

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD OCTOBER 20, 2022

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., Review Engineer to the Planning Board.

Chairperson Oster reviewed the agenda for the meeting, as posted on the Town sign board and Town website. The draft minutes of the October 6, 2022 regular meeting were reviewed. Upon motion of Chairperson Oster, seconded by Member Stancliffe, the draft minutes of the October 6, 2022 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a site plan application submitted by Paulsen Development of Albany, LLC for property located at 112 McChesney Avenue. No one was present for the applicant. Chairman Oster reviewed the status of the project for the Planning Board, stating that the SEQRA process had been completed, and that the applicant had proposed to establish an escrow account to be posted with the Town containing \$9,600.00 for future sidewalk construction. Chairman Oster also stated that both the applicant and Planning Board did not want to construct a “sidewalk to nowhere”, which is what would need to be done if a sidewalk was constructed presently. Mr. Golden noted that the Zoning Board of Appeals had granted the area variance for the project for the height of the proposed medical building at its October 17 meeting. Chairman

Oster noted that work on the sewer line that is proposed to service the building was brought up at a previous meeting. Mr. Golden stated that visual assessment of the sewer line had been done, and that a few feet of the line needed to be replaced. Attorney Gilchrist noted that the sewer line was located on the land of a third-party owner, meaning that the applicant must obtain written consent from that third-party owner, which must address the work being done on the sewer line and the dedication of the easement. Mr. Bonesteel stated that he had recently spoken to Bill Bradley, of the Brunswick Water Department, and stated that the Town will consider taking part of the sewer line that is replaced, so long as the replaced part of the line is consistent with the current layout. Attorney Gilchrist reviewed the procedural status of the application. Mr. Bonesteel stated that the applicant had indicated that it will be submitting the required additional technical information, which he would confirm with Greg Beswick, P.E., of Creighton Manning Engineering, LLP, who is representing the applicant before the Planning Board. This matter is placed on the November 3, 2022 agenda for further deliberation.

The second item of business on the agenda was a special use permit and site plan application by Atlas Renewables, LLC for property located off Oakwood Avenue and Farrell Road. Lluís Torrent, of Atlas Renewables, and David Brennan, Esq. were present for the applicant. Chairman Oster stated that the applicant was granted an area variance for the project by the Zoning Board at its October 17 meeting. Attorney Gilchrist confirmed the granting of the area variance, and also noted that the Planning Board had made a negative declaration under SEQRA on the application. Attorney Gilchrist then handed out a draft Resolution for the approval of the special use permit and site plan, with several conditions attached, and reviewed each condition with the Planning Board. The Planning Board discussed condition “I”, which concerned security fencing around the solar facility. Member Mainello asked if there would be a fence or netting around the

solar facility. Mr. Brennan stated that there would be both, that camouflage-type netting would be installed over the deer fence surrounding the solar facility. The Planning Board then discussed condition “N”, which concerned stormwater management facilities. The Planning Board then discussed condition “Q”, which concerned requirements of the U.S. Army Corps of Engineers, and agreed to add “If applicable” to the beginning of the condition. The Planning Board then discussed condition “R”, which concerned vegetative screening and post-construction review by the Brunswick Building Department and Planning Board, with Mr. Bonesteel stating that the screening should be limited to vegetation and that installation of a berm for screening purposes should be eliminated as that could cause runoff issues which may impact wetlands. Following discussion and deliberation on the Resolution conditions, the Resolution as amended was offered by Member Mainello and seconded by Member Kreiger. The Planning Board voted unanimously to approve the amended Resolution, a complete copy of which is attached to these minutes.

The third item of business on the agenda was a minor subdivision application submitted by Sagebrook Associates, Inc. for property located at 48 Spring Landing Boulevard. Kevin Kronau, of Sagebrook Associates, was present to review the application. Chairman Oster stated that the main issue the Planning Board had with the application was the encroachment of a driveway from an adjacent parcel onto the project site, and that since the last Planning Board meeting, a note had been added to the plat stating that a revocable license agreement has been executed concerning that driveway. Attorney Gilchrist stated that the plat note was adequate from the Town’s perspective. Mr. Bonesteel stated that he had visited the site and noted that the site is well-drained and that clearing of trees and vegetation will be kept to a minimum. Mr. Bonesteel stated that the application met all requirements for a complete minor subdivision application, and that since the project was disturbing more than one acre and less than five acres, an Erosion and Sediment

Control Plan was required, and that the applicant had submitted one. Mr. Bonesteel also stated that there was adequate frontage for each of the three proposed lots, and that the application was complete for purposes of holding a public hearing. Member Tarbox asked if Lot #1 would be able to put in a driveway if the adjacent property owner did not remove the already-constructed driveway. Mr. Bonesteel stated that due to requiring a 16-foot-long driveway with 3-foot shoulders, the adjacent driveway would need to be removed for Lot #1 to construct a driveway. Attorney Gilchrist stated that the plat note addressed the issue from the Town's perspective. A public hearing on this application is scheduled for November 17, 2022 at 7:00pm.

The fourth item of business on the agenda was a waiver of subdivision application submitted by Fred Metzger for property located at 10 Naples Court. Fred Metzger was present to review the application. Mr. Metzger stated that adjoiners had been added to the map since the last meeting. Chairman Oster stated that the property owner, Kellyanne Murray, owned three lots, Lots 101-103, and was planning to merge them. Mr. Metzger confirmed that was correct, stated that some of the land had been purchased as a buffer against the neighboring Gallivan Planned Development District, and that the owner was now seeking to extend the lot line between Lots 101 and 102 over the buffer line and then transfer 1.847 acres to her son. Mr. Metzger also stated that the property owner was planning to retain approximately 2.9 acres from Lots 102 and 103. Chairman Oster reviewed that the action would result in the creation of one new building lot. Chairman Oster asked Mr. Bonesteel if he had any further questions or comments, and he did not. Chairman Oster asked if the Planning Board members if there were any further questions or comments, and there were not. 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 application for the Planning Board to consider. Attorney Gilchrist stated that conditions to consider would be: that the applicant be subject to the Town's driveway permit requirements, that the applicant coordinate with the Town regarding water and sewer, and that the applicant pay a \$500.00 park/recreation fee due to the creation of one new building lot. 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.

There was no new business to discuss.

Mr. Golden stated that he had a question regarding one item of old business, stating that he had been contacted by Vincent Santoro, the owner of 182 Bald Mountain Road, asked if the topographical map he needed to submit should cover only the five acres he was subdividing, or the entire 95-acre lot. Mr. Bonesteel stated that only the 5 acres being subdivided needed to be included.

The index for the October 20, 2022 regular meeting is as follows:

1. Paulsen Development – site plan (November 3, 2022).
2. Atlas Renewables (North Troy Solar) – special use permit and site plan (approved with conditions).
3. Sagebrook Associates – minor subdivision (November 17, 2022).
4. Metzger – waiver of subdivision (approved with conditions).

The proposed agenda for the November 3, 2022 regular meeting is currently as follows:

1. Paulsen Development – site plan.

The proposed agenda for the November 17, 2022 regular meeting is currently as follows:

1. Sagebrook Associates – minor subdivision (public hearing to commence at 7:00pm).

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

October 20, 2022

**RESOLUTION GRANTING CONDITIONAL APPROVAL OF SPECIAL USE PERMIT
AND SITE PLAN APPLICATIONS FILED BY NORTH TROY SOLAR LLC**

WHEREAS, the Town of Brunswick initially received applications for a special use permit and site plan, and for an area variance for above-ground utility poles, in connection with a commercial solar facility in February 2022 from North Troy Solar LLC (hereinafter “Applicant”), a subsidiary of Atlas Renewables LLC, for property located off Oakwood Avenue and Farrell Road; and

WHEREAS, the special use permit and site plan applications were first presented to the Town of Brunswick Planning Board (hereinafter “Planning Board”) at its meeting on February 17, 2022; and

WHEREAS, the Applicant stated that a previous solar project, which had been proposed on an adjacent parcel, was not moving forward, and that these applications seek approvals for a separate project; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its February 17, 2022 meeting and placed it on the agenda for its March 3, 2022 meeting; and

WHEREAS, the area variance application was first presented to the Town of Brunswick Zoning Board of Appeals (hereinafter “Zoning Board”) at its meeting on February 28, 2022; and

WHEREAS, the Applicant again stated that a previous solar project, which had been proposed on an adjacent parcel, was not moving forward, and that this application was seeking an approval for a separate project; and

WHEREAS, the Applicant stated that the proposed utility interconnection for the current project would cross the location of the previous project on the adjacent parcel, and that an area variance for above-ground utility poles was required; and

WHEREAS, the Zoning Board reviewed and considered the area variance application at its February 28, 2022 meeting and placed it on the agenda for its March 21, 2022 meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its March 3, 2022 meeting and placed it on the agenda for its March 17, 2022 meeting; and

WHEREAS, the special use permit and site plan applications were removed by the Planning Board from the agenda for the March 17, 2022 meeting prior to the meeting; and

WHEREAS, the area variance application was removed by the Zoning Board from the agenda for the March 21, 2022 meeting prior to the meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its May 5, 2022 meeting and placed it on the agenda for its May 19, 2022 meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its May 19, 2022 meeting; and

WHEREAS, the Planning Board deemed the special use permit and site plan application to be complete for purposes of holding a public hearing, and agreed to hold a joint public hearing with the Zoning Board on the applications before both boards; and

WHEREAS, the Planning Board scheduled a joint public hearing with the Zoning Board on the applications before both boards for July 7, 2022 at 7:00pm; and

WHEREAS, the Planning Board placed the special use permit and site plan applications on the agenda for its June 16, 2022 meeting for further review; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its June 16, 2022 meeting, prior to the public hearing scheduled for July 7, 2022; and

WHEREAS, the Zoning Board reviewed and considered the area variance application at its June 20, 2022 meeting; and

WHEREAS, the Zoning Board agreed to hold a joint public hearing with the Planning Board on the applications before both boards on July 7, 2022 at 7:00pm; and

WHEREAS, public notice of the joint public hearing, to be held July 7, 2022, was duly published, posted, and mailed by the Planning Board and Zoning Board in compliance with the Brunswick Zoning Law; and

WHEREAS, the Planning Board and Zoning Board held a joint public hearing on the pending applications at the joint meeting held July 7, 2022; and

WHEREAS, the Planning Board and Zoning Board each closed their public hearings on the applications at the July 7, 2022 joint meeting; and

WHEREAS, the Planning Board and Zoning Board each established a 10 business day written comment period ending July 21, 2022; and

WHEREAS, the Planning Board briefly mentioned the special use permit and site plan applications at its July 21, 2022 meeting and noted that written comments had been received; and

WHEREAS, all public comments received by the Planning Board and Zoning Board, both at the joint public hearing and subsequently in writing, were provided to the Applicant for written responses; and

WHEREAS, the Applicant prepared complete written responses to all public comments, received both at the joint public hearing and subsequently in writing, and provided such responses to the Planning Board and Zoning Board; and

WHEREAS, the Planning Board next reviewed and considered the special use permit and site plan applications at its August 18, 2022 meeting and placed it on the agenda for its September 1, 2022 meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its September 1, 2022 meeting and placed it on the agenda for its September 15, 2022 meeting; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its September 15, 2022 meeting; and

WHEREAS, the Planning Board attorney identified that Lead Agency under the New York State Environmental Quality Review Act (hereinafter “SEQRA”) had not formally been established on this project; and

WHEREAS, the Planning Board determined that it sought to serve as Lead Agency under SEQRA on the project; and

WHEREAS, the Planning Board stated that the SEQRA Lead Agency coordination process would begin immediately by identifying all involved agencies, and serving a lead agency coordination notice providing that the Planning Board intends to serve as Lead Agency on the project under SEQRA; and

WHEREAS, the Planning Board placed the special use permit and site plan applications on the agenda for its October 6, 2022 meeting; and

WHEREAS, a Notice of Intent to Establish Lead Agency under SEQRA was thereafter served on all involved agencies; and

WHEREAS, the Zoning Board reviewed and considered the area variance application at its September 19, 2022 meeting; and

WHEREAS, the Zoning Board stated that there was no objection to the Planning Board serving as Lead Agency under SEQRA for the project; and

WHEREAS, the Zoning Board placed the area variance application on the agenda for its October 17, 2022 meeting; and

WHEREAS, the New York State Department of Environmental Conservation (hereinafter “DEC”) responded to the Notice of Intent to Establish Lead Agency under SEQRA via letter dated September 28, 2022; and

WHEREAS, DEC made comments on the project, but did not object to the Planning Board serving as Lead Agency under SEQRA for the project; and

WHEREAS, the Planning Board reviewed and considered the special use permit and site plan applications at its October 6, 2022 meeting; and

WHEREAS, the Planning Board voted to establish itself as SEQRA Lead Agency for this project at its October 6, 2022 meeting; and

WHEREAS, the Planning Board reviewed the Full Environmental Assessment Form, including Parts 2 and 3 and supporting narrative, for the project, and upon due deliberation, determined that it was appropriate to adopt a Negative Declaration pursuant to SEQRA for such project; and

WHEREAS, the Planning Board adopted a Negative Declaration pursuant to SEQRA for the project; and

WHEREAS, the Planning Board placed the special use permit and site plan applications on the agenda for its October 20, 2022 meeting; and

WHEREAS, the Zoning Board reviewed and considered the area variance application at its October 17, 2022 meeting; and

WHEREAS, the Zoning Board granted the area variance required for the project at its meeting on October 17, 2022, subject to conditions, including action by the Planning Board on the special use permit and site plan applications; and

WHEREAS, based upon the application materials, record of proceedings, public comments and responses thereto, the SEQRA record and Negative Declaration, and upon due consideration and deliberation, the Planning Board is prepared to act upon the special use permit and site plan applications;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Town of Brunswick in regular session duly convened as follows:

1. The Town of Brunswick Planning Board issues a special use permit and approves the site plan for the Atlas Renewables LLC – North Troy Solar commercial solar facility located off Oakwood Avenue and Farrell Road, subject to the following conditions:

- a.** Subject to posting and maintenance of financial security for decommissioning of the commercial solar facility equipment and site restoration in form and content acceptable to the Town of Brunswick. Such financial security must be approved by the Town of Brunswick Town Board prior to issuance of any building permit or work permit of any kind by the Town of Brunswick.
- b.** Subject to final comments of the Planning Board Reviewing Engineer and Town of Brunswick Water Department on final stormwater pollution prevention plan (SWPPP) for this facility, and Notice of Intent to comply with NYSDEC General Permit 0-20-001.
- c.** Coordination with local emergency services regarding on-site facilities, layout, equipment, and access; provide safety notices and safety training to such local emergency services.
- d.** All panels used for the solar facility must have an anti-glare coating or consist of materials that will not produce offensive glare.
- e.** Tree removal shall not extend beyond what is necessary to install the perimeter fence as shown on the Solar Array Layout Plan by Atlas Renewables – Dwg. NY-LAY-005 last revised 5/11/22. In addition, no trees or other vegetation shall be removed or cut north of the solar panel installation site on property that is owned by the fee title owner of the real property underlying this project, for the purpose of maintaining the existing vegetative buffer between the project site and the Brunswick Meadows community. Any proposed cutting of trees or other vegetation in such location is subject to further Planning Board review.
- f.** All approvals of the Public Service Commission community solar facility must be filed with the Town of Brunswick.
- g.** Access to the commercial solar equipment is limited to the access road off Farrell Road as depicted on the Topographical Plan by Atlas Renewables – Dwg. No. NY-LAY-006 last revised 5/11/22.

- h.** All waste materials generated during site construction, including all packaging materials, must be contained and removed from the site within a reasonable time and no later than the issuance of a certificate of compliance.
- i.** The security fence around the perimeter of the community solar facility shall be 8-foot high, with a Knox box installed for emergency access at the entry gate. The installation of camouflage-type netting on the westerly boundary of the solar farm adjacent to the paintball facility is required.
- j.** The solar facility equipment must be constructed and operated in compliance with all requirements of the National Electric Code.
- k.** Use of pesticide and/or herbicide is prohibited in relation to operation and maintenance of the commercial solar facility and a note regarding such prohibition shall be added to the site plan.
- l.** In accordance with Town of Brunswick Zoning Law, Article 6, Section 160-41 Lighting Regulations-Section D, Security Lighting shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property.
- m.** A Payment In Lieu of Taxes (PILOT) Agreement is required. The PILOT Agreement must be approved by the Town of Brunswick Town Board prior to issuance of any building permit or work permit of any kind by the Town of Brunswick.
- n.** [Intentionally Omitted]
- o.** Construction activities are limited to Monday through Friday, 7:00 a.m. – 4:00 p.m.
- p.** Strict compliance with the “Site Plan”, (9 Sheets) by Atlas Renewables titled North Troy Solar Farm last revised 5/11/22.
- q.** If applicable, subject to requirements under Nationwide Permit for land-based renewable energy generation facilities of the United States Army Corps of Engineers and determination from the Army Corps of Engineers that coverage is provided for this project thereunder.

- r. Post-construction review by the Brunswick Building Department and Planning Board review engineer to determine the need for in-fill evergreen plantings for visual screening northerly and easterly of the project site, and installation of evergreen trees if necessary as determined by the Brunswick Building Department and Planning Board review engineer.
- s. Compliance with all applicable requirements of NYSDEC for utility pole installation in the area of the NYS Superfund site.
- t. No removal of trees measuring 3” in diameter or greater at breast height except between November 1 and March 31.

The foregoing Resolution, offered by Member Mainello and seconded by Member Kreiger, was duly put to a roll call vote as follows:

CHAIRMAN OSTER	VOTING <u> aye </u>
MEMBER MAINELLO	VOTING <u> aye </u>
MEMBER KRIEGER	VOTING <u> aye </u>
MEMBER PETERSEN	VOTING <u> aye </u>
MEMBER HENDERSON	VOTING <u> aye </u>
MEMBER TARBOX	VOTING <u> aye </u>
MEMBER STANCLIFFE	VOTING <u> aye </u>

The foregoing Resolution was thereupon declared duly adopted.

October 20, 2022