

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 26, 2015,

PRESENT MARTIN STEINBACH, CHAIRMAN, ANN CLEMENTE, E. JOHN SCHMIDT,
WILLIAM SHOVER and CAROLINE TRZCINSKI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

Chairman Steinbach welcomed Member Shover to the Board, and thanked him for providing his time and public service to the Town of Brunswick.

The Zoning Board members reviewed the draft minutes of the December 15, 2014 meeting. Upon motion of Member Trzcinski, seconded by Chairman Steinbach, the draft minutes of the December 15, 2014 meeting were unanimously approved (Member Shover abstaining) without correction or amendment.

Chairman Steinbach noted the first order of business on the agenda was the Kent variance application, but that the Kent matter is being adjourned to the February 23, 2015 meeting to allow further research concerning title issues regarding Banker Avenue.

The second item of business on the agenda was the continuation of the public hearing on the area variance application submitted Christian McGrath for property located at 205 Bulson Road. The applicant and his attorney, Kenneth Bruno, Esq., were present. Chairman Steinbach inquired whether there was any update from the applicant on this pending application. Attorney Bruno stated that while this is the second request for area variance submitted by the applicant for this property, and while the first area variance was denied by the Zoning Board, the current application is now substantially reduced, having been reduced by half and now seeking a side yard

variance of only 10 feet as opposed to 20 feet. Attorney Bruno continued that while a 10 foot side yard variance may seem significant, it is inconsequential in this case given that the adjoining property is vacant. Attorney Bruno stated that the residential addition that would be permitted if the Zoning Board granted the current area variance would enhance the neighborhood, not create a detriment to the neighborhood. Attorney Bruno stated that the adjoining property owner is currently using the property as a corn field, that is 10-12 acres in size and has at least 500 foot of road frontage, and so the side yard variance is not a substantial impact to the adjoining property owner. Attorney Bruno stated that while the need for the area variance could be deemed self-created, this really is the fault of Mr. Mc Grath's contractor by not contacting the town and seeking the necessary building permit, but that the contractor was now gone and McGrath is unable to locate him. Attorney Bruno stated that Mr. McGrath is anguished over this matter, and that he has gone door to door to his neighbors and is prepared to hand up a petition that supports the area variance application, and that the applicant was requesting the Zoning Board to use common sense on this application since this matter will not significantly impact anyone. Chris McGrath, 205 Bulson Road, stated that Mr. Cipperly, owner of the adjacent property, has a lot that is 12.4 acres in size and has approximately has 533 feet of road frontage. Mr. McGrath handed up a map concerning the size of the Cipperly lot. Mr. McGrath confirmed that a 25 foot side yard setback is required in under the Brunswick Zoning Code, but that in this case, the 25 foot setback is next to nearly 13 acres of agricultural land. Mr. Mc Grath stated that there will still be a 15 foot setback from the side yard line, next to 13 acres of open land. Mr. McGrath demonstrated for the zoning board the length of 15 feet using a tape measure. Mr. McGrath read the neighbor's petition into the record, stating that over 30 people had signed the petition in favor of his variance application, and handed the petition up to the Zoning Board. Mr. McGrath stated that all property owners south

of his property, located in the Winfield Estates project, signed the petition in support of his variance application. Mr. McGrath stated he had tried everything in his power to resolve the conflict with Mr. Cipperly, but that he was unable to do so. Chairman Steinbach then requested any comment from the public concerning this application, requesting anyone to speak that was in support of the project. Ken Taylor, 75 Willard Lane, stated that he lived across from the McGrath parcel, that the house used to be run down and in poor shape; that Mr. McGrath had renovated that house and made it nice; that vegetation exists that basically hides the house and the new residential addition; that he generally supports Mr. McGrath's application and thinks it is good for the community. Everett Kneer, 1390 NY Route 7 and 361 Moonlawn Road, stated that Mr. McGrath's renovations to this property will increase the Town's tax base through a higher tax assessment; that it was wrong for Mr. McGrath to have constructed this addition without the necessary building permit but that the Zoning Board should give him the requested variance; that the adjacent agricultural field routinely had manure spread on it and did not see what the issue was with having the variance granted to McGrath; that the parties should work this out and the matter should be resolved between neighbors; and that he is a friend of Mark Cipperly and that it gives him great pain to have to come here and make these comments. Chairman Steinbach asked if there was anyone present wishing to speak in opposition to the variance application. Mark Cipperly, Bulson Road, stated that while he and Mr. McGrath had discussed this matter, there was no final deal reached; that he was close to making a deal with Mr. McGrath but that no deal was finalized; that while his property was currently in agricultural use he had always envisioned the opportunity to use it for residential purposes, and that having the McGrath residential addition so close to the property line impacted his ability to use the property for residential purposes; that Mr. McGrath was not truthful to the Zoning Board when he said that Mr. Cipperly had not planted corn on his property when in

fact the corn field had been planted but not all the way to the road frontage on Bulson Road; that Mr. McGrath had in fact removed several trees between the Cipperly property and the Mc Grath lot and handed up a historic aerial photo plus current photographs to support his position that trees have been removed; that Mr. McGrath had a survey prepared after the residential addition had been constructed which initially showed a PVC drainpipe day-lighting onto the Cipperly property which shows that trees had to be removed in order to put the PVC pipe in the ground. Member Clemente had a follow-up question concerning the PVC pipe, and the specific point that Mr. Cipperly was trying to make regarding the PVC pipe. Mr. Cipperly located the PVC pipe on the survey map, and stated that his point was that several trees had to be removed in order to have the PVC pipe installed. Peg Cipperly, Bulson Road, agreed that the Zoning Board should use common sense and deny this application for all the same reasons that the previous variance was denied; that this whole project is in violation of the Brunswick Zoning Regulations and questioned why the Zoning Board was considering this again; and stated that this addition did impact the ability of Cipperly to build houses on the agricultural parcel, particularly since she had envisioned using that land to build houses for her children. Frank Brennanstuhl, 27 Dusenberry Lane, stated that his interest is as a member of the Brunswick community, and again questioned why the Zoning Board was entertaining this application again; that he did concur with Mr. Cipperly regarding trees being removed or significantly trimmed; and generally stated that in cases like this, if the neighbor is not complaining then the Zoning Board should go ahead and grant the variance, but if the neighbor was against the proposal then the variance should be denied. Chairman Steinbach asked whether there were any further comments from the public. Hearing none, Chairman Steinbach asked if any of the Zoning Board members had any questions for the applicant on this application. Hearing none, Chairman Steinbach stated that he wanted new Member Shover to have an

opportunity to review the application materials and prior minutes so that he could participate in the deliberation on this application. Attorney Gilchrist generally reviewed the legal rules regarding a potential 2-2 vote if the fifth member of the Zoning Board did not participate in the deliberations and vote. The Zoning Board had further discussion on this issue. Chairman Steinbach then stated that the Zoning Board should consider closing the public hearing on the McGrath variance application, which would then allow the Zoning Board a period of 62 days in which to render its decision. Upon motion of Member Schmidt, seconded by Chairman Steinbach, the Zoning Board closed the public hearing on the McGrath variance application by unanimous vote (Member Shover abstaining). Member Schmidt then stated that he supported the idea of holding this matter over to the February meeting to allow new Member Shover to review the application and the prior minutes in order to participate in the deliberations. Member Schmidt then made a motion to hold this matter over to the February meeting for deliberation, which motion was seconded by Member Clemente. The motion was approved by a 3-1-1 vote (Member Trzcinski opposed, Member Shover abstaining). This matter was held over to the February meeting for deliberation. The February meeting will be held on February 23, 2015 due to the President's Day holiday.

There was one item of new business discussed. An application for area variance has been submitted by Jordan Munn for property located at 10 Ledgestone Road. The applicant seeks a rear yard setback variance in order to install a shed on the property. The Brunswick Town Code requires a rear yard setback of 20 feet for this zone, and the applicant seeks to install a shed in a location of approximately 1-2 feet from the rear property line. The applicant was present. Chairman Steinbach requested the applicant to review the requested variance. The applicant stated that she was seeking to build a shed in her rear yard for lawn equipment and tools; that the lot is irregular in shape and that she had hired a surveyor to prepare a survey which is now part of the

variance application; that due to the house layout, it is unclear as to what is the front yard and side yard and rear yard; that putting the shed in a different location on the lot would require additional variances; that the open area in the rear yard is not available to install the shed due to the septic location; that the lot has a substantial amount of bedrock which does not allow for the shed installation; that her adjoining neighbor (Battu) should not be impacted because his lot is 4 to 5 acres in size and that there is a wooded hill adjacent to where she is seeking to have this shed installed; and that her other neighbors on the other side of her lot have no opposition to the application. Member Trzcinski asked whether the shed would be put on a concrete pad or on a gravel surface. The applicant stated that the shed would be put on a gravel surface. The applicant stated that her neighbor has a shed that is around 16 feet by 20 feet, and that she is looking to install a similar-type shed but the exact size and location has not been finally determined. Attorney Gilchrist stated that the exact size and location should be finally determined, since that information will be relevant to the Zoning Board in applying the standards for area variances. Chairman Steinbach stated that the general location of the shed is known, and felt that the application had sufficient information in order to schedule the public hearing. The remaining members of the Zoning Board concurred. The Zoning Board set the public hearing for the Munn area variance application for its February meeting (February 23, 2015) at 6:30 P.M. Attorney Gilchrist stated that in the Notice of Public Hearing, it will be stated that the shed will be constructed 1 foot from the property line as indicated currently in the application materials.

The index for the January 26, 2015 meeting is as follows:

1. Kent – area variance- February 23, 2015.
2. McGrath – area variance – February 23, 2015
3. Munn – area variance – February 23, 2015 (public hearing to commence at 6:30 p.m.).

The proposed Agenda for February 23, 2015 meeting currently is as follows:

1. Kent – area variance
2. McGrath – area variance.
3. Munn – area variance (public hearing to commence at 6:30 p.m.)