

**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 July 19, 2010, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Martin Steinbach, Member  
Mark Cipperly, Member  
Caroline Trzcinski, Member  
James Hannan, Chairman

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 approval of the Minutes of the June, 2010, meeting. Member Trzcinski made a motion to accept the Minutes as submitted. Member Cipperly seconded. The motion carried 5 - 0.

The next item of business was the Request for a Special Use Permit of NIAGARA MOHAWK POWER CORP., owner-applicant, dated May 27, 2010, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the upgrade and expansion of the existing National Grid Sycaway Electrical Power Substation located at 259 Hillcrest Avenue, in the Town of Brunswick, because public utility buildings for servicing the neighborhood are only allowed in an R-25 District by way of a special use permit issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Nick Spagnoletti, Project Manager, and Joe Kryzak, Project Manager, appeared for the applicant. They explained that Niagara Mohawk needed to add a new switchgear unit and a new transformer to the Sycaway Electrical Power Substation. The old transformer is showing signs of overheating. There has also been an increase in electrical demand at this location. The new switchgear building will be 16' x 4'. The existing fence at the substation will be moved 45' to the north and 12' to the east. There will be some excavation and tree removal. The expansion will all take place on Niagara Mohawk's existing property there. They will need to do a Storm Water Pollution Prevention Plan. They will also need site plan approval from the Planning Board. They want to start the work in the Fall and do the overhead electrical work next Spring. Before doing the work, they will contact adjacent property owners. This project is a little different from the one they recently did at the Plank Road Substation. There, they installed a new switchgear unit and removed the old one. Here, a new switchgear unit will be added, but the old one will be retained as well.

Mr. Kreiger stated that there is no special use permit on file for the existing Sycaway

Substation. Mr. Kryzak said that the Substation likely pre-dates the Town Zoning Ordinance. The expansion should not effect the majority of property owners in the area, since most of the houses are located on the west side of the Substation, and they are not expanding in that direction. This station serves the vital Route 7 corridor and is necessary to maintain and improve the delivery of electrical power.

Member Schmidt made a motion to classify this matter an unlisted action under SEQRA. Member Trzcinski seconded. The motion carried 5 - 0. Attorney Cioffi then led the Board through completion of Part II of the short-form EAF. Attorney Cioffi summarized the project as described in Part I of the EAF. The Board considered all of the questions contained in Part II of the EAF. The Board made some comments which were noted but did not identify any adverse environmental impacts. After the review was completed, Chairman Hannan made a motion to issue a negative declaration of significance under SEQRA. Member Schmidt seconded. The motion carried 5 - 0.

The Board noted that the Substation has been in existence and operation for many years, and that the statutory criteria for the issuance of a special use permit have been met. Chairman Hannan made a motion to grant the special use permit as requested. Member Schmidt seconded. The matter was put to a roll call vote and all voted in the affirmative.

The next item of business was further proceedings in the appeal and petition of ERIC KELLY, owner-applicant, dated May 9, 2010, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above ground swimming pool on a lot located at 1250 Spring Avenue, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required and 15 feet is proposed.

Marcia Doyle, Esq., appeared with Mr. Kelly. She explained that a variance was needed because the septic system on the lot precluded putting the pool anywhere else. She stated that Mr. Kelly was very sorry that he built the pool before he got the approval. Chairman Hannan said the Board was concerned about the pool being used without an electrical inspection. Attorney Doyle handed up the inspection report to the Board. There being no further discussion, Chairman Hannan made a motion to classify this matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0.

Chairman Hannan then made a motion to grant the variance as requested on the condition that a map or drawing be filed with the Board by the applicant showing the location of the septic system on the lot. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was further proceedings on the appeal and petition of WILLIAM J. DURIVAGE, 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 at his home located at 103 Menemsha Lane. Attorney Cioffi stated that the Board had before it a proposed written Determination as well as a draft resolution adopting the Determination. Attorney Cioffi read the draft Determination aloud. In essence, the draft Determination provided that the variances requested for the pool house and the pool filter were requests to vary the side lot line setback of 15 feet, not the rear lot line setback of 25 feet; that the pool filter, having been moved 16 feet away from the property line, was now zoning compliant so that variance request was moot; and

and that a variance would be granted reducing the side lot line setback for the pool house from 15 feet to 8 feet. Member Cipperly Hannan thereupon offered the Resolution adopting the Determination. Member Schmidt seconded. The Resolution was put to a roll call vote, with Member Steinbach abstaining and all remaining Members voting in the affirmative. The Determination and the Resolution Adopting Determination have been separately filed in the Town Clerk's Office.

The next item of business was further proceedings in 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.

Charles D. Alund, Jr., appeared. He stated that the shed can only go where he is proposing due to the excessive grade drop on his lot. He considered every other location. It would be very costly to build the shed in light of the elevations. He does not have written estimates.

Helen Potter, 7 Woodcut Lane, stated that the Board has to consider the impact of overhead power lines. She also noted that the shed on her property, which admittedly is not fully zoning compliant, has been there for 10 years and was constructed off-site. Robert Nelson, also of 7 Woodcut Lane, sought to interject and the Chairman advised him that only one person could speak at a time. The Chairman asked Mr. Nelson to leave the room. Ms. Potter went on to state that some comments contained in the Minutes of the last meeting were inaccurate. Alund's proposed shed is in front of their shed and in front of their house. Mr. Alund lied about having a building permit when he installed the concrete pad for the shed. Ms. Potter further complained that the property had not been recently surveyed. The Zoning Officer has refused to meet with them. They are the only ones in the neighborhood which will have two non-compliant sheds within their setbacks. This is an invasion of their privacy. When Mr. Nelson returned to the room, he complained that Mr. Kreiger had not met with them or looked at the situation in person. Mr. Kreiger said he could look at the property but he did not feel he could determine where a shed could be built on the Alund property.

There was then a lengthy review and discussion of the map showing the proposed location of the shed and the existing structures on the Alund property among the Board, Attorney Cioffi, Mr. Nelson, Mr. Alund and Mr. Kreiger. It was ultimately agreed that Mr. Nelson and Mr. Alund would meet with Mr. Kreiger and Member Cipperly at the Alund property to review possible alternatives.

The Board then turned to further consideration of 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 3 feet is proposed, and also violates the rear yard setback in that 25 feet is required and 5 feet is proposed.

Lawrence Murray appeared. There was a lengthy review and discussion of the map showing the proposed shed and the existing structures on the Murray lot focusing on whether there are alternative locations available for the shed which would not require a variance. Maureen Gorman, 21

21 Langmore Lane, said that the shed is a great idea as things will be stored inside. Charles Alund, 63 N. Langmore Lane, said that he is in favor of the shed. Robert Mainello, 8 Woodcut Lane, said that he is in favor of the shed. The Board acknowledged a letter dated May 30, 2010, from Maureen and Kevin Cox, 2 Longhill Road, who own adjacent property, indicating that they had no objection to the shed.

Mr. Kreiger said that Mr. Murray's pool encompasses much of his side yard. The Chairman asked Mr. Murray to consider alternatives which might obviate or reduce the variances needed.

Both the Murray and Alund matters were put over to the August 16 meeting.

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

Dated: Brunswick, N.Y.  
August 5, 2010

Respectfully submitted,

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THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary