

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 September 21, 2010, at 6:00 P.M.

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

Member Schmidt 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 approval of the Minutes of the July, 2010, meeting. Member Trzcinski made a motion to approve the Minutes as prepared. Member Steinbach seconded. The motion carried 4 - 0. As to the Minutes of the August 2010 meeting, the following corrections were noted: On page 1, second last line, the word "loot" should read "lot". On page 2, 3rd full paragraph, 7th line, the word "current" should read "currently". On page 3, 3rd full paragraph, 2nd line, the word "violated" should read "violate". Member Trzcinski made a motion to approve the August 2010 Minutes as corrected. Member Steinbach seconded. The motion carried 4 - 0.

The next item of business was the appeal filed by OAKWOOD PROPERTY MANAGEMENT, LLC, from a Notice of Violation issued by the Code Enforcement Officer pursuant to the Zoning Ordinance and Site Plan Review Act of the Town of Brunswick, in connection with appellant's business activities located at 215 Oakwood Avenue. Member Steinbach left the room, stating that he had recused himself from consideration of this matter. The Chairman noted that the Town Board has scheduled a Special Meeting for September 30, 2010, to consider a proposal being made by Oakwood Property Management LLC which is apparently intended to resolve all outstanding issues between the Town and Oakwood, including this appeal. The Chairman further noted that, in light of the pendency of the Special Meeting, the Planning Board adjourned its consideration of this appeal and did not issue a recommendation on the appeal, as it had been expected to do by now. For these reasons, the Chairman stated, the appeal was being adjourned. The public hearing was not opened. The matter was put on the agenda for the October 18, meeting, for further proceedings. Member Steinbach then returned to the meeting room.

The next item of business was the appeal and petition of IAN BAUMES, owner-applicant, dated July 29, 2010, for an area variance pursuant to the Zoning Ordinance of the

Town of Brunswick, in connection with the proposed conveyance of a portion of Tax Map ID No. 91-2-25.22, located at 44 Betts Road, in the Town of Brunswick, to an adjoining property owner, because the proposed conveyance will result in the size of the remaining portion of said lot being 27,935 sq. ft., which is below the minimum lot size in an A-40 District of 40,000 sq. ft.

Attorney William Doyle, 317 Brick Church Road, appeared. It was noted that, at the last meeting, the Board referred the matter to the Planning Board for a recommendation. The Board noted that the Planning Board did issue written findings and recommendations in this matter. Essentially, the Planning Board found and concluded that the criteria for the area variance had been met and recommended that the variance be granted. No one from the public wished to comment. The Board had no questions. Member Cipperly made a motion to classify the matter a Type 2 action under SEQRA. Member Trzcinski seconded. The motion carried 4 - 0. Member Trzcinski then offered a Resolution adopting the findings and recommendations of the Planning Board and granting the area variance as requested. Member Cipperly seconded. The motion carried 4 - 0.

The next item of business was the Request for a Special Use Permit of REISER BROTHERS, INC., owner-applicant, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction and operation of a filling station on property located at the corner of NY Route 278 and NY Route 2, in the Town of Brunswick, because a filling station is a special use in a B-15 District only allowed by way of a special use permit issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Scott Reese, RLA, PLLC, appeared for the applicant. He explained that they had been before the Planning Board seeking site plan approval for a three lot subdivision at this location. One of the lots is intended to be a filling station, which the applicants would build and then sell to an operator. The applicant already has a buyer for the filling station which would include a convenience store. One of the other lots is proposed to be used for commercial building. The third lot will be vacant and unused for the time being. In the course of its review, the Planning Board noted that a Special Use Permit was required for the proposed filling station. That is why they are here.

No one from the public wished to speak in favor or the application. Kathy Murray, 69 N. Langmore Lane, said that she is the President of the Tamarac Regional Homeowner's Association, and that she opposes the application. There should not be another gas station on this corner. People live in this area for the rural setting, not for the convenience of buying gas. This will be the fourth gas station in the area, including Hudson's. It will change the residential character of the neighborhood. Route 2 is a two lane scenic highway. There are no turning lanes or sidewalks. The property will need to be heavily excavated. She estimates that there will be 10,000 truckloads of dirt taken off the site, The truck traffic will be horrendous. Once built, the traffic on Route 2 will increase. There is no need for another strip mall. There are already water issues in the area and the gas station will increase runoff and pollute the waterways. Pauline Iwanowicz, 23 Tamarac Road, stated that we don't need another convenience store. The traffic on Route 2 at that intersection is already a problem. This will make it worse. Conrad Holton, 28 Tamarac Road, stated that we don't need another gas station. Why do something which will only increase the traffic. Marilyn Whitney, 35 Tamarac Road, stated that cars are already lined up

Tamarac Road every morning. This will make it worse. We don't need another gas station. It will cause traffic and safety issues. Dawn Bouchard, 41 Tamarac Road, said that there are already major problems getting out of Tamarac Road every morning. This will add another 10 minutes to her travel time. We should not develop Route 2 into a commercial highway. This will reduce property values. Jim Tsacik, 387 Brunswick Road, stated that traffic congestion will be severe at this intersection. This proposal is inconsistent with the Comprehensive Plan, which determined that Route 2 should remain a scenic highway, and that large scale excavations and changes in contour should be discouraged.

Marilyn Whitney asked whether the house on the site which would be torn down has any historical significance. Mr. Reese stated that SHPO had signed off on removing the structure. Mr. Reese added that the SEQRA process was ongoing before the Planning Board. This is a commercial piece of property. Mr. Reiser has a buyer interested in operating a filling station at the site, regardless of whether people think it is necessary or will be viable. Mr. Reiser stated that the buyer is Nice N Easy. They operate filling stations with "county store" type convenience stores. They have seven stores in upstate New York. There is a need for another gas station in this area. The person he is dealing with is Dave Monahan. This project will improve traffic conditions. It will have twice the required green space. There are only six pumps in the two existing, operating gas stations at this location. That is not enough. The country store will be like a town center. It is well needed. It will increase property values.

The Chairman stated that Hudson's Garage couldn't make a go of it there. Stewart's is already a gathering place. The Sunoco Station can't make a go of it just on gas. They are now selling pizzas. Look at the struggles at the Tamarac Plaza. He does not think another gas station is viable there. Mr. Reiser said that they have a buyer who thinks a gas station will be viable. This gas station will be set up for all kinds of trucks to easily get in and out. There is enough room for a semi to get in and out. It will only take 35 - 40 days to excavate and remove the dirt required to build this. It is not a long term project. Nan Hale, 4108 Route 2, said that she has no strong opinion on the gas station. That is a terrible corner right now. The green arrow light at Route 2 & Route 278 is the problem. That is the cause of the congestion. She believes that Mr. Reiser is trying to build something nice there.

Member Trzcinski noted that Spiak's gas station is not far away either and that the intersection is already dangerous. The Chairman suggested that someone from Nice N Easy to appear before the Board and answer any questions. Mr. Kreiger stated that other than the need for a special use permit, there are no other zoning issues. Attorney Cioffi stated that he would contact the Planning Board Attorney to coordinate the SEQRA review. He further stated that the applicant needs to address with proof the statutory criteria for the issuance of a special use permit. He also suggested that the Planning Board be asked for a recommendation on this application.

The Chairman made a motion to request a recommendation from the Planning Board. Member Steinbach seconded. The motion carried 4 - 0. The Chairman then made a motion to continue the public hearing. Member Cipperly seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of RONALD LEVESQUE o/b/o HOFFMAN DEVELOPMENT, applicant, dated August 13, 2010, for a variance pursuant to the

Sign Law of the Town of Brunswick, in connection with the construction and erection of a free-standing advertising sign on a lot located at 672 Hoosick Road, in the Town of Brunswick, because the proposed construction exceeds the maximum square footage for a free-standing sign in that 35 square feet per side is permitted and 64 square feet per side is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Ronald Levesque, from the Sign Studio, appeared on behalf of Hoffman Development. They want a 64 sq. ft. sign. Only 17 ½ sq. ft. of additional space is being requested. Hoffman's is trying to update its signs all over. The sign will be in the same footprint as the existing sign. The same roof structure as the current sign will be utilized. The sign will be complementary to other signs in the vicinity.

Member Trzcinski said that everyone knows Hoffman's Car Wash is there. It has been there for years. Why do they need a bigger sign? Attorney Cioffi stated that the applicant needs to address the statutory criteria for granting variances from the Sign Law. Member Steinbach noted that the proposed sign is not that much bigger. Member Cipperly said that there are other alternatives they can use to better make use of the available sign space without making it larger. No one from the public wished to speak. Mr. Levesque said that the proposed sign would not look right if it was limited to 35 sq. ft.

Member Cipperly made a motion to continue the public hearing. Member Steinbach seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of PETER MAY o/b/o CAP COM F.C.U., applicant, dated August 21, 2010, for a variance pursuant to the Sign Law of the Town of Brunswick, in connection with the construction and erection of a free-standing advertising sign on a lot located at 799 Hoosick Road, in the Town of Brunswick, because the proposed construction violates the front setback from Hoosick Road for a free-standing sign in that 15 feet is required and 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Peter May, Hanley Sign Co., appeared for the applicant. He handed up pictures to the Board. The problem here is that if the sign is placed to meet the 15 foot setback, it will be behind the tree line, and will not be readily visible to eastbound traffic. There are 3 or 4 trees. Cap Com owns them. Mr. Kreiger stated that the Planning Board did not require at site plan review that the trees remain. Cap com wanted to keep them. The Chairman asked whether the trees could be limbed so that the sign would still be visible if placed to comply with the setback. Mr. May said he did not know what the trees would look like if they did that. Member Steinbach said he thought that the sign could be further from the road than 5 feet and still be seen. Mr. May said Cap Com and its architect decided to ask for a variance to 5 feet. Mr. May mentioned a lot of signs on Route 7 that were close to the road. Mr. Kreiger noted that those signs were all there before Route 7 was widened. The Chairman stated that he would like information as to whether the trees could be limbed to alleviate the visibility problem, without killing them or making them unsatisfactory in appearance. Mr. May said he works for a sign company and doesn't know anything about limbing trees. Attorney Cioffi suggested that Cap Com send another representative so these issues can be pursued. It is a basis tenet of the law that variances can be granted only if there is no other viable alternative. Attorney Cioffi asked that information be supplied to the Board addressing each of the criteria for variances contained in the Sign Law.

Member Steinbach made a motion to continue the public hearing. Member Cipperly seconded. The motion carried 4 - 0.

Michael Schongar, 21 Lindsay Drive, asked if he could address the Board. He is part of the North Forty Association. He wants to say something about the Oakwood Property/Gallivan matter. Member Steinbach left the room. Mr. Schongar said that he is concerned about tabling the appeal. The Gallivans expanded their business without any town approvals. They went from 5 acres to 75 acres. This has affected his property and that of his neighbors. He is urging the Board to take a hard look at this and not approve what they are doing. Member Steinbach then returned to the room.

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

Dated: Brunswick, N.Y.
October 4, 2010

Respectfully submitted,

THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary