

ZONING
BOARD

MINUTES

2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on February 28, 2012 at 6:00 P.M.

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

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

The Chairman called the Regular Meeting to order at 6:00 P.M.

The first item of business was the appeal and petition of Mr. Richard J. and Olga Gile, owners-applicants of 4 LedgeWood Drive in the Town of Brunswick, for a Special Use permit under the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an "in-law" apartment in an existing single family dwelling because:

1. Multiple unit dwellings are only allowed in the Town of Brunswick by way of a Special Use Permit issued by the Zoning Board of Appeals.

Attorney D'Alessandro read the notice aloud. Appearing pro se were owners-applicants Richard J. and Olga Gile. Mr. Gile presented the proposed project for a 1,000 square feet addition to the existing structure. It was noted that the proposed addition will "fit within the character of the current structure and overall neighborhood." Mr. Gile further noted that the addition was to benefit a family member currently residing at 2 LedgeWood Drive (the adjacent property). It was further noted that the lot size complies with the square footage requirement for multiple unit dwellings as set forth in the Zoning Ordinance. Appearing on behalf of owners-applicants was Ms. Theresa Fernet, resident of adjacent 6 LedgeWood Drive, who supported the proposed addition put forth by owners-applicants. During the presentation made by owner-applicant Richard J. Gile, the members of the Zoning Board of Appeals had the following questions and/or feedback:

Member Trzcinski noted that owners-applicants had failed to post the notice on their property as previously instructed. Member Trzcinski further noted that the proposal was for a two story addition and inquired whether suitable arrangements would be made in the event the proposed

occupant encounters physical limitations. In response, owner-applicant Richard J. Gile indicated that a mobile stair unit was previously purchased and would be available for use should such a need arise.

Member Steinbach inquired whether the exterior would match the current structure. In response, owner-applicant Richard J. Gile indicated that the contractor had purchased matching materials and that the exterior would match the existing structure. Member Steinbach further inquired as to the time frame of the proposed construction. In response, owner-applicant Richard J. Gile indicated that construction was estimated at 90-120 days.

Member Schmidt inquired whether the proposed structure meets the setback requirement set forth in the Zoning Ordinance. In response, owner-applicant Richard J. Gile indicated that the requirement setback was indeed met.

Member Cipperly generally indicated a favorable view of the proposal.

A motion was made by Member Trzcinski and seconded by Member Schmidt for approval of the proposal subject to owners-applicants immediately posting the Notice for the required time period. The motion carried 5-0.

The next item of business was the approval of the December 5, 2011 Minutes. Member Trzcinski made a motion to approve the Minutes subject to the following correction: a question was alleged in the draft minutes to have been posed by Member Steinbach who was absent from the meeting. The correction was to amend the question as having been posed by Member Cipperly. Member Steinbach seconded the motion. The motion carried 5-0.

The next item of business was the approval of the December 29, 2011 Minutes. Member Trzcinski made a motion to approve the Minutes subject to the following correction: the word "the" on page 2 of the draft minutes was changed to the word "he." Member Steinbach seconded the motion. The motion carried 5-0.

The next item of business was the appeal and petition of WAL-MART REAL ESTATE BUSINESS TRUST, owner-applicant, for a proposed amendment to the public development district (PDD) to reflect revised trucking routes through the parking lot of the Wal-Mart store at 760 Hoosick Road, in the town of Brunswick. Attorney Mary Elizabeth Slevin appeared on behalf of the owner-applicant and presented the revised trucking route. It was noted that the owner-applicant revised the trucking route as previously requested and that the revised trucking routes addressed the Town Board's previous concerns. During the presentation, the members of the Zoning Board of Appeals had the following questions and/or feedback:

Member Trzcinski asked whether the site would be marked to inform delivery drivers of the appropriate trucking route. Attorney Slevin responded that all drivers are given a map with the appropriate trucking route and that no additional signage would be necessary.

Member Steinbach inquired as to the volume of truck traffic that could be expected. Attorney Slevin did not have this information readily available. Member Steinbach remarked that the proposed amendment appears to be an improvement over the previously proposed trucking route.

Member Schmidt also remarked that the proposed amendment appears to be an improvement over the previously proposed trucking route.

Member Cipperly also remarked that the proposed amendment appears to be an improvement over the previously proposed trucking route.

Chairman Hannan remarked that the revised trucking route reflects two-way traffic.

A motion to generate a referral decision with a positive outcome was made by Member Cipperly and seconded by Member Schmidt. The motion carried 5-0.

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

Dated: Brunswick, N.Y.
March 8, 2012

Respectfully submitted,



RONALD A. D'ALESSANDRO
Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of
WAL-MART REAL ESTATE BUSINESS TRUST ,
Applicant,

For the Amendment of the Brunswick Square Planned
Development District Under the Zoning Ordinance of the TOWN
OF BRUNSWICK.

Introduction

The Board has received a revised application from the Wal-Mart Real Estate Business Trust seeking to amend the existing Brunswick Square Planned Development District (PDD) in which the existing Wal-Mart Store located at 620 Hoosick Road operates. Essentially, the applicant is seeking to revise the trucking route previously proposed to the Town Board through the current parking lot.

Procedural History

Pursuant to Resolution 63.2011, the Town Board previously approved an amendment to the Brunswick Square Planned Development District authorizing the approval of the expansion of the existing Wal-Mart store with the following condition:

“1. All deliveries of all stock, including commercial stock and grocery stock, including all types of delivery vehicles, shall continue to use the truck delivery route required pursuant to the original Brunswick Square PDD approval. Specifically, all delivery vehicles shall access this site off NYS Route 7 only, and no delivery vehicles shall be allowed to access the site or exit the site via McChesney Avenue. Additional signs shall be required at the McChesney Avenue entrance driveway stating that no delivery trucks are allowed. The current truck delivery route for the Brunswick Square PDD is reaffirmed, and is mandated in connection with the expansion of the Wal-Mart store. The Applicant will be required to ensure compliance with this restricted delivery vehicle location and route”; and

During a Planning Board review of the Site Plan application, the Planning Board determined and recommended a change in the truck traffic routing through the PDD property, as follows:

“5. This approval incorporates Condition No.1(l) set forth in Brunswick Town Board Resolution No. 63 of 2011, which requires that all delivery of all stock, including commercial stock and grocery stock, and including all types of delivery vehicles, must continue to use the truck delivery route required pursuant to the original Brunswick Square Planned Development

District approval. However, the Planning Board understands that the Applicant seeks to amend the truck delivery route to remove the requirement that all delivery trucks utilize the access way to the rear of the commercial buildings located on the Johnston Associates portion of the Brunswick Square site, and amend that truck delivery route to require all delivery vehicles to proceed along the internal road/driveway in the Brunswick Square parking area and which generally bisects the Wal-Mart parking spaces and the Brunswick Associate parking spaces, and thereafter proceeding left in an easterly direction on the internal road/driveway area directly in front of the Johnston Associates retail buildings, and then proceeding easterly to the rear of the Wal-Mart Store. In the event such an application is made by the Applicant to the Brunswick Town Board for amendment to the PDD approval concerning the truck delivery access route, the Brunswick Planning Board recommends that the Brunswick Town Board approve the amended delivery truck route as described in this paragraph, in that the Planning Board finds that this amended delivery truck route further shields delivery trucks from existing homes on McChesney Avenue, and also keeps trucks away from the parking space areas on both the Wal-Mart parking area and Johnston Associates parking area while utilizing only the internal road/driveway areas within the Brunswick Square parking lot;”

As a result of this recommendation, Wal-Mart requested a further Amendment to the Planned Development District to permit truck routing through the site as recommended by the Planning Board; and

The Zoning Board of Appeals has been requested to submit a recommendation to the Town Board with respect to the requested amendment.

Conclusion

The Zoning Board Appeals adopts a generally positive recommendation of the proposed amendment to the PDD as the proposed amendment to the PDD should result in reduced impact for the neighboring property, reduction of potential vehicle conflicts with respect to the Johnston Associates retail plaza, and overall better traffic flow on the site. The revised trucking route provides a more direct path through the parking lot to the loading bays located in the rear of the store. The revised trucking route also provides multiple options through the parking lot for delivery drivers. Attorney for the applicant indicated that all delivery drivers are given maps that mark the appropriate routing through the parking lot. It is further noted that the Planning Board of the Town of Brunswick is generally the lead agency in this matter and although the Zoning Board of Appeals is providing this positive recommendation, deference is given to the Planning Board.

Dated: Brunswick, New York
March 8, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on March 19, 2012, at 6:00 P.M.

Present at the meeting were: Timothy Casey
Caroline Trzcinski, Member
E. John Schmidt, Member

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

Due to the absence of Chairman Hannan, a motion was made to appoint Member Trzcinski as Acting Chairwoman of the meeting. The motion passed

The Acting Chairwoman then called the Regular Meeting to order at 6:00 P.M.

The first item of business acknowledgement of the departure of Member Cipperly from the ZBA, and the appointment of Member Casey in Mr. Cipperly's place.

The next item of business was approval of the February 28, 2012 Minutes. Member Trzcinski made a motion to approve the Minutes without changes. Member Schmidt seconded. The motion carried 3 - 0.

The next item of business was an informational update (a non-action item) regarding a proposed filling station proximate the intersection of State Route 278 and State Route 2 (herein after referred to as the "Reiser Matter"). The members of the ZBA were counseled by Deputy Town Attorney D'Alessandro that no action was to be taken that evening. Rather, the Reisers and their colleague, Mr. Scott Reese, were appearing to re-familiarize the ZBA with some of the details of the Reiser Matter.

Appearing on behalf of the Reisers was Mr. Scott Reese who presented proposed construction details on the Reiser Matter. Mr. Reese informed the ZBA that the project comprises a subdivision of three (3) lots on an existing ten (10) acre parcel. Mr. Reese presented various diagrams/plans depicting the proposed construction and building placement on the site.

The members of the ZBA had the following questions (Q) that were met with the associated answers (A):

Member Casey

(Q) Where do you stand in your Department of Health certification/permitting?

(A) Our permitting is current.

(Q) Where is your designated location for "spoils/waste material?"

(A) The spoils will be used to construct a berm behind the proposed filling station to protect an adjacent housing development from noise and/or views of the filling station.

Member Trzcinski

(Q) Where will the entrance to the proposed filling station be?

(A) One entrance will be opposite the current Stewarts Shop, and another will be from State Route 278 (i.e., at Department of Transportation marked access points).

(Q) Have you considered drainage issues?

(A) Yes, a culvert adjacent the property will be utilized, and the site will be landscaped in elevation to allow for proper drainage.

(Q) How many gas/islands pumps will be present?

(A) There will be a total of three (3) islands.

There being no further business, Member Trzcinski made a motion to adjourn. Member Schmidt seconded. The motion carried 3 - 0.

Dated: Brunswick, N.Y.
March 30, 2012

Respectfully submitted,



Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

March 19, 2012

RESOLUTION ADOPTING DETERMINATION

WHEREAS, an application having been filed by the Wal-Mart Real Estate Business Trust seeking to amend the existing Brunswick Square Planned Development District in which the existing Wal-Mart Store located at 620 Hoosick Road operates; and

WHEREAS, the Town Board having referred the application to this Board for comment; and

WHEREAS, the Board having caused to be prepared a written Response to Referral with respect to the said referral, which is annexed hereto; now, therefore, after due deliberation

BE IT RESOLVED, that the annexed Response to Referral be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Trzcinski and seconded by Member Steinbach, was duly put to a roll call vote as follows:

MEMBER CASEY	VOTING	Aye
MEMBER SCHMIDT	VOTING	Aye
MEMBER STEINBACH	VOTING	Absent
MEMBER TRZCINSKI	VOTING	Aye
CHAIRMAN HANNAN	VOTING	Absent

The foregoing Resolution was thereupon declared duly adopted by a vote of 3-0.

Dated: March 19, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of
WAL-MART REAL ESTATE BUSINESS TRUST ,
Applicant,

For the Amendment of the Brunswick Square Planned
Development District Under the Zoning Ordinance of the TOWN
OF BRUNSWICK.

Introduction

The Board has received a revised application from the Wal-Mart Real Estate Business Trust seeking to amend the existing Brunswick Square Planned Development District (PDD) in which the existing Wal-Mart Store located at 620 Hoosick Road operates. Essentially, the applicant is seeking to revise the trucking route previously proposed to the Town Board through the current parking lot.

Procedural History

Pursuant to Resolution 63.2011, the Town Board previously approved an amendment to the Brunswick Square Planned Development District authorizing the approval of the expansion of the existing Wal-Mart store with the following condition:

“1. All deliveries of all stock, including commercial stock and grocery stock, including all types of delivery vehicles, shall continue to use the truck delivery route required pursuant to the original Brunswick Square PDD approval. Specifically, all delivery vehicles shall access this site off NYS Route 7 only, and no delivery vehicles shall be allowed to access the site or exit the site via McChesney Avenue. Additional signs shall be required at the McChesney Avenue entrance driveway stating that no delivery trucks are allowed. The current truck delivery route for the Brunswick Square PDD is reaffirmed, and is mandated in connection with the expansion of the Wal-Mart store. The Applicant will be required to ensure compliance with this restricted delivery vehicle location and route”; and

During a Planning Board review of the Site Plan application, the Planning Board determined and recommended a change in the truck traffic routing through the PDD property, as follows:

“5. This approval incorporates Condition No.1(l) set forth in Brunswick Town Board Resolution No. 63 of 2011, which requires that all delivery of all stock, including commercial stock and grocery stock, and including all types of delivery vehicles, must continue to use the truck delivery route required pursuant to the original Brunswick Square Planned Development

District approval. However, the Planning Board understands that the Applicant seeks to amend the truck delivery route to remove the requirement that all delivery trucks utilize the access way to the rear of the commercial buildings located on the Johnston Associates portion of the Brunswick Square site, and amend that truck delivery route to require all delivery vehicles to proceed along the internal road/driveway in the Brunswick Square parking area and which generally bisects the Wal-Mart parking spaces and the Brunswick Associate parking spaces, and thereafter proceeding left in an easterly direction on the internal road/driveway area directly in front of the Johnston Associates retail buildings, and then proceeding easterly to the rear of the Wal-Mart Store. In the event such an application is made by the Applicant to the Brunswick Town Board for amendment to the PDD approval concerning the truck delivery access route, the Brunswick Planning Board recommends that the Brunswick Town Board approve the amended delivery truck route as described in this paragraph, in that the Planning Board finds that this amended delivery truck route further shields delivery trucks from existing homes on McChesney Avenue, and also keeps trucks away from the parking space areas on both the Wal-Mart parking area and Johnston Associates parking area while utilizing only the internal road/driveway areas within the Brunswick Square parking lot;"

As a result of this recommendation, Wal-Mart requested a further Amendment to the Planned Development District to permit truck routing through the site as recommended by the Planning Board; and

The Zoning Board of Appeals has been requested to submit a recommendation to the Town Board with respect to the requested amendment.

Conclusion

The Zoning Board Appeals adopts a generally positive recommendation of the proposed amendment to the PDD as the proposed amendment to the PDD should result in reduced impact for the neighboring property, reduction of potential vehicle conflicts with respect to the Johnston Associates retail plaza, and overall better traffic flow on the site. The revised trucking route provides a more direct path through the parking lot to the loading bays located in the rear of the store. The revised trucking route also provides multiple options through the parking lot for delivery drivers. Attorney for the applicant indicated that all delivery drivers are given maps that mark the appropriate routing through the parking lot. It is further noted that the Planning Board of the Town of Brunswick is generally the lead agency in this matter and although the Zoning Board of Appeals is providing this positive recommendation, deference is given to the Planning Board.

Dated: Brunswick, New York
March 19, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on April 16, 2012, at 6:00 P.M.

Present at the meeting were: Timothy Casey, Member
E. John Schmidt, Member
James Hannan, Chairman
Caroline Trzcinski, Member

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

The Chairman then called the Regular Meeting to order at 6:00 P.M.

The first item of business was a request by Attorney D'Alessandro to move the May meeting to Tuesday, May 29, 2012 to accommodate a previously arranged trip abroad. A motion was made by Chairman Hannan to approve such movement. The motion was seconded by Member Trzcinski. The motion carried 4-0.

The next item of business was approval of the March 19, 2012 Minutes. Member Trzcinski made a motion to approve the Minutes with the following two changes: (1) on page two of the minutes, reference was made to State Route 278. The correct route to which reference should have been made was State Route 2; and (2) on page two of the minutes, reference was made to the proposed filling station having three (3) islands. The correct reference should have stated one (1) island with three (3) pumps. The motion carried 4 - 0.

The next item of business was the appeal and petition of Mrs. Heather J. Bricetti, owner-applicant of 3899 State Route 2 in the Town of Brunswick, for an Area Variance under the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a cover to an existing bridge because:

1. The proposed construction violates the front yard setback in an R-15 District in that 60 feet is required and 0 feet is proposed.

Attorney D'Alessandro read the notice aloud. Appearing pro se was owner-applicant Heather J. Bricetti and contractor Daniel Minbioue of 216 Clickner Road in the Town of Brunswick (collectively referred to as the "parties"). The parties presented specifics on the project and, in so doing, that the cover would prevent additional damage to the bridge and would not interfere with lines of sight with respect to ingress and egress. Following the presentation, the members of the ZBA had the following questions:

Member Trzcinski

(Q) What would the cover look like? Do you have a picture?

(A) In response, the parties opened an electronic file on a laptop depicting a cover with open sides and a metal roof.

(Q) Can you look both ways?

(A) Yes.

(Q) Will fire/EMS have access?

(A) Yes, there is an additional entrance to the property from State Route 351.

(Q) Will the stonework be removed?

(A) It was replaced due to the hurricane.

Member Schmidt

(Q) Will there be a posted height/weight limit?

(A) Yes.

Chairman Hannan

(Q) Will the bridge have sides so as to prevent a driver from driving off?

(A) Yes.

Member Casey

(Q) How is the guardrail on State Route 2 currently terminated?

(A) It fades just prior to the bridge.

(Q) What will the cover look like color-wise?

(A) A rustic frame with a gray roof.

(Q) Will the roof impact existing power lines, etc.

(A) No.

Building Inspector John Kreiger informed the board that a building permit would still be needed.

Attorney D'Alessandro proposed that the action be classified as a type 2 action (no

further action required) under SQR. Member Casey made a motion to adopt the recommended classification. Member Trzcinski seconded the motion. The motion carried 4-0.

A formal Motion was made to approve the requested Area Variance subject to the provision of a formal rendering showing sides to the bridge to Building Inspector Kreiger prior to the granting of a building permit. The Motion was seconded by member Trzcinski. The motion carried 4-0.

The next item of business was an informational update (a non-action item) regarding a proposed paintball establishment by Mr. David Molino. In his presentation, Mr. Molino was accompanied by multiple individuals including Mr. Thomas Kenney, and a member of the Rensselaer Police Department. Mr. Molino presented a brochure and various informational pamphlets and indicated that the establishment would be open to the general public on Saturdays and Sundays, and to law enforcement during the week. Mr. Molino further indicated that due to the seclusion of the property and the low noise generated by paintball equipment, a substantial impact on the local neighborhood was not expected. Following the presentation, the members of the ZBA had the following questions:

Chairman Hannan

(Q) Have the neighbors been notified?

(A) Not yet.

(Q) How far away are the homes

(A) There are roughly 5-6 homes, approximately 2500 feet away.

(Q) What do the police use now?

(A) Local or foreclosed homes, which can interfere with ordinary neighborhood operations.

(Q) Will there be concessions?

(A) No. There will especially be no alcohol allowed.

Member Trzcinski

(Q) Will the driveway/road be dirt?

(A) No, it will be stone.

(Q) How big is the parking lot?

(A) Sixty (60) spaces.

(Q) Will it be similar to the brochure presented?

(A) Yes, it will be similar.

(Q) Will the "fields of play" be level?

(A) Mixed, depending on the particular type of field.

(Q) Will there be bathrooms?

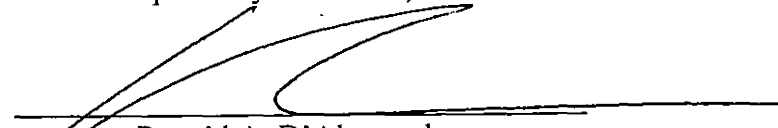
(A) Yes.

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

Dated: Brunswick, N.Y.

May 1, 2012

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on May 29, 2012, at 6:00 P.M.

Present at the meeting were: Timothy Casey, Member
E. John Schmidt, Member
James Hannan, Chairman
Martin Steinbach, Member
Caroline Trzcinski, Member

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 p.m., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. In advance of the meeting, attorney D'Alessandro circulated a proposed agenda to the members via email. A copy of said agenda is attached hereto.

The Chairman then called the Regular Meeting to order at 6:00 P.M.

The next item of business was approval of the March 19, 2012, Minutes. Member Trzcinski made a motion to approve the Minutes with the following one change: (1) on page two of the minutes, a name of an individual before the ZBA in support of the application of Heather J. Bricetti was misspelled. Specifically, the name of contractor Daniel Mineiole was inadvertently misspelled as "Daniel Minbioue." The motion carried 5 - 0.

The next item of business was the application regarding a proposed paintball establishment by Mr. David Molino. In his presentation, Mr. Molino was accompanied by multiple individuals including Mr. Thomas Kenney, and a member of the Rensselaer Police Department. During April's ZBA hearing, Mr. Molino presented a brochure and various informational pamphlets and indicated that the establishment would be open to the general public on Saturdays and Sundays, and to law enforcement during the week. Mr. Molino further indicated that due to the seclusion of the property and the low noise generated by paintball equipment, a substantial impact on the local neighborhood was not expected. Following the April meeting, the members of the ZBA had the following questions:

Chairman Hannan

(Q) Have the neighbors been notified?

(A) Not yet.

(Q) How far away are the homes

(A) There are roughly 5-6 homes, approximately 2500 feet away.

(Q) What do the police use now?

(A) Local or foreclosed homes, which can interfere with ordinary neighborhood operations.

(Q) Will there be concessions?

(A) No. There will especially be no alcohol allowed.

Member Trzcinski

(Q) Will the driveway/road be dirt?

(A) No, it will be stone.

(Q) How big is the parking lot?

(A) Sixty (60) spaces.

(Q) Will it be similar to the brochure presented?

(A) Yes, it will be similar.

(Q) Will the "fields" of play" be level?

(A) Mixed, depending on the particular type of field.

(Q) Will there be bathrooms?

(A) Yes.

Mr. Molino and Attorney Kenney appeared during the May ZBA hearing to answer any additional questions and/or requested formal action by the ZBA. There being no additional questions, a motion was made for attorney D'Alessandro to draft a decision with a generally positive recommendation for potential adoption at the June 28, 2012, ZBA hearing. The motion carried 5-0.

The next order of business was the petition of George J. and Wendy H. Cardinal, owners-applicants for a Special Use Permit in connection with the proposed conversion of a single family home into a two family home on a lot located at 629 Hoosick Street in the Town of Brunswick, because multiple dwellings are only allowed in the Town of Brunswick by way of a Special Use Permit issued by the Zoning Board of Appeals. Due to inclement weather and blackouts, the Cardinals were unable to attend the ZBA hearing. In so doing, Chairman Hannan made a motion to table this order of business until the June 18, 2012, ZBA hearing. The motion carried 5-0.

The next order of business was the petition and appeal of the Haven Baptist Church by Mr. Keith Gardner, pastor, for an area variance in conjunction with the proposed location of a church in a storefront on a lot located at 564 Hoosick street (hereinafter referred to as the "Gateway Plaza") in the town of Brunswick, because 67 parking spaces are required and only 44 parking spaces are provided and such deviation is allowed in the Town of Brunswick only by way of an area variance issued by the ZBA.

Mr. Keith Gardner, Pastor of the Haven Baptists Church, appeared before the ZBA and indicated that the church currently has approximately 10 adult members, and would hold services Thursday evenings, Sunday mornings, and Sunday evenings, times when multiple businesses currently located in the gateway Plaza are closed, and hence not utilizing the parking lot. After Mr. Gardner's presentation, the members of the ZBA had the following questions:

Member Trzcinski

(Q) How many members are there?

(A) Approximately 10 adults and 6 children.

(Q) Will it be difficult exiting the Gateway Plaza after services?

(A) Any difficulty will be minimized by the off-hours nature of the intended services.

Member Steinback

(Q) Will parking be an issue?

(A) No, the parking lot is rarely fully utilized currently, and the Chinese restaurant is a takeout restaurant. Moreover, service times are Thursday evenings, Sunday mornings, and Sunday evenings. These are times when the other businesses are largely closed.

Member Casey

(Q) Mr. Kreiger, how did we come up with 67 spaces?

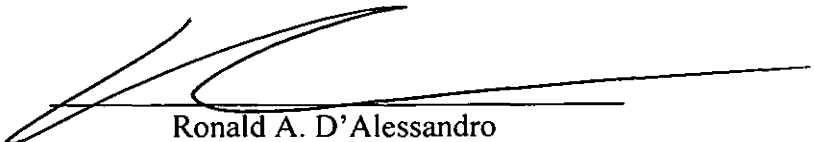
(A) Mr. Kreiger provided the following breakdown: Current businesses require a total of 54 spaces, and the Church will require an additional 13 spaces.

Upon completion of the question and answers, Attorney D'Alessandro requested a motion be made to classify the application as "unclassified" under SQR. A short Environment Assessment Form had been completed by Pastor Gardner. A motion was so made by Member Schmidt. The motion carried 5-0. Following, a motion was made by Chairman Hannan to approve the application. The motion carried 5-0.

There being no further business, a motion to was made to adjourn. The motion carried 5-0.

Dated: Brunswick, N.Y.
June 3, 2012

Respectfully submitted,



Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on June 18, 2012, at 6:00 P.M.

Present at the meeting were: Timothy Casey, Member
E. John Schmidt, Member
James Hannan, Chairman
Caroline Trzcinski, Member

Also present were Andrew Gilchrist, Esq., Deputy Town Attorney sitting for ZBA attorney Ronald A. D'Alessandro, and Code Enforcement Officer John Kreiger. At 5:30 p.m., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. In advance of the meeting, attorney Ronald D'Alessandro circulated a proposed agenda to the members via email. A copy of said agenda is attached hereto.

The Chairman then called the Regular Meeting to order at 6:00 P.M.

The next item of business was approval of the May 29, 2012, Minutes. Member Trzcinski made a motion to approve the Minutes. Member Schmidt seconded the motion. The motion carried 4 - 0.

The next order of business was the adoption and passage of a Resolution Accepting Positive Determination for PDD for proposed Paintball Establishment made by Mr. David Mulino. The Resolution was reviewed and adopted. A copy of said Resolution was forwarded to Tom Kenney.

The next order of business was the presentation of the Change of Use and Special Use Permit petition of George J. and Wendy H. Cardinal, in connection with the proposed conversion of a single family home into a two family home on a lot located at 629 Hoosick Street in the Town of Brunswick, because multiple dwellings are only allowed in the Town of Brunswick by way of a Special Use Permit issued by the Zoning Board of Appeals.

Mr. & Mrs. Cardinal appeared before the ZBA presenting the following reasons why the permit should be granted: 1) adequate size; 2) 2 car garage; 3) traffic is not an issue; 4) lot acreage is good; and 5) the number of buildings around subject property are also multiple family residences. After Cardinals' presentation the public had the following comments:

Pam Harrou, 14 Leonard Ave.

- Adjacent parcel abuts Leonard Ave. and is approximately 100' x 50'
- Keep adjacent parcel separate and does not want a merger to allow access to a multi-family residence from a single-family area.

Cardinal's Response

- Both parcels are on one deed; request is for a zoning split
- Commercial traffic is not off of Leonard; the only access is off Hoosick; no access off Leonard.

John Kreiger

- Tax map = one parcel

Melissa Burkhard, 9 Leonard Ave.

- (Q) Will there be access to the 2 family from Leonard?
(A) No, only from Hoosick Street.

Cardinal's Response

- 200/300 foot driveway does not make sense and will not put one in
- Leonard Ave. is not for commercial traffic, it is a dead end

Ernie Burkhard, 9 Leonard Ave.

- (Q) Future plans for lot?
(A) None at the moment. Request is for 2-family.

Chairman Hannan

- If approved, any change would require further application to the Town

No further Public Comment. After Public comments, the members of the ZBA had the following additional questions/comments:

Member Trzcinski

- 2 bedroom apartments
 - Not owner-occupied
- (Q) How many parking spaces?
(A) 2 car garage with 2 additional spaces = 4

Member Schmidt

- No problems except parking
- Only access is Rt. 7 for the apartment

Member Casey

- (Q) What is the requirement for parking for an apartment?
(A) One per unit

Upon completion of the question and answers, a motion was made that the action be classified as SEQRA, Type 2. The motion carried 4-0. The motion was made by Member Schmidt and seconded by Chairman Hannan. Following, a motion was made to approve the requested variance. The motion was made by Member Schmidt. Member Casey seconded the motion. The motion carried 3-1 with the condition that access for apartments be made from Hoosick Road only.

The next order of business was the presentation for the application made by Mr. Kozinski, owner-applicant, for an area variance in conjunction with the proposed location of a shed. See application. Mr. Kozinski indicated a privacy fence would be installed on 4 (Kennedy) or installed on 5 (Mois). After Mr. Kozinski's presentation, the members of ZBA had the following questions/comments:

Member Trzcinski

- Water/septic on side
- Move shed to 5' off property line rather than 3'; very tight

Member Schmidt

- Same comments as Member Trzcinski

There were no public comments in favor or in opposition.

Kozinski

- Shed to be located 4' off property line

Member Schmidt

- Privacy fence 5/6 condition with shed at 4'

Kreiger

- Adjacent neighbors are in support

Upon completion of the questions and answers, a motion was made to classify the application as SEQRA, Type 2. The motion was made by Member Casey. Member Trzcinski seconded the motion. The motion carried 4-0. Following, a motion was made to approve the application with the shed 4' off property line and the condition that a privacy fence must be installed. The motion was made by Member Trzcinski. Chairman Hannan seconded the motion. The motion carried 4-0.

The next order of business was the petition of Paul Cacciotti, owner-applicant, for an Area Variance for a garage. See application. Mr. Cacciotti is requesting an area variance to allow the garage to be 23' from property line as opposed to 25' which would not require a variance. The other proposed dimensions of the garage are 70'/30' front and side and 19'18" in height. 12' is the current height max. After Mr. Cacciotti's presentation, the public had the following comments:

Scott Delsignore, 20 Moonlawn

- A garage 23' from the property line would place a large building on, which will have an effect on the resale value

The members of ZBA had the following questions/comments:

Member Trzcinski

- Move the location of the garage further away from the neighbor's line
- (Q) What is the reason for the increase in height?
(A) Trying to match roof pitch with house

Member Casey

- Delsignore 35' off Moonlawn
- Garage rear property line

Member Schmidt

- (Q) Cupola?
(A) Not have to do it

Kreiger

- Low-pitch roof is possible
- 15' regular side yard setback; 70' required because it's a corner lot

Chairman Hannan

- (Q) Lower the height?
(A) I'd rather have a shed or 1-car garage than change the height. Lowering the height would cause it to not fit in and hurt the home's value

Member Casey

- Move closer to the pool. It would meet rear yard, side variance and height variance
- Coordinate with the neighbor

Member Schmidt made a motion to table this order of business until the July 23, 2012, ZBA hearing. Member Casey seconded the motion. The motion carried 4-0.

The next order of business was the petition of Montiel-Ochoa, owner-applicant for a Special Use Permit for Subdivision and Barn usage. Montiel-Ochoa would like to convert the barn into a storage space. The members of ZBA had the following questions/comments:

Member Trzcinski

- Barn is in bad shape
- (R) Applicant will restore barn and make it suitable for storage
- (Q) Any bathroom or septic?
- (A) There is a separate septic for the barn (water & septic)

- The silo must come down; there is too much damage

Member Casey

- 1.5 off 70+/- acre parcel
- Separate well for barn
- Timeframe for repair to be immediately/prior to winter

Applicant Montiel-Ochoa

- Potential house in future on 1.5 acre lot but will not make the barn into a house
- No setback issue with subdivision

Chairman Hannan

- Just fixing up the barn which is an existing structure
- Storage inside
- Vehicles to be outside and parked in the rear

The public had the following comments:

Rick Roden

- Great people
- This will improve White Church Rd.
- The barn is such disrepair, anything would be an improvement

Upon completion of the questions and answers, a motion was made to classify the application as SEQRA, Type 2 under SQR. The motion was made by Member Casey. Member Trzcinski seconded the motion. The motion carried 3-0. Following, a motion was made to approve the requested action. The motion was made by Chairman Hannan. Member Trzcinski seconded the motion. The motion carried 3-0.

The next order of business was the petition for a Proposed PDD for Duncan Meadows. Presenting the petition was Mr. Andy Brick, Esq. Specifically, Mr. Brick is seeking the age restriction on apartments be removed. The members of ZBA had the following questions/comments:

Member Trzcinski

- Site plan at PB required

Member Schmidt

- (Q) Why is this being brought to ZBA 6 months after Planning Board?
(A) It was an oversight

Member Casey

- 50 apartment units, 1-2 bedroom units/not final determination
- 78 townhomes, 88 condos; no change
- Highland Creek & Duncan Meadows coordinating on water/sewer

There was no general opposition.

Upon completion of the questions and answers, Member Casey made a positive recommendation for review by the ZBA at the July 23, 2012 meeting. Member Trzcinski seconded that recommendation.

The next order of business was the petition for a Proposed PDD for Highland Creek. Presenting the petition was Mr. Andy Brick, Esq, Lee Rosen, and Bob Marini. The members of ZBA had the following questions/comments:

Member Trzcinski

- 2 bedroom/2bathroom units
- 4/2 on 2
- Garage-one car

Member Schmidt

- No questions

Member Casey

- None

Chairman Hannan

- Great concept
- No one should be opposed
- Increased green space
- Rent, then condo conversion
- 1200-1400 unit rental

Member Casey

- (Q) Roads?

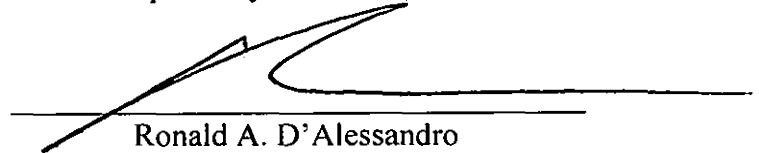
(A) Offer for dedication/Tom standards

A reminder was made that the July meeting has been moved to July 23, 2012.

There being no further business, a motion was made to adjourn the ZBA hearing. The motion carried 4-0.

Dated: Brunswick, N.Y.
July 19, 2012

Respectfully submitted,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

June 18, 2012

RESOLUTION ADOPTING DETERMINATION

WHEREAS, an application having been filed by the Mr. David Molino seeking to locate a new Paintball Establishment off Farrell Road proximate Oakwood Avenue; and

WHEREAS, the Town Board having referred the application to this Board for comment; and

WHEREAS, the Board having caused to be prepared a written Response to Referral with respect to the said referral, which is annexed hereto; now, therefore, after due deliberation

BE IT RESOLVED, that the annexed Response to Referral be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Trzcinski and seconded by Chairman Hannan, was duly put to a roll call vote as follows:

MEMBER CASEY	VOTING	Aye
MEMBER SCHMIDT	VOTING	Aye
MEMBER STEINBACH	VOTING	Absent
MEMBER TRZCINSKI	VOTING	Aye
CHAIRMAN HANNAN	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: June 18, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of
DAVID MOLINO,
Applicant,

For a Proposed Planned Development District
Under the Zoning Ordinance of the TOWN OF BRUNSWICK.

Introduction

The Board has received an application from the Mr. David Molino seeking approval of a Planned Development District (PDD) for the proposed location of a new paintball establishment off Farrell Road proximate Oakwood Avenue in the Town of Brunswick.

Analysis

A paintball establishment is hereby proposed by Mr. David Molino. In his presentation, Mr. Molino was accompanied by multiple individuals including Thomas Kenney, Esq., and a member of the Rensselaer Police Department. Mr. Molino presented a brochure and various informational pamphlets and indicated that the establishment would be open to the general public on Saturdays and Sundays, and to law enforcement during the week. Mr. Molino further indicated that due to the seclusion of the property and the low noise generated by paintball equipment, a substantial impact on the local neighborhood was not expected. Following the presentation, the members of the ZBA had the following questions:

Chairman Hannan

(Q) Have the neighbors been notified?

(A) In process.

(Q) How far away are the homes?

(A) There are roughly 5-6 homes, approximately 2500 feet away.

(Q) What do the police use now?

(A) Local or foreclosed homes, which can interfere with ordinary neighborhood operations.

(Q) Will there be concessions?

(A) No. There will especially be no alcohol allowed.

Member Trzcinski

(Q) Will the driveway/road be dirt?

(A) No, it will be stone.

(Q) How big is the parking lot?

(A) Sixty (60) spaces.

(Q) Will it be similar to the brochure presented?

(A) Yes, it will be similar.

(Q) Will the "fields" of play" be level?

(A) Mixed, depending on the particular type of field.

(Q) Will there be bathrooms?

(A) Yes.

Conclusion

The Zoning Board Appeals adopts a generally positive recommendation of the proposed amendment to the PDD as the proposed amendment to the PDD should result in negligible impact for the neighboring property, negligible impact on traffic flow, and negligible sound-based impact. The members of the ZBA note that proper sanitation and bathroom access will be provided, and environmentally friendly paintball material will be utilized. It is further noted that the proposed establishment will cater to law enforcement personnel on weekdays, and, in so doing, provide necessary law enforcement training for the public good. In addition, private citizens may utilize the proposed establishment on weekends for recreational purposes. It is further noted that no alcohol or other intoxicants will be permitted so as to maximize user safety. In view of the foregoing, the ZBA believes that all necessary precautions and current concerns have been fully addressed.

Dated: Brunswick, New York
June 3, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on July 23, 2012, at 6:00 P.M.

Present at the meeting were: E. John Schmidt, Member
Martin Steinbach, Member
Caroline Trzcinski, Member (Acting Chairwoman)

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 p.m., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. In advance of the meeting, attorney D'Alessandro circulated a proposed agenda and combined meeting packet to the members via email.

Due to the absence of Chairman Hannan, a motion was made by Member Schmidt to appoint Member Trzcinsky as acting Chairwoman. The motion was seconded by Member Steinbach. The motion carried 2-0.

The Chairwoman then called the Regular Meeting to order at 6:00 P.M. with the Pledge of Allegiance.

The first order of business was approval of the June 18, 2012, Draft Minutes (issued on July 19, 2012). Member Trzcinski made a motion to approve the Draft Minutes with the following change: the Draft Minutes inadvertently referred to the Cardinal variance as being advocated by Mr. and Mrs. Cardinal. However, only Mr. Cardinal actually appeared. The motion carried 3-0.

The next order of business was the adoption and passage of a Resolution accepting the previously issued Positive Determination for an amendment to a PDD corresponding to the Duncan Meadows project. The Resolution was reviewed and adopted 3-0 pursuant to a motion made by Acting Chairwoman Trzcinsky that was seconded by Member Steinbach.

The next order of business was the adoption and passage of a Resolution accepting the previously issued Positive Determination for an amendment to a PDD corresponding to the Highland Creek project. The Resolution was reviewed and adopted 3-0 pursuant to a motion made by Member Schmidt that was seconded by Member Steinbach.

The next order of business was the presentation of an application for an area variance for a garage alteration by Mr. and Mrs. Jeffrey and Susan Blais (Applicants). Applicants appeared before the ZBA. In their presentation, Applicants indicated that the desired purpose of the garage alteration was to modernize and improve the home, provide a porch, and to provide storage for articles currently stored in the basement, which basement has been subject to a flooding issue causing damage to said articles. It was further noted that Mrs. Blaise is on hemo-dialysis 5 days a week and is virtually house-bound due to a vision problem that prevents driving. Applicants further indicated that the garage alteration would enhance their home and neighborhood in general. After the Applicants' presentation, it was noted that no members of the public appeared to oppose the requested area variance. The ZBA had the following questions/comments:

Member Schmidt - None

Member Steinbach

(C) There appears to be good cause for variance.

(Q) Is footage cited in application correct?

(A) I believe so, coming out 12 foot on garage and 10 foot on porch.

Acting Chairwoman Trzcinski - None

Upon completion of the question and answers, a motion was made that the action be classified as SEQRA, Type 2. The motion was made by Acting Chairwoman Trzcinsky. Member Steinbach seconded the motion. The motion carried 3-0. Following, a motion was made to approve the requested variance. The motion was made by Member Steinbach. Member Schmidt seconded the motion. The motion carried 3-0.

The next order of business was the presentation of an application for an area variance for subdivision/lot line alteration by Mr. Gary H. Lucier (Applicant). Applicant failed to appear. However, in opposition, were Mr. and Mrs. Robert and Janis Spilker who presented a letter in opposition to the proposed area variance. A motion was made to table the matter until the August 20, 2012 ZBA hearing to give the Applicant an additional chance to appear and advocate on behalf of the application. The motion was made by Member Steinbach. The motion was seconded by Acting Chairwoman Trzcinsky. The motion carried 3-0.

The next order of business was the reappearance and restatement of the petition of Paul Cacciotti (Applicant) for an area variance for a garage. This matter was tabled during the June 18, 2012 ZBA hearing pending Applicant's re-working of the proposed project's specifics. Appearing and advocating in person was Applicant. In his presentation, Applicant restated his desire to construct a two car garage. The original application called for three variances: (1) a rear yard setback variance; (2) a height limit variance; and (3) a front yard setback variance. Applicant indicated that alteration to the plans after the June 18, 2012 ZBA hearing resulted in compliance with the rear yard setback requirement of 25' (23' was previously proposed) and,

hence a rear yard setback is no longer necessary. Applicant further indicated that a misunderstanding when measuring the height of the proposed structure for comparison to the requirement had occurred. Specifically, applicable standards call for the roof to be measured to the middle of the apex (as opposed to the top of the apex as originally believed). As such, a maximum height of 12' is required and 13.5' is now being proposed. Pursuant to the measurement clarification, Applicant indicated that far less of a height limit variance is needed (1.5') than originally sought or was believed needed. However, Applicant's originally proposed front yard setback remained as originally designed. Specifically, 70' is required and 35' is being proposed. Applicant noted that due to the unique configuration of the property, no alteration was possible. In presenting this point, Applicant produced aerial photographs/maps of the property and adjoining lots for the ZBA. After the Applicant's presentation, it was noted that no members of the public appeared to oppose the requested area variance. The ZBA had the following questions/comments:

Member Schmidt

(C) I can live with 1.5' on height, but the proposed front yard setback is tough.

Member Steinbach

(Q) What is between neighbors' homes and your garage?

(A) We planted trees.

(Q) Does the fence represent the property line?

(A) No. The fence is to fence in the pool.

Acting Chairwoman Trzycinski

(Q) Whose shed is present on the photograph?

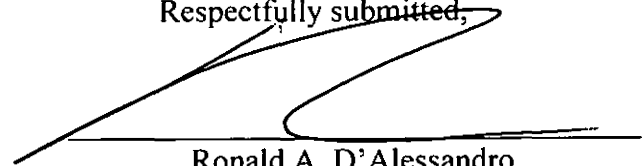
(A) Ours. We would take it down.

Upon completion of the question and answers, a motion was made that the action be classified as SEQRA, Type 2. The motion was made by Member Steinbach. Acting Chairwoman Trzycinski seconded the motion. The motion carried 3-0. Following, a motion was made to approve the requested variances. The motion was made by Member Steinbach. Acting Chairwoman Trzycinski seconded the motion. The motion carried 3-0.

There being no further business, a motion to adjourn was made. The motion was made by Member Steinbach. Acting Chairwoman Trzcinsky seconded the motion. The motion carried 3-0.

Dated: Brunswick, N.Y.
July 25, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ronald A. D'Alessandro', written over a horizontal line.

Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

July 23, 2012

RESOLUTION ADOPTING DETERMINATION

WHEREAS, an application having been filed by the ECM Land Development, LLC seeking to locate a new mixed use residential project consisting of 78 town homes, 88 condominium units, and 50 senior citizen apartment units, located on approximately 91 acres of land bounded by McChesney Avenue and McChesney Avenue Extension; and

WHEREAS, the Town Board having referred the application to this Board for comment;
and

WHEREAS, the Board having caused to be prepared a written Response to Referral with respect to the said referral, which is annexed hereto; now, therefore, after due deliberation

BE IT RESOLVED, that the annexed Response to Referral be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Trzcinsky and seconded by Member Steinback, was duly put to a roll call vote as follows:

MEMBER CASEY	VOTING	Absent
MEMBER SCHMIDT	VOTING	Aye
MEMBER STEINBACH	VOTING	Aye
MEMBER TRZCINSKI	VOTING	Aye
CHAIRMAN HANNAN	VOTING	Absent

The foregoing Resolution was thereupon declared duly adopted.

Dated: July 23, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of
ECM LAND DEVELOPMENT, LLC,
Applicant,

For an Amendment to the Duncan Meadows Planned Development District
Under the Zoning Ordinance of the TOWN OF BRUNSWICK.

Introduction

The Town Board of the Town of Brunswick has received an application by ECM Land Development, LLC to amend the Duncan Meadows Planned Development District. The Brunswick Town Board approved the Duncan Meadows Planned Development District through Resolution No. 62 of 2010, duly adopted on August 12, 2010. The Duncan Meadows Planned Development District was approved for a mixed use residential project consisting of 78 town homes, 88 condominium units, and 50 senior citizen apartment units, located on approximately 91 acres of land bounded by McChesney Avenue and McChesney Avenue Extension. The senior citizen apartment units approved for the Duncan Meadows Planned Development District were intended to carry a minimum age requirement. The Applicant has now submitted an application to the Brunswick Town Board to amend the Duncan Meadows Planned Development District to eliminate the age restriction associated with the 50 apartment units. The Brunswick Town Board has referred the application to the Zoning Board of Appeals for a recommendation.

Analysis

ECM Land Development, LLC, through its attorney Andrew Brick, Esq., presented the proposed amendment to the Zoning Board of Appeals at its meeting held June 18, 2012. The Applicant explained that all remaining aspects of the Planned Development District project, including the 78 town homes, 88 condominium units, and the recreation field to be transferred to the Town of Brunswick, remain as originally approved. Attorney Brick further explained that the Brunswick Planning Board had previously issued final site plan approval for the town home units and condominium units, but the Applicant had not yet filed an application for final site plan approval for the apartment units. The general location of the proposed apartment units will remain unchanged, and the only proposed amendment is the elimination of the age restriction for the apartment units. Attorney Brick confirmed that the Applicant will need to submit an application for site plan approval providing all final details for the apartment units to the Brunswick Planning Board.

The Zoning Board members generally inquired about the apartment units, and specifically whether the units were designed to be one or two bedrooms. Attorney Brick responded that the final design for the apartments had not yet been completed, and would be included in the site plan application submitted to the Brunswick Planning Board. Attorney Brick did state that the Applicant was proposing a mix of one and two bedroom apartment units.

The Zoning Board members also confirmed that the Brunswick Planning Board had completed its recommendation on this proposed amendment, and had had an opportunity to review the written recommendation of the Planning Board.

Conclusion

The Zoning Board Appeals adopts a generally positive recommendation on the proposed amendment to the Duncan Meadows Planned Development District. The Zoning Board of Appeals concurs with the Planning Board recommendation in that the proposed amendment to the Duncan Meadows Planned Development District will not result in any significant impacts which were not adequately analyzed and considered in the prior project review, and that while the proposed elimination of the age restriction of the apartment units may result in changes to potential traffic counts, school age children, and public water and public sewer requirements, the Zoning Board of Appeals concurs that these changes are not significant, and therefore recommends that the Brunswick Town Board approve the proposed amendment to the Duncan Meadows Planned Development District to eliminate the age restriction on the 50 apartment rental units. The Zoning Board of Appeals confirms that the Applicant will be required to submit a site plan application to the Brunswick Planning Board for the apartment units.

Dated: Brunswick, New York
June 18, 2012

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

July 23, 2012

RESOLUTION ADOPTING DETERMINATION

WHEREAS, an application having been filed by the Marini Homes, LLC seeking to amend the High Land Creek Planned Development District (PDD); and

WHEREAS, the Town Board having referred the application to this Board for comment;
and

WHEREAS, the Board having caused to be prepared a written Response to Referral with respect to the said referral, which is annexed hereto; now, therefore, after due deliberation

BE IT RESOLVED, that the annexed Response to Referral be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Schmidt and seconded by Member Steinbach, was duly put to a roll call vote as follows:

MEMBER CASEY	VOTING	Absent
MEMBER SCHMIDT	VOTING	Aye
MEMBER STEINBACH	VOTING	Aye
MEMBER TRZCINSKI	VOTING	Aye
CHAIRMAN HANNAN	VOTING	Absent

The foregoing Resolution was thereupon declared duly adopted.

Dated: July 23, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of
MARINI HOMES, LLC,
Applicant,

For an Amendment to the Highland Creek Planned Development District
Under the Zoning Ordinance of the TOWN OF BRUNSWICK.

Introduction

Pursuant to the above-captioned matter, the Town of Brunswick Town Board ("Town Board") approved the Highland Creek Planned Development District ("PDD") through Resolution No. 37 of 2006. Highland Creek PDD approval allowed for the construction of up to 170 residential lots on a total of 210± acres located on McChesney Avenue Extension. The Town of Brunswick Planning Board ("Planning Board") thereafter granted final subdivision plat approval for 162 residential lots on the Highland Creek PDD site. The Planning Board also approved a construction phasing plan for the Highland Creek PDD project. Marini Homes, LLC, as Owner and Applicant ("Owner"), has now filed an application with the Town Board to amend the Highland Creek PDD approval to allow for 160 multiple-residential units in 40 buildings with 4 units per building, in lieu of the approved 162 residential lots. The Town Board has referred such application to amend the Highland Creek PDD to the Town of Brunswick Zoning Board of Appeals ("ZBA") for recommendation. The Owner presented the application to amend the Highland Creek PDD to the ZBA at the hearing held June 18, 2012. The ZBA deliberated on such application at its meeting held June 18, 2012.

Analysis

The ZBA adopts a positive recommendation on the application to amend the Highland Creek PDD, and recommends that such amendment be approved, subject to the following comments which should be considered by the Town Board:

- a. The ZBA acknowledges that the long-term plan of the Owner is to convert all multi-family residential units to condominium ownership; however, due to current real estate market conditions, the Owner is not certain as to when the condominium conversion will commence or be completed. Until such time as the units are converted to condominium ownership, the Owner intends on renting the constructed multi-family units. Despite having made a positive recommendation on this application to amend the Highland Creek PDD, the ZBA also encourages the Town Board to consider the total number of rental units in the Town of Brunswick, both existing and approved for construction, with particular regard to the number of rental units recently approved for construction in the Town. This includes the additional apartments approved and constructed in the Sugar Hill Apartment complex (the "Glen"), as well as the additional apartments approved and constructed in Brunswick Woods. This also includes the proposal now pending before the Town Board to eliminate the age restriction on the 50 apartment units proposed for the Duncan Meadows Planned Development District. While the ZBA does not make this general comment as a negative observation for this particular project, it is a general comment which the ZBA considers a significant issue for consideration by the Town Board.

- b. The ZBA notes that the Town of Brunswick has not accepted and taken over the internal roads in apartment complexes in the Town, and that the road systems in the existing apartment complexes in the Town have remained private. Recent examples include the Sugar Hill Apartments (including the "Glen"), and Brunswick Woods. The ZBA acknowledges that the road system in the Highland Creek PDD is designed to meet Town public road standards as established in the original Highland Creek PDD approval, and that the original Highland Creek PDD approval intended that the roads be dedicated as public roads. However, the original Highland Creek PDD approval included single family detached lots, not rental units. Accordingly, the ZBA recommends that the Town Board should not accept the road system in the amended Highland Creek PDD project as a public road until such time as the condominium conversion occurs. The ZBA acknowledges this is a difficult issue, especially in light of the fact the condominium conversion could also occur in phases, such that part of the constructed project could consist of condominium-ownership units while part of the constructed project remain rental units. However, the ZBA feels that acceptance of the road in this project by the Town should not occur until the condominium conversion for the project is completed, or at least until a significant percentage of the total number of units for this project have been converted to condominium ownership.

- c. The ZBA recommends that in the event the Town of Brunswick accepts a conservation easement on the revised greenspace area for this project, that some type of agricultural use be allowed to remain on the revised greenspace area as part of the restrictions in the conservation easement. The ZBA acknowledges that the Owner also intends on investigating the transfer of title of the revised greenspace area to a land conservancy. In that case, restrictions on the land in the revised greenspace area would be subject to negotiation between the Owner and such a land conservancy. However, the ZBA recommends that the Town Board encourage an allowance of agricultural use on the revised greenspace area, even in the event title to the property is transferred to a land conservancy.

- d. The ZBA recommends that the Owner participate in the construction of a pedestrian walkway area along the shoulder of McChesney Avenue Extension, consistent with the approval conditions for the Duncan Meadows Planned Development District and Wal-Mart expansion project. This will require coordination with the Town of Brunswick and Rensselaer County Highway Department. The ZBA also notes that the Owner of the Sugar Hill Apartments has indicated it will participate in, and cooperate with the Town of Brunswick on, a pedestrian walkway on McChesney Avenue Extension in front of the Sugar Hill Apartments. The ZBA also recommends that the Town Board require some type of sidewalk or pedestrian walkway along the internal road in the Highland Creek PDD project.

- e. The ZBA recommends that the Owner coordinate with the owner of the Duncan Meadows Planned Development District project on water line and sewer line construction, which should also include coordination and consultation with the Town of Brunswick Water and Sewer Department. This coordination should, at a minimum, include the issue of looping the water lines and potentially reducing the number of pump stations by connecting sewer system lines

In the event the Town Board approves the amendment to the Highland Creek PDD, the Owner will be required to submit an application for site plan review for the revised multi-family unit layout for review by the Planning Board and/or the ZBA.

Dated: Brunswick, New York
July 12, 2012

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on August 20, 2012 at 6:00 P.M.

Present at the meeting were: Timothy Casey, Member
E. John Schmidt, Member
James Hannan, Chairman
Martin Steinbach, Member
Caroline Trzcinski, Member

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 p.m., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. In advance of the meeting, attorney D'Alessandro circulated a proposed agenda to the members via email. A copy of said agenda is attached hereto.

The Chairman then called the Regular Meeting to order at 6:00 P.M.

After the Pledge of Allegiance, the first order of business was approval of the July 30, 2012 minutes. A motion for approval of the minutes, subject to a change to correct a spelling error of member Trzcinski's name, was made by Member Trzcinski. The motion was seconded by member Steinbach. The motion passed 5-0.

The next item of business was an application regarding a proposed area variance for a lot line modification by owner-applicant Gary H. Lucier. Mr. Lucier failed to appear for a second time. The ZBA agreed 5-0 to provide Mr. Lucier with a third and final chance to appear on September 17, 2012.

The next item of business was an application regarding a proposed area variance to accommodate a swimming pool by owners-applicants Mr. and Mrs. Dariusz and Barbara Imbierowicz, who failed to appear. The ZBA agreed 5-0 to provide Mr. and Mrs. Dariusz and Barbara Imbierowicz with a second chance to appear on September 17, 2012. It was further noted, however, the proposed swimming pool had already been installed without ZBA approval of the application. Code enforcement office Kreiger was instructed to contact owners-applicants to address the issue

There being no further business, a motion to adjourn was made by member Trzcinski to adjourn. The motion was seconded by member Casey. The motion carried 5-0.

Dated: Brunswick, N.Y.
August 29, 2012

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. D'Alessandro', is written over a horizontal line.

Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on September 17, 2012, at 6:00 P.M.

Present at the meeting were: Timothy Casey, Member
E. John Schmidt, Member
James Hannan, Chairman
Martin Steinbach, Member
Caroline Trzcinski, Member

Also present were Ronald A. D'Alessandro, Deputy Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer John Kreiger. At 5:30 p.m., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. In advance of the meeting, attorney D'Alessandro circulated a proposed agenda to the members via email. A copy of said agenda is attached hereto.

The Chairman then called the Regular Meeting to order at 6:00 P.M.

The first item of business was the Pledge of Allegiance.

The next item of business was approval of the August 20, 2012, Minutes. Member Trzcinski made a motion to approve the Minutes. The motion was seconded by Member Steinbach. The motion carried 5-0.

The next item of business was an application regarding an area variance for a propose lot line alteration by Mr. Gary H. Lucier. ZBA attorney D'Alessandro read the notice aloud. In his presentation, Mr. Lucier indicated that he has more land than he needs, and that he wishes to develop two lots on a four acre parcel to generate personal revenue. Mr. Lucier, requested clarification on the variance computations, which were given by Kreiger. In his clarification, Mr. Kreiger referred to the lot map and reiterated that Mr. Lucier's proposal would result in a side yard setback of 3' where 15' is required. The members of the ZBA had the following questions/comments:

Chairman Hannan:

(Q) Are you clear for your own interest as to what you are asking, or do you want to confer with someone?

(A) Yes.

Member Steinbach

(Q) Are there any alternatives?

(A) Yes, moving garage or maintaining a single lot.

(Q) Can you move the driveway away from the garage?

(A) No, not without going onto someone else's grounds.

Member Schmidt

(Q) Any chance from you buying property from neighbors?

(A) No.

Member Trzcinski

(Q) Has fire department been approached?

(A) Not to my knowledge (answer given by John Kreiger).

Chairman Hannan then asked if any members of the public were in favor of the variance. None were present. Chairman Hannan then asked if any members of the public were in opposition to the variance. Mr. John Chuhta of 61 Colehammer Avenue appeared and indicated that the opposed lot alteration will only worsen traffic on Colehammer Avenue. In making this point, Mr. Chuhta, indicated that Colehammer Avenue currently sits on the border between two school districts (Brittonkill and Averill Park). Mr. Chuhta indicates that school busses and other large vehicles already have a difficult time making turns at the end of Colehammer Avenue and the additional of another lot will only worsen the spatial limitations. Mr. Chuhta then had the following question:

(Q) Can you locate one driveway on other side of the garage?

(A) No, it would go through front yard and swimming pool that is currently there.

ZBA Attorney D'Alessandro then read aloud a letter from concerned citizens Mr. Robert and Janis Spilker who oppose the proposed variance. A copy of the letter is attached hereto.

Upon completion of the formal presentation, ZBA Attorney D'Alessandro proposed to classify the action as a type two action under SEQRA. A motion was so made by Member Steinbach. The motion as seconded by Member Schmidt. The motion carried 5-0.

ZBA Attorney D'Alessandro then read aloud the criteria for granting an area variance. Chairman Hannan indicated that he believed the need for this variance was self-created and that Mr. Lucier should consult a surveyor. Members Trzcinski and Schmidt indicated that Mr. Lucier does not appear to meet any of the requirements for a variance. A motion was made by member Schmidt to deny the variance. The motion was seconded by Member Trzcinski. The motion carried 5-0.

The next item of business was an application regarding a proposed area variance to accommodate a swimming pool by owners-applicants Mr. and Mrs. Dariusz and Barbara Imbierowicz, who failed to appear. The ZBA agreed 5-0 to provide Mr. and Mrs. Dariusz and Barbara Imbierowicz with a third and final chance to appear on October 15, 2012. It was further noted, however, the proposed swimming pool had already been installed without ZBA approval of the application. Code enforcement office Kreiger was instructed to contact owners-applicants to address the issue

The next order of business was a presentation on an upcoming matter, namely, a use variance by Mr. Gary Morris to use an existing structure at 1974 Hoosick Road for office space and corresponding storage by Mr. John Gavin of Gavin Parker landscaping. In his presentation, Mr. Gavin indicated that there would be no retail traffic, and that most of the vehicles would go home with employees leaving 2-3 vehicles overnight at the site. He also indicated that he would improve the current site with landscaping to add to the aesthetics. It was further indicated that under previous use, the site was utilized as a wood transfer station.

The next order of business was an application for a Special Use Permit (SUP) by Reiser Brothers, Inc. (c/o Henry Reiser, President) owner-applicant for construction of a filling station and commercial store on a lot located on the corner of State Route 278 and State Route 2. Appearing with owner-applicant was Mr. Scott Reese, a landscape architect for the proposed project. ZBA attorney D'Alessandro read aloud the notice. In his presentation, Mr. Reese addressed each of the seven points in the criteria for granting a SUP.

(1) The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare: During peak use periods, people have been using overflow parking and walking across crossing State Route 2 to Stewarts. The proposed project would provide a better alternative than crossing a state highway.

(2) The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities: NYS Department of Transportation (DOT) recommended the location for the good access. There is an existing 16" water main and fire hydrant to which the proposed establishments may connect. Police and fire are in very close proximity and waste disposal will be handled through transfer station.

(3) The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance. Applicant is providing adequate parking and meets site plan regulations put forth by town of Brunswick.

(4) Neighborhood character and surrounding property values are reasonably safeguarded: The site is already zoned B-15 and there is already a filling station. To add to the buffering with the adjoining neighborhood, owner-applicant is constructing a berm, and is adding additional plantings on top of the hill to provide additional screening.

(5) The special use will not cause undue traffic congestion or create a traffic hazard: Traffic has dropped over time. There is already traffic there. The proposed project will simply service existing traffic and should not result in additional traffic being re-routed to the area.

(6) All conditions or standards contained in the Zoning Ordinance for the special use are satisfied. The application and proposal was believed to be in compliance with applicable ordinances by Mr. Reese.

(7) All governmental authorities having jurisdiction have given necessary approval: The proposed project is pending approval of planning board who referred the matter to the ZBA for the SUP. The sanitary elements of the proposed project are being reviewed by Rensselaer County Department of Health. Storm water run-off is in compliance DEC guidelines.

The members of the ZBA had the following questions/comments:

Member Trzcinski

(Q) What kind of gas station is proposed?

(A) A convenience store with filling station having similar hours to Stewarts. Currently, we have no tenants on board, pending approval of the project.

(Q) The plantings, why did they stop there? Why not continue them around (in referring to a particular location on the site plan)?

(A) The earth and berm provide screening?

(Q) What is the proposed height of the canopy for the island?

(A) No higher than the peak of the roof.

(C) The roof and the canopy are still visible from the house on the hill.

Member Steinbach

(Q) I am not familiar with all of planning board activities. Did a sound study get performed?

(A) That was addressed in SEQR and no substantial adverse impact was found. We are 30 feet downhill from residents.

(Q) When you look at the map, I am most concerned with people at top of hill. What about lighting?

(A) Lighting is located on plans. Lighting was a concern, we are proposing lights that just shine downward and minimize impact on the surrounding neighborhood.

Member Schmidt

(Q) What are going to be your hours?

(A) Monday through Sunday 4:30AM - 11PM, the same as Stewarts.

Chairman Hannan then asked if any members of the public were in favor of the variance. The following resident appeared in favor:

Ken Clark - 15 Langmore Lane.

(C) I think it is a good idea, it is currently an "eye sore." The project provides a good alternative to Stewarts. Right now, there is nothing there.

Chairman Hannan then asked if any members of the public were in opposition to the variance. The following residence appeared in opposition:

John McCarthy - 81 N. Langmore Lane

(C) When we bought property in August 2011, we asked what plans were with that property. Mr. Reiser told us he planned to build a small operation, nothing like the scope he is proposing now. But after researching, we have discovered that he has had this plan in play since 2009. Moreover, this is going forward despite the strong opposition. Currently, we don't like the light, noise, construction length, and invasiveness.

Conard Holton - 28 Tamarac Road

(C) It (the project) seems illogical and undermining to quality of life. Also, (the project) doesn't make sense from a business point of view. Current commercial businesses struggle. Also, with the traffic condition already dangerous, this will worsen the problem. Once we do this, there is no going back.

The members of the ZBA then had the following additional questions for owner-applicant:

Chairman Hannan

(Q) Were you planning to build and flip?

(A - Reiser) Yes, sell it off.

(C) People have spent a lot of money buying homes from you (Mr. Reiser). The fact that Dr. McCarthy is accusing Reiser of lying is disconcerting.

(Q) Do you have any other options for that parcel?

(A - Reese) No, the corner is ideal for filling station and convenience store. We have addressed their concerns for closest neighbors with burms. Also, they bought when it was zoned commercial. We are building the convenience store to fit the colonial/siding style of the houses. It will match the development.

(Q): Do you have any way the building is going to look like physically?

(A - Reiser) Yes, we presented at planning board. The structure will have a colonial style to match the housing.

(C) I would like to see greater detail of what is going to happen. It sounds like things will have to change because we don't know who will want to come in and what they will want.

(A - Reese) Parameters are being set.

(Q) Is this site/project on the market?

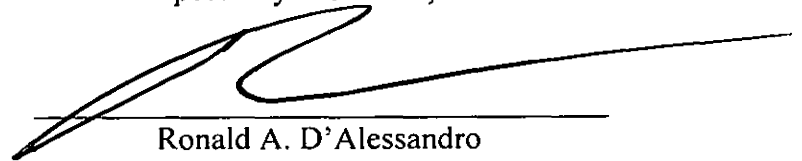
(A- Reiser) It is not currently listed. We can set deed restrictions on look and feel. This will also be a lot smaller than the Cumberland Farms.

Upon completion of the presentation and question/answer portion, Chairman Hannan made a motion to continue the matter to the October 15, 2012 ZBA hearing with the request that owner-applicant bring some details (e.g., plans, mock-ups, etc.) of what the structure would look like so that the ZBA member may make a fully informed decision. The motion was seconded by Member Schmidt. The motion carried 5-0

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

Dated: Brunswick, N.Y.
September 24, 2012

Respectfully submitted,



Ronald A. D'Alessandro
Deputy Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180
Phone: (518) 279-3461 -- Fax: (518) 279-4352

Proposed Agenda for October 15, 2012 Meeting

- I. Call to Order and Pledge of Allegiance
- II. Approval of Minutes from September 17, 2012 meeting
- III. Presentation of Area Variance for Pool (Imbierowicz)
 - A. Reading of Notice
 - B. Comments from owner/applicant
 - C. Questions for ZBA Members
 - D. Proposed SQR classification (Type 2)
 - E. Discussion and decision on the Petition and Appeal
- IV. Presentation of Use Variance for Office Space/Storage (Morris)
 - A. Reading of Notice
 - B. Comments from owner/applicant
 - C. Questions for ZBA Members
 - D. Proposed SQR classification (Unlisted)
 - E. Appointment of ZBA as lead agency
 - F. Discussion and decision on the Petition and Appeal
- V. Presentation of Special Use Permit for Filling Station and Store (Reiser)
 - A. Reading of Notice
 - B. Procedural History/Planning Board Designated as Lead Agency
 - C. Comments from owner/applicant
 - D. Questions for ZBA Members
 - E. Proposed SQR classification (Type 1).

I. Discussion of Planning Board's Determination of No Significant
Adverse Environmental Impact (Negative Declaration)

F. Discussion and decision on the Petition and Appeal

VI. Presentation of Sign Variance for Planet Fitness signage (PF Development Group)

A. Reading of Notice

B. Comments from owner/applicant

C. Questions for ZBA Members

D. Discussion and decision on the Petition and Appeal

VI. Presentation of Are Variance for Shed (Cost)

A. Reading of Notice

B. Comments from owner/applicant

C. Questions for ZBA Members

D. Proposed SQR classification (Type II)

E. Discussion and decision on the Petition and Appeal

VII. Adjourn

Zoning Board of Appeals

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD November 19, 2012

PRESENT were JAMES HANNAN, TIMOTHY CASEY, E. JOHN SCHMIDT, MARTIN STEINBACH and CAROLINE TRZCINSKI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Members of the Zoning Board of Appeals held an informal workshop meeting at 5:30 p.m. At that informal workshop meeting, the Zoning Board of Appeals Members decided to formalize the workshop meeting schedule, and at all future meetings of the Zoning Board of Appeals a workshop meeting will be noticed to commence at 5:30 p.m., with the formal business meeting of the Zoning Board of Appeals to commence at 6:00 p.m., both to occur on the regularly-scheduled evening for Zoning Board of Appeals meetings. The formal workshop meetings will continue to be held for the purpose of reviewing files and discussing matters pending at that time before the Zoning Board of Appeals. The workshop meetings will be open to the public, but will not include any public comment nor public hearing. The Zoning Board of Appeals Members also discussed procedural issues in future regular business meetings. The Members discussed the procedural option of performing an initial review of filed application materials, including a presentation of the application materials by the Applicant, at a regular business meeting of the Zoning Board of Appeals, and upon determination by the Board Members that the application is complete and ready for public hearing, thereafter the public hearing will be noticed and held at the next regularly-scheduled business meeting. This procedural option allows the Board Members to discuss the application materials with the

Applicant, obtain consent of the Applicant to access the property which is at issue in the application in order to view the parcel in question plus the surrounding parcels, and to thereafter conduct the public hearing upon determination that the application is complete. The Members of the Zoning Board of Appeals considered this to be a reasonable procedure, and will apply such procedure on future applications before the Zoning Board of Appeals.

Chairman Hannan called the regular meeting of the Zoning Board of Appeals to order at 6:00 p.m. The Zoning Board of Appeals Members then inquired as to the status of the minutes of the October 2012 meeting. Newly-appointed Attorney Gilchrist stated that due to the transition of appointed counsel to the Zoning Board of Appeals, minutes of the October meeting had not yet been prepared. Attorney Gilchrist stated that he would review the audio recording of the October 2012 meeting, and prepare minutes for review by the Members of the Zoning Board of Appeals.

The first item of business on the agenda was the application for area variance submitted by Eugene and Joan McCall, 5 Willowbrook Lane, for the installation of a new shed building on the parcel. According to the application, the proposed construction of the shed violates the rear-yard and side-yard setbacks in the R-15 Zoning District, in that a 9' side-yard setback is proposed while the Brunswick Code requires a 15' side-yard setback, and an 8' rear-yard setback while the Brunswick Code requires a 20' rear-yard setback. The Applicants were present, and Eugene McCall explained that he was proposing to replace an existing metal shed which is 32 years old, with a new shed at the same location and on the same concrete foundation. Mr. McCall stated that both of his adjoining neighbors had sent letters to the Town stating that they had no objection to the replacement of the metal shed with a new shed. Chairman Hannan reviewed the letters from the neighboring property owners, specifically a letter from Sarah J.

Scott dated November 12, 2012, and a letter from John and Catherine Marschilok dated November 12, 2012, both generally stating that each has no objection to the proposal. Chairman Hannan also noted that a photograph of the existing shed and location on the parcel is included in the application documents. Member Trzcinski inquired whether the proposed new shed would be metal. Mr. McCall stated that the new proposed shed will be a wood structure. Member Trzcinski requested a picture or other depiction of the proposed wood shed structure. Mr. McCall stated that a picture or other depiction is not available, and that he would be building the wood structure. Mr. McCall confirmed that the existing concrete pad would be used for the new shed structure, and that it would not be relocated or enlarged. Chairman Hannan inquired as to the general design of the new shed. Mr. McCall stated that it would be a standard shed structure, with a two-door front for purposes of storing general yard equipment and miscellaneous items. Member Trzcinski inquired whether there would be any electric hookup to the shed. Mr. McCall stated that there would be no electrical connection for the shed structure. Member Steinbach confirmed that the letters from the adjoining neighbors indicate no objection, and that these would be the parties most affected by the new shed structure. Mr. McCall responded by stating that his neighbors were agreeable with his proposal, that a metal shed had been in that location for the past 32 years, and that a new wood shed would be an improvement for his neighbors. Member Schmidt stated that he has no questions at the present moment, but would like to see the property before further considering the application. Member Casey inquired whether Scott and Marschilok were the only neighbors affected by the shed location. Mr. McCall stated that these were the only neighbors affected, and generally described the layout of his yard in relation to surrounding properties. The Zoning Board Members confirmed that there was adequate information in the application for purposes of public hearing, and has scheduled a public hearing

on this area variance application to be held at its December 17 meeting.

The next item of business on the agenda was an area variance application submitted by Eric Smith, 7 Kemp Avenue, seeking an area variance for the installation of an in-ground pool in the R-9 Zoning District, seeking a variance for a 5' rear-yard setback while the Brunswick Code requires a 20' rear-yard setback in this District. Mr. Smith was present, and generally described his proposal to the Zoning Board Members. Mr. Smith noted that a schematic of the parcel, including current house and garage location and proposed pool location, is provided in the application. Member Trzcinski stated that it appears there is sufficient room in the side yard of this parcel for installation of the pool, and that the Applicant could move the pool location to the side yard. Mr. Smith responded that placing the pool in the side yard would eliminate the side yard for use, that the entire side yard would be taken up by pool and required fencing, and that the preferred location is to the rear of the house adjacent to the rear property line. Member Trzcinski wanted the Applicant to confirm that there were no septic systems located on the parcel. Mr. Smith stated that there were no private septic systems, and that the parcel is serviced by sewer and public water. Member Trzcinski repeated that the pool location could be moved to the side yard if necessary. The Applicant reiterated that the side yard is used for recreational purposes, that the preferred location is in the rear yard, and that the adjoining neighbor does not have any objection to the pool, and that there are other pools in the neighborhood similarly situated. Member Steinbach stated that he was not familiar with the property location, and inquired whether it would be agreeable with the Applicant to do a site visit to the parcel. Mr. Smith stated that he consented to a site visit by the Zoning Board Members. Members Schmidt and Casey had no questions on this application at this time. The Zoning Board Members determined that there was adequate information in the file for the purposes of holding the public

hearing, and determined that the public hearing on this area variance application will be held at its regular business meeting in December.

The next item of business on the agenda was the application for area variance submitted by Eleanor Montiel-Ochoa for property located at 520 McChesney Avenue. The Applicant seeks to construct a barn on the subject parcel as an accessory structure in the A-40 Zoning District, with proposed front-yard setback of 20' and proposed rear-yard setback of 13', whereas the Brunswick Code requires a 75' front-yard setback and a 25' rear-yard setback in the A-40 Zoning District. Mr. Kreiger stated that this application was before the Zoning Board of Appeals in November of 2011, at which time the application was forwarded to the Rensselaer County Department of Economic Development and Planning for review and recommendation. As part of the County planning review and recommendation, the County recommended that given the presence of unstable soils in close proximity to the proposed barn location, the Applicant should have an engineer review the suitability of the site for construction. At that time, the Applicant pursued other options, but is now pursuing the original area variance application. In this regard, the Applicant has submitted a letter report from H2H Associates, LLC dated September 30, 2012 addressing the potential of soil erosion on the subject property. The H2H Associates letter report concludes that there is no evidence to suggest that the soils on the parcel are actively eroding at the proposed barn location or along the steep slope to the south of the proposed barn location, and that the construction of the barn as proposed using accepted, standard construction practices should have negligible affect on the steep slope. The Zoning Board Members generally discussed the content of the H2H Associates letter concerning soil stability and the location of the proposed barn in relation to the steep slope to the south. The Zoning Board Members generally had no further questions for the Applicant at this time, but determined there was

adequate information in the application for purposes of scheduling a public hearing. The public hearing on this application will be held at the Zoning Board regular business meeting in December.

The next item of business on the agenda was the application for special use permit submitted by Reiser Bros. Inc. for the proposed Brunswick Farms project located on NY Route 2 and NY Route 278. The application for special use permit addresses a proposed "filling station" as part of one of the commercial lots, on which a convenience store and retail gas sales is proposed at the intersection of NY Route 2 and NY Route 278. The Zoning Board of Appeals has held the requisite public hearing on this application, and the Zoning Board Members have had initial deliberations on the application materials, have considered comments received from the public, and will further deliberate on the special permit standards set forth in the Brunswick Zoning Ordinance in relation to this "filling station" proposal. It is noted on this application that compliance with the State Environmental Quality Review Act has been completed, with the Town of Brunswick Planning Board serving as SEQRA lead agency. The Brunswick Planning Board adopted a negative declaration under SEQRA, which was published in the Environmental Notice Bulletin on September 12, 2012. It is also noted that the Brunswick Planning Board adopted a favorable recommendation concerning the issuance of a special use permit to Reiser Bros. Inc. for the proposed filling station in conjunction with this project. The Zoning Board Members generally determined that the application materials favorably meet the special use permit criteria set forth in the Brunswick Zoning Ordinance, with particular regard to preservation of the character of the area. In that regard, the Zoning Board Members generally discussed the fact that the project includes construction of earthen berms and vegetative screening between the proposed commercial project and the adjacent Brookhill Subdivision, and

that the proposed façade for the convenience store and the canopy associated with the pump island is consistent with surrounding commercial uses, including the Stewarts Shop located immediately across NY Route 278. The Zoning Board Members discussed the points of ingress and egress to the proposed filling station from NY Route 278 and NY Route 2, noting that these entrance locations had been reviewed and conceptually approved by the New York State Department of Transportation. The Zoning Board Members also generally discussed the internal traffic circulation on the proposed convenience store and filling station location, and found them to be adequate. The Zoning Board also discussed the requisite number of off-street parking spaces for the proposed filling station, and Mr. Kreiger reported that the Planning Board had looked at that issue in detail in conjunction with its site plan review, and that both he and the Planning Board have determined that the off-street parking meets Brunswick Code Requirements. The Zoning Board Members directed Attorney Gilchrist to prepare a draft written decision for their review at the December regular meeting, consistent with the deliberation which the Zoning Board Members had in an open meeting at this November regular business meeting. A draft written decision on the special use permit application will be prepared and reviewed at the December meeting.

Mr. Kreiger reported that there were no items of new business before the Zoning Board of Appeals.

The index for the November 19, 2012 meeting is as follows:

1. McCall – area variance – 12/17/12 - public hearing to commence on 12/17/12;
2. Smith – area variance – 12/17/12 - public hearing to commence on 12/17/12;
3. Montiel-Ochoa – area variance – 12/17/12 – public hearing to commence on 12/17/12;
4. Reiser Bros. Inc. – special use permit – 12/17/12 – review and decision.

The proposed agenda for the December 17, 2012 meeting currently is as follows:

1. McCall – area variance – public hearing;
2. Smith – area variance – public hearing;
3. Montiel-Ochoa – area variance – public hearing;
4. Reiser Bros., Inc. – 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 December 17, 2012

PRESENT were JAMES HANNAN, TIMOTHY CASEY, E. JOHN SCHMIDT, MARTIN STEINBACH and CAROLINE TRZCINSKI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board of Appeals opened a workshop meeting at 5:30 p.m. to discuss pending applications. In addition, Mr. Kreiger and Attorney Gilchrist reviewed with the Zoning Board members proposed modification to the application forms for future Zoning Board use. The members will review the proposed changes to the application forms and discuss them at future meetings. The workshop meeting was closed at approximately 6:00 p.m.

Thereupon, Chairman Hannan opened the regular business meeting of the Zoning Board of Appeals. The Zoning Board members paused for a moment of silence to honor the victims of the Sandy Hook Elementary School tragedy in Newtown, Connecticut.

The Zoning Board members then reviewed the draft minutes of the November 19, 2012 meeting. Upon motion of Member Trzcinski, seconded by Member Steinbach, the minutes of the November 19 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Eugene and Joan McCall for property located at 5 Willowbrook Lane. 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 sign board, placed on the Town website, and mailed to all adjacent property owners. Chairman

Hannan requested that the Applicant review his proposal with the Board. Eugene McCall explained that he was looking to replace an existing shed with a new wooden shed structure, which will be in the same location as the current shed. This variance is required since the location for the shed requires both a side yard and rear yard setback variance. Mr. McCall explained that he had reviewed this matter with both of his closest neighbors and that both neighbors had no opposition and had already filed letters with the Zoning Board stating that they had no opposition to the requested variances. Chairman Hannan asked whether any of the Zoning Board members had any further questions of Mr. McCall. The members generally stated that all of their questions had been addressed at the November meeting, and that the application seemed reasonable since it sought to replace an existing shed with a new wooden shed in the same location. Chairman Hannan then opened the floor for the receipt of public comment. Don Lambert spoke in support of the application, stating that he also lived in close proximity to Mr. McCall's property, and that he could actually see the shed structure from his property since there was no vegetation between his property and the McCall shed. Mr. Lambert stated that the existing shed is in tough shape, and that he would prefer that the shed be replaced with the new shed structure, and that he had no problem at all with the requested variance. No person spoke in opposition to the requested variance. Hearing no further public comment, Chairman Hannan 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 on the McCall variance application.

The Zoning Board members then proceeded to review the McCall application materials and public comments in relation to the area variance standards. The Zoning Board members generally concurred that the variance request would not result in an undesirable change in the

character of the neighborhood, nor a detriment to nearby properties, especially given the fact that an existing metal shed had been in that location for over 30 years. The Zoning Board members did find that the shed location could be moved on the McCall lot, but did not find that alternative to be either feasible or reasonable given the fact that the existing metal shed structure had been in the same location for over 30 years. The Zoning Board members generally concurred that the variance request was not substantial, and would be consistent with the past use of the property for the past 30 years. The Zoning Board members also concurred that there would not be an adverse effect on the physical or environmental conditions in the neighborhood, again noting that a metal shed had been in the same location for the past 30 years. The Zoning Board members also found that the need for the variance was not self created, since a shed structure had been in that same location for over 30 years, and that the Applicant merely sought to replace the existing shed structure to its disrepair and age, and to replace it with a new wood shed structure. This action is a Type II action pursuant to the State Environmental Quality Review Act (SEQRA), and no further SEQRA review is required. Chairman Hannan then entertained a motion made by Member Schmidt to approve the area variance request submitted by Eugene and Joan McCall without any conditions, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the area variance application granted on the McCall application.

The next item of business on the agenda was the area variance application submitted by Eric Smith for property located on 7 Kemp Avenue. 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 sign board, placed on the Town website, and mailed to all adjacent property owners. Chairman Hannan requested the Applicant to review the proposal with the Zoning Board members. Eric Smith was present, and stated that

he was seeking to install an in-ground pool in his backyard, which would allow for greater privacy as well as locating the pool in an area where there would not need to be any tree or vegetation removal. Mr. Smith stated that the pool could be easily fenced in in the backyard, and that the pool in the backyard would allow the Smiths to use their side yard for recreation purposes and open space for their children. Chairman Hannan inquired whether the Zoning Board members had any further questions regarding the application. Members Trzcinski, Steinbach, and Schmidt stated that all of their questions had been addressed at the November meeting. Member Casey asked whether an existing deck to the rear of the house needed to be removed in order to install the pool in the backyard. Mr. Schmidt stated that the deck would need to be removed. Member Casey noted that the pool would be only 6' off the rear of the house, and about 6' off the rear property line, and did raise a concern regarding safety. Member Casey noted that there had been an above-ground pool located on the property previously. Mr. Smith confirmed that there had been an above-ground pool located on the property previously, which had been on the lot when the Smiths purchased the home. Chairman Hannan then opened the floor for the receipt of public comment. No member of the public presented any comment. Thereupon, Member Schmidt made a motion to close the public hearing on the Smith area variance application, which motion was seconded by Member Casey. The motion was unanimously approved, and the public hearing closed on the Smith area variance application.

Thereupon, the Zoning Board members reviewed the Smith area variance application materials in relation to the standards for area variances. Zoning Board Members Hannan, Trzcinski, Steinbach, and Schmidt generally found that the application will not result in an undesirable change in the character of the neighborhood nor be a detriment to nearby properties, although Member Casey did state that he felt this application would produce a change in the

character of the area due to the pool's close proximity to the house and the rear property line. On the issue of whether the Applicant could achieve the benefit of installing an in-ground pool by some other feasible method other than the area variance, the Zoning Board members generally found that a viable and reasonable alternative did exist, specifically the ability to locate the in-ground pool in the side yard and meet all applicable side yard setbacks. Member Steinbach did say that privacy is a factor to consider, and that the Applicant was seeking to locate the pool in the rear of the home for privacy purposes, but did concur that it was feasible to install the pool in the side yard. The Zoning Board members also generally concurred that the requested variance was substantial, requesting a reduction in the applicable 20' rear yard setback to only a 5' rear yard setback. Member Schmidt did note that there was no other feasible position for the in-ground pool in the rear yard other than the proposed location, but again noted that the pool could be moved to the side yard and meet all applicable setbacks. The Zoning Board members generally concurred that the requested variance would not have an adverse effect on the physical or environmental conditions in the neighborhood. However, the Zoning Board members did concur that the difficulty is self created, since the Applicant could locate the in-ground pool in the side yard and meet all setback requirements, rather than locating the pool in the rear yard necessitating a rear yard setback variance. Member Steinbach did note that this factor should be considered, but in his opinion is not determinative given the overall intent of the Applicant to locate the pool in the rear yard for privacy purposes. This matter is a Type II action under SEQRA. Chairman Hannan then requested a motion be made on the application. Member Steinbach made a motion to approve the area variance application by Smith without condition. Chairman Hannan seconded the motion. A role call vote was taken. Member Trzcinski voted no, noting that the pool could be located on the lot in a manner that met all applicable rear and

side yard setback requirements. Member Steinbach voted yes. Member Schmidt and Member Casey voted no. Chairman Hannan noted that the motion failed, and the Zoning Board members generally confirmed that the area variance application is denied. Chairman Hannan stated that the Applicant could revise its proposal, or if the Smith's chose to locate the pool in the side yard, to coordinate with Mr. Kreiger on exact location and building permit requirements.

The next item of business on the agenda was the area variance application submitted by Eleanor Montiel-Ochoa for property located at 520 McChesney Avenue Extension. The Zoning Board opened a public hearing on this area variance 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 sign board, placed on the Town website, and mailed to all adjacent property owners. Chairman Hannan requested that the Applicant review the proposal with the Zoning Board members. Eleanor Montiel-Ochoa was present, and stated that she and her husband sought to construct a barn on the site for purposes of storage of material. Ms. Montiel-Ochoa stated that they had looked at all possible locations on their lot, but that the only available buildable area on the lot was the location of the existing house and garage, and that the proposed barn location was the only remaining flat, buildable area on the lot. Ms. Montiel-Ochoa explained that the remainder of the lot included a substantial bank down to the creek, which limited the area where they could build on the lot. Ms. Montiel-Ochoa stated that McChesney Avenue Extension was located in the front of the lot, and the Town of Brunswick owned property to the rear of the lot. Ms. Montiel-Ochoa also stated that the existing house and garage were already located closer to McChesney Avenue Extension than the proposed barn structure will be, and that the existing driveway area for the house and garage would also be utilized for access to the barn. Chairman Hannan inquired whether any Zoning Board members had any

questions regarding the application. Member Trzcinski asked whether any customers of her husband's business would be coming to the building. Ms. Montiel-Ochoa stated that customers would not be coming to the barn on a regular basis, and that her husband's company generally does its work on a customer's site, and only works on equipment at the garage location on an intermittent basis. Member Trzcinski wanted to confirm that there was no parking or general customer access requested for the barn location. Ms. Montiel-Ochoa stated that there would be no additional parking or customer access, that the barn was primarily for storage purposes, and that in general there would be no change in the use from what currently occurs at the existing garage on the property. Member Trzcinski asked whether the barn structure could be reduced in size, so as not to be as close to the slope to the rear of the lot. Ms. Montiel-Ochoa stated that they had retained a technical consultant to investigate the soil conditions in the area of the proposed barn structure, and that the report prepared by H2H Associates confirmed that the area of the proposed barn had stable soils, and did not find any condition which would prohibit the construction of the barn in its proposed location. Member Steinbach confirmed that the distance from McChesney Avenue Extension to the front of the proposed barn was approximately 20', and that the existing house and garage were closer to McChesney Avenue Extension than the proposed barn location. Member Steinbach also confirmed that the barn would be used for storage purposes, that it was not proposed to be used generally for customer access, but that on occasion a customer may come to the barn structure to pick up a piece of equipment but that would be an isolated and rare occurrence. Member Steinbach asked whether there would be any opportunity for customers or other invitees to walk around the back of the barn structure in closer proximity to the slope dropping down to the creek. Ms. Montiel-Ochoa and her husband stated that it was not intended for any customer access to the rear of the barn, but that they would be

agreeable to installing a fence if required by the Zoning Board. Member Steinbach asked whether there was any alternative locations on this lot. Ms. Montiel-Ochoa stated that they looked at all viable options on locating the barn on the lot, and that no other locations were feasible. Member Schmidt asked whether there would be any delivery trucks to this site. Ms. Montiel-Ochoa and her husband confirmed that there may be an occasional UPS delivery, but it would be no different than currently exist at the site with the existing garage, and that there was ample room in the front driveway area for a UPS truck to park. The Applicants confirmed that there would not be any increased traffic as a result of the barn construction. Member Casey noted that the existing garage was over 60 years old, and inquired whether the Applicant considered removing the garage structure and provide additional space for the barn construction. The Applicant stated that the garage structure was still in good shape, and that the garage was located in closer proximity to the slope dropping down to the creek than the location of the proposed barn, and that eliminating the garage would actually expose the area closer to the slope than currently exists, and that the existing garage acts as a kind of barrier to the slope. Member Casey stated that removing the garage might also improve sight distance onto McChesney Avenue Extension. The Applicant stated that the proposal was to have vehicles park where they do presently at the site, even for access to the barn. Chairman Hannan stated that he concurred with Member Casey that increased sight distance might be achieved by eliminating the garage, and that this is a tough spot for ingress and egress. Chairman Hannan also inquired as to the status of the Applicant's acquisition of property on White Church Road for purposes of storing materials at the barn located there. The Applicant stated that the transaction for the property on White Church Road still had issues to resolve, and that they now prefer to build on their own property. Ms. Montiel-Ochoa stated that their first proposal was to build on their own property,

but that locating the barn in its proposed location raised issues regarding soil stability which the Applicants would need to have investigated. Ms. Montiel-Ochoa then stated that prior to retaining a technical consultant to investigate the soil stability, a second option was available to purchase property on White Church Road for storing materials. Ms. Montiel-Ochoa explained that when issues arose on the White Church Road property, they decided to move forward and retain a technical consultant to investigate the soil stability issue, and it has now been confirmed that construction of the barn on their property did not present any soil stability issues. It is now their preference to build the barn on their own property. Ms. Montiel-Ochoa wanted to confirm that they were not proposing to modify the area of ingress and egress near the driveway, and they were not proposing any increase in the number of people or customers coming to the property. Chairman Hannan reiterated his concern regarding the steep slope in the rear of the property, and reiterated his opinion that if the garage structure was removed that the site would have better access to McChesney Avenue Extension. Chairman Hannan then opened the floor for receipt of public comment. No members of the public wished to make any comments on the application. Thereupon, Member Trzcinski made a motion to close the public hearing on the area variance application of Montiel-Ochoa, which motion was seconded by Member Casey. The motion was unanimously approved, and the public hearing closed on the Montiel-Ochoa area variance application.

Thereupon, the Zoning Board members discussed the application materials on the area variance application for Montiel-Ochoa with respect to the area variance standards. The Zoning Board members generally concurred that the construction of the barn would not result in an undesirable change in the character of the neighborhood, nor create a detriment to nearby properties. The Zoning Board members did note that the Town of Brunswick owns property to

the rear of this site, but determined that the construction of the barn would not result in a detriment to that parcel. The Zoning Board members also generally confirmed that given the topography of this site, there was no other feasible alternative to locating the barn in its proposed location. The Zoning Board members then found that the requested variance, both in terms of the rear yard and front yard setback requirements, was substantial, but also determined that given the unique characteristic of this lot, there were no other viable options to the barn location. The Zoning Board also considered the technical report submitted by the Applicant from H2H Associates, which concluded that the soils in the area of the proposed barn location were stable and did not present a stability issue with respect to the slope leading down to the creek. The Zoning Board members generally concurred that the requested variance would not have an adverse affect on the physical or environmental conditions in the area, again relying on the H2H Associates report submitted by the Applicant. The Zoning Board members also determined that the difficulty was not self created, given the existing topography of the site and that the parcel in question was unique. Attorney Gilchrist then stated for the record that the Applicant is put on notice that in the event the Zoning Board issues the requested variance, the Town of Brunswick is not confirming or otherwise independently stating that the soil stability and slope stability is adequate in the area of the barn location, but was rather considering the technical report prepared by the Applicant's technical consultant in that regard, and that the property owner is likewise relying on the opinion of its own technical consultant in that regard, and that in the event of any property damage and/or personal injury in the future resulting from slope instability in the area of the barn location the Town of Brunswick is not and will not be responsible or otherwise liable. The Applicant understood this statement and agreed on the record. Thereupon, Attorney Gilchrist confirmed that the requested area variance application was a Type II action under SEQRA, and

that no further SEQRA review was required. Thereupon, Member Trzcinski made a motion to approve the area variance application, but wanted to discuss with the Zoning Board members certain conditions which should be attached to an approval. Member Trzcinski stated that a fence should be required to the rear of the barn structure. The Zoning Board members decided that the exact location and type of fence would be reviewed and coordinated between the Applicant and the Brunswick Building Department. Other conditions discussed by the Zoning Board members included the requirement that any roof drain constructed on the barn needed to be directed away from the slope, and that all existing vegetation between the rear of the barn structure and the top of the slope must be maintained. The Zoning Board members also required that frost walls be required for a foundation to guard against any slab-on-grade moving toward the slope. The Applicant confirmed that he was proposing to include frost walls, and that he was also considering installing a full basement in a portion of the structure. The Zoning Board members also discussed having the Building Department inspect the site on a periodic basis to confirm that all vegetation between the barn structure and the slope is maintained. Member Casey then seconded the motion subject to the conditions discussed. The motion was unanimously approved, and the area variance by Montial-Ochoa granted subject to the following conditions:

1. A fence must be installed between the rear of the barn structure and the top of the slope to the rear of the parcel, with the specific type and location of fence to be coordinated between the Applicant and the Brunswick Building Department.
2. All roof drains installed on the barn structure must be directed away from the slope area in the rear of the site.
3. All existing vegetation between the rear of the barn structure and the top of the slope in the rear of the parcel must be maintained. The Brunswick Building Department will identify the location of all existing vegetation to the rear of the parcel, and will periodically inspect this site for compliance with the requirement that such vegetation be maintained.

4. Frost walls will be required for the foundation of the barn structure.

The next item of business on the agenda was the application for special use permit submitted by Reiser Bros. Inc. for property located at NY Route 2 and NY Route 278. Chairman Hannan noted that he would take one item of new business out of order, and the Zoning Board would thereafter review the proposed written determination for the Reiser Bros. special use permit application.

One item of new business was discussed. An area variance application has been submitted by Mr. and Mrs. David Galluzzo for property located at 390 Brunswick Road. The Applicant seeks to replace and enlarge an existing attached garage to their home, and that a side yard setback variance is sought in connection with the new garage structure. The side yard setback requirement in the R-15 Zoning District is 15', whereas the proposal will result in one corner of the garage being 8' from the side yard line, and the other corner of the garage being 11' from the side yard line. The Applicants were present, together with Matt Rulison of Otterbeck Builders, Inc. Mr. Rulison described the proposal for replacing and enlarging the existing garage structure. Mr. Rulison explained that the home has a unique structural design, and that the replacement of the garage as proposed is necessary to maintain the structural integrity of the entire home, and also primarily to maintain the character of the house by being able to maintain the stone work on the exterior of the home. Mr. Rulison explained that there was no full basement in the house, and that the existing garage was quite small, and the small footprint of the garage did not even allow the owners to park their cars in the garage. Mr. Rulison explained that while the home has a rather large footprint on the overall lot, there is not a large amount of usable space, particularly in the area of the garage. Member Trzcinski asked whether the

existing stonework on the existing garage structure would be maintained. Mr. Rulison stated that the stonework on the garage would need to be removed when the garage was enlarged, but that the design of the enlargement of the garage was made so that the stonework on the remaining home structure could be maintained. Member Steinbach noted that the garage on the Galluzzo home is located on the right of the structure, and asked whether the neighbor located on that side of the lot had any problem with the proposal. Mrs. Galluzzo stated that her neighbor's house was located much deeper in the lot, and that her neighbor did not have any problem with this proposal. Member Schmidt wanted to go to the property to take a look at the house and garage layout, and may have additional questions at the next meeting. Member Casey generally inquired whether the garage could be shifted so that the garage would be deeper into the lot toward the rear rather than extended to the side of the lot, which requires the side yard setback variance. Mr. Rulison explained that due to structural elements in the home, having the garage deeper to the rear of the lot was not a viable option, and that certain buttress elements in the garage structure must be preserved in order to maintain the structural integrity of the home and allow the stonework on the exterior of the existing home to be maintained. Member Casey confirmed with Mr. Kreiger the 8' and 11' setbacks from the side lot line for each corner of the garage, noting that the existing home structure was not set parallel to the lot line. Chairman Hannan asked whether the Zoning Board members could have access to the property to look at the site prior to the January meeting. The Applicant consented, and stated they would coordinate with the Zoning Board members and Mr. Rulison to look at the property. Mr. Rulison inquired whether there was any additional information that the Zoning Board members would like prior to the January meeting, or whether they could do anything on the site to help the Zoning Board members understand the application. Mr. Kreiger stated that it would be helpful if the corners of

the proposed garage extension be staked on the lot so that the Zoning Board members could see that when they visited the property. Mr. Rulison stated that would be completed right away. The Zoning Board members confirmed that the application materials were complete, and that this matter will be set for public hearing at its January meeting.

The Zoning Board members then noted that the date for the January Zoning Board meeting was a federal holiday, and determined to hold the January meeting of the Zoning Board on Tuesday, January 22, 2013. The Zoning Board members also then discussed the date for the February meeting, noting that there were scheduling difficulties for the February 2013 meeting date as well. The Zoning Board members generally confirmed that the meeting of the Zoning Board for February 2013 would be held on Monday, February 25, 2013. Notices of these two special meeting dates for January, 2013 and February, 2013 will be properly published and posted.

The Zoning Board members then addressed the special use permit application by Reiser Bros. Inc. for property located at NY Route 2 and NY Route 278. A draft written determination had been prepared, and distributed to the Zoning Board members subsequent to the deliberation by the Zoning Board members on the application at its open meeting held in November, 2012. The Zoning Board members generally reviewed the determination, including the Findings of Fact and the discussion on the applicable standards for the special use permit consideration, and determined to grant the special use permit application. After discussion of the written decision, Member Trzcinski made a motion to approve the resolution adopting decision on the special use permit application by Reiser Bros. Inc., which motion was seconded by Member Steinbach. The motion was unanimously approved, and the resolution adopting decision was approved, and the special use permit application by Reiser Bros. Inc. is approved and granted. A copy of such

decision is appended to these minutes.

The index for the December 17, 2012 meeting is as follows:

1. McCall – area variance – granted;
2. Smith – area variance – denied;
3. Montiel-Ochoa – area variance – granted with conditions;
4. Reiser Bros. Inc. – special use permit – granted;
5. Galluzzo – area variance – 1/22/13.

The proposed agenda for the January 22, 2013 meeting currently is as follows:

1. Galluzzo – area variance.