

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

Zoning Board of Appeals
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

**MINUTES OF THE REGULAR PLANNING BOARD MEETING AND JOINT SPECIAL
ZONING BOARD OF APPEALS MEETING HELD APRIL 5, 2018**

PRESENT were RUSSELL OSTER, CHAIRMAN, MICHAEL CZORNYJ, DONALD HENDERSON, KEVIN MAINELLO, LINDA STANCLIFFE, and DAVID TARBOX.

ABSENT was TIMOTHY CASEY.

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

The Brunswick Zoning Board of Appeals, pursuant to notice of special meeting, is joining the Planning Board meeting for purposes of conducting a joint public hearing on the application for a commercial solar collector system filed by High Peaks Solar and Hope United Methodist Church. PRESENT were MARTIN STEINBACH, CHAIRMAN, CANDACE SCLAFANI ANN CLEMENTE, E. JOHN SCHMIDT, and WILLIAM SHOVER.

Chairman Oster reviewed the agenda for the Planning Board meeting, noting that the public hearing on the High Peaks Solar/Hope United Methodist Church application will be a joint public hearing with the Brunswick Zoning Board of Appeals.

Both the Planning Board and the Zoning Board of Appeals opened their respective meetings. It was noted for the record that the Zoning Board of Appeals is meeting pursuant to special meeting notice which was duly published and posted. Both the Planning Board and Zoning Board of Appeals thereupon continued the joint public hearing on the application submitted by High Peaks Solar and

Hope United Methodist Church for property located at 566 Brunswick Road. The pending applications for this project include site plan, special use permit, and subdivision pending before the Planning Board, and area variances with respect to setback requirements and underground utility requirements pending before the Zoning Board of Appeals. The notice of continuation of joint public hearing was read into the record. Chairman Oster noted that the applicant had submitted a letter dated March 19, 2018 as a response to public comments received during the public hearing held on March 15, 2018. The applicant's March 19, 2018 response letter is made part of the record in this matter. The floor was then opened for receipt of public comment. Michelle Rogan, 9 Linden Avenue, stated that she would like to become a customer of this project, that she has received a Bachelor's Degree in Environmental Sustainability, and is working on a Master's Degree in Urban Planning, and that she fully supports this project. John Skaarup, 17 Stirrup Drive, stated that he is an Environmental Engineer by trade; that he is a member of the Hope United Methodist Church; that he is passionate about this project; that the project will help the church and members of the Town of Brunswick, and also help people in the general area in terms of alternate energy availability; that the concept of large-scale solar utility facilities is acceptable in the Town of Brunswick as the Town has previously approved the Borrego Solar project on NYS Route 278; that this proposed community solar facility will have little environmental impact to the community; that the proposed panels are southern facing, away from residences; that there is adequate screening and the project will not result in any visual impacts; that there are no significant sound impacts; that the project will be in use for 20–30 years; that this particular land use does not result in significant traffic generation; that this use is a source of green, renewable energy that should be promoted; that there should be no concerns regarding pollution, as the panels will be 100% recyclable and will be removed from the site at the end of the facility's useful life; that subscribers to this facility will save significantly on their utility costs, which will be approximately 20%; that the Hope United Methodist Church was careful and pragmatic in its

approach to this project, opted for a community solar facility, carefully considered a number of firms before picking High Peaks Solar, and that High Peaks Solar is a local small business that will be a benefit for both the church and the Town on this project; that Kevin Bailey, principal of High Peaks Solar, is competent, honest, and is also a philanthropist having promoted safe drinking water projects in Africa; and thanked the Town for its involvement in this community solar project. Jim Tkacik, 387 Brunswick Road, stated that he is a long term supporter of solar energy, fully supports this project, fully supports the concept of a community solar facility, supports the project as it is local both in terms of the company operating the panels and the Hope United Methodist Church, and inquired as to the size of this facility in relation to the Borrego Solar project on NYS Route 278. Mr. Bailey stated that the Hope United Methodist Church facility will be about ½ the size of the Borrego project. Wade Prather, 33 Dumbleton Road, stated that he is a member of the church; that the church will benefit from this project and provided some history as to how the church came to this project and its interest in a community solar option; that the church made a deliberate decision to keep this project open to the community through a community solar project; that the church made a deliberate decision to partner with a local business that will build and operate the facility on a long-term basis; that he will be a personal subscriber to this facility and fully supports it; and that the project is positive both from a personal, church, community, and environmental standpoint. Mike Bailey, 8 Abbot Street, Hoosick Falls, stated that he is no relation to Kevin Bailey; that he does seek to be a subscriber to this facility; and that Kevin Bailey's level of professionalism is respected in New York, Vermont, and Massachusetts, and he fully supports the project. Chairman Oster requested Attorney Gilchrist to review information which the Town received from the New York State Department of Environmental Conservation. Attorney Gilchrist stated that NYSDEC had provided email correspondence to the Town of Brunswick, indicating that compliance with the NYSDEC stormwater general permit for construction activities must be met, but also raised the issue of existence of any NYSDEC or Army

Corps of Engineers wetlands on the project site, and that issue must be addressed by the applicant. Mr. Bonesteel stated that the Environmental Assessment Form submitted with the project application states that there are no NYSDEC or Army Corps of Engineers wetlands on the site. Attorney Gilchrist inquired whether any wetlands delineation had been prepared by the applicant, and whether any jurisdictional determination letter had been received by the applicant from the Army Corps of Engineers. Mr. Bailey stated that his engineer had checked the wetlands maps, and that there were no wetlands on the property. Attorney Gilchrist stated that while NYSDEC does have a series of wetlands maps for state regulation, the Army Corps of Engineers does not maintain jurisdictional wetland maps, and that an applicant will be required to conduct a wetlands delineation on the property and obtain a jurisdictional determination letter from the Army Corps of Engineers. Mr. Bailey responded by reviewing the NYSDEC email correspondence, indicating that stormwater compliance will be met and that he will need to address the Army Corps of Engineers wetlands issue. Mr. Bailey stated that the stormwater issues had been adequately addressed and that there are no NYSDEC wetlands at issue, and requested that the public hearing be closed. Chairman Oster noted that in the event the public hearing is closed, the Town Zoning Law and New York State Law will require the Planning Board to make a determination on the applications within 62 days, but that the record is not yet complete on the Federal wetland delineation issue. Attorney Gilchrist stated that the Planning Board, and also the Zoning Board of Appeals, had the procedural option of maintaining the public hearing and keeping it open until the Federal wetland delineation issue is fully addressed, or in the event the Boards consider closing the public hearing, consent of the applicant will be required on the record to extend the 62 day period in which each Board must make a determination on the respective permit applications. Chairman Oster noted that he is inclined to close the public hearing, but will require consent of the applicant to extend the 62-day period in which to make a determination on the pending Planning Board applications. Chairman Steinbach concurred with respect to the Zoning

Board of Appeals public hearing, and the requirement that the applicant extend the 62-day period in which the Zoning Board must make a determination on the pending variance applications. Mr. Bailey understood this position, and agreed on the record to grant an extension to both the Planning Board and Zoning Board of Appeals on the 62-day period in which each Board must make a determination on the pending applications for the respective applications pending before each Board. Based on this consent of the applicant on the record, Chairman Oster inquired of the Planning Board as to whether the Planning Board was agreeable to closing the public hearing on the pending Planning Board applications. The Planning Board members concurred in this approach, given the applicant consent to extend the time period in which to make a determination on the pending applications. Chairman Steinbach likewise received the concurrence of the Zoning Board members on the closing the Zoning Board public hearing, on the condition that the applicant has granted consent to extend the timeframe in which to make a determination on the pending variance applications. Hearing this, Chairman Oster asked if there were any further public comments before the joint public hearing was closed. No members of the public wished to provide any additional comment. Thereupon, both the Planning Board and the Zoning Board of Appeals jointly made a motion to close the public hearing on the High Peaks Solar applications, subject to the consent on the record by the applicant to extend the 62-day period in which to make a decision on the pending applications before each Board. All members of the Planning Board and Zoning Board of Appeals concurred, and unanimously approved the closing of the joint public hearing based on the applicant's consent to extend the time frame for application determination. The Zoning Board of Appeals then closed its special meeting.

The Planning Board next opened the public hearing on the site plan application submitted by Ace Hardware for property located at 831 Hoosick Road. The applicant is seeking to add a 3,000 square foot addition to the existing Ace Hardware building, and also to demolish the existing building located on the west side of the project site and to replace that with a two-story mixed use building.

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 signboard, posted on the Town website, and mailed to owners of all properties within 300 feet of the project site. Bo Michael of Michael Architectural Services, P.C. was present for the applicant. Mr. Michael presented an overview of the proposed project. Mr. Michael stated that the proposal is to consolidate the equipment rental center under one roof within the existing Ace Hardware building, and then to demolish the existing building located on the west side of the project site and replace it with a two-story mixed use building, which will include retail/office space on the first floor, and additional office space on the second floor. Mr. Michael reviewed the proposed parking layout, stating that the proposal does meet parking requirements of the Town Zoning Law. Mr. Michael stated that the applicant will also widen the road to the existing little league ballfield. Mr. Michael also reviewed the building elevation of the proposed two-story building, and described the proposed 3,000 square foot addition as a metal building attached to the rear of the existing Ace Hardware store. Chairman Oster then opened the floor for receipt of public comment. No members of the public wished to comment on this application. Chairman Oster then requested Attorney Gilchrist to review an issue concerning wetlands on the project site. Attorney Gilchrist stated that the Brunswick Building Department, in undertaking its research regarding greenspace calculations on the site, discovered prior site plans which depicted the presence of wetlands to the rear of the project site. Attorney Gilchrist then reviewed the issue of timeframes for determination on the site plan application in the event the Planning Board sought to close the public hearing, and reviewed the options of keeping the public hearing open until such time as the wetland issue was addressed by the applicant, or closing the public hearing with the consent of the applicant on the record to extend the timeframe for making a determination on the site plan application pending resolution of the wetland issue on the project site. Thomas Dingley, also representing the owner, stated that he was not aware of any wetlands on the Ace Hardware project site, either Federal or State

wetlands. Mr. Dingley stated that the only wet area is a drainage swale in the back of the site which was part of the stormwater plan for the Ace Hardware project. Chairman Oster noted that prior site plans submitted to the Town of Brunswick Building Department did identify wetlands to the rear of the project site. Mr. Dingley stated that it was his understanding that wetlands had never been delineated on the site, that the prior site plan must be in error, that the wetland even as depicted on the prior site plan would not be impacted by this project, but did concede that there would be some work done within 100 feet of the area identified as wetland on the prior site plan. Mr. Bonesteel stated that he had reviewed the prior site plan depicting wetland to the rear of the project site, and confirmed that he had reviewed the NYSDEC wetland maps for this location, and determined that the project site does contain NYSDEC regulated wetlands which are depicted on the prior site plan. Mr. Bonesteel did state that the majority of this regulated NYSDEC wetland does exist off the project site, but it does extend onto the project site to the rear of the project site. Mr. Bonesteel stated that all the prior site plan reviews had consisted solely of reuse of the existing buildings, but that the current plan calls for both demolition as well as construction of new buildings that will be within 100 feet of the regulate NYSDEC wetland. Mr. Bonesteel stated that the project must be reviewed by NYSDEC. Mr. Bonesteel also noted that the environmental assessment form submitted in connection with the application is incorrect, as it states there are no wetlands on the project site. The environmental assessment form must be corrected. Mr. Dingley then inquired whether the applicant could phase the project, so that any work proposed within 100 feet of the regulated wetland be delayed until a future phase of the project. Attorney Gilchrist stated that this approach could give rise to segmentation under the SEQRA regulations. Upon further discussion, both Mr. Dingley and Mr. Michael on behalf of the applicant consented to extend the 62-day time period in which to make a determination on the site plan application in consideration of closing the public hearing. Thereupon, the Planning Board closed the public hearing on the Ace Hardware site plan application, subject to the applicant's consent

on the record to extend the 62-day time period in which to make a determination on the site plan application.

The Planning Board then continued its regular business meeting.

The draft minutes of the March 15, 2018 were reviewed. Upon motion of Member Czornyj, seconded by Member Henderson, the minutes of the March 15, 2018 meeting were unanimously approved without amendment.

The first item of business on the agenda was the special use permit, site plan, and subdivision applications submitted by High Peaks Solar and Hope United Methodist Church for the proposed utility-scale commercial solar facility on property located at 566 Brunswick Road. Chairman Oster noted that the public hearing had been closed, but that the applicant must address the federal wetland issue. Chairman Oster asked whether any of the Planning Board members had any further questions or comments. Member Mainello stated that along the north property line of the project site, the applicant should consider installing a berm with some kind of vegetation screening, which would mitigate the visual impact from the Clemente parcel. Mr. Bailey utilized picture number 7 of the project application documents to review this location, and stated that a vegetative screening does make sense, but installation of a berm does not given the general grades in this location. Mr. Bailey stated that the Clemente property is about 25 feet above the field in which the panels will be installed, so that a significant berm would be required. Member Czornyj stated that trees should be planted which would provide enough height to create a visual buffer. Mr. Bailey stated that he will work with the property owner on appropriate plantings, and was agreeable to planting vegetation on the Clemente parcel and/or on the project site to provide adequate visual buffer if acceptable to the Clementes. Member Stancliffe asked about the number of trees and the type of trees to be installed. Mr. Bailey stated that both the number and the type of trees can be discussed with the Clementes. Chairman Oster stated that this should be discussed and worked out between the applicant and the

owners of the Clemente parcel. Chairman Oster noted that the Federal wetlands issue must be addressed by the applicant, and this matter is placed on the April 19 agenda for further discussion.

The next item of business on the agenda was the site plan application submitted by Ace Hardware for property located at 861 Hoosick Road. The Planning Board confirmed with Bo Michael, representative of the applicant, that the NYSDEC regulated wetland on the project site must be addressed. Chairman Oster noted for the record that the Planning Board was not raising this State regulated wetland issue for purposes of delay, but rather to make sure the record is complete on which a determination can be made. Mr. Michael stated that the owner had not informed him as to the presence of any wetlands on the site, but that the State regulated wetland issue must be investigated. Mr. Michael requested that the matter be placed on the April 19 agenda. Chairman Oster stated that the matter is placed on the April 19 agenda, and that if the applicant had any questions concerning the NYSDEC wetland issue, he should coordinate with Mr. Bonesteel.

Chairman Oster noted that the waiver of subdivision application submitted by Toomajian was not listed on the agenda for the Planning Board, and also noted that there was no appearance by the applicant. Chairman Oster stated that the Toomajian waiver of subdivision application will be placed on the April 19 agenda, and requested that the Building Department coordinate with the applicant to make sure they are in attendance.

There were no new items of business to discuss.

Member Mainello inquired as to the status of the David Leon special permit application for multi-family housing on property to the rear of the Planet Fitness facility. Mr. Bonesteel stated that he had completed a memorandum listing the items of additional information needed to review the special permit and concept site plan, and that the applicant was in the process of preparing those additional items of information.

Mr. Bonesteel also informed the Planning Board that he had been informed that an updated traffic study had been filed by Stewart's Shops in connection with its proposed site plan for property located on Hoosick Road at the intersection of Sweetmilk Creek Road. Mr. Bonesteel stated that the updated traffic information had been submitted to NYSDOT about two weeks ago, but he had not heard any update since that time.

The index for the April 5, 2018 meeting is as follows:

1. High Peaks Solar/Hope United Methodist Church - Special use permit/site plan/subdivision - April 19, 2018;
2. Ace Hardware - Site plan - April 19, 2018;
3. Toomajian - Waiver of subdivision - April 19, 2018.

The proposed agenda for the April 19, 2018 meeting currently is as follows:

1. High Peaks Solar/Hope United Methodist Church - Special use permit/site plan/subdivision;
2. Ace Hardware - Site plan;
3. Toomajian - Waiver of subdivision.