

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD JUNE 21, 2018

PRESENT were RUSSELL OSTER, CHAIRMAN, MICHAEL CZORNYJ, LINDA STANCLIFFE, and DAVID TARBOX.

ABSENT were DONALD HENDERSON, KEVIN MAINELLO, and TIMOTHY CASEY.

ALSO PRESENT were KAREN GUASTELLA, Brunswick Building Department, and WAYNE BONESTEEL, P.E., Review Engineer to the Planning Board.

Chairman Oster reviewed the agenda as posted on the Town website.

The Planning Board reviewed the draft minutes of the June 7, 2018 meeting. Upon motion of Member Czornyj, seconded by Member Stancliffe, the minutes of the June 7, 2018 meeting were unanimously approved without amendment. Chairman Oster noted that minutes for the June 18, 2018 special meeting would be considered for approval at the Planning Board's July 5, 2018 regular meeting.

The first item of business on the agenda was the site plan application submitted by Nigro Companies in connection with an amendment to the Brunswick Plaza Planned Development District located at 716 Hoosick Road. Eric Redding, P.E., of Bergmann Associates was present on behalf of the applicant. Mr. Redding reported that the PDD amendment had been approved by the Town Board and that the applicant had submitted site plans with additional information. Mr. Redding indicated that, in response to comments raised, the utility plan was changed to reflect a

1½-inch waterline to each building; that building elevations for the proposed Taco Bell building had been provided; that building elevations for the Sunmark Federal Credit Union building were being prepared; and that they had submitted applications to divide the Sunmark parcel and the parcel to be dedicated to New York State in connection with potential future widening of Route 7. Chairman Oster asked whether the subdivided portion for the Sunmark building still be part of the Planned Development District. The applicant responded that the Sunmark parcel would remain within the Planned Development District, but that the DOT parcel for road widening would not. Mark Kestner, P.E., Consulting Engineer for the Town for this project, reported that he had reviewed the information submitted by the applicant and confirmed that the waterline size had been changed to 1½-inch lines and that building elevations for the Taco Bell building had been provided. Mr. Kestner also reported that the fire department had submitted comments, and that Mr. Kestner had requested updated plans that showed current existing conditions. Mr. Kestner indicated that he had also discussed a potential sidewalk from the nearby intersection to the Taco Bell building to provide pedestrian access. The applicant indicated that it was opposed to installing the sidewalk in that area because it would require pedestrians to cross the drive-thru area. The applicant indicated that it was willing to provide sidewalk and pedestrian access at the other side of the building and indicated on the site plan where such sidewalk would be located. Mr. Kestner also reported that the applicant had provided a subdivision map and legal description for the parcels to be divided. Chairman Oster noted that the proposal for the sidewalk from the intersection to the Taco Bell building was intended to provide a designated pathway where people would be most likely to cross the lawn to access the Taco Bell building. He indicated that it was his belief that, whether a sidewalk was there or not, people would still cross the lawn and the drive-thru area to get to the Taco Bell building. The applicant responded that it did consider that, and that Taco Bell

had concerns regarding inviting access to pedestrians across the drive-thru area. Chairman Oster inquired whether the applicant could provide additional landscape barriers to prevent pedestrians from crossing the lawn area to access the Taco Bell building. The applicant responded that it was willing to consider that and was proposing some landscaping near that area. Member Czornyj asked whether the front of the building faces the plaza or Route 7. The applicant responded that the front of the building will face Route 7, but that the main entrance door will be facing the parking area and the plaza. Member Tarbox asked whether the applicant could reconsider putting a sidewalk from Route 7 to the Taco Bell building but shift it eastward so that it was not from the intersection to the building but a straight sidewalk across the drive-thru path where it would be safer for pedestrians to cross. Mr. Bonesteel indicated that, as a general proposition, it is not good practice to introduce pedestrians into conflict with vehicular traffic and a sidewalk from any portion on Route 7 that crosses the drive-thru area would do that. He recommends against a sidewalk across the drive-thru area. Member Stancliffe asked whether the applicant would be able to increase the landscape buffer area on the southwest portion of the Taco Bell area. The applicant agreed that it could do so. Member Stancliffe asked whether the subdivided parcel would be leased or sold to Sunmark. The applicant responded that the subdivided parcel would initially be leased to Sunmark, but could then be purchased in the future. Member Stancliffe asked that the Board consider imposing a condition regarding snow removal for the subdivided parcel to avoid conflicts in the future concerning snow removal and also relating to stormwater maintenance. The applicant indicated that it was the practice of Nigro Companies to maintain bank properties even where the property was owned by the bank itself in scenarios such as this. Gus Scifo from Fire Company No. 1 indicated that he had provided a written list of comments for both the Sunmark Federal Credit Union building and the Taco Bell building. He stated that he had coordinated with the

County on the 911 addresses for each and that the Taco Bell building will be 718 Hoosick Road and the Sunmark Federal Credit Union building will be 722 Hoosick Road. Mr. Scifo asked whether the Taco Bell would be open 24 hours, and the applicant indicated that the standard operating hours would be 6:00am through 1:00am. Tim Freitag, P.E. from Bohler Engineering on behalf of Taco Bell indicated that the operating hours of 6:00am through 1:00am should not be considered a restriction, but those are the proposed hours that they generally would follow. He indicated that there would be possibility that they may open earlier or stay open later depending on particular circumstances, including opening earlier for construction crews who might be interested in purchasing breakfast before 6:00am. Mr. Scifo asked whether there would be solar panels on the buildings, and the applicant responded that there would not be. Mr. Scifo asked that the applicant identify in the plan where the gas line would be located. He further requested that the applicant provide a barrier of some kind where the gas line entered the building, such as a bollard. Mr. Scifo indicated that the fire department was asking for the hydrants to be updated in accordance with his list of comments, and that a Knox box be provided. With respect to the Sunmark Federal Credit Union building, he indicated that the Knox box should be connected to the building alarm so that when the fire department accessed it the alarm would be triggered. He further requested that ten-pound fire extinguishers rather than five-pound fire extinguishers be installed in the buildings. Mr. Scifo indicated that the fire department would like to see the installation of a small speed bump to the south of the proposed sites in between the entry and exit points of both locations. The Board discussed with Mr. Scifo and the applicant the issue of whether a speed bump, speed dip, or speed hump could be installed in the area identified. The Board asked Mr. Tingley whether they could require construction of the speed bump or similar device where it was located outside the site plan. Mr. Tingley responded that the Board has the authority to

approve, approve with modifications, or disapprove a site plan application, and if the site plan proposed is generating a condition off-site or is exacerbating an off-site condition that may be dangerous, the Board can take that into account in approving or disapproving the site plan. In those situations, the applicant may be more willing to address off-site improvements in order to secure its approval. Mr. Tingley indicated further, however, that if the condition sought to be addressed was an existing condition that would exist even without the proposed development, it is unrelated to site plan review on this particular proposal. The Board then discussed the general location of a possible speed bump in the area requested by the fire department, and determined that it would not at this time require installation of such a device. Chairman Oster asked that the record reflect that the fire department's written comments have been received by the Board and that the applicant will address all of them as discussed this evening. Mr. Kestner stated that he had received and reviewed the stormwater pollution prevention plan and that it is in approvable form. There will be additional geotechnical testing done and the geotechnical engineer will certify that testing once it is performed. Chairman Oster asked whether the Board felt that a public hearing should be held. The Board discussed that the Town Board had already held a public hearing and that no members of the public had appeared to comment on the application. The Board determined that no public hearing would be required. Member Czornyj stated that the updated plans show that there would be sidewalk and pedestrian crossing signs added where indicated. Chairman Oster asked Mr. Tingley how the Board should proceed. Mr. Tingley responded that the materials had been provided this evening to the Board and that there was no obligation to act on the application this evening. Mr. Tingley recommended that the Board review these materials between now and the next meeting and consider placing this matter on the July 5 agenda. The Board determined to place the matter on the agenda for the July 5 meeting.

The next item of business on the agenda was the application submitted by High Peaks Solar for special use permit/site plan/subdivision for the installation of a utility-scale commercial solar facility on property located at 566 Brunswick Road. Chairman Oster indicated that the Planning Board had held a special meeting on June 18, 2018 at which it reviewed Part 2 and Part 3 of the EAF and adopted a negative declaration. Chairman Oster indicated that the Zoning Board of Appeals held a meeting that evening but was not able to act on the variance because it had not received information in time to do so. Chairman Oster indicated that he believes the Zoning Board of Appeals has scheduled a special meeting to be held on July 2 to address the area variance application, and the Planning Board determined to place the High Peaks application on its July 5, 2018 agenda.

The next item of business on the agenda was the application of Ace Hardware for site plan approval to add a 3,000 square foot addition to the existing building at 831 Hoosick Road to be located to the rear of the building, and to demolish the existing building located on the west side of the parcel and replace that with a two-story mixed use building. Chairman Oster asked Attorney Tingley to review the procedure on the application with respect to the question of the DEC permitting process. Attorney Tingley indicated that it was his understanding that when the application was made to the Town of Brunswick for site plan approval, DEC was not listed as an involved agency and there was no indication of wetlands or related buffer being located in the area that may be impacted. Attorney Tingley indicated that, during the site plan review process, the existence and location of the wetlands and related buffer had been identified for the applicant and the applicant was advised to seek an appropriate permit from DEC. Attorney Tingley indicated that the applicant applied for the DEC permit and apparently had received the permit without any coordination between DEC and the Town Planning Board. Attorney Tingley indicated that his

office had obtained the application materials for the DEC permit, and in response to the question by DEC therein concerning whether local approvals were required for the project, the applicant had inaccurately stated that no local approvals were required. As a result, DEC did not coordinate with the Town Planning Board. Attorney Tingley indicated that the presentation of the application to the Town Planning Board without identifying the wetlands buffer area or without indicating that DEC may be an involved agency, along with the applicant's inaccurate application to DEC indicating that no local approvals were required when the applicant was in the middle of a local review process, generated delay that was beyond the Planning Board's control and was not the Planning Board's fault. Member Stancliffe stated that the plan indicates that straw bales will be used as part of the erosion and sediment control plan, which is not a typical DEC detail in the current manual. She instructed the applicant to consult the current manual to ensure that current practices would be adhered to. Member Czornyj asked whether the building was moved forward or made smaller to accommodate the wetlands buffer area. Tom Dingley, the applicant, responded that the building was not changed, but that the roadway was changed from a two-way road to a one-way road, and that some greenspace had been relocated. Mr. Bonesteel confirmed with the Planning Board that it had received the updated Environmental Assessment Form with modifications on June 15, 2018. Member Czornyj then made a motion to adopt a negative declaration, which was seconded by Member Tarbox, and was unanimously approved. Member Stancliffe made a motion to approve the site plan as revised June 15, 2018 with the condition that the applicant comply with all conditions stated in the DEC permit. Member Tarbox seconded the motion and the motion was unanimously approved. Mr. Dingley then apologized for his comments at the last meeting and indicated that his frustration with the process was misdirected to the Planning Board rather than at the consultants presenting the project.

The next item of business on the agenda was the waiver of subdivision application submitted by Lacey and Eric Davidson seeking to divide off a 1.1-acre lot from the existing 4.13-acre parcel located at 100 Cole Lane. Lacey Davidson and Ray Smith, LLS appeared on the application. The Board discussed with the applicant the fact that the existing shed located near the front of the property does not conform to the current setbacks. After extensive discussion regarding the various options, the Board indicated that the shed can be relocated, the line could be redrawn, the applicant could seek a variance, or the shed could be removed. Ms. Guastella indicated that she would review the record on the shed to determine if a variance had previously been granted. Ms. Guastella indicated that, under the previous zoning, no building permit would have been required for this shed because it was less than 100 square feet. Mr. Tingley indicated that if the shed is considered a structure that must comply with the setbacks under the prior zoning or the current zoning, the fact that a building permit is not needed does not negate the need to comply with the existing required setbacks. The applicant agreed to address the nonconformity of the shed with the existing setbacks and would update the Board at its next meeting. Member Czornyj indicated that the applicant will be required as a condition to get County Health Department approval, and Mr. Smith stated that it was his understanding that no Health Department approval would be required until the applicant sought to build on the lot because it was not a realty subdivision. Member Czornyj also indicated that the print should be stamped, and Mr. Smith indicated that he would stamp the plan once it was in approvable form. The Board then moved on to discussing a recommendation on the proposal by the applicant that the Town Board waive the maximum number of lots allowed on a dead end street. Member Stancliffe indicated that the earlier subdivision approval actually provided for two separate lots in this scenario, and the two lots had been merged following approval. Member Stancliffe further stated that this

proposed waiver of subdivision would merely be returning the total number of lots to what had previously been approved. The Board asked Mr. Tingley to draft a positive recommendation for consideration by the Town Board at its July 12, 2018 meeting. The draft recommendation should be available for the Planning Board to review and consider for adoption at its July 5, 2018 meeting. Ms. Guastella indicated that she would determine how many lots were currently along Cole Lane. The Planning Board placed the matter on its agenda for the July 5, 2018 meeting.

The next item of business on the agenda was the amendment to site plan application submitted by Simply Better Auto Center seeking to allow for the sale of small mobile home-type units on property located at 805 Hoosick Road. The applicant was not in attendance. Ms. Guastella indicated that, in response to considerations identified previously, the applicant had changed its proposal from displaying four small mobile home-type units to six small mobile home-type units. Ms. Guastella indicated that although a concept plan had been submitted, the Building Department has not received an application and has not received a short Environmental Assessment Form. In addition, Ms. Guastella indicated that no fee had been paid for the application. Under the concept plan presented, the Board identified that there would be a loss of car parking near the front of the site. The matter was not placed on an agenda because no application had been filed.

There was no new business to discuss. Ms. Guastella indicated that the special use permit for Valley View for property owned by David Leon and a waiver of subdivision application by Borrego Solar would be considered during new business at the meeting scheduled for July 5, 2018. In reviewing the agenda for the upcoming July 5, 2018 meeting, the Board asked whether a County referral must be made for the Nigro Companies site plan application. Attorney Tingley indicated that he suspected that a referral was made by the Town Board for the PDD application, but that he would check the file to determine whether or not one was referred for the site plan application. If

a County referral was required, Attorney Tingley indicated he would coordinate with Ms. Guastella.

The index for the June 21, 2018 meeting is as follows:

1. Nigro Companies - Brunswick Plaza PDD site plan - July 5, 2018;
2. High Peaks Solar - Special use permit/site plan/subdivision - July 5, 2018;
3. Ace Hardware - Site plan - Approved with conditions;
4. Davidson - Waiver of subdivision - July 5, 2018 for recommendation to Town Board on waiver of maximum number of lots on a dead-end road; and
5. Simply Better Auto Center - Amendment to site plan - Adjourned without date in light of no application.

The proposed agenda for the July 5, 2018 meeting currently is as follows:

1. Nigro Companies - Brunswick Plaza PDD site plan;
2. High Peaks Solar - Special use permit/site plan/subdivision;
3. Davidson - Waiver of subdivision, recommendation to Town Board on proposed waiver of maximum number of lots on a dead-end road.