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 May 17, 2010, at 6:00 P.M.

Present at the meeting were: Mark Cipperly, Member
James Shaughnessy, Member
E. John Schmidt, Member
James Hannan, Chairman

Member Trzcinski was absent. 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 6:00 P.M.

The first item of business was further consideration of the referral from the Town Board regarding the Duncan Meadows Planned Development District. Attorney Cioffi advised that the Board Members had before them a draft determination which, if adopted by the Board, would make a generally positive recommendation on the project. Attorney Cioffi further advised that the Board also had before it a Resolution adopting the said draft determination. Chairman Hannan offered the Resolution. Member Shaughnessy seconded. A roll call vote was taken and all Members present voted in the affirmative.

The next item of business was approval of the minutes of the April, 2010, meeting. There were no changes noted. Member Shaughnessy made a motion to accept the Minutes as submitted. Member Schmidt seconded. The motion carried 4 - 0.

The Chairman noted that there are two application for area variances on the agenda involving the same neighborhood, the Langmore Lane area. He asked Mr. Kreiger about the neighborhood, generally. Mr. Kreiger stated that the area is zoned A-40. Just under an acre is required to build but most lots in the area are well under that. Many lots in the area have sheds close to the property line.

The next item of business was the appeal and petition of CHARLES D. ALUND, JR., owner-applicant, dated April 13, 2010, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a Storage/Garden Shed on a lot located at 63 N. Langmore Lane, in the Town of Brunswick, because the proposed construction violates the front yard setback in an A-40 District in that 75 feet is required and 42 feet is proposed, and also violates the rear yard setback in that 25 feet is required and 7 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Charles D. Alund, Jr., appeared. He stated that he wants to build a new shed and remove the

existing one. He has lived at this location for about 1 year. He has considered placing the new shed on various locations on his property. The main problem is that the grade drops off about 8 feet in all directions from the house. It would be cost prohibitive to raise the grade sufficiently. Also, half the back yard is taken up by his septic system. The existing shed is about 6 feet from the property line. He does not know how long it has been there. He would still have a problem with the grade if he put the new shed where the old one is.

Maureen Gorman, 21 Langmore Lane, stated that she has no problem with the shed. Bob Mainello. 8 Woodcut Lane, stated that he lives directly across the street and has a direct view of the house and shed. He has no problem with it. Robert Nelson, 7 Woodcut Lane, said he lives right next door. He has a problem varying the front yard setback. The shed would be in front of his house. Helen Potter, also residing at 7 Woodcut Lane, stated that Mr. Alund already built the concrete slab for the shed without getting a building permit..

Mr. Alund stated that he built the pad in October 2009. He did not know he needed a permit. Once he found out, he stopped work. Mr. Kreiger confirmed that Ms. Potter complained to the Town about the pad. He then advised Mr. Alund that he would have to stop work. Mr. Alund also stated that the proposed shed would not sit out in front of the Nelson/Potter house. He intends to situate the gable roof on the shed so as to minimize the visual impact. Mr. Alund stated that he did tell Ms. Potter and Mr. Nelson that he wanted to build a shed there. He also apologized to them for having some scaffolding lying around his property. Mr. Nelson handed up a sketch showing where the shed would be in relation to his house. Mr. Alund referred to his submitted pictures which show the Nelson/Potter house in relation to the shed. Mr. Nelson insisted that his house is 60 feet from Woodcut Lane. The proposed shed would be in front of their house. Mr. Alund said he can't just replace the old shed. It is too small. It won't even hold his tractor. He wants to build a new shed to hold his possessions, and he wants it to match his house. Mr. Nelson said that Mr. Alund has 200 feel along his property line on which he can situate a new shed. He has no problem with the side setback. Ms. Potter said that Mr. Alund lied to her about having a building permit when she questioned him about the pad.

Attorney Cioffi suggested that the Board ask Mr. Kreiger to determine whether it is common in the neighborhood for people to have accessory structures within the front setback, and whether Mr. Alund's construction options on his property are as limited as he says. The Board did so. The Chairman stated that the public hearing should be continued to June 21, 2010, for Mr. Kreiger's report. Member Cipperly so moved. Member Schmidt seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of LAWRENCE MURRAY, owner-applicant, dated April 21, 2010, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a 14' x 16' Dutch Style Barn on a lot located at 69 N. Langmore Lane, in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required and 3feet is proposed, and also violates the rear yard setback in that 25 feet is required and 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Lawrence Murray appeared. He stated that this is the only place he can build. It is below grade, out of the way, and not very visible. Bob Mainello, 8 Woodcut Lane, and Maureen Gorman, 21 Langmore Lane, both stated they had no problem with the application. No one spoke in

opposition. The Chairman stated that he wanted Mr. Kreiger to look at this one as well. Member Schmidt said that he is uncomfortable with the shed being this close to the line. Member Shaughnessy made a motion to continue the public hearing to June 21, 2010. Member Schmidt 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.

Robert Hess, Esq., appeared, representing Mr. Durivage. Lawrence Howard, Esq., appeared for the Purcells. Mr. Hess stated that he thought that there was an agreement reached at the last meeting between the Durivages and the Purcells as regards the pool house and the pool filter and heater, as well as some other issues. But when he reduced it to writing, the Purcells refused to sign or even discuss it. Mr. Durivage has already moved the pool heater and filter to be set back at least 15 feet from the property line. The work is mostly completed. The existing concrete pad will be removed. He spoke to Attorney Howard about the agreement. Mr. Howard told him that the agreement was not enough for the Purcells. The Purcells want the overhang on the pool shed removed. They also want more trees removed. The application for an area variance has now been changed. The filter and heater are now 16 feet from the property line. His clients made a mistake as to the property line. This is what area variances are for. They tried to work things out.

Mr. Kreiger confirmed that the filter and heater have been moved. They are now set back 16 feet from the property line. Also, Mr. Durivage has applied for a building permit on the shed. Attorney Hess asked the Chairman if the Board intended to rule tonight, with a Member absent. Attorney Cioffi stated that the Board would likely close the public hearing and subsequently issue a written decision.

Attorney Howard stated that the Purcells came to him after the last meeting. At the meeting, they felt they had no choice but to agree, but they did not like the agreement. They feel they were pushed into the agreement. No one has even said anything about the pool being too close. The variances requested are substantial. The Purcells know that the pool will not be moved, but they would like the pool shed moved or at least the overhang removed. He has sent a letter to the Board raising various legal issues. The whole problem here is that Mr. Durivage built without getting a building permit. If he had, the problem would have been avoided.

Attorney Cioffi stated that he is sorry that the Purcells felt pressure, That was not the Board's intention. He stated that the Board would simply issue a decision on the application. However, he stated, the issue of the Durivagess removal of certain trees was outside the purview of the issues raised in the application, and would probably not be part of the decision. Attorney Howard acknowledged that the subject of the trees is not within the jurisdiction of the Board.

Member Schmidt made a motion to close the public hearing. Member Cipperly seconded. The motion carried 4 - 0. The Board agreed that the attorneys could submit additional written comments to the Board, with copies to the other party, with the understanding that it would not

extend the decision deadline.

Thomas Gavigan, 256 South Lake Avenue, asked to address the Board. He stated that he lives next door to Philip Chiefari who had been operating the lawnmower sales and service business out of his home. The Code Enforcement Officer directed that he cease all business operations and this Board upheld that decision. However, Mr. Chiefari is operating again. He has complained to Mr. Kreiger but Mr. Kreiger dismisses him.

Attorney Cioffi stated that the jurisdiction of this Board is appellate only, and enforcement requests need to go to Mr. Krieger. Attorney Cioffi stated that he would discuss the matter with Mr. Kreiger.

There being no further business, Member Schmidt made a motion to adjourn. Member Shaughnessy seconded. The motion carried 4 - 0.

Dated: Brunswick, N.Y.
May 30, 2010

Respectfully submitted,

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THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary