

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD January 26, 2015,

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

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

Chairman Steinbach welcomed Member Shover to the Board, and thanked him for providing his time and public service to the Town of Brunswick.

The Zoning Board members reviewed the draft minutes of the December 15, 2014 meeting. Upon motion of Member Trzcinski, seconded by Chairman Steinbach, the draft minutes of the December 15, 2014 meeting were unanimously approved (Member Shover abstaining) without correction or amendment.

Chairman Steinbach noted the first order of business on the agenda was the Kent variance application, but that the Kent matter is being adjourned to the February 23, 2015 meeting to allow further research concerning title issues regarding Banker Avenue.

The second item of business on the agenda was the continuation of the public hearing on the area variance application submitted Christian McGrath for property located at 205 Bulson Road. The applicant and his attorney, Kenneth Bruno, Esq., were present. Chairman Steinbach inquired whether there was any update from the applicant on this pending application. Attorney Bruno stated that while this is the second request for area variance submitted by the applicant for this property, and while the first area variance was denied by the Zoning Board, the current application is now substantially reduced, having been reduced by half and now seeking a side yard

variance of only 10 feet as opposed to 20 feet. Attorney Bruno continued that while a 10 foot side yard variance may seem significant, it is inconsequential in this case given that the adjoining property is vacant. Attorney Bruno stated that the residential addition that would be permitted if the Zoning Board granted the current area variance would enhance the neighborhood, not create a detriment to the neighborhood. Attorney Bruno stated that the adjoining property owner is currently using the property as a corn field, that is 10-12 acres in size and has at least 500 foot of road frontage, and so the side yard variance is not a substantial impact to the adjoining property owner. Attorney Bruno stated that while the need for the area variance could be deemed self-created, this really is the fault of Mr. Mc Grath's contractor by not contacting the town and seeking the necessary building permit, but that the contractor was now gone and McGrath is unable to locate him. Attorney Bruno stated that Mr. McGrath is anguished over this matter, and that he has gone door to door to his neighbors and is prepared to hand up a petition that supports the area variance application, and that the applicant was requesting the Zoning Board to use common sense on this application since this matter will not significantly impact anyone. Chris McGrath, 205 Bulson Road, stated that Mr. Cipperly, owner of the adjacent property, has a lot that is 12.4 acres in size and has approximately has 533 feet of road frontage. Mr. McGrath handed up a map concerning the size of the Cipperly lot. Mr. McGrath confirmed that a 25 foot side yard setback is required in under the Brunswick Zoning Code, but that in this case, the 25 foot setback is next to nearly 13 acres of agricultural land. Mr. Mc Grath stated that there will still be a 15 foot setback from the side yard line, next to 13 acres of open land. Mr. McGrath demonstrated for the zoning board the length of 15 feet using a tape measure. Mr. McGrath read the neighbor's petition into the record, stating that over 30 people had signed the petition in favor of his variance application, and handed the petition up to the Zoning Board. Mr. McGrath stated that all property owners south

of his property, located in the Winfield Estates project, signed the petition in support of his variance application. Mr. McGrath stated he had tried everything in his power to resolve the conflict with Mr. Cipperly, but that he was unable to do so. Chairman Steinbach then requested any comment from the public concerning this application, requesting anyone to speak that was in support of the project. Ken Taylor, 75 Willard Lane, stated that he lived across from the McGrath parcel, that the house used to be run down and in poor shape; that Mr. McGrath had renovated that house and made it nice; that vegetation exists that basically hides the house and the new residential addition; that he generally supports Mr. McGrath's application and thinks it is good for the community. Everett Kneer, 1390 NY Route 7 and 361 Moonlawn Road, stated that Mr. McGrath's renovations to this property will increase the Town's tax base through a higher tax assessment; that it was wrong for Mr. McGrath to have constructed this addition without the necessary building permit but that the Zoning Board should give him the requested variance; that the adjacent agricultural field routinely had manure spread on it and did not see what the issue was with having the variance granted to McGrath; that the parties should work this out and the matter should be resolved between neighbors; and that he is a friend of Mark Cipperly and that it gives him great pain to have to come here and make these comments. Chairman Steinbach asked if there was anyone present wishing to speak in opposition to the variance application. Mark Cipperly, Bulson Road, stated that while he and Mr. McGrath had discussed this matter, there was no final deal reached; that he was close to making a deal with Mr. McGrath but that no deal was finalized; that while his property was currently in agricultural use he had always envisioned the opportunity to use it for residential purposes, and that having the McGrath residential addition so close to the property line impacted his ability to use the property for residential purposes; that Mr. McGrath was not truthful to the Zoning Board when he said that Mr. Cipperly had not planted corn on his property when in

fact the corn field had been planted but not all the way to the road frontage on Bulson Road; that Mr. McGrath had in fact removed several trees between the Cipperly property and the Mc Grath lot and handed up a historic aerial photo plus current photographs to support his position that trees have been removed; that Mr. McGrath had a survey prepared after the residential addition had been constructed which initially showed a PVC drainpipe day-lighting onto the Cipperly property which shows that trees had to be removed in order to put the PVC pipe in the ground. Member Clemente had a follow-up question concerning the PVC pipe, and the specific point that Mr. Cipperly was trying to make regarding the PVC pipe. Mr. Cipperly located the PVC pipe on the survey map, and stated that his point was that several trees had to be removed in order to have the PVC pipe installed. Peg Cipperly, Bulson Road, agreed that the Zoning Board should use common sense and deny this application for all the same reasons that the previous variance was denied; that this whole project is in violation of the Brunswick Zoning Regulations and questioned why the Zoning Board was considering this again; and stated that this addition did impact the ability of Cipperly to build houses on the agricultural parcel, particularly since she had envisioned using that land to build houses for her children. Frank Brennanstuhl, 27 Dusenberry Lane, stated that his interest is as a member of the Brunswick community, and again questioned why the Zoning Board was entertaining this application again; that he did concur with Mr. Cipperly regarding trees being removed or significantly trimmed; and generally stated that in cases like this, if the neighbor is not complaining then the Zoning Board should go ahead and grant the variance, but if the neighbor was against the proposal then the variance should be denied. Chairman Steinbach asked whether there were any further comments from the public. Hearing none, Chairman Steinbach asked if any of the Zoning Board members had any questions for the applicant on this application. Hearing none, Chairman Steinbach stated that he wanted new Member Shover to have an

opportunity to review the application materials and prior minutes so that he could participate in the deliberation on this application. Attorney Gilchrist generally reviewed the legal rules regarding a potential 2-2 vote if the fifth member of the Zoning Board did not participate in the deliberations and vote. The Zoning Board had further discussion on this issue. Chairman Steinbach then stated that the Zoning Board should consider closing the public hearing on the McGrath variance application, which would then allow the Zoning Board a period of 62 days in which to render its decision. Upon motion of Member Schmidt, seconded by Chairman Steinbach, the Zoning Board closed the public hearing on the McGrath variance application by unanimous vote (Member Shover abstaining). Member Schmidt then stated that he supported the idea of holding this matter over to the February meeting to allow new Member Shover to review the application and the prior minutes in order to participate in the deliberations. Member Schmidt then made a motion to hold this matter over to the February meeting for deliberation, which motion was seconded by Member Clemente. The motion was approved by a 3-1-1 vote (Member Trzcinski opposed, Member Shover abstaining). This matter was held over to the February meeting for deliberation. The February meeting will be held on February 23, 2015 due to the President's Day holiday.

There was one item of new business discussed. An application for area variance has been submitted by Jordan Munn for property located at 10 Ledgestone Road. The applicant seeks a rear yard setback variance in order to install a shed on the property. The Brunswick Town Code requires a rear yard setback of 20 feet for this zone, and the applicant seeks to install a shed in a location of approximately 1-2 feet from the rear property line. The applicant was present. Chairman Steinbach requested the applicant to review the requested variance. The applicant stated that she was seeking to build a shed in her rear yard for lawn equipment and tools; that the lot is irregular in shape and that she had hired a surveyor to prepare a survey which is now part of the

variance application; that due to the house layout, it is unclear as to what is the front yard and side yard and rear yard; that putting the shed in a different location on the lot would require additional variances; that the open area in the rear yard is not available to install the shed due to the septic location; that the lot has a substantial amount of bedrock which does not allow for the shed installation; that her adjoining neighbor (Battu) should not be impacted because his lot is 4 to 5 acres in size and that there is a wooded hill adjacent to where she is seeking to have this shed installed; and that her other neighbors on the other side of her lot have no opposition to the application. Member Trzcinski asked whether the shed would be put on a concrete pad or on a gravel surface. The applicant stated that the shed would be put on a gravel surface. The applicant stated that her neighbor has a shed that is around 16 feet by 20 feet, and that she is looking to install a similar-type shed but the exact size and location has not been finally determined. Attorney Gilchrist stated that the exact size and location should be finally determined, since that information will be relevant to the Zoning Board in applying the standards for area variances. Chairman Steinbach stated that the general location of the shed is known, and felt that the application had sufficient information in order to schedule the public hearing. The remaining members of the Zoning Board concurred. The Zoning Board set the public hearing for the Munn area variance application for its February meeting (February 23, 2015) at 6:30 P.M. Attorney Gilchrist stated that in the Notice of Public Hearing, it will be stated that the shed will be constructed 1 foot from the property line as indicated currently in the application materials.

The index for the January 26, 2015 meeting is as follows:

1. Kent – area variance- February 23, 2015.
2. McGrath – area variance – February 23, 2015
3. Munn – area variance – February 23, 2015 (public hearing to commence at 6:30 p.m.).

The proposed Agenda for February 23, 2015 meeting currently is as follows:

1. Kent – area variance
2. McGrath – area variance.
3. Munn – area variance (public hearing to commence at 6:30 p.m.)

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD February 23, 2015

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

ALSO PRESENT was DAN BRUNS, Brunswick Building Department.

Chairman Steinbach noted for the record that the area variance application submitted by Kent for property located off Banker Avenue is adjourned and will be placed on the agenda for the March 16 meeting.

The Zoning Board members reviewed the draft minutes of the January 26, 2015 meeting. Upon motion of Member Trzcinski, seconded by Member Schmidt, the draft minutes of the January 26, 2015 meeting were unanimously approved without amendment.

The first order of business on the agenda was the area variance application submitted Christian McGrath for property located at 205 Bulson Road. The applicant was present at the meeting, together with his attorney Kenneth Bruno, Esq. Chairman Steinbach noted that the Public Hearing had been closed at the January 26, 2015 meeting, and that the matter was ready for deliberation. Member Shover confirmed that he had the opportunity to review all of the application documents, minutes of Zoning Board meetings at which the application was discussed, and the record of proceedings and the decision of the Zoning Board on the prior area variance application submitted by Mr. McGrath for this property, and that he was prepared to participate in the deliberations and action on this application. Attorney Gilchrist noted for the record that this application seeks an area variance for a residential use, and is therefore a Type II action under the

State Environmental Quality Review Act, and no further action under SEQRA is required. Attorney Gilchrist then generally reviewed the legal standard for area variances with the members of the Zoning Board. The Zoning Board members first discussed whether the requested area variance would result in an undesirable change in the character of the neighborhood, or create a detriment to nearby properties. Member Trzcinski felt that this would create a detriment to the neighborhood. Chairman Steinbach noted that there were a number of comments from the public concerning the impact the addition to the house at this location would have on the ability to conduct agricultural activities on the adjacent property as well as the potential development of that adjacent property for residential purposes. Member Schmidt stated that while the adjacent property owned by Cipperly is a cornfield, the use of property for agricultural purposes is as important for farmers as residential construction is on other properties; that based on his experiences as a farmer, there will be trouble for anyone farming the Cipperly lot when working so close to a residential structure; that there will inevitably be issues associated with the spreading of manure and pesticides or other fertilizers in an area that is so close to a residential structure; and that agricultural uses in the Town should be promoted and that the adjacent Cipperly property had been used for agricultural purposes prior to this addition to the residence at 205 Bulson Road. As to the issue of whether the benefit sought by the applicant through the area variance could be achieved by some other feasible method, Chairman Steinbach stated that an alternative was available and that the location of this addition could be changed to another part of the lot. Member Trzcinski stated that the addition could have been put on the other side of the house or to the rear, and that the need for any variance could have been avoided if the applicant had properly applied for a building permit in the first instance. Member Trzcinski noted that if the applicant had properly applied for a building permit for this addition, the required setbacks would have been discussed at that time, and a different location

was available on this lot for an addition to the existing house. As to whether the requested area variance is substantial, Member Trzcinski felt that the requested variance is substantial, since the Brunswick Code requires a twenty-five foot setback for this property, and that the structure would be located only ten feet from the lot line, resulting in a variance of fifteen feet. Chairman Steinbach concurred that the variance was substantial, as it was more than 50% of the required setback. Member Schmidt stated that while the applicant did reduce the extent of the requested area variance from his prior application, the current area variance request was still substantial. Member Schmidt also noted that in his opinion, the amount of the variance at issue here would be deemed less substantial if it were in an urban area or there was less room on a lot to put an addition, but that in this case, the lot is much larger and there were alternatives available and this factors into his determination that the variance is substantial in this case. As to whether the requested area variance will have an adverse effect on the physical or environmental conditions in the neighborhood, Member Schmidt stated that he felt the addition to this residential structure being located only ten feet from an adjacent lot on which agricultural operations are occurring would affect any ongoing agricultural activities on that property, and also felt that the farming operations, including use of heavy equipment, in such close proximity to a residential structure would have an adverse effect on environmental conditions, including noise generation. Chairman Steinbach also had concern regarding the use of pesticides or other fertilizers on the existing agricultural property being so close to a residential structure. As to whether the difficulty requiring an area variance was self-created, all of the Zoning Board members concurred that the situation was self-created by the applicant failing to have properly applied for a building permit before the start of any construction on the addition to the house. Attorney Gilchrist advised the Board that the elements reviewed during the Zoning Board's deliberations should be weighed by the Board, and that the Board

needed to weigh the benefit to the applicant if the area variance was granted as against any detriment to the general health, safety and welfare of the community in general and the neighborhood in particular. Chairman Steinbach asked the Zoning Board members whether there were any further comments or questions. Chairman Steinbach did note that this was a difficult situation, and that the Board should be balancing the need to comply with existing Town guidelines without significantly infringing on the right of private property owners to use their property. Member Schmidt stated that if this was viewed just as an addition to a residence in isolation, there may not be any opposition to the application, but that this was going to result in an impact to the agricultural operations on the adjacent parcel, and that this should be taken into account by the Zoning Board Members. Chairman Steinbach inquired as to whether anyone sought to make a motion to act upon the application. Member Schmidt made a motion to deny the area variance application based on the deliberations held by the Zoning Board. Member Trzcinski seconded the motion. The motion was unanimously approved, and the area variance denied. The Zoning Board directed Attorney Gilchrist to prepare a formal written decision based on the Zoning Board's deliberation and vote for review by the Zoning Board at its March 16 meeting.

The next item of business on the agenda was the area variance application submitted by Jordan Munn for property located at 10 Ledgestone Road. Jordan Munn was present. Chairman Steinbach requested the applicant to generally review the application, and whether there were any changes or additions to the application since the January meeting. Jordan Munn stated that she is seeking to have a shed installed on her property, that the size of the shed is now set at twelve feet by sixteen feet which is less than what was discussed at the January meeting, that the location of the shed had generally not changed and that it would be approximately one to two feet from the rear property line, and that she felt there were no other alternate feasible locations on her property

to put the shed and handed up to the Zoning Board a schematic map showing general locations of septic tank and leach field, a hill, and front yard locations on her property which were not conducive to putting the shed, and requested that the area variance be granted. Chairman Steinbach inquired as to the height of the shed. Ms. Munn stated the shed would be less than twelve feet in height. Chairman Steinbach asked whether an exact location of the shed had been determined. Ms. Munn stated that the exact location had not been determined due to the amount of snow cover on the ground, but that it would generally be about one to two feet from the rear property line, but could be as much as five to six feet depending on final layout after the snow had melted. The Chairman noted that the Zoning Board would open its public hearing on this application. The Notice of Public Hearing was read into the record, noting that the Hearing Notice had been published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed to all property owners within five hundred feet of the applicant's property. Chairman Steinbach then opened the floor for receipt of public comment. John Elliot, 29 Pickering Lane, stated that he just had a few questions concerning the application. Mr. Elliot wanted to confirm exactly where his property was located in relation to the proposed location of the shed. This was reviewed by Ms. Munn and Mr. Elliot and it was determined that his lot is not adjacent to the Munn lot. Mr. Elliot stated that he now knew the shed would be twelve feet by sixteen feet in size, and had no comment on the size of the shed. Mr. Elliot did inquire as to whether this would be a pre-made shed or whether the shed would be constructed on site. Ms. Munn stated that the shed would be constructed on site, but its final appearance would resemble a pre-made shed. Mr. Elliot asked whether there would be a concrete pad on which the shed was located. Ms. Munn stated that there would not be a concrete pad, and that the shed would be placed over a gravel surface. Mr. Elliot concluded by stating that if the shed is only one foot off the property line, Ms. Munn would need

to be careful regarding installation and maintenance so as not to go onto her neighbor's property. Chairman Steinbach inquired whether there were any further public comments. Hearing none, Chairman Steinbach stated he would entertain a motion to close the Public Hearing. Member Schmidt stated that he would like to know whether the Zoning Board could wait until its March meeting to act on this application, since he would like to go to the site without the snow cover. Member Clemente stated that she did go to the site, and got a good impression of the general location of the proposed shed and topography of the site, as well as the distance between the shed location and the adjacent neighbor (Battu), and that the closest house to the shed location was actually not the adjacent property owner but another property owner, Canzarri. Ms. Munn stated that Mr. Canzarri had no opposition to the shed location. Member Clemente also stated that the proposed shed location would be symmetrical with the back of the house. Member Clemente also stated that a lot of the surrounding land was wooded, and that certainly during the spring, summer, and fall seasons, it was unlikely that anyone would be able to see the shed from adjoining properties. Member Trzcinski also noted that there was no one speaking in opposition to this variance application at the Public Hearing. Member Steinbach felt that the Zoning Board could proceed with the application. Member Shover then made a motion to close the Public Hearing, which motion was seconded by Member Trzcinski. The motion was unanimously approved and the Public Hearing closed. Chairman Steinbach then stated that the Zoning Board was in a position to move forward on the application. Attorney Gilchrist stated that the application sought an area variance for a residential use, and constituted a Type II action under the State Environmental Quality Review Act, and at no further action under SEQRA was required. The Zoning Board then generally reviewed the elements for area variance, concluding that the area variance in this case would not result in any undesirable change in the character of the neighborhood nor create a

detriment to nearby properties; that given the location of the septic areas and configurations of this lot, there were no feasible alternative locations for a shed on the lot; that the area variance in this case is substantial, but this factor alone is not determinative; that the area variance in this case would not create an adverse effect on the physical or environmental conditions in the neighborhood; and that the difficulty is not self-created given the limitations of the lot. Chairman Steinbach asked whether there was any further discussion. Member Schmidt stated that he was not comfortable with an area variance allowing a shed to be placed one foot from the rear property line, and that there should be at least a few more feet for purposes of access to the rear of the shed as well as maintenance. Member Schmidt felt that there should be room for access as well as maintenance around the shed. The Zoning Board members generally discussed the location of the shed, the property line, maintenance responsibilities, and the fact that this shed location should not infringe on the adjacent property. Ms. Munn stated that she was not opposed to placing the shed a minimum of three feet off the property line as a condition to any action by the Board. Member Shover then made a motion to approve the area variance subject to the condition that the shed be placed a minimum of three feet off the rear property line. Member Clemente seconded the motion subject to the stated condition. The motion was unanimously approved, and the area variance granted subject to the stated condition.

One item of new business discussed.

An application for area variance has been submitted by Robert and Carly Waters for property located at 22 Cooper Avenue. Mr. and Mrs. Waters were present. Chairman Steinbach requested the applicant to describe the requested variance. Mrs. Waters stated that they were seeking to install an in-ground pool in the rear yard at their property, and that given the location of the house with an attached deck and the configuration of their rear yard, they were seeking to

have the pool located fifteen feet from the rear lot line as opposed to the twenty feet required under the Town Code. Mrs. Waters confirmed that there was a six foot vinyl fence around the entire property. The Zoning Board members generally reviewed the application materials, including the schematic layout of the lot, showing the house and deck location and proposed location of the in-ground pool. The Zoning Board members confirmed that the application was complete for purposes of scheduling the Public Hearing. A Public Hearing will be held on this application on March 16, 2014 at 6 p.m.

The index for the February 23, 2015 meeting is as follows:

1. Kent – area variance – March 16, 2015.
2. McGrath – area variance – Denied (written decision to be reviewed at March 16 meeting).
3. Munn – area variance – Granted with condition.
4. Waters – area variance – March 16, 2015 (Public Hearing to commence at 6 p.m.).

The proposed Agenda for March 16, 2015 meeting currently is as follows:

1. Kent – area variance.
2. Waters – area variance (Public Hearing to commence at 6 p.m.).

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD March 16, 2015

PRESENT ANN CLEMENTE, E. JOHN SCHMIDT, WILLIAM SHOVER and CAROLINE TRZCINSKI.

ABSENT WAS MARTIN STEINBACH, CHAIRMAN

ALSO PRESENT were DAN BRUNS and MONICA NANN-SMITH, Brunswick Building Department.

In Chairman Steinbach's absence, Member Trzcinski was Acting Chair for the March 16, 2015 meeting.

The draft minutes of the February 23, 2015 meeting were reviewed. Member Trzcinski noted that corrections to page 3 of the draft minutes were required. Specifically, lines 5 and 6 of page 3 of the draft minutes of the February 23, 2015 meeting are corrected to read as follows: "only fifteen feet from the lot line, resulting in a variance of ten feet. Chairman Steinbach concurred that the variance was substantial, as it was more than 40% of the required setback". Subject to the noted correction, Member Shover made a motion to approve the minutes of the February 23, 2015 meeting, which motion was seconded by Member Clemente. The motion was unanimously approved, and the minutes of the February 23, 2015 meeting were approved as corrected.

The first item of business on the agenda was the area variance application submitted by Christian McGrath and Leo McGrath for property located at 205 Bulson Road. The Zoning Board members reviewed a proposed written Decision reflecting the deliberations and determination of

the Zoning Board made at the February 23, 2015 meeting. All members stated that they had an opportunity to review the draft written Decision, and concur with the Decision as written. Member Shover then made a motion to adopt the final written Decision denying the area variance application by Christian McGrath and Leo McGrath as last revised March 16, 2015, finding that it is consistent with the deliberations and determination of the Zoning Board made at the February 23, 2015 meeting. Member Schmidt seconded the motion. The motion was unanimously approved, and the final written Decision in the McGrath area variance application was adopted. Member Trczinski directed that the final written Decision be filed in the office of the Town Clerk.

The next item of business on the agenda was the area variance application submitted by Robert and Carly Waters for property located at 22 Cooper Avenue. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the Public Hearing notice was published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to all owners of all properties located within 500 feet of the subject property. Member Trczinski inquired of the applicants whether there was any change or additional information on the application. The applicants stated that there was no change or additional information. Member Trczinski then opened the floor for receipt of any public comment. No one wished to comment. The Zoning Board also noted that no written comments had been received on this application. Member Trczinski then asked whether any of the Zoning Board members had any questions on the application. Member Schmidt noted that the proposed swimming pool was an unusual shape, and inquired whether it could be reconfigured so as to reduce the requested size of the variance. The applicants stated that the pool shape was a standard size and manufactured in that shape, and that they did not have the ability to modify the shape. Member Shover commented that it appeared it would be very tight to fit the pool in the back yard

of this property. The applicants stated that the company installing the pool had already prepared a template and laid that out in the yard, and that the pool actually fits quite well. Member Trczinski inquired as to the location of the public water and public sewer lines. The applicants stated that these utility lines were located on the side yard, and therefore the pool could not be shifted toward the side yard, and that the rear yard was the only available spot for the pool. Member Trczinski then stated a motion should be made to close the public hearing. Member Shover made a motion to close the public hearing on the Waters area variance application, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. Attorney Gilchrist then stated for the record that the application seeks an area variance for a residential use, and constitutes a Type II action under the State Environmental Quality Review Act, and no further SEQRA determination is required. The Zoning Board members then reviewed the standard elements for consideration of an area variance, finding that the installation of this pool will not result in an undesirable change in the character of the neighborhood, as several of the properties in this neighborhood also have pools and that this particular property already had an existing fence around the perimeter of the property which will create a visual barrier; that given the location of the utility lines and placement of the house on the lot, there was not a feasible alternative available to the applicants for the pool placement, and the Zoning Board also observed that the existing fencing around the perimeter of the property will remain and create a visual barrier; that the installation of this pool fifteen feet from the rear yard lot line, where the Town Code requires a twenty foot setback from the rear yard lot line, did not result in a substantial variance in this case; that the installation of the pool in the requested location would not have an adverse effect on the physical or environmental conditions in the neighborhood, noting that several of the properties in this neighborhood already had existing pools in the rear yard; and that the need

for the variance was in some respects self-created, but that this consideration is relevant but does not preclude the granting of the area variance. The Zoning Board members also noted for the record that there was no opposition to granting the area variance from any of the neighbors in the neighborhood. Following such deliberation, Member Shover made a motion to approve the area variance, permitting the installation of a pool at this property to be located fifteen feet from the rear yard lot line, and granting an area variance from the rear yard setback requirements to the extent of five feet, which motion was seconded by Member Trczinski. The motion was unanimously approved, and the area variance granted on the Waters application.

It was noted for the record that the Kent area variance application is adjourned, and placed on the agenda for the Zoning Board April 20 meeting.

There were no items of new business to discuss.

The index for the March 16, 2015 meeting is as follows:

1. McGrath – area variance – final written Decision denying area variance adopted.
2. Waters – area variance – granted.
3. Kent – area variance – April 20, 2015 (Public Hearing to continue).

The proposed Agenda for April 20, 2015 meeting currently is as follows:

1. Kent – area variance (Public Hearing to continue).

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD April 20, 2015

PRESENT MARTIN STEINBACH, CHAIRMAN, ANN CLEMENTE, WILLIAM SHOVER
and CAROLINE TRZCINSKI.

ABSENT WAS E. JOHN SCHMIDT.

ALSO PRESENT were DAN BRUNS and MONICA NANN-SMITH, Brunswick Building
Department.

Chairman Steinbach noted for the record that at the request of the applicant, the Kent area
variance application pertaining to property on Banker Avenue has been adjourned to the May
meeting.

The draft minutes of the March 16, 2015 meeting were reviewed. Upon motion of Member
Trzcinski, seconded by Member Shover, the draft minutes of the March 16, 2015 meeting were
unanimously approved without amendment.

There were no items of old business to discuss.

There were two items of new business to discuss.

The first item of new business addressed was an area variance application submitted by
Charles and Paula Van Meter for property located at 7 Settlers Lane. Paula Van Meter was present
for the application. Chairman Steinbach requested Ms. Van Meter to generally review the variance
application. Ms. Van Meter stated that she and her husband were proposing to install an above-
ground pool on their property located at 7 Settlers Lane, but the parcel has limitations on where
the pool can be located given the location of the septic tank and septic leach field. The property

owner is seeking to install a 21-foot wide above-ground swimming pool in a location that is 10.5 feet from the western side of the property, where the Town Code requires a 25-foot side yard setback. Ms. Van Meter explained that the placement of the pool is necessitated by the location of the septic tank and septic leach field. The Zoning Board members reviewed the application materials, which includes a sketch map of the residential lot depicting the house location, septic location, location of a 20-foot wide drainage easement and other drainage facilities, and the proposed pool location. Member Trczinski inquired whether Ms. Van Meter agrees to allow the Zoning Board members to access the property to get a better understanding of the layout of the lot. Ms. Van Meter stated that the Zoning Board members were welcome on the property. Member Shover had a question concerning the depiction of a french drain on the site sketch map, which was addressed by Ms. Van Meter. The Zoning Board members determined that the written application is complete, and set this matter down for public hearing to be held at its May 18, 2015 meeting commencing at 6 p.m.

The second item of new business discussed was a special use permit application for a filling station proposed for property located at 289-299 Oakwood Avenue, together with a possible need for area variance with respect to a building setback issue from the front property line. The applicant on this project is Matopato, LLC. Tom Murley, P.E. was present for the applicant. Mr. Murley generally reviewed the project proposal, which includes both the filling station/gas station with convenience store, a proposed car wash, together with a strip mall-type layout for retail and possible fast-food restaurant use. Mr. Murley explained that the project site encompasses 2.7 acres which is part of a larger 56 acre lot. Mr. Murley explained that the 2.7 acre area on the 56 acre lot has been tested for purposes of potential contaminants, as the overall 56 acre lot was formerly used as the Troy landfill and Troy incinerator. Mr. Murley states that the soil sampling performed on

the 2.7 acre area was reviewed by the New York State Department of Environmental Conservation, and accepted by NYSDEC and the 2.7 acre area has been de-listed by NYSDEC from the remaining property constituting a Class 3 inactive hazardous waste site on DEC's registry. Mr. Murley explained that public water and public sewer is proposed for the project, and that he will be coordinating that review with the City of Troy. Mr. Murley explained that the application seeks a special use permit in connection with the filling station/gas station, and also may require an area variance for building setback from the front property line, subject to further discussion with the Building Department. Mr. Murley also generally reviewed traffic conditions on Oakwood Avenue, concluding that the projected traffic from this proposal does not warrant the installation of an additional traffic signal or turn lane. Mr. Murley stated that there were two entrances proposed to this commercial use, and that each proposed entrance has adequate sight distances. Mr. Murley also generally reviewed a stormwater plan, noting that the final stormwater pollution prevention plan is still in process. Mr. Murley stated that in his application materials, he reviewed the special use permit criteria of the Brunswick Town Code and applied those criteria to his proposal. Member Trczinski had a question concerning the action by NYSDEC concerning this site. Mr. Murley generally discussed the de-listing process, indicating that he previously had CT Male perform soil testing in this location, that DEC reviewed that technical data and agreed to de-list this 2.7 acre area from the remaining Class 3 inactive hazardous waste site listing, and Mr. Murley also stated on the record that no landfilling or incineration historically occurred on the 2.7 acre project area. Member Trczinski also asked about surface and groundwater flow. Mr. Murley stated that part of this site drains in the direction of Farrell Road, and part of the site drains in the direction of the old Lansingburgh reservoir. Mr. Murley did confirm that public water was being proposed for this project. Member Shover asked about Mr. Murley acting as project engineer as well as being a

member of the applicant LLC. Mr. Murley confirmed that he was providing engineering services, but was also a member of Matopato, LLC, the project applicant. Member Shover asked whether the applicant would be subdividing the 2.7 acre parcel from the remainder of the 57 acre parcel. Mr. Murley stated that he was not looking to subdivide the smaller commercial area from the remaining 57 acre parcel. Member Shover then asked what would prohibit the applicant from building additional commercial areas to the rear of this 2.7 acre area once the current project was constructed. Mr. Murley stated that he had no plans for any further construction, particularly since it was only this 2.7 acre area that had been de-listed by DEC, and that he had not undertaken any additional soil testing on the remainder of the parcel. Also, Mr. Murley stated that the topography of the site drops off quite a bit from the 2.7 acre project area adjacent to Oakwood Avenue, which was not conducive to additional commercial development. Member Shover asked about the amount of water being used and discharged in connection with the car wash. Mr. Murley stated that the proposal was to use a water recycling system, with the final waste water being discharged to the City of Troy sewer system. Member Shover asked about any greases or oils from the proposed commercial operations. Mr. Murley confirmed that the project would include appropriate grease and oil separators. The Zoning Board members generally discussed the additional commercial uses further north on Oakwood Avenue. Mr. Murley stated that the other commercial uses were located on the western side of Oakwood Avenue, and the current project proposed is on the eastern side of Oakwood Avenue, which would be conducive to the northbound PM traffic on Oakwood Avenue. The Zoning Board members then generally reviewed the application materials, and deemed them complete. The Zoning Board members scheduled the public hearing for this application for its May 18, 2015 meeting to commence at 6:15 p.m. A public hearing will include public comments on the special permit application in connection with the filling station/gas station,

and also an area variance if deemed necessary upon further coordination between the applicant and the Brunswick Building Department on the front line setback requirements for this proposal.

The index for the April 20, 2015 meeting is as follows:

1. Kent – Area Variance – adjourned to May 18, 2015 (Public hearing to continue).
2. Van Meter – Area Variance – May 18, 2015 (Public hearing to commence at 6 p.m.).
3. Matopato, LLC – Special Use Permit/Area Variance – May 18, 2015 (Public hearing to commence at 6:15 p.m.).

The proposed Agenda for April 20, 2015 meeting currently is as follows:

1. Van Meter – Area Variance (Public Hearing to commence at 6 p.m.).
2. Matopato, LLC – Special Use Permit/Area Variance (Public hearing to commence at 6:15 p.m.).
3. Kent – Area Variance (Public hearing to continue).

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 property 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).

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD JUNE 15, 2015

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

ABSENT from the meeting was CHAIRMAN MARTIN STEINBACH.

ALSO PRESENT was MONICA NANN-SMITH.

Member Clemente made a motion to appoint Member Trzcinski as Chair for this meeting, which motion was seconded by Member Schmidt. The motion was unanimously approved, and Member Trzcinski appointed as Acting Chair for this meeting.

The draft minutes of the May 18, 2015 meeting were reviewed. One correction was noted, at page 5, line 4, with the name "Harry Kaufman", corrected to "Perry Kaufman". Subject to the stated correction, Member Shover made a motion to approve the minutes of the May 18, 2015 meeting, which motion was seconded by Member Clemente. The motion was unanimously approved, and the minutes of the May 18, 2015 Zoning Board Meeting were approved subject to the stated correction.

The first item of business on the Agenda was the area variance application submitted by Debbie Nichols for property located at 249 Hillcrest Avenue. A public hearing was opened on the application. The notice of public hearing was read into the record, with that notice having been published in The Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all properties within 500 feet of the project site. Debbie Nichols was in attendance on the application. Member Trzcinski inquired whether there was any changes or additions to the

application. Ms. Nichols stated that there were no proposed changes or additions. Member Trzcinski then opened the floor for the receipt of public comment, requesting anyone wishing to speak in favor of, or against, the proposed variance to come forward. No one in attendance wished to provide any public comment. Member Trzcinski asked the Zoning Board Members whether they had any questions or comments. Member Shover stated that the proposed porch will be very close to the road. Member Schmidt stated that there used to be a porch on this house but that it had burned down 20 years ago when there was a substantial fire at the house, but asked Ms. Nichols whether the porch was ever that close to the road before. Ms. Nichols said that the porch was not as close to the road previously, but that the porch was in the same general location and the road had been widened since the time of the house fire. Member Trzcinski asked why the porch had not been rebuilt immediately after the fire. Ms. Nichols stated that it was due to economic considerations. Member Trzcinski asked whether the porch would be enclosed. Ms. Nichols stated that the porch would be enclosed with windows, that it would be a living area but without heat, and would function essentially as a three-season room. Member Clemente commented that the porch would enhance the look of the house. Ms. Nichols stated that she agreed with that assessment, and the neighbors agreed that it would improve the look of the house. Member Shover again commented that this would be very close to the road. Ms. Nichols stated that she had reviewed this with the neighbors, that none of the neighbors were in opposition to constructing the porch, and no one had come to the public hearing to oppose it. Member Trzcinski then asked for any further comment from the public. Hearing none, Member Clemente made a motion to close the public hearing on the Nichols area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. Thereupon, the Zoning Board proceeded to deliberate on the application. Member Clemente did

raise a concern regarding snowplowing in the winter, and whether there was adequate room for snow storage. Ms. Nichols stated that there has never been a problem with snow banks at this location, and that the Town does a very efficient job of plowing in the winter. Member Trzcinski asked whether there were any further questions or comment by the Zoning Board Members. There were none. Attorney Gilchrist stated for the record that this application seeks an area variance for residential application, and therefore constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board Members then proceeded to deliberate on the area variance elements. The Zoning Board Members found that the proposed porch construction will not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties; that due to the constraints of the lot, that there was not any feasible alternative to constructing a front porch on this house in the general location proposed; that the area variance is substantial, but the proposal was to merely reconstruct the porch which previously existed and was destroyed through no fault of the owner, and that while the variance was substantial in terms of number of feet, the variance was not substantial when looking at the total lot and lot layout; that the proposed porch construction will not have an adverse effect on the physical or environmental conditions in the area; and that the difficulty was not self-created but rather due to a fire which had destroyed the prior structure. Based upon this deliberation and determinations, Member Shover made a motion to grant the variance as proposed, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the area variance granted.

The next item of business on the Agenda was the area variance application submitted by Robert Willbrant for property located at 107 Mountain View Avenue. This matter had been addressed by the Zoning Board at its May meeting, at which time the applicant sought a special

permit for a multi-unit dwelling, and also to increase the total number of units from two units to three units, which also necessitated certain area variances. Mr. Willbrant was present on the application, and informed the Zoning Board that he is now proposing to maintain the structure as a two unit structure only, eliminating the need for any area variances. Mr. Willbrant has submitted a revised application form, noting that the application now seeks only a special permit for a multi-family structure. Mr. Willbrant also stated that he had spoken with the neighbors in the area, and that they are all in favor of the renovation of the structure because it is currently in significant disrepair and an eyesore. Member Trzcinski inquired as to the proposed layout of the units on the first and second floor. Mr. Willbrant reviewed the floor plans and square footages for both the first and second floor. On the first floor, Mr. Willbrant proposes a three bedroom unit totaling approximately 1,652 square feet. On the second floor, Mr. Willbrant is proposing a two bedroom unit, totaling approximately 946 square feet. Mr. Willbrant intends to reside on the first floor, and have the second floor as a rental unit. Mr. Willbrant proposes to add new siding to the structure, install new windows, and update the heating and air conditioning for the structure. The Zoning Board generally reviewed the application materials, and deemed them to be complete for the scheduling of a public hearing on the application. Attorney Gilchrist noted that an environmental assessment form will need to be completed by Mr. Willbrant. This matter has been placed on the July 20, 2015 Agenda for a public hearing to commence at 6:00 p.m.

The next item of business on the Agenda was an area variance application submitted by Michael Schrom for property located at 1 Carla Lane. This matter had been scheduled for public hearing. The notice of public hearing was read into the record, with that notice having been published in The Record, placed on the Town sign board, posted on the Town website and mailed to owners of all properties within 500 feet of the project site. Michael Schrom was in attendance

on the application. Member Trzcinski asked whether there were any changes or additions to the application. Mr. Schrom stated that there were no changes or additions, and that he had coordinated with Concord Pools since the last Zoning Board meeting, and Concord Pools had confirmed the proposed location of the pool. Member Trzcinski then opened the floor for receipt of public comment, both in favor of, and opposed, to the proposed variance. No one in attendance sought to provide any comment. Member Trzcinski inquired whether any member of the Zoning Board had any questions. Member Schmidt stated that he had looked at this property, that it was a very small lot, and that there did not appear to be any other location on the lot for the proposed pool. Member Clemente stated that the neighbor most affected by this proposal already had a pool in their yard as well. Mr. Schrom stated that he had spoken with that neighbor, and the neighbor was in support of having the pool installed in relation to the common property line. Member Clemente asked whether the existing fence would remain in place. Mr. Schrom stated that the fence would remain in place, plus he would be adding additional vegetation for screening purposes. Member Trzcinski then asked whether there was any further comment. Hearing none, Member Clemente made a motion to close the public hearing, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing closed. The Zoning Board then proceeded to deliberate on the application. Attorney Gilchrist noted that the application sought an area variance for a residential application, and therefore constitutes a Type 2 action under SEQRA, and no further SEQRA determination is necessary. The Zoning Board Members then proceeded to deliberate on the elements for the proposed area variance. The Zoning Board found that the requested variance and proposed pool location would not result in an undesirable change in the character of the neighborhood, nor create a detriment to nearby properties, noting that several other of the lots in this neighborhood already had pools similarly situated in the yard; that there was not

a feasible alternative available to the applicant for installation of the pool given the constraint of the lot; that the requested variance can be deemed to be substantial, but that the general character of this neighborhood, including the number of pools in surrounding yards, must be considered in relation to this element; that the installation of the pool in the proposed location will not have an adverse effect on the physical and environmental conditions in the neighborhood; and that the difficult can be deemed to self-created, but that this consideration does not preclude the granting of the area variance. Based upon such deliberation and findings, Member Trzcinski made a motion to grant the area variance application as proposed, which motion was seconded by Member Shover. The motion was unanimously approved, and the area variance granted.

The next item of business on the Agenda was the area variance application submitted by Brian Raymond for property located at 21 Oak Tree Lane. This matter was scheduled for public hearing. The notice of public hearing was read into the record, with notice being published in The Record, place on the Town sign board, posted on the Town website, and mailed to owners of all properties within 500 feet of the project site. Brian Raymond was in attendance at the meeting. Member Trzcinski asked whether there were any changes or additions to the application. Mr. Raymond stated that there were no changes or additions to the application. Member Trzcinski then inquired whether anyone in attendance wished to speak in favor of the application. Joe Makowiec, 25 Oak Tree Lane, stated that he was not here to speak in favor or opposition, but merely had a question as to where exactly the proposed ground mount solar array would be located on the Raymond site. Rob Jukes, 20 Oak Tree Lane, also had the same question as to where the ground mount solar array would be located on the Raymond lot. Mr. Raymond stated it would be located generally right in the middle of his side yard line, which is the location where the solar company advised to locate the solar array for maximum efficiency. Mr. Jukes asked about the size

of the solar array system. Mr. Raymond stated that the solar array would be approximately 24 feet long, and approximately 8 feet high. Mr. Raymond also stated that the solar company advised that the only other available location for the ground mount solar array for maximum efficiency was in the front yard. Neither Mr. Jukes nor Mr. Makowiec stated they wanted the solar array located in the front yard. There was some discussion about the final location of the solar array equipment, and Mr. Raymond indicated he would work to locate the solar array to the rear of the lot. Mr. Jukes reiterated that he was not opposed to the solar array system, but he would like to see the system located deeper into the Raymond lot, more toward the rear. Mr. Makowiec concurred, and stated that he was not opposed to the variance for the solar array installation. Member Trzcinski asked whether there were any further comments. Hearing none, Member Shover made a motion to close the public hearing, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. The Zoning Board Members proceeded to deliberate on the Raymond area variance application. Attorney Gilchrist stated that the application sought an area variance for residential application, and therefore constituted a Type 2 action under SEQRA and no further SEQRA determination was required. The Zoning Board then proceeded to deliberate on the elements for the area variance. The Zoning Board Members found that the installation of the ground mount solar array equipment in the proposed location would not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties; that given the reduction in solar panel operation efficiency, there was not a feasible alternative location on the lot, finding that the front yard was not a feasible alternative for the solar array installation; and that the proposed area variance was substantial, but noted that none of the property owners speaking at the public hearing were opposed to the location; that the installation of the solar array equipment would not have an adverse effect on the physical or environmental

condition in the neighborhood; and that the requested variance was self-created, but that consideration did not preclude the granting of the area variance. Based upon such deliberations and findings, Member Schmidt made a motion to grant the area variance as proposed, which motion was seconded by Member Clemente. The motion was unanimously approved, and the area variance granted.

The next item of business on the Agenda was the special use permit application and area variance application submitted by Matopato, LLC for property located on Oakwood Avenue. Attorney Gilchrist noted that this was the continuation of the public hearing on these applications, which was opened at the May meeting of the Zoning Board. Attorney Gilchrist also noted for the record that written notice had been provided to the City of Troy through letter dated May 28, 2015 concerning this public hearing, and that no comments had been received from the City of Troy. Tom Murley, P.E. was present for the applicant. Mr. Murley reviewed the current applications before the Zoning Board, including the request for a special use permit in connection with the operation of a filling station, as well as two area variance applications, one area variance application for the number of bays in the car wash structure as well as a side yard setback variance for the car wash structure. Mr. Murley noted that the side yard variance is adjacent to a 75 foot wide National Grid corridor. Mr. Murley did note for the Zoning Board's information that he was completing certain updates to the site plan which was currently pending before the Brunswick Planning Board, but such updates did not impact the applications pending before the Zoning Board. Mr. Murley likewise confirmed that he was not in receipt of any comments from the City of Troy in relation to the pending applications before the Zoning Board. Member Shover inquired why the Town Code limited the number of bays in this case to only 3 bays, which to Member Shover seemed arbitrary. Mr. Murley stated that the proposed car wash was self-service, not the type of

drive-thru full service car wash, and that the number of bays for the car wash did fit the size of the proposed site development. Member Trzcinski asked whether any of the remaining Zoning Board Members had any questions. Hearing none, Member Trzcinski asked whether there were any members of the public in attendance who wished to provide public comment. Brian Raymond, 21 Oak Tree Lane, asked where the next nearest gas station was located in relation to the project site. Mr. Murley stated that there was a Stewart's Shop which had gas pumps located at the end of Oakwood Avenue at its intersection with Route 142, but that it was on the opposite side of Oakwood Avenue and presented a traffic hazard trying to get in and out of that location, and that the nearest gas station on the easterly side of Oakwood Avenue was the Stewart's Shop located at the bottom of Hoosick Street at its intersection of Oakwood Avenue. Mr. Raymond commented that the only reason he raised the issue was the need for another gas station, since there seems to be a lot of gas stations and convenience stores being constructed. Mr. Murley stated that having the availability of gas on the easterly side of Oakwood Avenue, without the hazard of having to cross Oakwood Avenue at the existing Stewart's location, would actually help the area and provide a benefit to the northbound traffic on Oakwood Avenue. Member Trzcinski inquired whether there was any further comment by the public. Hearing none, Member Shover made a motion to close the public hearing, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing closed. The Zoning Board Members then proceeded to deliberate on the special use permit and area variance applications. Attorney Gilchrist noted that the application sought a special use permit and area variances in connection with the commercial project, and therefore subject to SEQRA review. Attorney Gilchrist further noted that the action is an unlisted action under the SEQRA regulations, and that an uncoordinated SEQRA review was being undertaken on this application between the Town of Brunswick

Planning Board and the Brunswick Zoning Board of Appeals. Attorney Gilchrist directed the Zoning Board Members to review the information in the Environmental Assessment Form as well as the application documents, to make its determination as to whether this action may result in a potential significant adverse environmental impact, or whether this project will not result in significant adverse environmental impact. Upon review of the information contained in the Environmental Assessment Form, as well as the information generally contained in the special use permit and area variance applications, as well as the information provided directly by the applicant during the public hearing, Member Schmidt made a motion to adopt a negative declaration pursuant to SEQRA, determining that the proposed action will not result in any significant adverse environmental impact pursuant to the SEQRA regulations. Member Shover seconded the motion to adopt the SEQRA negative declaration. The motion was unanimously approved, and a SEQRA negative declaration adopted by the Brunswick Zoning Board of Appeals on the Matopato, LLC applications as part of an uncoordinated SEQRA review with the Brunswick Planning Board. Next, the Zoning Board conducted deliberations concerning the elements for the special use permit application. The Zoning Board Members found that the proposed project, including the filling station, generally promotes the public interest and welfare by providing additional retail sales options for consumers on the north side of Oakwood Avenue without necessity of crossing traffic on Oakwood Avenue for the only other available retail gasoline sales in the immediate area; that the project site is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and other similar facilities; that the proposed site use does provide for adequate parking spaces to accommodate expected customers; that there are no immediate neighbors to the project site, noting that the applicant owns approximately 90 acres of land to the rear of the project site, and a 75 foot wide National Grid corridor is the only other

adjacent property owner, and that the site abuts the Oakwood Avenue corridor, and there is an approximate 200 foot vegetative buffer before any residences in the High Point project is reached; and that a special use permit for the filling station will not cause undue traffic congestion or create a traffic hazard, with Member Shover noting that this issue will be further analyzed by the Planning Board during site plan review. It was also noted by the Zoning Board Members that aside from the question of Mr. Raymond, there were no members of the public that provided any public comment on these applications. Based upon such deliberations and findings, Member Trzcinski made a motion to grant the special use permit for the filling station for this action, which motion was seconded by Member Shover. The motion was unanimously approved, and a special use permit granted. With respect to the area variance in connection with the side yard setback for the car wash building, the Zoning Board Members found that the location of the car wash building would not produce an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, noting that the adjacent property is a 75 foot wide National Grid corridor; that given the proposed number of retail uses and the filling station on the site, and that the currently-proposed lot layout provides an appropriate use of the site, a feasible alternative to the side yard setback was not viable; that the requested side yard setback was not substantial; that the construction of the car wash building in its proposed location would not have an adverse effect on the physical or environmental conditions in the neighborhood; and that while the request for the variance can be deemed to be self-created, such consideration is relevant but does not preclude the granting of the area variance. Member Clemente also commented for the record that if the setback variance is allowed from the side yard line, then the site as a whole works for purposes of the overall site plan, including traffic flow behind the buildings. Based upon such deliberations and findings, Member Clemente made a motion to grant the area variance for side yard setback as

proposed, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the area variance granted. The Zoning Board then proceeded to discuss the area variance for the number of bays in connection with the car wash building. The Zoning Board Members found that adding a fourth bay to the car wash building did not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties; that there was an alternate feasible method, which would be to reduce the number of bays to three, but the fact that these bays were designed to be self-service rather than full-service is relevant and there was not a feasible alternative in terms of constructing a fourth self-service car wash bay on the site; that the variance was not substantial; that the variance would not result in an adverse effect on the physical or environmental conditions in the neighborhood; and that while the addition of a fourth car wash bay can be deemed to be self-created, such consideration is relevant but does not preclude the granting of the area variance. Member Clemente asked whether increasing the number of car wash bays would in turn require an increased supply of water. The Zoning Board Members concurred that this was an issue appropriately before the Planning Board on site plan review. Based upon such deliberations and findings, Member Trzcinski made a motion to grant the area variance with regard to the number of bays in the car wash building, which motion was seconded by Member Shover. The motion was unanimously approved, and the area variance granted.

The Zoning Board noted that an additional request had been submitted by the Attorney for David Kent in connection with his area variance application for property located on Banker Avenue. In consideration of the request set forth in Mr. Kent's attorney's letter, the Zoning Board agreed to adjourn this application to its July meeting.

One item of new business was discussed.

An application for a special use permit has been submitted by Shane Cahill for property located at 851 NY Route 351. The applicant seeks a special use permit for an 11-unit apartment building which is currently being operated as a multi-family structure at 851 NY Route 351. Mr. Cahill was not available for the meeting, but was represented by Matthew Robilotta. Mr. Robilotta said that the application has been submitted by Mr. Cahill, who is seeking to purchase the multi-unit structure at 851 NY Route 351. In connection with Mr. Cahill's request of the Brunswick Building Department for zoning verification in connection with this transaction, it was determined that the Brunswick Building Department has no record of a special use permit being issued for a multi-unit structure at this location, even though the structure was built in approximately 1964 and has been used as an 11-unit apartment building for decades. The Building Department noted that the Brunswick Zoning Code, which requires a special use permit for multi-unit structures, was adopted in 1958, and this structure was constructed in 1964 and Town records do not include any special use permit having been issued. Member Clemente asked whether the facility had always been used as 11 units, or whether a lesser number of units have ever existed in the building. The building has always been utilized for 11 apartments, which Member Trzcinski also confirmed. The Zoning Board Members generally reviewed the application materials, and deemed them complete for scheduling a public hearing. This matter is scheduled for public hearing at 6:15 p.m. on July 20, 2015.

The index for the June 15, 2015 meeting is as follows:

1. Nichols – Area Variance – granted.
2. Willbrant – Special Use Permit – July 20, 2015 (public hearing to commence at 6:00 p.m.).
3. Schrom – Area Variance – granted.

4. Raymond – Area Variance – granted.
5. Matopato, LLC – Special Use Permit – granted; Area Variances - granted.
6. Kent – Area Variance – adjourned to July 20, 2015 meeting (public hearing to continue).
7. Cahill – Special Use Permit – July 20, 2015 (public hearing to commence at 6:15 p.m.).

The proposed Agenda for July 20, 2015 meeting currently is as follows:

1. Willbrant – Special Use Permit – (public hearing to commence at 6:00 p.m.).
2. Cahill – Special Use Permit (public hearing to commence at 6:15 p.m.).
3. Kent - Area Variance (public hearing to continue).

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD JULY 20, 2015

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

ABSENT from the meeting was MONICA NANN-SMITH. MIKE CZORNYJ of the Brunswick Building Department was present.

The members of the Zoning Board of Appeals reviewed the draft Minutes of the June 15, 2015 meeting. Three corrections were noted. At page 6, line 13, the word “posed” is changed to “posted”. At page 11, line 21, the phrase “side year” is changed to “side yard”. At page 12, line 22, the word “June” is changed to “July”. Member Trzcinski made a motion to approve the June 15, 2015 draft Minutes subject to the noted corrections. The motion was seconded by Member Shover. The motion was unanimously approved, and the June 15, 2015 Minutes were approved subject to the noted corrections.

The first item of business on the Agenda was the special use permit application submitted by Robert Willbrant for property located at 107 Mountain View Avenue. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, with that Notice having been published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all adjacent properties. Robert Willbrant was present on the application. Chairman Steinbach asked Mr. Willbrant if there were any changes to the application. Mr. Willbrant stated there were no changes to the application, indicating that the application seeks a special use permit to permit the structure located at 107 Mountain View Avenue

to be used as a two-unit structure. Chairman Steinbach then opened the floor for receipt of public comments. Edward Breen, 1 Westfall Avenue, stated that he owns the home adjacent to 107 Mountain View Avenue, and has lived there since 1980, that he has noticed the residence at 107 Mountain View Avenue deteriorate over the years, that the property has been abandoned for the last 4 years, that he is a concerned property owner given the adjacent property is a mess and abandoned, that he understands Mr. Willbrant has spent time and money to clean up the property, that Mr. Willbrant has been working diligently on the property, that he supports the issuance of a special use permit to allow 107 Mountain View Avenue to be used as a two-unit home, that the rehabilitation of this property will improve property values in the neighborhood, that he has spoken with Mr. Willbrant about the project and that he supports the plan for rehabilitation and supports granting a special use permit. Eric Smith, 7 Kemp Avenue, stated that he also owns property at 10 Kemp Avenue, which is adjacent to 107 Mountain View Avenue, and that he generally agrees with the comments made by Mr. Breen, that the property has deteriorated over time and presents a fire hazard, that he has communicated with Mr. Willbrant and supports the plan for rehabilitation and fully supports the grant of the special use permit. Marie Maschewski, 125 Mountain View Avenue, stated that she had lived at her home since 1955, that she has seen the property at 107 Mountain View Avenue deteriorate over time, that she has spoken to the Town of Brunswick concerning this property, that as a result of the deterioration of 107 Mountain View Avenue, her property values are going down, that she is embarrassed by the condition of 107 Mountain View Avenue as it impacts the neighborhood and her property, that she has seen Mr. Willbrant working to rehabilitate 107 Mountain View Avenue, and supports the grant of the special use permit application to allow the rehabilitation of 107 Mountain View Avenue to be completed. Chairman Steinbach asked whether there were any further public comments. Hearing none, Chairman

Steinbach then asked whether any members of the Zoning Board had questions for the applicant. Member Trzcinski asked whether the application still sought only two units, as the original application sought permission for a three-unit structure. Mr. Willbrant confirmed that the application is for two units only, and that two units meets his needs and that there is adequate parking on site for two units. There were no further questions from members of the Zoning Board. Chairman Steinbach then called for a motion to close the public hearing. Member Czornyj made a motion to close the public hearing, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing on the Willbrant special use permit application was closed. The Zoning Board then proceeded to deliberate on the application. Attorney Gilchrist stated that the first issue for the Zoning Board to address was a determination of environmental significance under the State Environmental Quality Review Act. Member Schmidt commented that he does not see any negative or adverse environmental impact from this action, and that the project would result in a positive environmental effect as the property will be cleaned up. Chairman Steinbach confirmed with the applicant that there were no changes being proposed to the exterior of the home or property, other than replacing the exterior siding on the house and general landscaping. Mr. Willbrant confirmed this. After further deliberation, Member Schmidt made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and a negative declaration adopted under SEQRA. Attorney Gilchrist then reviewed the general standards for consideration in determining whether to grant or deny a special use permit. Chairman Steinbach commented that he felt the parking for two units at this location was adequate, that this project would result in an improvement and benefit to the neighborhood, and that there were no negative comments received from neighboring property owners, who generally supported granting the

special use permit. Member Shover asked the applicant whether there were four parking spaces available on the property, to accommodate two units. Mr. Willbrant stated there were four spots available in the driveway location, two spaces for each unit. The Zoning Board Members then generally concurred that there exists adequate transportation facilities, water supply, fire and police protection, and waste disposal facilities for this action; that there was adequate parking spaces for this proposal; that the use of the property as a two-unit structure would not cause undo traffic congestion or create a traffic hazard; and that the rehabilitation of this property pursuant to the special use permit would improve neighborhood character and surrounding property values. Based on the application documents, public comments, and Zoning Board deliberation, Member Trzcinski made a motion to grant the special use permit to allow the use of 107 Mountain View Avenue as a two-unit structure, which motion was seconded by Member Shover. The motion was unanimously approved, and the special use permit granted for 107 Mountain View Avenue.

The next item on the Agenda was the special use permit application submitted by Shane Cahill for property located at 851 NY Route 351. The applicant was not present. The Zoning Board determined to adjourn this matter until the August 17, 2015 meeting, at which time the public hearing on this application will be open.

The next item of business on the Agenda was the area variance application submitted by David Kent for property located on Banker Avenue. Attorney Gilchrist reported to the Zoning Board that he had received a request by Mr. Kent's attorney to further adjourn this matter. Attorney Gilchrist reported that he has received information from Mr. Kent's attorney that Mr. Kent has purchased a portion of the Banker Avenue paper street which is located outside the improved area of Banker Avenue, which exists as a highway by use, and that Mr. Kent has submitted an application for a driveway permit which is pending with the Town. Mr. Kent's

attorney has requested that the area variance application be adjourned until action is taken by the Town on the driveway permit application. Chairman Steinbach stated he was inclined to adjourn this matter to the August meeting. Richard Doling, Esq., an attorney representing Anthony DiNovo, a property owner adjacent to Mr. Kent, requested that he be heard on the matter. Chairman Steinbach allowed Attorney Doling to present his statements to the Zoning Board. Attorney Doling stated that a letter had been delivered to the Zoning Board dated April 17, 2015 stating that he was representing Mr. DiNovo in this matter. Attorney Doling had a question concerning the property which Mr. Kent's attorney has stated was acquired by Mr. Kent. In general, Attorney Doling requested that the Zoning Board not adjourn the Kent application, but rather let it go. Attorney Doling stated that he would need to address certain matters with Mr. Kent outside the forum of the Zoning Board. The Zoning Board thanked Attorney Doling for his statements and said that they would be taken under advisement, but did adjourn the Kent application to the August meeting.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Deborah Phillips for property located at 10 Carolina Avenue. Deborah Phillips was present on the application. Chairman Steinbach requested Ms. Phillips to generally review the application. Ms. Phillips stated that she was looking to install an above-ground pool in her backyard, and was requesting both a rear yard setback variance and a side yard setback variance in connection with the pool installation. The Zoning Board Members generally discussed the lot layout, proposed pool location, plus the extent of the requested variance from the rear property line and the side property line. Chairman Steinbach confirmed that the Zoning Board Members would like to visit the property, and the applicant had no objection. The Zoning Board Members determined that the

application was complete for purposes of scheduling a public hearing, and scheduled a public hearing for its August 17 meeting at 6:00 p.m. (Note: this application was subsequently withdrawn at this time).

The second item of new business discussed was a special permit application submitted by Celco Partnership d/b/a Verizon Wireless, seeking approval to install a small cell antenna on the roof of the Stewarts building located at 2 Brick Church Road. Laura Bomyea, Esq., of the law firm Young Sommer, was present for the applicant. Attorney Bomyea stated that Verizon Wireless was seeking to install a small cell antenna within a cupola structure to be installed on the peaked roof of the new Stewarts Shop located at 2 Brick Church Road. Attorney Bomyea generally reviewed the cupola structure, which will be wood with a shingle roof. Attorney Bomyea then proceeded to review the application documents with the Zoning Board Members, addressing both legal issues and technical issues. Attorney Bomyea stated that this application seeks approval for a minor telecommunications facility under the Town's telecommunications law. Attorney Bomyea stated that a special use permit is required from the Zoning Board of Appeals and site plan approval is also required from the Brunswick Planning Board, as well as a recommendation from Rensselaer County Department of Planning. Member Schmidt stated that in connection with construction of cell towers, the Town has required that the tower reserve areas so that other companies could co-locate on that tower. Member Schmidt asked whether this proposed cupola structure would be able to house any additional antenna. Attorney Bomyea stated that another antenna could not be located within the same cupola structure, but was not sure if any additional small antenna could be located elsewhere on the Stewarts building roof. Attorney Bomyea also stated that she did not have any information as to whether the roof structure could support an additional antenna or cupola, and also did not have any information as to whether there would be any frequency

restrictions. Attorney Bomyea stated that she would further research these issues, including whether the Town's telecommunication law required reservation for co-location with respect to minor facilities. Member Shover asked whether there was a structural analysis included within the application documents as to whether the roof could hold the cupola structure safely. Attorney Bomyea stated that the structural analysis is included within the application documents. The Zoning Board Members had no further questions at that time. Attorney Gilchrist stated that the Zoning Board's past practice on applications under the Town Telecommunications Law included the Zoning Board retaining a technical or engineering review consultant to assist the Zoning Board in reviewing the technical issues associated with the application. The Zoning Board determined that retention of an outside engineering consultant was appropriate in this case. Member Shover then made a motion to retain an engineering review consultant, and specifically LaBerge Engineers, to assist the Board in the review of the Verizon Wireless special permit application. That motion was seconded by Chairman Steinbach. The motion was unanimously approved, and the Zoning Board will retain LaBerge Engineering as its engineering review consultant on this application. Attorney Gilchrist stated that he would contact LaBerge Engineering. This matter is adjourned to the August 17, 2015 meeting for further discussion.

The index for the July 20, 2015 meeting is as follows:

1. Willbrant – Special Use Permit – granted.
2. Cahill – Special Use Permit – August 17, 2015 (Public Hearing to commence at 6:00 p.m.).
3. Kent – Area Variance – August 17, 2015.
4. Phillips – Area Variance – Application withdrawn at this time.
5. Cellco Partnership d/b/a Verizon Wireless – Special Use Permit – August 17, 2015.

The proposed Agenda for August 17, 2015 meeting currently is as follows:

1. Cahill – Special Use Permit – (Public Hearing to commence at 6:00 p.m.).
2. Kent – Area Variance – (Public Hearing to continue)
3. Cellco Partnership d/b/a Verizon Wireless – Special Use Permit.

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD AUGUST 17, 2015

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

MONICA NANN-SMITH of the Brunswick Building Department was also present.

The Zoning Board Members reviewed the draft Minutes of the July 20, 2015 meeting. Upon motion of Member Trzcinski, seconded by Member Clemente, the Minutes of the July 20, 2015 meeting were unanimously approved without amendment.

The first item of business on the Agenda was a special use permit application submitted by Shane Cahill for property located at 851 New York Route 351. The applicant seeks approval of a special use permit for an 11-unit apartment building. The Zoning Board opened a public hearing on this application. The Public Hearing Notice was read, with that Notice having been published in the Troy Record, placed on the Town sign board, posted on the Town web-site, and mailed to owners of all adjacent properties. It is noted for the record that this application had initially been noticed for public hearing at the Zoning Board's July 20 meeting, but the applicant was not in attendance. The Zoning Board held the application over to the August 17 meeting, and the public hearing was re-noticed to be held at the August 17 meeting. Shane Cahill was present on the application. Chairman Steinbach requested that Mr. Cahill review the application. Mr. Cahill stated that he is under contract to purchase the 11-unit apartment building located at 851 New York Route 351, but that the contract has a contingency that the building must be permitted by the Town. Mr. Cahill stated that while the building was constructed years ago and has been used as an apartment building, the Town Building Department has no record on the building. There is no special

use permit on file for this building. Mr. Cahill did state that he was able to find real property tax records going back to 1974, which show that the building has been taxed as an 11-unit building. Mr. Cahill stated that he is proposing no changes to the structure. Chairman Steinbach opened the floor for receipt of public comment. No members of the public wish to provide any comment on the application. Chairman Steinbach then inquired whether any of the Zoning Board Members had questions or comments. Initially, Chairman Steinbach asked whether Mr. Cahill had contacted the Brunswick Building Department regarding an inspection of the property. Mr. Cahill stated that there have been no inspections of the property by the Building Department to his knowledge. Member Clemente asked whether there were any Town regulations applicable to 11-unit apartment buildings, and whether this building complies. Ms. Nann-Smith stated that upon research, the Brunswick Building Department has no property file for this location; that it was her understanding the building was constructed around 1960, which was after the adoption of zoning in the Town of Brunswick; that there is no certificate of occupancy on file for this building, and that she has never been inside the building. Member Clemente asked whether the requirement for Town inspections and issuance of a certificate of occupancy was an appropriate condition on a special use permit. Attorney Gilchrist stated that the Zoning Board has the jurisdiction to attach reasonable conditions to any special use permit, and that the building must otherwise comply with Town Code requirements. Mr. Cahill had a question regarding a certificate of occupancy, and whether the certificate of occupancy required compliance with the current New York State Building Code. Ms. Nann-Smith stated that her inspection would be based on the property maintenance code since the building was already existing. Member Shover asked Mr. Cahill whether there would be any inspections prior to the closing on his contract. Mr. Cahill stated that there would need to be inspections by the lender for financing, but that it was up to the lender as to the scope of the inspections it needs for financing. Member Clemente asked about the status of the siding on the left

side of this building, and what appears to be a hole in the side of the building. Mr. Cahill stated that the exterior of the front of the building appears to be in cedar, that the back was simply wrapped in Tyvek, and that he was not aware of the condition on the left side of the building. Mr. Cahill did state he has quotes to re-side the entire building if the closing occurs, and that he will look into the condition of the side of the building in the event the closing occurs. Chairman Steinbach asked whether Mr. Cahill has other properties that he owns and leases, and Mr. Cahill confirmed that he does own other rental properties. Chairman Steinbach confirmed with Mr. Cahill that he would not be living at this location, but rather that it was a business venture for rental income. Mr. Cahill stated that he would not be residing at this facility, but merely renting out the units. Chairman Steinbach stated that the Zoning Board needed to be mindful of the current tenants at this building, and that the building must meet Town Code requirements. Chairman Steinbach also felt that the Fire Department should inspect the building for safety purposes as well. Mr. Cahill had a question regarding which party is responsible if the building is not up to code. Attorney Gilchrist stated that this was a contract issue between the current owner and purchaser, but in general the owner of the property is required to maintain the building pursuant to code requirements. Chairman Steinbach stated that he wanted to see this building continue to be available to the tenants and for rental purposes, but that the building needed to comply with code requirements and that the tenants must be safe. Chairman Steinbach asked whether there were any further questions or comments from the Zoning Board. Hearing none, Chairman Steinbach made a motion to close the public hearing, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing on the Cahill special use permit application was closed. Chairman Steinbach stated that the Zoning Board is prepared to move forward and act on the special use permit application. Attorney Gilchrist stated that the first issue for the Zoning Board to address was making a determination of environmental significance under the State Environmental Quality Review Act. Attorney Gilchrist

reviewed the standards for environmental determinations under SEQRA. Member Schmidt stated that this was a situation where no new construction is being proposed, the building already exists and has been existing for several years, and that the improvements to the exterior of the building may actually improve environmental conditions, including visual impact. Member Schmidt then made a motion to adopt a negative declaration under SEQRA, finding that there are no potential significant adverse environmental impacts from the action. Member Clemente seconded the motion. The motion was unanimously approved, and a negative declaration adopted under SEQRA. Attorney Gilchrist then discussed with the Zoning Board Members the special use permit review standards. Chairman Steinbach stated that he felt this special use permit is in the overall public interest, as this building has been used for an 11-unit structure for several years, and this special use permit will require inspections for code compliance, that the existing parking was adequate, and that no additional traffic would result. Member Schmidt asked about the water supply, and whether there was only one well for water supply for this building. Mr. Cahill stated that there was one water supply well for this building, and has been adequate for water supply. Member Schmidt felt it was appropriate to have confirmation from the Rensselaer County Health Department that the water supply and septic system for this building is adequate. The Zoning Board Members generally discussed appropriate conditions for a special use permit in this case, which will include an inspection by the Brunswick Building Department for code compliance and determination on issuance of a certificate of occupancy; inspection by the Eagle Mills Fire Department for safety purposes; and confirmation from the Rensselaer County Health Department that the existing water supply and septic system is adequate for this use. Mr. Cahill had a question as to what code requirements would be applicable for the existing water and septic. Attorney Gilchrist stated that the requirements for the water supply and septic system is within the jurisdiction of the Rensselaer County Health Department, and that this condition does not specify any particular code applicability but rather

the requirement that the Rensselaer County Health Department confirm that the existing water supply and septic system are adequate for this building. Chairman Steinbach asked whether there were any further comments. Hearing none, Member Shover made a motion to grant the special use permit subject to the following conditions:

1. Inspection by the Brunswick Building Department for code compliance and determination on issuance of a certificate of occupancy;
2. Inspection by the Eagle Mills Fire Department; and
3. Confirmation from the Rensselaer County Health Department as to the adequacy of the existing water supply and septic system for this building.

Member Schmidt seconded the motion subject to the stated conditions. The motion was unanimously approved, and the special use permit granted subject to the stated conditions.

The next item of business on the Agenda was the area variance application submitted by David Kent for property located on Banker Avenue. This matter is held over to the September meeting.

The next item of business on the Agenda was the special use permit application submitted by Cellco Partnership d/b/a Verizon Wireless for the installation of a small cell antenna on the roof of the Stewart's building located at 2 Brick Church Road. The applicant was represented by Laura Bomyea, Esq. Ms. Bomyea stated that she had some additional elevations of the proposed cupola on the roof of the Stewart's building, which will house the small cell antenna. Chairman Steinbach asked whether there were any changes to the application. Ms. Bomyea stated that there were no changes to the application, and that the application is the same as presented at the July meeting, and that the elevations merely provided additional depiction of what the cupola would look like and where it would be located on the roof of the Stewart's building. Ms. Bomyea also confirmed that the escrow requirement for engineering review by the Zoning Board's retained engineer has been filed with the Town. Ms. Bomyea

generally reviewed the proposed cupola, which is designed to fit in architecturally with the new Stewart's building, including being the same color and design, with the goal of having the cupola appear part of the design of the building. The antenna is concealed inside of the cupola, so that there is not any apparent antenna on the roof of the building. Ms. Bomyea stated that the intent of this installation is to provide hot spot coverage, which is designed to provide additional coverage for approximately 1,000 feet around the antenna location, which will provide additional coverage for electronic devices like cell phones and tablets, which in turn opens up additional coverage from larger tower locations. Ms. Bomyea also reviewed the base enclosure/cabinet which will be located near the existing HVAC equipment at the rear of the Stewart's building. Member Trzcinski commented that the coverage for this antenna location does not include the Town baseball fields located on Route 2, and asked whether this installation could be increased in range to cover the Town's athletic fields. Ms. Bomyea directed the Zoning Board Members to Tab 9 of the special permit application, which provides a radio frequency analysis, and explained that the use of these small cell antenna is to pinpoint strategic areas which in turn allows additional coverage from the larger cell towers in the area, and in terms of this location, the cell tower located in the Callanan quarry would be able to provide additional coverage. Ms. Bomyea explains that it is similar to constructing additional roadways to free up traffic flow at a major intersection. Member Shover asked whether Verizon was constructing these small cell antenna at all Stewart's locations. Ms. Bomyea stated that she could not say whether this was being done at all Stewart's locations, but that Verizon does have a contract with Stewart's, and that her office had been involved with the installation at about a dozen Stewart's Shops, and they are generally well-received by the municipalities. Member Clemente asked whether these coverage areas for the small cell antenna are intended to overlap, or just redirect coverage from the existing larger cell towers. Ms. Bomyea stated that the small cell antenna are not designed to overlap, which may result in frequency interference, but are designed to redirect

coverage from the existing larger cell towers, and that these are strategically located in areas that have a high volume of use at existing cell towers. Ronald Laberge, P.E. of Laberge Engineering, engineering review consultants for the Zoning Board, was present, and went over his application review letter dated August 3. Mr. Laberge stated that he had reviewed the Verizon application with respect to the Town's telecommunications law, and found that the application was complete. Mr. Laberge stated that the supplemental reports to the special use permit application are acceptable, and that the application is complete for moving the Zoning Board review forward. Mr. Laberge did comment that this application must be referred to the Rensselaer County Department of Planning for review and recommendation. Chairman Steinbach asked Mr. Laberge to comment on Item 4(b) of his review letter, which addresses the structural stability of the roof to support the cupola plus the antenna. Mr. Laberge stated that the report on structural stability attached to the special use permit application was reviewed by his office, that the calculations are correct, and that the findings of the structural stability report are that no structural instability will result assuming the roof was constructed in accordance with the design plans. Zoning Board Members then determined the application was complete for scheduling the public hearing on this application. A public hearing is scheduled for the September 21 meeting to commence at 6:00 p.m.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Mark Hatfield for property located at 6 Petticoat Lane. The Zoning Board Members reviewed the application materials. Mark Hatfield was present, and generally reviewed the application with the Zoning Board Members. Mr. Hatfield stated that he and his wife purchased the home at 6 Petticoat Lane in 1996, and that there was an existing above-ground pool in the backyard. Several years ago, the pool was removed. There has been no pool in the yard for several years, but now the Hatfields wish to put in a pool in the

same location where the pool used to be located in the yard. Mr. Hatfield explained that locating a pool in the yard is limited, due to the location of the septic system as well as a very large maple tree located on the neighbor's lot. Mr. Hatfield did state that the backyard is completely fenced in. Chairman Steinbach confirmed that Mr. Hatfield had removed the pool, and that there had been no pool in the yard for a period of several years. Mr. Hatfield stated that was accurate. Member Clemente asked about the pool size, with the application noting it was a 12 ft. by 20 ft. pool. Mr. Hatfield stated that the pool is proposed for 12 ft. by 20 ft., and that it fits better in the yard with that configuration rather than a round pool. Chairman Steinbach also noted that the application provides that the rear yard setback requirement under the Town Code is 20 ft., but the application requests between 10 to 12 ft.; and that the right side setback required under the Town Code is 15 ft., but the application requests between 12 to 14 ft. Mr. Steinbach asked why the proposed location was not definite. Mr. Hatfield stated that the pool will require some excavation, and that he did not know if excavating would require a slight adjustment in final location due to soil conditions or rock. The Zoning Board Members generally concurred that the application was complete and ready for public hearing. The Zoning Board set the public hearing for this application for its September 21 meeting to commence at 6:15 p.m.

The second item of new business discussed was an area variance application submitted by Carmine Battuello for property located at 198 North Lake Avenue. The Zoning Board Members generally reviewed the application materials. Carmine Battuello was present, and generally reviewed the application with the Zoning Board Members. Mr. Battuello explained that he was looking to construct an attached enclosure on the left side of his house, to be used for storage which would allow him to clean up the property and store materials in an enclosed structure. Chairman Steinbach noted that the proposed addition was substantial, measuring approximately 13 ft. by 38 ft., and would be located only 4 ft. from the side yard line. Member Trzcinski stated that the application materials do not

include a drawing showing the entire lot, with the existing house location, and the proposed location for the enclosure. Member Schmidt stated he wanted a map showing the house location, proposed location of the new addition, water, sewer, power lines and also lot lines and adjacent properties. Member Shover stated that the Zoning Board does need a plot plan, particularly since this enclosure is proposed to be constructed on concrete slab and will be permanent. Mr. Battuello stated that he could immediately provide that plot plan, and that he had already spoken with the neighbor adjacent to the proposed addition, and that the neighbor does not have any objection. The Zoning Board Members generally found the application to be complete other than the submission of the plot plan, and generally understood the layout of the lot as well as the proposed addition. The Zoning Board Members determined to schedule the public hearing for this application at its September 21, meeting to commence at 6:30, with the provision that Mr. Battuello submit the plot plan no later than September 9 so that the Zoning Board Members have adequate time to review it and make a site visit prior to the September 21 meeting, and that the plot plan is on file with the Town when the public hearing is noticed.

The index for the August 17, 2015 meeting is as follows:

1. Cahill – Special Use Permit – Approved with conditions.
2. Kent – Area Variance – September 21, 2015.
3. Cellco Partnership d/b/a Verizon Wireless – Special Use Permit – September 21, 2015 (Public Hearing to commence at 6:00 p.m.).
4. Hatfield – Area Variance – September 21, 2015 (Public Hearing to commence at 6:15 p.m.).
5. Battuello – Area Variance – September 21, 2015 (Public Hearing to commence at 6:30 p.m.).

The proposed Agenda for the September 21, 2015 meeting currently is as follows:

1. Cellco Partnership d/b/a Verizon Wireless – Special Use Permit (Public Hearing to commence at 6:00 p.m.).
2. Hatfield – Area Variance (Public Hearing to commence at 6:15 p.m.).
3. Battuello – Area Variance (Public Hearing to commence at 6:30 p.m.).
4. Kent – Area Variance.

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD SEPTEMBER 21, 2015

PRESENT were ANN CLEMENTE, E. JOHN SCHMIDT, WILLIAM SHOVER and CAROLINE TRZCINSKI.

Absent was CHAIRMAN MARTIN STEINBACH.

ALSO PRESENT was MICHAEL CZORNYJ, Brunswick Building Department.

Member Clemente served as acting Chair for this meeting.

Member Clemente reviewed the meeting agenda, noting that the application by Kent for area variance is adjourned without date at the request of the applicant. Attorney Gilchrist noted for the record that the applicant's attorney had submitted to Attorney Gilchrist a title opinion concerning the acquisition of fee title interest by Mr. Kent in property connecting his lot to frontage directly on the improved Banker Avenue. Attorney Gilchrist stated he would review that title opinion.

The draft Minutes of the August 17, 2015 meeting were reviewed. Upon motion of Member Trzcinski, seconded by Member Schmidt, the draft Minutes of the August 17, 2015 meeting were unanimously approved without amendment.

The first item of business on the agenda was the special permit application submitted by Cellco Partnership dba Verizon Wireless for property located at 2 Brick Church Road. The applicant seeks installation of a small cell antenna on the roof of the existing Stewart's building located at 2 Brick Church Road. Laura Bomyea, Esq., attorney representing the applicant, was

present. Also present was Gabrielle Ellsbury of Pyramid Network Solutions, on behalf of the applicant. The Zoning Board opened the public hearing on this application. The Notice of Public Hearing was read into the record, with the notice having been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of properties located within 500 feet of the project site. Member Clemente inquired whether there were any changes to the application. Ms. Bomyea stated that there were no changes to the application. Ms. Bomyea did present to the Zoning Board an additional photo simulation of the proposed cupola on another structure, with the explanation that the cupola would be located slightly different on the roof of the Stewart's at 2 Brick Church Road, but the photo simulation did present a visual of the cupola on an existing structure. Ms. Bomyea also noted that the recommendation had been received from the Rensselaer County Department of Economic Development and Planning, noting that the application did not conflict with County plans and that local consideration shall prevail. Ms. Bomyea also stated that, in response to the question from Member Trzcinski, Verizon did research whether cell coverage and 911 coverage were provided at the Route 2 athletic fields, and confirmed that both Verizon service and 911 coverage is provided at the Route 2 athletic fields. Member Clemente asked whether any of the members of the Zoning Board had questions for the applicant. No member of the Zoning Board had any further questions. Member Clemente then opened the floor for receipt of public comment. No members of the public wished to provide any comment on the application. Mr. Czornyj also stated that there had been no written comments received from the public, but did note for the record that he had received some inquiry regarding the visibility of the antenna, but when it was explained that the antenna was housed within a cupola, there were no further questions or inquiries from the public. Hearing no public comments, the Zoning Board closed the public hearing on this special permit application. The Zoning Board

members then proceeded to deliberate on the application. Member Trzcinski had a question concerning the schedule for installation of the antenna and cupola in the event the special permit was granted. Ms. Bomyea stated that the applicant still needed to have a site plan reviewed by the Planning Board, but in the event the site plan is approved, Verizon Wireless is intent on installing this facility before winter. Mr. Czornyj noted for the record that Ms. Bomyea had presented the concept site plan to the Brunswick Planning Board at its September 17 meeting. Also in attendance at the meeting was Ronald Laberge, P.E., the engineering review consultant to the Zoning Board on this application. Mr. Laberge again reviewed his comment letter dated August 3, stating that the application was complete pursuant to Section 5(A) of the Town of Brunswick Telecommunications Law, and that there are no outstanding engineering or technical issues on the application. Mr. Laberge did note that the recommendation of the Rensselaer County Planning Department had been completed and received by the Town. The Zoning Board members then determined that the application materials are complete, the public hearing has been closed, and the Board is prepared to deliberate and act on the application. Member Clemente stated that compliance with SEQRA must be first addressed. Attorney Gilchrist stated that the standard for the Board to consider under SEQRA is whether, based on the application documents and other materials received, the action has the potential to create an adverse significant environmental impact, in which case a positive declaration would be adopted and the preparation of an environmental impact statement required, or whether there was not the potential for any significant adverse environmental impact from the action, in which case a negative declaration would be adopted and the SEQRA process concluded. The Zoning Board members deliberated, and determined that there were not any significant adverse environmental impacts resulting from the action. Member Trzcinski then made a motion to adopt the negative declaration, which motion

was seconded by member Shover. The motion was unanimously approved, and a SEQRA negative declaration adopted. Attorney Gilchrist then stated that under the Town's Telecommunications Law, at section 5(B) pertaining to minor personal wireless telecommunication service facilities, if a complete and satisfactory application pursuant to the provisions of Section 5(A) of the Town's Telecommunications Law has been provided, and if the proposed modifications to the existing building is deemed insignificant, and after the Zoning Board has conducted a public hearing and complies with SEQRA, the law directs that the Board shall grant the special use permit without further review under the Town's Telecommunications Law. The Zoning Board members determined that the application was complete and satisfactory pursuant to the Town's Telecommunications Law Section 5(A), and specifically relied on the review memorandum of Laberge Engineering, and also determined that the proposed modification consisting of the cupola on the top of the existing Stewarts building was not significant, and considering that the Board has conducted the public hearing and adopted a SEQRA negative declaration, the Board was of the opinion that the special use permit should be granted without further review under the Town's Telecommunications Law standards. Member Schmidt then made a motion to grant the special use permit, which motion was seconded by Member Shover. The motion was unanimously approved, and a special use permit granted to Cellco Partnership dba Verizon Wireless in this matter.

The next item of business on the agenda was the area variance application submitted by Mark Hatfield for property located at 6 Petticoat Lane. Mark Hatfield was present. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the notice had been published in the Troy Record, placed on the Town's sign board, posted on the Town website, and mailed to owners of properties within 500 feet of the

project site. Member Clemente asked whether there were any changes to the application. Mr. Hatfield stated there were no changes to the application, and gave a brief overview of the variance request. Mr. Hatfield stated that he was seeking to re-install a pool in his backyard in a location where a pool had previously been situated for several years. The pool previously was an above ground pool, and he was now looking to install a below-grade pool. The backyard measures approximately 55 feet by 65 feet, but pool location is limited by an existing septic system and mature trees. Mr. Hatfield explained that he was looking to position the pool in the general location where it had previously been located, which will be approximately 10-12 feet from the rear yard property line. The Town Code requires a rear yard setback of 20 feet. Mr. Hatfield also stated that the pool would be located approximately 12-14 feet from the side yard line. The Town Code requires a side yard setback of 15 feet. Mr. Hatfield handed up to the Zoning Board a letter from David Shields, residing at 8 Petticoat Lane, stating that he has no objection to the granting of these two variances. Mary Grace Bulson also resides at 8 Petticoat Lane, and also has no objection to the granting of the variances. The Zoning Board then opened the floor for receipt of public comment. There were no members of the public seeking to comment on the application. Member Clemente asked whether any members of the Zoning Board had any questions. No member of the Zoning Board had any further questions. Member Schmidt did state that he felt the proposed location of the pool was the most logical place in the backyard, given the constraints of the septic system location and mature trees. Member Clemente concurred in that opinion. Thereupon, the Zoning Board closed the public hearing on the Hatfield area variance application. The Zoning Board members then proceeded to deliberate on the application. Attorney Gilchrist stated that the application seeks an area variance for a residential use, and therefore constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board members

then proceeded to deliberate on the elements for the area variance. As to whether the requested variances would result in an undesirable change in the character of the neighborhood, or create a detriment to nearby properties, the Zoning Board members generally concurred that this will not result in an undesirable change or impact on adjacent properties, as the backyard was already fenced, the pool would generally be out of sight, and that there were other pools in the yards in this neighborhood. The Zoning Board members also found that there was not a feasible alternative to the applicant for the pool location on this lot, given the constraints of the lot in terms of the location of the septic system, house, driveway, patio, and mature trees. The Zoning Board members did feel that the requested variance from the rear yard setback requirements could be deemed substantial, but given the specific facts of this application and constraints of the lot, felt that this factor was relevant but not controlling. The Zoning Board members felt that the requested variance from the side yard setback was not substantial. The Zoning Board members also felt that the variances would not result in any negative impact on the environment or physical characteristics of the location. On the element of whether the difficulty in requiring the variances is self- created, the Zoning Board did take into account that a pool had been in this location for several years, and that the request is to replace the pool in the approximate same location; the Zoning Board also took into account the lot constraints, including the location of the existing septic system, as well as mature trees. The Zoning Board members determined that even if the hardship is determined to be self-created, this was a relevant consideration, but not controlling on this specific application. Attorney Gilchrist then stated that the Board should consider these elements in its deliberations to determine whether to grant, grant with any conditions, or deny the variance, and, in doing so, balance the benefit to the applicant in granting the variances as against any detriment created to the public. Based on the deliberations of the Zoning Board, Member Trzcinski

made a motion to grant both the rear lot line variance and side lot line variance, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variances granted on the Hatfield application.

The next item of business on the agenda was the area variance application submitted by Carmine Battuello for property located at 198 North Lake Avenue. Carmine Battuello was in attendance. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, with that notice having been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of property located within 500 feet of the project site. Member Clemente asked whether there were any changes to the application. Mr. Battuello stated there were no changes to the application, and presented a brief overview of the project. Mr. Battuello stated that he was proposing to construct an addition to the left side of the existing residential dwelling for use as a storage area. The new addition would be located approximately four feet from the side yard line. The Town code requires a ten foot side yard setback. Mr. Battuello stated that the proposed storage area would be approximately 13 feet wide, and 38 feet deep, and attached to the existing house. Member Clemente noted that the Zoning Board members had just received additional photographs concerning the proposed addition at this evening's meeting. Mr. Battuello stated that he had supplied this additional information at the request of the Zoning Board members only a few days after the August meeting. Member Shover stated that he did not yet see a completed plot plan showing the entire lot and location of existing structures, but did acknowledge that there were drawings, as well as the photographs. The Zoning Board members confirmed that the additional drawing and photographs were submitted by Mr. Battuello to the Building Department in August, but that the Zoning Board members had not been provided copies of those until the September 21 meeting. The Zoning

Board then opened the floor for receipt of public comments. Mr. Battuello stated that he had provided a letter from the adjacent property owner that is closest to the proposed addition to his house, Hugh Leonardo, 200 North Lake Avenue, and that Mr. Leonardo states he has no objection to the granting of the area variance for the construction of this addition to the Battuello house. Richard Surprenant, 197 North Lake Avenue, stated that he was the owner of the property located across the street from the Battuello house, and just had some questions regarding the proposed addition, including whether the appearance was going to be as a finished garage with siding and roof shingles; Mr. Battuello stated that the addition would be sided to be uniform with his house and would have roof shingles. Mr. Surprenant also asked about the size of the addition, and noted he had heard the addition would be 13 feet wide by 38 feet deep; that Mr. Surprenant had concern that the addition to the house would be consistent with the character of the area. Mr. Battuello stated that the addition would be consistent with the look of his house, that he would side the addition to be consistent with the siding on the rest of his house, and that the addition would be of the same character of the surrounding neighborhood. Mr. Battuello also stated that the addition was just for storage, and that he had no plans to use it for any car or trailer storage. There were no other public comments submitted. Member Trzcinski asked whether the roof to the addition would be pitched or simply be a flat roof. Mr. Battuello stated that the roof would be pitched on one side, leading away from the side of the house. Member Trzcinski also asked what the front of the addition would look like. Mr. Battuello stated that he was looking to have a garage door installed in the front of the addition, and that there would likely be windows installed on the side of the addition. Member Shover then commented that this would look like a garage, and not simply an addition to the house. Mr. Battuello stated that the addition would look like a garage, but it was being used for storage of household items only, and would not be used to store cars or trailers.

Member Shover was concerned about the exact location of the property line. Mr. Battuello stated that his neighbor had a survey performed when he installed his fence, and that he does know the location of the property line, and knows that the addition will be approximately four feet off of the property line. Member Shover asked whether the addition would be flush with the front of the existing house. Mr. Battuello said that the addition would be flush with the front of the existing house to create a consistent look. Member Clemente noted that there was an existing exterior door on the side of the house, and asked whether that would be maintained to gain interior access to the addition, as well. Mr. Battuello said the side door would be maintained. The Zoning Board members then had extended discussion regarding the need for a formal plot plan on this application in light of the drawing and photograph material submitted by Mr. Battuello to the Building Department. The Zoning Board members also discussed whether to close the public hearing. Attorney Gilchrist stated that in the event the Zoning Board closed the public hearing, the Zoning Board did have up to 62 days in which to render a decision, which would allow the Zoning Board members opportunity to take a further look at the application materials and to visit the site again, if necessary. Attorney Gilchrist stated that the Zoning Board must determine that it has adequate information on which to base its decision. Following further deliberation, the Zoning Board determined to close the public hearing. Member Trzcinski made a motion to close the public hearing, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing on the Battuello area variance application was closed. Member Shover stated that it was significant that the adjoining property owner closest to this proposed addition had submitted a letter saying that he had no objection to the variances. Attorney Gilchrist then stated that while the letter from the adjacent neighbor was relevant, the Zoning Board members still needed to determine that it had adequate information in the application if it proceeded to

deliberate and act on the application. Following further discussion, the Zoning Board members determined that the application was complete and adequate for action. Attorney Gilchrist then noted that this application seeks an area variance for a residential use, and constitutes a Type 2 action under SEQRA. The Zoning Board members then proceeded to deliberate on the elements for the area variance. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to the neighborhood, the Zoning Board members generally stated that the proposed addition was consistent with the neighborhood character, that it would have the same siding and appearance as the remainder of the house, and would be consistent with the neighborhood. The Zoning Board members also took into account the letter from the adjacent property owner, as well as the comments of the property owner on the other side of North Lake Avenue. Member Schmidt also stated that there was no feasible alternative to locating the proposed addition on the lot. The Zoning Board members generally concurred that the variance would not result in any detrimental effect on the physical or environmental conditions in the neighborhood. The Zoning Board members did feel that the variance was substantial and was self-created, but felt that these are factors to be considered and are not determinative on this application. The Zoning Board members then further deliberated on these elements, and weighed the benefit to the applicant in granting of the variance as against any detriment to the public. Following this deliberation, Member Trzcinski made a motion to grant the area variance subject to the condition that the Building Department require a plot plan showing the specific location of the lot line at the time of applying for a building permit. That motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variance granted, subject to the stated condition.

Two items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Rick Relyea, 229 Creek Road. Mr. Relyea was in attendance. Mr. Relyea explained that he owned 38 acres at 229 Creek Road, which are predominantly forested, with a two-acre developed area on which he has his house and existing garage. The existing garage is a three door, 1.5-story building that is deteriorating. Mr. Relyea stated that he is looking to replace the existing garage with a four-door, two-story structure in the same general location, which will be next to his existing house, which is three stories. Mr. Relyea stated that the garage will be located approximately 400 feet from the property line, and is not visible from the road or any neighboring properties. Mr. Relyea stated that the new garage would be placed in the same general location, but will be about ten feet wider given the addition of another bay. Mr. Relyea stated that with a two-story garage, a height variance is required. Member Trzcinski confirmed that the Zoning Board members will have access to the property, and will be allowed to drive in on the private driveway up to the area of the house and garage on the property. Mr. Relyea stated that the Zoning Board members are welcome. The Zoning Board members then generally reviewed the application materials, and found them to be complete to move this matter forward to public hearing. A public hearing on this matter is scheduled for the October 19 meeting, to commence at 6:00 p.m.

The next item of new business on the agenda was a concept presentation by Price Chopper for renovation of the Price Chopper store located in the Brunswick Plaza. Chuck Chisholm, Director of Property for Price Chopper, presented the concept plan, where Price Chopper seeks to remodel the exterior of the front of the Price Chopper in the Brunswick Plaza, in conjunction with significant interior renovations. The proposal is to remodel the Brunswick Store to a “Market 32” brand, rather than the existing Price Chopper façade. In connection with this exterior renovation, a “Market 32” sign, as well as several picture panels, will be added to the exterior of the building,

plus additional signage for the pharmacy, a Starbucks, as well as a “Welcome” sign over the entrance door. Mr. Chisholm stated that Price Chopper had renovated existing stores to the “Market 32” brand in Clifton Park, Wilton, and in Pittsfield. Mr. Chisholm stated that Price Chopper was seeking to start this renovation by the end of 2015. Member Trzcinski wanted to confirm that this was an exterior renovation only, and that there were no changes to the footprint or expansion of the structure. Mr. Chisholm stated that there were only interior renovation and exterior renovation on the existing building being proposed, with no structural additions or changes. The representatives of Price Chopper characterized the picture panels as “graphic panels,” that would be illuminated. There was discussion concerning the total number of signs, as well as the size of the signs. The Price Chopper representative stated that the existing signs at the Price Chopper store totaled 281 square feet, and that the proposed “Market 32” sign, the Starbucks sign, the pharmacy sign, and the “Welcome” sign total 229 square feet, whereas the “graphic panels” total an additional 395 square feet. Member Trzcinski had questions regarding the illumination of the “graphic panels.” The Price Chopper representative stated that they are illuminated, but are not very bright, and stated there are examples of these in both Clifton Park and Wilton. There was extended discussion regarding the requirements of the Town sign law. Attorney Gilchrist stated that he had been contacted by the Brunswick Building Department, and had looked at the proposal in relation to the Town sign law, and specifically the definition of “sign” under the Brunswick Town Code, and assisted the Building Department in its determination that the illuminated “graphic panels” constitute signs under the Brunswick Town Code. Attorney Gilchrist made it clear that the applicant had several options available to it, including an appeal of that determination by the Brunswick Building Department as to whether the “graphic panels” constitute signs under the Brunswick Sign Code, which could be entertained by the Brunswick

Zoning Board of Appeals. In the event the applicant seeks to appeal the determination of the Brunswick Building Department, then Attorney Gilchrist would recuse himself from advising the Zoning Board on that issue, as he participated in the determination of the Brunswick Building Department in the first instance. In that regard, in the event an appeal is taken by the applicant, then the Zoning Board will retain separate counsel. Alternatively, Attorney Gilchrist stated that the applicant could simply work with the Building Department on the issue of total number of signs and total square footage of signs allowed under the Brunswick Town Code, and if a variance is required from those restrictions, then a variance application could be made directly to the Zoning Board of Appeals. There was general discussion concerning these options, with the applicant stating that it would review its options and work with the Brunswick Building Department as to how to proceed. This matter is adjourned without date.

The index for the September 21, 2015 meeting is as follows:

1. Cellco Partnership dba Verizon Wireless – special use permit – granted.
2. Hatfield – area variances – granted.
3. Battuello – area variance – granted subject to condition.
4. Relyea – height variance – 10/19/2015 (public hearing to commence at 6:00 p.m.)
5. Price Chopper – concept presentation – adjourned without date pending receipt of application.

The proposed agenda for the October 19, 2015 meeting currently is as follows:

1. Relyea – height variance (public hearing to commence at 6:00 p.m.)

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD OCTOBER 19, 2015

PRESENT were CHAIRMAN MARTIN STEINBACH, E. JOHN SCHMIDT, WILLIAM SHOVER and CAROLINE TRZCINSKI.

Absent was ANN CLEMENTE.

ALSO PRESENT was MICHAEL CZORNYJ, Brunswick Building Department.

The draft minutes of the September 21, 2015 meeting were reviewed. Upon motion of Member Trzcinski, seconded by Member Schmidt, the minutes of the September 21, 2015 meeting were unanimously approved without amendment.

The first item of business on the agenda was an area variance application submitted by Rick Relyea for property located at 229 Creek Road. The application seeks a height variance with respect to proposed construction of a two-story garage at this location. The Zoning Board opened the public hearing on the application. The Notice of Public Hearing was read into the record, with that Notice having been published in the Troy Record, placed on Town signboard, posted on the Town website, and mailed to owners of adjacent properties. Mr. Relyea was present on the application. Chairman Steinbach inquired whether there were any changes to the application, and requested Mr. Relyea to provide an overview of the proposed project. Mr. Relyea stated that there were no changes to the application. Mr. Relyea stated that he owns 38 acres at this location, of which 2 acres are open with his house and an existing three-car, one-story garage. The remainder of the parcel is primarily forested. Mr. Relyea states that he is proposing to replace his current

garage with a four-car, two-story garage. Mr. Relyea stated that his house is three stories, that the area of his house and garage are approximately 400-500 feet from the closest neighbor, and that the area between his house and garage and his neighbors is forested. Mr. Relyea stated that neither his house nor current garage are visible from the public roads or adjoining properties, and does not anticipate the two-story garage to be visible as well. Mr. Relyea stated that the height limit for structures at this location is 12 feet under the Town Code, and he is looking to have a structure that will measure 20 feet, 7 inches under the Town Code. Mr. Relyea did comment that his property is located next to the A-40 Zoning District, which allows for structures of 40 feet in height. Chairman Steinbach then asked whether any members of the public wished to provide any comment on the application. No members of the public wished to provide any comments. Chairman Steinbach then asked whether any of the Zoning Board Members had any questions or comments on the application. The Zoning Board members had no further questions or comments. Member Shover then made a motion to close the public hearing on the Relyea area variance application, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the public hearing closed. The Zoning Board members then determined to move forward with deliberations on the application. Attorney Gilchrist stated that the application seeks an area variance in connection with a residential use, and therefore constitutes a Type 2 action under SEQRA. The Zoning Board members then proceeded to deliberate on the elements for consideration on area variance applications. The Zoning Board members first determined that the height variance in this case would not present an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, as the size of the lot and the fact that most of the lot is forested will conceal the garage from sight from adjoining properties, and the structure will be located approximately 400-500 feet off the public road. The Zoning Board

members did find that the garage could be reconfigured so that it met the height limitations, but also considered the fact that the building would be situated in the approximate same footprint, that it was located next to a three-story house, and that the Zoning Board members felt it was an improvement to the property to replace the existing garage. The Zoning Board members did feel that the variance was substantial, but again felt that this element was impacted by the size of the parcel, that the structure is approximately 400-500 feet from the public road, that the intervening land is predominantly forested, and the structure will be located next to an existing three-story house. The Zoning Board members found that the variance would not result in any adverse effect on the physical or environmental conditions in the neighborhood. As to whether the need for the variance was self-created, the Zoning Board members did determine that the variance requirement was self-created, but again felt that the facts of this particular case affected this element with particular regard to the size of the lot, the location of the structure from the public road and adjoining properties, and that the lot is predominately forested and will conceal the structure from public view. The Zoning Board did place emphasis on the particular facts of this case, and found that the size of the lot, the location of the existing structures on the lot, the predominant nature of the lot being forested, the existence of a three-story house on the lot, and the replacement of an existing garage structure in predominantly the same location were all significant and relevant facts. Based on these findings and determinations, the Zoning Board members concluded that the benefit in the granting the variance outweighed any detriment to the community upon the particular facts of this application. Based upon these findings and deliberations, Member Trzcinski made a motion to approve the area variance on the Relyea application, which motion was seconded by Member Shover. The motion was unanimously approved, and the area variance granted.

There were five new items of business discussed.

The first item of new business discussed was material submitted by Tom Healey for property located at 2 Carla Lane. The Zoning Board members determined that the application materials were not in proper form and were incomplete. This matter is placed on the November 16 agenda for further review of application materials.

The second item of new business discussed were application materials submitted by Michele Malatesta for property located at 810 Church Street. The Zoning Board members determined that the application materials were not in proper form and were incomplete. This matter is placed on the November 16 agenda for further review of application materials.

The third item of new business discussed with a sign variance application submitted by Signworks Sign Corp on behalf of Nigro Companies for replacement of signage at the Price Chopper located in the Brunswick Plaza at 716 Hoosick Road. Fred Early of Signworks Sign Corp was present for the applicant, together with Michael Copchik, Design Director for Price Chopper. Mr. Copchik presented an overview of the proposed sign replacements at the Price Chopper building. Mr. Copchik generally discussed renovations proposed for both the interior and exterior of the Price Chopper, and with respect to the exterior renovations, reviewed with the Zoning Board members the proposed new signs, including graphic panels. Mr. Copchik explained that the sign replacement was a significant part of the re-branding effort being undertaken by Price Chopper, and that Price Chopper is looking to have all of its stores to be consistent with its new re-branded image. Mr. Copchik stated that the replacement signs would slightly reduce the total amount of square footage for signs at this location. Mr. Copchik presented photographs of other Price Chopper stores which have had the exterior renovations being proposed for the Brunswick facility, including one located at exit 15 of the Northway in Wilton, and presented pictures both during the day and at night when the signs will be lighted. Mr. Early stated that the applicant was asking the

Zoning Board to not only look at the numbers associated with square footage and total number of signs, but requested that the entire proposal be considered together for both architectural and artistic content. Mr. Early stated that the setback of this Price Chopper store from the Hoosick Road corridor is significant, and the proposed size of the signs were justified by the depth of the setback, that there were other outbuildings located in front of the Price Chopper store, and the relative speed of vehicles traveling on Hoosick Road. Mr. Early stated that the re-branding of the Price Chopper does include the graphic panels as signs, and not just a stand-alone Market 32 sign. Mr. Early repeated that the whole sign package should be viewed as whole. Mr. Early stated that the total number of department signs will be reduced from present condition, and the only signs now being proposed are one for the pharmacy, a welcome sign, a Starbucks sign, and the Market 32 sign with the graphic panels. In Mr. Early's opinion, the total package of signs is not overwhelming, and there is concern on the part of Price Chopper that limiting the Market 32 sign to 36 inches in height will result in a sign not able to be seen from the Hoosick Road corridor by the traveling public. The Zoning Board members thanked the applicants for the presentation, did not have any further comments or questions at this time, but did determine the application materials to be complete for purposes of scheduling a public hearing on this application for the November 16 meeting. A public hearing will be held on this application at 6:00 p.m. on November 16, 2015.

The fourth item of new business discussed was a variance application package submitted by A.P.D. Engineering for a proposed Aldi grocery store and Taco Bell to be located at 616 Hoosick Road, directly east of the existing Planet Fitness facility. Christopher Kamar of A.P.D. Engineering was present for the applicant, together with Bruno Laurencio of Aldi, Inc. Mr. Kamar presented a concept plan to the Zoning Board members, showing a layout for an Aldi grocery store located to the rear of the parcel and a Taco Bell located toward the east side of the parcel, with

parking located toward the front. This site is generally located between the existing Planet Fitness facility and the Hoffman Carwash located further to the east. The applicant is preparing a site plan application for submittal to the Brunswick Planning Board for review and anticipates filing that site plan application prior to the end of October. Mr. Kamar explained that the owner was currently coordinating with NYSDOT regarding an entrance on Hoosick Road, including a potential traffic signal, as well as an internal interconnection between the Aldi/Taco Bell parking lot and the Planet Fitness parking lot. Mr. Kamar explained that the owner is seeking two variances, one with respect to total number of parking spaces and one with respect to signs. With regard to parking spaces, Mr. Kamar stated that with the proposed uses for the site, a total of 126 spaces are required under the Town Code, but that the owner is proposing a total of 106 parking spaces. Mr. Kamar stated that the site is capable of locating the additional 20 spaces, but that the facilities do not anticipate the need for the 20 additional spaces and the owner is looking to have that area remain as greenspace. With regard to the sign variances, Mr. Kamar stated that both the Aldi and the Taco Bell uses are looking for a variance on the total number of signs allowed. With regard to the Aldi building, Mr. Kamar stated that the Town Code allows two signs, whereas Aldi is requesting a total of four signs. With regard to the Taco Bell facility, the Town Code allows for a total of two signs, whereas three signs will be requested. Mr. Kamar generally reviewed schematics showing the proposed signage on the exterior of these two buildings. Mr. Kamar also stated that a pylon sign is being proposed, which may be in excess of the allowable square footage under the Town Code. The Zoning Board members discussed procedure. Attorney Gilchrist suggested to the Board that this matter does need to be coordinated with the Brunswick Planning Board, in that the request for variance on the total number of parking spaces does impact site plan review in terms of building layout and locations, parking areas, and also total parking spaces.

Attorney Gilchrist suggested that it is premature for the Zoning Board to consider a variance on total number of parking spaces prior to the Planning Board's review of the site plan, and recommended that, at a minimum, the Zoning Board refer the parking space variance application to the Planning Board for review and recommendation. Attorney Gilchrist also stated that the site plan review by the Planning Board should be coordinated with the Zoning Board with respect to the parking space variance request, noting that the Planning Board has routinely required a public hearing in connection with site plan applications on the Hoosick Street corridor, and that the Zoning Board must hold a mandatory public hearing on the parking space variance requirement, and that opportunities to coordinate this review between the Zoning Board and the Planning Board should be considered. In addition, Attorney Gilchrist will need to research the SEQRA treatment on this application in terms of coordination between involved agencies. The Zoning Board concurred that this parking space variance request should be referred to the Brunswick Planning Board for review and recommendation, and to stay consideration of the sign variance application until the Planning Board has had a chance to review the site plan and provide its recommendation to the Zoning Board on the parking space variance request. This matter is adjourned without date, noting that this matter may tentatively be considered at the December meeting after the Planning Board has had a chance to review the site plan and provide a recommendation on the parking space variance request.

The fifth item of new business discussed was an area variance application submitted by Raymond Bronk for property located at 147 Brunswick Road. Mr. Bronk was present. Mr. Bronk generally explained that he was looking to locate a shed on the east side of his property along an existing tree line, but that the shed will be within the mandatory 15 foot setback from the side yard line. The Zoning Board members discussed the application materials, and determined that while

additional forms should be completed by Mr. Bronk, the application materials were generally complete for purposes of scheduling a public hearing at the November 16 meeting. This matter is scheduled for a public hearing at 6:30 p.m. on November 16, 2015.

The index for the October 19, 2015 meeting is as follows:

1. Relyea – Area variance – granted
2. Healey – Incomplete application materials – 11/16/2015 (new business)
3. Malatesta – Incomplete application materials – 11/16/2015 (new business)
4. Signworks Sign Corp – Sign variance – 11/16/2015 (public hearing to commence at 6:00 p.m.)
5. A.P.D. Engineering – Area variance/sign variance – adjourned without date
6. Bronk – Area variance – 11/16/2015 (public hearing to commence at 6:00 p.m.)

The proposed agenda for the November 16, 2015 meeting currently is as follows:

1. Signworks Sign Corp – Sign variance (public hearing to commence at 6:00 p.m.)
2. Bronk – Area variance (public hearing to commence at 6:30 p.m.)

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD NOVEMBER 16, 2015

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

ALSO PRESENT was MICHAEL CZORNYJ, Brunswick Building Department.

The Zoning Board Members reviewed the draft minutes of the October 19, 2015 meeting. Upon motion of Member Trzcinski, seconded by Member Clemente, the draft minutes of the October 19, 2015 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Signworks Sign Corp on behalf of Nigro Companies for property located at 716 Hoosick Road (Brunswick Plaza), specifically seeking variances in connection with installation of signs at the existing Price Chopper supermarket. Chairman Steinbach requested the applicant to present a brief overview. Fred Early of Signworks Sign Corp presented a brief overview of the proposal, describing the new branding effort being undertaken by Price Chopper to brand their stores as "Market 32". In connection with the rebranding effort, the applicant seeks to install a "Market 32" sign on the existing Price Chopper at the Brunswick Plaza, requesting a larger series of numbers and letters than are otherwise permitted under the Town Code, and also to install a series of "graphic images" that will be on panels attached to the exterior of the building in connection with the Market 32 sign. Mr. Early generally described the distance of the store from the Route 7 corridor, and also the existing buildings and structures in front of the Price Chopper store which

he states obscure the view of the store from the Route 7 corridor. Chairman Steinbach then stated the public hearing on this application would be opened. Attorney Gilchrist then stated for the record that he represents a separate private client on a completely unrelated project in another municipality in Rensselaer County, and which one of the principals/officers of the Brunswick Plaza owner, Nigro Companies, was involved and spoke in opposition to Attorney Gilchrist's client's project. While attorney Gilchrist stated that, in his opinion, this does not present a legal conflict, he is mindful of the ethical obligations to avoid even the appearance of potential bias or impropriety, and raised the existence of the circumstances to the Zoning Board of Appeals, Signworks Sign Corp, and Nigro Companies to determine whether any of these parties had any objection to attorney Gilchrist continuing to serve as counsel to the Zoning Board on this application. No parties had any objection, with the owner/officer of Nigro Companies stating that the matter which attorney Gilchrist referred to was completely unrelated, and that the Brunswick Plaza owner has no objection to attorney Gilchrist continuing in his role as counsel to the Zoning Board on this application. Attorney Gilchrist then read the Notice of Public Hearing into the record, with the Notice having been published in the Troy Record, placed on the Town Signboard, posted on the Town Website, and mailed to owners of adjacent properties. Chairman Steinbach then opened the floor for receipt of public comment on the variance application submitted by Signworks Sign Corp. No members of the public wished to provide any comment. After providing adequate opportunity for receipt of public comment, Member Shover then made a motion to close the public hearing, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing on the Signworks Sign Corp. variance application was closed. Chairman Steinbach then stated he had visited the Market 32 store located at Exit 15 off the Northway in Wilton, and asked whether the signs proposed for Brunswick were the same

as those installed at the Wilton store. Mr. Early stated that they were the same signs, including the same size “Market 32” sign, and the only difference being that there are five graphic panels installed at the Wilton store, and there are only four graphic panels proposed for the Brunswick store. Mr. Early stated that at the Wilton Market 32 store, Price Chopper was faced with the same setback distance issue that is present in Brunswick, and that the Wilton store was not directly facing the public road and there was an “oblique” viewing issue. Member Trzcinski asked whether the Market 32 store located in Clifton Park off Route 146 was the same as being proposed in Brunswick. The applicant stated that the Clifton Park Market 32 sign was the same size, but again the Clifton Park store had five graphic panels attached to the store, while four graphic panels are being proposed for the Brunswick store. Member Schmidt asked Mr. Czornyj as to the total square footage for a Price Chopper sign allowed under the Brunswick Town Code. Mr. Czornyj stated that this matter was complicated, as the Brunswick Plaza is an approved Planned Development District, and must be considered as an approved shopping plaza for total signage calculations. Mr. Early stated that the current Price Chopper sign itself is 116 square feet, not including all of the additional signs located on the exterior of the building below the Price Chopper sign. Mr. Early stated that the proposed graphic panels total 499 square feet. Chairman Steinbach stated that in his opinion, the setback distance of this Price Chopper store from the Route 7 corridor is a major issue, and that while the Wilton store had the additional “welcome” and “pharmacy” signs, those signs were not even memorable in terms of total signage when he viewed the Wilton Market 32 store. Chairman Steinbach also stated that the graphic panels are considered “art” in some jurisdictions, even though the Town of Brunswick Code does require them to be reviewed as signs. Chairman Steinbach thought the fact that the proposed signage were graphic panels as opposed to letters was a significant factor, that they were not obnoxious in appearance, but were rather

pleasing to look at. Mr. Early stated that the graphic panels and Market 32 sign were not very bright at night. Member Trzcinski disagreed with that opinion, and stated that in her opinion, the graphic panels and Market 32 sign she saw at the Clifton Park store were very bright. Chairman Steinbach asked whether any other members of the Zoning Board had general comments. Hearing none, Chairman Steinbach said the Zoning Board should be prepared to proceed with consideration of the variance application on the Town Code requirements. Attorney Gilchrist stated that the Zoning Board must first address environmental impact review under SEQRA, as this application seeks an area variance in connection with a commercial project. Again, Mr. Early stated that the issue of lighting the sign at night did not present any significant impact as the signs were not very bright. Again, Member Trzcinski disagreed, and said that the Clifton Park Market 32 signs were very bright at night. Member Schmidt stated that if the graphic panels are considered part of the signage, then there would be a significant visual impact from the signage display, whereas if the graphic panels were not considered part of the signage, he felt that the proposed signs would not have a significant adverse environmental impact. Attorney Gilchrist stated that under SEQRA, the issue to be determined by the Zoning Board is not whether the graphic panels are considered “signs” and included within the sign regulations under the Brunswick Town Code, but whether the action as a whole, including the installation of the graphic panels to the exterior of the building, resulted in the potential for any significant adverse environmental impact. Member Clemente said that she considered the “environment” in this case to be the surrounding neighborhood which is commercial in nature, and that signs are consistent with that general area. Member Clemente also stated that this area as a whole is commercial, and that no residential areas would be impacted by the proposed signage. The applicant also stated that from the Route 7 corridor, the proposed signage was located within a very narrow viewshed, and would not be seen from any residential

areas. Chairman Steinbach stated that, in his opinion, this was a proposed commercial sign within an existing commercial district in a shopping plaza, all along the Route 7 corridor. In his opinion, this did not result in any significant adverse environmental impact requiring a positive declaration under SEQRA. Attorney Gilchrist advised the Board that its determination must address whether any potential environmental impacts from this action are significant, and not whether there are any environmental impacts whatsoever from the proposal. Chairman Steinbach asked whether any Zoning Board member wished to make a motion for an environmental determination under SEQRA. Member Clemente made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Shover. Chairman Steinbach, Member Clemente, and Member Shover voted in favor of adopting the motion, while Members Trzcinski and Schmidt voted in opposition. The motion was approved, and a negative declaration adopted under SEQRA. Chairman Steinbach then said the Zoning Board should proceed to deliberate on whether to grant the sign variance request, grant such variance request with conditions, or to deny the variance request. Attorney Gilchrist stated that in its deliberations, the Zoning Board must weigh the benefit to be obtained by the applicant as against any detriment to the community and the surrounding neighborhood in particular. Attorney Gilchrist stated that in weighing those factors, there were several elements which the Zoning Board should deliberate. First, the Zoning Board must consider whether the sign variance would result in any undesirable change in the character of the neighborhood or create a detriment to nearby properties. Chairman Steinbach stated that this general area was a commercial district, and felt that the sign variance would not result in any undesirable change in the character of that area nor create a detriment to nearby properties; Chairman Steinbach continued that in some respects, the proposed signage would result in an improvement to that location. Member Trzcinski asked whether the members of the Zoning Board

wanted Brunswick to be another Clifton Park, and said that if all of the Zoning Board members had not visited either the Wilton or Clifton Park Market 32 store at night, then the vote should not be taken until the Zoning Board members had done so. Member Clemente stated that the Zoning Board members should be able to take into account the information provided on the application in regard to the proposed signs, both during the day and at night; that it was significant to her that there were no public comments at all, including public comments in opposition, from anyone in that general area or neighborhood; that the character of that surrounding area is commercial; and that the signs being proposed do not result in an undesirable change to the character of that area. Member Shover asked what the alternative would be if the sign variances were denied. Member Trzcinski said that the Zoning Board should consider approving only the Market 32 sign, and not allow the graphic panels. Member Shover stated that the effort of Price Chopper is to rebrand their stores, and the proposed signage is integrated, including the Market 32 logo with the graphic panels. Mr. Early stated that it was the intent of Price Chopper to undertake a complete rebranding, which does include the Market 32 sign in conjunction with the graphic panels. Chairman Steinbach moved on to the next element for the Board to consider. Attorney Gilchrist stated the Zoning Board must consider whether the applicant has a feasible alternative to pursue to meet its signage proposal other than a variance. Member Trzcinski stated that the signage could include just the “Market 32” sign without the graphic panels. Member Schmidt agreed, and said that Price Chopper could consider installing a smaller “Market 32” sign. Mr. Early also stated that if the sign was limited to the “Market 32” sign without the graphic panels, the public would not know what the store is, and that the signage must be viewed as a whole in order to allow people to understand this is a grocery store. Chairman Steinbach moved on to the next element for consideration. Attorney Gilchrist stated that the Zoning Board must determine whether the

requested area variance is substantial. Member Trzcinski stated that the proposed increase in the signage is substantial. Member Schmidt stated that when you add up all the proposed signs, including the graphic panels, the “Market 32” sign, the “welcome” sign, the “pharmacy” sign, and the “Starbucks” sign, the total signage is over 600 square feet, and the variance is substantial. Mr. Early responded that if you add up all of the existing signs at the current Price Chopper, they total over 200 square feet, and if you compare that number to just the “Market 32” sign, which is approximately 175 square feet, there is a signage reduction, but that the total number does go up to over 600 square feet when adding the graphic panels. Mr. Early reviewed the overall integrated rebranding effort, which proposes to include both the “Market 32” sign and the graphic panels. Chairman Steinbach said that there was no question that the variance is substantial and this results in a very big change to the Price Chopper store exterior, but that everything should be taken into consideration on this application, including the fact that the front of the Price Chopper building is over 400 feet from the Route 7 corridor. Chairman Steinbach moved on to the next element for consideration. Attorney Gilchrist stated that the Zoning Board should consider whether the requested sign variance will have an adverse effect on the physical or environmental condition in the neighborhood. Chairman Steinbach stated that, in his opinion, there would be no adverse effect on the environmental or any physical conditions in the neighborhood. Member Shover said that signage currently exists at this location, and does not feel that this would result in any adverse impact. Member Clemente agreed with these conclusions. Attorney Gilchrist also noted that the fact that the Zoning Board had adopted a SEQRA negative declaration should be considered in connection with this element. Chairman Steinbach moved on to the next element for consideration. Attorney Gilchrist stated that the Board should consider whether the difficulty requiring the variance is self-created, which consideration is relevant but not necessarily preclusive of granting

the area variance. Member Clemente said that the request is self-created, but it is part of the overall rebranding effort by Price Chopper. Member Shover agreed with that comment. Chairman Steinbach noted for the record that, in his opinion, most of the sign variance applications are self-created, and that this element is relevant but it is not unusual for sign variance requests to have been self-created. Member Schmidt stated that the variance need is clearly self-created. Attorney Gilchrist counseled the Board that its members should consider the elements that were deliberated, using the information from the record to balance the benefit to the applicant in receiving the variance as opposed to any detriment created to the community and the neighborhood in particular. Chairman Steinbach asked whether there were any final comments from the Zoning Board members. Member Trzcinski again stated that no vote should be taken until each member of the Zoning Board went to Clifton Park or Wilton to see the signs lighted at night. Member Clemente stated that the Zoning Board members should be able to take into account their general knowledge, and the information included in the application documents, including photograph depictions of the signs both during the day and at night. The applicant stated that the pictures showing the Wilton store at night show that there is not a significant glow to the signs, and that the signs do not throw light a long distance. Member Schmidt stated that he had not seen either the Clifton Park or Wilton store at night, and that he is hearing very different stories from Member Trzcinski and the applicant. Member Schmidt stated that he felt that this would be a significant change, including light intensity, and that he could not vote in favor of it. Member Trzcinski repeated that she felt the signs were extremely bright at night. Chairman Steinbach asked whether there were any further comments. Hearing none, Chairman Steinbach then made a motion to grant the variance for the proposed signs at this location. That motion was seconded by Member Clemente. Chairman Steinbach, Member Clemente, and Member Shover voted in favor of the motion, with Members

Trzcinski and Schmidt voting against the motion. The motion was approved, with the vote resulting in a 3-2 vote in favor of granting the variance request. Accordingly, the requested sign variances of Signworks Sign Corp. for the Price Chopper store located at 716 Hoosick Road (Brunswick Plaza) is granted.

The next item on the agenda was the area variance application submitted by Raymond Bronk for property located at 147 Brunswick Road (NYS Route 2). Chairman Steinbach requested Mr. Bronk to present a brief overview of the requested variance. Mr. Raymond Bronk stated that he was proposing to install an 8-foot by 10-foot shed on his property approximately three to five feet off the side lot line, while the Town Code requires a 15-foot side yard setback. Mr. Bronk stated that his parcel is pie-shaped, which provides challenges to locating the shed in relation to the location of his house and garage on the lot. Chairman Steinbach asked if there were any changes to the application since the prior meeting. Mr. Bronk stated that there were no changes. The Zoning Board then opened the public hearing on this application. The Notice of Public Hearing was read into the record, with the Notice having been published in the Troy Record, placed on the Town Signboard, posted on the Town Website, and mailed to owners of adjacent properties. Chairman Steinbach then opened the floor for receipt of public comment. David Arakelian stated that he was appearing for Dorothy King, who had submitted a letter to the Zoning Board on this application dated November 10, 2015, citing several reasons why the variance should not be granted. Mr. Arakelian also stated that Mrs. King was concerned with a driveway on the Bronk lot being located on part of her property, and also that there were containers being stored on the King property that appeared to be placed there by Bronk. Mr. Arakelian stated that he would like all the Zoning Board members to have a copy of the November 10 King letter, and that the letter be kept on file on this application. Chairman Steinbach stated that each member of the Zoning

Board had the King letter dated November 10, and it would remain part of this application file. There were no other public comments. Member Clemente then made a motion to close the public hearing on the Bronk area variance application, which motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. Attorney Gilchrist stated that the application seeks an area variance in connection with a residential project, and therefore constitutes a Type-2 Action under SEQRA, and no further SEQRA determination is required. Chairman Steinbach said the Zoning Board should proceed to deliberate on the application. Member Schmidt asked whether the shed was proposed to be permanent or whether it was moveable. Mr. Bronk stated that it was moveable, and he proposed to put the shed on a palette/wooden base. Member Clemente had questions concerning the orientation of the shed, and questions as to its location in relation to an existing flagpole in the side yard of the Bronk property. Mr. Bronk described the side yard including the location of the flagpole as well as an existing tree line between his property and the King property, and said that he could increase the distance of the setback from the shed to the property line so that the shed was more toward the middle of the side yard, but that he would prefer to keep the flagpole in its current location. Member Clemente stated that there could be alternate locations for the shed in the side yard that could maintain the required setback. Member Clemente also noted that this lot had a driveway location that seemed to present several options for the shed placement. Chairman Steinbach felt that the content of the November 10 King letter should be read into the record, and the entire letter was read into the record. The Zoning Board then proceeded to deliberate on the elements for the requested area variance. As to whether the proposed shed location would result in an undesirable effect on the character of the area or create a detriment to nearby properties, the Zoning Board members generally agreed that this is a residential area and a shed is not out of character with the surrounding properties, and that

other properties do have sheds in this general neighborhood. The Zoning Board members did take notice of the comments made in the King letter concerning potential impacts to surrounding properties. As to whether there was a feasible alternative available to the applicant, Member Schmidt said that there was a feasible alternative available and that was relocating the shed more toward the center of the side yard. The Zoning Board generally discussed alternate locations, including on both sides of the existing garage as well as other locations in the side yard. As to whether the variance request was substantial, the Zoning Board members generally concurred that reducing a 15-foot side yard setback to between 3-5 feet would result in a significant variance. The Zoning Board members generally concurred that the placement of the shed on the Bronk property at the requested location would not result in an adverse effect on the environment or physical conditions in the area. As to whether the need for the variance was self-created, the Zoning Board members generally concurred that it was self-created, but also took notice of the irregular shape of the Bronk lot. Member Schmidt commented that he would be more comfortable in this instance if the requested variance was reduced, and found that a variance allowing the shed to be placed between 3-5 feet from the side yard lot line in this case was difficult. The Zoning Board members then entertained discussion of available alternatives for the shed location on the Bronk lot. Attorney Gilchrist stated that, while the Zoning Board had closed the public hearing on the Bronk application, it did have a period of 62 days in which to render its determination. Chairman Steinbach then stated that the determination of the Bronk variance application would be moved for further discussion at the December 21 meeting, and in the interim period, requested that Mr. Bronk meet with the Building Department to review available alternatives for the shed location. Member Czornyj that he would meet with Mr. Bronk on the Bronk site to review that issue. This matter is adjourned to the December 21 meeting.

Five items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Todd O'Connor for property located at 111 Leversee Road. Mr. O'Connor was present, and explained to the Board that he was looking to rebuild an existing two-car garage which was damaged when a car ran into the garage, and that he was looking to replace the 21-foot by 22-foot two-car garage with a new garage that is 24 feet by 24 feet, but is also 18.5 feet in height, whereas the Town Code allows 12 feet in height. The Zoning Board members reviewed the application materials, and determined them to be complete to move this matter to public hearing. The public hearing on this application is scheduled for the December 21 meeting, commencing at 6:00 PM.

The second item of new business discussed is an area variance application submitted by William Barber for property located at 121 Brunswick Road at its intersection with Oxford Circle. Mr. Barber was in attendance, and explained that construction of a five-bay garage at this location was started without a building permit, and that a stop-work order had been issued, and that he is appearing before the Zoning Board to request a side yard setback for the garage in relation to Oxford Circle. Mr. Barber stated that the commencement of construction was an error, and that he understands now that he does need the variance in relation to the setback from Oxford Circle. Mr. Czornyj stated that the Zoning Board should be aware that this property constitutes a corner lot, and that under the Brunswick Zoning Code, there shall be provided on the side street a side yard equal in depth to the required setback for the front yard. The Zoning Board members reviewed the application materials and deemed them complete to move the application to public hearing. This matter is placed on the December 21 meeting for public hearing, to commence at 6:15 PM.

The third item of new business discussed was an area variance application submitted by Dan Smith for property located at 899 Hoosick Road. Mr. Smith was in attendance, and explained that two additions to an existing garage were previously constructed, and that in connection with the additions to the existing garage, a height variance is required, and that a side yard setback variance is also required as there is a setback issue concerning the back corner of the addition to the garage in relation to the adjoining property. Mr. Smith did state that there was a shed located in the rear of this lot which likewise did not comply with setback requirements, but the shed will be removed prior to the next Zoning Board meeting. The Zoning Board members reviewed the application materials and deemed them complete to move this matter forward to public hearing. This matter is scheduled for the December 21 meeting, with a public hearing to commence at 6:30 PM.

The fourth item of new business discussed was an area variance application submitted by Thomas Healy for property located at 2 Carla Lane. The applicant stated that they were seeking to install a 10-foot by 12-foot shed in the back corner of their property, which required both a rear yard setback variance and side yard setback variance. The Zoning Board members discussed that this property had been the subject of a previous variance application in relation to installation of a pool. The applicant stated that the shed is proposed for the back corner of the lot behind the pool, in an area where there is an existing privacy fence. The Zoning Board members reviewed the application materials and deemed them complete to move the matter forward to public hearing. This matter is placed on the December 21 agenda, with public hearing to commence at 6:45 PM.

The fifth item of new business discussed was a sign variance application submitted by AJ Signs on behalf of Nigro Companies for property located at 720 Hoosick Road within the Brunswick Plaza. The applicant was present, and explained that a new tenant is being proposed

for the former Goodwill space, and that a new sign stating “Pet Supplier Plus” is being proposed with 48-inch letters, whereas the Town Code limits the letters to 36 inches. The Zoning Board members reviewed the application for completeness and determined the application materials to be complete for purposes of moving the application to public hearing. This matter is placed on the December 21 agenda, with a public hearing to commence at 7:00 PM. [This application was subsequently withdrawn.]

The index for the November 16, 2015 meeting is as follows:

1. Signworks Sign Corp. – Sign variance – Granted;
2. Bronk – Area variance – 12/21/2015;
3. O’Connor – Area variance – 12/21/2015 (public hearing to commence at 6:00 PM);
4. Barber – Area variance – 12/21/2015 (public hearing to commence at 6:15 PM);
5. Daniel Smith – Area variance – 12/21/2015 (public hearing to commence at 6:30 PM);
6. Healy – Area variance – 12/21/2015 (public hearing to commence at 6:45 PM); and
7. AJ Signs on behalf of Nigro Companies – Sign variance – 12/21/2015 (public hearing to commence at 7:00 PM). [This application was subsequently withdrawn.]

The proposed agenda for the December 21, 2015 meeting currently is as follows:

1. Bronk – Area variance;
2. O’Connor – Area variance (public hearing to commence at 6:00 PM);
3. Barber – Area variance (public hearing to commence at 6:15 PM);
4. Smith – Area variance (public hearing to commence at 6:30 PM);
5. Healy – Area variance (public hearing to commence at 6:45 PM); and
6. PF Management – Area variance (signage and total parking space count) – public hearing to commence at 7:00 PM.

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS MEETING HELD DECEMBER 21, 2015

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

ALSO PRESENT was MICHAEL CZORNYJ, Brunswick Building Department.

The Zoning Board Members reviewed the draft minutes of the November 16, 2015 meeting. Upon motion of Member Trzcinski, seconded by Member Schmidt, the draft minutes of the November 16, 2015 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Raymond Bronk for property located at 147 Brunswick Road. The applicant seeks an area variance from the side yard setback requirements for the R-15 Zoning District for the location of a shed at this property. At the November 16, 2015 meeting, the Zoning Board held a public hearing on the area variance application, and closed the public hearing on November 16. During deliberations on this application, the Zoning Board members suggested that the applicant meet with the Building Department to discuss alternate locations for the shed on the property. Mr. Czornyj confirmed that he had met with Mr. Bronk, and that Mr. Bronk agreed to relocate the shed to a location further west on the lot that is 12 feet from the side lot line. Mr. Bronk confirmed this discussion with Mr. Czornyj and stated on the record that he agrees to place the shed in a location on the lot that is 12 feet from the side lot line. Mr. Czornyj confirmed that a 15 foot side yard setback is required in the R-15 Zoning District, and therefore an area variance of 3 feet from the side lot setback is

required for this proposed alternate location for the shed. Chairman Steinbach stated that he felt the alternate location was an improvement, and did not require a substantial variance from the side yard setback requirement. The ZBA members concurred in that statement. Chairman Steinbach asked if there were any further comments from either the applicant or members of the Zoning Board. There were no further comments. The Zoning Board concluded that an area variance of 3 feet from the side yard setback requirements for this location would not result in any undesirable change in the character of the neighborhood; would not create a detriment to nearby properties; that the alternate location resulting in a 3 foot side yard setback variance was a reasonable and feasible alternative to the proposed original location for the shed; that the resulting 3 foot variance from the 15 foot side yard setback was not substantial; that this area variance will not have an adverse effect on the physical or environmental conditions in the neighborhood; and that given the peculiar shape of this lot, the difficulty resulting in the need for the area variance was not self-created. Based on these findings, Member Shover made a motion to grant a 3 foot variance from the side yard setback requirements for this location, which motion was seconded by Member Clemente. The motion was unanimously approved, and the area variance granted.

The next item of business on the agenda was an area variance application submitted by Todd O'Connor for property located at 111 Leverage Road. Mr. O'Connor was present. Chairman Steinbach inquired whether there were any changes to the application. Mr. O'Connor said there were no changes to the application, and that he was seeking a variance for height in connection with the installation of a two-car garage at this location. Mr. Czornyj confirmed with the Zoning Board members that a garage had existed in this location, but had been damaged when a car drove into the garage, and the garage was damaged to an extent that it needed to be torn down. Mr. O'Connor is proposing to reconstruct a garage in the same location, have the garage be 24 feet by

24 feet, and a height of 18.5 feet. The Town Code limits height for structures at this location to 12 feet. Mr. Czornyj confirmed that the prior garage at this location was also higher than 12 feet, but was lower than 18.5 feet. The Zoning Board opened the public hearing on this application. The Notice of Public Hearing was read into the record, noting that the hearing notice was published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of adjacent properties. Chairman Steinbach opened the floor for the receipt of public comment. No members of the public wished to comment on this application. Upon motion of Member Clemente, seconded by Member Shover, the motion to close the public hearing on the O'Connor area variance application was unanimously approved. Attorney Gilchrist stated that this application seeks an area variance in connection with a single-family residence, and therefore constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board members then proceeded to deliberate on the area variance application. Member Clemente commented that the replacement of a garage in that location will not change the character of the neighborhood, as a garage had been in that location previously. All Zoning Board members agreed with that comment. Member Trzcinski stated that this will not change the character of the neighborhood, and there were no complaints from any of the neighbors. Chairman Steinbach stated that there would be no environmental impact or impact to the physical conditions in the area, and that the difficulty requiring the variance was not necessarily self-created as the need to replace the two-car garage was as a result of a car hitting the garage and damaging the prior garage structure. Member Schmidt felt that the variance was not substantial, in particular because the grade of this lot was at a lower grade than the public road, and the height of the structure will not have as significant an effect as may be the case if the lot grade was at the grade of the public road. Member Clemente also noted that the location of the garage did not overlook any other home or

structure, and would not have any visual effect to the neighborhood. Based upon these deliberations, Member Shover made a motion to approve the area variance allowing for the construction of an 18.5 foot high two-car garage at this location. The motion was seconded by Member Clemente. The motion was unanimously approved, and the area variance granted.

The next item of business on the agenda was an area variance application submitted by William Barber for property located at 121 Brunswick Road. The applicant seeks an area variance to allow the continuation of construction of a garage structure requiring a side yard setback variance. It is noted for the record that this lot also constitutes a corner lot. The Zoning Board opened a public hearing on the application. The Notice of Public Hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of adjacent properties. Chairman Steinbach asked if the applicant was present. Damon DiGiovanni, an employee of Abar Construction, a company owned by Mr. Barber, was present. Mr. DiGiovanni stated that Mr. Barber was not present at the meeting, and had requested him to come to this Zoning Board meeting. Attorney Gilchrist stated that there is nothing on file with the Town on this application to authorize Mr. DiGiovanni to represent the property owner, and that the property owner should be present on the application. Attorney Gilchrist recommended to the Zoning Board members that it receive any comment from members of the public who attended this meeting, but to leave the public hearing open until the January meeting of the Zoning Board of Appeals so that the property owner can be present at the public hearing on the application. The Zoning Board members concurred in this approach. Chairman Steinbach asked if any members of the public present at the meeting wished to provide comment on this application. No members of the public wished to provide any comment on this application at this time. Member Trzcinski asked Mr. DiGiovanni

as to how long Mr. Barber's construction company had been in business. Mr. DiGiovanni stated that the construction company had been in business for a long time. Member Trzcinski then commented that given his experience, Mr. Barber should have known that a building permit was required for this garage structure, and that if a building permit had been applied for, he would have known about the side yard setback requirements before the construction started. This comment was noted for the record. The Zoning Board members held this public hearing open, and the public hearing will be reconvened and continued at its meeting held January 25, 2016. The continuation of the public hearing will commence at 6:00 PM.

The next item of business on the agenda was an area variance application submitted by Daniel Smith for property located at 899 Hoosick Road. Mr. Smith was present on the application. Chairman Steinbach asked whether there were any changes to the application. Mr. Smith confirmed that there were no changes to the application. The Zoning Board then opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of adjacent properties. Chairman Steinbach then opened the floor for receipt of public comment. Robert Panasci, Esq., an attorney with Young Sommer LLC, was present representing William and Margaretha Brazee, owners of property adjacent to 899 Hoosick Road. Mr. Panasci handed up a comment letter dated December 21, 2015, which attached three exhibits. Attorney Panasci reviewed his comment letter, addressing issues concerning allowable lot coverage for accessory structures, expansion of non-conforming structures under the Brunswick Town Code, a survey showing encroachment of the garage structure constructed by Mr. Smith on to the Brazee property, and also drainage and flooding which Brazee states has occurred on the Brazee property as a result of construction of the garage structure

by Smith on the Smith lot. Attorney Panasci also handed up additional photographs of drainage and flooding conditions which Brazee alleges occurs on the Brazee lot as a result of the construction of the garage on the Smith property. Attorney Panasci stated that his clients had owned their property for 17 years, and never had standing water on their property until the garage structure was constructed by Mr. Smith. A full copy of the Brazee survey was provided to the Zoning Board for the record in this matter. Attorney Gilchrist observed that the comment letter submitted by attorney Panasci raises several issues, including whether any additional variances for percentage of total lot coverage are required for the Smith lot, as well as legal issues concerning expansion of non-conforming structures under the Brunswick Town Code. Attorney Gilchrist recommended that the Zoning Board direct the Building Department to investigate the issue of any additional variances that may be required concerning the garage structure on the Smith lot, and also provide an opportunity for attorney Gilchrist to further research the legal issues raised in the letter submitted by attorney Panasci. The Zoning Board members concurred in this approach. Attorney Gilchrist also noted for the record that a survey had been submitted by Mr. Panasci on behalf of Brazee for the record in this matter, and a survey had also been prepared and submitted by Smith in this matter. Attorney Gilchrist recommended that the Zoning Board members review the surveys that have been submitted in this matter. Mr. Smith requested the opportunity to look at the photographs submitted by attorney Panasci depicting drainage and flooding conditions. Mr. Smith stated that he also has photographs showing drainage and stormwater flow, and that his pictures are dated, and that he will provide those photographs to the Zoning Board for consideration. The Zoning Board determined to hold the public hearing open in this matter, and to continue the public hearing in this matter at the Zoning Board meeting to be held January 25, 2016, with the continuation of the public hearing to occur at 6:15 PM.

The next item of business on the agenda was an area variance application submitted by Thomas Healy for property located at 2 Carla Lane. Mrs. Healy was present for the application. Chairman Steinbach asked whether there were any changes to the area variance application. Mrs. Healy stated there were no changes. This application seeks both a side yard and rear yard setback variance to allow the installation of a shed in the rear yard of this lot. The Zoning Board opened a public hearing on this application. The Notice of Public Hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach then opened the floor for receipt of public comment. There were no members of the public who wished to provide comment on this application. Member Clemente asked whether the shed would be placed on a concrete slab. Mrs. Healy stated that a concrete slab would not be used, but that the shed would be placed on crushed stone. Member Schmidt asked how high the shed was going to be. Mrs. Healy said she didn't know the exact height, but that it would be about 8 feet tall. Mr. Czornyj confirmed that there was no issue concerning the height of the shed at this location. Chairman Steinbach asked whether the shed would be a pre-fabricated shed delivered to the property. Mrs. Healy stated that it would be a pre-fabricated shed, and there would not be any on-site construction. Hearing no further comments from the public, Member Shover made a motion to close the public hearing on the Healy variance application, which motion was seconded by Member Clemente. The motion was unanimously approved, and the public hearing closed. Attorney Gilchrist stated that this application seeks an area variance in connection with a single family residence, and constitutes a Type 2 action under SEQRA, and no further SEQRA determination is required. The Zoning Board members then proceeded to deliberate on the variance application. Chairman Steinbach stated that the placement of the shed in this location

would not result in any environmental impact issues, and did not feel that any public health impacts would result. Member Clemente stated that placing a shed in the rear yard at this location would not result in any change in the character of the neighborhood or create any detriment to nearby properties. Chairman Steinbach concurred, saying that the lots in this area were generally small and installation of sheds in the rear yards often raised setback issues. Member Clemente stated that she felt this was the logical location for the placement of a shed in the rear yard of this lot. The Zoning Board members did feel the requested variances were substantial, as the proposed location of the shed will be 5 feet from the rear yard and 5 feet from the side yard lines, whereas a setback of 20 feet from the rear yard line and 15 feet from the side yard line are required. However, the Zoning Board members did feel that this location of the shed in the rear yard was the logical location and not out of character with the surrounding properties, and also noted that an existing fence will shield this shed from surrounding properties. The Zoning Board members did feel that the need for the area variance was self-created, but felt that this element was not determinative in this case. Chairman Steinbach also noted that none of the neighbors to this property came to comment on the application, even though each was sent a notice. Mrs. Healy stated that her husband had spoken to the neighbors, and there was no opposition to the placement of the shed as proposed. Based on these deliberations, Member Clemente made a motion to approve the rear yard setback variance and side yard setback variance in this case, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variances granted.

The next item of business on the agenda was the area variance and sign variance applications submitted by PF Management Group for property located at 668 Hoosick Road. The applicant seeks to demolish existing buildings at this location, and construct two new commercial buildings, including a 17,800 square foot building for a proposed Aldi grocery store and a 2,200

square foot commercial building proposed for a Taco Bell restaurant. David Leon, owner of PF Management Group, was present on the application, together with Chris Kamar, of APD Engineering. Mr. Kamar generally reviewed the requested variances, including variances for parking spaces, both in terms of total lot space count as well as the size of the spaces, together with additional variances for signage. With regard to the parking space variance request, Mr. Kamar explained that the Brunswick Town Code requires a total of 126 spaces for the proposed commercial buildings at this location, whereas the applicant is seeking to construct 106 spaces, together with a cross-easement for vehicular traffic flow and parking to the property to the west on which the Planet Fitness facility is located. In terms of the size of parking space, Mr. Kamar stated that the Town Code required a 200 square foot parking space, while the applicant is proposing a standard parking space of 9 feet by 18 feet in size. In terms of the sign variances, Mr. Kamar generally reviewed the requested variances, including the height of a pole sign, size of the pole sign, setback of the pole sign from the lot line, as well as the total number of building mounted signs. Mr. Leon also stated that in the adjacent Planet Fitness facility, a total of 121 parking spaces exist, and under the Brunswick Town Code, only a total number of 81 spaces are needed for the Planet Fitness facility, and therefore an excess of parking is available for 668 Hoosick Road on the Planet Fitness site. Mr. Leon also stated that the parking spaces on the Planet Fitness site are also 9 feet by 18 feet in size, and there are other locations in the Town of Brunswick where a parking space size of 9 feet by 18 feet was allowed, including the Wal Mart parking lot. The Zoning Board opened the public hearing on this application. The Notice of Public Hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town Signboard, posted on the Town website, and mailed to owners of adjacent properties. The Zoning Board opened the floor for receipt of public comment. Bonnie Fucci, Kiloch Avenue,

commented as to the need for so many extra signs along the Hoosick Road corridor, that Hoosick Road is not attractive and we don't need any more signs; and questioned why variances are allowed if regulations are put in place to limit the total size and total number of signs. Chairman Steinbach briefly commented that the Zoning Board of Appeals does entertain variances from Zoning Code requirements and sign regulation requirements, and deals with each application on a case-by-case basis based on the facts of the particular circumstance. No further public comments were offered. Attorney Gilchrist stated that in the event the public hearing was closed, the Zoning Board will need to make a determination on both the parking variance request and the sign variance request within 62 days. Attorney Gilchrist noted that it has been the general practice and procedure of the Zoning Board and Planning Board to entertain sign variance applications after the Planning Board has reviewed and acted on the site plan, as issues concerning site layout, building layout, access driveway location, and greenspace requirements often impact sign location and type, and the sign variance requests have, in past practice and procedure, routinely followed action by the Planning Board on the site plan. Attorney Gilchrist did note that the requested variance concerning parking space size and parking space count did have a direct relation to the site plan, and the Zoning Board should be in a position to act upon the variance concerning parking in order to allow the site plan review process to proceed. The Zoning Board members asked whether the public hearing could be closed at this meeting. Attorney Gilchrist stated that the public hearing could be closed, but the Zoning Board should request an extension from the applicant, upon consent, to extend the 62 day time period in which to make a determination on the sign variance application. The applicant consented on the record to extend the time period in which the Zoning Board must make a determination on the sign variance application beyond the 62 day time frame required under the applicable law. With such consent from the applicant, the Zoning Board members proceeded to

close the public hearing on the variance applications in this matter. Member Schmidt made a motion to close the public hearing on both the sign variance application and parking variance application upon the condition that the applicant has consented to extend the time period in which the Zoning Board must make a determination on the sign variance application. That motion was seconded by Member Shover. The motion was unanimously approved, and the public hearing closed. Attorney Gilchrist then stated that the Zoning Board must make a SEQRA determination if it sought to act on the parking space variance application. In terms of any potential significant adverse environmental impact, the Zoning Board members determined that the parking space variance application reduced the amount of impervious surface, resulting in less stormwater runoff, and increased greenspace area on the project site. The Zoning Board members generally concurred that with respect to the parking space variance application, there was not the potential for any significant adverse environmental impacts resulting from that action. Member Steinbach then made a motion to adopt a negative declaration under SEQRA with respect to the parking space variance application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and a negative declaration adopted with respect to the parking space variance application. The Zoning Board then proceeded to deliberate on the parking space variance application. Member Schmidt felt that the parking space variances would not result in an undesirable change in the character of the area nor create a detriment to nearby properties, expressly relying on the cross-easement for traffic flow and parking with the Planet Fitness facility located to the west. Chairman Steinbach felt that the development of this location was a continuation on the commercial development of the Hoosick Road corridor, and would not result in any change in the character of that location, and that by granting the variances for parking space size and total count, the site would have greater opportunity for landscaping and additional

greenspace. The Zoning Board members also noted that while the lot could accommodate additional parking areas, and therefore an alternative was available, the cross-easement for traffic flow and parking with the Planet Fitness facility located to the west was an important mitigating factor, and also provided for additional greenspace on the 668 Hoosick Road site. Member Trzcinski noted that she felt customers of the grocery store would not want to park at the Planet Fitness facility and walk over to the grocery store. Member Schmidt stated that he felt that the parking for the grocery store on the 668 Hoosick Road site would probably be adequate, and that the additional parking at the Planet Fitness would be for overflow traffic only. The Zoning Board members generally concurred that the requested variance on the total parking space count was not substantial, being less than 20%. On this factor, the Zoning Board again found an important mitigating factor to be the existence of a cross-easement for access and parking with the Planet Fitness facility located to the west. As to the parking space size, the Zoning Board members did not feel that a 9 foot by 18 foot parking space was a substantial difference to the 200 square foot parking space. The Zoning Board members generally concurred that the parking space variances would not result in any significant impact on physical conditions or the environment, but would rather be beneficial in terms of reducing the total impervious area and additional greenspace opportunities. The Zoning Board members did observe that the requested variances were self-created, but felt that there were several mitigating factors in this case, including the cross-easement for parking with the Planet Fitness facility located to the west. The Zoning Board members also referenced and relied upon the positive recommendation of the Planning Board, both as to total space count and parking space size. Based on such deliberations and findings, Chairman Steinbach made a motion to grant the parking space variances both with respect to parking space size, allowing for a 9 foot by 18 foot parking space, and with respect to total parking space count,

allowing 106 spaces rather than 126 as required under the Brunswick Code. Such motion was expressly conditioned on the cross-easement for traffic flow and parking with the property located to the west on which the Planet Fitness facility is located, with that cross-easement being reviewed by the Town's counsel. Member Shover seconded the motion subject to the stated conditions. The motion was unanimously approved, and the parking space variances were granted subject to the stated condition, both with respect to parking space size and total parking space count. Upon consent of the applicant, consideration of the sign variance applications were adjourned without date, pending review and action on the proposed site plan by the Planning Board.

Three items of new business were discussed.

The first item of new business discussed was an area variance application submitted by Voland Organization, LLC for property located at 830 Hoosick Road. The application seeks a height variance with respect to an ornamental gable-type addition to the flat roof of the existing building located at 830 Hoosick Road. Ken Voland of Voland Organization, LLC was present, and explained that he was making cosmetic changes to the building to give it a more aesthetic appearance, and that in connection with those efforts, he has constructed 3 gable-type façades along the front of the building on the existing flat roof. The center gable-type façade is the tallest, and will be 2 feet over the 30-foot height limit for this location. Member Czornyj explained that Mr. Voland had met with the former Building Inspector for the Town, who informed Mr. Voland that building permits were not required for the façade construction, and therefore these additions had been started without a building permit. Mr. Czornyj then explained that a building permit is required, and he had met with Mr. Voland to review the construction plans, and determined that the center gable-type façade was 2 feet above the height restrictions. Mr. Czornyj confirmed that the structures have been fully engineered, and can be safely constructed, but that the height issue

concerning the center gable-type façade requires consideration of a height variance. The Zoning Board members generally reviewed the application, and found it to be complete to move this matter to public hearing. This matter is scheduled for a public hearing for the January 25, 2016 meeting, to commence at 6:30 PM.

The second item of new business discussed was an application for a special use permit submitted by Kevin Hayes, for property located at 10 Victoria Avenue. Mr. Hayes was present. Mr. Hayes explained that his parents had purchased the home located at 10 Victoria Avenue in 1958, and that his parents have died, and he has inherited this property. Upon looking to potentially sell this property, he was informed that the property is identified in the Town Assessor's Office as a 1-family use, but that the property had been used as a 2-family structure since prior to the time his parents purchased the property in 1958. Mr. Hayes is looking to have the property come into conformance with the Brunswick Code, and seeks a special use permit which is required for a multi-family use. Mr. Hayes explained that the property is in very good condition, sits on a large lot, and has requisite off-street parking. The Zoning Board members reviewed the application materials, and found them to be complete to move this matter forward to public hearing. This matter is scheduled for public hearing for the January 25, 2016 meeting to commence at 6:45 PM.

The third item of new business discussed was a special use permit application submitted by MHH Enterprises, LLC for property located at 1 Cortland Street. Mark Hayamizu of MHH Enterprises was present. Mr. Hayamizu explained that the property at 1 Cortland Street has been used as a 6-unit rental property for several years, but that the Town has no record of a special use permit having been issued for the multi-family use. Mr. Hayamizu explains he is not proposing any changes to the 6-unit building, but is merely seeking to have the property come into compliance and obtain the required special use permit. The Zoning Board members asked whether

the property had been initially constructed as a 6-unit building, or whether the property had been converted at some point in time to a 6-unit use. Mr. Hayamizu did not know, but indicated that the property was used as a 6-unit building when he purchased the property in 2011. He also indicated that the property is assessed by the Town as a multi-family use. The Zoning Board members reviewed the application materials, and found them to be complete to move the matter forward to public hearing. The Zoning Board also requested the Building Department to further research this matter in terms of when the property started to be assessed as a multi-family use. This matter is placed on the January 25, 2016 agenda for public hearing to commence at 7:00 PM.

The index for the December 21, 2015 meeting is as follows:

1. Bronk – Area variance – granted;
2. O’Connor – Area variance – granted;
3. Barber – Area variance – 1/25/2016 (public hearing to continue at 6:00 PM);
4. Smith – Area variance – 1/25/2016 (public hearing to continue at 6:15 PM);
5. Healy – Area variance – granted;
6. PF Management Group – Parking space variances – granted; sign variance adjourned without date with consent of applicant.
7. Voland Organization, LLC – Area variance – - 1/25/2016 (public hearing to commence at 6:30 PM);
8. Hayes – Special use permit application – 1/25/2016 (public hearing to commence at 6:45 PM);
9. MHH Enterprises LLC - Special use permit application - 1/25/2016 (public hearing to commence at 7:00 PM).

The proposed agenda for the January 25, 2016 meeting currently is as follows:

1. Barber – Area variance (public hearing to continue at 6:00 PM);
2. Smith – Area variance (public hearing to continue at 6:15 PM);
3. Voland Organization LLC – Area variance (public hearing to commence at 6:30 PM);
4. Hayes – Special use permit (public hearing to commence at 6:45 PM); and
5. MHH Enterprises LLC – Special use permit (public hearing to commence at 7:00 PM).