

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD AUGUST 1, 2019

PRESENT were DAVID TARBOX, DONALD HENDERSON, LINDA STANCLIFFE, and ANDREW PETERSEN.

ABSENT were CHAIRMAN OSTER, KEVIN MAINELLO, and J. EMIL KREIGER

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

Member Stancliffe served as Acting Chair for this meeting. Acting Chair Stancliffe reviewed the agenda for the meeting as posted on the Town signboard and on the Town website, noting that the special use permit and site plan application submitted by Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless is tabled until the August 15 meeting.

The Planning Board opened a public hearing on the special use permit application submitted by Mildred Fuller for property located on Johnson Road. The notice of public hearing was read into the record, noting that the public hearing notice was 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. Mildred and Eric Fuller were present for the applicants. Acting Chair Stancliffe requested that the applicants provide a brief summary of the proposal. Mrs. Fuller stated that they are seeking a special use permit for an accessory apartment for their property at 6 Johnson Road; that they had already converted a garage into a studio apartment for her mother; that there was no change to the building footprint or roof; that the only work they had

done was to replace the windows and doors, and replaced a garage door with windows to create the accessory apartment; that they had also added a shower as well as electric heat to the apartment unit area. Mrs. Fuller understood that a report by a New York State Licensed Engineer is still required to confirm that the work that has been done in the accessory apartment area conforms with New York State Building and Fire Codes, and reported to the Planning Board that she has already spoken with an engineering firm to have that work completed. Acting Chair Stancliffe then opened the floor for receipt of public comment on this application. No members of the public wished to provide any comment on the application. Thereupon, Member Henderson made a motion to close the public hearing on the Fuller special use permit application, which motion was seconded by Member Tarbox. The motion was unanimously approved, and the public hearing on the Fuller special use permit application was closed.

The Planning Board then opened a public hearing on the special use permit application submitted by Edward Malone for property located at 137 Bald Mountain Road. The notice of public hearing was read into the record, noting that the public hearing notice was 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. Edward Malone was present for the applicant. Acting Chair Stancliffe requested that Mr. Malone present a brief overview of the proposal. Mr. Malone stated that he was seeking a special use permit for an addition to his home at 137 Bald Mountain Road to be used as an accessory apartment. Mr. Malone confirmed that the Brunswick Zoning Board of Appeals had granted an area variance for the setback for the proposed addition to the house, but conditioned that variance on confirming the location of the foundation for the proposed addition as shown on his sketch plan through the preparation of an updated survey. Mr. Malone stated that he understood that condition, and was working on having that survey

prepared. The Planning Board then opened the floor for receipt of public comment. No members of the public wished to provide any comment on this application. Thereupon, Member Petersen made a motion to close the public hearing on the special use permit application for 137 Bald Mountain Road, which motion was seconded by Member Tarbox. The motion was unanimously approved, and the public hearing closed.

The Planning Board then opened its regular business meeting.

The Planning Board members reviewed the draft minutes of the July 18, 2019 meeting. Upon motion of Member Tarbox, seconded by Member Henderson, the minutes of the July 18, 2019 meeting were unanimously approved without amendment.

The first item of business on the agenda was the special use permit application submitted by Mildred Fuller for property located on Johnson Road. Member Tarbox inquired whether there was adequate parking on the property for additional vehicles. Mrs. Fuller stated that there were additional parking spaces available, noting that there are already four vehicles parked at this location and that there is adequate room for additional parking, and that the property is located at the end of a dead-end street. Mr. Fuller stated that the driveway is approximately 50 feet by 50 feet, and there is adequate parking for additional cars. Member Henderson stated that there had been upgraded electric and plumbing, and wanted to confirm on the record that the appropriate engineering inspections are being completed. Mrs. Fuller stated that she is coordinating with a licensed engineer to complete these inspections, and will be working with the Brunswick Building Department on these requirements. Mr. Bonesteel stated that he had reviewed the environmental assessment form, and found it to be complete and accurate. Acting Chair Stancliffe inquired whether there were any further questions or comments on the application. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA for this action, which motion

was seconded by Member Petersen. The motion was unanimously approved, and a SEQRA negative declaration adopted. It is noted for the record that the application had been referred to the Rensselaer County Planning Department, and the recommendation received from the County indicated that the proposal does not conflict with County plans and that local consideration shall prevail. Member Tarbox made a motion to approve the special use permit for the accessory apartment at this location, subject to the condition that the property owners must complete all required inspections and submit the appropriate report by a New York State licensed engineer prior to the issuance of a certificate of occupancy by the Brunswick Building Department. The motion subject to that condition was seconded by Member Petersen. The motion was unanimously approved, and the special use permit approved subject to the stated condition.

The second item of business on the agenda was the special use permit application submitted by Edward Malone for property located at 137 Bald Mountain Road. Acting Chair Stancliffe inquired whether there were any questions or comments from the Planning Board members on this application. There were no additional questions or comments by the Board members. Mr. Bonesteel stated he had reviewed the environmental assessment form and finds it complete and accurate. Thereupon, Member Henderson made a motion to adopt a SEQRA negative declaration on this action, which motion was seconded by Member Petersen. The motion was unanimously approved, and a SEQRA negative declaration adopted. Acting Chair Stancliffe confirmed for the record that the Brunswick Zoning Board of Appeals has granted an area variance for this application, but subject to the condition that an updated survey be prepared to confirm that the location of the foundation for the proposed addition for the accessory apartment is consistent with the sketch plan submitted on the application and that the location complies with the 1.6-foot area variance granted by the Zoning Board of Appeals. Member Tarbox then made a motion to approve

the special use permit for the accessory apartment at this location, subject to the condition established by the Zoning Board of Appeals with respect to the area variance for this action. Member Henderson seconded the motion subject to the stated condition. The motion was unanimously approved, and the special use permit granted for 137 Bald Mountain Road subject to the stated condition.

The next item of business on the agenda was the continuation of the public hearing on the major subdivision application submitted by Sharpe Road Development LLC for a proposed 17-lot subdivision located on 17.95 acres of property located 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. Eric Redding, P.E., of Bergmann Associates, was present for the applicant. Mr. Bergmann stated that the Town of North Greenbush Planning Board had held a public hearing on this proposal on July 22, 2019, at which a number of comments were received, with the North Greenbush Planning Board closing its public hearing on July 22. Mr. Redding also stated that his office had responded in writing to the public comments received by the Brunswick Planning Board at its meeting held July 18, with the written responses submitted through correspondence of Bergmann Associates dated July 30, 2019. Mr. Redding stated that there was also an additional map submitted with the July 30 correspondence. Acting Chair Stancliffe then requested Mr. Redding to review his July 30 correspondence. Mr. Redding reviewed his July 30 letter, a complete copy of which is included in the record of this action. It is noted that, as stated at the end of the Bergmann Associates July 30 correspondence, the map, plan and report required for the proposed public water district creation has not yet been completed for this action, and that report will include a description of the proposed extension of public water to this subdivision, and include typical costs to each property benefitted through the

extension of public water as well as intermunicipal considerations given that the project is located both in the Town of Brunswick and the Town of North Greenbush with all proposed subdivided lots being provided public water through the proposed Brunswick water district. Attorney Gilchrist stated that this information included in the water district map, plan and report was important for consideration by the Planning Board on this action. Acting Chair Stancliffe then opened the floor for receipt of additional public comment through the continuation of the public hearing. Jean Cote-Hill, 242 Sharpe Road, stated that Rensselaer County requires all septic systems to be set back 200 feet from water supply wells; that she needs proof of the required setbacks from the well on her property and that a survey should be required by a licensed land surveyor with appropriate GPS information to confirm the required setback from all septic systems being proposed for this project to the well on her property; that there should be restrictions in place that would require all lots to be of the same size when the project is split between two towns, and the largest lot size required by either town should be the minimum lot size required for all lots in the project; that the Planning Board cannot act until SEQRA has been completed and that a coordinated SEQRA review is required; that there will be negative impacts to wetlands, surface waters, habitat for endangered species including snapping turtles, and flora; that trees and brush have already been removed from the project site; that the United States Environmental Protection Agency MS4 requirements include regulation of ponds, ditches, pipes, both during construction and subsequent operation, and that if the proposal for this project is that a homeowners association will own and operate the stormwater facilities, that the proposal will not work and will fail; she questions who will bill and pay for the stormwater facility maintenance when the homeowners association fails; she questions who is the watchdog for stormwater runoff issues; states that she attended the North Greenbush public hearing for this project, and that many people were concerned regarding the lot

size allowed in Brunswick and that the project is too dense as a result; that the North Greenbush Planning Board stated it would defer to the Brunswick Planning Board regarding stormwater management and environmental impacts; that she spoke to the owner of this property, David Mulinio, after he purchased the property, and was told he was looking to build ten houses only, and that this appeared acceptable to her at the time, but now he is looking to build 17 homes; further, she stated that Mr. Mulinio told her that he would provide adequate tree buffer to her property, but that has not been provided in this current plan; that Mr. Mulinio stated he would be extending municipal water to the project, and that he would bring the public water supply to the back of her property; that she requests the Planning Board to deny approval to this project, but if the project is approved, it should be subject to the restriction that all lots must be a minimum of 1.5 acres, that the project owner supply her property with public water, and that an adequate tree buffer be maintained between this project and her property. Donna Holcomb, 223 Sharpe Road, stated this project was disastrous; that she will bear most of the brunt of this project, since she lives below it and all of the water will run off this project and impact her hayfields; that she does not want her hayfields impacted by chemical runoff from this project; that even though the applicant states hazardous chemicals will not be used by the homeowners, there is no guarantee that the homeowners will not use any lawn chemicals that will impact her hayfields; that nobody has inquired as to where the water supply well is located on her property, that in fact it is located directly across the street from this project site, and that this project will ruin her water supply well; and that streams in this area will be polluted as a result of the runoff from this project. Charles Prefore, 108 Sharpe Road, stated that he lives on the North Greenbush side of this project; that he has concern regarding the impact of this project on the way of life in this area of the Town; that there will be wildlife impacts; that the project will make this part of the Town of Brunswick feel

like downtown Wynantskill; that this project will change the ecosystem of the area; that the existing runoff from the project site is already significant; that there will be significant traffic impacts from this project due to new residents and school busses, and that this area will look like Wolf Road, and the traffic will be bumper to bumper, and that you will not be able to get in or out of your driveway; that this is not going to feel like the country anymore; and that this will result in intolerable conditions. Richard Coutant, 242 Sharpe Road, stated that his property was adjacent to the project site, and that he shares all prior concerns made by other commenters on this application; that he requests the Planning Board to review not just the specific Zoning Code provisions but also make sure that the project is consistent with the goals and plans for the community character set forth in the Brunswick Comprehensive Plan and Brunswick Zoning Law; that to approve the project as currently proposed would be inconsistent and derogatory to the principles and goals stated in the Brunswick Comprehensive Plan and Brunswick Zoning Law; that this property has been farmland for generations and that this project will change the rural nature of the Town; that the R-25 Zoning for this property does not accurately reflect the rural character of the area, and that this proposed development is too dense and not appropriate; that the Planning Board should recommend to the Town Board that the Zoning Law be amended to become more restrictive for the project site; that the purposes of the Brunswick Zoning Law were to preserve open space, protect environmentally sensitive areas, and to maintain the character of the area; that any future growth in the Town of Brunswick must be in compliance with the Town Comprehensive Plan; a review of goals of the Brunswick Comprehensive Plan were reviewed; that this project would negatively impact the rural lifestyle and scenic beauty of the area; that this project is not consistent with the Brunswick Comprehensive Plan; that a Planned Development District application may be appropriate for this parcel for consideration by the Town Board; that

the proposal must be rejected; that the Planning Board should recommend modifications to the subdivision plan; that even if this project does meet subdivision and Zoning Code requirements, the Planning Board should disapprove the application because it is not compatible with the Brunswick Comprehensive Plan; that the Planning Board should take a broad perspective concerning the impact of this project on the entire Town of Brunswick, and that this project does not promote the health, safety, or general welfare of the residents of the Town of Brunswick. Frank Brennanstuhl, 27 Dusenberry Lane, stated that he has no horse in this race, but this application should be in front of the Town Board for consideration; that he does have concern about the proposed septic systems since 50% of septic systems fail within the first 20 years; that the proposed lots in Brunswick are small and questions what would happen if the septic systems fail; that the stormwater swales may in fact be over leachfields and how this has the potential to ruin septic systems; that even if lawn chemicals were prohibited, there would still be contaminants from cars, engine oil, greases, etc., that will impact surface and groundwater; there should be a baseline study for current water quality; questions who would monitor maintenance of groundwater quality in the future; that he did share the concern regarding the impact of this project on hayfields located on the other side of Sharpe Road; and that it is simply not good enough to say that this project complies with the Zoning Code. Jim Tkacik, 387 Brunswick Road, stated that the stormwater calculations always provide that there will not be a stormwater runoff problem, but to state that there will be the same amount of stormwater runoff after this project that exists currently simply can't be true; that there is too much impervious surface areas created by this project to conclude that additional stormwater will not run off of this site; that even on other projects such as Walmart, stormwater calculations were completed showing that there would be no problem, but the stormwater runoff from that site became so great that it impacted a nearby home to such an extent

that Walmart had to buy it and tear it down; that the stormwater calculations should not focus on the amount of stormwater but rather the rate of stormwater runoff; that the proposed bioretention swales will simply not be maintained in the future; that there is not adequate green or vegetative buffer between this project and off-site properties; and that the waiver for the number of lots on a cul-de-sac road approved by the Town Board was not adequately noticed and there was not adequate information included in the resolution approving that waiver. Donna Holcomb, 323 Sharpe Road, requested that the Planning Board members go to the site and do a site visit; that the Planning Board members will understand how beautiful the area currently is; that the Planning Board members should do whatever they can to stop this development; and that she will be flooded as a result of this project. No additional members of the public wished to provide any further comment at this time. Attorney Gilchrist stated that the information contained in the water district map, plan and report should be submitted for consideration by the Planning Board and the public, since a number of public comments have been raised concerning provision of public water to this project. Mr. Bonesteel concurred, stating that the public should have an opportunity to review the information contained in the water district extension map, plan and report, and provide public comment for Planning Board consideration. The Planning Board members concurred, and determined to keep the public hearing open and to adjourn the public hearing at this time. There was discussion concerning the timing of the submission of the water district map, plan and report, and it was determined that the public hearing would be continued on this major subdivision application for the Planning Board meeting to be held on September 5 at 7:00pm. Mr. Bonesteel raised two comments. First, Mr. Bonesteel stated that there have been significant public comments on the traffic on Sharpe Road, and inquired whether there was any information on the current traffic volume on Sharpe Road. Mr. Redding stated he did not have data on the current traffic

volume on Sharpe Road, but that he will obtain that information and include it in his next written response. Mr. Bonesteel also inquired whether the plans had been submitted to the Rensselaer County Highway Department. Mr. Redding stated they were submitted early on, but he does need to resubmit to the Rensselaer County Highway Department with his updated plan set. Mr. Bonesteel stated that was important, as the County Highway Department will be looking not only at impact on traffic and travel lanes but also on the drainage facilities located on and along the County highway. Acting Chair Stancliffe stated she had requested additional information on proposed lots 1 and 2, and the additional information should be submitted for Planning Board review. Mr. Redding stated that lots 1 and 2 do not show any septic systems currently, and that the applicant still needs to complete perc tests for each lot. Member Tarbox stated that the applicant will need to confirm appropriate separation distances between all septic systems and water supply wells. Member Tarbox also inquired as to average lot size for the lots located in Brunswick, and Mr. Redding reviewed all of the lot sizes for the proposed Brunswick lots. This matter is placed on the September 5 agenda for continuation of the public hearing to commence at 7:00pm.

One item of new business was discussed.

An application for a three-lot minor subdivision has been submitted by Robert Talham for property located at 18 Miller Lane. Rod Michael, LLS, was present for the applicant. Mr. Michael stated that Mr. Talham had applied approximately 1 year ago for a lot line adjustment between his property and the adjoining parcel, resulting in approximately 1-acre lot line adjustment. At that time, Mr. Michael stated that Mr. Talham's proposal was to construct one single-family residence on his property, but he has thereafter changed his plan and is now proposing a three-lot subdivision. Mr. Michael stated that proposed lot 3 would be a 9.7-acre lot with 284-foot road frontage, which Mr. Talham seeks to transfer to his daughter for the construction of a home. Mr. Michael reviewed

the remaining two lots, lot 1 being 5.03 acres with 900-foot road frontage; lot 2 being 6.2 acres with 480-foot road frontage. Mr. Michael stated that the property had been flagged as a possible archeological site, but that he had been in verbal communication with the Office of Parks, Recreation and Historic Preservation and was told that due to the topography of the property this was not typical for an Indian encampment. Mr. Bonesteel stated that written confirmation will be required from the State Historic Preservation Office, and a determination of effect from the State Historic Preservation Office in writing is required. Mr. Michael stated that this would be completed. Mr. Michael also stated that lots 1 and 2 may be offered for sale. Attorney Gilchrist inquired whether this was the property owned by Mr. Talham that was the subject of prior meetings between Mr. Talham and his representatives and the Town of Brunswick concerning tree removal, grading, and stormwater compliance. Mr. Michael confirmed that this was the same location. Attorney Gilchrist stated that it was his recollection that during those discussions, the property owner made the representation to the Town that the plan for the property was one single-family home. Mr. Michael stated that the representation was true at the time, but that the property owner's plans have now changed. Attorney Gilchrist stated that this matter should be reviewed with the property owner and his representatives as well as with the Town for purposes of prior activities on the property and stormwater regulatory compliance, given that the project has now evolved into a proposed three-lot subdivision. Mr. Bonesteel stated that regardless of whether the property owner has altered his plans, this property must still meet all stormwater regulatory requirements. Mr. Michael stated that it would make sense for the parties, including the Town's stormwater officer, to review the prior meetings and have further discussions concerning stormwater compliance for this property and this proposed project. In light of further discussions concerning stormwater issues, this matter is placed on the September 5 agenda for further discussion.

The index for the August 1, 2019 meeting is as follows:

1. Fuller - Special use permit - Approved with condition;
2. Malone - Special use permit - Approved with condition;
3. Sharpe Road Development LLC - Major subdivision - 9/5/2019 (public hearing to continue at 7:00pm);
4. Talham - Minor subdivision - 9/5/2019.

The proposed agenda for the meeting to be held August 15, 2019 currently is as follows:

1. Oakwood Property Management LLC - Waiver of subdivision;
2. Borrego 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.