Zoning Board of Appeals

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD May 18, 2015

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

ALSO PRESENT was DAN BRUNS, Brunswick Building Department.

The draft minutes of the April 20, 2015 meeting were reviewed. Upon motion of Member Trzcinski, seconded by Member Clemente, the draft minutes of the April 20, 2015 meeting were unanimously approved without amendment.

The first item of old business on the agenda was the public hearing on the area variance application submitted by Charles and Paula Van Meter for property located at 7 Settlers Lane to allow installation of a swimming pool to be located 10.5 feet from the side lot line. Chairman Steinbach opened the public hearing. Paula Van Meter appeared on behalf of the applicant. Chairman Steinbach asked the applicant if there were any changes to the application since the prior meeting. Ms. Van Meter indicated that no changes had been made. The Board then opened the public hearing for public comments to be received on the application. No members of the public submitted spoken or written comments. Member Shover asked the applicant whether there was a fence on the property. Ms. Van Meter indicated that there is a white fence that was installed a couple of years ago with a fence separating a child's play area from a different portion of the yard. Member Shover then made a motion to close the public hearing which was seconded by Member Clemente, and was unanimously approved.

The next item of old business on the agenda was the area variance application for 7 Settlers Lane submitted by Charles and Paula Van Meter for installation of a swimming pool, 10.5 feet from the side lot line. Attorney Tingley noted that the Board had opened and closed the public hearing and that the Board was in a position to render a determination on the application if it was inclined to do so. This is a Type II action under SEQRA. Attorney Tingley reviewed the standards applicable to area variance applications with the Board. The Board determined that the area variance, if granted, would not produce an undesirable change in the character of the neighborhood nor a detriment to nearby properties. The swimming pool proposed to be installed is located away from the road, and the adjoining property nearest the proposed swimming pool is a wooded area. The Board noted that swimming pools were typical for this neighborhood, and that all adjoining owners were notified of the application but none appeared and expressed any opposition. The Board noted that the benefits sought by the applicant could not be achieved by some method, feasible for the applicant to pursue, other than an area variance. The Board noted that the applicant identified that the septic tank and septic field prevented installation of the pool farther away from the side lot line. The Board noted that there was little or no opportunity to relocate the pool on the property. The Board noted that the requested area variance was substantial. In this respect, the Board noted that the required side yard setback is 25 feet, and the applicant was proposing to install the swimming pool within 10.5 feet of the side yard lot line. The area variance requested represents a variance of more than 50%, however, the Board noted that very little could be done to increase the side yard setback given the location of the septic system. The Board further noted that the proposed area variance would not have an adverse effect on the physical or environmental conditions in the neighborhood or district, as the application concerns the installation of a pool on a residential lot. The Board then discussed whether the difficulty was self-created. The Board

noted that the lot existed with a septic system in its current location when the lot was purchased and the rear of the property has a steep slope. However, the Board noted that the difficulty was self-created in the sense that the applicant was seeking to install a pool. The Board noted, however, that the self-created nature of the difficulty would not preclude it from granting the area variance. The Board then determined that the benefit to the applicant if the variance was granted outweighed any detriment to the health, safety or welfare of the neighborhood or community as there appeared to be no detriment to the health, safety or welfare of the neighborhood or community by this application. Member Trzcinski made a motion to grant the area variance requested, which was seconded by Member Shover, and was unanimously approved. Chairman Steinbach instructed the applicant to consult with the Building Department in order to complete the process.

The next item of old business on the agenda was the public hearing for the special use permit and area variance application submitted by Matopato, LLC for property located at 289 -299 Oakwood Avenue. Attorney Tingley read the Notice of Public Hearing and indicated that the notice had been published in the Troy Record, posted on the Town sign board, posted on the Town website, and sent to all owners of properties within 500 feet of the project site. Attorney Tingley further noted that the City of Troy was entitled to notice of the hearing, which had not yet been sent, and therefore the Board could open the public hearing and receive comment but would need to keep the public hearing open at least until the June meeting. Thomas Murley appeared on behalf of the applicant. Mr. Murley indicated that there was no new information to provide with respect to the application. Mr. Murley described the project for the Board. Chairman Steinbach asked the applicant what area variances were required. The applicant indicated that the canopy may require a variance. Dan Bruns informed the Board that the Industrial Zoning District generally has a 100 foot setback for buildings. The retail plaza building is 125 feet off the front lot line. The car wash

building is approximately 75 feet from the front lot line, but the setback for the car wash building may be less than 100 feet. The canopy for the filling station requires a 25 foot setback. Attorney Tingley agreed to review the setback issues. Chairman Steinbach asked whether any members of the public had any comments to provide. No member of the public provided spoken or written comment on the application. The Board further reviewed the site plan to determine what variance or variances were necessary. Mr. Bruns indicated that there is a maximum of three allowable bays for the car wash, and the applicant is seeking four bays. Attorney Tingley noted for the record that the Planning Board had submitted a favorable recommendation on the special use permit application and that the Board had received a copy of the recommendation. The matter was adjourned to June 15, 2015 to continue the public hearing.

The next item of old business on the agenda was the continuation of the public hearing on the application by David Kent for an area variance. Chairman Steinbach indicated that the matter was adjourned to the June 15, 2015 meeting at the request of the applicant.

There were four items of new business.

The first item of new business was the area variance application submitted by Debbie Nichols for property located at 249 Hillcrest Avenue. The applicant seeks to construct a 10 foot by 20 foot porch on the front of her house, within 3 feet of the front lot line. The required setback is 30 feet. Debbie Nichols appeared on behalf of the applicant. Ms. Nichols explained that they were seeking to construct the front porch in part because the back porch cannot be made larger due to the location of the septic system. The house was built in 1952 and had a back porch and a front porch. There was a substantial fire approximately 19 years ago that required reconstruction of the house and at that time they did not rebuild the front porch. The applicant is seeking to construct a front porch this time. Additionally, Ms. Nichols indicated that the street has been widened in that area

during that period. Member Clemente asked the applicant to identify the neighbors. The applicant indicated that the rear of the property was adjacent to property owned by National Grid, and that the property to the right of the house is owned by a deceased relative. Farther to the right is property owned by Harry Kaufman. The property to the left is owned by an individual named Alan (the applicant did not know the neighbor's last name) and the property located across the street is owned by an individual named Elise (the applicant did not know her last name). Chairman Steinbach commented that the application seemed complete to him and asked the applicant whether the Board members would be permitted to visit the property. The applicant consented to allow the Board members to visit the property. The applicant further stated that upon visiting the property, the Zoning Board Members would see the exact layout of the porch because the porch had already been under construction when the Building Department indicated that a variance was required. The floor of the porch and the footings are there, and the applicant proposes to cover the porch. Member Shover made a motion to accept the application as complete and to schedule a public hearing for June 15, 2015 at 6:00 p.m., and Member Schmidt seconded, and the motion was unanimously approved.

The next item on new business was the application by Robert Willbrant for an area variance and special permit in connection with the rehabilitation of a house located at 107 Mountainview Avenue into a three family dwelling. Robert Willbrant appeared on behalf of the applicant. The property is owned by Patrick Maney of Rensselaer Renaissance and is leased to Mr. Willbrant, who is performing the work on the house. Mr. Willbrant indicated that the house had served as a three family dwelling for between 20 to 30 years and that the house lost its non-conforming status due to a vacancy in one of the apartments for over a year. Mr. Willbrant is currently operating under a lease with an option to purchase the property following rehabilitation. The applicant indicated that

he needed a variance because the code requires 9,000 square feet of lot area per unit for a multiple dwelling unit, therefore requiring 27,000 square feet for the three family unit proposal, and the lot is 4,400 square foot feet. In addition, there is a 30 foot setback required on each side and the existing structure has a 6 foot setback on the right side and a 25 foot setback on the left side. The applicant indicated that it needs a special use permit to construct a multi-family dwelling. Member Shover asked whether there would be parking for the units, indicating that there would likely be six vehicles if there are three units in the structure. The applicant indicated that the 25 foot setback on the left side of the building is paved which can be used for parking and the front also has parking available. Mr. Bruns indicated that one parking space per unit is required. Member Schmidt asked the applicant to provide a clearer plot plan that identifies the floor plan of the units, the lot layout including the location of the building and the dimensions, and the required parking spaces. A motion was made by Member Trzcinski, and seconded by Member Clemente to place the matter on the June 15, 2015 ZBA meeting agenda to provide more information regarding the application. If the application is deemed complete at the June meeting, then the Board will schedule a public hearing.

The next item of new business was the application of Michael Schrom for property located at 1 Carla Lane. Mr. Schrom appeared on behalf of the applicant. Mr. Schrom is seeking an area variance to install an in-ground pool in the rear yard. The required rear setback is 20 feet and the pool is proposed to be located within 10 feet of the rear lot line. The right side setback required under the Zoning Ordinance is 15 feet and the pool is proposed to be located within 10 feet of the right side lot line. Member Clemente asked what the address was for neighbor, Thomas Healey. The applicant responded that the application should have reflected the neighbor's address as 2 Carla Lane, not 1 Carla Lane. Member Trzcinski asked why the pool had to be located in the area

identified. The applicant responded that moving it closer to the home would infringe on the existing septic system. Member Shover made a motion to accept the application and to schedule a public hearing for June 15, 2015 at 6:30 p.m., which was seconded by Member Trzcinski, and was approved unanimously. Chairman Steinbach asked the applicant whether ZBA members would be permitted to go to the site at their convenience to view the property, and the applicant confirmed that ZBA members would be permitted to visit and enter onto the site. The Board asked how deep the pool was and the applicant indicated it would be 7 to 7 ½ feet at its deep end. The applicant further explained that his property is located on the corner of Route 2 and Carla Lane.

The next item of new business was the application of Brian Raymond for an area variance to permit installation of a ground-mounted solar array within 5 feet of the right yard lot line at 21 Oak Tree Lane. The required setback is 25 feet. Mr. Raymond appeared on behalf of the applicant. Mr. Raymond indicated that a solar meter had been used to determine the appropriate spot in the yard where the solar panels would be most effective and it was determined that the proposed location was the appropriate placement of the panels for that purpose. Mr. Raymond explained that the solar panels proposed are 24 feet long and will stand 8 feet tall. Mr. Raymond further explained that part of the solar array would infringe upon his driveway, and that the driveway would be relocated slightly due to the solar panels. He further indicated that there are trees along the properly line and that the owners of property adjacent to the right yard are Joe and Judy Mackowitz. Member Trzcinski made a motion to accept the application and schedule a public hearing for June 15, 2015 at 6:45 p.m., which was seconded by Member Shover and was unanimously approved. The applicant consented to the Zoning Board of Appeals members visiting the site.

The index for the May 18, 2015 meeting is as follows:

1. Van Meter - Area Variance – granted.

2. Matopato, LLC – Special Use Permit/Area Variance – June 15, 2015 (public hearing to continue).

3. Kent – Area Variance – June 15, 2015 (public hearing to continue).

4. Nichols – Area Variance – June 15, 2015 (public hearing).

5. Willbrant – Area Variance/Special Use Permit – June 15, 2015.

6. Schrom – Area Variance – June 15, 2015 (public hearing).

7. Raymond – Area Variance – June 15, 2015 (public hearing).

The proposed Agenda for June 15, 2015 meeting currently is as follows:

1. Matopato, LLC – Special Use Permit/Area Variance (public hearing to continue).

2. Kent – Area Variance (public hearing to continue).

3. Nichols – Area Variance (public hearing).

4. Willbrant – Area Variance/Special Use Permit.

5. Schrom – Area Variance (public hearing).

6. Raymond – Area Variance (public hearing).