

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on March 15, 2010, at 6:00 P.M.

Present at the meeting were: Mark Cipperly, Member
Caroline Trzcinski, Member
James Shaughnessy, Member
E. John Schmidt, Member
James Hannan, Chairman (arrived late)

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The Regular Meeting was called to order at 6:05 P.M. Attorney Cioffi advised that since Chairman Hannan was not present, the first order of business would be for the Board to select a Temporary Chairman. Member Trzcinski made a motion to select Member Shaughnessy Temporary Chairman. Member Schmidt seconded. The motion carried 4 - 0.

The next item of business was approval of the minutes of the February, 2010, meeting. Attorney Cioffi stated that Member Trzcinski had pointed out some errors in the Draft Minutes: In the first paragraph, the date was listed as February 22, 2009. It should read "February 22, 2010". On the fifth line from the bottom of the first page, the second word, "Athe@", should be deleted. On the second line on page 2, the word "Ain@" should read "Ait@". Member Trzcinski made a motion to accept the minutes as corrected. Member Shaughnessy seconded. The motion carried 4 - 0.

The next item of business was further consideration of the appeal and petition of WILLIAM J. DURIVAGE, owner-applicant, dated January 7, 2010, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with an existing swimming pool filter and an existing swimming pool shed on a lot located at 103 Menemsha Lane, in the Town of Brunswick, because the pool filter violates the rear yard setback in an R-25 District in that 25 feet is required and less than 1 foot is proposed, and because the pool shed violates the rear yard setback in an R-25 District in that 25 feet is required and 3 feet is proposed.

William Durivage appeared. He stated that he had a survey of his property done by Clark Engineering, but he does not yet have the map. He also obtained an estimate from Concord Pool to move the filter, heater and lines so they comply with the setback. The estimate was for \$4590.00 He handed it up to the Board. He has also offered to purchase a strip of land from Mr. Purcell which would alleviate the setback issue. He handed up a Google Map of the area. He will submit the survey at the next meeting. At approximately 6:15 P.M., Chairman Hannan arrived and assumed the Chair. Mr. Durivage said that he believes that his survey will comport with Mr. Purcell's survey.

He said that some realtors told him that the setback violation would not affect the value of Purcell=s property. He also noted that some towns do not require that the pool filter comply with the setbacks. When he previously moved the pool filter onto his own property from Purcell=s, but within the setback, he did so himself. The original pool house, a screen house, was built in 2003. It had a hard roof. It was pre-fab and portable. In 2004, he put on a bigger roof and there is now a solid wall in the back, although the 3 sides are still screen. He did not obtain a building permit in 2004 when he changed the screen house. The portable screen house was mentioned in the original building permit application. The screen house is 18' x 18', with the overhang. It cannot be moved.

Richard Purcell, 93 Menemsha Lane, acknowledged that he received various proposals from Mr. Durivage to purchase a strip of land. He and his family considered the proposals and decided not to accept. He noted that there are new survey markers in the ground. He believes Durivage=s survey will match his. Mr. Purcell said that he is most concerned about the location of the pool filter and the overhang and corner-post of the pool house. He is not asking that the entire pool house be moved. There was also a discussion regarding whether the setback in question should be considered the rear yard or side yard. It makes a difference because the rear yard and side yard setbacks are different. Attorney Cioffi asked Mr. Kreiger to review the situation and advise the Board at the next meeting.

This application was put over to the April 19, 2010, meeting for further proceedings.

The next item of business was further consideration of the referral from the Town Board for a recommendation on the application of Brunswick Associates of Albany, LP, for an amendment of the Brunswick West Apartments planned development district. Dan Hershberg, Hershberg & Hershberg, the project engineer, appeared. He summarized the application. There were no questions from the Board. Attorney Cioffi stated that the Board had before it a draft Response to Referral before it, as well as a proposed Resolution adopting the same. The Response to Referral contains a generally favorable recommendation to the Town Bard as regards the application. Chairman Hannan offered the Resolution adopting the draft Response to Referral. Member Trzcinski seconded. A roll call vote was taken and all voted in the affirmative.

The next item of business was the appeal and petition of MICHAEL F. FINK, owner-applicant, dated February 18, 2010, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the repair, expansion and conversion of an one-car garage into a two-car garage on a lot located at 21 East Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-40 District in that 25 feet is required and 6.4 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Michael Fink appeared. He is asking to reduce the side yard setback so he can have a two-car garage. He produced an e-mail from the neighbor impacted by the construction which stated that he had no objection to the construction in that location. The Chairman said he would prefer a letter from the neighbor rather than an e-mail.

Mr. Fink said that he needs a two-car garage to protect his vehicles from the elements. It will also conform better to the neighborhood. Member Schmidt observed that there is a very short distance to the property line if he is allowed to build there. Mr. Fink said his neighbor=s home will be far enough from the garage so it won=t bother him. He also has discussed buying the tree line

between the properties from his neighbor. That would give him more space.

Mr, Kreiger noted that the hearing notice sent to 17 East Road was returned. That house is vacant. The Chairman stated that he wants a formal letter from the adjoining neighbor agreeing to the variance. There was some discussion of giving an approval conditional on receiving the letter from the neighbor, but the Board decided not to do so. Chairman Hannan made a motion to continue the public hearing to the April 19, 2010, meeting. Member Shaughnessy seconded. The motion carried 5 - 0.

The next item of business was consideration of the referral from the Town Board for a recommendation regarding the Duncan Meadows Planned Development District application submitted by ECM Land Development. ECM was represented by Architect Francis Bossolini. He advised the Board that the applicant has already prepared a DEIS on this project, that the public hearing has been held and the public comment period has run. They are in the process of preparing an FEIS. The project site is 91 acres, located on McChesney Avenue and McChesney Avenue Extension. The property is currently zoned R-25 and A-40. The proposal is to build condominiums, 88 units on the westerly portion of the site, and 78 units on the easterly portion. 50 units of age-restricted senior housing in a single two-story building are also proposed. The storm water management system on the site will be owned and maintained by a Homeowner=s Association. The sewer and water utilities will be constructed to Town standards and then conveyed to the Town. The density will be one unit per 17,000 sq. ft. Two-thirds of the site will remain green. Large tracts of land, including wetlands, will remain untouched. There will be no further development on the site once this project is built. There will be an impact on the sewer pump station behind the Honda dealership. They will contribute to an upgrade. The condos will be priced from \$175,000.00 and up into the \$200,000.00's. The senior housing will be offered at market rate, with no income restrictions.

The Chairman stated that a written recommendation would be forthcoming.

There being no further business, Member Shaughnessy made a motion to adjourn. Member Schmidt seconded. The motion carried 5 - 0.

Dated: Brunswick, N.Y.
April 15, 2010

Respectfully submitted,

THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary