

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD NOVEMBER 18, 2021

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

ABSENT was DAVID TARBOX.

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 signboard and Town website.

The Planning Board opened a public hearing on the Michael Dzembo special use permit 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. Michael Dzembo was present to review the application. Mr. Dzembo stated that his application was for a ground-mounted solar facility on his property, consisting of 36 solar panels (2 rows of 18 panels), that it would be 200 feet from Dater Hill Road, that all neighboring properties are owned by his family members, that there is a cornfield behind where the panels are proposed to go, and that SunCommon will be building and installing the panels. Mr. Dzembo also stated that there had been no changes to the application since the last Planning Board meeting. Chairman Oster stated that the Town had received a letter from the Rensselaer County Bureau of

Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairman Oster then opened the floor for the receipt of public comment. There were no public comments on the application. Member Henderson made a motion to close the public hearing, which was seconded by Member Stancliffe. The Planning Board voted unanimously to close the public hearing.

The draft minutes of the November 4, 2021 regular meeting were reviewed. Mr. Golden noted two corrections: on page 3, line 12, “them” should be “the,” and on page 4, line 4, “drop-ff” should be “drop-off.” Upon motion of Chairman Oster, seconded by Member Henderson, the draft minutes of the November 4, 2021 regular meeting were unanimously approved subject to the noted corrections.

The first 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 again briefly reviewed the project, stating that it was a small-scale ground-mounted solar facility on his property consisting of 36 panels. Chairman Oster asked Mr. Bonesteel if he had any comments on the project and Mr. Bonesteel stated that he did not. Chairman Oster asked the Planning Board members if they had any questions or comments on the project and none did. Member Stancliffe made a motion for a negative declaration under SEQRA 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 project and both Mr. Bonesteel and Attorney Gilchrist stated that no conditions are required on this project. Member Mainello made a motion to grant the special use permit, which was seconded by Member Kreiger. The motion was unanimously approved and the special use permit was granted.

The second 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 reviewed the project, stating that a public hearing was held at the Planning Board's October 21 meeting, and that responses to public comment at the public hearing, an Agricultural Data Statement, and additional pictures of the project site had been subsequently submitted to the Planning Board. Mr. Holbriiter stated that there had been no changes to the lots on the plat, but that driveway locations had been added to the map and that construction of the driveways would require minimal fill. Mr. Holbriiter stated that there had been a question at the public hearing about the sight distance between one of the proposed new lots and a knoll on Fitting Lane, and clarified that the sight distance was 355 feet. Mr. Holbriiter also stated that the speed limit on Fitting Lane is 30 miles per hour. There were no questions from the Planning Board on the project. Chairman Oster asked Mr. Holbriiter to review the rest of the applicant's responses to public comments that had been submitted to the Planning Board. Mr. Holbriiter read through the letter, listing all comments from the public hearing and the applicant's response to each comment. Mr. Holbriiter also clarified that the prior issue between the applicant and the neighboring Engelke family was over farm animals owned by the Engelkes going onto the applicant's parcel, and stated that even though this was brought up at the public hearing, it is not relevant to the application for subdivision. Chairman Oster stated that the Planning Board accepted the written responses to comments at the public hearing as complete and acceptable. Attorney Gilchrist stated that there were no legal issues with the application. Mr. Bonesteel stated that the applicant had provided a plat that conformed to the Town's subdivision regulations, addressed the sight distances adequately, and addressed all technical issues. There were no further comments from the Planning Board. Member Mainello made a motion for a negative declaration on the project, which was

seconded by Member Henderson. The Planning Board voted unanimously to adopt a negative declaration on the project under SEQRA. Chairman Oster asked if any conditions should be placed on the application. Attorney Gilchrist stated that approval from the Rensselaer County Department of Health for the water and septic systems should be required at the time of the issuing of the building permit, as this is a non-realty subdivision. Member Henderson made a motion to approve the minor subdivision subject to the condition that approval be required for the project's water and septic systems from the Rensselaer County Department of Health prior to issuance of a building permit, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the minor subdivision subject to the stated condition.

The third item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located at 159 Deepkill Road. Brian Holbriiter was present to review the application. Member Stancliffe recused herself. Mr. Bonesteel stated that he had received all requested stormwater information from the applicant, consisting of the overall common plan of development, and that the prior subdivisions of Mr. Gallivan's property along Deepkill Road must be considered in the overall common plan. Mr. Bonesteel stated that the applicant's engineer submitted a plan showing all lots for the prior and current subdivisions on the property, describing the topography and drainage information; provided impact analysis for stormwater; described how the stormwater systems will work for all prior and current lots, showing that the watershed for the prior lots is hydrologically separate and therefore will not need one overall stormwater plan, meaning the current proposed lot can have its own stormwater plan; and described how the current lots consist of more than one acre, but less than five acres of total disturbance, meaning that no long term controls are required. Mr. Bonesteel stated that the application was complete for

purposes of holding a public hearing. A public hearing on this application was scheduled for December 16, 2021 at 7:00pm.

Member Stancliffe returned to the meeting.

The fourth item of business on the agenda was a special use permit application submitted by Zachary Froio for property located at 502 Pinewoods Avenue. Zachary Froio was present to review the application. Chairman Oster stated that there was a question at the last Planning Board meeting on November 4 as to whether the project would be in compliance with the Brunswick Zoning Law definition of home occupation. Chairman Oster then asked Mr. Golden to review his written decision on the matter dated November 18. Mr. Golden read his written determination in full, stating that the proposed use is consistent with the Brunswick Zoning Law. Chairman Oster asked the Planning Board members if they had any comments on Mr. Golden's determination. Attorney Gilchrist noted that it was not within the jurisdiction of the Planning Board to interpret the Brunswick Zoning Law and that Mr. Golden's determination is binding. Chairman Oster asked Mr. Froio if he had responded to the comments from the public hearing. Mr. Froio stated that he had not, but was willing to address them verbally. Chairman Oster stated responses must be made in writing, but allowed Mr. Froio to address the comments. Mr. Froio then generally discussed the public comments on delivery of firearms to his home, whether this present application would set a precedent in the Town of Brunswick, and gun violence, and stated that he would submit written responses to the Planning Board. Chairman Oster asked Mr. Froio if he knew any Federal Firearms License (FFL) dealers in Brunswick. Mr. Froio stated that he did not, but he knew that there were 6-12 in Rensselaer County. Mr. Froio then generally discussed the procedure for obtaining an FFL. Mr. Bonesteel stated that he had no questions or comments on the application. Attorney Gilchrist stated that the Planning Board could not make a determination until written responses to public

comment had been submitted by the applicant, and asked the Planning Board members to review Section 160-65 of the Brunswick Zoning Law for special use permit review standards. This matter is placed on the December 2 agenda for further deliberation.

The fifth item of business on the agenda was a site plan amendment submitted by David Leon for property located at 660 Hoosick Road. Dennis Lynch, Managing Engineer at M.J. Engineering and Land Surveying, P.C., was present for the applicant. Mr. Bonesteel stated that he initially had comments on the stormwater plan, the applicant responded to those comments, and a revised plan was submitted to the Planning Board, which was then reviewed by Mr. Bonesteel and Bill Bradley from the Brunswick Water Department. Mr. Bonesteel stated that Mr. Bradley agreed with the applicant's current plan, and that he would defer to Mr. Bonesteel and Colliers Engineering & Design for the detailed technical review. Mr. Bonesteel stated that he had some additional minor comments regarding clearing and requested a new clearing plan, which was submitted and that he found acceptable, and that all additional technical comments had been addressed. Mr. Bonesteel also stated that he and Mr. Bradley agreed with the reduction of the easement to the stormwater pond on the property to 30 feet, that comments from Rensselaer County were received and reviewed, and that he had no further comments on the revised plan. Attorney Gilchrist stated that a letter was received by NYS DOT approving the traffic light on Hoosick Road without the requirement of improving the Ferdinand Avenue paper street. Attorney Gilchrist then discussed the initial approval of the site plan and reviewed the conditions on the approval that would be affected by the site plan amendment. Chairman Oster stated that a condition on the approval of the application should be the submission of the final Stormwater Pollution Prevention Plan (SWPPP) for final review by Mr. Bonesteel and Mr. Bradley. Attorney Gilchrist reviewed the site plan conditions dated May 6, 2021, noting that condition 2(d) should note that a revised

clearing plan has been prepared and will be binding on the project; and conditions 2(e), 2(l), 2(o), and 2(v) will be deleted since improvement of Ferdinand Avenue has been removed from the project. Member Stancliffe made a motion to approve the site plan amendment subject to the stated condition, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the site plan amendment subject to the prior site plan conditions dated May 6, 2021 as modified.

The sixth item of business on the agenda was a waiver of subdivision application submitted by Sandra Plumb for property located at 307 Sweetmilk Creek Road. Steven Walrath, PLS, was present for the applicant. Mr. Walrath stated that the west side of the parcel is about 19.1 acres and has a house on it, while the east side of the parcel is about 60 acres, is currently vacant, and has no proposed development at this time. Chairman Oster asked if there was a driveway over the neighboring property. Mr. Walrath confirmed that there was, that Ms. Plumb had divided the parcel back in 1999 and transferred it to her neighbor while retaining an easement to use the driveway on the transferred land. Mr. Walrath also stated that Ms. Plumb's land has additional adequate road frontage. There were no questions or comments from the Planning Board. Mr. Bonesteel asked if the 19.1-acre parcel would include the easement to the neighbor. Mr. Walrath confirmed that it would, and that the easement is listed in the deed. Mr. Bonesteel asked if the original lot included land on both sides of Sweetmilk Creek Road, and Mr. Walrath confirmed it did. Member Henderson made a motion for a negative declaration under SEQRA on the project, which was seconded by Member Stancliffe. 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 project and Attorney Gilchrist stated that there should not. Member Mainello made a motion

to approve the waiver of subdivision, which was seconded by Member Stancliffe. The motion was unanimously approved and the waiver of subdivision was granted.

The seventh item of business on the agenda was a special use permit and site plan application submitted by Tilson Technology Management, Inc. for property located at 308 Brick Church Road. Heather Carlisle, Senior Counsel of Siting & Real Estate at Tilson Technology, was present for the applicant. Member Kreiger recused himself. Ms. Carlisle stated that the applicant is seeking to co-locate three antennae on the cell tower at the property, similar to the other current tenants on the tower, that the ground equipment for the additional antennae would also be similar to the other tenants, and passed out photo simulations to the Planning Board. Member Stancliffe asked if the technology was for Dish Wireless, and Ms. Carlisle confirmed it would be, then discussed Dish Wireless' network. Mr. Bonesteel noted that the simulations Ms. Carlisle handed out were already included in the project's Environmental Assessment Form (EAF). Member Stancliffe stated that there is currently vegetation around the existing base equipment and asked how that would be addressed by the applicant. Ms. Carlisle stated that the applicant would look into that and provide more information. Member Stancliffe asked if the separation of the fencing around the base equipment needed to be as large as it was. Ms. Carlisle stated that the applicant would look into that as well. Chairman Oster stated that the existing antennae are on the side and back of the tower, and asked if the new antennae proposed by the applicant would be in the front area of the tower. Ms. Carlisle confirmed that they would. Chairman Oster asked for clarification on the fence enclosure for the base equipment, and Ms. Carlisle stated that the applicant would provide that clarification. Mr. Bonesteel stated that the application was complete for purposes of holding a public hearing. A public hearing on this application was scheduled for December 16,

2021 at 7:00pm, or as soon thereafter as may be heard. Chairman Oster stated that Tilson Technology would be the second public hearing held on December 16.

Member Kreiger returned to the meeting.

Four items of new business were discussed.

The first item of new business was a waiver of subdivision application submitted by Kerry Armstrong for property located at 65 Wagar Lane. Kerry Armstrong was present to review the application. Mr. Armstrong stated that he purchased the property not realizing that it was landlocked and he is seeking a lot line adjustment in order to access his land. Mr. Armstrong handed out copies of a letter from Benjamin Wagar, his neighbor, consenting to the conveyance of 2.19 acres so Mr. Armstrong can access his property. Mr. Bonesteel stated that he would prefer the location map to be added to the plat and Mr. Armstrong stated that he would add it. Chairman Oster discussed the standards for length of a driveway if/when Mr. Armstrong wanted to add one in the future. Member Stancliffe stated that Wagar Lane is listed as a private road and asked why it had not been deeded to the Town. Attorney Gilchrist stated that it would need to be confirmed whether or not Wagar Lane is a public highway or highway by use before the next Planning Board meeting. Mr. Golden stated that he would confirm that with the Brunswick Highway Department. This matter is placed on the December 2 agenda for further deliberation.

The second item of new business was a waiver of subdivision application submitted by Charles Tangredi for property located at 210 Menemsha Lane. Mr. Golden reviewed the application for the Planning Board, stating that the applicant was proposing a lot line adjustment to transfer land to the adjacent lot. Mr. Golden also noted that one of the lots on the Robert Irwin subdivision (Lot 5) had been previously approved by the Planning Board. Mr. Bonesteel stated that the map submitted with the application, depicting the entirety of the lands owned by Robert

Irwin, was insufficient and a map showing the specific parcels at issue would be required. This matter is placed on the December 2 agenda for further deliberation.

The third item of new business was a request for an extension of the approvals for site plan and special use permit granted to Tamarac Solar, LLC on May 20, 2021 for property located at 126 Brick Church Road. Gillian Black, Director of Project Development at Eden Renewables, was present to review the request. Mr. Black stated that the applicant is requesting a 12-month extension on the site plan and special use permit approvals. The applicant was seeking an extension of 12 months from the date the current approvals are set to expire, meaning an extension to May 20, 2023. Mr. Black stated that the request for an extension is due primarily to increasing prices and supply chain issues for materials needed for the solar panels, and New York State agency determinations on revenue issues. Attorney Gilchrist stated that the Planning Board does authority under the Brunswick Zoning Law to extend site plan and special use permit approvals. Mr. Bonesteel stated that he had no questions or comments on the request. Member Stancliffe asked if the extension would create any problems with the stormwater permit for the project site. Mr. Bonesteel stated that there would be no problem as long as the stormwater permit is maintained. Member Henderson asked how many solar panels would be used. Mr. Black stated that the project would use 15,000 panels. Member Henderson asked what will happen to the solar panels at the end of their use. Mr. Black stated that the panels would either be reused by other projects or be taken apart and the individual pieces recycled. Mr. Black also stated that the project's decommissioning plan, which details what will happen to the panels after their use, is still in effect and will not change due to the extension. Chairman Oster asked if there should be any conditions on the extension. Attorney Gilchrist suggested following conditions: that the project's SWPPP be revised if the NYS DEC general permit is modified, all prior conditions remain applicable, and

that the project's biodiversity management plan remain in effect, including that it be binding on any future owner of the parcel. Chairman Oster made a motion to approve the extension of the site plan and special use permit subject to the stated conditions, which was seconded by Member Stancliffe. The motion was unanimously approved and the extension of the site plan and special use permit was granted subject to the stated conditions.

The fourth item of new business was a sketch plan submitted by Borrego Solar for property located at 308 Brick Church Road. Travis Rosencranse, Project Engineer at Creighton Manning, and Greg Gibbons, Project Engineer at Borrego Solar, were present to review the sketch plan. Member Kreiger recused himself. Mr. Rosencranse stated that the applicant plans to submit a full special use permit and site plan application in the future, but he and Mr. Gibbons were only going to review the sketch plan at the current meeting. Mr. Rosencranse stated that the project is planned to be built behind the Gilead Lutheran Church and would be accessed from NYS Route 278. Mr. Rosencranse stated that the project would have 10,300 solar panels, have a 6 MW array DC, 5 MW array AC, and be a community solar project. The Planning Board generally discussed the array layout proposal. Mr. Rosencranse stated that the panels would have a maximum height of 9 feet, have 170 feet of overhead utility, which the applicant would request a variance for, and would be located in an Agricultural Overlay District. Chairman Oster asked if the project would be visible from NYS Route 278, and Mr. Rosencranse stated that it would be. Member Henderson asked if the applicant planned to plant additional vegetation as visual mitigation for the project. Mr. Rosencranse stated that the applicant was planning to do so. Mr. Rosencranse stated that the project will be 300 feet from NYS Route 278 and that the property will be leased from the church. Mr. Rosencranse reviewed the project's interconnection and substation, the project's decommissioning plan, and stated that the applicant will be pursuing a PILOT for the project. The Planning Board

generally discussed the project, including the submission schedule and review schedule. Chairman Oster stated that visual impact was going to be a major issue and that when a public hearing is held, which is necessary for solar projects, the applicant should prepare for many public comments on the visual impact. Mr. Rosencranse stated that the applicant's full application would not be ready to be submitted by the next Planning Board meeting and asked to be put on the agenda for the Planning Board's second December meeting. This matter is placed on the December 16 agenda for further deliberation. Member Stancliffe noted that she would also have to recuse herself going forward due to her employer being bought by a firm that will be working on this project.

Member Kreiger returned to the meeting.

The index for the November 18, 2021 regular meeting is as follows:

1. Dzembo – special use permit (approved).
2. Barry – minor subdivision (approved subject to condition).
3. Gallivan – minor subdivision (December 16, 2021).
4. Froio – special use permit (December 2, 2021).
5. Leon – site plan amendment (approved subject to condition).
6. Plumb – waiver of subdivision (approved).
7. Tilson Technology – special use permit and site plan (December 16, 2021).
8. Armstrong – waiver of subdivision (December 2, 2021).
9. Tangredi – waiver of subdivision (December 2, 2021).
10. Tamarac Solar – extension of approvals for site plan and special use permit (approved subject to stated conditions).
11. Borrego Solar – sketch plan (December 16, 2021).

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

1. Matopato, LLC – minor subdivision.
2. McClurg – waiver of subdivision.
3. Froio – special use permit.
4. Armstrong – waiver of subdivision.
5. Tangredi – waiver of subdivision.

Proposed agenda items for the December 16, 2021 regular meeting currently are as follows:

1. Gallivan – minor subdivision (public hearing to commence at 7:00pm).
2. Tilson Technology – special use permit and site plan (public hearing to commence
at conclusion of first public hearing).
3. Borrego Solar – sketch plan.