

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD July 21, 2014

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

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The draft minutes of the June 16, 2014 meeting were reviewed by the Zoning Board members. Upon motion by Member Trzcinski, seconded by Member Hannan, the draft minutes of the June 16, 2014 meeting were unanimously approved without amendment.

The first item of business on the agenda was the referral by the Town Board of the application submitted by BPP II, LLC for a proposed third amendment to the Duncan Meadows Planned Development District. The Zoning Board members had previously deliberated on this matter at its meeting held May 19, 2014 and June 16, 2014, and had directed that a draft recommendation be prepared for their review at the July 21, 2014 meeting. Upon review of the draft recommendation, the Zoning Board members then adopted the following recommendation on the application by BPP II, LLC for a third amendment to the Duncan Meadows Planned Development District:

TOWN OF BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING

July 21, 2014

RESOLUTION ADOPTING A RECOMMENDATION ON THE PROPOSED THIRD AMENDMENT TO THE DUNCAN MEADOWS PLANNED DEVELOPMENT DISTRICT

WHEREAS, the Town Board of the Town of Brunswick (“Town Board”) received an application by ECM Land Development, LLC (“Owner”) for a Planned Development District (“PDD”) seeking approval for a mixed use residential project consisting of 78 townhouse-style condominium units, 88 traditional condominium units, and 50 senior citizen apartment units, located on approximately 91 acres of land bounded by McChesney Avenue and McChesney Avenue Extension; and

WHEREAS, the Town Board approved the Duncan Meadows PDD pursuant to Resolution No. 62 of 2010, duly adopted on August 12, 2010; and

WHEREAS, the Town Board approved a first amendment to the Duncan Meadows PDD to eliminate an age restriction associated with the 50 rental units pursuant to Resolution No. 86 of 2012, duly adopted on December 13, 2012; and

WHEREAS, the Town Board approved a second amendment to the Duncan Meadows PDD to allow for the construction of 88 apartment units in place and instead of the previously-approved 88 traditional condominium units, pursuant to Resolution No. 74 of 2013, duly adopted on October 10, 2013; and

WHEREAS, the Duncan Meadows PDD approval also included 78 townhouse-style condominium units located in areas known and referred to as Phase 2 and Phase 3 of the project; and

WHEREAS, BPP II, LLC has submitted an application to the Brunswick Town Board to further amend the Duncan Meadows PDD (the “Third Amendment”); and

WHEREAS, the Third Amendment seeks to allow the construction of 77 apartment units to be located in the total of 7 buildings, 11 units each, in place and instead of the previously approved 78 townhouse-style condominium units approved for Phase 2 and Phase 3, and to locate such 77 apartment units entirely within the area known as Phase 2; and

WHEREAS, the Town Board has referred the Third Amendment to the Duncan Meadows PDD to the Town of Brunswick Planning Board (“Planning Board”) and the Town of Brunswick Zoning Board of Appeals (“Zoning Board of Appeals”) for review and recommendation; and

WHEREAS, the Applicant presented the proposal to the Zoning Board of Appeals at its meeting held May 19, 2014; and June 16, 2014, and discussed the proposed project with the Zoning Board members; and

WHEREAS, the Zoning Board members also had the opportunity to review the written recommendation of the Brunswick Planning Board concerning this Third Amendment, dated June 19, 2014, and generally concur with the findings and conclusions of the Brunswick Planning Board; and

WHEREAS, the Zoning Board members, upon further deliberation, determined that the

area identified and referred to as Phase 3 of the project site, in which the Applicant is now eliminating any construction activities, should be allowed to continue in agricultural use;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Town of Brunswick in regular session duly convened as follows:

1. The Zoning Board of Appeals generally concurs with the findings and conclusions of the Brunswick Planning Board in its written recommendation dated June 19, 2014 concerning this proposed Third Amendment to the Duncan Meadows PDD, and incorporates the findings and conclusions of the Brunswick Planning Board's June 19, 2014 written recommendation herein.

2. In addition, the Brunswick Zoning Board of Appeals further determines and recommends that the Town Board allow the continued use of the area referred to as Phase 3 of the project site for continued agricultural use, rather than restricting the area to be left "forever wild"; and further, that in no case should any additional residential units be approved for the Phase 3 area of the project site as part of a future amendment to the Duncan Meadows PDD, since the overall density of this project as originally approved by the Town Board for the Duncan Meadows PDD will be fully constructed and utilized on the balance of the Duncan Meadows PDD project site, and that the area known as the Phase 3 area of the project site should not be utilized for any additional units for this PDD project.

Four items of new business were discussed.

The first item of new business discussed was an area variance application submitted by John Mulinio, 21 Cooper Avenue, seeking area variances in connection with the construction of a storage shed and playhouse at property located at 21 Cooper Avenue. The variances sought by the Applicant include a side yard setback variance, rear yard setback variance, and height variance. John Mulinio was present on the application. Chairman Steinbach stated that the photographs attached to the variance application showed the storage shed being nearly fully constructed, and asked why the structure was built without first seeking the variances. Mr. Mulinio stated that he didn't know he needed to obtain the variances, and that he had replaced an old shed at that location with this new structure. Mr. Kreiger confirmed that he had received a complaint from a neighbor, had inspected the site, and had issued a Stop Work Order until the variance issues were addressed by the Zoning Board. Mr. Mulinio confirmed that he had

received the Stop Work Order, and has not engaged in any further construction on the storage building. Member Trzcinski inquired why the storage shed has two-stories. Mr. Mulinio stated that the first floor was for storage, but that the second floor was a playhouse for his children. Mr. Mulinio confirmed that there were no bathroom facilities in the structure. Member Balistreri noted that the storage shed/playhouse was located next to an in-ground pool, and asked whether the in-ground pool had any fence around it. Mr. Mulinio stated that there was no fence around the swimming pool. Member Trzcinski raised an issue concerning people jumping off the balcony of the second story of this structure into the pool, and that this presented a safety issue. Mr. Mulinio stated that his children were small, and not able to get over the railing on the balcony of the second floor of this structure. Member Trzcinski stated that this may become a safety issue in the future. Upon review of the site plan sketch included in the application, the Zoning Board members confirmed with Mr. Kreiger the extent of the variances required. Mr. Kreiger stated that a side yard setback variance is required, with the structure located 4' from the side yard line where the Town Code requires a 10' side yard setback. Mr. Kreiger confirmed that a rear yard setback variance was required, with the structure located 3' 8" from the rear property line, where the Town Code requires a rear yard setback of 20'. Mr. Kreiger also confirmed that a height variance was required, with the structures height being 18', whereas the Town Code limit for this structure is 12'. Member Trzcinski again inquired why a second floor was necessary, and did Mr. Mulinio need a second floor on this shed. Mr. Mulinio said the second floor was a playroom for his kids, and that there were only internal stairs leading to the second floor within the structure. Member Hannan inquired as to the total size of this lot. Mr. Kreiger stated that lots in this area generally were about one half acre in size. Upon further discussion, the Zoning Board members determined that the application was complete for purpose

of scheduling a public hearing. This matter is scheduled for public hearing to commence at 6:00 p.m. on August 18, 2014.

The second item of new business discussed was an application submitted by Ray Sign Co. on behalf of Robert Pollock, Pollock Companies, for the Brunswick Plaza located at 720 Hoosick Road. The application seeks an area variance for the installation of a wall sign for the Dollar Tree store to be located in the Brunswick Plaza. The Applicant seeks a variance to allow a 48" round logo and 42" lettering on the wall sign, where the Town Code allows a maximum of 36" logo and lettering. Russ Hazen, owner of Ray Sign Co., was present to answer any questions. The Zoning Board members determined that the application contained adequate information for scheduling a public hearing. This matter is set for public hearing at 6:10 p.m. on August 18, 2014.

The third item of new business discussed was an area variance application submitted by Ray Sign Co. on behalf of Wal-Mart Real Estate Business Trust for property located in the Wal-Mart Plaza located at 760 Hoosick Road. The Applicant seeks permission to install a single sided wall sign with internal illumination, measuring 27" x 104", showing the Subway logo on the exterior of the Wal-Mart building. This application seeks a variance for the total number of signs located on the Wal-Mart building. Russ Hazen, owner of Ray Sign Co. was present to answer any questions on the application. The Zoning Board members reviewed the information contained in the application, and determined that there was adequate information to schedule a public hearing. This matter is set for public hearing on the area variance application for 6:20 p.m. on August 18, 2014.

The fourth item of new business discussed was an application for area variance submitted by Lend Lease Inc. on behalf of BK Troy Holdings, LLC for the installation of signage at the

Burger King restaurant located at 747 Hoosick Road. The Applicant seeks approval to replace existing signage on the Burger King restaurant as part of the remodeling of the restaurant. The variances sought include the total number of signs on the exterior of the building, as well as the size of the Burger King logo signs. The Zoning Board members reviewed the application materials, and determined they were complete for purposes of scheduling the public hearing. This matter is scheduled for public hearing to be held at 6:30 p.m. on August 18, 2014.

The index for the July 21, 2014 meeting is as follows:

1. BPP II, LLC – third amendment to Duncan Meadows Planned Development District – recommendation adopted.
2. Mulinio – area variance – 8/18/14 (public hearing to commence at 6:00 p.m.).
3. Ray Sign Co. (Pollock Companies, owner) – area variance (sign) – 8/18/14 (public hearing to commence at 6:10 p.m.).
4. Ray Sign Co. (Wal-Mart Real Estate Business Trust, owner) – area variance (sign) – 8/18/14 (public hearing to commence at 6:20 p.m.).
5. Lend Lease, Inc. (BK Troy Holdings, LLC, owner) – area variance (sign) – 8/18/14 (public hearing to commence at 6:30 p.m.).

The proposed agenda for the August 18, 2014 meeting currently is as follows:

1. Mulinio – area variance – public hearing to commence at 6:00 p.m.
2. Ray Sign Co. (Pollock Companies, owner) – area variance (sign) - public hearing to commence at 6:10 p.m.
3. Ray Sign Co. (Wal-Mart Real Estate Business Trust, owner) – area variance (sign) – public hearing to commence at 6:20 p.m.
4. Lend Lease, Inc. (BK Troy Holdings, LLC, owner) – area variance (sign) – public hearing to commence at 6:30 p.m.