

# **Planning Board**

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

## **MINUTES OF THE PLANNING BOARD MEETING HELD FEBRUARY 1, 2018**

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

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

Chairman Oster reviewed the agenda for the meeting.

The first item of business on the agenda was the public hearing for the special use permit application submitted by Gail Lenihan and Rodney Wiltshire for property located at 212 John Snyder Road. The applicant seeks approval to install a 25-foot by 16-foot small-scale ground-mounted solar facility. Chairman Oster reviewed the procedure for the public hearings. Attorney Tingley read the notice of public hearing and indicated that it had been published in the Troy Record on January 20, 2018, and had also been posted on the Town website, placed on the Town signboard, and sent to surrounding property owners. Rodney Wiltshire appeared on behalf of the applicant. Mr. Wiltshire reviewed the application, indicating that the property owner sought to install a 16-unit solar panel array to collect solar energy for personal consumption on the site, with underground distribution lines to be trenched to the home, and indicated that the panels would not be visible off-site. Mr. Wiltshire indicated that the applicant hoped to begin construction in the spring. The Planning Board then opened up the public hearing to public comment. After multiple

opportunities were allowed for public comment, no members of the public submitted any comments. The Planning Board then closed the public hearing.

The Board then opened the regular meeting. The draft minutes of the January 18, 2018 meeting were reviewed. Member Czornyj made a motion to approve the minutes as submitted, which was seconded by Member Henderson and was unanimously approved.

The first item of business on the agenda was the special use permit application submitted by Gail Lenihan for property located at 212 John Snyder Road, on which Ms. Lenihan intends to construct a small-scale solar array. Member Czornyj made a motion to adopt a negative declaration, which was seconded by Member Tarbox, and was unanimously approved. Member Czornyj then made a motion to approve the special use permit application, which was seconded by Member Henderson, and was unanimously approved.

The next item of business on the agenda was the site plan, special use permit, and subdivision applications submitted by High Peaks Solar for property located at 566 Brunswick Road. Kevin Bailey appear on behalf of the applicant. Chairman Oster noted that the Zoning Board of Appeals had not taken any action on the application, including scheduling any public hearing, because the applicant had not appeared at the Zoning Board meeting. Mr. Bailey indicated that he appeared at 6:40pm for what he thought was a 7:00pm meeting, but apparently the Zoning Board had already met at 6:00pm and had concluded their meeting. Chairman Oster asked Attorney Tingley to review the procedural timeline in light of the SEQRA coordinated review process and the local permit review process. Attorney Tingley indicated that the Planning Board, if it deemed the application complete, could schedule a public hearing at this evening's meeting. However, the Zoning Board meeting for the month of February will be held on February 26, 2018, which means that the Zoning Board of Appeals will not have sufficient time prior to the Planning

Board's March 1, 2018 meeting to post and publish notice of public hearing. Attorney Tingley indicated that, because this application includes a subdivision application, the Board should wait to hold its public hearing until the Zoning Board is ready to proceed with the area variance application. If the Planning Board proceeds to public hearing and closes the public hearing on the subdivision application prior to the Zoning Board of Appeals considering the area variance application, the decision on the subdivision application may be illegal. Accordingly, Mr. Tingley suggested that the Planning Board, if it was satisfied with the completeness of the application, consider scheduling the public hearing to be held at the March 15, 2018 Planning Board meeting, with an invitation to the Zoning Board of Appeals to join in that public hearing. Mr. Bailey indicated that he was agreeable to that timeline and had no objection to the scheduling of the public hearing for March 15, 2018. Mr. Bailey indicated that the utility is requiring a payment before the end of February, but that the utility indicated it would extend the time to make the payment if the Town submitted a letter indicating that the application was still under review. The Planning Board asked Attorney Tingley if there was any issue associated with providing such a letter. Attorney Tingley indicated there was no such issue and that, if acceptable, his office could prepare the letter as counsel to both the Planning Board and the Zoning Board of Appeals to indicate that the application is still under review. Mr. Bailey agreed to obtain Mr. Tingley's email address from Karen Guastella to coordinate preparation and submission of the letter. Chairman Oster noted that the County recommendation had been received and the County determined that local consideration shall prevail, but had provided a number of comments that should be considered. The Planning Board asked whether the photosimulations had been submitted and Mr. Bailey indicated that they had been dropped off to the Building Department. Mr. Bonesteel indicated he had received the updated information. Mr. Bonesteel discussed the visual EAF addendum and some changes that

would be needed to complete the form properly. On the visual EAF addendum, Mr. Bonesteel asked Mr. Bailey to indicate whether certain resources existed within 5 miles, not to indicate whether resources within 5 miles would have a view of the project. The visual EAF addendum currently refers to a number of items as “N/A”, but there are resources that exist within 5 miles. Mr. Bonesteel also asked the applicant to identify where views are taken from and to provide additional photosimulations of areas from where the site would be visible. The Planning Board then discussed the County comment that the project would be visible from Creek Road. The applicant indicated that site changes will not change the visibility from Creek Road. Mr. Bonesteel indicated that the application materials show the flood zone for the Poesten Kill as being located contiguous to the project site but that the project does not appear to be located within the flood zone itself. The Planning Board asked Mr. Bonesteel whether the contiguous location of the flood zone presented a problem and Mr. Bonesteel indicated that he did not believe it would, given the contours of the property. Member Stancliffe indicated that the lowest contour shown on the map is 404 feet. The applicant indicated that the racks holding the solar panels needed to be installed on a level plane to be effective, so if the topography drops off, the installer will not install the racks on a downslope towards the Poesten Kill. Member Tarbox commented that there appears to be removal of vegetation between the array and the Poesten Kill, and it looks like the plan proposes installation of panels to be into the 400-foot elevation area. The applicant agreed to remove from the plan any arrays that would be at the 400-foot contour. Member Tarbox further stated that he had concern regarding whether the neighbors would suffer visual impacts from the project. The applicant indicated that he had consulted with one of the neighbors who would most likely be the most visually impacted and discussed with him that the applicant would not be removing the brush line along the neighbor’s property line, which provided a visual buffer. The applicant indicated

that the panels would be facing the other direction, and there would be no need to remove the vegetation along the neighbor's property line. Chairman Oster asked whether the applicant would be amenable to adding additional vegetation. The applicant indicated that the additional vegetation would not likely provide any relief because of the change in topography between the neighbor's site and the site of the project. The applicant indicated that those neighbors would be looking at the back of the panels, not the front, and in response to Member Mainello's question, indicated that there would be no reflectivity issues from the back of the panels. Member Stancliffe indicated that the full environmental assessment form indicated that the project site was located in a potentially archeologically significant area and asked whether the applicant had received a letter from SHPO. The applicant indicated that a phase 1 archeological review is being scheduled and will be completed as soon as the ground thaws. Member Tarbox stated that the property at issue is good farmland, and that he is concerned that suitable farmland will be used for solar arrays. The applicant indicated that the use was not a permanent use and it can be reverted to farmland at the appropriate time. The applicant further indicated that there would not be significant soil disturbance and therefore no impacts to the quality of the farmland. The Board asked how long the project would exist, and the applicant indicated it would likely be for about 30 years. Following 30 years, the panels would either get decommissioned and removed or—if the property owner wanted to continue the use and all of the components were in good working order or could be replaced in a cost effective manner—the use could then continue. Member Tarbox asked whether the applicant has a way of telling if a panel is not producing energy. The applicant explained the panels are monitored remotely and that yield deviations would indicate if there was some malfunction. Member Casey asked Attorney Tingley whether there would be any bond required for decommissioning the site. Attorney Tingley reviewed the Zoning Law and indicated that one

of the requirements of the Town Zoning Code was that the applicant post a security in an amount sufficient to the Town to cover the decommissioning costs. Chairman Oster asked Mr. Bonesteel whether he considered the application complete enough for purposes of scheduling a public hearing. Mr. Bonesteel indicated that he believed the application was sufficiently complete to schedule the public hearing. The Planning Board scheduled the public hearing to be held on March 15, 2018 at 7:00pm, with the intent that the public hearing would be held jointly with the Zoning Board of Appeals. The Board then discussed with the applicant whether there would be a need for him to appear at a Planning Board meeting between now and the public hearing. Attorney Tingley indicated that there had been some discussion of additional items and revisions to be made and therefore the applicant should present those to the Planning Board at one of its upcoming meetings. The Board determined to place this matter on the agenda for the February 15, 2018 meeting to present the additional information, and if the applicant was either not ready or needed additional time, then it could also be scheduled for the March 1, 2018 meeting.

There was one item of new business to be discussed and two additional items of old business to be discussed.

The first item was the proposal for property located on Flower Road for the agri-community development. Ms. Guastella indicated that the applicant had requested a sketch plan conference to discuss the requirements for the project. Ms. Guastella indicated that the Building Department and Attorney Gilchrist's office had concluded that the project was a major subdivision with a homeowners' association and that there were several issues to be addressed. One such issue was the number of houses on a dead end road. The Board discussed the fact that the project as proposed would appear to require a Town Board waiver on the limit on the number of houses located on a dead end road. The Board also discussed the internal road and the need to verify if

the road would be public or privately owned and maintained and, regardless of which, there would be issues that would need to be addressed to make sure that it was sufficient to support the project. Chairman Oster indicated that the Planning Board's task on addressing the number of houses on a dead end road was to make a recommendation to the Town Board. The Board discussed the need to have each lot in the subdivision front on a public road. Attorney Tingley indicated that he believes there is a procedure under the Town Law that allows the Town Board to authorize creation of lots in an open development area, but that he would review that question and advise. The Board then discussed emergency access requirements and the likely concerns of the fire department that would be raised regarding the loop road currently shown on the concept plan. Mr. Dixon Knipe indicated that he was the applicant and had some questions for the Board. He asked whether the road would need to be paved and meet Town specifications if it was a Town road. Chairman Oster responded that generally the road specifications required that it be paved. Chairman Oster indicated with this many lots, on which homes will be built, the road really must be paved to allow for emergency access, but that the road could be privately owned and maintained. The applicant asked whether the road could, instead of being looped, be a straight road with gravel driveways to each of the properties. Chairman Oster indicated that a straight road might be sufficient, as long as there was a cul-de-sac or a turnaround provided. Chairman Oster further indicated that each lot must have frontage on a Town road, or at least have the capability of having access to the public road. Chairman Oster then discussed procedure with the applicant and indicated the applicant should consult with the Building Department to get the requirements for major subdivisions. The applicant indicated that it intends to build the homes and sell the lots. The applicant further indicated that the homes would have private water supply wells. The applicant indicated that he would consult with his surveyor and prepare a revised map incorporating the comments and would

work with the Building Department in ensuring that the requirements of a major subdivision were included. The matter was not placed on an agenda at this time.

The first item of old business discussed was the request by Henry Reiser for a renewal of the prior subdivision approval for the Grey Ledge Subdivision located at Plante Lane and Penny Royal Lane. Ms. Guastella indicated that the applicant was not in attendance, and that the applicant had not filed the subdivision plat in the County Clerk's Office in time before the approval expired. The Board asked Attorney Tingley whether the applicant needed to be present to present the application. Attorney Tingley indicated that it was his office's opinion that a renewal of the approval could be undertaken at this meeting because it would not involve any changes to the subdivision plat. Member Tarbox then made a motion to renew the prior approval of the subdivision plat, which was seconded by Member Czornyj and was unanimously approved.

The next item of old business discussed was the waiver of subdivision application for property located at 194 Bald Mountain Road. Ms. Guastella indicated that the map had not been filed in the County Clerk's Office in time and that the applicant was seeking renewal of the prior approval. Member Tarbox made a motion to renew the previously approved waiver of subdivision, which was seconded by Member Czornyj and was unanimously approved.

Chairman Oster then asked if there was any additional business that needed to be discussed. The Board discussed the fact that Tom Murley had requested a modification of conditions for the Diamond Rock Plaza. The Board did not take any particular action on that request. The Board also discussed the Ace Hardware project with Ms. Guastella, who indicated that the applicant is currently preparing a site plan. Ms. Guastella indicated that the parking requirement decided by the Board had been relayed to the applicant following the meeting. Member Stancliffe asked whether the wetlands to the rear of the property would be shown on the site plan. Ms. Guastella



indicated that the site plan was currently in preparation and those should be identified. The Board also discussed the David Leon project and indicated that the matter was before the Town Board and it was Chairman Oster's understanding that the applicant and the Town Board are attempting to resolve a legal issue associated with the paper street. The David Leon project was placed on the agenda for the February 15, 2018 meeting. No further business was discussed.

The index for the February 1, 2018 meeting is as follows:

1. Lenihan - Special use permit - Approved;
2. High Peaks Solar - Special use permit/site plan/subdivision - 2/15/2018 (public hearing scheduled for 3/15/2018);
3. Agri-community Development/191 Flower Road - Adjourned without date;
4. Reiser - Renewal of prior subdivision approval - Approved;
5. 194 Bald Mountain Road - Renewal of prior subdivision approval - Approved.

The proposed agenda for the February 15, 2018 meeting currently is as follows:

1. High Peaks Solar - Special use permit/site plan/subdivision.
2. MJ Engineering/David Leon - Sketch plan/special use permit.