

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD March 16, 2015

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

ABSENT WAS MARTIN STEINBACH, CHAIRMAN

ALSO PRESENT were DAN BRUNS and MONICA NANN-SMITH, Brunswick Building Department.

In Chairman Steinbach's absence, Member Trzcinski was Acting Chair for the March 16, 2015 meeting.

The draft minutes of the February 23, 2015 meeting were reviewed. Member Trzcinski noted that corrections to page 3 of the draft minutes were required. Specifically, lines 5 and 6 of page 3 of the draft minutes of the February 23, 2015 meeting are corrected to read as follows: "only fifteen feet from the lot line, resulting in a variance of ten feet. Chairman Steinbach concurred that the variance was substantial, as it was more than 40% of the required setback". Subject to the noted correction, Member Shover made a motion to approve the minutes of the February 23, 2015 meeting, which motion was seconded by Member Clemente. The motion was unanimously approved, and the minutes of the February 23, 2015 meeting were approved as corrected.

The first item of business on the agenda was the area variance application submitted by Christian McGrath and Leo McGrath for property located at 205 Bulson Road. The Zoning Board members reviewed a proposed written Decision reflecting the deliberations and determination of

the Zoning Board made at the February 23, 2015 meeting. All members stated that they had an opportunity to review the draft written Decision, and concur with the Decision as written. Member Shover then made a motion to adopt the final written Decision denying the area variance application by Christian McGrath and Leo McGrath as last revised March 16, 2015, finding that it is consistent with the deliberations and determination of the Zoning Board made at the February 23, 2015 meeting. Member Schmidt seconded the motion. The motion was unanimously approved, and the final written Decision in the McGrath area variance application was adopted. Member Trczinski directed that the final written Decision be filed in the office of the Town Clerk.

The next item of business on the agenda was the area variance application submitted by Robert and Carly Waters for property located at 22 Cooper Avenue. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the Public Hearing notice was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to all owners of all properties located within 500 feet of the subject property. Member Trczinski inquired of the applicants whether there was any change or additional information on the application. The applicants stated that there was no change or additional information. Member Trczinski then opened the floor for receipt of any public comment. No one wished to comment. The Zoning Board also noted that no written comments had been received on this application. Member Trczinski then asked whether any of the Zoning Board members had any questions on the application. Member Schmidt noted that the proposed swimming pool was an unusual shape, and inquired whether it could be reconfigured so as to reduce the requested size of the variance. The applicants stated that the pool shape was a standard size and manufactured in that shape, and that they did not have the ability to modify the shape. Member Shover commented that it appeared it would be very tight to fit the pool in the back yard

of this property. The applicants stated that the company installing the pool had already prepared a template and laid that out in the yard, and that the pool actually fits quite well. Member Trczinski inquired as to the location of the public water and public sewer lines. The applicants stated that these utility lines were located on the side yard, and therefore the pool could not be shifted toward the side yard, and that the rear yard was the only available spot for the pool. Member Trczinski then stated a motion should be made to close the public hearing. Member Shover made a motion to close the public hearing on the Waters area variance application, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. Attorney Gilchrist then stated for the record that the application seeks an area variance for a residential use, and constitutes a Type II action under the State Environmental Quality Review Act, and no further SEQRA determination is required. The Zoning Board members then reviewed the standard elements for consideration of an area variance, finding that the installation of this pool will not result in an undesirable change in the character of the neighborhood, as several of the properties in this neighborhood also have pools and that this particular property already had an existing fence around the perimeter of the property which will create a visual barrier; that given the location of the utility lines and placement of the house on the lot, there was not a feasible alternative available to the applicants for the pool placement, and the Zoning Board also observed that the existing fencing around the perimeter of the property will remain and create a visual barrier; that the installation of this pool fifteen feet from the rear yard lot line, where the Town Code requires a twenty foot setback from the rear yard lot line, did not result in a substantial variance in this case; that the installation of the pool in the requested location would not have an adverse effect on the physical or environmental conditions in the neighborhood, noting that several of the properties in this neighborhood already had existing pools in the rear yard; and that the need

for the variance was in some respects self-created, but that this consideration is relevant but does not preclude the granting of the area variance. The Zoning Board members also noted for the record that there was no opposition to granting the area variance from any of the neighbors in the neighborhood. Following such deliberation, Member Shover made a motion to approve the area variance, permitting the installation of a pool at this property to be located fifteen feet from the rear yard lot line, and granting an area variance from the rear yard setback requirements to the extent of five feet, which motion was seconded by Member Trczinski. The motion was unanimously approved, and the area variance granted on the Waters application.

It was noted for the record that the Kent area variance application is adjourned, and placed on the agenda for the Zoning Board April 20 meeting.

There were no items of new business to discuss.

The index for the March 16, 2015 meeting is as follows:

1. McGrath – area variance – final written Decision denying area variance adopted.
2. Waters – area variance – granted.
3. Kent – area variance – April 20, 2015 (Public Hearing to continue).

The proposed Agenda for April 20, 2015 meeting currently is as follows:

1. Kent – area variance (Public Hearing to continue).