

# **Planning Board**

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

## **MINUTES OF THE PLANNING BOARD MEETING HELD NOVEMBER 7, 2019**

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

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 website and the Town signboard.

The draft minutes of the October 17, 2019 meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Henderson, the minutes of the October 17, 2019 meeting were unanimously approved without amendment.

The first item of business on the agenda was the special use permit application submitted by Seed Solar for property located at 4 Windfield Lane. Jason Laird, owner of 4 Windfield Lane, was present for the application. Mr. Laird stated that he was not present at the October 17 meeting, and inquired why the special use permit was being delayed. Chairman Oster inquired whether Mr. Laird had spoken to the representative of Seed Solar following the October 17 meeting. Mr. Laird stated that he had spoken with Seed Solar. Chairman Oster stated that in reviewing the special use permit application, the Planning Board had requested that the owner consider moving the proposed location of the solar panel installation, which the Planning Board understands the owner does not

want to consider. Chairman Oster stated that in the alternative, the Planning Board was reviewing the issue of requiring a vegetative screen blocking the solar panels from Bulson Road, and that this issue had been raised during the public hearing. Chairman Oster also stated that he had visited the site, and the Planning Board was addressing the issue of potential visual impact. Mr. Laird stated that he did not see why this was an issue, since he could put the solar panel installation ten feet from the road but was proposing a much greater distance. Chairman Oster stated that at the October 17 meeting, the Planning Board had requested that the applicant submit topographic information of the slope from the house at 4 Windfield Lane down to Bulson Road, and also requested that Seed Solar provide a photosimulation showing the solar panel installation both with and without a vegetative screen. Chairman Oster stated that Seed Solar indicated it would be providing that information to the Planning Board, but the Planning Board is not in receipt of any requested information. Chairman Oster also noted that he had been informed by the Building Department that the applicant was considering withdrawing the special use permit application and in the alternative would be constructing a pole barn and placing the solar panels on the roof of the pole barn; and that later, Chairman Oster was informed that the special use permit application was back on the agenda for this meeting, and that the applicant will agree to a vegetative screening; and that Chairman Oster expected Seed Solar to provide the requested topographic information and photosimulation. Chairman Oster stated that the Planning Board was trying to move this application through the special use permit review process. Mr. Laird stated he did not understand what the issue was; that the solar panel installation is proposed to be a significant distance off of Bulson Road; that the existing vegetation on the slope would be adequate; and he did not see why his neighbor was concerned about a solar panel installation when there were significant impacts from gun shooting behind his house at the shooting range. Mr. Laird stated that the Planning Board

had received one complaint from one neighbor, and that no one else had raised any issue with his proposed location for the solar panel installation; that he was offering the Planning Board a compromise by not putting the solar panel installation 10 feet from Bulson Road. Mr. Laird stated he felt some game was going on here. Chairman Oster stated that the special use permit review process conducted by the Planning Board was not a game, but required under the Town's regulations. Mr. Laird stated he did not understand why this was an issue when only one person complained, and no other neighbors raised any concern. Mr. Laird complained that he would have to pay more money just to address one neighbor complaint; and that trees planted near the solar installation would not survive, since the soil was mostly clay. Mr. Laird stated that he was happy to plant some grasses that would grow to 8 feet high or so, but that these would not be 11 feet to cover the full solar panel height. Chairman Oster inquired whether Mr. Laird was adamant he would not plant any trees to screen the solar panel installation from Bulson Road. Mr. Laird stated he would not plant any trees, but that he would be willing to plant grasses that could grow to 8 or 9 feet. Mr. Laird was adamant that trees will not survive, and he was not going to spend the money to plant them, but again would plant tall grasses. Chairman Oster stated one of the options for the Planning Board to consider was placing a condition on the special use permit that would require final approval of the vegetative screen upon review by the Brunswick Building Department and Planning Board engineer. Mr. Laird stated he would be satisfied with that condition, but that he would not be planting any trees. Chairman Oster stated that in the event the Building Department and the Planning Board engineer concluded that tree planting is required, then Mr. Laird would not be in compliance with a Planning Board condition and he would not be able to install the solar panels. Mr. Laird stated that would be fine, that he would build a pole barn and just put the solar panels on the roof. Mr. Laird stated he felt the Town was fighting him on this application.

Chairman Oster was adamant that the Planning Board is not fighting Mr. Laird, is merely conducting the special use permit review, and is trying to help the property owner through the process. Chairman Oster stated that Mr. Laird always had the option of relocating the solar panels further up the slope and closer toward his house. Mr. Laird stated that he was not moving the solar panel installation up the hill because then he would be able to see it 24/7 from his house. Chairman Oster stated that was the issue: that everyone else would be able to see the solar panel installation where Mr. Laird was proposing to put it. Mr. Laird stated that he is proposing the solar panel installation for 97 feet off of Bulson Road, and that this should not be a problem for anyone. The Planning Board corrected Mr. Laird that he is proposing the solar panel installation 55 feet off of Bulson Road, not 97 feet. The Planning Board then reviewed with Mr. Laird the map which had been submitted by Seed Solar, which appears to show a row of trees being planted near the solar panel installation. Chairman Oster stated that there was a question as to the location of where vegetation should be planted, and that is why the Planning Board had asked for topographic information from Seed Solar. Mr. Bonesteel stated that the topographic information would have been helpful in order to determine where vegetative screening should be planted. Upon further discussion, Chairman Oster asked the Planning Board members whether they were comfortable with proceeding to action on the special use permit subject to the condition that the required vegetative screening for the solar panel installation would be subject to approval by the Brunswick Building Department and Planning Board review engineer. Mr. Laird stated he was adamant he would not plant trees, but would agree to other vegetative screening. The Planning Board members were generally agreeable with this approach, except Member Henderson stated that the Planning Board should not decide this application without having the topographic information and photosimulations submitted by Seed Solar. Based on this deliberation, the Planning Board

proceeded to act on the application. Member Tarbox made a motion to approve a negative declaration under SEQRA, which motion was seconded by Member Petersen. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Chairman Oster made a motion to approve the special use permit for the solar panel installation subject to the condition that final vegetative screening for the solar panel installation was subject to approval by the Brunswick Building Department and Planning Board review engineer. Member Tarbox seconded the motion subject to the stated condition. The motion was unanimously approved, and the special use permit granted subject to the stated condition.

The second item of business on the agenda was the application to amend the site plan for the Carbone Subaru facility located at 800 Hoosick Road. The applicant seeks approval to amend the site plan to allow for the construction of a detached car wash and detail building adjacent to the existing structure. Matt Vaverchak of BBL Construction Corp was present for the applicant. Mr. Vaverchak reviewed the status of review by the Rensselaer County Sewer District and City of Troy, indicating that the City of Troy has determined that the projected wastewater flow would fall under the threshold of 2,500 gallons per day. Mr. Bonesteel requested that a letter should be obtained from the City of Troy to that effect. Chairman Oster noted that the Brunswick No. 1 Fire Department had reviewed the amended site plan, and Gus Scifo of the Brunswick No. 1 Fire Department was present. Mr. Scifo stated that he had discussed the proposal with the general manager of the Carbone Subaru facility, and finds that the site plan now adequately addresses fire lanes, signage, and increased parking to allow for appropriate fire lanes for emergency vehicles. Chairman Oster stated the Planning Board wanted site plan map notes added concerning the paving of the additional parking area as well as the additional seal required for striping. Mr. Bonesteel stated the map notes had been added. Mr. Bonesteel concluded that the site plan is now complete.

Chairman Oster confirmed that the Planning Board had previously determined that a public hearing would not be required on this site plan amendment. Members Tarbox and Kreiger questioned whether all of the site plan amendments and map notes that the Planning Board had requested were now included. Mr. Bonesteel confirmed that all map changes concerning parking areas, fire lane areas, as well as signage had been added to the site plan. It was confirmed that the “no parking” signage for the fire lane will be coordinated with the Town Building Department, in addition to the cross-hatching on the pavement around the building as shown on the site plan. Member Henderson had a question regarding the estimated wastewater flow. Mr. Vaverchak stated that the projected flows were very conservative, and that the proposed car wash was a 15-gallon per wash facility, and even presuming 100 cars being washed in a day, this would result in only 1,500 gallon per day wastewater flow. Chairman Oster inquired whether there were any further questions or comments. Hearing none, Member Tarbox made a motion to approve a negative declaration under SEQRA, which motion was seconded by Member Stancliffe. The motion was unanimously approved, and a SEQRA negative declaration adopted. Chairman Oster then made a motion to approve the site plan amendment, subject to the following conditions:

1. Receipt of a letter from the City of Troy concerning wastewater discharge volume;
2. Signage for the fire lane must be coordinated with the Brunswick Building Department; and
3. The final site plan amendment map must be stamped by a licensed professional engineer, and filed with the Brunswick Building Department.

Member Petersen seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Carbone Subaru site plan amendment was 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 Trifocal Brewing Inc. for property located at 138 Brick Church Road. The applicant seeks a special use permit and site plan approval to operate a craft brewery at this location. Alex Brown was present for the applicant. Mr. Brown confirmed that he had submitted a revised site plan to address the prior Planning Board comments. Chairman Oster confirmed that a review letter had been received from the Rensselaer County Planning Department concerning this proposal. Chairman Oster generally reviewed the comments raised by the Rensselaer County Planning Department, which include comments concerning parking and the potential for future additional events; storage and removal of spent mash; separation between proposed water supply well and septic; and introduction of food trucks or other events at the proposed brewery. Mr. Brown stated that he had shown future parking location as well as an access road on the revised site plan; that in terms of spent mash, the liquid would be removed and the remaining solid waste would be disposed of as a solid waste or could be used for agricultural purposes; that in terms of separation between the septic and proposed water supply well, in the event a 200-foot separation is required for a public water supply, he would relocate the proposed well. On that issue, Mr. Bonesteel stated that the water supply issues as well as required separation distances would be under the review of the Rensselaer County Department of Health. Mr. Brown noted that the percolation test in the original proposed location for the septic system for the commercial operation raised a concern about groundwater elevation, and that he will need to relocate the proposed septic system or build a mound system. Member Oster asked about the use of food trucks or any larger events at the

brewery, and that the Rensselaer County Planning Department had questioned why 16 parking spaces plus 16 future parking spaces were being proposed when the operation will be limited to 5 days a week, 4 hours each day, and it appeared that excessive parking was being provided, which raised the County comment concerning potential future events. Mr. Brown confirmed that his proposal is not to have any future events or additional plans for the site at this point; that this site has size limitations; and that if his operations grew in the future, he would need to relocate to another site. Mr. Brown confirmed that his current plans are to have customers during Thursday through Sunday, approximately 10 through 8 or 9, and that he would need the off days to complete brewing operations. Chairman Oster asked whether Mr. Bonesteel had a chance to review the revised plans. Mr. Bonesteel asked Mr. Brown whether an engineer's report had been submitted, and whether a stormwater plan had been submitted. Mr. Brown stated he was not aware that these needed to be filed at this time. Mr. Bonesteel then discussed the special use permit and site plan submission requirements under the Town regulations. Chairman Oster asked Mr. Bonesteel whether the plans were complete enough for scheduling the public hearing. Mr. Bonesteel stated that the plans were comprehensive, and that the Planning Board had adequate information to open the public hearing, and that the applicant should prepare the engineering report and stormwater report and submit them as soon as possible, and also to continue to work with the Rensselaer County Department of Health on septic location as well as separation distance for the water supply well from the septic location. The Planning Board concurred that the application materials were complete for purposes of opening the public hearing, and that a public hearing would be opened on this application at the December 5 meeting. Chairman Oster noted that Gus Scifo was present at the meeting, and asked about any comments from a fire department perspective. Mr. Scifo stated that he had discussed the application with the Chief of the Eagle Mills Fire Department; that



the Chief of the Eagle Mills Fire Department had done a walk through with the owner; and that the Chief of the Eagle Mills Fire Department did not have any issues with the current plans. Mr. Scifo stated that Brunswick No. 1 Fire Department was now in charge of the entire Town of Brunswick in terms of Knox box installation, and that a Knox box would be required for this proposal. Chairman Oster inquired whether Mr. Brown would be playing any outdoor music, which could create a noise impact issue. Mr. Brown stated that there would be music only in the building, and possibly light music in the patio area, but that no live bands would be allowed. Mr. Brown also noted that the New York State Department of Transportation had reviewed the proposed driveway locations, and based on the initial review by NYSDOT, there were no issues raised concerning the locations of the driveways, but that Mr. Brown would need to address comments concerning the widths of the proposed driveways. Mr. Brown also stated that an agricultural data statement had been submitted. Member Tarbox stated that the location of all septic systems on neighboring parcels must be shown on the site plan. One neighbor was present at the meeting, and stated that she did have concerns regarding this project. Chairman Oster noted that a public hearing would be opened on this application on December 5, and that all public comments should be submitted at that point. Chairman Oster did suggest to Mr. Brown that he should meet with his neighbors to discuss this proposal. This matter has been placed on the November 21 agenda for purposes of an update on any information in terms of Rensselaer County Department of Health review, NYSDOT review, engineer report, or stormwater report.

The next item of business on the agenda was discussion of the request by William and Tracy Broderick for refund of a minor subdivision application fee. The Planning Board reviewed a proposed memorandum concerning a recommendation to the Town Board on this matter. A

memorandum providing a recommendation on the fee refund request was unanimously approved. A copy of the recommendation is attached to these minutes.

One item of new business was discussed.

An application for minor subdivision has been submitted by Derek Shudt for property located at 190 Bald Mountain Road. Mark Danskin, Licensed Land Surveyor, was present for the applicant. Chairman Oster noted that the Planning Board is considering this appearance to be a sketch plan presentation. Mr. Danskin stated that this was the third time he has appeared before the Planning Board for subdivision concerning the Shudt property on Bald Mountain Road, and reviewed the history of the prior subdivisions. Mr. Danskin stated that approximately 12 years ago, one building lot had been subdivided from a large vacant tract, and then approximately two years ago, a second building lot had been subdivided from this large tract. Mr. Danskin did state that the Rensselaer County tax map for these properties was not accurate, and incorrectly shows a line going through an existing building lot. Mr. Danskin explained that there is one deed for the existing lot, but the Rensselaer County tax map shows two lots and two tax ID numbers. The Planning Board and Mr. Danskin had extensive discussion concerning the information on the Rensselaer County tax map as opposed to the layout on the proposed subdivision plat. Chairman Oster stated that the proposed subdivision plat layout is not consistent with what is depicted on the current Rensselaer County tax map. Mr. Danskin stated that he was not going to put survey lines on a subdivision plat based upon an inaccurate tax map, but will draw his map consistent with the filed deeds. Mr. Danskin stated that the Rensselaer County tax map needs to be corrected, but inquired why the issue is being raised by the Planning Board. Chairman Oster stated that he does not see how the Planning Board can review and act upon a subdivision plat that is not consistent with the Rensselaer County tax map, and that even if the subdivision were approved, it would raise

questions and create an issue at Rensselaer County when the map is filed since it is not consistent with the current tax map. Following further discussion, Mr. Danskin stated that he would meet directly with the Rensselaer County tax mapping department to correct this issue, and Chairman Oster stated that he would further review the matter with the Planning Board attorney. In terms of the proposed lot layout, Mr. Danskin generally reviewed the proposed lots and driveway locations, which he has marked in the field; Mr. Danskin discussed driveway sight distances; and Mr. Danskin also reviewed proposed house locations. Mr. Bonesteel noted that topography is required to be included in the minor subdivision plat pursuant to the Town subdivision regulations. Mr. Danskin noted that this application seeks approval of a non-realty subdivision, since the proposal does not include 5 proposed building lots less than 5 acres in size. The Planning Board and Mr. Danskin then discussed non-realty subdivision standards. It was noted that the Town subdivision regulations do require information concerning proposed sewage system for the lots, even if this application is for a non-realty subdivision. Mr. Bonesteel stated that Mr. Danskin should show the outline of the proposed sewage system area to satisfy this subdivision review standard. Mr. Danskin stated that he would meet with the Rensselaer County tax mapping department to address the consistency between the filed deeds for this property and the tax map, and will also add the required topography to the subdivision plat, indicate an area of proposed septic systems, and show the proposed house location and driveway locations. This matter has been placed on the November 21 agenda for further discussion.

Chairman Oster reviewed one item of old business. Chairman Oster confirmed that the balloon test had been completed for the proposed cell tower by Verizon for the property located on Creek Road and Menemsha Lane. Chairman Oster noted that the applicant had requested that

this matter be placed on the November 21 agenda for discussion. This matter will be placed on the November 21 agenda for discussion.

The index for the November 7, 2019 meeting is as follows:

1. Seed Solar - Special use permit - Approved with condition;
2. Carbone Subaru - Amendment to site plan - Approved with conditions;
3. Trifocal Brewing Inc. - Special use permit and site plan - 11/21/2019 (Public hearing to open on December 5, 2019);
4. Broderick - Application fee refund request - Recommendation completed;
5. Shudt - Minor subdivision - 11/21/2019.

The proposed agenda for the meeting to be held November 21, 2019 currently is as follows:

1. Trifocal Brewing Inc. - Special use permit and site plan;
2. Shudt - Minor subdivision;
3. Blue Sky Towers II, LLC and Cellco Partnership d/b/a Verizon Wireless - Special use permit and site plan.
4. Sharpe Road Development LLC - Major subdivision.

**Planning Board**  
TOWN OF BRUNSWICK  
336 Town Office Road  
Troy, NY 12180

# Memorandum

**To:** Town of Brunswick Town Board  
**From:** Town of Brunswick Planning Board  
**Date:** November 7, 2019  
**Re:** Request for Application Fee Refund

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Brunswick Town Code Section 82-6 states:

Once accepted, no filing fee may be refunded, in whole or in part, except upon formal action of the Town Board, for good cause shown. The Planning Board shall advise the Town Board of its position regarding whether a refund should or should not be granted.

A minor subdivision application was filed by William and Tracy Broderick for property located at 528 Garfield Road. Following the filing of the initial application and payment of the filing fee for the proposed minor subdivision, the application was placed on a Brunswick Planning Board agenda at which the Planning Board advised the applicants that additional survey and related information was necessary to find the minor subdivision to be complete. Thereafter, the applicants withdrew the minor subdivision application.

A request has now been made for a refund of the minor subdivision application fee in this matter.

The Planning Board finds that there is good cause for a partial refund of the application fee. Here, the application for the minor subdivision was placed on a Planning Board agenda, and the Planning Board review engineer did incur time to begin review of the application materials. The Planning Board did address the application at a Planning Board meeting; however, the application was not advanced after such meeting. In light of the time incurred for the initial Planning Board engineering review, and considering that the application was placed on a Planning Board and addressed at a Planning Board meeting, the Planning Board finds that the record supports a partial refund of the minor subdivision application fee in this case, and recommends that the Town Board consider a partial refund in an amount to be determined by the Town Board.