

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD October 20, 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 Zoning Board members reviewed the draft minutes of the September 15, 2014 meeting. Upon motion of Member Trzcinski, seconded by Member Hannan, the draft minutes of the September 15, 2014 meeting were unanimously approved without amendment.

The Zoning Board of Appeals opened a public hearing on an area variance application submitted by Callahan Sign, LLC on behalf of Carbone Auto Group for property located at 800 Hoosick Road. The notice of public hearing was read into the record, with the notice being published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach requested that the applicant make a short presentation concerning the application. James Callahan, of Callahan Sign, LLC was present, and stated that the application sought an area variance for signs to be installed at the new Carbone Subaru located at 800 Hoosick Road. Mr. Callahan stated that the total square footage of all signs combined was within Town Code requirements, but that he was requesting the installation of a total of six signs, where the Town Code allowed a total of two signs. Mr. Callahan stated that five of the signs would be attached to the building, including the Subaru logo, and one sign would be a freestanding pylon sign in the front of the property. Mr. Callahan also stated that the proposed Subaru logo was larger than allowed by the Town Code, and was

requesting a variance for the size of the Subaru logo. Chairman Steinbach then opened the floor for receipt of public comment. No members of the public wished to comment on the application. Member Hannan stated that while the Subaru logo was larger in its size than allowed by Town Code, he felt that this was offset by the fact that the building was set back far off Hoosick Road. Member Trzcinski stated the Subaru logo was distinctive, and did not need to be larger in size. Chairman Steinbach stated that the Town limit for the size of signs is 36 inches and the proposed Subaru logo sign is 53 inches in diameter. Member Hannan asked the applicant as to the distance from the Hoosick Road corridor to the location of the building. Mr. Callahan stated that it was approximately 250 feet. Member Trzcinski stated that she did not have a problem with the total number of signs, because each of the signs was for a different purpose in connection with the auto dealership, but that she did have a problem with the size of the Subaru logo sign. Chairman Steinbach inquired about the size of the Subaru logo sign. Mr. Callahan stated that the Subaru logo sign was a branding sign that Subaru required for its dealerships, and that the specific size of the sign was mandated by Subaru given that the other sign lettering is 36 inches. A representative of Carbone Auto Group stated that the size of the lettering and the size of the Subaru logo dictated the size of the tower, including the chimney, that was already built for the dealership building, and that a smaller sign would look out of place. The Board members then reviewed the specific signs and the rendering of the building showing the sign locations. Chairman Steinbach inquired whether any Board members had any additional questions for the applicant. Hearing none, Member Hannan made a motion to close the public hearing, which motion was seconded by Member Schmidt. The motion was unanimously approved and a public hearing closed on the area variance application by Callahan Sign, LLC. The Zoning Board then proceeded to deliberate on the application. Chairman Steinbach stated that the Board first

needed to consider a determination of environmental significance under SEQRA. The Board members generally discussed that this was the redevelopment of an existing commercial site, and determined that the project would not result in any significant adverse environmental impact. Member Schmidt made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Balistreri. The motion was unanimously approved, and a SEQRA negative declaration adopted. In its deliberations on the application, the Zoning Board determined that the variance for the proposed signs would not result in an undesirable change in the character of the neighborhood, nor create a detriment to nearby properties, as the site was an existing commercial site that was redeveloped, and that the general area was commercial in nature. The Zoning Board members also determined that a feasible alternative was not available to the applicant, since this was the redevelopment of an existing structure, located approximately 250 feet off Hoosick Road. Member Balistreri also stated that the dealership did have a Subaru logo pursuant to the dealership agreement, and also needed additional direction signs to direct customers to the appropriate location at the dealership. Member Schmidt also stated that given the location of the building, the signs need to be allowed for visibility. As to whether the requested variance is substantial, Member Hannan felt that it was not substantial, whereas Chairman Steinbach stated that the size of the Subaru logo variance is substantial, but is mitigated by the fact of the distance of the building from the Hoosick Road corridor. The Zoning Board members concluded that the area variances would not result in an adverse effect on the physical or environmental conditions in the neighborhood, noting that the Zoning Board had adopted a negative SEQRA declaration, and also that environmental concerns had been addressed by the Planning Board during a site plan review for this project. The Zoning Board members also felt that in this case the difficulty was not self-created, since this was the

redevelopment of an existing building which had been in previous commercial use and that the nature of the automobile dealership business did require a number of signs for directional purposes for customers. Chairman Steinbach inquired as to whether there were any further comments or questions on the application. Hearing none, Member Balistreri made a motion to grant the area variance application for the sign installations, which motion was seconded by Member Hannan. The motion was approved upon a 4-1 vote, with Member Trzcinski opposed.

The Zoning Board next opened a public hearing on the special use permit application submitted by Tom Walsh for property located at 513 Farm-to-Market Road. Member Schmidt stated he is recusing himself from consideration of this application, as he is an adjacent property owner. The notice of public hearing was read into the record, with that notice having been published in the Troy Record, placed on the Town sign board, posted on the Town website and mailed to owners of all adjacent properties. Chairman Steinbach requested that the applicant present the application. Tom Walsh was present, and stated that the application sought approval for converting the residence located at 513 Farm-to-Market Road to a three-family structure. Mr. Walsh explained that when he purchased the property, the building had been a two-family structure, but that with the size of his family it had been converted back to a single family residence, and had thereafter been put back into two-family use with the addition of an in-law apartment, and now a third unit to be used as an additional apartment was being proposed. Mr. Walsh did state that the third apartment was already in use, and that he had mistakenly believed that the property already allowed for multi-family use given the two-family historical use, and that he is now requesting a special use permit for the addition of the third apartment. Chairman Steinbach then opened the floor for the receipt of public comment. Rod Owens, owner of Pine Creek Farm, LLC, stated that his property was adjacent to Mr. Walsh's, that he had no

opposition whatsoever to the issuance of the special use permit, that he wanted to confirm that the previous use of the property was for multi-units, that Mr. Walsh has been a good neighbor and that there have not been any problems whatsoever for over thirty years. Chairman Steinbach asked if there were any questions or comments from members of the Zoning Board. The members of the Zoning Board had no questions for the applicant. Chairman Steinbach asked if all three units at the structure were currently occupied. Mr. Walsh stated that they are occupied, and that the third apartment unit had been occupied for about two years. Mr. Walsh explained that he was selling the property to his grandson, and wanted to have the zoning compliance issue addressed prior to that sale. Member Trzcinski asked whether the grandson will be living at the property. Mr. Walsh's grandson was present, and stated that he would be living at the property, and that in the future the property may go back to a two-family unit, but the property will be maintained as a three unit building currently. Chairman Steinbach again inquired if there were any further questions or comments for the applicant. Hearing none, Member Hannan made a motion to close the public hearing, which motion was seconded by Member Balistreri. The motion was approved 4-0, and the public hearing closed. The Zoning Board then proceeded to deliberate on the application. The Zoning Board determined that the project did not have the potential for any significant adverse environmental impacts. Member Balistreri made a motion to adopt a negative declaration pursuant to SEQRA, which motion was seconded by Member Hannan. The motion was approved 4-0, and a SEQRA negative declaration was adopted. The Zoning Board then deliberated on the application, determining that the proposed use of the property as a three-family unit was appropriately located with respect to transportation facilities, water supply, fire and police protection, and waste disposal; that the property had adequate parking for the use of the property as a three-family structure; that the use of the structure as a

three-family unit did not negatively impact neighborhood character, noting that the adjacent property owner had fully supported the application; that the use of the property as a three-family structure would not cause undue traffic congestion or create a traffic hazard; and that the use of the property as a three-family structure would not cause any significant impairment of public health or general interest or welfare of the Town. The Zoning Board members did state that the special use permit would allow the property to be used for multi-family purposes, but stated that an appropriate condition to any action on this application would limit the total number of units at this location to three units. Member Hannan then made a motion to approve the special use permit on the condition that the number of units at this property is limited to a total of three units. Member Balistreri seconded the motion subject to the stated condition. The motion was approved 4-0, and a special use permit granted subject to the stated condition.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by David Kent for property located on Banker Avenue (tax map #71.17-2-1). The property is located in the R-15 residential zoning district. The property is currently vacant. The applicant was represented by John Dowd, Esq., who was present at the meeting. Mr. Dowd explained that Mr. Kent seeks to construct a single family residence on this lot, but requires the variance in order to construct a driveway over a paper street to connect to the existing public roadway of Banker Avenue. Mr. Dowd explained that the original developer of this area had laid out a paper street which would have brought the street directly in front of the Kent lot, but that the developer never finished the road, it shows merely as a paper street on the filed map. Mr. Kent seeks to develop the property for single family use, and seeks a variance to allow the construction of a driveway over the paper street to connect to Banker Avenue. The Zoning Board reviewed aerial

photographs with Mr. Dowd, and Mr. Dowd stated that he would provide the deeds to the Kent property to Attorney Gilchrist. Mr. Kreiger generally reviewed with the Board members the area of Banker Avenue that is being maintained by the Town of Brunswick, and coordination with the Highway Department will be required to determine the current area of maintenance of Banker Avenue. Mr. Dowd will be providing the Kent deeds to Attorney Gilchrist to address the issue of ownership of the paper street as depicted on the filed map. The Zoning Board members concurred that there was adequate information submitted on the application for purposes of opening the public hearing on this application. The Zoning Board scheduled a public hearing for this application for its November 17, 2014 meeting to commence at 6:00 pm.

The second item of new business discussed was an area variance application submitted by Christian McGrath and Leo McGrath concerning property located at 205 Bulson Road (Tax map #93.-2-2). The property is located in the R-40 residential zoning district. The applicants were present, together with their attorney Kenneth Bruno, Esq. Mr. Bruno presented the application, stating that the Zoning Board had denied an initial area variance application for this property in February 2014. Mr. Bruno then stated that the applicants had reconfigured the proposed addition to the existing residential structure and is now seeking a substantially reduced area variance in this matter. Mr. Bruno confirmed that the side yard setback requirement for this location is 25 feet. Previously, the applicant had sought a variance of 20 feet, which would have allowed the residential addition to be located five feet from the side yard line. After that application had been denied, the applicants had redesigned the addition to this home and are now seeking a variance of 10 feet, which would allow the addition to the home to be located 15 feet from the side yard line. Mr. Bruno stated that this proposal reduced the size of the addition to the home by one-half, and that there was no feasible alternative to the location for this addition

since there was a driveway and well located on the other side of the home on this lot. Mr. Bruno stated that the variance application was significantly reduced, was not substantial in nature, provided additional buffer to the adjacent property owner, and that no environmental impact would result from this proposal. Mr. Bruno did state that the current situation is self-created, but that the applicant is trying to address both the neighbor concerns and concerns of the Zoning Board by significantly reducing the size of the addition and significantly amending the variance application request. The Zoning Board members reviewed the application materials, which include the application form, site map showing the location of the structures on the lot, and floor plans for the redesigned addition to the home. The Zoning Board members determined that these materials were complete for purposes of opening the public hearing on this application. The Zoning Board set the public hearing on this application for its November 17, 2014 meeting, to commence at 6:15 pm.

The index for the October 20, 2014 meeting is as follows:

1. Callahan Sign, LLC - area variance for signs – granted.
2. Walsh - special use permit – granted with condition.
3. Kent – area variance – 11/17/2014 (public hearing to commence at 6:00 pm).
4. McGrath – area variance – 11/17/2014 (public hearing to commence at 6:15 pm).

The proposed agenda for the November 17, 2014 meeting currently is a follows:

1. Kent – area variance – (public hearing to commence at 6:00 pm).
2. McGrath – area variance – (public hearing to commence at 6:15 pm).