

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD JUNE 20, 2019

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

ABSENT was J. EMIL KREIGER.

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

Chairman Oster reviewed the agenda as posted on the Town signboard and Town website. Attorney Gilchrist noted that the applicant on the Oakwood Property Management PDD site plan amendment had requested that the matter be placed on the next Planning Board agenda.

The first item of business on the agenda was a public hearing on the application for special use permit and site plan approval submitted by Kasselmann Solar for property owned by Kim and John Hoggan located at 99 Moonlawn Road. The notice of public hearing was read into the record, noting that the public hearing notice had been published in the Troy Record, posted on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Chairman Oster requested the applicant to make a brief presentation. Scott Stevens of Kasselmann Solar reviewed the proposal, which seeks approval for the installation of a ground-mount solar facility of 46 feet by 13 feet, with a maximum height of 8 feet, which will be for domestic property owner use only. Mr. Stevens stated that the property owners had discussed the proposal with their adjacent neighbor, who is supportive of the application. Mr. Stevens

handed up to the Planning Board members additional topographical information as well as aerial photographs, stating that the facility will not be in the view of adjacent home owners. Mr. Stevens stated the Planning Board did have a question regarding the location of the AC disconnect, and confirmed that the AC disconnect will be within the home. Mr. Stevens confirmed there had been no changes to the application since the prior meeting. Chairman Oster opened the floor for receipt of public comment. Sara Schillaco, 92 Moonlawn Avenue, stated she lives directly across the street from this location, and asked whether the solar facility would be located behind the house. Mr. Stevens confirmed the facility will be located behind the house. Chairman Oster asked for any additional public comment. Hearing none, Chairman Oster closed the public hearing on the Kasselmann Solar special use permit and site plan application.

The Planning Board next reviewed the draft minutes of the June 6, 2019 meeting. Upon motion of Chairman Oster, seconded by Member Henderson, the minutes of the June 6, 2019 meeting were unanimously approved without amendment.

The special use permit and site plan application of Kasselmann Solar was addressed by the Planning Board. Chairman Oster inquired whether any members of the Planning Board had questions concerning the application. There were no questions by the Planning Board members. Chairman Oster inquired whether Mr. Bonesteel had any questions or comments. Mr. Bonesteel stated he had reviewed the application materials, and has no questions. Attorney Gilchrist noted that the application does require the recommendation of the Rensselaer County Planning Department, and that the County's recommendation had not yet been received. Attorney Gilchrist stated that the County recommendation must be received before the Planning Board can act on the application. Chairman Oster confirmed that the Planning Board had no questions or comments regarding the application materials, and that there were no issues for the applicant to address. The

Planning Board confirmed that it had no issue with the application, and that the only outstanding item was the County recommendation. This matter is placed on the July 18 agenda for action on the application.

The next item of business on the agenda was the minor subdivision application submitted by Louis Morizio for property located on Liberty Road. Attorney Ana-Maria Galeano appeared for the applicant. Attorney Galeano stated that the public hearing on the minor subdivision application had been held, and that a groundwater issue had been raised. Attorney Galeano stated that the groundwater had been tested and the report sent to Planning Board engineer Bonesteel, with no health concerns regarding groundwater quality raised in the report. Mr. Bonesteel confirmed he had received the groundwater report at 2:00pm on the date of this meeting, but that he did have an opportunity to review the report which had been prepared by an NYS-certified laboratory; Mr. Bonesteel confirmed that he had sent correspondence to Mr. Morizio after the public hearing, noting that the minor subdivision site was located approximately 2,000 feet from an NYSDEC Superfund site, which is a Class 3 site under NYSDEC regulations, which classifies the site as not having a significant threat to human health or the environment, but that it was prudent to have a groundwater test performed in light of the public comment received at the public hearing. Mr. Bonesteel stated that he had recommended NYSDEC protocol on the groundwater testing, which included testing for volatile organic compounds and metals. Mr. Bonesteel stated that the laboratory report provided test results showing that the groundwater results were all below NYSDEC action levels for all tested contaminants. Chairman Oster confirmed that the only issue pending before the Planning Board following the public hearing was the groundwater analytical issue. Mr. Bonesteel concurred. Chairman Oster stated that a neighbor had raised a concern regarding high E. coli in groundwater, but Mr. Bonesteel confirmed that the laboratory results were

negative for E. coli. Mr. Bonesteel stated that the groundwater wells proposed for these subdivided lots will still require Health Department review and approval. Attorney Galeano stated that if the yield from a groundwater well is less than 10,000 gallons per day, then Department of Health approval was not required. Mr. Bonesteel stated that the Department of Health review was not the NYS Department of Health, but rather the Rensselaer County Department of Health which retains jurisdiction for approval of individual water supply wells. Member Tarbox asked whether a note should be added to the subdivision map concerning the NYSDEC Superfund site. Attorney Gilchrist stated that, in his opinion, the Planning Board record on this issue would be adequate, and further that adding a map note concerning the presence of a NYSDEC Superfund site would be permanently in the County Clerk records through the filed plat, whereas NYSDEC may change the hazardous waste site classification or remove the site from the DEC classification system altogether in the future. Chairman Oster stated that a tree on the project site needed to be removed to meet sight distance requirements for one of the driveways. Attorney Gilchrist concurred, stating that this should be a condition to any action. Member Stancliffe asked whether a condition should be included on blasting, since the issue came up at the public hearing. Attorney Gilchrist stated that the Town of Brunswick does have a blasting protocol that it has used on other projects, and that this could be considered as a condition to any action. Chairman Oster inquired whether there were any further questions or comments. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Stancliffe. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the minor subdivision application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;

2. Town driveway permits are required;
3. No building permits are to be issued until the tree on the project site is removed to satisfy sight distance requirements; and
4. If blasting is to be conducted in connection with building construction, the property owner must coordinate with the Brunswick Building Department for required compliance with blasting protocols utilized by the Town of Brunswick.

The motion subject to the conditions was seconded by Member Petersen. The motion was unanimously approved, and the minor subdivision approved subject to the stated conditions.

The next item of business on the agenda was the special use permit and site plan application submitted by Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless for a proposed 150-foot major wireless telecommunications facility to be located off Creek Road on the lands of Zouky located between Creek Road and Menemsha Lane. David Brennan, Esq., of the law firm Young Sommer, project attorneys, was present for the applicant. Attorney Brennan stated that he had been before the Planning Board at its June 6 meeting, where the comment letter of the Town's review engineers, Laberge Engineers, was reviewed. Attorney Brennan stated that his clients are still compiling responses to the Laberge comment letter, and anticipates submittal of responses during the week of June 24. Attorney Brennan stated that with respect to lead agency designation under SEQRA, he had been before the Brunswick Zoning Board of Appeals at its June 17 meeting, and that the Brunswick Zoning Board of Appeals had deferred lead agency status to the Brunswick Planning Board; that NYSDEC had not yet responded to the SEQRA lead agency coordination notice, and that the Planning Board would need to receive the response from NYSDEC before declaring lead agency. Attorney Brennan further discussed a balloon test to be

conducted in connection with the application, and that he will be preparing a protocol for the balloon test to be reviewed by both Engineer Laberge and Attorney Gilchrist, and that he would like to be able to further discuss the balloon test protocol with the Planning Board at its July 18 meeting. Attorney Brennan generally discussed the balloon test to be conducted, and stated that he would be reviewing the specific protocols for the balloon test with the Zoning Board of Appeals at its July 15 meeting, and sought to have discussion with the Planning Board on the protocol at the Planning Board's July 18 meeting. Attorney Brennan stated he anticipated having the balloon test protocol finalized, have the balloon test publicly noticed, and have the balloon test conducted before coming back to the Town for further review of the applications. The Planning Board members discussed general procedure associated with the balloon test, including flying balloons at all three locations which are options for the monopole location on the project site. This matter is placed on the July 18 agenda for further discussion.

It is noted that the site plan amendment application of Oakwood Property Management LLC is placed on the July 18 agenda for discussion.

One item of old business was discussed.

The major subdivision application submitted by Sharpe Road Development LLC for property located along Sharpe Road was discussed. The applicant proposes a 17-lot subdivision on 17.95 acres along Sharpe Road, with the project site being located both in the Town of Brunswick and the Town of North Greenbush, including a proposed new Town road to be located in the Town of Brunswick and public water supply through the Town of Brunswick. Eric Redding, P.E., of Bergmann Associates, project engineers, was present for the applicant. Mr. Redding stated that the Brunswick Town Board had approved the waiver regarding the proposed 15 lots on the new proposed cul-de-sac road. Mr. Redding also stated that his office had addressed comments of

Planning Board engineer Bonesteel, the Brunswick Water Department, and the Brunswick Highway Department. Mr. Redding also stated that he had responded to comments of Laberge Engineers, serving as review engineers for the Town of North Greenbush Planning Board. Mr. Redding also stated that his office was preparing the stormwater pollution prevention plan (SWPP) report. Mr. Redding stated that the project now proposes a public road width of 11-foot travel lanes with 16-inch gutters per the recommendation of the Brunswick Highway Department. Mr. Redding also stated that seven fire hydrants are proposed for the project, after receiving comments from both the Brunswick Water Department and the fire department. Mr. Redding stated that the project has received correspondence from the US Army Corps of Engineers indicating that the project qualified for nationwide permit 29. Mr. Redding stated that his office is addressing comments of the Rensselaer County Department of Health regarding the proposed septic systems. Mr. Redding also stated that his office was in the process of preparing the map, plan and report for the proposed water district extension. Mr. Redding requested that the Planning Board schedule the public hearing on the major subdivision application. Attorney Gilchrist stated that given the project location on the border of the municipal boundary between Brunswick and North Greenbush, that the applicant prepare a plan showing the exact surveyed location of the municipal boundary line between the two towns, and also add applicable boundaries of fire districts, school districts, and any other relevant special districts, stating that this information would be relevant for Planning Board review as well as for the public hearing. Attorney Gilchrist also stated that, given the issue of providing public water from the Town of Brunswick to lots proposed for the Town of North Greenbush, the applicant should complete its map, plan and report for the proposed water district extension. The applicant should be prepared to describe in detail what its proposal is for public water supply, as well as cost to typical properties, and how the applicant proposes the

economics of the water distribution would work. Chairman Oster inquired whether the real property assessment issue was relevant for Planning Board purposes. Attorney Gilchrist stated that the real property assessment issue was a Town of Brunswick issue, and that it was not a specific Planning Board subdivision review issue. Mr. Bonesteel asked for an update on the status of the North Greenbush Planning Board review. Mr. Redding stated that the North Greenbush Planning Board was generally in the same position as the Brunswick Planning Board in terms of its review, that he will be presenting the project at the North Greenbush Planning Board meeting to be held June 24, and will likewise be requesting a public hearing to be held by the North Greenbush Planning Board. The Planning Board determined that the subdivision application was complete for purposes of scheduling a public hearing, and that this public hearing will open on the proposed Sharpe Road subdivision on July 18, 2019 at 7:00pm. Member Tarbox stated that he still had concern regarding the lot on Sharpe Road due to the steepness of the grade, and Mr. Redding conceded that his office still needed to address grading, and that his client is not seeking final approval on those specific lots. Mr. Redding also stated that his office had investigated the agricultural district statement requirement, stating that the project site was not located within 500 feet of any working farm. This matter is scheduled for the opening of the public hearing on the Sharpe Road subdivision to be held July 18 at 7:00pm.

Four items of new business were discussed.

The first item of new business discussed was a special use permit and site plan application submitted by Borrego Solar for property located on Dusenberry Lane. Emilie Flanagan of Borrego Solar, project manager, was present for the applicant, together with Greg Gibbons, P.E., Civil Engineer. Member Stancliffe noted that she would be required to recuse herself from consideration of this application due to potential conflict of interest, and left the meeting. Mr. Bonesteel also

stated he needed to recuse himself from his role as review engineer for this application due to conflict of interest, as his private engineer firm had conducted survey work in connection with the current application. The Planning Board members discussed the need to retain a review engineer, and identified Laberge Engineers as review engineer for this application. Attorney Gilchrist stated that he would contact Laberge Engineers and obtain an estimate as required under the Brunswick Zoning Law for the applicant to fund an escrow account for review engineering, and Ms. Flanagan concurred with that approach. Ms. Flanagan generally reviewed the proposal, first stating that Borrego Solar was currently working with the Town of Brunswick in constructing a solar farm located off Brick Church Road, and that Borrego Solar was looking to develop a community solar facility on Dusenberry Lane. Ms. Flanagan stated that Borrego Solar was a community solar development and construction firm, and develops projects under the New York Sun program. Ms. Flanagan generally described the proposed location at the end of Dusenberry Lane, and stated there should be very little visual impact from the project due to topography. Ms. Flanagan requested Mr. Gibbons to generally review the application. Mr. Gibbons stated that the project site was approximately 69 acres at the end of Dusenberry Lane in proximity to Bald Mountain Road; the property is currently vacant; the property is located in the Agricultural Overlay Zoning District, located within Agricultural District No. 2, and that an agricultural data statement had been submitted with the application materials; that US Army Corps of Engineers wetlands and a New York State regulated stream had been located on the project site; that there are no archeological resources on the project site, and that the applicant is coordinating with the State Historic Preservation Office; that the site has the potential for habitat for the northern long-eared bat under US Fish and Wildlife regulations, and that the applicant will comply with the tree removal limitations; that the project is proposed for 5 megawatts AC; that the project is proposed for 50

acres of fenced area, with 29 acres being physically disturbed; an erosion control plan will be implemented; it is anticipated that the build-out for the solar farm will be approximately four months, and have only temporary construction impacts; that the applicant will be applying for a joint permit from Army Corps of Engineers and NYSDEC; and that the site did not contain any prime agricultural soils. Chairman Oster noted that the project site was previously reviewed (several years ago) as a proposed major subdivision by Brooks Heritage LLC, and that as part of the major subdivision review, an upgrade to Dusenberry Lane was proposed. Chairman Oster asked whether there would be any significant impacts to Dusenberry Lane during project construction. Mr. Gibbons stated that Dusenberry Lane is currently a 16-foot wide paved road, and the applicant did not anticipate any significant impacts to the road during construction. The applicant stated that the solar panels would be a minimum of five feet off the ground, with a maximum height of 12 feet, and that the panels would be fixed. Attorney Gilchrist noted that if the applicant seeks to have above-ground utility poles installed in connection with bringing the electrical connection into the project site, an area variance will be required from the Brunswick Zoning Board of Appeals. The applicant acknowledged this requirement. This matter is placed on the July 18 meeting agenda for further discussion, with Attorney Gilchrist directed to contact Laberge Engineers for purposes of receiving an estimate for review fees and establishment of an escrow review account by the applicant, discussion of SEQRA review, and the submission of an updated Environmental Assessment Form by the applicant.

Member Stancliffe and review engineer Bonesteel returned to the meeting.

The second item of new business discussed was a special use permit application submitted by Mildred Fuller for property located on Johnson Road. The applicant seeks approval for an accessory apartment at this location. The applicant stated that the property had been purchased in

October 2018, and that the property did have an existing attached two-car garage which had since been renovated, and that a bathroom, kitchen, bedroom, and living area had been installed. Ms. Fuller stated that she was unaware that a special use permit was required for an accessory apartment, and was asking the Planning Board's approval to correct this matter. Chairman Oster asked whether there was a separate entrance for the accessory apartment. Ms. Fuller stated there was a shared entrance, in the nature of a breezeway, which provided access to the main house as well as to the accessory apartment. Ms. Fuller explained that Johnson Road was located off Bellview Road going up to Bald Mountain Road, off of NYS Route 142. Mr. Bonesteel confirmed that the Fuller lot abuts NYS Route 142, and that this application will require review by the County Planning Department. The Board inquired whether there was parking on the lot available for the accessory apartment. Ms. Fuller stated that there was adequate parking on the lot, with area to locate up to 6-8 cars on the lot if necessary. The Planning Board reviewed the map, noting that the area appeared to have multiple lots at one time, and there was general discussion concerning lot layouts. It was determined that this matter will be placed on the August 1 agenda to open a public hearing at 7:00pm.

The third item of new business discussed was special use permit application submitted by Edward Malone for property located at 137 Bald Mountain Road. Mr. Malone was present, and explained that he also had an area variance application pending before the Brunswick Zoning Board of Appeals. Mr. Malone explained that he was looking to construct an accessory apartment for his son, which requires a special use permit. Mr. Malone also explained that he discovered his house did not meet the existing front yard setback requirements, which requires the area variance application now pending before the Brunswick Zoning Board of Appeals. Mr. Malone explained that the Brunswick Zoning Board of Appeals will be holding a public hearing on his area variance

application at its meeting to be held July 15. The Planning Board scheduled this matter for discussion at its July 18 meeting, and if the area variance is granted by the Zoning Board of Appeals, it is anticipated that a public hearing on the special use permit for the accessory apartment will be scheduled for the August 1 meeting.

The fourth item of business discussed was a site plan amendment submitted by Brunswick Center Associates LLC/Nigro for the Brunswick Plaza Planned Development District. Eric Redding, P.E., of Bergmann Associates, was present for the applicant. Mr. Redding explained that the proposed amendment is simply to amend the dumpster enclosure for the proposed Sunmark Federal Credit Union portion of the project. Mr. Redding explained that the original site plan called for a CMU block enclosure for the dumpster, and that Sunmark is looking to have that replaced with a PVC fence enclosure. Mr. Redding had submitted to the Planning Board information concerning the proposed PVC enclosure. Mr. Bonesteel had questions concerning the durability of the PVC enclosure, which issue was discussed by the Planning Board. Chairman Oster inquired why the applicant was proposing this change. Mr. Redding explained that his office had placed the CMU block enclosure on the site plan, but that Sunmark was looking now to replace that with the PVC enclosure both for purposes of aesthetics and cost. Mr. Bonesteel asked whether the dumpster enclosure for the Taco Bell portion of this site would also be seeking this amendment. Mr. Redding stated that the Taco Bell dumpster enclosure would stay the same, and will include the CMU block enclosure with a trex gate. Mr. Redding explained that the Sunmark proposed PVC dumpster enclosure will aesthetically match the Sunmark building. Mr. Bonesteel stated that this matter came before the Planning Board for review since this dumpster location is in a highly visible area of the Brunswick Plaza, and that amending the enclosure from a block wall to a vinyl fence is a structural change. Member Stancliffe raised an issue concerning any ballards or steel

posts within the proposed PVC dumpster enclosure, and Mr. Redding explained that there were steel posts at the entrance with curbing around the entire dumpster enclosure. After further discussion, the Planning Board members had no concerns regarding this amendment. The Planning Board also concurred that this was a minor modification, and did not require any public hearing. Thereupon, Member Stancliffe made a motion to approve the amendment to allow the PVC dumpster enclosure, with the condition that the PVC enclosure must be maintained in proper working condition. Member Tarbox seconded a motion subject to the stated condition. The motion was unanimously approved, and the amendment to the Brunswick Plaza PDD site plan was approved, allowing the dumpster enclosure to be modified from the CMU block enclosure to a PVC vinyl enclosure, subject to the stated condition.

It is noted for the record that the first Thursday in July is July 4, and that the Planning Board has cancelled that meeting due to the holiday. The next scheduled meeting of the Planning Board will be held July 18.

The index for the June 20, 2019 meeting is as follows:

1. Kasselmann Solar - Special use permit and site plan - July 18, 2019;
2. Morizio - Minor subdivision - Approved with conditions;
3. Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless - Special use permit and site plan - July 18, 2019;
4. Oakwood Property Management LLC - Oakwood Property Management Planned Development District site plan amendment - July 18, 2019;
5. Sharpe Road Subdivision - Major subdivision - July 18, 2019 (public hearing to commence at 7:00pm);
6. Borrego Solar - Special use permit and site plan - July 18, 2019;

7. Fuller - Special use permit - August 1, 2019 (public hearing to commence at 7:00pm);
8. Malone - Special use permit - July 18, 2019.
9. Brunswick Center Associates LLC/Nigro - Brunswick Plaza PDD site plan amendment - Approved with condition.

The proposed agenda for the meeting to be held July 18, 2019 currently is as follows:

1. Sharpe Road Development LLC - Major subdivision (public hearing to commence at 7:00pm);
2. Kasselmann Solar - Special use permit and site plan;
3. Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless - Special use permit and site plan;
4. Oakwood Property Management LLC - Oakwood Property Management Planned Development District site plan amendment;
5. Borrego Solar - Special use permit and site plan;
6. Malone - Special use permit;
7. Leon - Special use permit - Discussion on completeness of draft of Environmental Impact Statement.