

ZONING
BOARD

MINUTES

2013

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD January 22, 2013

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

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board members reviewed the draft minutes of the December 17, 2012 meeting. Upon motion of Member Trzcinski, seconded by Member Hannan, the draft minutes of the December 17, 2012 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Mr. and Mrs. David Galluzzo for property located at 390 Brunswick Road. This application has been noticed for public hearing. The Notice of Public Hearing was read into the record, confirming 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 Steinbach requested the Applicant to present an overview of their application. David and Carrie Galluzzo were present, and explained that they were seeking to replace an existing attached garage on their home with an enlarged garage with living space above the new garage structure. Mrs. Galluzzo explained that the current garage is undersized and does not meet their needs in terms of storage, and that they were seeking to replace their existing garage with a larger garage structure in the same general location. However, the enlarged garage structure does not meet the 15' setback requirement to the side property line, and given the location of their home on the lot, the enlarged garage structure is proposed to be 8' at its closest point to the side lot line, with the

other end of the garage being 11' from the side lot line. Mrs. Galluzzo explained that they are trying to maintain a consistent appearance to the home, including maintaining as much of the exterior stone work as possible. Chairman Steinbach then opened the floor for the receipt of any public comment on this application. No members of the public offered any comment. Matt Rulison, of Otterbeck Builders, the contractors retained by the Galluzzos on the garage project was present, together with Brian Tollisen, the design engineer on the project. Mr. Rulison confirmed that he had staked out the area of the proposed new garage location for the Zoning Board members after the December 17 meeting. Mr. Rulison confirmed that the existing garage structure did not meet the needs of the Galluzzos, generally did not meet contemporary design standards in terms of garage space, and that the design for this project seeks to meet the needs of the Galluzzos for storage space while at the same time maintaining the façade of the home. Mr. Rulison stated that both he and Mr. Tollisen were available to answer any questions of the Zoning Board members. Member Trzcinski requested that the Galluzzos elaborate on their plans for the living area above the garage in the new garage structure. Carrie Galluzzo stated that they were seeking to have additional living space, and that the space would be used as a family room/media center. Member Trzcinski asked whether there would be any extra bathroom in the new space. Mrs. Galluzzo stated there would not be any new bathroom facility, but that it would be simply open space for a family room. Members Hannan and Schmidt had no additional questions. Member Casey confirmed a structural issue on the design plans with Mr. Tollisen. Member Casey also wanted to confirm that drainage had been addressed, and that the existing drainage patterns would not be altered by the garage extension. Mr. Rulison stated that the garage extension would not impact the existing drainage flow, that the general drainage flow is toward the front of the lot along Route 2, and that there is an existing drainage swale along the

side property line near the existing garage which will be maintained in order to direct stormwater toward the front of the lot toward the culvert along Route 2. Member Casey asked whether the adjacent property owner, Helen Schneider, had any objection to the project, even though she was not in attendance. Mrs. Galluzzo stated that she has spoken with Mrs. Schneider and her son concerning the project, and that there was no opposition to the project. Mrs. Galluzzo also stated that the Schneider house is located further to the rear of their lot, and that extending the garage structure would not make it closer to their home. Chairman Steinbach noted for the record that Mrs. Schneider had been sent a notice of the public hearing, and that no opposition from Mrs. Schneider had been received by the Zoning Board. Mr. Kreiger noted that this application has been sent to the Rensselaer County Department of Economic Development and Planning, and that the County Planning Department had responded that it had no opposition to this application, and that local consideration shall prevail. Hearing no further comment, Chairman Steinbach called for motion to close the public hearing on the Galluzzo area variance application. Member Hannan made a motion to close the public hearing, which motion was seconded by Member Casey. The motion was unanimously approved, and the public hearing on the Galluzzo area variance application was closed.

Thereupon, the Zoning Board commenced their deliberation on the application. Attorney Gilchrist noted that the area variance application for a single-family residence is a Type II action under SEQRA, and no determination of environmental significance is required. The Zoning Board members then addressed the area variance considerations. The Zoning Board members generally concurred that this variance will not result in an undesirable change in the character of the neighborhood, nor create a detriment to nearby properties. In particular, the garage extension would maintain the residential character of that area, and that the adjacent Schneider lot would

not be significantly impacted by the sideline setback variance, particularly since the Schneider home is situated deeper in the adjacent lot and not parallel to the Galluzzo home. The Zoning Board members also generally concurred that the Applicant cannot achieve the garage extension by some feasible alternate method. In this regard, the Zoning Board found that the information submitted by Mr. Rulison showed that due to structural constraints of the home, alternating the location of the garage structure was not structurally feasible, and that to maintain the structural integrity of the home and exterior façade, the proposed location of the garage extension was necessary. The Zoning Board members also generally concurred that the variance was not substantial, particularly since the adjacent residential lot had the home situated much further toward the rear of the lot and not parallel to the Galluzzo home location. The Zoning Board members also generally concurred that the variance will not have an adverse effect on the physical or environmental conditions in the neighborhood, noting that the existing drainage would be maintained and that the swale located between the Galluzzo and Schneider lots would be maintained. On the issue of whether the difficulty is self-created, the Zoning Board members noted that the current owner did not locate the existing house structure on the lot, and that given the structural issues associated with the house, the location and configuration of the garage options are limited, and determined that the difficulty is not created by the current owners. Following such deliberation, Chairman Steinbach requested a motion on the application. Member Trzcinski made a motion to approve the area variance on the Galluzzo application, which motion was seconded by Member Hannan. The motion was unanimously approved, and the area variance granted to Galluzzo.

Chairman Steinbach then entertained a brief discussion concerning the proposed revised application forms which had been distributed to the Zoning Board members at the December

meeting. The Zoning Board members generally concurred that the forms were an improvement, and should be utilized going forward. Member Trzcinski had two proposed changes or additions to the forms, which will be included by Mr. Kreiger.

Mr. Kreiger was not in receipt of any new applications, but the Zoning Board will maintain its February 25 meeting date to perform its initial review of any applications received by Mr. Kreiger prior to that meeting date. In the event Mr. Kreiger receives no applications prior to February 25, he will notify the members.

The index for the January 22, 2013 meeting is as follows:

1. Galluzzo – area variance – granted.

There are currently no agenda items for the February 25, 2013 meeting. The Zoning Board will convene meeting on February 25, 2013 in the event any applications are received by Mr. Kreiger prior to that date.

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD February 25, 2013

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

ABSENT was MARTIN STEINBACH, CHAIRMAN.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board members identified Member Hannan as the Acting Chair for this meeting.

The Zoning Board members reviewed the draft minutes of the January 22, 2013 meeting. Member Hannan inquired whether there were any corrections or additions which needed to be made to the draft minutes. Hearing none, Member Trzcinski made a motion to approve the draft minutes of the January 22, 2013 meeting, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the minutes of the January 22, 2013 meeting were approved without amendment.

One item of new business was reviewed by the Zoning Board members. An application has been made by Nancy Guzzo, 137 Town Office Road, for a special use permit to allow the renovation of the residence at 137 Town Office Road to include an in-law apartment in the basement. The existing use of the parcel is as a single family residence, and the special use permit application seeks approval to allow the construction of an in-law apartment in the basement. The application states that there is an existing bathroom, bedroom and living area in the basement. The Applicant seeks to add a small kitchen and to replace an existing window in the bedroom to provide for an emergency exit. The application states that the basement already

has a separate entrance and area for parking, and that no structural work will be required. The Zoning Board members reviewed the plot plan showing the proposed layout of the in-law apartment for the basement of this residence. Member Trzcinski wanted to confirm that there was a separate entrance to the basement, which is identified on the plot plan. Member Casey inquired as to fire code compliance. Mr. Kreiger stated that fire code compliance will be addressed upon the review by his office of a building permit application in the event this special use permit is granted. Member Trzcinski raised the issue of limiting the use of the apartment to the proposed current occupant only, or at a minimum limiting the use of the apartment to an in-law or family member. The Zoning Board members generally discussed this issue, and directed Attorney Gilchrist to research the issue of limiting the special use permit to an in-law or family-only apartment and prohibiting any for-profit rental to the general public. Attorney Gilchrist will research that issue prior to the March meeting. The Zoning Board members then reviewed the application for completeness, and considered whether the application information was adequate to move forward to public hearing. The Zoning Board members generally agreed that the application included sufficient information, and directed that the public hearing on this application will be held at the March 18 meeting commencing at 6:00 p.m.

There were no additional items of new business.

Having no further business, the Zoning Board of Appeals members adjourned the meeting.

The index for the February 25, 2013 meeting is as follows:

1. Guzzo – special use permit – 3/18/13 (public hearing to commence at 6:00 p.m.).

The proposed agenda for the March 18, 2013 meeting currently is as follows:

1. Guzzo – special use permit – public hearing to commence at 6:00 p.m.

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD March 18, 2013

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

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board of Appeals members reviewed the draft minutes of the February 25, 2013 meeting. Upon motion of Member Trzcinski, seconded by Member Hannan, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the special use permit application submitted by Nancy Guzzo for property located at 137 Town Office Road. This matter had been scheduled for public hearing. The notice of public hearing was read into the record, noting that the public hearing notice had been published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to all owners of adjacent property. Chairman Steinbach noted that the application had been reviewed at the February 25 meeting, and that all members were aware of the proposal to include an in-law apartment to the existing single-family residence at 137 Town Office Road. Chairman Steinbach opened the floor for receipt of public comment. Gregory Scott Hunter, 112 Town Office Road, inquired why a special use permit was necessary for the addition of an in-law apartment to the Guzzo home. Mr. Hunter indicated that he may need to install an in-law apartment at his home in the future, and questioned why a special use permit was required. Mr. Kreiger stated that the Brunswick Code does not allow for a single family home to have any type of apartment. Mr. Kreiger also explained that the Brunswick Code views the addition of an in-law apartment as a second dwelling unit on the property, which is not

permitted in the absence of a special use permit being issued by the Zoning Board of Appeals. Chairman Steinbach also stated that the addition of an in-law apartment could raise certain safety issues. Mr. Hunter questioned what safety issues could arise with just an in-law apartment. Attorney Gilchrist stated that with an in-law apartment, or any additional apartment to the single family home, may necessitate the installation of a second driveway or access way onto a public road, which could raise certain safety issues concerning traffic. Chairman Steinbach inquired of Mr. Kreiger as to issues of fire code compliance regarding an in-law apartment in an existing single family home. Mr. Kreiger stated that in the event the special use permit is issued, all fire code compliance issues will be reviewed by his Department in connection with building permit issuance. Member Trzcinski then inquired about the emergency access for the proposed in-law apartment, and whether a window or door was required. Mr. Kreiger stated that an emergency access window is allowed by code. Member Schmidt asked where the emergency access was to be located on this proposed project. Mr. Guzzo stated that the emergency access window is located in the existing bedroom proposed for the in-law apartment area. In relation to the proposed in-law apartment area, Chairman Steinbach asked whether there were any changes to the concept plan that had been submitted on the application. Mr. Guzzo stated that there were no changes to the concept plan, that there was an existing bathroom and bedroom which will be utilized for the in-law apartment, and that he proposes to simply add a kitchenette area. Marilyn Hunter, 112 Town Office Road, asked whether the addition of the kitchenette area is the reason that a special use permit was required in the Guzzo case. Mr. Kreiger stated that a separate living area, including a separate kitchen, does trigger the need for a special use permit for the in-law apartment. Mr. Kreiger stated that if an in-law was simply going to use an existing bedroom, and use the same living area, bathroom facilities, and kitchen facilities, then a special use permit would not be required since the in-law would be using the existing residential facilities. Gregory

Scott Hunter, 112 Town Office Road, stated that he did support the issuance of a special use permit in the Guzzo case. Chairman Steinbach asked if there was any further comments from the public. Hearing none, the Zoning Board of Appeals closed the public hearing on the Guzzo special use permit application.

Chairman Steinbach then asked the Board members if there were any questions concerning the Guzzo special use permit application. Member Trzcinski asked whether an existing two-car garage was part of the in-law apartment project. Mr. Guzzo stated that the two-car garage was not part of the in-law apartment area, and that the in-law apartment was on the other side of the house. Mr. Guzzo explained that the in-law apartment faces the south, with a separate access over an existing concrete pad that had previously been utilized in conjunction with a pool. Mr. Guzzo stated that the separate entrance exists already, and had been utilized in connection with the pool use. Members Hannan, Schmidt, and Casey had no questions on the application. Chairman Steinbach also stated he had no questions on the application. Attorney Gilchrist reviewed the standards for issuance of a special use permit, applicable to the in-law apartment special use permit application. In particular, Attorney Gilchrist stated that the factors of uniqueness and character of the area should be carefully considered by the Zoning Board of Appeals in its consideration of special use permit issuance. Member Schmidt indicated that he was of the opinion this application met all of the special use permit standards, and supported issuance of the special use permit. Member Hannan was in agreement with Member Schmidt. Member Trzcinski stated that while she was in general agreement with the special use permit issuance, the Zoning Board of Appeals should consider conditioning the special use permit on use of the apartment for in-law only, and that the apartment could not be utilized as a for-profit rental apartment unit to unrelated third parties. Mr. Guzzo immediately stated that he was not in agreement with that condition. Mr. Guzzo stated that in the event his mother, who is to be

moved into the in-law apartment, passed away, he may want to be able to utilize that area as a separate rental apartment. Mr. Guzzo argued that the property contains 60 acres, that no one will ever see the house or in-law apartment, and that he does not see why he could not use the in-law apartment in the future for a rental to unrelated third parties. Attorney Gilchrist stated that the application submitted by Guzzo for the special use permit expressly identified the use as an in-law apartment only, and that if the Applicant seeks to amend the application for consideration as a rental apartment unit, then the application would be so amended but would be subject to a new public hearing notice and public hearing. In addition, Attorney Gilchrist stated that the Board would need to consider all special use permit standards in relation to the addition of a for-profit rental apartment unit as opposed to an in-law apartment for family members only. Mr. Guzzo stated that he was under time constraints, and would continue the application in its current form. Attorney Gilchrist stated that Mr. and Mrs. Guzzo could apply to modify a special use permit condition in the future, if they so desire. Member Hannan stated that a rental unit presents different issues than an in-law apartment for family members only, that it takes on a commercial nature, that tenants can also be difficult and present issues that generally do not arise in connection with an in-law apartment for family members only. Mr. Guzzo responded that he would be living there, and would be able to control any potential tenant. Member Trzcinski stated that the Zoning Board needed to consider not just Mr. Guzzo, but any future owner of the property as well. Chairman Steinbach wanted to confirm that Mr. and Mrs. Guzzo wanted to continue the application seeking approval for an in-law apartment only, or whether they sought to amend the application to have the Zoning Board consider a separate for-profit rental apartment unit. Mr. Guzzo stated that they would continue with the current application seeking approval for an in-law apartment only. Member Schmidt also stated on the record that if the application sought approval for a for-profit rental apartment, then the Zoning Board would need to consider

in particular the standard pertaining to the owner obtaining a reasonable economic return on the property for uses permitted in that zone. Member Casey also stated that there are different fire code requirements for rental apartment units that may not be applicable in the case of an in-law apartment. Chairman Steinbach confirmed the application would be reviewed as an in-law apartment proposal only. Chairman Steinbach then asked whether the Board had any further questions or comments. Hearing none, Member Trzcinski made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Hannan. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Hannan made a motion to approve the special use permit for the installation of an in-law apartment for family member use only, on the express condition that the apartment was not approved for use as a for-profit rental apartment to unrelated third parties. Member Casey seconded the motion subject to the stated condition. The motion was unanimously approved, and the special use permit issued to 137 Town Office Road for the installation of an in-law apartment subject to the condition that the apartment was for in-law, family use only, and expressly not approved for a for-profit rental apartment unit for unrelated third parties.

The Zoning Board members noted that with respect to a use variance application previously submitted by Oakwood Property Management, LLC, the Applicant has contacted the Zoning Board requesting that the use variance application be reviewed and processed. Attorney Gilchrist noted that he is currently researching a potential conflict of interest issue with respect to a Zoning Board member, and that such potential conflict of interest issue must be resolved prior to the use variance application being entertained by the Zoning Board. Attorney Gilchrist stated that he would complete his research on the issue, and provide further information to the Zoning Board.

Attorney Gilchrist also provided a procedural update to the Zoning Board members on the pending Oakwood Property Management litigation.

Chairman Steinbach noted that he would not be available for the regularly-scheduled April meeting on April 15, and requested that the Zoning Board consider moving the April meeting to April 22. The remaining Zoning Board members agreed that the April meeting of the Zoning Board will be held on April 22, rather than April 15. Attorney Gilchrist will publish a special meeting notice.

Mr. Kreiger reported that there were no new items of business to discuss.

The index to the March 18, 2013 meeting of the Zoning Board of Appeals is as follows:

1. Guzzo – special use permit – approved with condition.

There are currently no agenda items for the April meeting. Mr. Kreiger will update the Zoning Board members in the event an application is received prior to the special April meeting date of April 22.

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD April 22, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, TIMOTHY CASEY, and CAROLINE TRZCINSKI.

ABSENT were JAMES HANNAN and E. JOHN SCHMIDT.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board of Appeals members reviewed the draft minutes of the March 18, 2013 meeting. A typographical correction was made at page 4, line 14, changing "then" to "than". Upon such correction, Member Trzcinski made a motion to approve the minutes of the March 18, 2013 meeting, which motion was seconded by Member Casey. The motion was unanimously approved, and the March 18, 2013 minutes adopted with the noted correction.

The first item of business on the agenda was an application for area variance submitted by Michael Groudas, 7 Mellon Avenue (Parcel ID# 101.8-10-14). Mr. Groudas was present, and presented an overview of the application. The Applicant seeks to replace an existing 10' x 13' metal shed located in the rear yard with a new 8' x 16' wood shed that will be designed like a Vermont sap house. Upon clarification by Member Trzcinski, Mr. Groudas confirmed that the location of the proposed new wood shed is 8' from the side yard line (10' is required) and 8' from the rear lot line (20' is required). Member Trzcinski confirmed that she would like the opportunity to review the property, including the location of the current metal shed. Member Casey confirmed the required setbacks for this zone with Mr. Kreiger. Chairman Steinbach confirmed that Mr. Groudas will provide access to the property for the Zoning Board members to view the site. Mr. Groudas consented to Zoning Board member access to his property on this

application. Chairman Steinbach inquired whether Mr. Groudas had spoken with his neighbors concerning this proposal. Mr. Groudas stated that he has not yet had the chance to speak with his neighbors. Chairman Steinbach inquired whether Mr. Groudas had any issues with the existing metal shed, including any issues with his neighbors. Mr. Groudas stated he had no problem with his neighbors concerning the existing metal shed, but that it is old and rusted, and he is looking to replace it with a new wood shed. Chairman Steinbach asked if there were any alternatives to locating the shed, given the size of the lot. Mr. Groudas stated that he was looking to put the new wood shed in the general location where the existing metal shed is located, and that the site has a significant amount of bedrock which limits where the shed can be placed. Mr. Groudas also stated that he was hoping the new shed would have a pleasing appearance, and wanted it to be visible from his house. Chairman Steinbach inquired whether the Board members had any further questions on the application materials. There were no further questions at this time. The Zoning Board members generally concurred that the application was complete, and that the application is ready for noticing of the public hearing. The Zoning Board set the public hearing on this application for its May 20 meeting, to commence at 6:00 p.m.

The second item of business on the agenda was an area variance application submitted by Terrence Matthews for property located at 43 East Road (Parcel ID# 102.1-2-23). Mr. Matthews was present, and presented an overview of the application. Mr. Matthews explained that he had recently purchased the property, and was looking to construct a front porch to the house. Mr. Matthews also handed up a color photograph of the front of the house to help the Zoning Board members understand the application. Mr. Matthews explained that the width between the first floor windows from end to end is a distance of 32', and that he was looking to construct a front porch that is 34' long so as not to obstruct the view from the front windows. The porch would extend approximately 8' from the front of the home. The porch would be approximately 42'

from the front property line, where a 50' setback is required in this zone. Mr. Matthews did confirm that there would be stairs to the front porch in the area of the front door, and that a railing would be installed around the porch. Chairman Steinbach inquired whether Mr. Matthews had discussed this proposal with the neighboring property owners. Mr. Matthews stated that he had not yet contacted his neighbors regarding the project. Member Casey inquired as to proposed slope of the roof for the porch. Mr. Matthews stated that he did not have any information on that yet, and would be relying on his building contractor. Chairman Steinbach wanted to confirm that the porch would be 42' from the front property line, whereas a 50' setback is required. Mr. Kreiger stated that a 50' front lot line setback is required under code, and that the porch itself was 42' from the front property line, plus 1'-2' for the area of the stairs. Member Trzcinski, based on the color photograph presented by Mr. Matthews, inquired whether any removal of existing mature trees would be required. Mr. Matthews stated that he was not planning to remove any trees for this project, but would further review the area of the porch to determine how close the trees would be to the porch. Mr. Matthews confirmed that the Zoning Board members had access to the property to view the site. Chairman Steinbach inquired whether the Zoning Board members had any additional questions or comments at this time. There were no additional questions or comments at this time. The Zoning Board members generally concurred that the application was complete, and ready to hold a public hearing. The public hearing on this application will be held at the May 20 meeting.

The third item of business on the agenda was an area variance application submitted by Ransen Caola for property located at 11 Maplehurst Drive (Parcel ID# 90.12-5-8). Ransen Caola was present, and presented an overview of the application to the Zoning Board members. Mr. Caola confirmed that he required an area variance in order to replace an existing 10' x 10' shed with a proposed 14' x 24' detached garage. Mr. Caola explained that the proposed location for

the garage provides the least visual impact to abutting neighbors by setting the structure deep in the lot. In addition, Mr. Caola stated that existing trees will generally obscure the visual impact to the street, and to the rear a 6' high existing fence, which was installed by the rear abutter, will obscure approximately 80% of the structure. Mr. Caola stated that most homes in the area have a detached garage, and that the proposal will fit with the character of the neighborhood. Member Trzcinski wanted to confirm that no trees would be removed as a result of the project. Mr. Caola stated that the trees would not be removed, and would act as a visual barrier. Caroline Trzcinski wanted to see the property before making any further comments or determination. Mr. Caola confirmed access to the Zoning Board members. Chairman Steinbach asked whether Mr. Caola had reviewed this proposal with his neighbors. Mr. Caola stated that his cousin lives on one side of his property, and that the other neighbors had been long-time neighbors and he did not think they would have any problem with this proposal. Chairman Steinbach asked whether the Zoning Board members had any further comments or questions at this time. The Zoning Board members did not have any additional questions or comments. The Zoning Board members generally concurred that the application was complete, and ready for public hearing. Mr. Caola stated that he may have a conflict for the May meeting, and requested that this matter be set for public hearing at the Zoning Board's June meeting. The Zoning Board members agreed, and this matter is set for public hearing at the June 17 meeting.

Attorney Gilchrist noted that with respect to the pending use variance application submitted by Oakwood Property Management, LLC for property located at 215 Oakwood Avenue, an apparent conflict of interest has arisen with respect to the participation of Member Casey in the review of that application, and to avoid even the appearance of impropriety, Member Casey will recuse himself from further consideration of the use variance application. In light of the fact that Chairman Steinbach and Member Hannan had previously recused

themselves from the Oakwood Property Management matter, the Zoning Board does not have a quorum on which to act on the current use variance application. In light of this, Attorney Gilchrist stated that he would prepare a letter to be sent on behalf of the Zoning Board of Appeals to the Town Board, requesting that an alternate member or members be appointed for the review of the use variance application.

The index for the April 22, 2013 meeting is as follows:

1. Groudas – area variance – 5/20/13 (public hearing).
2. Matthews – area variance – 5/20/13 (public hearing).
3. Caola – area variance – 6/17/13 (public hearing).

The proposed agenda for the May 20, 2013 meeting currently is as follows:

1. Groudas – area variance (public hearing).
2. Matthews – area variance (public hearing).

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD May 20, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, and CAROLINE TRZCINSKI.

ABSENT were MEMBER SCHMIDT and MEMBER CASEY.

ALSO PRESENT was DANIEL BRUNS, Town Building Department and Code Enforcement Office.

The Zoning Board of Appeals members reviewed the draft minutes of the April 22, 2013 meeting. Upon motion of Member Trzcinski, which motion was seconded by Member Hannan, the minutes of the April 22, 2013 meeting were unanimously approved without correction.

The first item of business on the agenda was the application for an area variance submitted by Michael Groudas for property located at 7 Mellon Avenue (Tax Map ID# 101.8-10-14). Mr. Groudas seeks to replace and enlarge an existing shed, and requests a variance from the side-yard and rear-yard setback requirements contained in the Brunswick Zoning Ordinance. Mr. Groudas seeks a side-yard setback of 8', where a minimum setback of 10' is required; and a rear-yard setback of 8', where a minimum setback of 20' is required. Mr. Groudas was present, and gave a general review of the proposal. Chairman Steinbach inquired whether there were any changes to the application since the meeting of April 22. Mr. Groudas stated that there were no changes. Chairman Steinbach noted that the Zoning Board would now open the public hearing on this application. The notice of public hearing was read into the record, and the public hearing notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach then opened the

floor for the receipt of any public comment. No persons wished to provide any comment on this application. After allowing sufficient time for any public comment, Member Trzcinski made a motion to close the public hearing, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing closed on the Groudas area variance application. Member Trzcinski stated that she had visited the property, and that in her opinion the proposed location for the shed was the only place to realistically place the shed on the property. Member Hannan had no questions or comments on the application. Chairman Steinbach stated that he would entertain a motion on the application. Attorney Gilchrist noted that an area variance for a single-family, two-family, or three-family residence is a Type II action under SEQRA, and no SEQRA determination is required. Member Hannan then made a motion to approve the area variance application, finding that the requested variance did not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, that the proposal could not be achieved by some other feasible method, that the area variance was not substantial, and that the requested variance would not have an adverse effect on the physical or environmental conditions in the neighborhood. Member Trzcinski seconded the motion with the stated findings. The motion was unanimously approved, and the area variance granted.

The second item of business on the agenda was the area variance application submitted by Terrence Matthews for property located at 43 East Road (Tax Map #102.1-2-23). Mr. Matthews seeks to construct a front porch to the home located at 43 East Road. Mr. Matthews seeks a variance from the front-yard setback requirements contained in the Brunswick Zoning Ordinance. Mr. Matthews seeks a front-yard setback of 42', where a minimum setback of 50' is required. Mr. Matthews was present, and gave a general overview of the project. Chairman Steinbach inquired whether there were any changes to this project since the meeting held April

22. Mr. Matthews said there were no changes to the project, although Mr. Kreiger did note at the April 22 meeting that Mr. Matthews needed to determine whether a step would also be required in connection with the porch construction. Mr. Matthews did confirm that one step would be added to the front of the porch, and so a front setback of a little less than 42' would be needed. The Zoning Board members understood this small amendment. Chairman Steinbach then stated the Zoning Board would open the public hearing on this application. The notice of public hearing was read into the record, and the public hearing notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach then opened the floor for the receipt of public comment. Elaina Webster, 46 East Road, was present and inquired as to the size and purpose of the front porch. Mr. Matthews stated that he was seeking only to construct an open front porch to the home, that it would not be enclosed and would not be screened. Mr. Matthews confirmed that the porch would only be used for quiet enjoyment of the home and property. Upon hearing no further public comments, the Zoning Board closed the public hearing. Chairman Steinbach then inquired whether there was any home located directly across the street from Mr. Matthews parcel. Mr. Matthews said the land directly across the street from his home is vacant, and that he only has neighbors on the side of his property. One of his neighbors was Elaina Webster, who spoke at the public hearing. Mr. Matthews did confirm that he did speak with his other neighbor, and that they did not have an issue with the project. Chairman Steinbach inquired whether any architectural or contractor drawings had been prepared yet. Mr. Matthews said no drawings had yet been prepared. Chairman Steinbach noted that such drawings would need to be prepared in connection with the building permit application that would be reviewed by the Building Department. Member Trzcinski noted that she had visited the property, and that there appeared to be some building materials at the property. Mr. Matthews confirmed that building materials

were at the property, but they were there in connection with enlarging a patio in the rear of the home. Mr. Matthews confirmed that no work had commenced on the front porch, and that the only work done in the front yard was landscaping. Member Trzcinski commented that the addition of the front porch would enhance the home and the property. Member Hannan had no questions or comments on the application. Chairman Steinbach inquired whether there were any further questions or comments on the application. Hearing none, Member Hannan made a motion to approve the area variance subject to compliance with all building permit requirements with the Town Building Department, and finding that the variance would not result in an undesirable change in the character of the neighborhood nor create a detriment to nearby properties, that the area variance was not substantial, that the Applicant could not achieve construction of a front porch in the manner requested without the minimal variance, and the variance would not have an adverse effect on the physical or environmental condition of the neighborhood. Member Trzcinski seconded the motion subject to the stated condition and findings. The motion was unanimously approved, and the area variance granted. Attorney Gilchrist noted for the record that the granting of an area variance for a single-family, two-family, or three-family residence is a Type II action under SEQRA, and no SEQRA determination was required.

There were two items of new business discussed.

The first item of new business discussed was a special use permit application submitted by Daniel J. Smith for property located at 899 Hoosick Road (Tax Map #92.-6-6.2). Mr. Smith was present to discuss the application. Mr. Smith seeks a special use permit to allow the use of this residential home as a dental office. Mr. Smith explained that there would be no structural changes made to the home, with the only addition being the construction of a rear parking lot for 14 off street parking spaces. Mr. Smith explained that the lot was large enough for 14 parking

spaces, with adequate area to maneuver vehicles in the rear of the lot. Mr. Smith confirmed that the use of the property would be for a dental office, and that Mr. Smith would be leasing the property for use as a professional dental office. Member Hannan inquired whether the existing garage would remain in the rear of the lot. Mr. Smith stated that the garage would remain in its current location. Member Trzcinski inquired whether the Zoning Board members could have access to the property for a site visit. Mr. Smith confirmed the Zoning Board members could visit the property at any time. Mr. Smith explained that he had already removed trees that had existed on the rear of the lot, but that nothing else had been done at the property. Member Trzcinski asked whether anyone would be living at the home, or whether an apartment would be available in the house. Mr. Smith stated that there would be no residential use, and the building would be limited to a professional office. Member Hannan inquired whether Mr. Smith had any dentist ready to move into the location. Mr. Smith stated that several dentists have made inquiry with him regarding the site, and there was significant interest in having a dental office on Route 7. Chairman Steinbach inquired whether there were any more questions or comments at this time. The Zoning Board members had no further questions at this time, but did want the opportunity to visit the property. The Zoning Board members also concurred that adequate information was included in the application for purpose of conducting the public hearing. A public hearing will be held on this application at the June 17 meeting to commence at 6:00 p.m.

The second item of new business discussed was an area variance application submitted by Dariusz Imbienowicz, for property located at 13 Packer Avenue. Mr. Imbienowicz was present, together with his son Matthew Imbienowicz. Zoning Board members stated that this Applicant also had an area variance application for the installation of a pool was submitted in 2012, but the Applicant failed to appear on the application. This application seeks an area variance from the side-yard and rear-yard setback requirements of the Brunswick Zoning

Ordinance. The Applicant proposes an 8' side-yard setback, whereas the Brunswick Code requires a 10' side-yard setback. The Applicant seeks a rear-yard setback of 8', where the Brunswick Code requires a 20' rear-yard setback. The Zoning Board members noted that this pool has already been installed, and that a variance was not obtained prior to the installation. The Applicants stated that they were not aware that they needed a variance prior to the pool installation. After further discussion regarding the history of this matter, Chairman Steinbach determined that the Zoning Board would address the current area variance application on its merits. Chairman Steinbach inquired of the Zoning Board members whether there were any questions regarding the application materials. Neither Member Trzcinski nor Member Hannan had any questions at this time, but did want the opportunity to visit the site. Eric Smith, 7 Kemp Avenue, was also present, and requested the opportunity to speak to the Zoning Board members on this matter. Chairman Steinbach allowed Mr. Smith to speak. Mr. Smith stated that he was the owner of the closest residential property near this site, that he had no issue whatsoever with the pool location, and that in his opinion the Imbienowiczs were well meaning people that have no ill will nor ill intention, but that they just didn't realize that they needed a variance. Mr. Smith stated that he had recently applied for an area variance for a pool installation, that the area variance had been denied, but that he did install a pool on his property meeting the setback requirements. After having gone through that process, Mr. Smith informed the Imbienowiczs to go to the Town and get this matter cleared up, and that he had no opposition whatsoever to the location of the pool that was already installed. Chairman Steinbach thanked Mr. Smith for his comment for the record. Chairman Steinbach inquired whether the Zoning Board members considered the application complete for purposes of holding the public hearing. The Zoning Board members concurred that the information was adequate to hold the public hearing. Accordingly, a public hearing will be held on this application at the June 17

meeting commencing at 6:00 p.m. Chairman Steinbach made it clear on the record to the Imbienowicz that they needed to be present at the June 17 meeting on this application.

The index for the May 20, 2013 Zoning Board of Appeals meeting is as follows:

1. Groudas – area variance – granted.
2. Matthews – area variance – granted.
3. Smith – special use permit application – 6/17/13 (public hearing).
4. Imbienowicz – area variance application – 6/17/13 (public hearing).

The proposed agenda for the June 17, 2013 meeting currently is as follows:

1. Caola – area variance (public hearing).
2. Smith – special use permit (public hearing).
3. Imbienowicz – area variance (public hearing).

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD ^{JUNE} July 17, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ALSO PRESENT was DANIEL BRUNS, Town Building Department and Code Enforcement Office.

The Zoning Board of Appeals members reviewed the draft minutes of the May 20, 2013 meeting. Upon motion of Member Trzcinski, and seconded by Member Hannan, the draft minutes of the May 20, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Ransen Caola concerning property located at 11 Maplehurst Drive (Tax Map No. 90.12-5-8). The Zoning Board opened a public hearing concerning the application. The Notice of Public Hearing was read into the record, noting that such notice had been published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Mr. Ransen Caola was present on the application. Chairman Steinbach inquired whether there were any changes to the proposal after the initial presentation by Mr. Caola. Mr. Caola stated that there was no change to the application, and that he was seeking to replace an existing shed with a detached garage, and is seeking the area variance to allow a side yard setback of 4 feet and a rear yard setback of 8 feet. Chairman Steinbach opened the floor for receipt of public comment. Initially, Chairman Steinbach called for any public comment in favor of the application. Hearing none, Chairman Steinbach requested receipt of any public comment opposing the application. There were no comments received from the public, either in favor or

in opposition to the application. Chairman Steinbach inquired whether any of the Zoning Board members had any questions or comments on the application. Hearing none, Chairman Steinbach called for a motion to close the public hearing. Member Hannan made a motion to close the public hearing, which motion was seconded by Member Trzcinski. The motion was unanimously approved, and the public hearing closed concerning the Caola area variance application. Thereupon, Attorney Gilchrist noted that an area variance application for a single family residence is a Type II action under the State Environmental Quality Review Act, and that a determination of environmental significance is not required. The Zoning Board members then deliberated on the application and factors for an area variance. First, the Zoning Board members discussed whether the granting of the area variance would result in an undesirable change in the neighborhood, and determined that this would not result in an undesirable change as a shed already exists in the general location on the lot, and a detached garage would be consistent with the character of the surrounding area. The Zoning Board members then deliberated as to whether there was some other feasible method available to the Applicant for this project. Member Trzcinski stated that given the layout of the lot and topography, the project could not easily be accomplished through another method. Chairman Steinbach also felt that the requested variance was reasonable, and could not be accomplished through another feasible method. Mr. Caola did note that the other side of his property included a natural drainage swale, and that he did not want to change that natural drainage flow. The Zoning Board members then considered whether the variance would result in an adverse impact upon the physical environment, and determined that this application would not result in an adverse physical impact to the environment or the surrounding area. The Zoning Board members then discussed whether the requested variance was substantial, and determined that while the variances were large, they were not significant to the point of denying the application, particularly in light of the fact that a shed already existed in

the general location of the proposed detached garage, and that the use was consistent with surrounding properties. The Zoning Board members also determined that the requested variance was not self-created, as the property owner is limited by the site in terms of the existing drainage swale, and determined that it was important to maintain the existing swale for drainage purposes. The Zoning Board members also felt it significant that there was already existing 10' x 10' shed that was being replaced by this detached garage. Following such deliberation, Member Hannan made a motion to approve the area variances requested by Caola for 11 Maplehurst Drive, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the area variances granted.

The next item of business on the agenda was the special use permit application submitted by Daniel Smith for property located at 899 Hoosick Road (Tax Map No. 92.-6-6.2). The Zoning Board opened the public hearing on this special use permit application. The Notice of Public Hearing was read into the record, noting that the notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Daniel J. Smith was present on the application. Chairman Steinbach inquired whether there were any changes to this special use permit application following the initial presentation at last month's meeting. Mr. Smith stated that there were no changes being proposed. Chairman Steinbach then opened the floor for receipt of public comment. Chairman Steinbach first called for any public comment in favor of the special use permit application. Hearing none, Chairman Steinbach then requested receipt of any comment opposing the special use permit application. Bill Brazee, 901 Hoosick Road, raised several issues. Mr. Brazee owns property next to Mr. Smith, located at the corner of Wyman Road. Mr. Brazee stated that the Zoning Board members should go out and look at the proposed site, because in his opinion the back of that lot is always wet. Further, Mr. Brazee stated that a garage which was already built

on the lot is too close to the lot line, and that a lot of concrete and stone had been added to this lot which has increased the surface water runoff. Mr. Brazee stated that each time water drains off of this lot, it impacts his property. Mr. Brazee stated that Mr. Smith has told him for the past year to year and a half that he would be installing gutters on the buildings and would direct stormwater away from Mr. Brazee's property, but that no gutters had been installed. Mr. Brazee handed up photographs of stormwater runoff from the recent storms, and said that his property was being impacted by the runoff from the Smith lot. Mr. Brazee stated that he was very concerned that adding a paved parking lot on the rear of this lot will only result in more runoff impacting his property. Mr. Brazee also stated that he felt the lot was small, and that Mr. Smith had already been parking vehicles on Wyman Road because there is no room on this lot, and was concerned about parking in the future. Mr. Brazee concluded that he felt a dentist office for this area would be a good thing, but not at this particular location. Mike Van de Mark, 909 Hoosick Road, also spoke in opposition to the application. Mr. Van de Mark stated that his lot was situated on the opposite corner of Wyman Road. Mr. Van de Mark was concerned about the total quantity of groundwater used for the dental office proposal, because his lot and the other lots in this area all relied on wells for potable water. He was very concerned about the impact of this dental office use on the aquifer, and whether this would impact availability of water to the surrounding lots. Mr. Van de Mark also had concern about access to a rear parking area, since Hoosick Road was a very busy road. Chairman Steinbach inquired whether there were any further comments from the public. Hearing none, Chairman Steinbach asked whether any of the Zoning Board members had questions or comments. Member Schmidt stated that the comment regarding surface water runoff was significant, and wanted Mr. Smith to address that. Mr. Smith stated that the gutters which Mr. Brazee talked about were sitting on the lot and were ready to be installed, but hadn't been installed this Spring because of the wet conditions. Mr. Smith stated

that gutters would be installed on both sides of the building, and would be installed during the week of June 17. Member Trzcinski asked where the stormwater from the gutters would be directed. Mr. Smith stated that the water would be directed away from Mr. Brazee's lot, and that he would install a drywell if necessary to handle the stormwater runoff. Member Hannan asked whether Mr. Smith had retained any contractor for the conversion of this house and construction of the parking lot. Mr. Smith stated that he had not yet retained a contractor, and was waiting to see if this proposal was approved by the Town. Mr. Hannan inquired what his construction schedule would be. Mr. Smith stated that he would be able to renovate this house to a dental office in approximately 8 months to a year. Member Hannan then asked when the gutters would be going up on the existing building. Mr. Smith confirmed that gutters would be going up during the week of June 17. Member Hannan then asked about projected water consumption for a dental office. Mr. Smith stated that the projected water consumption would be the same as a residential use, and possibly less than the average residential use. Member Hannan requested that additional information on projected water use for a dental office be submitted by Mr. Smith. Mr. Smith stated that he would supply that information to the Zoning Board. Chairman Steinbach inquired whether this was the first site to be developed by Mr. Smith as a dental office. Mr. Smith confirmed that this would be the first time he was developing a site for a dental office use, but that he had been in the dental equipment sales and service business for 17 years and had been involved in the development of dental offices in that capacity. Member Trzcinski commented that in her experience, dental offices usually have a lot of clean water running in conjunction with dental hygienists, and did want additional information on the total projected water consumption. Mr. Smith stated that he was projecting this dental office to have one dentist, and possibly one to two dental hygienists, and would supply projected water consumption for an office of that size. Chairman Steinbach inquired as to the total number of parking spaces and

layout of the parking spaces presented by Mr. Smith. Mr. Smith stated that he is using a parking space size of 9' x 16', and that site allows a total of 14 parking spaces, including a handicap space next to the building. Chairman Steinbach stated that Mr. Smith should work with the Building Department on the total number of required parking spaces, and the parking space layout plan. Member Trzcinski stated that she wanted to make sure there was adequate room to move cars within the parking lot so that there would be no cars backing out onto Hoosick Road. Member Balistreri asked about the current use of the building. Mr. Smith stated that he was living at the house at the present time. Chairman Steinbach confirmed that the Zoning Board was requiring additional information on projected water consumption, information about surface water management and runoff, and the parking space and parking lot plan. Member Schmidt stated that he would suggest that the public hearing be left open so that this additional information can be submitted and considered. Member Schmidt stated that the key issue for him is the surface water runoff and potential impact on surrounding lots. Member Schmidt also stated that he would like to see the gutters installed, and how those gutters handle runoff during a storm. The Zoning Board members generally concurred. Member Balistreri made a motion to keep the public hearing open and adjourn this matter to the July meeting, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing kept open and the matter adjourned to the July 15 meeting for further discussion.

The third item of business on the agenda was the area variance application submitted by Dariusz Imbierowicz for property located at 13 Packer Avenue. The Zoning Board opened the 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 owners of all adjacent properties. Chairman Steinbach inquired whether Mr. Dariusz Imbierowicz was present. Barbara Imbierowicz, wife of Dariusz

Imbierowicz, and stated that Dariusz Imbierowicz was not able to attend the meeting due to work commitments. The Zoning Board members noted that at the May meeting, they had made it quite clear to Mr. Imbierowicz that they wanted him present in order to respond to any comments from the public or questions of the Board members. The Zoning Board members reviewed the history of this matter, including the prior area variance application submitted in 2012, and the fact that Mr. Imbierowicz also failed to appear for the Zoning Board meetings on the 2012 area variance application. Mrs. Imbierowicz stated that she did reside at the residence. The Zoning Board members generally stated that they were concerned that the pool installation, which is the subject of this area variance application, had already been completed by the property owner, and that an area variance was being sought after the fact. This had resulted in enforcement action in 2012 and the prior area variance application in 2012, which the Zoning Board members noted was not properly pursued by Mr. Imbierowicz. Given that the public hearing had been opened, Chairman Steinbach opened the floor for receipt of any public comment. There were no members of the public present, and no public comment was received. Chairman Steinbach then inquired whether any of the Zoning Board members had questions for Mrs. Imbierowicz. Member Balistreri asked that, despite the fact that the pool was already constructed, was there a reason why the pool could not have been constructed in a manner that was within the setback requirements of the Brunswick Code. Mrs. Imbierowicz generally felt that there was not enough room on the lot for the installation of the pool. Member Balistreri stated that the pool installed was 25' x 15', and that in his opinion, a smaller pool may not have resulted in setback violations. Mrs. Imbierowicz generally stated that all of her neighbors had pools generally of that size and generally as close to property lines, and that they did not think this would be an issue with the Town. Member Schmidt stated that this application must be considered as if this were a request to construct a pool, rather than seeking an after-the-fact approval following installation of the pool. In his

opinion, Member Schmidt stated that if this were a request to install the pool initially, it would be his opinion that a smaller pool should be installed so that it met the setback requirements. The Zoning Board members generally discussed whether to keep the public hearing open, and given the history of this matter, determined that they would like Mr. Imbierowicz present to respond to questions concerning the pool installation. Mrs. Imbierowicz stated that she was a co-owner of the property, that they were immigrants from Poland, and that they bought the home at 13 Packer Avenue about 7 years ago, and that they installed the pool thinking that there was not a problem since their neighbors also had pools. Regarding the application from last year, Mrs. Imbierowicz stated that both she and her husband did not understand the proper procedures, and that they thought once the application was filed, the Zoning Board would just decide without the need for them to attend any meetings. Member Trzcinski reminded her that the Zoning Board had sent letters in three successive months requesting Mr. Imbierowicz's attendance at a Zoning Board meeting, but that Mr. Imbierowicz did not attend any of the meetings last year. Member Schmidt also stated that the variance application should have been pursued by Imbierowicz during the Winter, rather than waiting until the Spring to apply for the area variance when the Summer season was upon them. Mrs. Imbierowicz stated that they did not think anything would be done by the Zoning Board over the course of the Winter, and made the application when they were set to use the pool again. Chairman Steinbach then made a motion to keep the public hearing open and adjourn this matter until the July meeting. The motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing on the Imbierowicz area variance application was kept open and adjourned to the July 15 meeting for further discussion. The Zoning Board members reiterated that they would like Mr. Imbierowicz present at the July 15 meeting on this application.

There was one item of new business discussed. A sign variance application has been received from McDonald's USA, LLC for proposed signage as part of its renovation of the McDonald's located at 780 Hoosick Road. The Zoning Board members generally reviewed the written application, and determined that additional information is required, including elevations and visual presentation of the proposed signs on the renovated restaurant building. It is noted that there was no one present for the application at this meeting, and the application was adjourned until the July meeting for receipt of additional information and presentation of the project by the Applicant's consultants.

Thereupon, the meeting was adjourned.

The index for the June 17, 2013 meeting is as follows:

1. Caola – area variance – approved.
2. Smith – special use permit application – 7/15/13 (public hearing to continue).
3. Imbierowicz – area variance application – 7/15/13 (public hearing to continue).
4. McDonald's USA, LLC – sign variance – 7/15/13.

The proposed agenda for the July 15, 2013 meeting currently is as follows:

1. Smith – special use permit (public hearing to continue).
2. Imbierowicz – area variance (public hearing to continue).
3. McDonald's USA, LLC – sign variance.

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD July 15, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN and E. JOHN SCHMIDT.

ABSENT were CAROLINE TRZCINSKI and MARK BALISTRERI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The draft minutes of the June 17, 2013 meeting were reviewed by the Members of the Zoning Board. Upon motion of Member Hannan, seconded by Member Schmidt, the minutes of the June 17, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda was the special use permit application submitted by Daniel J. Smith for property located at 899 Hoosick Road. The Applicant seeks the special use permit to convert a residential home into a dental office. The Zoning Board was continuing a public hearing on this application. Member Schmidt immediately inquired of the Applicant as to whether he had installed roof gutters on the residential structure as discussed at the June 17 meeting. Mr. Smith stated that he had installed the roof gutter drain system on July 4, and now the runoff from the roof is being directed away from the adjacent property owned by Brazee. Mr. Smith explained that after installing the roof gutter drainage system, he did need to extend the downspout to insure the runoff drained away from the Brazee property, and that he did install an extended downspout and that the runoff is now draining away from the Brazee property. Member Schmidt inquired whether this drainage system is anticipated to work during all seasons of the year. Mr. Smith then introduced Mark Albert, 160 Winter Street, Troy, New York who has designed a proposed drainage system for the entire lot. Mr. Albert handed up a schematic of

the proposed drainage system for the site. The Applicant proposes to tie in the roof gutters and drainage system to a 6" drainage pipe, which will then be extended to the rear of the property and will discharge to a drywell to be constructed. The drywell is proposed to be 8' x 10' in size, and 4' in depth. Also, Mr. Albert explained that the pitch of the driveway leading back to the parking area will be pitched to direct the surface runoff to a 24" wide, 1' deep drainage ditch which will have a 6" perforated drainage pipe leading to the drywell. Chairman Steinbach inquired whether any of the Board members had any further questions on drainage issues. There were no further questions. Member Schmidt also inquired as to the issue of potable water consumption for the dental office, which was discussed at the June 17 meeting. Mr. Smith stated that he had researched the issue, including information from the United States Geological Survey, U.S. Environmental Protection Agency, and the ECO Dentistry Association, which is affiliated with the American Dental Association. Mr. Smith handed up technical information regarding water consumption, which he generally reviewed with the Zoning Board members. Mr. Smith stated that the typical dental office water usage is approximately 57,000 gallons per year. The typical residential 4-person family annual water usage is 146,000 gallons per year. Mr. Smith stated that the current use of the property is for single family residential, and that the proposed change in use to the dental office will result in approximately 1/3 of the historic water usage at this location. Member Schmidt inquired as to the data for the typical dental office water usage, and the size of the dental office resulting in those figures. Mr. Smith stated that the numbers he quoted were based on a maximum of two dentists, and one dental hygienist. Chairman Steinbach inquired whether there were any further questions from the Zoning Board members on the issue of water consumption. There were no further questions. Chairman Steinbach then inquired about the parking plan for the site, which was also discussed at the June 17 meeting. Mr. Smith introduced Alexis Premmer, 49 Mazoway Avenue, Troy, New York,

who assisted him in preparing the parking plan. Mr. Smith stated that the original parking plan included a total of 14 parking spaces. Upon further research, the standard parking spot size is 9' x 18', and a standard handicap parking spot size is 14' x 18'. Using these dimensions, Mr. Smith is now proposing a total of 13 parking spaces for this site, including a handicap parking space. Mr. Smith stated that Mr. Kreiger confirmed that for a dental office of one dentist and one dental hygienist, a total of 6 parking spaces is required under Town Code, and a dental office of 2 dentists and one dental hygienist requires 11 parking spaces. Therefore, Mr. Smith concluded that even with 2 dentists and one dental hygienist, the proposed parking plan provides more parking than is required under Town Code. Mr. Kreiger confirmed these calculations. Chairman Steinbach inquired whether there were any further questions regarding the parking plan. There were no further questions, and Chairman Steinbach indicated that the proposed parking plan does meet Town Code requirements. Chairman Steinbach then asked whether there were any further questions on any issue associated with this application by the Zoning Board members. There were no further questions. Chairman Steinbach then stated that the Zoning Board would take any additional public comments, before the public hearing was closed. Mike Van de Mark, 909 Hoosick Road, stated that he felt the water consumption data provided by the Applicant was hard to believe, and that he remained concerned about impact of this project upon his well. Mr. Van de Mark also stated that he remained concerned about the entrance driveway to the parking lot, which is single lane only, and felt that this raised a safety issue. Bill Brazee, 901 Hoosick Road, stated that Mr. Smith did address the drainage issue impacting his property through the installation of the roof gutter drainage system, but did note for the record that any further excavation of the site must be done correctly, as he does not want his well or septic affected by this project. Chairman Steinbach asked if there were any further comments from the public. Hearing none, Member Schmidt made a motion to close the public hearing, which motion was

seconded by Member Hannan. The motion was unanimously approved, and the public hearing on the Smith special use permit application was closed. The Zoning Board members then proceeded with deliberation on the application. First, the Zoning Board members reviewed the special use permit criteria in relation to the application information. The first criteria reviewed was whether the proposed special use is reasonably necessary for the public health or general interest or welfare. The Zoning Board members found that the location of a dental office at this location would provide a community benefit, and would also be in keeping with the conversion of existing structures along the Hoosick Road corridor to professional or commercial offices. Mr. Smith stated that it would likely be a period of 8-12 months before a specific dentist would be opening an office at this location, but that this would provide a benefit to the community. The second criteria reviewed by the Zoning Board was whether the proposed special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, and other similar facilities. The Zoning Board members found that this location on Hoosick Road provides adequate transportation facilities, and that the existing driveway provided adequate ingress and egress for this use. The Zoning Board members found that adequate data had been submitted on this application concerning water supply requirements, and the Zoning Board members found that the projected water consumption was less than a residential use. The Zoning Board members also found adequate fire and police protection in the immediate vicinity, both with respect to the Center Brunswick Fire Department as well as the New York State Police. The next criteria reviewed was whether the proposed use provided for adequate parking spaces to handle expected public attendance. The Zoning Board members found that the proposal for 13 parking spaces as discussed at this meeting met both Town Code requirements and provided a reasonable and adequate parking plan. The next criteria reviewed was whether the proposed special use provided for reasonable safeguards for neighborhood

character and surrounding property values. The Zoning Board members found that the exterior of the existing home would not be changed, and would remain consistent with the existing character of the area, and there was no evidence that this use would negatively impact property values. Also, the Applicant is proposing to install a fence consistent with a residential look to shield the rear parking area. The Zoning Board members found this was also consistent with the existing character of the area. The final criteria reviewed by the Zoning Board was whether the requested special use would cause undue traffic congestion or create a traffic hazard. The Zoning Board members generally found that the number of trips to and from a dental office are limited and staggered throughout the day, and that this proposed use would not create an undue traffic congestion issue. The Zoning Board also noted that there was adequate area to turn vehicles around in the parking lot so that there would be no backing out onto Hoosick Road. The Zoning Board members thus completed the deliberation on the special permit criteria. The Zoning Board members determined that the information in the record, considering public comment and responses by the Applicant, was complete for purposes of rendering a decision on the application. First, the Zoning Board members addressed compliance with the State Environmental Quality Review Act. The Zoning Board members reviewed the Environmental Assessment Form, and completed Part II. Specifically, the Zoning Board members determined that this action would not result in a significant adverse impact upon air quality, surface or groundwater quality or quantity, noise, traffic patterns, solid waste production, or the potential for erosion, drainage or flooding problems based on the information in the application. Further, the Planning Board found that this proposed action would not have a significant adverse impact on aesthetic, agricultural, archeological, historic, or other natural or cultural resources, or negatively impair community or neighborhood character. The Zoning Board further found that this action would not conflict with the community's existing plans or goals as officially adopted,

or significantly change the intensity of the use of the land or significantly impair natural resources. The Zoning Board further found that the proposed action would not result in growth, subsequent development, or related activities likely to be induced by the siting of a dental office at this location. The Zoning Board members also determined that this site was not located within, nor would have a significant adverse impact upon, a critical environmental area. After having made these findings, Member Hannan made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Schmidt. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Hannan made a motion to approve the issuance of the special use permit subject to the following conditions:

1. All excavation in connection with the project must be monitored and inspected by the Brunswick Building Department.
2. The drainage system presented at this meeting for the project site must be strictly complied with.
3. The parking plan for this action is predicated upon a maximum of two dentists and one dental hygienist; therefore, given the constraints of the existing structure, a maximum of four rooms are allowed to be used for dental practice so as to comply with the minimum parking space requirements for this location.

Member Schmidt seconded the motion subject to the stated conditions. The motion was unanimously approved, and a special use permit issued subject to the stated conditions, permitting the use of 899 Hoosick Road as a dental office.

The next item of business on the agenda was the area variance application submitted by Dariusz Imbierowicz for property located at 13 Packer Avenue. Mr. Dariusz Imbierowicz was present on the application. Chairman Steinbach inquired whether there were any changes to the application, or any changes to the site since the application had been submitted. Mr. Imbierowicz stated that there are no changes to the proposed area variance request, nor have there been any changes to the site. This was the continuation of a public hearing on this

application. Chairman Steinbach inquired whether there were any members of the public wishing to present comment on this application. Hearing none, and after affording adequate time for comment, Member Schmidt made a motion to close the public hearing, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing on the Imbierowicz area variance application was closed. Member Schmidt then made a statement on the record that this Applicant had failed to comply with Town Code requirements by installing the pool at this location prior to applying for the required area variances. Mr. Imbierowicz replied that he was not aware of the variance requirements, and that he had installed a pool that was similar to the size of pools in his neighborhood, and stated that the pool was consistent with the surrounding properties. Chairman Steinbach stated that the size of the pool was not the issue, but rather Mr. Imbierowicz did not comply with the laws or procedures in the Town Code for the installation of the pool, and had not complied with the setback requirements of the Town Code. However, Chairman Steinbach noted that regardless of the history of this matter, the Zoning Board would address the application on the merits, noting that in the event the application does not meet the criteria for an area variance, Mr. Imbierowicz may be required to take the pool down. Chairman Steinbach inquired whether the Zoning Board members had any further questions or comments. Hearing none, Chairman Steinbach stated that there was adequate information on the application to render a determination at this meeting. Attorney Gilchrist stated that the area variance for residential use is a Type II action under SEQRA, and no further action under SEQRA is required. Thereupon, the Zoning Board members reviewed the criteria for issuance of an area variance. The first criteria reviewed was whether the variances sought would produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The Zoning Board members found that, based upon a review of the area, there are a number of pools in this location, and that a pool in this location

would not create a change in the character of the neighborhood or a detriment to nearby properties. In addition, the Zoning Board members did find that the landscaping that had been added to the area of the pool was consistent with the neighborhood. The next criteria reviewed was whether the Applicant could achieve the installation of the pool in some other method, feasible for this location. Chairman Steinbach stated that based upon his review of this property, and based upon the topography of the lot, the location where the pool was installed was the only feasible spot on the lot for the installation of a pool. Member Schmidt noted that even if a smaller pool was installed at this location, given the topography of the site, a variance would still be required. The next criteria considered was whether the area variance is substantial. On this issue, the Zoning Board members found that the rear yard setback variance and the side yard setback variance were not substantial given the topography of the property and the surrounding residential uses. The next criteria reviewed was whether the area variance would have an adverse affect on environmental conditions in the neighborhood. The Zoning Board members found that there would not be any adverse affect on environmental conditions in the neighborhood. The last criteria reviewed was whether the difficulty of meeting the setback requirements was self created. On this criteria, the Zoning Board members found that given the topography of this site, the difficulty was not self created. The Zoning Board members did note that the pool had been installed without the required variances, and that in some respect the issue was self created, but noted that this criteria alone does not preclude the issuance of an area variance. Based upon these deliberations and findings, Member Schmidt made a motion to approve the issuance of the requested area variances, which motion was seconded by Member Hannan. The motion was unanimously approved, and the area variances granted. Attorney Gilchrist noted that given the factual history of this matter, no precedential value should be drawn in terms of seeking approval by the Zoning Board for an after-the-fact approval for

construction of structures or use of property in violation of the Town Code. Chairman Steinbach concurred in this statement, reiterating that no precedential value should be seen in this decision for similarly granting an after-the-fact variance of a violation of Town Code, but that in this case the Zoning Board members reviewed the application on the merits alone and determined that based upon the area variance criteria, the issuance of an area variance was appropriate based on the merits of the application.

The next item of business on the agenda was an area variance application submitted by McDonald's USA, LLC for installation of signs at the McDonald's restaurant located at 780 Hoosick Road in a size and number greater than allowable under Town Code. Chris Boyea of Bohler Engineering was representing the Applicant. Mr. Boyea generally reviewed the redevelopment plan for this location, the site plan for which was approved for the Brunswick Planning Board on May 2, 2013. Mr. Boyea presented the proposal for signage, which includes four wall signs, where only two wall signs are allowed under Town Code, with a total signage square footage of 112.6 square feet, where only 92 square feet for signage at this location is allowable under Town Code. The Zoning Board members generally reviewed the size and location of the proposed signage, reviewing color renderings presented by Mr. Boyea. Mr. Boyea confirmed that there would be no change to the sign along Hoosick Road. Chairman Steinbach inquired of the Zoning Board members as to any questions or comments. The Zoning Board members had no specific questions or comments, noting that the application materials were complete. Chairman Steinbach determined that the public hearing on this application will be held at the August meeting, to be held on August 19 at 6:00 p.m.

One new item of business was discussed.

An application for an area variance has been made by Richard A. Russell, 14 Colehamer Avenue, Tax Map ID# 102.4-12-3. The Applicant seeks an area variance for the installation of a

two car garage to replace an existing 12' x 10' shed. The proposed two car garage is 24' x 28'. The Applicant seeks an area variance for the right side setback, where 15' is required under the Town Code the Applicant is proposing a right side setback of 8' 6". The Applicant also seeks an area variance for the height of the two car garage, where the Town Code allows a 12' accessory structure and the proposed garage is 14' at the roof peak. Mr. Russell stated that he had already talked to his neighbors regarding this project, and that the neighbors have not raised any objection. Mr. Russell explained that the larger two car garage will allow him to store equipment which is currently stored outside of the shed, and would allow him to clean up the look of the property. The application included a number of photographs and aerial photos. The application also includes a plot plan layout and elevations of the proposed garage. The application also included the Environmental Assessment Form. Mr. Russell confirmed that no existing trees would be removed in connection with installing the garage. Mr. Russell confirmed on the record that he consented to the Zoning Board members going to his property to review the site. Chairman Steinbach inquired whether there were any questions or comments on the application. Hearing none, Chairman Steinbach determined that the application materials were complete, and that the public hearing on this application will be held at the August meeting, to be held on August 19 at 6:00 p.m.

The Zoning Board entertained a presentation concerning the proposed amendment to the Duncan Meadows Planned Development District, which is currently pending before the Town Board and which the Town Board has referred to the Zoning Board for review and recommendation. Peter Yetto of Ingalls and Associates presented the proposed amendment to the Duncan Meadows PDD. In attendance with Mr. Yetto were Mr. Peter Amato and Dr. Paren Edwards, who are contract vendees for the phase of the Duncan Meadows PDD project which is the subject of the current proposed amendment. Mr. Yetto explained that the original Duncan

Meadows PDD approval for this particular phase allowed for the construction of 11 buildings to house 88 condominium units. The current proposed amendment seeks to reduce the total number of buildings to 8 buildings, and to have 11 units per building to maintain the total number of units at 88. The current proposal also requests the approval to construct apartment units, rather than the originally approved condominium units. Mr. Yetto presented to the Zoning Board that there were no changes to the project other than the total number of buildings and the change from condominium unit to apartment unit. Mr. Yetto stated that the current proposal is for an 11 unit apartment building including 7 garages per building, with additional surface parking, providing for two parking spaces per apartment unit. Mr. Yetto stated that the road system remains the same, and is compliant with Code requirements. Mr. Yetto stated that the stormwater management plan remained the same. Mr. Yetto also stated that the water and sewer requirements are unchanged. Mr. Yetto also stated that the total number of bedrooms, 176 bedrooms, also remained the same. Mr. Yetto finally stated that the traffic generation and school impacts were unchanged. Mr. Yetto, together with Dr. Edwards, stated that the 11 unit apartment building would be constructed within the same footprint for the original condominium buildings, but that three of the buildings would be removed toward the rear of the project site in an area that contained a significant amount of rock. Mr. Yetto and Dr. Edwards concluded that the project principally remains unchanged, and would result in more green and open space. Chairman Steinbach stated that the change seems to be limited to the total number of buildings, and also the change from condominium unit ownership to apartment rental units, and that all other environmental issues remain unchanged. Mr. Yetto confirmed that there were no further changes being proposed. Dr. Edwards also confirmed that this would not be a phased project, but all 8 apartment buildings would be built out at once. Chairman Steinbach wanted to confirm that the location where the three buildings were being removed would not be used for any

construction in the future. The Applicants stated that this area would not be used for construction, but would be maintained as open space. Chairman Steinbach inquired whether the Zoning Board members had any further questions or comments. None of the Zoning Board members had any further questions or comments at this time. Chairman Steinbach confirmed that this matter was before the Zoning Board for recommendation, and that this matter will be placed on the August agenda for further consideration.

The Zoning Board also entertained a presentation concerning the Oakwood Property Management Planned Development District proposal, which seeks to redevelop the property located at 215 Oakwood Avenue to apartment use. Chris Boyea of Bohler Engineering, the engineers for this project, presented the concept plan to the Zoning Board members. Attorney Gilchrist noted for the record that while Chairman Steinbach and Member Hannan had previously recused themselves concerning prior industrial operations occurring at 215 Oakwood Avenue, upon change in factual circumstances and change in business relationships since the original determination concerning recusal, and further discussion with Chairman Steinbach and Member Hannan concerning the scope and content of the current apartment project PDD proposal, it is determined that no potential or current conflict of interest exists with respect to Chairman Steinbach and Member Hannan participating in the review and recommendation on the current PDD proposal, and the same will continue to participate. Mr. Boyea generally presented the proposed project, which is a 80± acre Planned Development District seeking approval for construction of residential apartment units. Mr. Boyea explained that the proposal was to work only within the areas previously cleared on the project site, with no additional vegetation to be removed. To the contrary, Mr. Boyea stated that the existing treed and vegetated buffer to the rear of the property would be maintained. Mr. Boyea confirmed that all prior industrial operations, including grinding and storage of mulch and topsoil, will be discontinued in the event

the PDD project is approved. Mr. Boyea explained on the record that the office space and parking area utilized by Oakwood Property Management immediately adjacent to Oakwood Avenue, as well as the existing auto shop located adjacent to the Oakwood Property Management office and Oakwood Avenue, would remain, but there would be no grinder or mulch/topsoil storage at the site. Mr. Boyea explained that a total of 250 to 255 units are being proposed, subject to final design. The proposed buildings would range in size between 8 unit buildings and 12 unit buildings, with larger 14 unit buildings to be constructed in a townhouse style for the parcel formerly housing the greenhouse operations located to the north of the Oakwood Property Management office. Mr. Boyea stated that this project is similar in size and scope to the Stoneledge Apartment project currently being constructed in Troy only a short distance down Oakwood Avenue. The Zoning Board members reviewed the concept plan, but had no specific questions or comments at this time. This matter is placed on the August 19 agenda for further discussion for purposes of preparing its recommendation to the Town Board.

The index for the July 15, 2013 meeting is as follows:

1. Smith – special use permit – approved with conditions.
2. Imbierowicz – area variance – approved.
3. McDonald’s USA, LLC – sign variance – 8/19/13 (public hearing to commence).
4. Russell – area variance – 8/19/13 (public hearing to commence).
5. PE & PA Associates, Inc. – Duncan Meadows Planned Development District Phase I Amendment – 8/19/13 (deliberation on recommendation).
6. Oakwood Property Management, LLC – Planned Development District – 8/19/13 (deliberation for recommendation).

The proposed agenda for the August 19, 2013 meeting currently is as follows:

1. McDonald’s USA, LLC – sign variance (public hearing to commence).
2. Russell – area variance (public hearing to commence).

3. PE & PA Associates, Inc. – Duncan Meadows Planned Development District Phase I Amendment (deliberation on recommendation).
4. Oakwood Property Management, LLC – Planned Development District (deliberation on recommendation).

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD August 19, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, JAMES HANNAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Board members noted that at the July 15, 2013 meeting, the minutes of the June 17 meeting were approved. However, the Zoning Board members now note that the minutes of the June 17 meeting incorrectly identified the meeting date as "July 17", rather than "June 17". Such correction is noted for the record. With respect to the draft minutes of the July 15, 2013 meeting, a motion was made by Chairman Steinbach to approve the minutes as written, which motion was seconded by Member Hannan. The motion was unanimously approved, and the minutes of the July 15, 2013 meeting approved without amendment.

The first item of business on the agenda was the area variance application submitted by McDonald's USA, LLC with respect to installation of signage at their restaurant located at 780 Hoosick Road. Chris Boyea of Bohler Engineering was present for the Applicant. Chairman Steinbach requested that Mr. Boyea make a brief presentation regarding the application. Mr. Boyea stated that he had appeared before the Zoning Board of Appeals at its meeting held July 15, and initially presented the signage plan at that time. Mr. Boyea stated that the restaurant is located at 780 Hoosick Road, and that McDonalds was pursuing a reinvestment at this location, which includes both an interior remodeling as well as an exterior re-imaging. With respect to the exterior renovations, Mr. Boyea stated that the owner will seek to remove the existing roof and replace it with straight parapet walls, and also to install a second menu board to the rear of the

restaurant at the drive-thru area. Mr. Boyea stated that the site plan for these exterior renovations had been approved by the Brunswick Planning Board. With respect to the proposed signage, Mr. Boyea stated that with the removal of the mansard roof and lighted roof beams, the McDonalds restaurant was moving some of the "McDonald's" identity, and was seeking to replace the existing signage with two wall signs facing Hoosick Road, and two smaller signs on the side of the building. Mr. Boyea stated that the free standing sign toward the front of the parcel would remain. Mr. Boyea stated that this exterior renovation would be similar to the new McDonalds restaurant recently built on Hoosick Street in the City of Troy. Following this presentation, Chairman Steinbach then opened the floor for receipt of public comment. 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 owners of all adjacent properties. No members of the public provided comment. Chairman Steinbach asked whether the Zoning Board members had any questions for the Applicant. Member Hannan stated that he felt the exterior renovation was a nice improvement and appreciated the investment in the property, and had no further questions or comments. No other Board members had any questions or comments. Hearing none, Chairman Steinbach stated he would entertain a motion to close the public hearing. Member Balistreri made a motion to close the public hearing, which motion was seconded by Member Hannan. The motion was unanimously approved, and the public hearing on the McDonalds area variance for signage was closed. Chairman Steinbach then stated that the application was complete and ready for action, in the event the Board wished to move forward with a determination. Attorney Gilchrist stated that in the event the Board sought to move forward with the determination, that a determination of environmental significance under SEQRA was required for this application. Thereupon, Member Hannan stated that based on the application information, it was his opinion that this application would not result in a

significant adverse impact upon the environment, and moved to adopt a negative declaration under SEQRA. Member Schmidt seconded the motion. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, the Zoning Board members reviewed the elements for area variance and deliberated on the application information. First, the Zoning Board members concurred that the site renovations would not result in an undesirable change in the character of the neighborhood, since this had been a McDonalds restaurant for several years. The Zoning Board members found that although the total number of signs and the square footage of signage were in excess of Town Code limitations, the signs would not result in an undesirable effect on the character of the neighborhood or create a detriment to nearby properties, and further that the new signage would be an improvement to the existing state of the property. The Zoning Board members also found that while the signs could be smaller, the proposed exterior renovations could be viewed as removing some of the "McDonald's" traditional identity, and the new signage would be consistent with the proposed exterior renovations. The Zoning Board members also found that the variance was not substantial, given the fact that the existing window "signage" in the current restaurant would be eliminated, and that the total square foot of the signage being proposed now is consistent with the exterior building renovation plan. The Zoning Board members agreed that the total square footage, as well as the total number of signs, were not substantial and were consistent with the proposed building renovation. The Zoning Board members determined that the area variance for the signage would not have an adverse affect on the physical or environmental conditions in the neighborhood, particularly in light of the existing restaurant and existing signage at that location. The Zoning Board members also stated that while the requested variance is self-created in some respect, this is an existing facility with existing signage, and the Applicant was looking to merely update the exterior of the restaurant building. Chairman Steinbach confirmed with Mr. Kreiger that this application had been

forwarded to the Rensselaer County Office of Economic Development and Planning, and Mr. Kreiger confirmed that the application had been referred and that the County Planning Department did not have any objection and stated that local considerations shall prevail. Thereupon, a motion was made by Member Hannan to approve the area variance for the signage, both with respect to the square footage of the signs and the total number of the signs. That motion was seconded by Member Schmidt. The motion was approved by a vote of 4/1, with Member Trzcinski opposed to granting the sign variance. Accordingly, the variance application was approved for signage at the McDonald's restaurant located at 780 Hoosick Road, both with respect to the square footage of signs and the total number of signs.

The next item of business on the agenda was the area variance application submitted by Richard A. Russell for property located at 14 Colehammer Avenue. Richard Russell was present on the application. Chairman Steinbach requested that Mr. Russell make a brief presentation concerning his proposed project. Mr. Russell stated that he was proposing to install a two-car garage with a size of 24' x 28' to replace an existing 12' x 10' shed located on his property. Upon reviewing this matter with Mr. Kreiger, Mr. Russell stated that he was aware that he needed a side yard setback variance, requesting a setback of 8' 6" where the Town Code requires a setback of 15'. Mr. Russell also stated that based on the design of the garage, which has a height of 14' at its roof peak, a variance for height is also requested, since a height of 12' is set forth in the Town Code for this structure. Chairman Steinbach then opened the public hearing for 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 owners of all adjacent properties. There were no members of the public who wished to comment on this application. Chairman Steinbach asked whether any of the Board members had questions or comments. Member Trzcinski inquired whether Mr. Russell

would be installing any stairs to the attic space in the garage. Mr. Russell stated that there would be only stairs on the interior of the building to access the upper area of the garage for storage only. Chairman Steinbach wanted to confirm that the garage, including the upper or attic area of the garage, would be used for storage purposes only, and was not being proposed for any potential habitation or apartment use. Mr. Russell confirmed that this garage would be for storage only, and not for any habitation. Chairman Steinbach wanted to confirm that the existing shed would be removed. Mr. Russell said that the existing shed would be removed and that the proposed garage would be placed in its location. Chairman Steinbach wanted to confirm that Mr. Russell had spoken to his adjacent neighbor closest to the proposed garage. Mr. Russell stated that he had spoken with that property owner, and that he did not have a problem with the construction of the garage as proposed. Mr. Russell stated that he had spoken to all of his surrounding neighbors, since he had lived at his house at 14 Colehammer Avenue for 30 years, and that he did not want any problems with his neighbors. Chairman Steinbach then wanted to inquire as to the necessity of the height variance of this structure. Mr. Kreiger confirmed that given the design of the garage, the highest point was 14' above grade, and that while height variances for these types of garages were rare, one was required on this project. On that issue, Member Schmidt stated that because of the slope and decrease in topography from the house to the location where the garage is being proposed, the garage would not look out of place or significantly higher than the existing home. The Board members did confirm that there was approximately a 7'-8' drop in slope from the home to the driveway location where the garage was being proposed to be built. Member Balistreri also confirmed with Mr. Russell that the trees located to the rear of the lot which would be behind the garage would remain in place, and would not be cut down as a result of this project. Mr. Russell confirmed that all the trees in that location would remain in place. The Zoning Board members had no further questions or

comments on the application. Thereupon, Chairman Steinbach closed the public hearing on the Russell area variance application, with concurrence of the Zoning Board members. Attorney Gilchrist noted that this application seeks an area variance for a single family home, and therefore constitutes a type II action under SEQRA. The Zoning Board members then deliberated on the area variance information. The Board members concurred that the construction of the proposed garage at this location would not result in an undesirable change in the character of the neighborhood, or create a detriment to nearby properties, but would be consistent with the surrounding residential uses. The Board members also concurred that due to the topography of the lot, the property did not allow for another location for the proposed garage, and that given the slope in this area of the lot, the proposed location of the garage was the most appropriate location and did require that the garage be closer to the lot line than the 15' side yard setback. The Board members further concurred that the side yard setback variance was not substantial, and while the height variance was unusual, it also was not determined to be a substantial variance. The Board members concurred that the garage location would not have an adverse effect on the physical or environmental conditions in the neighborhood, but rather would be consistent with the land use and blend into the residential area. Finally, the Board members found that the need for the variance was not self-created, but was rather due to the slope and topography of the lot. Upon conclusion of their deliberation, Chairman Steinbach entertained a motion made by Member Schmidt to approve the area variances, both with respect to the side yard setback and the height of the proposed structure, which motion was seconded by Member Hannan. The motion was unanimously approved, and the area variances granted.

The next item of business on the agenda was the Duncan Meadows Planned Development District amendment, which is before the Zoning Board for review and recommendation. Appearing for the Applicant were Peter Yetto, P.E., as well as Dr. Paren Edwards and Peter

Amato. Mr. Yetto presented a brief update, noting that only minor technical modifications had been made to the plan as a result of review by the Town consulting engineer. Mr. Yetto reviewed the proposed layout of the project, which continues to provide for a total of 88 units and 176 bedrooms, but reducing the total number of buildings from 11 to 8, and increases the total number of units per building from 8 to 11 units. Mr. Yetto stated that the balance of the project remains essentially unchanged, with no significant changes to the water or sewer design or demands, and no significant changes to the stormwater plan. Mr. Yetto also stated that given the same number of units and total bedrooms, that the traffic generation and school age children for the project remained essentially unchanged. Mr. Yetto did note that since the total impervious area has been reduced through reduction in total number of buildings and a small reduction in road length, that the stormwater ponds are similarly reduced in size given the reduced stormwater runoff. Mr. Yetto also noted that the project design had been reviewed by the Town's consulting engineer, Town Water and Sewer Department, as well as the Fire Department. Attorney Gilchrist noted that the Brunswick Planning Board had completed its review and written recommendation, and that a copy of that recommendation had been forwarded to the Zoning Board and had been reviewed by the Zoning Board members. Member Schmidt confirmed that he had reviewed the Planning Board recommendation, and concurred that the current proposed amendment did not result in any significant changes to the overall project that was previously approved by the Town. Member Trzcinski addressed issues concerning the road layout and parking areas with Mr. Yetto. Member Balistreri confirmed that there was only one access point in and out of the project road, and Mr. Yetto stated that this was consistent with the prior project design approved by the Town, but that the Applicant had now added a boulevard which helps promote two way traffic in and out of the facility. Member Balistreri wanted to confirm that there was no proposed expansion in the future. Mr. Yetto stated

that there was no proposal for expansion, and that the areas outside of the building envelope would remain green. Chairman Steinbach confirmed that he had also reviewed the Planning Board's findings and recommendation, that he was generally in agreement with the proposed amendment as represented by the Applicant, and felt the Zoning Board should consider concurring in and adopting the recommendations of the Planning Board. The remaining Zoning Board members agreed with this approach. Accordingly, Member Hannan made a motion to adopt the findings and recommendations set forth in the Brunswick Planning Board's recommendation for this application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the Zoning Board recommendation on the proposed amendment to the Duncan Meadows Planned Development District adopts and incorporates the findings and recommendations set forth by the Brunswick Planning Board.

The next item of business on the agenda was the Oakwood Property Management Planned Development District application, which was before the Zoning Board for review and recommendation. Chris Boyea of Bohler Engineering was present for the Applicant, and gave a brief presentation regarding the project. Mr. Boyea generally described the project, which proposes 250± apartment units in a mix of building styles and sizes for the project site. The project site consists of approximately 80 acres, and is proposed for the area of the prior mulch operation conducted by Oakwood Property Management. Mr. Boyea confirmed that in connection with the project development, the mulch operation would cease, and the property would be transitioned to residential/apartment use. Mr. Boyea stated that there were two access ways proposed off Oakwood Avenue, and generally reviewed the site traffic flow. Mr. Boyea confirmed that the Brunswick Planning Board had completed its review and recommendation on this application. Member Trzcinski inquired as to the total number of parcels included in the project. Attorney Gilchrist reviewed with the Zoning Board members that the application

included 4 tax parcels, including the "Schools & Cemeteries" and "Agricultural A-40" parcels that were the subject of the prior zoning litigation between the Town of Brunswick and Oakwood Property Management, LLC. The application also includes the 5 acre industrial parcel on which Oakwood Property Management has its office and garage, as well as an adjacent parcel to the north which Oakwood Property Management previously acquired and which is also zoned industrial. Member Trzcinski confirmed that the internal road system for this project would remain private, and be maintained by the private owner. Chairman Steinbach inquired about traffic generation, and whether the traffic light which is to be installed at the intersection of Oakwood Avenue and Farrell Road would impact this project. Mr. Boyea stated that the Planning Board had also raised this issue, and that his office was analyzing that issue and it would be addressed during the SEQRA review conducted by the Town Board. Member Balistreri asked about the area immediately adjacent to Oakwood Avenue, and whether that was included in the PDD application. Mr. Boyea stated that all of the property adjacent to Oakwood Avenue owned by the property owner and located in the Town of Brunswick was within the PDD proposal, but that most of the area adjacent to Oakwood Avenue consisted of wetlands and was not being proposed for construction. Member Trzcinski confirmed that the former greenhouse structures located on the parcel located in the northern area of the project site would be removed. Mr. Boyea confirmed that the greenhouse structures would be removed if the PDD is approved for construction. Member Steinbach confirmed that the Planning Board recommendation had been received and reviewed by the Zoning Board members, and that he generally concurred with those findings and recommendations, noting that issues concerning lighting and noise would be reviewed as part of the SEQRA review and considered by the Town Board. The Zoning Board members generally concurred that upon review of the Planning Board recommendation, the Zoning Board members concurred in those findings and recommendations.

Hearing this, Chairman Steinbach entertained a motion by Member Trzcinski to adopt the findings and recommendations contained in the Planning Board recommendation on this application, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the Zoning Board adopted and incorporated the findings and recommendations set forth in the Brunswick Planning Board's recommendation on this application. Attorney Gilchrist reviewed the specific considerations and conditions set forth in the Planning Board recommendation, noting for the record that the areas located to the east of the building envelope for this project which are currently in a treed and vegetated state would remain in a green and vegetated state and act as a vegetated buffer between the apartment use and the residential uses located to the east in the North Forty subdivision. Chairman Steinbach entertained a comment from Michael Schongar, who was present at the meeting, who stated for the record that he was in favor of a residential use for this location and was happy that the prior mulch operations would cease, that he felt the maintenance of the vegetated buffer was a good idea, and was looking forward to having the noise conditions generally improved.

There were two items of new business discussed.

The first item of new business discussed was an area variance application submitted by Dolores Coblisch, 10 Petticoat Lane, for the maintenance of an existing shed used as a chicken coop on the parcel. Ms. Coblisch stated that as a result of a complaint by her neighbor, the Town of Brunswick informed her that the shed was in violation of the front setback and side yard setback requirements of the Code, necessitating the current application seeking an area variance. Ms. Coblisch generally discussed the use and location of the shed as a chicken coop on the parcel, handing up a schematic of the site. Ms. Coblisch explained that a 60' front yard setback is required for this zoning district, and that a 20' front yard setback is being proposed. Ms. Coblisch also stated that a right yard setback of 15' is required, whereas a 10' side yard setback is being

proposed. Ms. Coblisch explained that she purchased this house approximately 2 years ago, and that another neighbor had offered her the shed because Ms. Coblisch's daughter wanted to raise and show chickens. Mr. Kreiger confirmed that a chicken coop was allowed in this zoning district, and that the size of this particular coop did not require a building permit, however, the location of the chicken coop did need to meet setback requirements in the zoning code. Member Hannan inquired how many chickens were housed in the chicken coop. Ms. Coblisch stated that she owned 6 chickens, and that 5 more were currently being housed in the chicken coop. Chairman Steinbach asked if the structure was moveable. Ms. Coblisch confirmed that the coop was moveable, that it is currently just sitting on the ground, and that there is no base or foundation. Chairman Steinbach confirmed with Mr. Kreiger the history of this matter, including letters issued from the Town Building Department requiring code compliance for setbacks, and the need for the subject area variance application. Ms. Coblisch then offered that she could move the shed further to the rear of the property and meet the 60' front setback, but that she cannot meet the side yard setback because there would not otherwise be access to the backyard if the shed was moved more toward the rear of the lot adjacent to the house. Member Trzcinski confirmed that the Zoning Board members had access to the parcel to take a look at the chicken coop in its location on the lot. Ms. Coblisch confirmed the Zoning Board members had access to her lot. The Zoning Board members concurred that there was adequate information in the application to conduct a public hearing. This matter is set down for public hearing for the September 16 meeting to commence at 6:00 p.m.

The next new item of business addressed was an area variance application submitted by Monolith Solar on behalf of Kathryn Knipple for property located at 144 Brunswick Road. Chris Hall of Monolith Solar was present on the application, together with another representative of Monolith Solar. Mr. Hall reviewed the history of this matter, which included the Town issuing a

building permit for the installation of a ground mount solar panel array. The building permit issued was for a solar panel array installation location that was in compliance with the setback requirements for the zoning district. The location for the installation was later shifted closer to the property line, without notice to the Building Department. Mr. Hall stated that the adjacent neighbor, whose lot line was closest to the solar panel location, had agreed to the new solar panel location and did not have a problem with it. Mr. Hall stated that the new location for the solar panel installation provided for the best location in terms of sun access, a shorter run for electrical connection, and addressed a slope issue on the lot. The solar panel array was installed 5 feet from the side yard lot line. After the installation was complete, the adjacent property owner did notify the Town that the solar panel array had been built in a location that did not meet the setback requirements. Mr. Hall did confirm that the building permit that was issued stated that a 15' side yard setback would be maintained, but that it was ultimately built to within 5' of the side yard lot line. Mr. Hall did say that the lot was heavily treed, and that the solar panel array was barely visible from surrounding properties. Chairman Steinbach asked why the company had not consulted the Building Department before constructing in the revised location. Mr. Hall confirmed that this was an honest mistake, and that he should have gone to the Building Department but had neglected to do so. Member Hannan asked whether one section of panels could be removed, so that the entire solar panel array did not need to be relocated. Mr. Hall stated that this was not an option due to the framing for the solar panel array, but that if the entire array did need to be relocated he could move the entire solar panel rack 10' to meet the 15' side yard setback requirement, but that the Applicant was proposing the area variance to allow the solar panel array to stay in its current location. The Zoning Board members concurred that the application contained sufficient information to conduct the public hearing. This matter is set down for public hearing at the September 16 meeting to commence at 6:00 p.m.

The index for the August 19, 2013 meeting is as follows:

1. McDonald's USA, LLC – area variance for signage – granted.
2. Russell – area variance – granted.
3. Duncan Meadows Planned Development District Amendment – review and recommendation – recommendation adopted.
4. Oakwood Property Management, LLC Planned Development District – review and recommendation – recommendation adopted.
5. Coblish – area variance – 9/16/13 (public hearing).
6. Monolith Solar – area variance – 9/16/13 (public hearing).

The proposed agenda for the September 16, 2013 meeting currently is as follows:

1. Coblish – area variance (public hearing).
2. Monolith Solar – area variance (public hearing).

TUCZINSKI, CAVALIER & GILCHRIST, P.C.

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August 27, 2013

Hon. Philip H. Herrington
Supervisor Town of Brunswick
336 Town Office Road
Troy, New York 12180

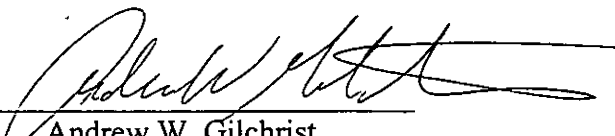
Re: Duncan Meadows Planned Development District Second Amendment

Dear Supervisor Herrington:

In response to the referral made by the Town of Brunswick Town Board, enclosed please find the written recommendation of the Town of Brunswick Zoning Board of Appeals concerning the above-referenced application.

Respectfully yours,

TUCZINSKI, CAVALIER & GILCHRIST, P.C.

By: 
Andrew W. Gilchrist

AWG/tla
Enc.

cc: Dan Casale
James Sullivan
Patrick Poletto
Gordon Christian
Thomas Cioffi, Esq.
Susan Sherman
Mark Kestner, P.E.
Peter Yetto, P.E.
Russell Oster
Michael Czornyj
Frank Esser

Kevin Mainello
David W. Tarbox
Vince Wetmiller
Timothy Casey
Martin Steinbach
James Hannan
E. John Schmidt
Caroline Trzcinski
Mark Balistreri

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August 27, 2013

Hon. Philip H. Herrington
Supervisor Town of Brunswick
336 Town Office Road
Troy, New York 12180

Re: Oakwood Property Management, LLC Planned Development District

Dear Supervisor Herrington:

In response to the referral made by the Town of Brunswick Town Board, enclosed please find the written recommendation of the Town of Brunswick Zoning Board of Appeals concerning the above-referenced application.

Respectfully yours,

TUCZINSKI, CAVALIER & GILCHRIST, P.C.

By: 

Andrew W. Gilchrist

AWG/tla
Enc.

cc: Dan Casale
James Sullivan
Patrick Poletto
Gordon Christian
Thomas Cioffi, Esq.
Susan Sherman
Ronald LaBerge, P.E.
Robert Osterhout, P.E.
Russell Oster
Michael Czornyj
Frank Esser

Kevin Mainello
David W. Tarbox
Vince Wetmiller
Timothy Casey
Martin Steinbach
James Hannan
E. John Schmidt
Caroline Trzcinski
Mark Balistreri

Zoning Board of Appeals

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

RECOMMENDATION OF THE BRUNSWICK ZONING BOARD OF APPEALS ON APPLICATION FOR OAKWOOD PROPERTY MANAGEMENT PLANNED DEVELOPMENT DISTRICT

At its regular business meeting held August 19, 2013, and after having been presented with information on the proposed Oakwood Property Management Planned Development District by owner/applicant at its meeting held July 15, 2013; and after having discussed and deliberated on the application materials and project presentation at its meetings held July 15, 2013 and August 19, 2013; and after receiving and reviewing the written recommendation of the Brunswick Planning Board on this application; and upon concurrence of the Zoning Board members with the findings and recommendation of the Brunswick Planning Board on this application; and upon motion of Member Trzcinski and the second thereto by Member Schmidt; the Zoning Board of Appeals unanimously determined to adopt and incorporate the findings and recommendations set forth in the written recommendation of the Brunswick Planning Board as its findings and recommendation in this matter. Accordingly, the Brunswick Zoning Board of Appeals makes the following findings and recommendation regarding the application for the Oakwood Property Management Planned Development District:

1. The Brunswick Zoning Board of Appeals adopts a favorable recommendation on the Oakwood Property Management Planned Development District application, subject to the following considerations:

- a. The building envelope for that part of the Planned Development District situated on Tax Map Parcel #s 90.00-1-12.2 and 90.00-1-13.1 should generally be limited to the areas previously graded, and appropriate consideration should also be made about areas of disturbance for building purposes on Tax Map Parcel #90.00-1-15;
- b. The areas of existing vegetation between the previously-graded areas identified as the building envelope and the North Forty Subdivision located to the east should be maintained as permanent vegetative buffering between this proposed apartment project and the North Forty Subdivision; any walking trails, gazebo, or other such amenities in this area should be reviewed by the Planning Board during site plan review, and that any such amenities should be consistent with the use of such area as a vegetative buffer;

- c. The Town Board should further consider appropriate buffers from the building envelope and lands located to the north and south of the project site; to the north, the property is currently zoned industrial, and appropriate buffering between apartment use and industrial use should be considered; to the south, the property is currently used as cemetery use, and appropriate buffering between the cemetery use and apartment use should be considered;
- d. In connection with the proposal, a proposed lot line adjustment for Tax Map Parcel #90.00-1-14 must be considered, including dividing a portion of that parcel for inclusion in the proposed apartment project use; however, the Town Board needs to further consider appropriate lot line adjustments for the existing automobile building located on Tax Map Parcel #90.00-1-14, and that appropriate setbacks are maintained for this existing building;
- e. This recommendation is based on the current general project layout and building locations, and that general concept plan should be maintained; in the event there is any significant alteration to the project layout, further review and recommendation from the Zoning Board of Appeals should be sought;
- f. Stormwater management for this project must be carefully considered and reviewed, particularly in light of downgradient current land uses;
- g. The Town Board should carefully consider ingress and egress from the project site onto Oakwood Avenue, particularly in light of the new traffic signal which is planned to be installed at the Oakwood Avenue/Farrell Road intersection in connection with the Stoneledge apartment project;
- h. The Town Board should carefully consider the appropriate water and sewer connection points, and particularly that such connection points be done in a manner most beneficial to the Town of Brunswick, including future water and sewer needs for properties located to the north on Oakwood Avenue.

August 19, 2013

TOWN OF BRUNSWICK ZONING BOARD OF APPEALS
By: Martin Steinbach, Chairman

Zoning Board of Appeals

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

RECOMMENDATION OF THE BRUNSWICK ZONING BOARD OF APPEALS ON APPLICATION FOR SECOND AMENDMENT TO THE DUNCAN MEADOWS PLANNED DEVELOPMENT DISTRICT

At its regular business meeting held August 19, 2013, and after having been presented with information on the proposed second amendment to the Duncan Meadows Planned Development District by owner/applicant at its meeting held July 15, 2013; and after having discussed and deliberated on the application materials and project presentation at its meetings held July 15, 2013 and August 19, 2013; and after receiving and reviewing the written recommendation of the Brunswick Planning Board on this application; and upon concurrence of the Zoning Board members with the findings and recommendation of the Brunswick Planning Board on this application; and upon motion of Member Hannan and the second thereto by Member Schmidt; the Zoning Board of Appeals unanimously determined to adopt and incorporate the findings and recommendations set forth in the written recommendation of the Brunswick Planning Board as its findings and recommendation in this matter. Accordingly, the Brunswick Zoning Board of Appeals makes the following findings and recommendation regarding the application for second amendment to the Duncan Meadows Planned Development District:

1. Based upon the application materials and representations of the Applicant, the Zoning Board of Appeals generally finds that this proposed second amendment to the Duncan Meadows PDD will not result in any significant impacts which were not adequately analyzed and considered in the prior project review, and while the proposed amendment reduces the total number of buildings it maintains the total number of bedrooms at 176 total bedrooms, and therefore any resulting changes to potential traffic counts, school aged children generation, stormwater, public water, and public sewer requirements, the Zoning Board of Appeals finds that these changes are not significant.

2. The Zoning Board of Appeals finds that with the elimination of 3 buildings, the total amount of greenspace for this phase of the project is increased, which provides a benefit to the general area in terms of maintenance of existing vegetated greenspace areas.

3. The Zoning Board of Appeals further finds that the relocation of parking spaces off the main boulevard road to the rear loop road area is a positive change and promotes overall public safety.

4. The Zoning Board of Appeals considers the fact that the road servicing these apartment buildings will remain private, and is not designated nor intended to become a public roadway, to be a significant factor. The Zoning Board of Appeals also considers the fact that the apartment buildings will remain a total of 2 stories to be a significant factor, and will be consistent with the 50-unit apartment building that is part of the Duncan Meadows PDD and also the adjacent Sugar Hill and Glen apartments.

5. The Zoning Board of Appeals therefore adopts a positive recommendation on the proposed second amendment to the Duncan Meadows PDD to allow the construction of 88 apartment units to be located in eight (8) buildings, eleven (11) units per building, with a maximum of 2 stories per building, in place and instead of the previously-approved 88 condominium units which were previously approved for a total of eleven (11) buildings, eight (8) units per building.

August 19, 2013

TOWN OF BRUNSWICK ZONING BOARD OF APPEALS
By: Martin Steinbach, Chairman

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD September 16, 2013

PRESENT were MARTIN STEINBACH, CHAIRMAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ABSENT was JAMES HANNAN.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board of Appeals members reviewed the draft minutes of the August 19, 2013 meeting. Upon motion of Member Trzcinski, seconded by Member Schmidt, the minutes of the August 19, 2013 were unanimously approved without amendment.

The first item of business on the agenda were the area variance applications submitted by Dolores Coblisch for property located at 10 Petticoat Lane. The matter was scheduled for public hearing. The notice of public hearing was read into the record, with that public hearing being published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed to owners of all adjacent property. Chairman Steinbach requested the Applicant to make a brief presentation concerning the requested area variances, and whether there have been any changes to the application since the last meeting. Mrs. Coblisch stated that there were no changes to the application, that she cannot meet the setback requirements in the Brunswick Code for the chicken coop on her property, and has requested that the Town issue area variances both from the side yard setback requirements and the front yard setback requirements for the placement of the chicken coop. Chairman Steinbach then opened the meeting for receipt of public comment, and inquired whether there was anyone present at the meeting to speak in favor of the project.

No members of the public wished to speak in favor of the project. Chairman Steinbach then inquired whether there were any parties wishing to speak in opposition to the application. Dave Shields, 8 Petticoat Lane, stated that he was against the application, that the chickens create a very loud noise in the morning, that the chickens created a stench in the hot summer, that the shed used for the chicken coop was an eye soar for the neighborhood, that there was a deed restriction for this neighborhood which prohibited chickens, that the Applicant could not state exactly where the property line was and therefore could not state the full extent of the variances that are required, that the shed used for the chicken coop could be put in the backyard behind an existing 6' stockade fence, that he did not like the fact that the side of the shed facing the neighboring property was painted orange while the rest of the shed was painted green, that there was some kind of bath or pool in the chicken coop and that the water from that pool was routinely dumped on the ground and was killing vegetation on the Shield's property, that the shed was also used for ducks and rabbits as well, and that part of the stockade fence located on 10 Petticoat Lane may in fact be on his property as well. Mr. Shields handed up to the Zoning Board members a copy of the deed restriction which he referenced in his comments, and a series of photographs for the record. Mr. Kreiger noted that he had received two email communications in opposition to the application, one from Paul Macari, who lives at 14 Petticoat Lane, and one from Erin Macari, also residing at 14 Petticoat Lane. Chairman Steinbach generally reviewed these email submittals, noting that certain portions of the emails were not relevant to the issues to be determined by the Zoning Board. Additional members of the public then arrived at the meeting. Tammy Fanfa, 12 Banbury Lane, stated that she was here to speak in favor of the application, that the Coblish family took good care of the chickens and maintained the chicken coop well, that Mrs. Coblish's daughter was participating in 4H and trying to learn

appropriate care for the chickens, and that generally the community needs more people involved in agriculture. Philip Herrington, 748 Tamarac Road, stated that he was not speaking as Supervisor of the Town but in his individual capacity, and was not speaking either in favor or opposed to the application, but was curious and wanted to know why the chicken coop was painted green on three sides but painted orange on the side facing the neighbor's house. No answer was provided by the Applicant. Chairman Steinbach then inquired whether there were any more members of the public wishing to offer comment on the application. Hearing none, the Zoning Board unanimously approved a motion to close the public hearing. The Zoning Board members then proceeded to deliberate on the information submitted by the Applicant as well as the comments received during the public hearing. Initially, Chairman Steinbach offered general comments that he feels the chicken coop does have a negative effect on the character of the Petticoat Lane neighborhood, that the property owners had created this situation by placing the chicken coop in its current location, and that there was an alternative location on the property for this chicken coop which would be in compliance with the setback requirements for the Town. Member Schmidt stated that in his experience, chickens do smell and draw rats and other vermin, and that he would not want a chicken coop within 100' of his house. Member Schmidt felt that the chicken coop could be moved into the backyard, and also inquired with Mr. Kreiger whether another existing shed in the backyard met the setback requirements for the property line. Mr. Kreiger stated that he would look into that situation. Member Schmidt stated that the lot at 10 Petticoat Lane was no bigger than 0.5 acre, and that there was already a house, deck, pool, and shed on that lot, and now an additional shed used as a chicken coop had been placed on that lot, and that the lot was not big enough to accommodate all of these structures. Mrs. Coblisch responded that she could meet the front yard setback by moving the chicken coop deeper into the

lot, but that she could not get the chicken coop into the backyard. Member Schmidt questioned why the chicken coop could not be placed in the backyard. Attorney Gilchrist then stated that the Zoning Board should review the application for compliance with the elements for area variance. Initially, Attorney Gilchrist stated that an area variance for residential purposes is a Type II action under SEQRA, and no further SEQRA determination is required pursuant to the SEQRA regulations. Attorney Gilchrist then reviewed the required elements for the grant of an area variance with the Zoning Board, and the Zoning Board members discussed each element. First, as to the element of whether the area variances would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairman Steinbach reiterated his earlier comments that he felt the placement of the chicken coop in the requested location in the front yard of 10 Petticoat Lane did result in an undesirable change in the character of the neighborhood and created a detriment to nearby properties. The Zoning Board members generally inquired as to the effect of the deed restriction which was provided to the Board during the public hearing. Attorney Gilchrist stated that the Town is not in the position of enforcing a private deed restriction, but that such a deed restriction is relevant on the issue of the character of the neighborhood. Attorney Gilchrist explained that in the event the deed restriction was included in the deeds to this neighborhood, so that a general plan or scheme of development was created where certain uses, including the housing of chickens, was prohibited, that information should be considered by the Zoning Board members in relation of the character of the neighborhood. The Zoning Board members generally requested a copy of the Coblish deed from the Applicant. The remaining Zoning Board members also concurred that, in their opinion, the location of this chicken coop in the front yard of this lot did create an undesirable change in the character of the neighborhood. Attorney Gilchrist then reviewed the second necessary element

for the area variance, which is whether the Applicant can achieve the benefits sought through the area variance by some other feasible method. On this element, all of the Zoning Board members generally concurred that there was an alternate location available on the lot to place the chicken coop so that it is in compliance with the setback requirements. The Zoning Board next reviewed the third element, which is whether the requested area variances are substantial. Member Balistreri stated that he felt the requested side yard variance was not substantial, but that the front yard variance request was substantial. Mrs. Coblisch responded that she could meet the front yard setback requirements and move the shed deeper into the lot so that it is in front of the stockade fence to the side of the house, but that she could not meet the side yard setback. Chairman Steinbach agreed that the chicken coop could be relocated deeper into the lot near the existing stockade fence and meet the front yard setbacks, and questioned whether the coop could then be moved closer to the house to meet the side yard setbacks. Mr. Kreiger stated that the coop must also be at least 10' from the house in order to meet Code requirements. Member Schmidt stated that in his opinion, even with respect to the side yard setback, whether the amount of that setback was substantial was relative given the size of the lot. In his opinion, a request to reduce a 15' side yard setback to 10' is substantial given the relatively small size of the lot. The Zoning Board then reviewed the fourth element for the area variances, which requires the Board to consider whether the area variances will have an adverse effect on the physical or environmental conditions in the neighborhood. On this element, Member Schmidt again stated that in his opinion, a chicken coop has an odor and attracts rats and other vermin. Mrs. Coblisch disputed this opinion, stated that she keeps the chicken coop very clean, and that they have never seen any rats or vermin. Member Trzcinski stated that it was the feed for the chickens which drew rats. Mrs. Coblisch stated that they keep all feed for the chickens in sealed cans, and they have never

seen any rodents. The Zoning Board members also found that the bath or pool water maintained in the chicken coop and then being dumped on the ground did present a potential adverse effect on the physical and environmental condition in the neighborhood. The Zoning Board then discussed the fifth element, which is whether the difficulty and need for the area variance is self-created. All of the members concurred that this difficulty was self-created when Mrs. Coblish had the shed used for the chicken coop placed in the front yard very near the front lot line and side yard lot line. Attorney Gilchrist then stated that since this matter had come before the Zoning Board as part of an enforcement effort by the Building Department, it would be advisable to have the Zoning Board's deliberation and conclusions drawn up into a formal written decision, which could then be reviewed at the October 21 meeting. The Zoning Board members then generally concurred. The Zoning Board then unanimously approved a motion to keep this matter open and adjourned to the October 21 meeting for review of a proposed written decision.

The next item of business on the agenda was the area variance application submitted by Monolith Solar on behalf of Kathryn Knipple. This matter was before the Board for public hearing. The notice of public hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach requested the Applicant to make a brief presentation, and state whether there had been any changes to the application since last month's meeting. Chris Hall of Monolith Solar made a general presentation, noting there had been no changes since the last Zoning Board meeting. Mr. Hall stated that Mrs. Knipple told Monolith Solar that the ground mount solar panel array could be constructed 5' off the side yard property line because the neighbor had agreed. Mr. Hall stated that the current location for the solar panel array provides the maximum solar energy production,

and is least visible from both the front and side yard. Mr. Hall stated that if the area variance is denied by the Zoning Board, Monolith Solar will relocate the ground mount solar array system in the back yard to meet the setback requirements. Mr. Hall did state that if the Zoning Board did approve the side yard area variance, the current location of the solar array system provides the best location from a solar energy production viewpoint and visibility viewpoint. Member Balistreri asked whether the company will agree to relocate the solar array to meet the side yard setback requirements. Mr. Hall confirmed that the company would relocate the solar array if required. Member Schmidt asked whether the relocation of the solar array system would change the effectiveness of the system. Mr. Hall did confirm that relocating the solar array system would reduce its effectiveness. Chairman Steinbach then opened the floor for receipt of public comment. Chairman Steinbach first inquired whether anyone was present to speak in favor of the application. No public comments in favor of the application were made. Chairman Steinbach then inquired whether there were any comments in opposition to the area variance application. Chris Brown, 1 Kenworth Avenue, stated that his property was directly adjacent to the Knipple property, and that he was friends with Mrs. Knipple and that she was a good neighbor, but that he did have a problem with Monolith Solar. Mr. Brown stated that the neighbor's approval to have the solar panel array 5' from the side lot line was not obtained until after the ground mount solar panel array system was installed. Further, Mr. Brown stated that while Monolith Solar argues the ground mount system is only viewable from 144 Brunswick Road, that is not true since he can clearly see the solar array system from his property. Mr. Brown stated that the solar unit, which approximately 14' x 40', is only 65 yards from his front door, and that it is clearly visible from his home. Mr. Brown stated that the neighbors knew nothing about this solar panel installation until the installation was complete. Mr. Brown stated

that he wants Monolith Solar and Mrs. Knipple to comply with the Town requirements, since he needed to comply with the Town requirements and obtain all necessary approvals to install a pool and shed on his property. Mr. Brown stated that he was not against solar panels or generation of solar power, but that he was against the visual impact of this solar panel location. Mr. Brown stated that he felt the ground mount solar panel array at this property was like having a billboard 65 yards from your front door, and that this did not fit in with the character of the neighborhood. Mr. Brown stated that the roof solar panel installations did not present any issue, and inquired why a ground mounted system was installed at 144 Brunswick Road. Mr. Brown stated that this project may in fact reduce the value of surrounding properties. Mr. Brown did hand up pictures of the solar panel array from the vantage point of his property. Mr. Brown concluded that this project did affect his property. David English, 142 Brunswick Road, stated that he was the first house directly to the west of 144 Brunswick Road and the solar panel installation location. Mr. English also stated that he was in full support of solar power generation and hydro power generation, and all forms of alternative green energy production. However, Mr. English stated that his property at 142 Brunswick Road was one of the original homes in that area, and was at least 100 years old. Mr. English stated since 1996, he was in the process of restoring the house to the original look, including period colors, shutters, windows, interior woodwork, historic furnishings, and that he had the porches rebuilt and the garden shed all done for purposes of period compliance. Mr. English stated that historic homes should be maintained, and not impacted by surrounding land uses. Mr. English stated that he has made a significant investment in his house. Mr. English stated that he had learned of the solar panel installations at 144 Brunswick Road only after the installation was complete. Mr. English feels that the ground mount solar panel at 144 Brunswick Road does not fit into the character of the

neighborhood. Mr. English felt that the ground mount solar panel array has an industrial look and is not appropriate for a residential area. Mr. English felt that this had a significant visual impact, and was like a billboard sitting next to your property. Mr. English stated that the size of the panels were significant, and were clearly visible from other properties. Mr. English stated that he did not know if the solar panel installation decreased surrounding property values, but he was clearly of the opinion that the surrounding property values would not increase. Mr. English stated that one major drawback to properties on Brunswick Road was the traffic, and that extra effort should be made on maintaining and renovating properties to detract from the traffic impact, and that the solar panel array impaired those efforts. Mr. English was of the opinion that we must do everything to avoid reduction in property values. Mr. English also stated that the fact that Monolith Solar was now applying for a permit after having already violated the Town Code requirements resulted in a difficult situation, and should be avoided in the future. Mr. English stated that it was particularly irksome when rules are not followed, particularly for a project which is government subsidized, which this project will be through tax incentives. Chairman Steinbach asked whether Mr. English could see the solar panel array from his property. Mr. English stated that he could view the supporting superstructure for the solar panel array from inside his house, and that he could see the entire solar panel array from his yard outside the house. Gerald Vien, 146 Brunswick Road, stated that he lives next door to Mrs. Knipple and that his property borders the Knipple parcel. Mr. Vien reiterated the comments of Mr. Brown, stating that he had no notice before the completion of the solar panel array 5' from his property line. Mr. Vien did state that he had no complaint regarding the location of the solar panel array 5' from his property line, and that he doesn't care whether the solar panels are 5' or 15' from his side yard line. Mr. Vien stated that he had constructed his own shed on his own

property close to the property line in the past, and that Mrs. Knipple had agreed to the location of his shed. Member Schmidt wanted to confirm that he did not have any complaint regarding the solar panel array being 5' from his side yard lot line. Mr. Vien repeated that he did not have any objection to the location of the solar panel 5' from his property line. Dennis Ludlum, 1 Glenkill Road, stated that he lived next to Mr. Vien, that he was new to the neighborhood, and that he was shocked at the size of the solar panel installation and that he had no prior notice of the installation, that he had no problem with solar panels and solar energy generally, but that the size of this array in relation to other residential properties was a problem, and the fact that this was installed without all Town Code compliance and that Monolith Solar was now seeking a permit after the fact was not right. Margaret Ludlum, 1 Glenkill Road, asked why the solar panel array at this location was a ground mount, and why wasn't it placed on the roof. Mr. Hall of Monolith Solar responded by saying that he apologized to the neighbors, that Monolith Solar wanted to put the system on the roof in the first instance but that Mrs. Knipple refused and wanted a ground mount system, that Monolith Solar had thought Mrs. Knipple would speak to her neighbors before the installation, that the installation 5' from the side yard lot line was the responsibility of Monolith Solar, but indicated that if the system is moved 10' further off the side lot line it will actually be moved closer to Mr. Brown's property, and further away from Mr. Vien's property who has no problem with the location. Chairman Steinbach inquired whether there were any further public comment. Carol Brown, 1 Kenworth Avenue, stated that every time she went out her front door she can see the solar panel array, and wanted to know if trees could be planted to shield the system from her view. Chris Brown, 1 Kenworth Avenue, asked whether any of the Zoning Board members have driven down Kenworth Avenue and looked at this location. All of the Zoning Board members confirmed that they had visited this site, including Kenworth

Avenue, and Member Balistreri stated that there were several photographs of the site in the file materials. Mr. Hall of Monolith Solar concluded by stating he understood the comments of the neighbors, and would be willing to do whatever the neighbors and the Town wanted in this situation. Chairman Steinbach then entertained a motion to close the public hearing. A motion was made by Member Trczinski to close the public hearing, which motion was seconded by Member Schmidt. The motion was unanimously approved and the public hearing on the Monolith Solar area variance application was closed. Attorney Gilchrist repeated that this was an area variance application for a residential use, and that the action qualified as a Type II action under SEQRA, and that no further SEQRA determination was required. The Zoning Board members then began to deliberate concerning the elements of the area variance. On the issue of whether the area variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Member Schmidt stated that the difference between the solar panel array being 15' from the side yard lot line and 5' from the side yard lot line did not result in a significant difference in the character of the neighborhood. Member Balistreri confirmed that the solar panel array would continue to be located in the yard of the Knipple property, and that the only issue before the Zoning Board was whether to grant a variance to allow the array to stay 5' from the side yard lot line, or to deny the variance and require the solar panel array to be relocated on the Knipple property so that it is in compliance with the 15' setback. Member Balistreri wanted to confirm that the size of the solar panel array system was not relevant, and that the only issue that the Zoning Board was dealing with was the amount of the setback from the side lot line. Chairman Steinbach allowed the neighbors to comment. Mr. Vien stated that he was not in opposition to having the solar panel array system 5' from his property line. Mr. Brown stated that he was in opposition to having the solar panel

array system moved closer to his house. Member Balistreri said that in some respect, moving the solar panel array so that it was in compliance with the 15' side yard setback requirement would actually create more of a detriment to the properties located on Kenworth Avenue. As to the second element, the Zoning Board members generally discussed whether the benefit sought by the Applicant could be achieved by some other feasible method. While the Zoning Board members generally concurred that Monolith Solar stated they could move the solar panel array, there was also a comment in the record that relocating the solar panel array to comply with the side yard setbacks would affect the efficiency and solar power production of the unit. As to the third element, the Zoning Board members generally concurred that the requested variance from a 15' yard setback to a 5' yard setback for the side lot line was not substantial given the neighborhood, and particularly in light of the closest neighbor having no objection to the location of the solar panels 5' from his property line. As to the fourth element of whether the variance would have an adverse affect on the physical or environmental conditions of the neighborhood, Chairman Steinbach did state that a visual impact issue had been raised, but that the visual impact would result whether the solar array was located 5' from the side yard lot line or 15' from the side yard lot line. On the fifth element of whether the difficulty was self-created, the Zoning Board members generally concurred that the difficulty was self-created, but that this was not determinative of the application. After further deliberation, the Zoning Board members wanted to focus on the second element as to whether a feasible alternative existed on the property, and directed Attorney Gilchrist to further investigate and research the issue of feasibility with respect to the reduced effectiveness and efficiency of the solar system if it were relocated on the property. Attorney Gilchrist stated that any additional factual information which Monolith Solar could supply on that issue would be beneficial for the record. The Zoning Board members

concluded to keep this matter open and adjourn the matter to the October 21 meeting. Member Balistreri made a motion to adjourn this matter and to carry it over to the October 21 meeting, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the matter held over to the October 21 meeting for further deliberation.

There were no new items of business to discuss.

The index for the September 16, 2013 meeting is as follows:

1. Coblish – area variance – 10/21/13.
2. Monolith Solar – area variance – 10/21/13.

The proposed agenda for the October 21, 2013 meeting currently is as follows:

1. Coblish – area variance.
2. Monolith Solar – area variance.

Zoning Board of Appeals

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

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD October 21, 2013

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

ABSENT was MARK BALISTRERI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The Zoning Board of Appeals members reviewed the draft minutes of the September 16, 2013 meeting. Upon motion of Member Trzcinski, seconded by Member Hannan, the minutes of the September 16, 2013 were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Dolores Coblisch for property located at 10 Petticoat Lane. Based upon the application materials, comments received by the Zoning Board at the public hearing held September 16, 2013, and deliberations by the Zoning Board members, a draft determination had been prepared at the direction of the Zoning Board members and read into the record, as follows:

An application has been submitted by Dolores Coblisch (hereinafter "Applicant") seeking two (2) area variances for property located at 10 Petticoat Lane in order to allow the continued placement and location of a shed utilized as a chicken coop on that parcel. The Applicant requests a variance from the front yard setback requirement and side yard setback requirement contained in the Brunswick Code.

Specifically, the Applicant seeks an area variance from the front yard setback requirements as follows: the application requests a 25 foot front yard setback¹, where the Brunswick Town Code requires a 60 foot front yard setback. The Applicant further seeks an area variance from the right side yard setback requirements as follows: the application requests a

¹ The Applicant stated on the record at the August 19, 2013 Zoning Board of Appeals meeting that a 20 foot front yard setback was requested. The Zoning Board will consider this to be an amendment to the application form, and will make its determination on a request for a variance seeking a 20 foot front yard setback.

10 foot right side setback, where the Brunswick Town Code requires a 15 foot right side yard setback.

This application was initially reviewed by the Zoning Board of Appeals at its meeting held August 19, 2013. Thereafter, the Zoning Board of Appeals held a public hearing on this application at its meeting held September 16, 2013. The public hearing on this application was closed by the Zoning Board of Appeals at the September 16, 2013 meeting. Thereafter, at its September 16, 2013 meeting, the Zoning Board members deliberated on the application documents, evidence submitted in the record by the Applicant, as well as all public comments received during the public hearing. Based on the record and deliberations of the Zoning Board members, the Zoning Board of Appeals hereby adopts the following determinations:

FACT FINDINGS

Based on the record and deliberations of the Zoning Board members, the Zoning Board of Appeals makes the following findings of fact:

1. A shed used as a chicken coop is situated in the front yard of the property located at 10 Petticoat Lane in a location that is approximately 20 feet from the front yard property line, and approximately 10 feet from the right side yard property line.
2. Petticoat Lane is a residential neighborhood, with residential lots of similar size (approximately 0.5 acre), and which was originally part of a subdivision known as "Cotswold Village".
3. Approximately 6-10 chickens are housed in the chicken coop located at 10 Petticoat Lane.
4. The chicken coop structure located at 10 Petticoat Lane is movable, is currently setting on the ground surface without foundation, and is capable of being relocated on that lot.
5. The three sides of the chicken coop facing the front yard property line (adjacent to Petticoat Lane), the left yard property line (the house located at 10 Petticoat Lane), and the rear yard property line (backyard) are painted green, whereas the fourth side of the chicken coop facing the right side property line (abutting the neighboring property) is painted orange.
6. A pool or other vessel for holding water is used in the chicken coop, and is periodically dumped directly onto the ground surface.
7. The use of the shed as a chicken coop presents the potential for noise, odor, and attraction of vermin in this residential neighborhood.
8. There is evidence of restrictions of record that were created as part of the "Cotswold Village" subdivision, which prohibit chickens or other fowls from being maintained, allowed, or harbored on any of the lots contained in the

"Cotswold Village" subdivision. Property owners have provided to the Zoning Board of Appeals copies of the recorded subdivision restrictions, including restrictions recorded in the Rensselaer County Clerk's Office at Book 1033, Page 121. These restrictions, in part, define the character of the Petticoat Lane neighborhood.

9. The Applicant has stated on the record that the chicken coop structure could be relocated on the lot at 10 Petticoat Lane so that there is compliance with the 60 foot front yard setback requirements of the Brunswick Town Code.
10. The size of the lot at 10 Petticoat Lane is approximately 0.5 acre, and there currently exists a house, deck, pool, and shed situated on that lot in addition to the subject chicken coop.

ANALYSIS

1. The Zoning Board determines that the requested area variances, including both the front yard setback variance and side yard setback variance, will result in an undesirable change in the character of the neighborhood and create a potential detriment to nearby properties. The Zoning Board determines that the placement of the shed used as a chicken coop in the current location in the front yard at 10 Petticoat Lane does change the residential character of the neighborhood, in which there are no other existing structures on the surrounding properties located in close proximity to the public road nor adjacent to the front yard of a neighboring property. The Zoning Board members also have considered the restriction of record which had been created as part of the "Cotswold Village" subdivision, and while acknowledging that this represents a private restriction for this neighborhood, it is a relevant consideration with respect to the character of that neighborhood. Potential impact to the character of the surrounding neighborhood is an important consideration in determining whether to grant or deny an area variance. In this regard, this restriction has, in part, defined the residential nature of this neighborhood, and the Zoning Board finds that the placement of the shed used as a chicken coop in the requested location is not consistent with the surrounding character of the neighborhood.
2. The Zoning Board determines that there exists a feasible alternative available to the Applicant other than the requested area variances. In this regard, the Applicant has conceded on the record that the chicken coop structure could be relocated on the lot at 10 Petticoat Lane to comply with the front yard setback requirements. With regard to the side yard setback requirements, the Zoning Board members find that while the chicken coop structure could not meet the side yard setback requirement when it is located parallel to the house, in light of the additional restriction that such structure must be located at least 10 feet from the house, there is available area in the rear yard which could be utilized for placement of this chicken coop structure and meet the side yard setback requirements.

3. The Zoning Board determines that the requested variance from the front yard setback requirements is substantial, requesting a variance reducing the required 60 foot front yard setback by 40 feet, or 66% from the required setback footage. With regard to the side yard setback requirements, the requested variance reducing the required 15 foot setback to 10 feet represents 33% from the side yard setback requirement, and is exacerbated given the small size of the lots in the Petticoat Lane neighborhood, and therefore is also a substantial variance.
4. The Zoning Board determines that the requested location of the chicken coop does result in a potential adverse effect on the physical and environmental conditions of the neighborhood. In this regard, the Zoning Board members find that the physical location as well as the colors of the shed/chicken coop structure presents a visual impact to the Petticoat Lane neighborhood, and the use of the structure in proximity to adjacent homes presents a potential noise impact. The Zoning Board members are cognizant of the Brunswick Zoning Code which permits the use of a chicken coop in this Zoning District, but also take notice of the character of this residential neighborhood and the restriction of record for the "Cotswold Village" subdivision when that neighborhood was first subdivided and created. On this issue, the Zoning Board members also find that the location of the chicken coop in the front yard is a potential attraction for rodents and other vermin, and dumping the standing water from the pool or vessel used in the chicken coop directly onto the ground surface has the potential to effect the physical environment.
5. The Applicant has conceded that the shed structure which is used for the chicken coop was obtained after the Applicant purchased the property approximately 2 years ago, and was simply placed on the ground surface at its current location at the convenience of the Applicant. In this regard, the Zoning Board members find that the difficulty and need for the area variances is self-created.

DETERMINATION

Based on the findings of fact and analysis stated above, and upon the review of the evidence in the record and all comments received during the public hearing, and in balancing the benefit to the Applicant if the variances are granted as weighed against the detriment to the health, safety and welfare of the neighborhood by such grant, the Zoning Board of Appeals hereby denies the requested area variances in this matter.

Chairman Steinbach discussed the draft decision with the Zoning Board members. The Zoning Board members had no additional comments or proposed changes to the draft decision. Chairman Steinbach then entertained a motion to adopt a resolution approving the written decision on the Coblish area variance application. Such motion was made by Member Schmidt

and seconded by Member Hannan, and was unanimously approved, thereby adopting the written decision on the area variance application by Dolores Coblisch as the final determination in this matter.

The second item of business on the agenda was the area variance application submitted by Monolith Solar on behalf of Kathryn Knipple for property located at 144 Brunswick Road. Greg Crawford of Monolith Solar was present for the Applicant. Chairman Steinbach inquired whether there was any additional information which Monolith Solar sought to hand up to the Zoning Board in connection with its determination in this matter. Mr. Crawford handed to the Zoning Board members additional information regarding the costs of relocating the solar panel array and also the impact on efficiency of the solar panel array system if relocated. The information provided by Mr. Crawford states that the cost for relocating the solar panel array on this property totals \$4,300. Mr. Crawford also stated that relocating the solar panel array to 15 feet from the side property line would result in a 1.63% reduction in efficiency of the system and production of energy. Chairman Steinbach noted that denial of the variance request could result in a minor reduction in efficiency and overall energy production, but that the solar panel array would still be functional and produce energy at a new location on this parcel. Mr. Crawford confirmed this. Member Schmidt noted for the record that additional legal research has been undertaken by the Zoning Board on the issue of whether available alternative locations are feasible in light of impact to system efficiency. Member Trczinski inquired for the record whether Monolith Solar had originally applied to the Town Building Department for a building permit to install the solar panel array 15 feet from the side yard property line. Mr. Crawford confirmed that the building permit was issued for installation of the solar panel array 15 feet from the property line. Member Trczinski also inquired for the record whether it was the owner,

Katherine Knipple, who wanted the solar panel array moved closer to the property line, rather than the location sought pursuant to the building permit application. Mr. Crawford confirmed that the owner did seek to have the solar panel array moved closer to the property line, but suggested that she did receive permission from the adjoining neighbor to do so. Mr. Crawford confirmed for the record that in the event the area variance is granted, Monolith Solar would work with the property owner and neighboring owners to do whatever it could in terms of vegetative screening so that the solar panel array was not as visible to the neighboring property owners. Member Hannan inquired of Mr. Crawford that if Monolith Solar knew it required an initial building permit and was aware of the Town Regulations, why did Monolith Solar not continue to comply with those regulations on the location of the solar panel array installation. Mr. Crawford explained that he was not fully aware of the set back requirements until the piers for the solar panel array had already been installed. Member Hannan stated that Monolith Solar is not a new company to the industry, and that if a ground mount solar panel array installation is sought, the company should know better and should check with the Town requirements before starting the installation. Mr. Crawford conceded that he was new to the position at Monolith Solar, and was not fully aware of the Town requirements. Member Hannan stated that he understood that solar panels and ground mounted solar panel installations will continue, but that the Town should insist on having the installations comply with Town Code requirements. Chairman Hannan asked whether Monolith Solar would absorb the costs of relocating this solar panel array if the area variance was denied. Mr. Crawford confirmed that Monolith Solar would absorb the costs. Ryan Guay, a project manager with Monolith Solar was also present at the meeting, and also confirmed on the record that he was new to the position, and that unfortunately, this matter had fallen through the cracks. Member Hannan stated that he was

aware that both Mr. Crawford and Mr. Guay may be new to Monolith Solar, and that this matter may have arisen as a result of a mistake, but he was concerned regarding the precedential nature of a decision in this matter. In the event the area variance was denied, Member Hannan stated that this was not to be viewed as a punishment for a mistake having been made, but rather a concern on the part of the Town that its code requirements are followed and that this matter does not create a negative precedent. The Zoning Board members then generally deliberated that it appeared on the information contained in the application and during the public hearing that an alternative was available to the Applicant, but that the issue of whether this alternative was feasible given costs and impact to equipment efficiency should be considered. The Zoning Board members generally concurred that this difficulty had been self-created. Member Trczinski noted for the record that Monolith Solar has stated if the area variance is granted, it would have the economic resources to work with the neighboring property owners to plant trees or bushes to help screen the solar panels from the neighboring properties, but if the solar panel array must be relocated, the costs of relocation may impact the ability to have vegetation for screening purposes. One of the neighboring property owners, Chris Brown, was present at the meeting, and Chairman Steinbach allowed him to speak. Mr. Brown stated that he was generally aware of the location of the septic and leach field on the Knipple property, and he raises the issue of whether the proposed relocated position would impact the leach field. The Zoning Board members generally discussed that issue, and ultimately determined that this information would be relevant to the application, and directed Monolith Solar to provide such information to the Board members for consideration. Attorney Gilchrist stated that unless the timeframe is extended by the Applicant, the Zoning Board must render a decision on this area variance application within 62 days of the close of the public hearing, which would require the Zoning

Board to render its final determination no later than its November meeting. There was general discussion on the timeframe needed to supply information concerning the leach field on the Knipple property, and in this regard, the Zoning Board members inquired of the Applicant whether it would consent to extend the time period in which the Zoning Board must render its decision on this application until the Zoning Board's December meeting. Monolith Solar, on behalf of the property owner Katherine Knipple, granted that extension to the Zoning Board, which now permits the Zoning Board to render its final determination on this application through and including its December 2013 meeting. Concerning the information on the leach field, Chairman Steinbach directed that Monolith Solar supply more than simply a concept plan, but rather the Zoning Board was looking for specific information in the nature of an as-built plan for the septic and leach field, which should also locate the current location of the solar panel array. The Zoning Board directed that Monolith Solar supply the information concerning the septic and leach field on the Knipple property on or before November 12, 2013, and that this matter is placed on the November 18 agenda for further deliberation.

One item of new business was discussed.

An area variance application has been submitted by Arthur Durivage, 1009 Cloverlawn Road, seeking both a front yard and side yard setback variance concerning a 20' x 22' carport which had been installed at this location approximately 10 months ago. Mr. Kreiger reports to the Zoning Board that this matter arises out of an enforcement process concerning installation of the carport. Mr. Kreiger explained the application to the Zoning Board members, and indicated that some additional information is required to be submitted by the Applicant on the application. The Zoning Board members generally understood the content and intent of the area variance application, and tentatively scheduled a public hearing on this matter for its November 18

meeting, subject to the submission of the additional information which Mr. Kreiger is requiring from the Applicant. Mr. Kreiger will confirm the receipt of this additional information to the Zoning Board members and Attorney Gilchrist.

The index for the October 21, 2013 meeting of the Zoning Board of Appeals is as follows:

1. Coblish – area variance – denied.
2. Monolith Solar – area variance – 11/18/13.
3. Durivage – area variance – 11/18/13 (public hearing to commence at 6:00 p.m.).

The proposed agenda for the November 18, 2013 meeting currently is as follows:

1. Monolith Solar – area variance.
2. Durivage – area variance – public hearing.

Zoning Board of Appeals

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE ZONING BOARD OF APPEALS MEETING HELD November 18, 2013

PRESENT were CHAIRMAN MARTIN STEINBACH, JAMES HANNAN, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The draft minutes of the October 21, 2013 meeting were reviewed. Upon motion of Member Trzcinski, seconded by Member Hannan, the minutes of the October 21, 2013 were unanimously approved without amendment.

The first item of business on the agenda was the area variance application submitted by Monolith Solar on behalf of Kathryn Knipple for property located at 144 Brunswick Road. Greg Crawford of Monolith Solar was present for the Applicant. Chairman Steinbach noted that at the October 21, 2013 meeting, the Zoning Board had requested that Monolith Solar submit additional information regarding septic and leach field location on the Applicant's property and that a map be submitted showing the location of the septic tank and leach field as well as the location of the ground mount solar array. Chairman Steinbach noted that this information had not been submitted by the Applicant. Mr. Crawford stated that he did have additional information regarding the septic system location, and that it was his understanding from Mrs. Knipple that the septic tank was located just south of the current location of the ground mount solar array, and that the leach field actually existed under the driveway to the property. Mr. Crawford stated that he did not have a map to submit to the Zoning Board, and that this information was from Mrs. Knipple's memory since the septic system was replaced only about

one year ago. Chairman Steinbach inquired whether there was any additional specific information that Mr. Crawford could provide the Zoning Board. Mr. Crawford said there was no map available. Member Hannan commented that the Zoning Board had requested a more specific map, and questioned why no additional documentation had been submitted by the Applicant. Member Hannan also noted that it was unlikely that the driveway to this property was constructed over a leach field, and that he was looking for something more than guess work on the part of the Applicant. Chairman Steinbach reviewed the October 21 minutes, specifically at pages 7-8, and stated that the Applicant had not supplied the requested information to the Zoning Board. Mr. Crawford responded that any additional information would not be supportive of the current variance application since the location of the septic tank and leach field did not interfere with relocating the solar array on the property. Member Hannan stated that while Mr. Crawford may not think this information would assist the application, he did not know for sure since no specific information had been provided, and again inquired why the Zoning Board had not been supplied with a map showing this information when the Applicant had specifically been requested to do so. Member Balistreri noted that if the ground mount solar array needs to be moved on the property, then Mrs. Knipple will need to specifically identify the location of the septic tank and leach field before any relocation could occur. Mr. Crawford agreed. The Zoning Board stated that it would accept a map depicting the location of the septic system on the property through December 2, and thereafter the record will be closed and the Zoning Board will deliberate and make a determination on this application at its December 16 meeting.

The second item of business on the agenda was the area variance application submitted by Mr. Arthur Durivage for property located at 1009 Cloverlawn Road. Member Balistreri stated that he lives next door to Mr. Durivage, and that members of his family also live in close

proximity to Mr. Durivage, and therefore will recuse himself from any participation in the review and determination of this application to avoid even the appearance of bias. Member Balistreri indicated that he had previously reviewed this matter with Attorney Gilchrist. Accordingly, Member Balistreri has recused himself from any further participation in the review and determination of this application. Member Balistreri left the meeting room. Chairman Steinbach noted that this matter was before the Board for public hearing. The Notice of Public Hearing was read into the record, noting that the public hearing notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Steinbach noted for the record that this area variance application seeks variances to allow an existing carport to remain in its current location on the property. The Applicant seeks both a front yard setback and side yard setback variance. The Applicant seeks a front yard setback of 18', where a minimum setback of 60' is required; and the Applicant seeks a side yard setback of 2', where a minimum of 15' is required. Mr. Durivage was present. Chairman Steinbach requested Mr. Durivage to present the application. Mr. Durivage handed up additional pictures of the carport structure, which are part of the record. Mr. Durivage stated that he is the owner of 1009 Cloverlawn Road, that he has lived at that property for 25 years, that he does not have a garage and that his car was severely damaged in a hail storm two years ago, and that as a result he researched the installation of a carport, that he purchased the carport which is installed on the property, and described the carport as having two sides but open on both ends, further describing the size of the carport as being able to park two cars, that the carport was made of 12-gauge steel and was movable, that it was installed in November of 2012, that the only way you can see this carport is when driving west off Springbrook Road onto Cloverlawn Road, that the carport and property are well maintained and clean, and that he does not see what the big deal

is in keeping the carport in its current location. Chairman Steinbach asked whether any of the Zoning Board members had questions for Mr. Durivage. Member Trzcinski questioned the statement made by Mr. Durivage that you really can't see the carport, since Member Trzcinski went to the site to view it and she could certainly see it. Mr. Durivage immediately responded that you could not see the carport during the summer when leaves are on the trees. Further, Mr. Durivage commented that even if you can see it, it is still not a problem since it is just a carport. Member Hannan asked whether the contractor who installed the carport was aware of the Town setback requirements. Mr. Durivage then stated he had problems with the company where he purchased the carport, and that the company did not allow him adequate time to get a permit from the Town. Member Hannan asked whether the local dealer from whom Mr. Durivage purchased the carport supervised the installation in any way. Mr. Durivage stated that the local dealer did not supervise the work, that the manufacturer of the carport sent the contractor to install the carport, and that he did not work with the local dealer in any way on the installation. Mr. Durivage stated that he did speak with the local dealer regarding permit requirements, but that the local dealer stated that he is not involved with any local permit requirements. Member Hannan asked Mr. Durivage whether he spoke again with the local dealer after he was told that the carport was installed in violation of the Town setback requirements. Mr. Durivage stated that he did speak with the local dealer again, but that the local dealer again stated he did not have anything to do with local permitting. Mr. Kreiger noted that he is not aware of any other issues regarding carport or shed installations with respect to the local dealer with which Mr. Durivage worked. Member Schmidt wanted to confirm the timeline, and asked Mr. Durivage whether he went to the Town, and specifically Mr. Kreiger, before the carport was installed and whether Mr. Durivage was told he needed a variance. Mr. Durivage did state he had spoken with Mr. Kreiger

prior to the carport construction. Member Schmidt then asked whether Mr. Durivage put up the carport anyway, knowing that he had not obtained the variance. Mr. Durivage stated that the carport was put up, but that he had no choice because the contractor who was installing the carport said it needed to be installed at that time. Chairman Steinbach noted that part of the application shows a bill of sale for the carport dated November 2012, and that the installation of the carport was also in November 2012. Mr. Durivage confirmed that it was during the November 2012 timeframe that he talked to Mr. Kreiger and was told he needed a variance. Chairman Steinbach also noted that the requested variances were significant. Mr. Durivage responded that he could not relocate the carport on his property, and that it would cost too much to do so. Chairman Steinbach confirmed on the record that the carport was closest to adjacent property owned by Shaw, and that there were houses directly across the street from this carport as well. Mr. Durivage confirmed this. Member Trzcinski noted for the record that a letter (email) had been received by the Town on this application, stating that a child's daycare was operated at 1009 Cloverlawn Road, and that children play in the driveway all day and that this could become a safety issue. Mr. Durivage stated that the daycare was fully licensed, and did not want to address any issues concerning the daycare operation and that he was only before the Zoning Board on the variance issue. Attorney Gilchrist commented that among the standards for the requested variance that need to be considered by the Zoning Board is the character of the neighborhood, and that the information concerning the operation of the daycare and children playing on the property may be considered by the Zoning Board. Chairman Steinbach then opened the floor for receipt of public comment. First, Chairman Steinbach inquired whether there was anyone present to speak in favor of the application. No one was present to speak in favor of the application. Chairman Steinbach then inquired whether there was anyone present to

speaking in opposition to the application. Ray West, 1010 Cloverlawn Road, directly across the street from this property, stated that the carport was installed on November 28, 2012 with no permit from the Town, that the carport was an eyesore, that the carport results in an undesirable change in the character of the neighborhood since it is in front of the house near the street and that no other house in Springbrook has a structure of this size in front of the house or this close to the road, that approving this would set a very bad precedent and there is potentially a significant number of additional carports that may be installed in Springbrook if the variance is granted, that the color of the carport also does not match the house and is an eyesore, that the carport was a detriment to the neighborhood and potentially decreased property values because of its impact on surrounding properties, the carport obstructs vision and sight lines, that children did play in the driveway as part of the daycare operation and that this carport may obstruct vision and create a safety issue for the children, that the carport was constructed directly underneath electric power lines and that this raised a safety issue as well, that the carport itself may be within the Town-owned 50' right-of-way for Cloverlawn Road, that Mr. Durivage had 3 additional shed structures on this property in addition to the carport and that there is not enough room on this site for all of these structures, and that he would have no objection to a stick built garage attached to the house since that would be consistent with the character of the neighborhood. Jim Doin, 1012 Cloverlawn Road, stated that he had no personal animus toward Mr. Durivage, but that he was opposed to the application, that he agreed with the comments of Mr. West, that the carport was very visible and made the property look poor, that there were already a number of outbuildings on this property and now the carport only adds to it, that the trees around the carport do not hide it from view, and that this may have a negative effect on property values. Chairman Steinbach asked whether there were any additional members of the public wishing to comment. Hearing

none, Chairman Steinbach entertained a motion by Member Hannan to close the public hearing, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the public hearing on the Durivage area variance application was closed. The Zoning Board then proceeded to deliberation on the application. Mr. Durivage requested the opportunity to respond to comments. Chairman Steinbach requested that Mr. Durivage respond to the public comments. Mr. Durivage again stated that he felt the carport was not visible, that he was planning to put new siding on his house that would match the color of the carport, that the additional sheds on the property were not an issue since they were "even with the house" and not out near the front property line, that there was no safety issue since trees have been cut to provide adequate sight lines from the driveway, and that this was not a significant issue. The Zoning Board members then proceeded to deliberate on the application. Attorney Gilchrist noted that an application for area variance for a single family residence is a Type II action under the State Environmental Quality Review Act, and no further SEQRA determination is required. The Zoning Board members then proceeded to address the elements for the requested area variance. First, with regard to whether the requested variances would produce an undesirable change to the character of the neighborhood or create a detriment to nearby properties, Member Hannan commented that the location of the carport is not in character with the neighborhood; Chairman Steinbach concurs that the location of the carport is not consistent with the character of the neighborhood, that the neighborhood has a traditional look and there are no other large carports located in the front yard area close to the road, and that this location of the carport requires significant variances that would impair the character of the neighborhood; Member Schmidt confirmed that no other property in that general location of the Springbrook neighborhood has anything like this large carport in the front of the lot, and that the other homes kept all of the outbuildings or other

structures in the back yard area; and Member Hannan noted that public comments raised the issue of whether this carport would decrease surrounding property values, but that no expert proof had been submitted. Second, regarding whether the Applicant could achieve the benefit it seeks through the variance by some other feasible method, Chairman Steinbach noted that he had driven by this location, and that he thinks there is no alternate location on this property for the placement of a 20' x 22' carport, and that if a smaller carport was installed to meet the setback requirements, it would not be a functional carport since it would need to be so small. All the Zoning members generally concurred with this observation. Third, regarding the issue of whether the requested area variances were substantial, all members concurred that the requested variances were substantial, and that Mr. Durivage, the dealer, and the contractor should have factored in the required setbacks when considering a carport for this location. Fourth, regarding the issue of whether the requested variance would have an adverse affect on the physical or environmental condition in the neighborhood, Member Trzcinski stated that she did not feel there were any significant environmental impacts, but that there was certainly a physical impact with the structure located on the property; Chairman Steinbach agreed, but also stated that he felt the visual impacts were an environmental issue; Chairman Steinbach also said that the Zoning Board should consider the issue of the proximity of this metal carport to the overhead electric power line as a potential environmental and safety issue, and that the Zoning Board should have additional information on this issue. Mr. Kreiger stated that it was his general understanding based on past applications that a minimum 10' separation from a main power line was required, but was not certain as to necessary setbacks for a service line. Mr. Kreiger stated that he would research that issue, and provide the Zoning Board with that information. The Zoning Board also requested Mr. Kreiger to confirm the distance between the carport roof on the Durivage property

and the location of the overhead electric power line. Member Hannan asked Mr. Durivage if he knew how close the peak of the roof of the carport was to the overhead power line. Mr. Durivage thought it was about 4 feet. The Zoning Board will receive additional information on this issue. Fifth, as to whether the difficulty necessitating the need for an area variance was self-created, all of the Zoning Board members concurred that the difficulty was self-created. Member Trzcinski wanted to confirm that the email letter discussed earlier in the meeting concerning the Durivage application, which was received by the Town on November 12, was made part of the record. The Zoning Board members determined that they will continue the deliberation on this application at the December meeting after receipt of the additional information from Mr. Kreiger concerning the overhead power line issue.

Member Balistreri then returned to the Zoning Board meeting.

Mr. Kreiger reported that no new applications had been received, and that there was no new business to discuss.

The index for the November 18, 2013 meeting of the Zoning Board of Appeals is as follows:

1. Monolith Solar – area variance – 12/16/13.
2. Durivage – area variance – 12/16/13.

The proposed agenda for the December 16, 2013 meeting currently is as follows:

1. Monolith Solar – area variance.
2. Durivage – area variance.

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 16, 2013

PRESENT were CHAIRMAN MARTIN STEINBACH, E. JOHN SCHMIDT, CAROLINE TRZCINSKI and MARK BALISTRERI.

ABSENT was JAMES HANNAN.

ALSO PRESENT was JOHN KREIGER, Code Enforcement Officer.

The members of the Zoning Board reviewed the draft minutes of the November 18, 2013 meeting. Upon motion of Member Trzcinski, seconded by Member Schmidt, the minutes of the November 18, 2013 were unanimously approved without amendment.

The first item of business on the agenda was the area variance application by Monolith Solar on behalf of Kathryn Knipple for property located at 144 Brunswick Road. Chairman Steinbach noted for the record that the public hearing on this area variance application had been held and closed, that certain additional information had been submitted by the Applicant, and that the record on this matter is now complete. Chairman Steinbach further confirmed on the record that the Zoning Board members had previously deliberated on this matter, and that upon consent of the Applicant, the date by which a final determination on this variance application was extended until this December meeting. Attorney Gilchrist then confirmed for the record that the application seeks an area variance for a residential application, and therefore constitutes a Type II action under SEQRA, and no further SEQRA determination is required. Attorney Gilchrist did confirm for the record that the Zoning Board members had reviewed the public comments and evidence in the record, and had previously begun their deliberations on this

application. Chairman Steinbach then directed that the Zoning Board members should review the criteria for the area variance application, and confirm the deliberations on each element. Concerning whether the requested variance would produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairman Steinbach noted that the neighboring property owners did comment at the public hearing that they can see this solar panel array, and that it does create a visual impact and, in the neighbors' opinion did change the character of the residential neighborhood. Member Schmidt stated that the solar panel array could have been constructed on the lot in compliance with the side yard setback requirements, but the neighbors stated at that public hearing that this would result in a less desirable location because it would create more of a visual impact to them, and that this application is therefore quite unique in that the requested variance would actually result in less of a visual impact on the neighboring properties than constructing the solar panel array in compliance with the side yard setback requirements. With that comment Member Balistreri agreed. As to whether there was a feasible alternative available to the property owner, Member Balistreri commented that the Applicant testified that the location at which the solar panel array was constructed actually is the best location in terms of equipment efficiency, and that if the solar panel array was relocated to be in compliance with the side yard setback requirements then the efficiency of the solar panel system would be reduced. Member Trzcinski noted that the best option for the property owner would have been a roof installation for the solar panels, but that the owner chose not to put it on the roof but rather a ground mount installation in the yard. Chairman Steinbach agreed with Member Trzcinski, but did note that there is evidence in the record that the efficiency of the solar unit would be decreased if it were relocated on the lot. As to whether the requested variance is substantial, Mr. Kreiger repeated for the record that the

required side yard setback is 15', whereas the solar panel array is approximately 5' from the side yard line, and that the Applicant was requesting a 10' variance. Member Schmidt said that while the total variance was substantial, it must be viewed in light of the entire record, which would result in a more significant impact on surrounding properties if the amount of the variance was reduced. Member Schmidt again said that this fact pattern was quite unique. Chairman Steinbach agreed that this fact pattern is unique. As to whether the requested variance resulted in a physical impact or impact to the environment, Chairman Steinbach noted that the visual impact of the solar panel array is an environmental impact, and should be noted on the record. Member Trzcinski stated that if the solar panel array was moved an additional 10' from the side yard line, it would still be visible and possibly increase the visual impact to surrounding properties. Member Schmidt agreed with Member Trzcinski. As to whether the situation was self-created for which the variance was requested, Chairman Steinbach said that the situation was self-created, and that Monolith Solar has much as admitted they made a mistake and violated the local law. Chairman Steinbach noted that he did not find that the company nor the property owner intentionally violated the local law, and that there is evidence that this was an innocent mistake, but that certainly the matter was self-created. All the members generally agreed. Chairman Steinbach inquired of both Mr. Kreiger and the Applicant as to whether there was any additional evidence regarding the location of the septic tank and leach field on the property. Mr. Kreiger reported that neither Rensselaer County nor the property owner retained any record plans, and that the contractor that performed the work on the system approximately one year ago reports that all he did was replace the septic tank in its prior location. Chairman Steinbach asked for any general opinions on this application from the Zoning Board members. Member Balistreri said he was of the opinion that the solar panel array should be left where it is, that it would result

in greater detriment to the surrounding homeowners if it were relocated to come into compliance with the setback requirements, and that the situation is very unique, but that the application should be granted. Members Schmidt and Trzcinski generally agreed with this assessment. Chairman Steinbach did note that this application and the fact situation at issue was unusual, that this was a unique and very individual case, but that the Zoning Board should be mindful of setting precedent. The remaining Zoning Board members concurred, but did emphasize that this fact pattern was quite unique and that the determination on this application should not be considered as setting precedent on future matters. Chairman Steinbach wanted it noted on the record that applicants and builders must be aware of local building rules and setback rules, and should certainly be held accountable for violations. However, Chairman Steinbach did concur that this case does present a unique set of facts which the Zoning Board should be mindful of. Having stated that, Chairman Steinbach inquired whether the Zoning Board members should consider any conditions be imposed on the variance, if granted. The Zoning Board members generally discussed the offer by the Monolith Solar company to work with the neighbors to install landscaping to better buffer the solar panels from adjacent properties. Attorney Gilchrist noted that the record evidence includes a statement by Monolith Solar that the cost for relocation of the solar panel was approximately \$4,300, and that if the variance was granted, such proceeds could be used toward installing landscaping for screening purposes in coordination with the neighbors. Hearing no further proposed conditions, Chairman Steinbach requested a motion be made for action on the area variance application. Member Balistreri made a motion as follows: on the application submitted by Monolith Solar on behalf of Katherine Knipple for an area variance from the side yard setback requirements regarding the placement of a solar panel array at 144 Brunswick Road, the Zoning Board of Appeals finds, based on the evidence in this record,

that the installation of the solar panel array in proximity to the side yard lot line was inadvertent and without ill will, that there was no opposition or objection to the maintenance with the solar panel array in its current location from surrounding property owners, that such surrounding property owners assert that they will be negatively impacted by the relocation of the solar panel array on the property, and that the relocation of the solar panel array on the property may effect its efficiency and operation, and that therefore the Zoning Board of Appeals shall grant the requested area variance upon the express holding that such decision is limited to the unique set of facts of this specific application and this specific fact record with no precedential value, and that such grant of area variance is conditioned on the installation of landscaping to buffer the solar panel ground mount installation from surrounding properties, and that the property owner, Monolith Solar, and the surrounding property owners must coordinate on vegetation type and location with such vegetation being installed no later than May 31, 2014, with notice to the Brunswick Building Department that such vegetation installation has been completed. Member Trczinski seconded the motion as stated. The motion was unanimously approved, and the area variance granted to Monolith Solar and Katherine Knipple subject to the stated condition.

The next item of business on the agenda was the application submitted by Mr. Arthur Durivage for area variances associated with maintaining a carport located at 1009 Cloverlawn Road. Member Balistreri again stated that he owned neighboring property to this location, and therefore was recusing himself from further participation in this application. Member Balistreri left the meeting hall. Chairman Steinbach confirmed that the public hearing on this application has been held and completed, and that the fact record on this matter has been completed. However, Chairman Steinbach noted that the Applicant handed up two letters to the Board at the December 16 meeting, one of which was in the form of an apology to the Zoning Board

members for certain statements that the Applicant made at a prior meeting, and the second being an electrical contractor estimate for performing certain electrical work at this property which would in turn allow National Grid to relocate the electric feeder line to the home in the area of the existing carport. Attorney Gilchrist confirmed for the record that the public hearing has been held and closed in this matter, that the fact record has been completed, that this is an application for an area variance for residential application which is a Type II action under SEQRA and that no further SEQRA determination is therefore required, and that the Zoning Board members had started their deliberations in this matter at the November 18 meeting. Chairman Steinbach then led discussion regarding the criteria for issuance of an area variance, and directed the Zoning Board deliberation on each element. With regard to whether this requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Chairman Steinbach noted that at least one neighbor stated that the carport is an "eyesore", and that it was a detriment to the character of the surrounding neighborhood. Member Schmidt also stated that there were statements made at the public hearing that this carport would result in a negative impact on surrounding property values, although no expert report was submitted. Member Schmidt also noted that based on his personal observation, there was no other structure in that general area of the neighborhood that was located this close to the road. Chairman Steinbach agreed with that observation. As to whether there was a feasible alternative to the requested area variance, Chairman Steinbach noted that it would be hard to place a 20' x 22' carport anywhere else on the property and have it function as a carport. Member Trczinski stated, however, that a smaller carport could be installed, which would not require such a substantial variance from the front yard and side yard setback requirements. Member Schmidt agreed that it would be hard to locate the 20' x 22' carport anywhere else on

the property, but did acknowledge that a smaller carport could have been installed. As to whether the requested variance is substantial, Chairman Steinbach felt that it was a substantial variance, particularly for the front yard setback requirement. Under the Town Code, a 60' front yard setback is required, whereas the carport is only 18' off the front property line. Chairman Steinbach noted that while both area variance requests were substantial, he finds that the placement of this structure so close to the front lot line is significant. Member Schmidt felt that both requested area variances were substantial, and that the side yard setback results in having a carport structure very close, only two feet, from the neighboring property line. As to whether the requested variance will result in an adverse physical impact or impact to the environment, Chairman Steinbach noted that the carport does result in a visual impact since it is so close to the road and so close to the neighboring property line, and that in his opinion this does result in an impact to the environment. Chairman Steinbach noted that while there was a safety issue concerning the proximity of the carport to the overhead power line, that issue could be corrected via the electrical contractor estimate submitted by the Applicant. The remaining Board members generally concurred with those statements. As to whether this condition was self-created, all Board members concurred that this was self-created, and that the Applicant was aware of the setback requirements prior to the installation of this carport. Chairman Steinbach then entertained general discussion. Member Schmidt stated that while he was sympathetic to the Applicant, he was not in favor of granting the area variances because the Applicant had not met the required legal criteria. Chairman Steinbach concurred, stating that the record did not meet necessary fact and legal criteria to grant the area variances. Thereupon, Member Schmidt made a motion to deny the variance application and to prepare a formal written decision based on the Board's deliberation on the fact record and legal criteria. Chairman Steinbach seconded the

motion, and the motion was unanimously approved. The Zoning Board directed Attorney Gilchrist to prepare a formal written decision concerning this matter, which will be reviewed at the Zoning Board meeting to be held January 13.

One item of new business was discussed. Prior to discussing the new business, Member Balistreri returned to the meeting room. An application has been submitted by Peter St. Germain, 490 McChesney Avenue Extension, seeking an area variance for the installation of a garage. Mr. St. Germain was present, and generally reviewed the application with the Zoning Board members. Mr. St. Germain explained that he was seeking to construct a garage in the backyard of his home located at 490 McChesney Avenue Extension, and that the only feasible location to do so was within 16' of a side yard lot line, where the Town Code requires a 25' setback. Mr. St. Germain said the next door property is used as farm land. Mr. St. Germain stated that he had provided a schematic of the lot layout, showing his house location, driveway location, proposed location of the garage, all in relation to his side yard lot line. Mr. St. Germain also said there were septic lines between the driveway and his garage location, and that he could not excavate for a foundation for the garage any closer to the driveway due to the septic lines. The Zoning Board members generally discussed the location of the existing structures, septic and septic lines, and the proposed location of the garage. Chairman Steinbach confirmed that the Zoning Board members had access to the property to review the site, and Mr. St. Germain granted that authorization. Mr. St. Germain also provided information in the application as to the type of garage he was proposing to construct. Chairman Steinbach asked whether there was anything currently located where Mr. St. Germain was looking to locate the new garage. Mr. St. Germain said there was nothing in that location, but that he might have to clear a couple of trees for the garage construction. Mr. St. Germain said he had already prepared a foundation plan

which was filed with the Building Department. Member Schmidt asked the Applicant to provide a more detailed sketch plan showing the location of the septic tank, septic lines, leach fields, all in relation to the existing driveway, existing home, and proposed garage location. The Applicant stated that he would supply that information to the Board prior to the January meeting. Chairman Steinbach stated that the application was complete for purposes of scheduling the public hearing, and the Zoning Board set the public hearing on this application for its meeting to be held on January 13th commencing at 6:00 p.m.

The Zoning Board confirmed that due to the Martin Luther King holiday on January 20, the meeting of the Zoning Board for the month of January, 2014 will be held on Monday, January 13. The Zoning Board members also noted that the regular meeting for February 2014 lands on Presidents Day, and therefore rescheduled the February 2014 meeting to Monday, February 24.

The index for the December 16, 2013 meeting is as follows:

1. Monolith Solar (Knipple) – area variance – granted with condition.
2. Durivage – area variances – denial with formal written decision to be reviewed at January 2014 meeting.
3. St. Germain – area variance – 1/13/14 (public hearing to commence at 6:00 p.m.).

The proposed agenda for the January 13, 2014 meeting currently is as follows:

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