

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

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

**MINUTES OF THE PLANNING BOARD REGULAR MEETING AND
ZONING BOARD OF APPEALS SPECIAL MEETING HELD MAY 19, 2022**

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

PRESENT for the Zoning Board of Appeals were PATRICIA CURRAN, JOHN MAINELLO III, and DARYL LOCKROW.

ABSENT were ANN CLEMENTE, CHAIRPERSON, and E. JOHN SCHMIDT.

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

The Town of Brunswick Zoning Board of Appeals, pursuant to a Notice of Special Meeting, joined the Planning Board meeting for the purpose of conducting a joint public hearing on the application for a special use permit submitted to the Planning Board and the application for an area variance submitted to the Zoning Board of Appeals by Thomas Wagner for the construction of a 40-foot by 40-foot accessory structure on property located at 66 Weyrick Road.

Chairman Oster reviewed the agenda for the Planning Board meeting, noting that the public hearing would be a joint public hearing with the Zoning Board of Appeals. Chairman Oster opened the public hearing of the Planning Board on the special use permit submitted by Thomas Wagner. Acting Chairperson Curran opened the public hearing of the Zoning Board of Appeals on the

application for an area variance submitted by Thomas Wagner. Chairman Oster reviewed the rules and procedure of a public hearing. Attorney Gilchrist read the Notice of Joint Public Hearing into the record, with the Notice having been published in the Eastwick Press, placed on the Town sign board, placed on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Chairman Oster asked Mr. Wagner to give a brief overview of the project. Mr. Wagner stated that he is seeking to build an accessory structure on his property, with a workshop on the first floor, and a living quarters, consisting of a bedroom, kitchen, and bathroom, on the second floor. Mr. Wagner stated that that structure would also have an office in it. Chairman Oster then opened the floor for the receipt of public comment. There were no public comments on the application. Chairman Oster asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. Chairman Oster asked the Planning Board members if there was a need for a written comment period after the public hearing, and the Planning Board members stated that there should not be. Member Henderson made a motion to close the public hearing of the Planning Board, which was seconded by Member Petersen. The motion was unanimously approved, and the public hearing of the Planning Board was closed. Acting Chairperson Curran asked the Zoning Board members if there was a need for a written comment period after the public hearing, and the Zoning Board members stated that there should not be. Acting Chairperson Curran made a motion to close the public hearing of the Zoning Board, which was seconded by Member Mainello. The motion was unanimously approved, and the public hearing of the Zoning Board was closed. Attorney Gilchrist then reviewed the procedure for moving forward on the application, stating that the public hearing is complete, that the application was referred to Rensselaer County, who found that it would not conflict with County plans and that local consideration shall prevail, and that a SEQRA

determination must be made. There was discussion between the Planning Board and Zoning Board on coordinating lead agency, and that the Planning Board should serve as lead agency. Chairman Oster made a motion to declare the Planning Board lead agency under SEQRA for this project, which was seconded by Member Tarbox. The Planning Board voted unanimously to declare itself lead agency under SEQRA for this project. Member Mainello made a motion for a negative declaration on the project, which was seconded by Member Stancliffe. The Planning Board voted unanimously to declare a negative declaration on the project under SEQRA. The Zoning Board then reviewed the elements for consideration on the area variance application. As to whether the requested variance would result in an undesirable change in the character of the neighborhood or create a detriment to nearby properties, Acting Chairperson Curran stated that it will not as it exceeds the setback requirements and will not be visible from Weyrick Road. As to whether a feasible alternative is available, Member Mainello stated that it is not as Mr. Wagner needs the larger size of the structure for its intended use. As to whether the requested variance is substantial, Acting Chairperson Curran stated that it is, but that when compared to the size of lot and primary structure, as well as the multiple functions of the structure, it is not as substantial as it appears in context. As to whether the variance would create an adverse environmental or physical impact, Member Mainello stated that it would not due to the size of lot in comparison to the accessory structure, that there would be no tree cutting, that there is no vegetation in the area where the structure will go that could be removed, and that the structure will go in the same location as a previous accessory structure from years ago that is now gone. As to whether the difficulty giving rise to the need for the variance is self-created, Acting Chairperson Curran stated that it was and while that was relevant, it was not determinative. Acting Chairperson Curran asked the Zoning Board if there were any further questions, and there were not. Member Mainello made a motion to

grant the area variance, which was seconded by Member Lockrow. The motion was unanimously approved and the area variance was granted. Member Mainello made a motion to close the special meeting of the Zoning Board, which was seconded by Member Lockrow. The motion was unanimously approved and the special meeting of the Zoning Board was closed. Chairman Oster noted that there were no public comments during the public hearing, meaning that no written response from the applicant would be required. Chairman Oster asked if there were any additional questions or comments on the application from the Planning Board members, and there was not. Chairman Oster asked if there should any conditions on the application and Attorney Gilchrist stated that the Rensselaer County Department Health giving approval for the separate water and septic system on the property for the accessory structure should be a condition on the application. Member Henderson made a motion to grant the special use permit subject to the condition that the Rensselaer County Department Health give approval for the separate water and septic system on the property for the accessory structure, which was seconded by Member Petersen. The motion was unanimously approved and the special use permit was approved subject to the condition that the Rensselaer County Department Health give approval for the separate water and septic system on the property for the accessory structure.

The draft minutes of the May 5, 2022 regular meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Petersen, the draft minutes of the May 5, 2022 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was the special use permit submitted by Thomas Wagner for property located at 66 Weyrick Road, which had been previously addressed.

The second item of business on the agenda was a minor subdivision application submitted by Richard Witbeck and Jacquelyn Witbeck for property located at 131 Kreiger Lane. No further

action could be taken upon this matter until the Town Board acted on the referral from the Planning Board regarding the waiver on the number of lots on a cul-de-sac or dead-end road, so the matter was tabled prior to the meeting. This matter is placed on the June 16, 2022 agenda for further deliberation.

The third item of business on the agenda was a major subdivision application submitted by Jim Cillis of JJ Cillis Builders, Inc. for property located at the east end of Cole Lane. This matter was tabled prior to the meeting and is placed on the June 2, 2022 agenda for further deliberation.

The fourth item of business on the agenda was a waiver of subdivision submitted by Thomas Wendell for property located at Spring Avenue Extension and Creek Road. Kevin McGrath was present for the applicant. Mr. McGrath stated that the properties at issue are two small parcels on each side of Spring Avenue that are connected to a larger parcel by land hooks, and that the applicant is seeking to subdivide the small parcel at the corner of Spring Avenue and Sharpe Road in get a separate Tax Map Parcel Number for it. Mr. McGrath also stated that a major subdivision may be pursued on the remaining land in the future. Chairman Oster noted that a concept presentation was previously made to the Planning Board for a major subdivision on the remaining land, but that no application has been submitted. Attorney Gilchrist reviewed the SEQRA status of the waiver of subdivision currently before the Planning Board, stating that in light of the notice of a potential major subdivision on part of the large parcel, segmented review could be allowed if the Planning Board determines that it would be no less protective of the environment, and that full SEQRA review would be required if a major subdivision application is submitted for the remaining land. The Planning Board determined that an environmental impact review of the waiver application only could proceed. Member Tarbox asked where the driveway would be located. Mr. McGrath stated that the driveway would be off the Sharpe Road subdivision

and pointed out the location on the site map. Member Tarbox asked if it was fairly steep coming off Spring Avenue, and Mr. McGrath stated that it is, and that is why the proposed driveway is off Sharpe Road. Member Tarbox asked if there would be enough area on the subdivided lot for a house. Mr. McGrath confirmed that there would be, and that perc tests have already been performed on the area. Mr. Bonesteel confirmed that the driveway for the subdivided parcel could not be off Spring Avenue, stating that it was due to the topography of the lot off Spring Avenue, and that having the driveway off Sharpe Road will require a permit from Rensselaer County. Mr. Bonesteel also stated that the waiver of subdivision was limited to the lot at the intersection of Spring Avenue and Sharpe Road and that the parcel on the other side of Spring Avenue was to remain part of the remaining larger parcel owned by the applicant. Mr. Bonesteel asked if public water would be available for the subdivided land, as he was not sure that the Town water line went that far. Mr. McGrath stated that he was not sure. Attorney Gilchrist stated that there is a public water line along Spring Avenue that extends to the Sharpe Road subdivision, but that the parcel being subdivided is not within the Town water district, meaning that the applicant will need to extend the water district if public water is pursued. There were no further questions or comments from the Planning Board or Mr. Bonesteel. The Planning Board determined that it did want to make a SEQRA determination on the waiver of subdivision, but that a full SEQRA review would be necessary if a major subdivision application for the remaining parcel was submitted in the future. Member Tarbox made a motion for a negative declaration on the project, which was seconded by Member Henderson. The Planning Board voted unanimously to declare a negative declaration on the project under SEQRA. Chairman Oster asked if there should be any conditions on the application. Attorney Gilchrist stated that conditions for the Planning Board to consider were: that the driveway for the subdivided parcel must be off Sharpe Road only and that there be

no driveway for the parcel off Spring Avenue; that Rensselaer County must issue a permit for the driveway off Sharpe Road; that if the parcel uses public water, that the applicant will be required to extend the Brunswick Consolidated Water District to do so; that if the parcel does not use public water, that Rensselaer County Health Department approval must be given for water; and that Rensselaer County Health Department approval must be given for the parcel's septic system. Member Petersen made a motion to grant the waiver of subdivision subject to the stated conditions, which was seconded by Member Mainello. The Planning Board voted unanimously to approve the waiver of subdivision subject to the stated conditions.

The fifth item of business on the agenda was the Brunswick Acres Planned Development District major subdivision application submitted by Brunswick Road Development, LLC. Kathryn Serra, P.E., Project Manager for C.T. Male Associates, was present for the applicant. Ron Laberge, P.E., of Laberge Group, the Review Engineer to the Planning Board on this project, was also present. Ms. Serra stated that the applicant was last before the Planning Board in January 2021, when a 26-lot subdivision was proposed. Ms. Serra stated that in April 2021, it was determined that the site needed to be balanced for grading and the regrading plan reduced the number of building lots to 24. Ms. Serra stated that the applicant then began working with the Rensselaer County Health Department (RCHD), that they required additional soil sampling, and that this was done in September 2021. Ms. Serra stated that the RCHD submitted comments on the project in February 2022, that RCHD met with the applicant in April 2022 to discuss the project further, and that C.T. Male submitted documents to the Town of Brunswick on May 13, 2022. Ms. Serra stated that RCHD is requiring final grading on the site to be completed before approval will be given for all 24 lots, that currently 11 of the 24 lots are acceptable, and that the other 13 lots must have final grading done so that soil testing can be done. Ms. Serra stated that there are two options for moving

ahead with the project: complete all site grading at once; or begin a phased subdivision approach, meaning subdivide the 11 approvable lots now, while grading the area for the remaining 13 lots and complete soil testing on that area once grading is done. Ms. Serra stated that she had previously met with Town staff and Mr. Laberge to discuss these two possible courses of action. Ms. Serra stated that the second option would consist of subdividing the 11 approvable lots, with the area for the remaining proposed 13 lots being included within the 11 approved lots, with the idea of subdividing them in the future. Ms. Serra stated that the previously submitted engineering plan would not change if the Town and applicant move forward with the second option, as lines on the plot plan would be added to show the phased approach, and that RCHD has reviewed and conceptually agrees with the phased approach. Chairman Oster asked Mr. Laberge for his opinion on the phased approach. Mr. Laberge stated that he had never seen such a plan before, and noted that while public sewer is an option, the applicant does not want to pursue it. Ms. Serra stated that public sewer actually would not be allowed by the City of Troy in this case. Attorney Gilchrist interjected, stating that public sewer actually was a possibility in this case, that public sewer could be extended under an NYS DEC Consent Order and Long Term Control Plan, but that it would require the applicant to coordinate with the City of Troy. Ms. Serra corrected herself and agreed with Attorney Gilchrist. Mr. Laberge stated that while the phased approach could be completed under an engineering review, the issue in this case is a procedural one. Ms. Serra stated that the situation does raise interesting issues procedurally, but that the phased approach is able to be done from an engineering and survey perspective with map notes. Attorney Gilchrist stated that the applicant should submit a legal memorandum on how this phased approach complies with the Town of Brunswick subdivision regulations, Planned Development District approval, and NYS Town Law subdivision standards. Member Stancliffe asked about the grading and stormwater

facilities on the site, specifically if the applicant would be monitoring the site to make sure all grading is stabilized. Ms. Serra confirmed that the site would be monitored, and that a geotechnical report detailing that would be included in the next submission. Member Stancliffe asked if there would be retaining walls on the site. Ms. Serra stated that while retaining walls are shown on the site map, they have not been engineered yet, but will be by the time a building permit can be issued. Member Mainello asked if there would be grading on the site while lots are being sold to homeowners, and if those homeowners would be able to move into the subdivision while grading was still being done on other parts of the site. Ms. Serra stated that there would not be, as all grading on the site must be completed before utilities and roads can be installed and before home construction can begin. Member Tarbox asked if the project was currently economically viable. Ms. Serra stated that the only the site owner could answer that question and he was not present. Member Mainello then asked if the project was economically viable for the Town of Brunswick. Ms. Serra again stated that only the site owner could answer that. Attorney Gilchrist discussed special district petitions and that the Town Board would be unable to process those petitions without knowing the total number of lots on the site. Ms. Serra asked if the Town would consider allowing mass grading of the site as a Municipal Separate Storm Sewer System (MS4) project. Mr. Laberge asked if the applicant would then need to obtain a grading permit, separate site plan, and restoration plan. The Planning Board then further discussed procedural options for the project. This matter is adjourned without date.

The sixth item of business on the agenda was a site plan and special use permit application submitted by CVE North America, Inc. for property located off Belair Lane. Jared Lusk, Esq., an attorney from Nixon Peabody LLP, was present for the applicant. Attorney Gilchrist handed out a proposed Resolution for the approval of the site plan and special use permit, with several

conditions attached. Mr. Lusk stated that the applicant had an issue with Condition “R” of the proposed resolution, which concerned the use of pesticides/herbicides on the site, stating that the applicant has no present intent to use them, but requests the ability to use them as a last resort and only upon notice to and approval from the Building Department. Attorney Gilchrist reviewed draft conditions on the application for the Planning Board, and stated that the Zoning Board had reviewed the draft conditions at its meeting on May 16 and had approved the area variances submitted by the applicant under the condition that the Planning Board approved the special use permit and site plan. Mr. Golden suggested an edit to Condition “H”, concerning the removal of waste materials from a site after construction, stating that he has had conflicts on previous projects with the definition of “within a reasonable time”. Attorney Gilchrist suggested new language for Condition “H”. Member Henderson suggested a further edit to Condition “H” to make sure construction materials are secured in case of bad weather. Attorney Gilchrist suggested further language for Condition “H”, which the Planning Board found satisfactory. The Planning Board then discussed the potential use of pesticides and herbicides on the site. Chairman Oster stated that he would like the prohibition of pesticides and herbicides maintained, as there was a concern from adjacent landowners at the public hearing about their potential use and effects on well water, and that the citizens of Brunswick are who the Planning Board must ultimately answer to. Mr. Lusk stated that the applicant is not opposed to coming to the Town for approval to use pesticides and herbicides, but that if the applicant is prohibited from using them, then the applicant would need to go through a site plan amendment process which would take much more time than the applicant would like. Member Petersen disagreed, stating that it is not burdensome on the applicant to come back for site plan review since there are two Planning Board meetings a month, and Member Mainello agreed. Mr. Golden stated that any sort of invasive species would first be noticed at the

perimeter of the site, giving the applicant adequate time to take care of the issue before it reached the solar panels. Member Henderson stated that according to the Material Safety Data Sheet (MSDS) submitted by the applicant, the person applying the pesticides and herbicides that the applicant was initially proposing would need to wear full protective gear and a respirator, showing how dangerous the pesticides and herbicides are, and he also would like the prohibition of pesticides and herbicides to stay. Member Stancliffe noted that the Brunswick Building Department should be able to review the issue quickly in a particular circumstance, and Member Tarbox agreed. The Planning Board further deliberated on the use of pesticides and herbicides on the site. After deliberation, the Planning Board decided to keep the condition as drafted and allow the applicant to seek a Planning Board amendment in the future if the need arises. The Resolution was offered by Chairman Oster and seconded by Member Tarbox. The Planning Board voted unanimously to approve the Resolution, a complete copy of which is attached to these minutes.

The seventh item of business on the agenda was a special use permit and site plan application submitted by Atlas Renewables, LLC for property located off Oakwood Avenue and Farrell Road. Lluís Torrent of Atlas Renewables was present to review the application. Mr. Torrent reviewed the site plan in light of the recent wetlands delineation, reviewed an updated visual simulation, stated that review by the State Historic Preservation Office (SHPO) was still pending, and reviewed the wetlands report, stating that the applicant will not install solar modules in any wetland areas. Mr. Torrent stated that the applicant would address all review comments submitted by Mr. Bonesteel. Mr. Torrent then briefly reviewed the May 13 submittal by the applicant. Mr. Bonesteel stated that he was currently reviewing the materials submitted by the applicant and that while the plans are complete, they must still be reviewed. Chairman Oster asked how the site would be maintained. Mr. Torrent stated that the applicant would not use pesticides or herbicides, that

the applicant will not request to use them even as a last resort, and that the applicant accepts the Town standard condition on the prohibition of pesticide and herbicide use. Mr. Torrent also stated that the site would be walked once a month for maintenance. Chairman Oster stated that a public hearing would be required and asked if the application was complete for that purpose. Mr. Bonesteel stated that the plans are substantially complete for the purpose of holding a public hearing. Chairman Oster stated that he did not want to start a “shot clock” issue by having too much time elapse between holding a public hearing and making a decision on the application. Attorney Gilchrist stated that there would be no “shot clock” issue here as there is no default approval on a special use permit or site plan if no decision is made within 62 days of holding a public hearing. The Planning Board discussed holding a public hearing at its June 2, 2022 meeting. Chairman Oster asked if the applicant also needed an area variance from the Zoning Board, and Mr. Torrent confirmed that they did for the above-ground utility poles. Chairman Oster asked if a Joint Public Hearing with the Zoning Board was possible. Attorney Gilchrist stated that the next Zoning Board meeting was on June 20, and that he would discuss it with the Zoning Board at that time. The Planning Board tentatively scheduled a Joint Public Hearing with the Zoning Board on this matter for July 7, 2022 at 7:00pm. This matter is also placed on the June 16, 2022 regular meeting for any final comments or questions before the Joint Public Hearing.

The eighth item of business on the agenda was an amendment to a site plan submitted by David Leon for property located on Hoosick Road. Dennis Lynch, from M.J. Engineering and Land Surveying, P.C., was present for the applicant. Mr. Lynch reviewed the most recent plan revisions, reviewed the vehicle movement plan for the site, discussed how there would be 20 cars in and 20 cars out during peak morning hours, and reviewed the crosswalks and signage that had been added to the site. Mr. Lynch stated that the hours of operation for the coffee shop would be

5:00am-9:00pm Monday through Saturday, and 6:00am-9:00pm on Sunday. The Planning Board discussed pedestrian access to the coffee shop. Chairman Oster discussed an Aroma Joe's coffee shop he recently saw in Wells, Maine while travelling. Member Kreiger stated that he recently saw three Aroma Joe's coffee shops while traveling in Maine, stating that all three were located in big open parking lots and that cars were lined up on both sides of the building on Sunday morning. Chairman Oster stated that the concern for the Planning Board is the stacking of cars, noting that there is currently only room for 6-7 cars. The Planning Board discussed the location of the dumpster for the coffee shop on the site. Chairman Oster asked why a retaining wall had been removed from the plans, and Mr. Bonesteel discussed it. Chairman Oster stated that if the retaining wall has now been removed, then the removal should be added to the overall site plan amendment plans. Member Mainello asked about the turning radius around the coffee shop building and Mr. Lynch reviewed it. Member Stancliffe stated that the pedestrian pathway as currently shown on the plans was concerning and needed further consideration by the Planning Board. Mr. Bonesteel stated that the application was complete for the purpose of holding a public hearing. Member Mainello asked if there was a supplemental traffic study submitted. Mr. Bonesteel stated that there was and reviewed it. A public hearing on this application is scheduled for June 16, 2022 at 7:00pm.

Two items of new business were discussed. The first item of new business was a waiver of subdivision application submitted by Vincent Santoro for property located at 182 Bald Mountain Road. Mr. Golden reviewed the application, stating that the applicant is seeking to subdivide 5.05 acres from an existing 99.52-acre lot. The Planning noted that it had been less than seven years since the applicant applied for an received a prior waiver of subdivision on the property, which means the applicant would require a minor subdivision application. The Planning Board stated that the applicant may be required to apply for a major subdivision if this were to be the fifth lot

subdivided off the property within a seven year period. Mr. Golden stated that the Building Department would review the record and coordinate with the applicant. This matter is adjourned without date.

The second item of new business was a waiver of subdivision application submitted by Coopers Trail Corporation for property located at 32 Indian Creek Road. Charles Bulson was present to review the application. Mr. Bulson stated that he was seeking a lot line adjustment to provide 30 feet of frontage for the lot on a public road. Mr. Bulson stated that while the lot at 32 Indian Creek Road is over 130 acres with home construction proposed, the lot does not meet the frontage requirement under New York Town Law Section 280-a, and that the lot line adjustment would add the necessary frontage. Mr. Bulson also stated that he is the owner of the lot from which a 30-foot by 80-foot strip of land will be transferred to the adjacent lot for use as a driveway. This matter is placed on the June 2, 2022 agenda for further deliberation.

The index for the May 19, 2022 regular meeting is as follows:

1. Wagner – special use permit (approved subject to condition).
2. Witbeck – minor subdivision (June 16, 2022).
3. Cillis – major subdivision (June 2, 2022).
4. Wendell – waiver of subdivision (approved subject to conditions).
5. Brunswick Acres – major subdivision (adjourned without date).
6. Changing Visions of Energy – special use permit and site plan (approved subject to conditions).
7. Atlas Renewables – special use permit and site plan (June 16, 2022).
8. Leon – site plan amendment (June 16, 2022).
9. Santoro – waiver of subdivision (adjourned without date).
10. Coopers Trail – waiver of subdivision (June 2, 2022).

The proposed agenda for the June 2, 2022 regular meeting is currently as follows:

1. Cillis – major subdivision.
2. Coopers Trail – waiver of subdivision.
3. Schifano – waiver of subdivision.

The proposed agenda for the June 16, 2022 regular meeting is currently as follows:

1. Leon – site plan amendment (public hearing to commence at 7:00pm).
2. Witbeck – minor subdivision.
3. Atlas Renewables – special use permit and site plan.

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

May 19, 2022

**RESOLUTION PERTAINING TO SPECIAL USE PERMIT AND SITE PLAN
APPLICATIONS FILED BY CVE NORTH AMERICA, INC.**

WHEREAS, the Town of Brunswick initially received a sketch plan for a commercial solar facility in March 2021 from CVE North America, Inc. (hereinafter “CVE”) for property located off Belair Lane in the Town of Brunswick; and

WHEREAS, the sketch plan for a commercial solar facility was first presented to the Town of Brunswick Planning Board (hereinafter “Planning Board”) at its meeting on March 4, 2021; and

WHEREAS, the Planning Board reviewed and considered the sketch plan at its March 4, 2021 meeting; and

WHEREAS, CVE stated that the project would also require a partial re-zoning of one of the three parcels on which the commercial solar facility was proposed to be located; and

WHEREAS, the Planning Board stated that all re-zoning issues are handled by the Town of Brunswick Town Board (hereinafter “Town Board”): and

WHEREAS, the Planning Board adjourned the project without date until CVE submitted a full application; and

WHEREAS, CVE submitted a special use permit and site plan application to the Planning Board on May 6, 2021; and

WHEREAS, CVE submitted an application for two area variances to the Town of Brunswick Zoning Board of Appeals (hereinafter “Zoning Board”) on May 6, 2021; and

WHEREAS, CVE further filed a Full Environmental Assessment Form with supplementary information regarding the proposed action; and

WHEREAS, the special use permit and site plan application was first presented to the Planning Board at its May 20, 2021 meeting; and

WHEREAS, CVE confirmed that one of the three parcels on which the commercial solar facility was proposed to be located required a partial re-zoning; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan application at its May 20, 2021 meeting and adjourned the matter without date until the Town Board had made a determination on the re-zoning issue; and

WHEREAS, CVE filed a petition and application pursuant to Article 16 of the Town of Brunswick Zoning Law to the Town Board to amend the Zoning Map of the Town of Brunswick to designate a portion of a proposed commercial solar collector system project site as being within the Agricultural Overlay (hereinafter “AO”) District; and

WHEREAS, the petition seeking an amendment to the Zoning Map of the Town of Brunswick sought to have Tax Map Parcel Nos. 91-2-53.3 and 91-2-54 included within the AO District; and

WHEREAS, CVE also filed a Full Environmental Assessment Form with supplementary information in connection with its proposed project to the Town Board; and

WHEREAS, pursuant to Resolution No. 53 of 2021, as supplemented through Resolution No. 56 of 2021, the Town Board accepted such petition and application submitted by CVE; referred such petition and application to the Rensselaer County Department of Economic Development and Planning and the Town of Brunswick Planning Board for review and recommendation pursuant to applicable law; and determined to coordinate lead agency designation under the New York State Environmental Quality Review Act (hereinafter “SEQRA”); and

WHEREAS, the Rensselaer County Department of Economic Development and Planning raised no objections or comments concerning such petition and application submitted by CVE; and

WHEREAS, the Planning Board considered the zoning amendment petition at its meetings held August 19, 2021; September 2, 2021; and September 16, 2021; and

WHEREAS, the Planning Board provided its recommendation to the Town Board concerning such petition and application submitted by CVE; and

WHEREAS, the Planning Board recommended that Tax Map Parcel No. 91-2-53.3 be rezoned to include the entire parcel in the AO District, subject to the condition that the use of the parcel in connection with the CVE proposed commercial solar collector system project be limited to the access road only, as depicted on the current project plan; and

WHEREAS, the Planning Board further recommended that Tax Map Parcel No. 91-2-54 be rezoned to include only that portion of such parcel proposed for solar panels, equipment, and fencing related to the CVE proposed commercial solar collector system project, as depicted on the current project plan; and

WHEREAS, the Town Board served a Notice of Intent to Establish Lead Agency under SEQRA to all involved agencies concerning this action on September 23, 2021; and

WHEREAS, following service of a Notice of Intent to Establish Lead Agency under SEQRA to all involved agencies concerning this action, no other involved agency objected to the Town Board serving as SEQRA Lead Agency for this action; and

WHEREAS, the Town Board passed a Resolution at its November 11, 2021 regular meeting establishing the Town Board as SEQRA Lead Agency for this action; and

WHEREAS, the Town Board held a public hearing on January 13, 2022 on such petition and application by CVE pursuant to Town of Brunswick Zoning Law Section 160-125; and

WHEREAS, the Town Board reviewed the Full Environmental Assessment Form, including Parts 2 and 3 and supporting narrative, and upon due deliberation determined that it was appropriate to adopt a negative declaration pursuant to SEQRA for such action; and

WHEREAS, the Town Board adopted a negative declaration pursuant to SEQRA for the action; and

WHEREAS, the Town Board reviewed the record in the matter, and duly deliberated thereon; and

WHEREAS, the Town Board found the recommendation of the Planning Board to be well-considered and appropriate from a planning consideration in relation to the CVE proposed commercial solar collector system project; and

WHEREAS, the Town Board found the situation to be unique, in that the proposed solar field was primarily located on property that was historically used as one continuous agricultural field that covered two separate parcels, and that one such parcel was located in the AO District and the other such parcel not located in the AO District despite its historic agricultural use; and

WHEREAS, the Town Board determined that it was appropriate to approve the amendment to the Zoning Map of the Town of Brunswick in the matter in concurrence with the recommendation of the Planning Board, and further that such amendment was not inconsistent with the Town Comprehensive Plan; and

WHEREAS, the Town Board approved the amendment to the Zoning Map stating that Tax Map Parcel No. 91-2-53.3 be include in the AO District in its entirety, and that a part of Tax Map Parcel No. 91-2-54 be included in the AO District insofar as such parcel is proposed for solar panels, equipment, and fencing as depicted on the CVE proposed commercial solar collector system project plan; and

WHEREAS, thereafter, the Planning Board continued its review and consideration of the special use permit and site plan application at its February 17, 2022 meeting, and placed it on the agenda for its March 3, 2022 meeting for further consideration; and

WHEREAS, the Zoning Board reviewed and considered the application for area variances, which were for internal lot line setback and installation of above-ground utility poles, at its February 28, 2022 meeting, and placed it on the agenda for its March 21, 2022 meeting for further consideration; and

WHEREAS, CVE requested that the Planning Board adjourn the special use permit and site plan application until the Planning Board's March 17, 2022 meeting; and

WHEREAS, CVE responded to engineering review comments of Wayne Bonesteel, P.E., review engineer to the Planning Board, through correspondence dated March 11, 2022; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan application at its meeting on March 17, 2022; and

WHEREAS, the Planning Board deemed the special use permit and site plan application to be complete for purposes of holding a public hearing, and agreed to hold a joint public hearing with the Zoning Board on the applications before both boards; and

WHEREAS, the Planning Board scheduled a joint public hearing with the Zoning Board on the applications before both boards for April 7, 2022 at 7:00pm; and

WHEREAS, the Zoning Board reviewed and considered the application for area variances at its meeting on March 21, 2022; and

WHEREAS, the Zoning Board agreed to hold a joint public hearing with the Planning Board on the applications before both boards on April 7, 2022 at 7:00pm; and

WHEREAS, public notice of the joint public hearing, to be held April 7, 2022, was duly published, posted, and mailed by the Planning Board and Zoning Board in compliance with the Brunswick Zoning Law; and

WHEREAS, the Planning Board and Zoning Board held a joint public hearing on the pending applications at the joint meeting held April 7, 2022; and

WHEREAS, the Planning Board and Zoning Board each closed their public hearings on the applications at the April 7, 2022 joint meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan application at its meeting on April 7, 2022 and placed it on the agenda for its meeting on April 21, 2022; and

WHEREAS, all public comments received by the Planning Board and Zoning Board were provided to CVE for written responses; and

WHEREAS, CVE prepared complete written responses to all public comments received at the joint public hearing, and provided such responses to the Planning Board and Zoning Board; and

WHEREAS, the Zoning Board reviewed and considered the application for area variances at its meeting on April 18, 2022 and placed it on the agenda for its May 16, 2022 meeting; and

WHEREAS, the CVE application was not considered at the Planning Board April 21, 2022 meeting, and the special use permit and site plan application was placed on the agenda for the Planning Board's May 5, 2022 meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan application at its meeting on May 5, 2022 and placed it on the agenda for its May 19, 2022 meeting; and

WHEREAS, the Zoning Board reviewed and considered the application for area variances at its meeting on May 16, 2022; and

WHEREAS, the Zoning Board granted the area variances required for the project at its meeting on May 16, 2022, subject to action by the Planning Board on the special use permit and site plan applications; and

WHEREAS, based upon the application materials, record of proceedings, public comments and responses thereto, the SEQRA record and Negative Declaration, and upon due consideration and deliberation, the Planning Board is prepared to act upon the special use permit and site plan applications;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Town of Brunswick in regular session duly convened as follows:

1. The Town of Brunswick Planning Board issues a special use permit and approves the site plan for the Changing Visions of Energy commercial solar facility located off Belair Lane, subject to the following conditions:
 - a. Subject to posting and maintenance of financial security for decommissioning of the commercial solar facility equipment in form and amount acceptable to the Town of Brunswick.
 - b. Subject to final comments of the Planning Board Reviewing Engineer and Town of Brunswick Water Department on final stormwater pollution prevention plan (SWPPP) for this facility, and Notice of Intent to comply with NYSDEC General Permit 0-15-002.
 - c. Coordination with local emergency services regarding on-site facilities, layout, equipment, and access; provide safety notices and safety training to such local emergency services.

- d.** All panels used for the solar facility must have an anti-glare coating or consist of materials that will not produce offensive glare.

- e.** No further removal of any vegetation from the property without further review and approval by the Town of Brunswick Planning Board. Tree cutting on the site is limited to the tree clearing limits as shown on the Grading, Drainage and Utility Plans by Tectonic Engineering - Dwg No. C-105 & C-106 last revised 5/9/22.

- f.** All approvals of the Public Service Commission community solar facility must be filed with the Town of Brunswick.

- g.** Access to the commercial solar equipment is limited to the access road off Belair Lane as depicted on the Overall Site Plan by Tectonic Engineering – Dwg. No. C-102 last revised 5/9/22, and no access off North Lake Avenue is allowed.

- h.** All waste materials generated during site construction, including all packaging materials, must be contained and removed from the site within a reasonable time and no later than the issuance of a certificate of compliance.

- i.** The security fence around the perimeter of the community solar facility shall be 8-foot high, with a Knox box installed for emergency access at the entry gate.

- j.** The solar facility equipment must be constructed and operated in compliance with all requirements of the National Electric Code.

- k.** Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility and a note regarding such prohibition shall be added to the site plan.

- l.** In accordance with Town of Brunswick Zoning Law, Article 6, Section 160-41 Lighting Regulations-Section D, Security Lighting shall be designed,

located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property.

- m.** A Payment In Lieu of Taxes (PILOT) Agreement is required.
- n.** A Stormwater Management Facilities Maintenance and Easement Agreement is required.
- o.** A pre-construction engineering inspection report on the condition of Belair Lane shall be completed by CVE North America in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and a post-construction engineering inspection report on the condition of Belair Lane shall be completed by CVE North American in coordination with the Town of Brunswick Highway Department and Town of Brunswick Building Department, and any damage to Belair Lane as a result of construction vehicles or other use of Belair Lane by CVE North America shall be repaired by CVE North America to achieve pre-construction condition of Belair Lane. All such repair work shall be completed prior to issuance by the Town of Brunswick Building Department of a Certificate of Compliance for the project.
- p.** Construction activities are limited to Monday through Friday, 7:00 a.m. – 4:00 p.m.
- q.** Strict compliance with the “Site Plan”, (13 Sheets) by Tectonic Engineering dated 5/3/21 and last revised 5/9/22.
- r.** Subject to requirements under Nationwide Permit for land-based renewable energy generation facilities of the United States Army Corps of Engineers and determination from the Army Corps of Engineers that coverage is provided for this project thereunder.

The foregoing Resolution, offered by Chairman Oster and seconded by Member Tarbox, was duly put to a roll call vote as follows:

CHAIRMAN OSTER
MEMBER MAINELLO
MEMBER KRIEGER
MEMBER PETERSEN
MEMBER HENDERSON
MEMBER TARBOX
MEMBER STANCLIFFE

VOTING aye
VOTING aye
VOTING aye
VOTING aye
VOTING aye
VOTING aye
VOTING aye

The foregoing Resolution was thereupon declared duly adopted.

May 19, 2022