

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD SEPTEMBER 2, 2021

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

ALSO PRESENT were CHARLES GOLDEN, 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 19, 2021 meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Henderson, the draft minutes of the August 19, 2021 meeting were unanimously approved without amendment.

The first 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 Manager with M.J. Engineering and Land Surveying, P.C., was present for the applicant. Alanna Moran, Transportation Engineer with Vanasse Hangen Brustlin, Inc., was also present. Mr. Lippmann briefly reviewed the history of the application and stated that the applicant was seeking to review Parts 2 and 3 of the Environmental Assessment Form (EAF) and obtain a SEQRA determination from the Planning Board. Mr. Bonesteel stated that he had prepared a draft of Parts 2 and 3 of the EAF and passed out copies to the Planning Board members and Mr. Lippmann to read and review. Mr. Bonesteel stated that Part 2 of the EAF identifies potential project impacts.

It was first noted for the record that no potential significant adverse environmental impacts are anticipated with respect to geological features, groundwater, air, aesthetic resources, historic or archeological resources, open space or recreation, critical environmental areas, human health, community plans, or community character. Mr. Bonesteel stated that there would be an impact on land, but that it would be a small impact, then discussed the impacts on the land from construction of the supermarket and identified the mitigation measures to be implemented by the applicant. Member Tarbox stated that the proposal that trucks only be allowed to turn right when both entering and exiting the project site may be an issue, and that it will be difficult for trucks to turn onto Oakwood Avenue. Mr. Golden noted that at an earlier meeting, the applicant stated that there would not be flaggers helping trucks enter and exit the project site. Member Mainello asked whether or not there is enough room in the center turn lane on Hoosick Road for the trucks, and Member Krieger noted that the trucking company said the turning lane could handle the trucks. Mr. Bonesteel noted that the proposal to have trucks only turning right when entering and exiting the project site was proposed by the applicant. Rich Rosen, from the site development company, stated that only allowing trucks to turn right when entering and exiting the project site is recommended, and that he would coordinate with Mr. Bonesteel, the Brunswick Building Department, and NYS DOT prior to construction to determine and implement the best route for trucks while staying compliant with all NYS DOT requirements. Member Henderson asked what the hours of operation would be for trucks driving to and from the project site. Mr. Bonesteel stated that the hours of operation were subject to discussion on the site plan as well as coordination with NYS DOT. Member Stancliffe noted that the SEQRA process includes consideration of impacts from construction on a project site. Mr. Bonesteel stated that there would be an impact on surface water, but it was a small impact as there are no NYS DEC wetlands on the site and that the project's

stormwater plan had been reviewed and determined to be acceptable. Mr. Bonesteel stated that there would be an impact on flooding, but it was a small impact as there is no floodway or flood plain on the site. Mr. Bonesteel also stated that there is a history of flooding along the western property line, but that changes in grading and stormwater controls will adequately address the issue. Member Stancliffe asked whether or not the stormwater berming proposed in the site plan would constitute a dam. Mr. Bonesteel clarified that the berming would be along the western property line and that the stormwater pond being proposed would not constitute a dam. Mr. Bonesteel stated that there would be an impact on plants and animals, but it would be a small impact. Mr. Bonesteel stated that there would be an impact to agricultural resources, but that it would be a small impact, both to the project site, where additional agricultural lands are present, and to the overall agricultural land area in the Town of Brunswick. Mr. Bonesteel stated that there would be an impact on transportation, but that traffic studies had been completed and independently reviewed by the Planning Board's traffic consultant, and that traffic impacts will be adequately mitigated. Mr. Lippmann stated that a sign prohibiting left turns when leaving the site had already been proposed for trucks, and that prohibiting left turns for customer vehicles when leaving the site could be frustrating for local neighborhood residents. Ms. Moran stated that the applicant did not want to upset local residents with any traffic mitigation measures, which Mr. Rosen agreed with. Chairman Oster stated that he is trying to address the increase in traffic in the surrounding neighborhood due to cut-through traffic and public comments, and that a no-left turn limitation when leaving the store could be an appropriate mitigation measure. Chairman Oster also stated that a drawing was submitted to the Planning Board by a local resident proposing curbing on the project site in order to require right turns only when exiting, which he is currently reviewing. Mr. Rosen stated that traffic counts will be included in the post-construction study that will be undertaken by the Town

and paid for by the applicant, and that the no-left turn mitigation should be subject to post-construction analysis. Mr. Bonesteel stated that there would be an impact on energy, but that it would be a small impact. Mr. Bonesteel stated that there would be an impact on noise, odor, and light, but that it would be a small impact as photometric light analysis had been completed showing no light impacts off-site and that downlighting was being required on the site. Member Stancliffe stated that under Item 15, concerning impacts on noise, odor, and light, it was noted that lighting on the project site would be dimmed after the supermarket closed and asked if that needed to be added as a condition. Attorney Gilchrist stated that the specific hours for lighting on the site would be established in the site plan review, not during the SEQRA process. Mr. Bonesteel then reviewed Part 3 of the EAF, which evaluates the magnitude and importance of all project impacts. Mr. Bonesteel stated that the project was a Type I action under SEQRA, then listed the impacts that could be significant, but which have been adequately mitigated, and listed those mitigating factors. Attorney Gilchrist stated that amendments will be made to the impacts on land based on the deliberations about traffic between the Planning Board, the applicant, and Mr. Bonesteel. Attorney Gilchrist also stated that based on the deliberations, Letter A of Part 3 of the EAF, stating that an Environmental Impact Statement is not needed due to the project having no significant adverse impacts on the environment, should be checked and Mr. Bonesteel agreed. Mr. Bonesteel stated that it was his opinion that a Negative Declaration be adopted. Member Tarbox made a motion for a negative declaration on the project, which was seconded by Member Kreiger. The Planning Board voted unanimously to declare a negative declaration on the project under SEQRA. Chairman Oster then returned to the drawing submitted by a local resident proposing curbing on the project site and asked for the Planning Board's thoughts. Mr. Bonesteel stated that he is not in favor of curb islands in general and did not believe curbing would be beneficial in this instance. The

Planning Board then discussed striping and signage at the entrance and exit of the site. Attorney Gilchrist then discussed procedure for the project, stating that the applicant was on the agenda for the rescheduled September 13 Zoning Board of Appeals meeting to discuss the area variance for light poles on the site, after which the applicant would return to the Planning Board. This matter is placed on the September 16 agenda for further deliberation.

The second item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located at 159 Deepkill Road. This matter was tabled prior to the Planning Board meeting and is placed on the September 16 agenda for further deliberation.

The third 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 Jared Lusk, an attorney from Nixon Peabody LLP, was also present for the applicant. Robert Titus, Project Engineer with Laberge Group, was also present. Mr. Weinand began by giving a brief presentation on the application, the project site, and the zone change request. Mr. Weinand stated that the applicant has received interconnection approval from National Grid for the project, and that all leases and easements are in place. Mr. Weinand also stated that a drone survey of the project site had been done and the results provided to the Town, and that other photos of the site had also been submitted. Chairman Oster asked for clarification on what parcels the applicant was requesting the zone change. Attorney Gilchrist described the procedure for the rezone petition and identified the two parcels that are subject to the petition. Attorney Gilchrist then stated that a further Town Board resolution was necessary to

make it clear that two parcels are being sought for rezoning, not one, and that a further referral to Rensselaer County will be required as well. Attorney Gilchrist also stated that the Planning Board can deliberate at this meeting, but that a determination cannot be made due to the need for a further Town Board resolution. Chairman Oster clarified that the current deliberations were limited to the recommendation on rezoning, not the site plan or special use permit that CVE has submitted. Chairman Oster asked how big the parcel being leased from the Scezny family is. Mr. Weinand stated that it is approximately 7 acres. Chairman Oster asked if the applicant was proposing to rezone the entire parcel, or just the section of the parcel on which the project site is located. Mr. Weinand stated that the applicant would be fine with either and that it is up to the Planning Board. Attorney Gilchrist stated that the petition states that the whole parcel is proposed to be rezoned. Chairman Oster asked if the applicant plans to expand the project north at all, either now or in the future. Mr. Weinand stated that the applicant does not as directly to the north of the site is a very steep slope. Member Henderson stated that he was concerned about setting a precedent concerning zoning changes which would open the door for many other zone changes in the Town. Member Mainello stated that this is only extending the existing Agricultural Overlay. Member Stancliffe asked if this action would actually result in restricting uses to only those uses allowed in the Agricultural Overlay. Attorney Gilchrist stated that it would not and would in fact do the opposite, adding Agricultural Overlay uses to the existing allowable uses in an R-40 district. Member Stancliffe asked if the owners of the neighboring properties were okay with the rezoning, which would allow additional uses near their properties. Mr. Weinand stated that the neighbors were fine with it. Chairman Oster asked how steep the slope directly to the north of the project site was and whether or not the land could be buildable in the future. Mr. Greco stated that while the area to the north can be accessed and can be built on, the slope is considerably steep and in order to build

there, more land would need to be cleared and impacted, and that ultimately the rezoning causes less of an environmental impact than building to the north. Chairman Oster stated that he is open to a zone change for the access road to the project site for safety reasons, but that he is reluctant to recommend the zone change for the Sieczny parcel since it is a buildable lot, and that he is not likely to recommend approval for that reason. Attorney Lusk asked if the Planning Board knew why the agricultural field on the site was not included in the Agricultural Overlay district when the Town passed its Comprehensive Plan back in 2017 as this was an active farm field back then, and reiterated how unique a situation this was since one agricultural field is only partially included in an Agricultural Overlay district. The Planning Board was unsure why the parcels were rezoned the way they were. Member Petersen asked if the solar panels would require a variance due to the internal lot lines on the parcel. Attorney Gilchrist confirmed that such a variance would be required, which the applicant has already submitted. Member Stancliffe asked if it was legal to rezone only part of the parcel. Attorney Gilchrist confirmed that was legally possible and could be done as a condition to the approval of the rezoning. Chairman Oster asked if the applicant should be required to get a waiver of subdivision if only part of the parcel were to be approved for rezoning. Attorney Gilchrist stated that would not be necessary as it is legal to have two zoning districts on a single parcel. Member Tarbox asked if Laberge Group had any comments. Mr. Titus stated that he had only a few minor technical comments, but that the project as proposed was feasible. Mr. Titus also stated that the panel installation is proper and minimizes impacts, the project has a green driveway, and that the project is designed for proper stormwater management. Member Stancliffe stated that she would be supportive of rezoning only the part of the Sieczny parcel containing the project site. The Planning Board deliberated on the option of rezoning only the area of the project site on the Sieczny parcel, and allow rezoning of the other parcel for access,

but the Board was concerned about setting a precedent. Attorney Gilchrist stated that he would prepare a draft recommendation for review and reviewed the procedural issues for the recommendation. This matter is placed on the September 16 agenda for further deliberation.

The fourth item of business on the agenda 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 passed out a report he received from the bus company, a short EAF, a revised site plan, and a stormwater plan to the Planning Board members. Mr. Murley then briefly described the project, which would be storing buses for the Lansingburgh School District at the Diamond Rock Plaza, which Mr. Murley owns. Mr. Murley stated that there would be 17 big buses and 16 small buses parked on his property and that there might ultimately be a few more big buses for sports teams. Member Henderson asked what the distance was between the parking area and the nearest neighboring property. Mr. Murley stated that it was about 500 feet, and that the nearest neighbor is over the municipal line in Troy. Member Henderson asked what the volume of traffic was in the mornings. Mr. Murley stated that there is some truck traffic, and that his neighbor is not likely to raise any noise complaints. Member Henderson asked if maintenance would be performed on the buses while on the property. Mr. Murley stated that it would not, and that any and all maintenance would be done off-site. Mr. Murley also stated that the buses would be fueled off-site as well, not on his property. Member Henderson stated that daily inspections of buses on the property were likely and that he was concerned about potential fluids from the buses seeping into the ground since the surface the buses will be parked on is covered in crusher run. Attorney Gilchrist stated that the Brunswick Building Department recently made a determination that the project site is one lot, which creates a zoning compliance issue as there would be two primary uses on the lot, which is not allowed under the Town Zoning Code. Mr. Bonesteel stated

that there are no significant technical issues with the application, though it will require stormwater facilities to be installed and to ensure that grading on the site is done correctly. Mr. Golden stated that starting and warming up the buses in the mornings could create an air quality issue. Mr. Bonesteel asked if the bus circulation would encroach onto the bioretention area on the site. Mr. Murley said it would not. Member Henderson asked if the bus company was comfortable with the lighting on-site. Mr. Murley said that they were. Chairman Oster asked if Mr. Murley was proposing to build a security fence. Mr. Murley stated that he was not and that he had security cameras on the property. Mr. Golden asked Mr. Murley if he would be comfortable putting up a fence if required. Mr. Murley stated that a fence would not block the sight of buses if that was the goal of the fence. Chairman Oster reiterated that the Planning Board cannot act on the application since the Building Department had determined that the application would not be compliant with the Town Zoning Code, which would make it an issue for the Zoning Board of Appeals. Attorney Gilchrist confirmed that the zoning compliance issue must be addressed and resolved before the Planning Board could take any action. This matter is tentatively placed on the September 16 agenda for further deliberation.

One item of new business was discussed, which was a minor subdivision application submitted by James Barry for property located at 449 Garfield Road. Mr. Golden reviewed the application for the Planning Board, stating that the applicant is seeking to divide one 21.94-acre parcel into three parcels that are 2.34 acres, 2.38 acres, and 17.22 acres in size. This matter is placed on the September 16, 2021 agenda for further deliberation.

The index for the September 2, 2021 meeting is as follows:

1. Lord Avenue Property, LLC – site plan and minor subdivision (September 16, 2021).
2. Gallivan – minor subdivision (September 16, 2021).
3. Changing Visions of Energy – zoning amendment recommendation (September 16, 2021).
4. Matopato, LLC – site plan amendment (September 16, 2021).

The proposed agenda for the September 16, 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. Barry – minor subdivision.
5. Matopato, LLC – site plan amendment.