

# **Planning Board**

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

## **MINUTES OF THE PLANNING BOARD MEETING HELD OCTOBER 21, 2021**

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

ABSENT was LINDA STANCLIFFE.

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

Chairman Oster reviewed the agenda for the meeting, as posted on the Town sign board and Town website.

The Planning Board opened a public hearing on the James Barry minor subdivision application. Attorney Gilchrist read the notice of public hearing into the record, with the notice of public hearing having been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Brian Holbriiter was present to review the application. Mr. Holbriiter stated that the applicant is looking to subdivide one parcel into three; the first would be 2.34 acres and contain a home, barns, sheds, and two padlocks; the second would be 2.38 acres, and it would be a buildable lot; the third would be 17.22 acres and be a “keyhole lot” with frontage. Chairman Oster then opened the floor for the receipt of public comment. Kevin Bruno, of 63 Fitting Lane, stated that he was a neighbor of the parcel looking to be subdivided and asked what the applicant’s intentions were for the 17.22-acre lot. Mr. Holbriiter stated that the applicant plans to sell the 17.22-acre lot. Mr. Bruno

asked what a potential buyer would do with the parcel. Mr. Holbriiter stated that the applicant would be free to do whatever they wanted so long as it was allowed under the Town Zoning Code, but that the parcel would only be able to have a maximum of one home on it as it has the minimum frontage for one driveway and is wide enough for only one driveway. Mark Downey, of 8 Bott Lane, asked if the buyer of the 17.22-acre lot would need to apply to the Planning Board before building on the lot. Chairman Oster stated that the owner of the 17.22-acre lot would need to apply to the Town Building Department, not the Planning Board, in order to build anything on the lot, including a driveway. Margaret Mikhitarian, of 18 Plumadore Drive, asked about the entrance to the 17.22-acre lot from Fitting Lane. The Planning Board, Mr. Holbriiter, and members of the public then had a general discussion regarding driveway access to the parcel from Fitting Lane. Kaylynn Engelke, of 463 Garfield Road, stated that Fitting Lane was quiet when she moved there several years ago, but now sees a significant amount of traffic. Ms. Engelke also stated that there is a knoll on Fitting Lane, which makes it hard to see while driving. Chairman Oster stated that if the buyer of the 17.22-acre lot were to apply for a permit to build a driveway, that sight distance issue would need to be addressed at that time. Chairman Oster also asked what the front setback off Fitting Lane was and Mr. Holbriiter stated it was 50 feet. Erin Cominole, of 66 Fitting Lane, asked what the conditions of the parcel to be divided was, specifically if it was swampy. Mr. Holbriiter stated that it was swampy in certain parts of the property. Michael Mikhitarian, of 18 Plumadore Drive, asked what specifically could be built on the 17.22-acre lot in the future. Chairman Oster stated that all allowable uses defined in the Brunswick Zoning Code for that type of zoning district would be allowed. Mr. Mikhitarian asked if the 17.22-acre lot could be further subdivided. Chairman Oster stated that the owner would be able to if the proposed subdivision complied with the Brunswick Zoning Code. Mr. Mikhitarian concluded by saying that he is

concerned about how the proposed subdivision could change the character of the neighborhood. Paul Engelke, of 463 Garfield Road, stated that he lived next to the parcel proposed to be subdivided and that the applicant had previously had an issue with farm animals on his property, and that having more housing near him on the 17.22-acre lot would impact his ability to farm on his property. Mr. Engelke also stated that the neighborhood is, and has long been, a farming community and he does not want the character of the community to change. Kaylynn Engelke, of 463 Garfield Road, spoke again and asked about the driveway access to the 17.22-acre lot and potentially bringing fill onto the parcel, stating that trucks bringing fill to the site would block all other traffic on Fitting Lane. Mr. Bonesteel stated that should the owner of the parcel want to bring fill in, they would have to apply to the Town Building Department, not the Planning Board, for a fill permit, and the length and width of the road that the trucks would travel on to the site would be analyzed at that time. Margaret Mikhitarian, of 18 Plumadore Drive, spoke again and asked what the parcel was zoned. Mr. Golden stated that he believed it was zoned A-40 agricultural, which Mr. Holbriiter confirmed. Karen Smith, of 403 Dater Hill Road, asked how much space in Brunswick is left for farming according to the Town's Comprehensive Plan. Paul Engelke, of 463 Garfield Road, spoke again and agreed that Fitting Lane is narrow, added that it is a dead-end street, and asked how much traffic the road could handle. Chairman Oster stated that no more than 12 houses are allowed on a dead-end street, and that Fitting Lane is a town road. Chairman Oster then stated that most of the questions asked and concerns raised dealt with the possible future uses of the parcel, and made it clear that only thing the Planning Board was considering was the subdivision of the parcel, not any future uses, and that the Planning Board would only be able to make a determination on future uses if an application came before the Planning Board in the future. Paul Engelke, of 463 Garfield Road, spoke again, making it clear that he thought the subdivision

could have a negative impact on farm operations on his property and other neighboring properties. Chairman Oster asked if there were any more public comments on the minor subdivision application and there were none. Chairman Oster closed the public hearing.

The draft minutes of the October 7, 2021 regular meeting were reviewed. Upon motion of Member Henderson, seconded by Member Mainello, the draft minutes of the October 7, 2021 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a minor subdivision application submitted by James Barry for property located at 449 Garfield Road. Brian Holbriiter was present to review the application. Mr. Holbriiter noted that no Agricultural Data Statement had been submitted for the project and that he would file one as soon as possible. Chairman Oster stated that the applicant would have to respond to all comments made during the public hearing that were relevant to the subdivision, including concerns regarding existing agricultural operations on neighboring properties, proposed driveway locations, and buildable areas of the 17.22-acre lot, including the fact that the back of that lot is sloping and mostly wetlands. Member Tarbox asked how much of the total parcel is currently being used for farming operations. Mr. Holbriiter stated that the applicant is cutting hay on about 3.5-4 acres. Mr. Bonesteel asked if the 17.22-acre lot would be split by wetlands. Mr. Holbriiter stated that about 5 acres would be above the wetlands, while about 12 acres would be below the wetlands. Mr. Bonesteel stated that the applicant needed to confirm the setbacks for all three proposed lots. Mr. Golden looked up the setback requirements, and stated that they were 50 feet for a front setback, 25 feet for a side setback, and 50 feet for a rear setback. Mr. Bonesteel then discussed the Environmental Assessment Form (EAF), stating that on page 2, item 2(b) stated that the project “may affect or is adjacent to a geological feature listed as a registered National Natural Landmark,” and asked Mr. Holbriiter to explain why that was noted.

Mr. Holbriiter stated that item 2(b) was auto-filled by the NYS DEC program. Mr. Bonesteel stated that as the project is a non-realty subdivision, the future owners of the buildable lots will need approval for water/septic from the Rensselaer County Health Department. Mr. Bonesteel concluded that the subdivision map meets all the requirements for a minor subdivision. Attorney Gilchrist noted that questions were asked at the public hearing about a knoll on Fitting Lane and sight distances. Mr. Bonesteel stated that the knoll and sight distances for the proposed driveway on Lot 2 should be addressed in the written responses to comments. Member Tarbox asked if the frontage for the 17.22-acre lot was 30 feet, and Mr. Holbriiter confirmed it was. Member Tarbox asked if there would only be one driveway on the 17.22-acre lot and Mr. Holbriiter confirmed that there would be. Mr. Bonesteel stated that the second lot could not be further subdivided for septic reasons, which Mr. Holbriiter confirmed. This matter is placed on the agenda for the November 18 meeting for further deliberation.

Mr. Holbriiter then stated that even though it was not on the current meeting's agenda, he wanted to bring up the minor subdivision application submitted by Sean Gallivan for 159 Deepkill Road, which he also represents, and asked that it also be placed on the November 18 agenda. This matter is placed on the November 18 agenda for further deliberation.

The second item of business on the agenda was a site plan and minor subdivision application submitted by Matopato, LLC for property located at 291 Oakwood Avenue. This matter was tabled prior to the Planning Board meeting and is placed on the November 4 agenda for further deliberation.

The third item of business on the agenda was a special use permit application submitted by Michael Dzembo for property located at 130 Dater Hill Road. Michael Dzembo was present to review the application. Mr. Dzembo stated that he is seeking to install ground-mounted solar

panels for personal on-site use. Member Henderson asked if the solar panels would be fixed or tracking. Mr. Dzembo stated that they would be fixed panels. Chairman Oster asked how many total panels would be on the property. Mr. Dzembo stated that there would be 36 solar panels. Chairman Oster stated that the application was complete. Mr. Golden noted that the property is split by the boundary line between the Town of Brunswick and Town of Poestenkill, and that there are existing ground-mounted solar projects on other properties in Poestenkill in close proximity to Mr. Dzembo's property. Chairman Oster asked if people would be able to see the solar panels from the road, and Mr. Dzembo confirmed that the panels would be visible. Mr. Bonesteel asked how tall the panels would be, and Mr. Dzembo stated that the panels would be 7-8 feet tall at the maximum tilt. Chairman Oster asked if the panels would be facing the road, and Mr. Dzembo confirmed that they would. Mr. Bonesteel asked if the panels would be 200 feet from the road, and Mr. Dzembo confirmed that they would. Mr. Bonesteel asked who the solar provider would be, and Mr. Dzembo stated that the provider would be SunCommon. Mr. Golden noted that SunCommon was also the solar provider for the previously-approved Laughing Earth Farm solar project. Mr. Bonesteel asked if a recent survey had been done on the property. Mr. Dzembo confirmed that a survey had been done and stated that he could provide a copy of the survey to the Planning Board. A public hearing on this application is scheduled for November 18, 2021 at 7:00pm.

The fourth item of business on the agenda was a site plan amendment submitted by David Leon for property located at 660 Hoosick Road. Walter Lippmann, Project Manager with M.J. Engineering and Land Surveying, P.C., was present for the applicant. Mr. Lippmann stated that the applicant is seeking to eliminate the stormwater area behind the KFC restaurant and expand the retention area to the rear of the project site, which would limit the area of disturbance behind

the KFC restaurant and increase the vegetation buffer. Mr. Lippmann stated that the applicant is also seeking to eliminate the Ferdinand Avenue improvement and interconnection to Woodward Avenue. Mr. Lippmann stated that the proposed road changes have been reviewed with NYS DOT, which is in agreement on the changes, and he will provide a written letter from NYS DOT to the Planning Board. Mr. Bonesteel confirmed that the written correspondence with NYS DOT would be required, and that Guy Tedesco, a Regional Permit Coordinator with NYS DOT, should coordinate with the NYS DOT regional traffic engineer on the changes. Member Mainello asked if there would now be no road past the Aldi's grocery store. Mr. Lippmann confirmed that there would not, and that there would just be a 16-foot-wide gravel service road to the stormwater retention area with a hammerhead turnaround. Mr. Bonesteel stated that maintenance requirements for the retention pond would be in the amended Stormwater Pollution Prevention Plan (SWPPP), which is currently under review. The Planning Board had a general discussion about the current site build-out. Member Mainello asked if there would be any visibility issue with the larger retention pond from any existing homes. Mr. Lippmann stated that it was not likely. Chairman Oster asked if there was a need for a public hearing on this site plan amendment. Attorney Gilchrist stated that it was at the Planning Board's discretion. Mr. Bonesteel stated that the proposal was to scale down the project and lessen the impacts. The Planning Board determined that a public hearing was not necessary. Attorney Gilchrist stated that there was no need for additional SEQRA review due to the prior SEQRA review adequately addressing the action. Member Henderson asked if the access road off of Hoosick Road into the project site was to be widened, and Mr. Lippmann confirmed that it was. Attorney Gilchrist stated that the applicant's responses to the SWPPP comments needed to be sent to Mr. Bonesteel and Bill Bradley in the Brunswick Water

Department, and the NYS DOT letter approving the revised plan needed to be submitted to the Planning Board. This matter is placed on the November 4 agenda for further deliberation.

Two items of new business were discussed.

The first item of new business was a waiver of subdivision application submitted by Sandra Plumb for property located at 307 Sweetmilk Creek Road. Mr. Golden reviewed the application for the Planning Board, stating that the applicant was looking to subdivide a 79.4-acre lot into two new lots measuring 19.1 acres and 60.3 acres, using Sweetmilk Creek Road as the dividing feature. This matter is placed on the November 4, 2021 agenda for further deliberation.

The second item of new business was a waiver of subdivision application submitted by Michael Singleton for property located at 11 Checkerberry Lane and 40 Colehamer Avenue. Mr. Golden reviewed the application for the Planning Board, stating that the applicant and his adjacent neighbor were looking to swap 5,700 square feet of property, and that it was more in the nature of a lot line adjustment. This matter is placed on the November 4, 2021 agenda for further deliberation.

The index for the October 21, 2021 regular meeting is as follows:

1. Barry – minor subdivision (November 18, 2021).
2. Matopato, LLC – site plan and minor subdivision (November 4, 2021).
3. Dzembo – special use permit (November 18, 2021).
4. Leon – site plan amendment (November 4, 2021).
5. Plumb – waiver of subdivision (November 4, 2021).
6. Singleton – waiver of subdivision (November 4, 2021).



The proposed agenda for the November 4, 2021 regular meeting is currently as follows:

1. Froio – special use permit (public hearing to commence at 7:00pm).
2. Matopato, LLC – site plan and minor subdivision.
3. Leon – site plan amendment.
4. Plumb – waiver of subdivision.
5. Singleton – waiver of subdivision.

Agenda items for the November 18, 2021 regular meeting currently include:

1. Dzembo – special use permit (public hearing to commence at 7:00pm).
2. Barry – minor subdivision.
3. Gallivan – minor subdivision.