

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD JANUARY 6, 2022

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

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 draft minutes of the December 16, 2021 regular meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Henderson, the draft minutes of the December 16, 2021 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located at 159 Deepkill Road. Member Stancliffe recused herself. Brian Holbriiter was present to review the application. Chairman Oster stated that at the Planning Board's last meeting on December 16, 2021, a public hearing was held on the application and the applicant had been asked to submit written responses to comments raised at the public hearing. Chairman Oster stated that the applicant had submitted a letter responding to all comments from the public hearing and asked Mr. Holbriiter to review the letter. Mr. Holbriiter stated that four comments were raised at the public hearing: first, the site of the existing stream on the property, which Mr. Holbriiter identified; second, if the lots would cross the stream, and Mr. Holbriiter

responded to this by stating that two lots on the property would utilize existing culverts and that the third lot would not cross the stream; third, the sight distances for all lot driveways, which were calculated and comply with all Town of Brunswick requirements; and fourth, questions about wetlands on the property, and Mr. Holbriiter responded to this by stating that the full stormwater pollution prevention plan (SWPPP) concluded that there would be no impacts to federal or NYS DEC wetlands by the subdivision. Member Henderson asked about the location of the stream on the property on the site plan map submitted by the applicant, and Mr. Holbriiter pointed out the location of the stream on the map. There were no further comments or questions from the Planning Board. Mr. Bonesteel stated that the applicant had submitted a modified SWPPP, due to the project disturbing less than 5 acres, and an erosion and sediment control plan, both of which he found acceptable. Mr. Bonesteel stated that he had asked the applicant at a previous meeting to review prior subdivisions for the overall plan of development for stormwater compliance; that the applicant had shown the prior lots being located within a separate stormwater area; and that the issue had been adequately addressed. Mr. Bonesteel also confirmed that the sight distances for all driveways were in compliance for the Deepkill Road speed limit. Mr. Bonesteel had no further comments or questions. Member Tarbox made a motion for a negative declaration under SEQRA on the project, which was seconded by Member Kreiger. The Planning Board voted unanimously to declare a negative declaration on the project under SEQRA (Member Stancliffe recused). Chairman Oster asked Attorney Gilchrist if there should be any conditions on the application. Attorney Gilchrist stated that the conditions for consideration by the Planning Board were: that the approval would result in a nonreality subdivision and that Rensselaer County Health Department approval for water and septic would be required prior to the issuing of a Building Permit by the Brunswick Building Department; that a note be added to the plat showing the driveways of 2%

back pitch for the first ten feet off the Town roadway; that driveway permits would be required; and that any change in the driveway locations would require review by the Brunswick Building Department to determine whether further review by the Planning Board was warranted. Member Henderson made a motion to approve the minor subdivision subject to the stated conditions, which was seconded by Member Tarbox. The Planning Board voted unanimously to approve the minor subdivision subject to the stated conditions (Member Stancliffe recused).

Member Stancliffe returned to the meeting.

The second item of business on the agenda was a waiver of subdivision application submitted by Michael Vickers for property located off Kreiger Lane. Kevin McGrath and Michael Vickers were present to review the application. Mr. McGrath stated that the applicant had previously applied for a waiver of subdivision for the property in 2016, but that the application had never been approved by the Planning Board. Mr. McGrath also showed a map of the property and stated that the current plan was based on the prior plat submitted with the application back in 2016. Attorney Gilchrist then reviewed the record on the previous application, stating that the applicant applied to the Planning Board for a waiver of subdivision, but also had to apply to the Zoning Board of Appeals for an area variance and the Town Board for a waiver for the number of lots on a dead-end road. Attorney Gilchrist stated that the Zoning Board granted the area variance with conditions, and listed the conditions on the approval of the area variance from the October 17, 2016 Zoning Board minutes. Attorney Gilchrist stated that the Town Board granted the waiver for the number of lots on a dead-end road after the Zoning Board granted the area variance. Attorney Gilchrist also stated that the applicant needed to go back before the Planning Board for action on the waiver of subdivision application, but never did. Mr. Vickers then reviewed the history of the project, stating that he believed he had received all necessary approvals to move

forward when the Zoning Board and Town Board had granted their approvals, and had returned to his job in Alaska shortly after the two approvals were granted. Mr. Vickers and the Planning Board had an extended discussion concerning a private road maintenance agreement in this matter, as well as the timing of the Planning Board's review of a private road maintenance agreement. The Planning Board then deliberated on possible conditions to the approval of the waiver, stating that a private road maintenance agreement would be needed either prior to recording the plat or prior to the issuing a building permit from the Brunswick Building Department. Member Mainello asked about the grading of the property and how that would affect the construction of a driveway in the future. Mr. Vickers and Mr. McGrath both stated that the property is at a fairly flat grade. Mr. Vickers also confirmed that there were no NYS DEC or US Army Corps of Engineers wetlands on the property. The Planning Board then discussed potential driveway construction for the lots. Member Mainello asked if the plat needed to show the location of the proposed driveway on the proposed building lot. Mr. Bonesteel stated that proposed driveway locations are not usually required for a waiver application, but that the Planning Board had the authority to require it. Attorney Gilchrist again reviewed the October 17, 2016 Zoning Board minutes, specifically the Center Brunswick Fire Company's requirements for roadways and driveways. The Planning Board again discussed the conditions to consider on any action on the waiver application. Mr. Vickers asserted that the Town Board's approval was the only approval required, and stated that he was told by the Town Attorney that his lot was approved after the Town Board gave its approval. Attorney Gilchrist stated that he would need to review the full Town Board record for the accuracy of that statement. The Planning Board then generally discussed the following matters that may be considered in connection with action on the waiver: the road maintenance agreement would address the new private roadway only until the location of Mr. Vickers' lots; there would be no

requirement to construct or maintain the new private roadway past Mr. Vickers' lots; and that it would be prohibited to restrict or obstruct the 40-foot right-of-way past Mr. Vickers' lots leading to the adjacent parcel. Mr. Vickers asked what would happen if one or more of his neighbors refused to enter into a private road maintenance agreement, which the Planning Board was clear would be necessary, since he was already confident that one of his neighbors would not agree to such an agreement. The Planning Board discussed a private road maintenance agreement with only some of the neighbors participating, or even Mr. Vickers maintaining the roadway by himself. Chairman Oster stated that he would prefer that a private road maintenance agreement be presented to the Planning Board for review prior to any action on the waiver of subdivision. Mr. Vickers stated that he would not likely be ready with a private road maintenance agreement by the time of the Planning Board's next meeting, but stated that he may have an agreement to be reviewed by the Planning Board by the time of their first February meeting. This matter is tentatively placed on the February 3 agenda for further deliberation.

The third item of business on the agenda was a waiver of subdivision application submitted by Thomas Casey and Elizabeth Casey for property located at 461 North Lake Avenue. Thomas Casey was present to review the application. Mr. Casey stated that he and his wife are looking to subdivide their property, then sell the 2.08 acres with a house and barn on it, with the remaining 6.53 acres staying vacant. Mr. Casey stated that both lots would have frontage on North Lake Avenue. Chairman Oster asked if the property had public water or had a well. Mr. Casey stated that the property had public water, and also pointed out an existing septic field on the 2.08-acre lot on a map of the property. Mr. Bonesteel had no comments on the application. The Planning Board had no comments on the application. 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 application and Attorney Gilchrist stated that he did not see the basis for any conditions. Mr. Bonesteel concurred. Member Henderson made a motion to approve the waiver of subdivision, which was seconded by Member Petersen. The Planning Board voted unanimously to approve the waiver of subdivision.

One item of old business was discussed.

The first item of old business was a waiver of subdivision application submitted by Todd McClurg for property located at 206 South Road. Todd McClurg was present to review the application. Mr. McClurg reviewed the application, stating that 2.183 acres would be divided from his adjacent neighbor's parcel at 232 South Road and transferred to his property. Mr. McClurg explained that his lot's driveway is located on the lot at 232 South Road and that he has been using the driveway with access over the right-of-way, and that now he wants to own the driveway and have frontage on South Road. Mr. McClurg also stated that a letter consenting to the proposal from his neighbor at 232 South Road had been submitted to the Planning Board. Chairman Oster noted that the project was more of a lot line adjustment. Mr. Bonesteel had no comments on the application. The Planning Board had no questions or comments on the application. Member Mainello made a motion for a negative declaration under SEQRA 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 asked if there should be any conditions on the application. Attorney Gilchrist stated that the 2.183 acres must be merged into the parcel at 206 South Road, and that the deed of merger be filed with the Brunswick Building Department. Member Petersen made a motion to approve the waiver of subdivision subject to the stated

conditions, which was seconded by Member Stancliffe. The Planning Board voted unanimously to approve the waiver of subdivision subject to the stated conditions.

The index for the January 6, 2022 regular meeting is as follows:

1. Gallivan – minor subdivision (approved with conditions).
2. Vickers – waiver of subdivision (February 3, 2022).
3. Casey – waiver of subdivision (approved).
4. McClurg – waiver of subdivision (approved with conditions).

The proposed agenda for the January 20, 2022 regular meeting is currently as follows:

1. Borrego Solar – special use permit and site plan.

Proposed agenda items for the February 3, 2022 regular meeting are currently as follows:

1. Vickers – waiver of subdivision.