

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 REGULAR PLANNING BOARD MEETING AND JOINT SPECIAL
ZONING BOARD OF APPEALS MEETING HELD SEPTEMBER 19, 2019**

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

ABSENT was LINDA STANCLIFFE.

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

The Brunswick Zoning Board of Appeals, pursuant to notice of special meeting, is joining the Planning Board meeting for purposes of conducting a joint public hearing on the application by Borrego Solar for a community solar facility proposed to be located on property located at the end of Dusenberry Lane. PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, MARTIN STEINBACH, WILLIAM SHOVER and PATRICIA CURRAN.

Chairman Oster reviewed the agenda for the Planning Board meeting, noting that the public hearing on the Borrego Solar application will be a joint public hearing with the Brunswick Zoning Board of Appeals.

Both the Planning Board and the Zoning Board of Appeals opened their respective meetings. Both the Planning Board and Zoning Board of Appeals opened the joint public hearing on the application submitted by Borrego Solar for property located at the end of Dusenberry Lane in proximity to Bald Mountain Road. The applicant is seeking special use permit and site plan approval from the Planning Board and an area variance approval from the Zoning Board of Appeals for a

proposed community solar facility consisting of a large-scale, ground-mounted, solar photovoltaic system. The notice of joint public hearing was read into the record, noting that the public hearing notice had been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of surrounding properties. Emilie Flanagan, project manager, and Greg Gibbons, P.E., appeared on behalf of the applicant. Ms. Flanagan provided a brief background on the applicant, noting that it has developed over 150 megawatts of solar facilities in New York State, specializing in community solar facilities. Ms. Flanagan noted that the electricity generated by the facility is fed back into the grid, and subscribers to the program would receive a discount off of their electric bill. Mr. Gibbons then reviewed the project proposal. Mr. Gibbons explained that the entire solar field would be fenced in with an 8-foot fence and the area within the fence would be approximately 27 acres. Mr. Gibbons noted that the fence would be 100 feet off the property line and that the panels within the fenced area would be no closer than 20 feet from the fence. Mr. Gibbons stated that there would be constructed a DEC-approved pervious access road and that level spreaders would be installed throughout the site to address any concerns regarding concentrated stormwater flows from the panels. Mr. Gibbons noted that the size of the panels does not lead to concentrated flows in any amounts of concern because each panel has approximately 24 drip edges. Mr. Gibbons explained that bonded fiber matrix hydroseeding would be used to stabilize the site after construction and that there would be no direct impacts to wetlands. Mr. Gibbons projected that the construction period would be approximately 4–6 months, and that following construction only 2± vehicle trips would occur to the site per year in order to maintain the site. Mr. Gibbons reviewed the vegetative and topographic buffer that surrounds the solar field. Chairman Oster then opened the floor for receipt of public comment. Chairman Oster noted that a letter had been received from the residents at 24 Dusenberry Lane. Jason Wheeler, of 24 Dusenberry Lane reviewed the concerns identified in his letter referenced by Chairman Oster. A copy of the letter has been included in the record. Mr.

Wheeler identified concerns relating to access and safety on Dusenberry Lane, water retention on the site, pollution and environmental impacts from solar panels and impacts to wildlife, visual impacts to his residence, particularly during the winter months, and impacts to property values of surrounding properties. Chairman Oster noted that Mr. Wheeler had enclosed several articles regarding solar panels and the environmental effects of solar farms with his letter and that a copy of the articles would be distributed to the Planning Board and Zoning Board members. Frank Brenenstuhl, of 27 Dusenberry Lane, raised a number of concerns. Mr. Brenenstuhl discussed the extent of the vegetation between the proposed facility and the nearby residences and stated that the project would impact the value of surrounding properties. Mr. Brenenstuhl also asked whether the special use permit would be limited to the current proposed solar facility and whether or not the special use permit would expire after some period of years. Mr. Brenenstuhl further discussed drainage issues on Dusenberry Lane and concerns regarding whether or not the roadway would be graded. Mr. Brenenstuhl further expressed concerns regarding the impact of the facility on the property owned by New Ark Ministries. Mr. Brenenstuhl asked whether or not the access road would be snowplowed. The applicant responded that a snow plow turnaround for the Town portion of the road would be provided and identified the area for the public and the Boards. The applicant further stated that it was unlikely that any snowplowing of the private access road to the facility would occur because no traffic would be entering the site typically during the winter. Mr. Brenenstuhl asked whether there would be retention ponds on the site. The applicant responded that the proposal included level spreaders to address stormwater management. Mr. Brenenstuhl asked whether any site views had been taken from areas of the New Ark Ministries property other than from the location of the home. The applicant responded that areas reviewed for visual impacts included areas where houses or receptors were located, not in vacant areas of surrounding properties. Mr. Brenenstuhl stated that the applicant should plant trees between the New Ark Ministries house and the project site and further requested that the applicant

maintain as much existing vegetation as possible, in particular including the older, larger trees along the lane. Mr. Brenenstuhl further said that the visual impacts of the site would include the ability to see the poles and the solar panels. Mr. Brenenstuhl asked why an 8-foot fence was proposed to fully enclose the facility. The applicant responded that the national electric code requires an 8-foot fence around the facility. Mr. Brenenstuhl stated that other projects in nearby towns do not have 8-foot fences and wondered why no 8-foot fence was constructed for those projects. Mr. Brenenstuhl stated that he had heard reports that solar panels can catch on fire. The applicant responded that the panels do not present a fire hazard and that the only equipment on the site that included combustible materials of any kind were the pad sites. The applicant further stated that the entire system is monitored and that if any damage occurs to the system, whether by fire or hail or vandalism or any other cause, the owner of the facility would be automatically alerted and necessary remediation would occur. Mr. Brenenstuhl asked whether the power leaving the site would be shut down automatically when National Grid shut down power for emergency or work purposes. The applicant confirmed that when National Grid shuts down the grid in that area no power would be leaving the site. Mr. Brenenstuhl asked whether the panels would radiate heat. The applicant responded that there may be a slight amount of heat that radiates from the panel, similar to blacktop, but that it is insignificant. Mr. Brenenstuhl asked whether the panels would generate any noise. The applicant responded that no noise was generated by panels, and that the noise generated by the inverters was similar to a bathroom ventilation fan. The applicant confirmed that only two pads would be constructed at the facility. Mr. Brenenstuhl asked whether decibel readings could be provided for the inverters and the applicant agreed. Mr. Brenenstuhl asked the applicant whether the inverters would produce harmonics. The applicant responded no. Mr. Brenenstuhl asked what would occur if the panels were damaged by, for instance, hunters. The applicant stated that they have completed over 100 projects in New York and have never before encountered damage to the panels from hunters. The applicant stated however that

the entire systems would be monitored, and that if any damage occurred to the system from any cause, the owner of the facility would automatically be notified. Mr. Brenenstuhl asked whether clearance was needed from the FAA because the site was located along a flight path. The applicant responded that FAA clearance was required and obtained, and that it will be supplied to the Town. Mr. Brenenstuhl asked whether the panels that would be used to construct the facility will be made in the United States. The applicant responded that the source of the panels would not be known until construction began, but that the applicant preferred local sourcing of all equipment and labor if possible. Mr. Brenenstuhl asked whether the applicant had control over the remainder of the property outside the fenced area. The applicant responded that the lease area is generally confined to the fenced area, more or less. Mr. Brenenstuhl indicated that he was concerned about the facility's impacts on nature. The applicant responded that all aspects of the environment were reviewed and addressed, including archeological resources, flora and fauna, wetlands, and other environmental areas. The applicant further stated that they were not proposing to construct the facility in any wetlands. Mr. Brenenstuhl stated that he had been informed that the Planning Board engineer would be closely reviewing the project. Chairman Oster and Attorney Tingley then noted for the record that the Planning Board's consulting engineer, Wayne Bonesteel, had recused himself from participation in this matter, and that the Town's consulting engineer for this project was Laberge Engineering. Mr. Brenenstuhl asked what would occur if Borrego Solar went bankrupt. The applicant responded that before construction, they would be required to submit a decommissioning bond to the Town to cover any and all costs associated with removing the entire facility from the site. The applicant further stated that the decommissioning bond was submitted to the consulting engineer to the Planning Board for his review and further stated that the lease imposes a legal obligation on Borrego to remove the facility and any components upon discontinuing the use. Mr. Brenenstuhl asked whether or not the access road would be constructed of permeable blacktop. The applicant responded that it would be

constructed of number 3 stone. James Bopp, 32 Scott Drive, asked how a resident could apply to be a subscriber and how much would be saved on the electric bill. The applicant discussed the process and indicated that the total amount saved would be governed by New York's Community Solar Program. The applicant further stated that upon completion of the facility, mailers would be sent out to eligible residents that would outline the program. Mr. Bopp asked whether or not there would be any tax revenue from the facility. The applicant responded that the project would enter into a PILOT agreement with the Town of Brunswick and other taxing entities. John Donahue, 132 Bald Mountain Road, stated that the site is currently used by four-wheelers and dirt bikes and that their current path goes through the area proposed for the facility. He asked whether or not the applicant would be willing to open an alternate path. The applicant responded that approximately 20 feet outside of the fence would be kept clear of vegetation for purposes of preventing shading of the panels. Mr. Donahue stated that he was concerned about the facility impacting the nearby creek. The applicant responded that the stormwater pollution prevention plan would ensure that stormwater leaving the site would not be any greater in quantity or poorer in quality than current conditions. Terrence Smarro, 160 Bald Mountain Road, asked whether or not there would be an access road constructed to the facility from Bald Mountain Road. The applicant responded that there was no proposed access road from Bald Mountain Road. Chairman Oster then asked whether there was any further public comment on the project. Hearing none, Chairman Oster then asked the Zoning Board of Appeals whether it had any questions for the applicant. Zoning Board Chairperson Clemente asked the applicant to describe the noise that would be generated during construction. The applicant responded that the panels would be constructed on a system of racking that would be drilled into the ground. There would be noise associated with screwing the posts into the ground but that the noise generated would not be any louder than noise generated from a typical construction site. The applicant further stated that no blasting was proposed, and that the overall 4–6 months of construction time would see

very limited actual construction noise. The applicant stated that much of the construction would consist of actually placing the panels on the racking. The applicant stated that the proposed hours of construction would be between 7am and 4pm, Monday through Friday. Chairman Oster asked what the size of any equipment delivery trucks would be. The applicant indicated that it was working with the consulting engineer in order to establish a baseline of the current condition of the road so that the applicant would repair any damage caused to the road from construction. The applicant conceded that there would be occasional large trucks delivering equipment during construction, but that they would be infrequent and would typically simply drop off equipment. The applicant further stated that it would work with the Town in order to address any traffic impacts during construction, including by providing any necessary flagging. The applicant further stated that it would be willing to address any road issues that were caused during construction. Members of the public asked whether or not there would be a contact person in the event of any problems associated with construction of the site. The applicant agreed to distribute contact information and also offered to answer any questions any of the residents had. Members of the public asked whether or not the drivers of the trucks delivering equipment to the site would be Borrego employees or subcontractors. The applicant responded that although Borrego has many employees located locally in Latham, New York, many of the people working on the project would be subcontractors. Members of the public asked whether or not this was the largest project constructed by Borrego. The applicant responded that this particular project is actually one of the smaller projects pursued by the applicant. Chairman Oster then asked whether any other members of the public had any questions or concerns they wanted to include in the public hearing record. Hearing none, the Planning Board closed its public hearing. The Zoning Board of Appeals also closed its public hearing. The Zoning Board of Appeals then closed its special meeting.

The Planning Board then continued the public hearing on the subdivision application submitted by Sharpe Road Development LLC for property located along Sharpe Road. Chairman

Oster noted that the public hearing had occurred over multiple meetings, and he reviewed the scope of the comments received over the course of the public hearings. Chairman Oster then invited any members of the public to provide any further comments they may have. Jean Hill, 242 Sharpe Road, asked whether the applicant had applied for any permits from DEC or DOH. The applicant responded that applications had been made to both DEC and DOH. DEC would not act until after conditional subdivision approval was granted, and the applicant stated that it had responded to comments from DOH and that issuance of the necessary permit from DOH would soon likely occur. Jim Tkacik, 387 Brunswick Road, expressed concern regarding bio-retention areas proposed, indicating that he has never seen a project other than this one on which bio-retention areas are located on every lot. He also expressed concern that the bio-retention areas on each lot were too deep and steep to be able to maintain them. He also stated that they seem to be randomly placed throughout the subdivision with some being located beside, behind, and in front of the various building envelopes. The applicant stated that the bio-retention areas were included strictly to preserve the quality of stormwater, and that the detention ponds proposed for the site were intended to address the quantity of stormwater. Mr. Tkacik further stated that he had concerns about the Town water district providing water to out of Town residents, and stated that it should be a priority to provide water to Town residents. Chairman Oster explained that the establishment or extension of a water district was within the purview of the Town Board. Chairman Oster further stated that another issue that had been raised during the public hearing that was really within the purview of the Town Board was the fact that the area was zoned R-25, when members of the public indicated that it should be zoned R-40. Chairman Oster stated that the Planning Board is bound by the zoning adopted by the Town Board, and it is really up to the Town Board as to whether or not that zoning should be changed. Jean Hill, 242 Sharpe Road, stated that her property and the property of another neighbor had been included in the recently revised water district extension proposal. She indicated that the developer had agreed to provide an extension of

the water lines to these two homes. Donna Holcomb, 223 Sharpe Road, indicated that she had spoken to police concerning the speed of cars and number of cars that travel on Sharpe Road. She stated that the Rensselaer County Sheriff's Office had counted approximately 1,600 cars per day traveling on Sharpe Road at an average speed of 39mph. She stated that Sharpe Road in areas does not have a shoulder and that the Sheriff's Office and the State Police do not have the resources to constantly enforce the speed limit on Sharpe Road. Ms. Holcomb asked whether a memo had been received from the County engineer concerning the driveway locations on Sharpe Road. She stated that it was her understanding that the County engineer had concerns regarding the driveway locations. Ms. Holcomb submitted the documents that had been provided to her by the Rensselaer County Sheriff's Office concerning the number and speed of cars traveling on Sharpe Road. Frank Brenenstuhl, 27 Dusenberry Lane, asked whether the subdivision roads would be constructed of porous pavement. Mr. Bonesteel responded that for porous pavement to be effective, the subbase has to be very well drained. He also indicated that porous pavement has high maintenance needs due to having to vacuum the pavement to remove debris that falls into the pores. He also indicated that it is more expensive than traditional pavement. Charles Prefore, 108 Sharpe Road, stated that he is concerned that the project will impact wildlife by affecting migration patterns, and that approving the subdivision will change the character of the neighborhood from what it is currently to a neighborhood more like downtown Wynantskill. Chairman Oster then asked if any other members of the public had any comments to submit. Hearing none, Chairman indicated that there had now been three sessions of public hearings held on the project, and that the public was afforded a full opportunity to submit comments. Chairman Oster also indicated that the applicant will be required to respond to the comments submitted. Hearing no further requests for public comment, the Planning Board closed the public hearing.

The Planning Board then opened its regular meeting.

The draft minutes of the September 5, 2019 meeting were reviewed. A motion was made by Chairman Oster to approve the minutes as presented, which was seconded by Member Tarbox, and was unanimously approved.

The first item of business on the agenda was the special use permit and site plan application submitted by Borrego Solar to develop a community solar facility located at the end of Dusenberry Lane in proximity to Bald Mountain Road. Chairman Oster noted that the applicant had left after the public hearing. The Board decided to place the matter on the agenda for the October 3, 2019 meeting for further discussion. Chairman Oster asked Attorney Tingley to make sure that the applicant was notified.

The next item of business on the agenda was the subdivision application submitted by Sharpe Road Development LLC for property located along Sharpe Road. Eric Redding from Bergmann Associates appeared on behalf of the applicant. Mr. Redding indicated that they had previously submitted a letter responding to public hearing comments dated July 30, 2019. Mr. Redding further stated that the map, plan and report for the proposed water district extension was resubmitted last Friday with revisions and now proposed to include two additional property owners. Mr. Redding also stated that they had conducted additional perc tests on lots 1, 2, and 15 and all tests were successful. Mr. Redding stated that the perc test results had been submitted to DOH. Member Henderson asked how many lots passed the perc tests. Mr. Redding responded that all 17 lots had passed the perc tests, and that the developer was proposing raised systems for lots 1, 2, and 15. The Board then discussed the fact that the County will have to issue permits for not only the new subdivision road but also for the driveways that enter onto the County Road. Chairman Oster stated that he would like some time to review the public hearing comments and the responses from the applicant to make sure that all issues have been adequately responded to and addressed. Member Tarbox stated that there are two lots still on Sharpe Road and therefore there would be three curb cuts needed from the County. Mr.

Bonesteel asked whether the septic designs have been submitted to the Health Department. Mr. Redding indicated that designs have been submitted and Mr. Bonesteel asked for revised plans showing where they are located. Attorney Tingley stated that since the Board closed the public hearing this evening, the Board has 62 days to decide the application and this would require a SEQRA determination as well as preparation of any written conditions attached to any approval. In response to a question concerning whether or not DEC would review the stormwater pollution prevention plan, Mr. Bonesteel indicated that the Town, as an MS-4 community, was responsible for reviewing stormwater, and that the applicant would be required to file a Notice of Intent with the Department of Environmental Conservation. The applicant stated that the Town and the Town of North Greenbush have reviewed the stormwater pollution prevention plan. The applicant indicated that updated plans would be submitted and agreed at the request of Mr. Bonesteel to submit a revised EAF. Mr. Bonesteel also asked the applicant to submit copies of the test pits results. The Board placed the matter on the agenda for the October 3, 2019 meeting.

There were three items of new business discussed.

The first item of new business discussed was the minor subdivision application submitted by Ryan Broderick for property owned by Bill Broderick located at 528 Garfield Road. Tracy Broderick and Ryan Broderick appeared on the application. Ms. Broderick stated that she had obtained a waiver of subdivision approval from the Board approximately 4–5 years ago to divide off a piece of property from her land for her older son, Jacob Broderick. She indicated that the current proposal is to divide off a portion of land for her younger son, Ryan Broderick. She indicated that an Agricultural Data Statement had been included with the application and that she had submitted a short form Environmental Assessment Form. The Board indicated that some additional detail would be needed on a subdivision map, including among other things, the location of the proposed driveway, along with sight distances, potential building envelope, locations for septic system, the locations for a well,

and other matters. Mr. Bonesteel explained to Ms. Broderick that the items required on subdivision map were listed in the subdivision regulations and that she should have a licensed professional prepare a subdivision map for the application. The Board also advised Ms. Broderick that because this was a subdivision application, a public hearing would be required. The Board advised Ms. Broderick that the public hearing would be scheduled once the Board determined that the application was sufficiently complete for public hearing. The matter was tentatively placed on the agenda for October 3, 2019.

The next item of new business discussed was the lot line adjustment application of Jeff and Tracy Gaylord for property located at 8 Ridge Road. Brian Holbriiter appeared on behalf of the applicants. Chairman Oster noted that the proposed new lot line would cross the location identified for a septic system. Mr. Holbriiter indicated that the septic system design had been approved in 2001, but had never been built. He indicated that the applicant was seeking to sell the adjoining lot, but that they sought to move the property line to provide additional space between their home and the adjoining property. Mr. Holbriiter indicated that the lot line adjustment would reduce the size of the vacant lot from 2.12 acres to 1.55 acres and would increase the size of the Gaylords' lot on which their home is located. Mr. Holbriiter stated that the septic system that was originally approved in 2001 for the vacant lot would need to be redesigned in the event the purchaser of the lot would seek to construct a home thereon. Chairman Oster asked Mr. Holbriiter to review the topography of the site. Mr. Holbriiter reviewed the topography of the site indicating that the relocation of the property line was essentially from the bottom of a bank to the top of a bank, and that there was a flat area on the eastern end of the lot which would accommodate a potential driveway. Member Mainello asked where the septic system servicing the Gaylord home was located. Mr. Holbriiter indicated that the septic system is located approximately opposite Fox Hollow Road where it intersects Ridge Road. Mr. Holbriiter also indicated that the area is serviced by public water. Member Tarbox made a motion to adopt a negative declaration, which was seconded by Member Petersen, and was unanimously

approved. Chairman Oster then made a motion to approve the lot line adjustment, which was seconded by Member Kreiger, with the conditions that prior to issuance of a building permit, County Health Department approval be received for a new septic design and that the applicant obtain any necessary driveway permits.

The next item of new business discussed was the proposal by Dan Levesque, operator of Fourth Generation Awning and Dan Dan the Gutter Man, for property located at 853 Hoosick Road. Mr. Levesque appeared and indicated that he was currently under contract to purchase the property and was intending to use the property to house his awning and gutter business. Mr. Levesque indicated that he had been asked by the Building Department to discuss the project with the Planning Board to determine whether site plan approval would be needed. Mr. Golden indicated that it was on the agenda as a new item because it was on as a sketch plan and that Mr. Levesque was supposed to bring information to provide to the Board. Mr. Levesque indicated that the project had previously been used as an auto repair shop, and that he was looking to continue its use as a commercial property. Attorney Tingley explained to the Board that the Planning Board does not have the jurisdiction to decide whether or not this constitutes a change in use, as that determination has to be made by the Building Department. If the Building Department determines that it constitutes a change of use, then the Code requires site plan review and approval. The Board then asked Mr. Levesque what he planned to do at the property. Mr. Levesque indicated that he intended to have a show room, and that he has approximately ten trucks that would most likely be parked inside. Member Henderson asked whether there were any waste tanks underground. Mr. Levesque indicated that a phase 1 Environmental Site Assessment had been done and that no further action was needed, and he also indicated that the appraisal had been completed as well. The Board then discussed with Mr. Levesque the fact that because this is a site plan application for property which is located along Hoosick Road, the Planning Board intended to hold a public hearing, as has been their practice on other applications along Hoosick

Road. Mr. Levesque indicated that he would move forward with any application the Building Department indicated was required and the Board agreed to place the matter on the October 3 agenda.

The index for the September 19, 2019 meeting is as follows:

1. Borrego Solar - Special use permit/site plan/area variance (Joint public hearing held) - 10/3/2019;
2. Sharpe Road Subdivision - Major subdivision (Public hearing closed) - 10/3/2019;
3. Broderick - Minor subdivision - 10/3/2019 (tentative);
4. Gaylord - Lot line adjustment - Approved;
5. Levesque - Site plan - 10/3/2019.

The proposed agenda for the meeting to be held October 3, 2019 currently is as follows:

1. Talham - Minor subdivision (Public hearing to commence at 7:00pm);
2. Seed Solar - Special use permit (Public hearing to commence at 7:15pm);
3. Carbone Auto - Site plan amendment;
4. Borrego Solar - Special use permit/site plan;
5. Sharpe Road Subdivision - Major subdivision;
6. Broderick - Minor subdivision (tentative);
7. Levesque - Site plan.