mr. Osterhautt then generally described the project, referring to an aerial photograph of the project site with property lines and other details overlaid. Mr. Osterhautt reported that the DOT right-of-way is abnormally wide in that location because Route 7 previously had a much tighter corner in that area, and when DOT widened that curve, it did not change the boundaries of its right-of-way. Mr. Osterhautt explained that there are currently existing three structures on the site, consisting of a single family residence, a service station, and a fuel canopy. The proposal is to redevelop the site into a convenience store and fueling station. Mr. Osterhautt explained that the existing service station would be discontinued, the single family residence would be removed, an existing fuel tank would be maintained and an additional fuel tank would be added. Mr. Osterhautt also explained that the proposed location of the fuel canopy would be shifted from its current location, which is 1 foot away from the DOT right-of-way, to the proposed location, which is 5 feet away from the DOT right-of-way. With regard to the site layout, Mr. Osterhautt explained that the proposal sought to maintain the existing curb cuts, with a slight modification to one of the islands. The paved area is proposed to be resurfaced, and there is proposed a drive-thru lane, which will circulate around the rear of the building. Mr. Osterhautt also explained that the Planning Board has reviewed the concept plan, and suggested that the proposed area of the dumpster was not in conformance with the 7 foot side setback. The current plan has been

revised to locate the dumpster in accordance with the 7 foot side setback. Mr. Osterhautt also generally described the justification for the issuance of the area variance and special use permit, and further explained that the shape of the lot prevents them from relocating the proposed convenience store any further back than as shown on the proposed plan. Member Schmidt asked Mr. Osterhautt to identify the location of the existing underground storage tank as well as the proposed additional tank. Mr. Osterhautt showed that the tanks would be located on the western side of the site. Member Trzcinski asked whether the drive-thru lane at the rear of the building would be used for drive-thru retail sales. Mr. Osterhautt confirmed that the proposal was to include a drive-thru window, but that no specific vendor has yet been identified. In response to Member Hannan's questions, Mr. Osterhautt confirmed that the project would include the sale of diesel fuel. Member Balistreri asked whether the sale of the property to Alta East, Inc. was contingent on approval of the plans, and Attorney Lapper confirmed that the contract was contingent on the approval of the plans. After questions from the Board had been answered, Member Hannan made a motion to accept the application for area variance and special use permit as complete and to set a public hearing for March 17, 2014 at 6:00 p.m. at Brunswick Town Hall, which motion was seconded by Member Schmidt, and was unanimously approved. Member Hannan then made a motion to refer the applications to the Planning Board for a formal recommendation, which motion was seconded by Member Trzcinski, and was unanimously approved. Mr. Osterhautt then explained that he has reached out to DOT concerning the application, and Mr. Kreiger confirmed that the application has been referred to County Planning. The Board generally discussed and agreed upon performing an uncoordinated SEQRA review.

The next item of new business was the application of Christian McGrath seeking an area

variance in connection with the construction of a wood deck and two-story addition with a foot print of approximately 18 feet by 22 feet for property located at 205 Bulson Road. Matthew Turner, Esq. appeared on behalf of the Applicant, and the Applicant was also present. The property owner is the father of the Applicant, and is currently in Florida. Mr. Turner explained that the variance application would allow construction of the deck and addition to be located between 5 and 7 feet from the right side setback. He further explained that the adjacent property nearest the proposed addition and deck is a vacant field used for growing corn. Member Hannan asked Mr. Turner if the addition and/or deck had already been constructed. Mr. Turner responded that construction had already begun, because the contractor, Ed Hoag, was under the impression that a Building Permit had already been issued. The misunderstanding arose from Mr. Hoag seeing a Building Permit on the kitchen table of the property owner, but the Building Permit was actually issued for construction of a pool. Member Schmidt asked when construction had started and Mr. Turner explained that construction started in October of 2013 and was continued from time to time as Mr. Hoag was available until the Town issued a Stop Work Order, which was approximately 4-6 weeks ago. Chairman Steinbach asked whether there was a permit for the addition. Mr. Kreiger explained that there had been a Building Permit for the one-story section and existing two-story addition to the house. He also explained that there was a permit for the construction of the swimming pool. Mr. Kreiger confirmed that there was no permit issued, however, for the addition that is at issue on this application or the wood deck. Mr. Turner explained again that Mr. Hoag, the contractor, thought that the Building Permit for the swimming pool was a Building Permit for the addition and the wood deck. Member Schmidt asked whether the Applicant had applied for a Building Permit after the Stop Work Order was issued. Mr. Turner explained that upon issuance of the Stop Work Order, the Applicant was

advised to file the application for an area variance. Member Hannan asked whether the Applicant had spoken with the owner of the adjoining property, and the Applicant responded that the adjoining property owner had explained to the Applicant that a variance would be required. Mr. Turner explained to the Board that an aerial photograph from the County showed that it appeared there was no setback issue. Member Steinbach asked the Applicant whether an Environmental Assessment Form had been submitted with the application. Mr. Turner explained that it was his understanding that SEQRA was not applicable to the proposal because it was a Type II action. After the Board's questions were answered, Member Balistreri made a motion to accept the application as complete, which was seconded by Member Hannan, and unanimously approved. Member Hannan then made a motion to schedule a public hearing on the application for March 17, 2014 at 6:00 p.m. at Brunswick Town Hall, which was seconded by Member Balistreri, and was unanimously approved. Mr. Turner and the Applicant then confirmed that the ZBA members would be permitted to enter the site and to walk around to see the location of the proposed deck and addition in relation to the adjoining property. Mr. Turner stated that he would submit a copy of the Building Permit for the pool, as well as the aerial photograph he referenced from the County.

The next item of new business was the application of Witt Construction, Inc. for an area variance to permit construction of an addition to an existing single family residence located at 3 High Meadow Road. Patrick Russo appeared on behalf of Witt Construction, Inc. The owner of the property is Michael and Aimee Uccellini. The proposed addition actually consists of two additions on opposite ends of the existing home. The variance is needed with respect to that portion of the addition which is nearest the end of the cul-de-sac on which the property is located. The required setback is 25 feet and the proposal is to construct the addition

approximately 11 feet from the property line. Mr. Russo explained that the need for the variance arose from the irregular shape of the property. Mr. Russo further explained that the closest neighbor is approximately 150 feet away and that there is a buffer of trees and an existing shed between the proposed addition and the nearest property. Member Trzcinski asked Mr. Russo what the purpose of the addition was, and Mr. Russo explained that the addition requiring the variance would be used as a garage. Mr. Russo further explained that the existing garage would be incorporated into the residence. After all questions from the Board were answered, Member Hannan made a motion to accept the application as complete, which was seconded by Member Schmidt, and unanimously approved. Member Hannan then made a motion to set a public hearing for March 17, 2014 at 6:00 p.m. at Brunswick Town Hall, which motion was seconded by Member Schmidt, and unanimously approved.

The last item of new business was the special use permit application made by Stewarts Shops Corporation for property located on Brick Church Road. Appearing on behalf of the Applicant was Chuck Marshall, the real estate representative for Stewarts. Mr. Marshall explained that the current application proposes a new convenience store with self service fuel pumps and the demolition of the existing residence and existing commercial building on the site. The new convenience store would be approximately 3,400 square feet, whereas the existing convenience store is approximately 2,000 square feet. Mr. Marshall further explained that currently existing are two pump islands and the application proposes 6 pump islands. Mr. Marshall explained that one of the curb cuts would remain as existing and another one would be moved slightly. Member Steinbach asked Mr. Marshall to explain the difference between the existing store and fuel pumps and the proposed store and fuel pumps. Mr. Marshall explained that the 6 proposed fuel pumps would include handles for unleaded fuel and there would also be

two handles for slow pump diesel fuel. He also explained that the increase in the square footage of the proposed store over the existing store would be approximately 50%. Member Hannan asked whether the diesel pumps would be slow-flow, and Mr. Marshall responded that they would be given the market for diesel in this particular area, which includes an increase in the past several years in the number of cars that run on diesel fuel. After the Board's questions had been answered, Member Hannan made a motion to accept the application as complete, which was seconded by Member Schmidt, and unanimously approved. Member Hannan then made a motion to refer the application to the Planning Board for a formal recommendation, which motion was seconded by Member Balistreri, and was unanimously approved. Member Balistreri then made a motion to schedule the public hearing for March 17, 2014 at 6:00 p.m. at Brunswick Town Hall which motion was seconded by Member Hannan and was unanimously approved.

Member Trzcinski then made a motion to adjourn the meeting, which was seconded by Member Hannan, and was unanimously approved.

The index for the February 24, 2014 meeting is as follows:

1. Alta East, Inc. – area variance and special use permit.
2. McGrath – area variance.
3. Uccellini – area variance.
4. Stewarts – special use permit.

The proposed agenda for the March 17, 2014 meeting currently is as follows:

1. Alta East, Inc. – area variance and special use permit (public hearing to commence at 6:00 p.m.).
2. McGrath – area variance (public hearing to commence at 6:00 p.m.).
3. Uccellini – area variance (public hearing to commence at 6:00 p.m.).
4. Stewarts – special use permit (public hearing to commence at 6:00 p.m.).