BRUNSWICK HILLS TOWNSHIP TRUSTEES
SPECIAL MEETING
October 19, 2026

The Brunswick Hills Township Board of Trustees met in special session on Monday, October 19, 2026, at Brunswick Hills Township Town Hall.

Board Trustee Vice-Chair Thomas DeCastra and Trustee Tony Destro present. Trustee Chair Ryan Nixon was not present due to being out of town.

Trustee DeCastra called the meeting to order at 6:00 PM, noting that the meeting was properly advertised.

The purpose of this special meeting is to discuss a request to waive the $600 application fee for a zoning variance application.

Discussion: Request to Waive Zoning Variance Application Fee – Caves of Blue Bell Development

Trustee DeCastra provided background regarding the proposed Caves of Blue Bell development on the parcel near the intersection of Blue Bell Parkway and State Route 42. He explained that the development had previously proceeded through the Township's zoning process, including obtaining variances and receiving Zoning Commission approval of the site plan. However, the site plan had not received final approval from the Board of Trustees.

During a subsequent review of the site plan, Trustee DeCastra identified a potential zoning compliance issue involving the required setback between the commercial development and adjacent residentially zoned property. He explained that the applicable zoning requirements call for a 50-foot setback, while the proposed development is approximately 33 feet from the adjacent property line. The developer would therefore need to either revise the site plan to comply with the applicable zoning requirements or seek an additional variance from the Board of Zoning Appeals (BZA).

Trustee DeCastra stated that the Township had issued a stop-work order pending resolution of the zoning issue. He further explained that the developer, through legal counsel, had raised concerns regarding reliance on previously issued Township documents and the financial expenditures made in connection with the project. Following communications involving the developer's attorney and the Township's legal counsel, the developer requested that the Township waive the $600 variance application fee to allow the developer to pursue the variance process.

Trustee Destro questioned whether the setback issue should have been identified earlier in the development review process. Trustee DeCastra explained that there had been a misunderstanding regarding the classification of the property's front and side lot lines because it is a corner lot. He stated that, under his interpretation of the zoning resolution, the shorter lot line is considered the front lot line, resulting in the lot line adjoining the residentially zoned property being treated as a side lot line subject to the 50-foot setback requirement. He noted that the building orientation had contributed to the confusion.

Trustee DeCastra indicated that, in his opinion, if the developer pursued a variance, the application would likely seek relief from the 50-foot setback requirement to allow the proposed setback of approximately 33 feet to remain.

Public Comment

Kristen Hunter, 4293 Butterfly Circle, stated that her property would be directly affected by the proposed variance. She objected to the fee waiver, stating that the development was approximately 33 feet from her property when the required setback was 50 feet. She expressed concern that the developer was seeking relief from an issue that should have been identified during the original planning process. She questioned whether the developer had failed to perform adequate due diligence or whether the zoning issue had previously been overlooked. She also expressed the opinion that the developer could afford the application fee and that the Township should not make an exception in this circumstance.

Ben Woods, 2660 Holly Hock Lane, asked when the secondary site plan review occurred, who conducted it, and what prompted the review. He also questioned whether a secondary review at this stage was standard procedure.

Trustee DeCastra responded that he could not provide a specific date for the review because no notes documenting when it occurred were available. He explained that, after determining that the site plan had not received the required final approval from the Board of Trustees, he conducted a secondary review in preparation for bringing the matter before the Board. The setback issue was identified during that review. He stated that a secondary review at this stage is not standard procedure because site plans ordinarily undergo review before final approval, unless the developer or property owner makes changes.

Mr. Woods stated his opposition to the fee waiver. He noted that variance applications involve actual costs, including publication, notification, and staff time, and expressed concern that waiving the fee would transfer those costs to Township taxpayers. He characterized the setback issue as a problem that should have been identified by the developer and its professional engineer during the original process. He also raised concerns about the handling of the development and communications between Township officials and the developer, stating that residents had experienced delays in receiving responses to questions about the project. He emphasized the importance of applying the same standards to all applicants.

Chris Kormos, 4215 Butterfly Circle, also opposed the fee waiver. He stated that the developer should be responsible for the costs associated with correcting the issue and that Township funds should not be used to cover an applicant's expenses. He felt that Township funds could be put to better use, such as having an event that would benefit all residents. He questioned whether the property's location and adjoining private streets affected the interpretation of the setback requirements, noting his understanding that the property might have multiple street frontages. The frontage should become where the driveway is located.

Discussion of Potential Liability and Township Responsibility

Following public comment, Trustee DeCastra explained that the Township had made errors in the prior zoning process, including issuing zoning certificates that should not have been issued before completion of the required site plan approval process. He stated that the Township's legal counsel had advised that the developer or property owner could potentially pursue damages based on reliance on Township-issued documentation and expenditures made in connection with the project.

Trustee DeCastra explained that the potential amount of damages was unknown and would depend on the facts and any subsequent legal proceedings. He stated that the Township had received communications indicating the possibility of litigation and that legal counsel believed there was a potential basis for a claim arising from reliance on the previously issued zoning documentation.

Mr. Kormos questioned whether the Township could avoid liability by revoking the previously issued approval or certificate. Trustee DeCastra explained that the Township had taken corrective action through the stop-work order but that the developer had already undertaken activities and incurred expenses in reliance on the documentation. He stated that legal counsel had advised that the Township could face a claim for damages, although the amount, if any, had not been determined.

Trustee DeCastra further explained that the proposed fee waiver was being considered as a possible means of reducing the Township's exposure to additional costs. He stated that the Township could waive the $600 fee to allow the developer to pursue a variance or require the developer to revise the site plan to comply with the zoning requirements. He expressed concern that litigation could involve costs beyond any potential damages, including legal expenses, staff time, responses to public records requests, and other administrative work.

Trustee Destro asked whether the Township's insurance would cover a potential claim. Trustee DeCastra stated that the insurance coverage question had not been definitively resolved and that a claim could have implications for the Township's risk profile and future premiums.

Trustee DeCastra clarified that waiving the fee would not constitute a settlement agreement or guarantee that the developer would refrain from filing suit. He explained that the waiver was intended as an opportunity to demonstrate that the Township was attempting to correct its own procedural errors and provide the developer an opportunity to pursue the variance process. He also noted that the developer had not yet confirmed whether it would submit a variance application.

Mr. Kormos stated that, in his opinion, the developer had also proceeded without final site plan approval and had responsibility for ensuring compliance with the zoning requirements. He expressed concern about whether the developer had complied with the stop-work order and offered to provide video evidence of construction activity. Trustee DeCastra explained that the original stop-work order had been mailed to an incorrect address and was returned to the Township. He stated that the original order was subsequently provided electronically to the property owner's legal counsel rather than being resent by certified mail. Trustee DeCastra indicated that the developer had stopped work after the order was communicated through counsel.

Mr. Woods raised additional questions about the timeline, asking about when the stop work order was issued, noting that a motion to intervene in related court proceedings had been entered on July 27 and that public records had indicated communications between Township officials and the developer concerning risks to the project. Trustee DeCastra confirmed that the stop work order was issued on August 18, 2026 and returned to us on September 29, 2026. The letter that was initially sent, was then provided digitally to the counsel of the property owner. He questioned the timing of the stop-work order in relation to those events. Trustee DeCastra reiterated that the matter had developed recently and that the Township had identified and acted on the zoning issue after the subsequent review.

Trustee DeCastra acknowledged that mistakes had occurred on the Township's side and stated that the Board was faced with a difficult decision. He explained that, although the Township could not guarantee

that a fee waiver would prevent litigation, allowing the developer to pursue a variance could demonstrate that the Township had provided an opportunity to address the zoning issue and potentially mitigate its exposure to damages.

Discussion of Existing Variances and Setback Requirements

Trustee Destro asked whether the variances previously granted to the development remained valid despite the absence of final site plan approval by the Board of Trustees. Trustee DeCastra explained that the previously granted variances had completed the applicable 30-day period for challenges and remained in effect. He stated that the current issue concerned any additional relief needed to bring the proposed site plan into compliance with the zoning requirements.

A discussion followed regarding the property's lot lines, street frontages, and the distinction between a property line adjoining a residential zoning district and a street or right-of-way. Mr. Kormos maintained that the property's relationship to Blue Bell Parkway, Pearl Road, and the private street serving the adjoining residential development should be considered when determining the applicable setbacks. Trustee DeCastra explained that the setback requirement at issue was measured from the relevant property line and that the zoning resolution classified lot lines on corner lots according to the applicable definitions of front, rear, and side yards.

Trustee DeCastra reiterated that the existing variance from the setback along Pearl Road did not eliminate the separate 50-foot setback requirement adjoining the residentially zoned property. He stated that the proposed development, as currently configured, did not meet that requirement and would need either a site plan revision or an additional variance.

Trustee Destro confirmed that the development could not be constructed at the proposed setback of approximately 33 feet unless the necessary variance was granted. Trustee DeCastra confirmed that the development must comply with the C-1 zoning requirements applicable under the settlement decree unless the appropriate variance or other lawful relief was obtained.

Further Discussion of the Proposed Fee Waiver

Trustee Destro expressed reservations about waiving the fee, noting the concerns raised by residents and the developer's responsibility for the project. However, he also considered whether the Township's own prior errors justified waiving the fee as an act of good faith and whether doing so could help reduce the risk or cost of litigation.

Trustee DeCastra and Trustee Destro discussed a prior zoning matter involving a fence on West 130th Street in which a Township error had been involved. Trustee DeCastra stated that the Board had previously considered circumstances in which actions by a former zoning inspector contributed to a zoning problem. Trustee Destro cited that prior matter as a relevant comparison when considering whether to waive the fee in the present case.

Trustee DeCastra emphasized that the proposed waiver was not intended to favor the developer or to predetermine the outcome of a variance application. Rather, he stated that the Township was attempting to address its own procedural mistakes and reduce the potential financial consequences to taxpayers. He characterized the waiver as the least unfavorable of the available options, while acknowledging that it would not eliminate the possibility of a lawsuit.

Trustee Destro stated that he remained reluctant to waive the fee but was willing to support it based on the Township's prior errors and the possibility that doing so could help limit further legal exposure. He also expressed concern that the Board should not influence the independent decision-making authority of the BZA.

Trustee DeCastra reiterated that the BZA would independently evaluate any variance application based on the facts and testimony presented at the hearing. Neither Trustee would direct or influence the BZA's decision.

Board of Zoning Appeals Procedures

Trustee Destro asked whether residents could submit information to the BZA before a hearing so that members could review it in advance. Trustee DeCastra explained that information and evidence must be presented to the BZA as part of the hearing process. He stated that the BZA must evaluate the facts and testimony presented in the matter and that members should base their decisions on the evidence properly before them rather than conducting independent research outside the proceedings.

The Trustees discussed the role of resident testimony and supporting factual information during a variance hearing. Trustee DeCastra explained that the BZA would evaluate the evidence and apply the relevant criteria, including the Duncan factors, when considering any application.

Members of the public reiterated their opposition to the proposed waiver and expressed concern that the Township should prioritize the interests of residents and apply its zoning requirements consistently. Trustee DeCastra reiterated that the matter before the Board was limited to the application fee waiver and not the merits of any future variance request.

Motion: Waiver of Zoning Variance Application Fee

Trustee DeCastra made a motion that concerning parcel **001-02D-27-035**, for the next variance application filed with the Township zoning office for consideration by the Board of Zoning Appeals the $600 application fee will be waived. Trustee Destro seconded the motion, citing the Township's prior errors and the comparable circumstances discussed regarding the West 130th Street fence. DeCastra - **yes**. Destro - **yes**. Motion carried.

DeCastra moved to adjourn. Destro seconded. DeCastra – yes. Destro – yes. Motion carried.

Adjourned at 6:47 PM.

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Ryan Nixon, Trustee Chair Thomas DeCastra, Trustee Vice-Chair

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Tony Destro, Trustee Bob Roksandich, Fiscal Officer