

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD AUGUST 19, 2021

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

ALSO PRESENT were MICHAEL MCDONALD, Brunswick Building Department and WAYNE BONESTEEL, P.E.

Chairman Oster reviewed the agenda for the meeting, as posted on the Town sign board and Town website. The draft minutes of the August 5, 2021 meeting were reviewed. Member Henderson noted one correction: on page 8, paragraph 1, line 5, “August 16” should be “August 19”. Upon motion of Chairman Oster, seconded by Member Henderson, the draft minutes of the August 5, 2021 meeting were unanimously approved subject to the noted correction.

Attorney Gilchrist noted that the draft minutes for the July 15, 2021 meeting were not reviewed or approved at the previous meeting because there were not enough Planning Board members for a quorum. The draft minutes from the July 15, 2021 meeting were then reviewed. Upon motion of Chairman Oster, seconded by Member Tarbox, the draft minutes of the July 15, 2021 meeting were approved without amendment, with Member Stancliffe abstaining.

The first item of business on the agenda was a site plan application submitted by TNKY, Troy LLC for property located at 841 Hoosick Road. Joseph Dannible, R.L.A., from Environmental Design Partnership, LLP, was present to review the project. Chairman Oster stated

that the Town had received a letter from Rensselaer County giving a recommendation on the project and that NYS DOT had given approval to the curb cut along Hoosick Road that was proposed as part of the project. Mr. Dannible reviewed the status of the application, stating that a public hearing was held at the August 5, 2021 meeting and that the applicant had subsequently resubmitted the plans in order to address all of Mr. Bonesteel's comments. Mr. Dannible reiterated Chairman Oster's point that NYS DOT had approved the curb cut along Hoosick Road, subject to the approval of the full permit application. Mr. Dannible stated that a permit from NYS DEC was pending, that he had walked the site with officials from DEC, that the applicant had received comments from DEC and has prepared responses to those comments, and that the applicant will be deed restricting approximately 4 acres of land on the site. Mr. Dannible also stated that the applicant is seeking a SEQRA determination on the project and action on the site plan. Mr. Bonesteel stated that he had prepared draft responses to Parts 2 and 3 of the Environmental Assessment Form (EAF) submitted by the applicant for discussion with the Planning Board members. Mr. Bonesteel then reviewed Part 2 of the EAF with the Planning Board, making the following determinations: there will be an impact to the land on the site, but there will be no-to-small impact on each sub-item; there will be no impact on geological resources; there will be an impact to surface water, as it is adjacent to a DEC wetland and is encroaching into the 100-foot buffer, but there will be no-to-small impact on each sub-item; there will be no impact to groundwater, flooding, or air; there will be an impact of plants and animals, but no-to-small impact on each sub-item; there will be no impact on agricultural resources, aesthetic resources, historic or archeological resources, open space and recreational areas, the critical environmental area, or transportation; there will be an impact to energy resources, but there will be no-to-small impact on each sub-item; there will be an impact on noise and light, but there will be no-to-small impact on

each sub-item; there will be no impact to human health, there is no inconsistency with community plans or with community character, as it will be part of the Hoosick Road commercial corridor. Mr. Bonesteel then reviewed Part 3 of the EAF with the Planning Board, and proposed a negative declaration on the project. There were no questions on the EAF from the Planning Board. 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 Planning Board discussed conditions on the site plan and Attorney Gilchrist listed the conditions: approval of the NYS DEC wetlands permit and compliance with any conditions imposed by DEC; approval of the NYS DOT work permit for the curb cut on Hoosick Road and compliance with any conditions imposed by DOT; final Town of Brunswick Water Department and Planning Board engineer comments on the stormwater pollution prevention plan (SWPPP); transfer of subdivided area to the owner of the MAX BMW parcel and merger of that area into the MAX BMW parcel; parking lot/exterior lights to be turned off one hour after the store closes at 8:00pm, except for security lights; and maintenance of landscaping installed per the landscaping plan. Member Mainello stated that the color of the building should be added as a condition, that it should be consistent with the samples submitted to the Planning Board. The Planning Board and applicant discussed establishing the color of the building as a condition on the project. The Planning Board determined that a final condition on the project be that the exterior color of the building must match and be consistent with the samples submitted to the Planning Board, that any change in the color of the exterior of the building must be reviewed by the Town of Brunswick Building Inspector, and any color change deemed substantial by the Building Inspector shall require a site plan amendment. Member Stancliffe made a motion to approve the

site plan subject to the stated conditions, which was seconded by Member Petersen. The Planning Board voted unanimously to approve the site plan subject to the stated conditions.

The second item of business on the agenda was a site plan and minor subdivision application submitted by Lord Avenue Property, LLC for property located on Lord Avenue. Walter Lippmann, Project Engineer with M.J. Engineering and Land Surveying, P.C., was present for the applicant. Mr. Lippmann stated that he had been present at the August 5 Planning Board meeting, where the third party traffic review letter from Colliers Engineering & Design had been reviewed by Mr. Bonesteel and the Planning Board, and that the applicant had submitted a response to that report on August 16, and that Colliers Engineering & Design had responded to the applicant's response in a letter dated August 18. Mr. Lippmann stated that he and Mr. Bonesteel have addressed the stormwater issues with the project. Mr. Lippmann stated that he attended the August 16 Zoning Board of Appeals meeting, where he addressed issues concerning the lighting on the project site, including that the lights will turn off after the store closes, except for security lighting for employees restocking the store. Mr. Lippmann stated that the applicant is on the agenda for the Zoning Board's next meeting on September 13. Chairman Oster asked if there were any more details on the truck traffic due to bringing fill to the site. Mr. Lippmann stated that there was no change in the plan for trucks transporting fill to the site from prior submissions. Mr. Bonesteel stated that he and Mr. Lippmann had participated in a conference call on the stormwater plan, that the applicant did respond to his comments in writing, which he would review with Bill Bradley of the Brunswick Water Department, and that they are very close on the stormwater issues. Mr. Bonesteel stated that Vanasse Hangen Brustlin, Inc., who did the initial traffic study for the applicant, responded to the traffic review by Colliers Engineering & Design with additional information requested by the Planning Board, and that Colliers Engineering & Design had

completed a review of the additional information in a letter dated August 18. Alanna Moran, Transportation Engineer with Vanasse Hangen Brustlin, Inc., stated that the August 18 letter provided the Town of Brunswick with options for traffic mitigation in the surrounding neighborhoods, including speed humps and striping on the roads, which must be considered by the Town Highway Supervisor. Ms. Moran also stated that if the Town wants to consider changing any roads to make them one-way, the Town should measure the traffic on the road or roads it is considering changing now in order to establish a baseline, which could be compared to the amount of traffic post-construction. Member Stancliffe asked if the letters from Vanasse Hangen Brustlin, Inc. and Colliers Engineering & Design should be sent to the local fire departments. Mr. Bonesteel stated that he had reached out to the Town Highway Superintendent about the project, but had not yet heard back from him. Mr. Bonesteel stated that the Planning Board does have the option of reaching out to Brunswick Fire Co. No. 1 for an opinion on the application, but that it is not required at this point. Chairman Oster stated that the Planning Board had received a comment from a local resident living near the project site suggesting closing off a Town road to significantly decrease traffic through surrounding neighborhoods, but that he needed to review the matter more clearly before submitting that comment into the record. Mr. Bonesteel stated that Colliers Engineering & Design had found the additional data and information submitted by Vanasse Hangen Brustlin, Inc. to be reasonable, and advised that there should also be a traffic evaluation done post-construction for comparison. Mr. Bonesteel stated that it is very difficult to predict the actual traffic impacts of the yet-to-be installed traffic light and a commercial building that is yet to be constructed and operated. Mr. Bonesteel also stated that vehicles cutting through Genessee Street to avoid traffic along Hoosick Road is already happening, that the Town should review this existing condition anyway, and that the Town may want to consider signage and/or striping on

roads neighboring the project site. Ms. Moran stated that a lot of vehicles travelling through the surrounding neighborhoods are local residents, meaning that the Town already has a traffic base for those roads and that this data can be compared to traffic post-construction. Chairman Oster asked about SEQRA. Mr. Bonesteel stated that it would be helpful to have a visual assessment in hand in order to make a SEQRA determination, and that he would coordinate with the Highway Superintendent on the traffic issues. This matter is placed on the September 2 agenda for further deliberation.

The third item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located at 159 Deepkill Road. Jacob Keasbey, from Holbriiter Land Surveying, was present to review the application. Member Stancliffe recused herself. Mr. Keasbey handed out copies of the approved septic plan for the proposed lots, which were conditional on the subdivision approval. Chairman Oster noted that this was not the first minor subdivision on the parcel and that the Planning Board should be able to see the entire area on the site map. Mr. Keasbey reviewed the application, stating that a 3-lot subdivision is being proposed, with two large lots, each over 10 acres, and one 1-acre lot. Mr. Keasbey stated that the project is conditional upon a Rensselaer County Department of Health approval for the septic system. Mr. Keasbey asked the Planning Board if the application could proceed as a minor subdivision, and Attorney Gilchrist stated that the issue needed to be reviewed in light of prior subdivision of lots. Chairman Oster asked if Mr. Gallivan owned any remaining land on the west side of Deepkill Road. Mr. Keasbey stated that he did not. Chairman Oster noted that based on all the previous subdivisions Mr. Gallivan has done, this would appear to be the last possible subdivision, but this needed to be confirmed. Chairman Oster asked if there were any existing buildings on the property. Member Tarbox stated that there is a horse barn on the property. Mr. Keasbey stated that the horse barn is

currently only being used for storage, not boarding horses. Attorney Gilchrist stated that the issue here with a structure being on the property is the maintenance of any accessory structures without a primary structure and that he would need to look into that issue as well. Chairman Oster asked if the applicant intended to sell the subdivided lots for residential construction. Mr. Keasbey confirmed that he did. Chairman Oster asked if the proposed Lot 2 included a 25-foot area over Lot 1 for access. Mr. Keasbey stated that it did as the applicant did not want to cross a wetland with the driveway, but also noted that Lot 2 will still have road frontage. Member Mainello asked how many subdivisions have been applied for at this site as he could not remember offhand due to there being so many. The Planning Board discussed the previous subdivisions at the site. Member Tarbox noted that the previous subdivisions did not include any infrastructure and asked if that was key in determining if this was a major or minor subdivision. Attorney Gilchrist stated that subdivision procedure is an important consideration, but that stormwater compliance is as well if the current plan is part of a larger plan of development. The Planning Board discussed subdivision procedure and stormwater compliance. The Planning Board noted that Bill Bradley, from the Brunswick Water Department, was in attendance, and Mr. Bradley stated that, in his opinion, this 3-lot subdivision is part of a larger plan of development and that it needs to be reviewed in detail, with specific numbers provided to the Planning Board for the purpose of stormwater compliance. Mr. Bonesteel agreed, stating that the applicant should provide a list of all subdivisions at the site and the dates that the applications for those subdivisions were made to the Planning Board. Attorney Gilchrist stated that the applicant should also provide a map of the site with all lots divided out by property owner and when they were subdivided, as that information will be relevant when determining whether this is a minor or major subdivision. This matter is placed on the September 2 agenda for further deliberation.

Member Stancliffe returned to the meeting.

The fourth item of business on the agenda was a referral from the Brunswick Town Board concerning a zoning amendment filed by CVE North America, Inc. for property located at 4 Belair Lane. The Town Board referred the zone change request to the Planning Board for review and a recommendation. Carson Weinand, Senior Project Developer for Changing Visions of Energy, was present to review the zone change request and overall project. Lou Greco, P.E., also representing Changing Visions of Energy, and Ashley Champion, an attorney from Nixon Peabody LLP, were also present for the applicant. Mr. Weinand reviewed the project, stating that it was a 6 MW community solar farm to be located off Belair Lane with no abutters or visual impacts, and a maximum of 30 acres of disturbance on the parcels. Mr. Weinand then discussed the rezoning request, stating that a majority of the project is located in an Agricultural Overlay district, where large-scale solar projects are allowed, but a small portion of the project site is not and the applicant is requesting that this small section of land be rezoned Agricultural Overlay so that the large-scale solar project can move forward. Attorney Gilchrist explained the referral process to the Planning Board, stating that the applicant sent the zone change petition to the Town Board, which is the only governing body in Brunswick that has the authority to make zoning changes under the Brunswick Zoning Law, the Town Board accepted the petition, and now the Town Board seeks a recommendation from the Planning Board on the matter. Attorney Champion clarified that only a section of Parcel 1 on the site map would be rezoned and that the rezoned area would only be for part of the access road to the project site and have no solar panels on it. There was extended discussion concerning the extent of the area that is part of the requested zoning amendment. Attorney Gilchrist stated that if the zoning change was approved, then the applicant would still come back to the Planning Board for a special use permit and site plan review, as well as go in

front of the Zoning Board for an area variance for the setback for the internal lot lines. The Planning Board discussed the definition and purpose of Agricultural Overlay districts and what uses are allowed in that district. Attorney Champion discussed the compatibility of a solar farm with agricultural uses, stating that this would constitute a temporary use and would be able to be put back into active agricultural use decades from now when the solar farm is decommissioned. Mr. Weinand stated that the land is not currently being farmed. Member Tarbox asked if a public hearing would be required for the petition and Attorney Gilchrist stated that one was not necessary in connection with the Planning Board recommendation, but would be required on the zoning change petition at the Town Board. The Planning Board then discussed the public hearing procedure. Chairman Oster stated that the Town Board is currently reviewing the Brunswick Zoning Code for any general updates and asked if this would be included in that review. Attorney Gilchrist stated that it would not as there are two separate ways to update the Zoning Code, the Town Board reviewing and changing part of the Zoning Code on its own, or a petition from an applicant, with this qualifying as the latter. Mr. Weinand stated that the solar project could be located on the parcel that is zoned Agricultural Overlay, but that there are environmental constraints on the parcel, so the applicant is trying to avoid the constrained areas by extending the project through the adjacent parcel, which requires the rezoning. Mr. Weinand also stated that both the parcel that the solar project is to be built on and the adjacent parcel that is looking to be rezoned are part of the same open field. Attorney Champion stated that the applicant could complete the project on the parcel in the Agricultural Overlay zoning district, and that it is certainly possible from an engineering perspective, but that the applicant is trying to be more environmentally-conscious and is proposing the project in a more environmentally-sensitive way. The Planning Board asked if the owner of the adjacent parcel proposed to be rezoned is aware of the proposal

and consents to an extension of the Agricultural Overlay district onto their land. Mr. Weinand confirmed that the adjacent owner was aware and consented to the action. Chairman Oster asked if the applicant considered any other sites in Brunswick for the project. Mr. Weinand stated that they did, but that the proposed site was the only site that met all of CVE's criteria for the project, including remoteness, being buffered, and having a good interconnection ability. Chairman Oster asked if this was the first petition for rezoning since the current Zoning Code was adopted in 2017, and Attorney Gilchrist confirmed that it was. Chairman Oster stated that was concerned about setting a precedent with this petition and opening the door for more projects seeking a zoning change. Attorney Champion stated that this should not be a concern as it would be a purely discretionary determination by the Town Board based on the specific facts of this project. Chairman Oster stated that he was still concerned that if this rezoning is approved, it would be difficult to deny any rezoning petitions in the future. Member Stancliffe asked how large the project would be if it was limited to the area in the current Agricultural Overlay district. Mr. Weinand stated that the project would decrease from 6 to 4 MW, which would not be economically feasible. Chairman Oster stated that there are other sites in Brunswick for a 6 MW solar project, but that they might require additional work. Mr. Weinand agreed and added that there would be more environmental disturbance at other sites than what it proposed at the current site. The Planning Board requested additional mapping to show the site alongside North Lake Avenue, which Mr. Weinand stated he would provide. This matter is placed on the September 2 agenda for further deliberation.

One item of new business was discussed, which was a site plan application submitted by Matopato, LLC for property located at 291 Oakwood Avenue. Thomas Murley was present to review the application. Mr. Murley stated that he is the owner of Diamond Rock Plaza, located at

291 Oakwood Avenue, which was approved in 2015 and constructed in 2018. Mr. Murley stated that within the past few weeks, a bus company that has won the bussing contract for the Lansingburgh School District contacted him asking to use his property to store buses during the school year. Mr. Murley stated that the bus company currently stores their buses near the Albany Airport, but are looking for a new location for the buses for the upcoming school year. Mr. Murley stated that he was seeking to use the approved car wash area on his property to park the buses and that the bus company would use one of the commercial spaces in Diamond Rock Plaza as an office and lounge/rest area for the bus drivers. Mr. Murley stated that was seeking a site plan amendment to allow for the parking of buses in the area approved for a car wash. Mr. Murley stated that 25 large buses and 20 small buses would be parked on his property. Chairman Oster asked where bus drivers would park their cars when they arrive at the site each morning. Mr. Murley stated that some drivers would park elsewhere and be shuttled to his property, while others would park where the buses would be parked overnight, meaning no additional space would be required. Mr. Murley also stated that bus monitors, which are present on every bus, would all be shuttled to his property, with none of them parking on-site. Member Henderson asked if the buses would be fueled on-site. Mr. Murley said all buses would be fueled off-site and that any and all repairs would be done off-site as well. Mr. Murley also stated that the area where the buses would park is not paved, but would be graded and covered in crusher run, and that the bus company would like to start parking on his property on September 7. Chairman Oster asked if there would be traffic issues created by school buses turning onto and off of Oakwood Avenue, especially during peak hours. Mr. Murley stated that there would not be any traffic issues due to good sight distance and large gaps in traffic due to the traffic light at Route 142. Member Stancliffe asked if there would be security lighting on-site. Mr. Murley stated that there would be lights all around the building at night for safety and

to prevent theft. The Planning Board discussed the procedure for this application, including whether or not a public hearing would be necessary. Attorney Gilchrist stated that the Planning Board should obtain the project's site plan, that an EAF needs to be filed, and information regarding the bus schedule and routes needs to be filed. Mr. Murley stated that he would provide that information. Attorney Gilchrist stated that he and the Town Building Department will review zoning issues on the application. This matter is placed on the September 2 agenda for further deliberation.

The index for the August 19, 2021 meeting is as follows:

1. Harbor Freight Tools – site plan (approved with conditions).
2. Lord Avenue Property, LLC – site plan and minor subdivision (September 2, 2021).
3. Gallivan – minor subdivision (September 2, 2021).
4. Changing Visions of Energy – zoning amendment recommendation (September 2, 2021).
5. Matopato, LLC – site plan amendment (September 2, 2021).

The proposed agenda for the September 2, 2021 meeting is currently as follows:

1. Lord Avenue Property, LLC – site plan and minor subdivision.
2. Gallivan – minor subdivision.
3. Changing Visions of Energy – zoning amendment recommendation.
4. Matopato, LLC – site plan amendment.