

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD JUNE 15, 2023

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 Planning Board opened a public hearing on a site plan application submitted by Humble Country, LLC for property located at 740 Hoosick Road. Al Burgazoli, from AOW Associates, Inc., Caryn Mlodzianowski, from Bohler Engineering, and Paul Engster, the property owner, were present to review the application. Chairman Oster read the procedure for a public hearing held by the Planning Board. Attorney Gilchrist read the Notice of Public Hearing into the record, with the Notice having been published in the Eastwick Press, placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties within 300 feet of the project site. Chairman Oster asked the applicant to briefly review the project for the public. Mr. Burgalozi reviewed the location of the proposed cannabis dispensary within the Walmart Plaza, reviewing the site map, floor plan, and renderings of the project. Mr. Burgalozi stated that the existing space was being divided and that the dispensary would be a 4,000 square foot space

with a sales area, check out area, vault, delivery area, office, break room, and restrooms. Mr. Burgalozi stated that the dispensary would be a basic retail sales operation, but with significantly heightened security measures. Mr. Burgalozi reviewed the customer entry requirements, and reiterated that the dispensary was a retail sales operation for the sale of recreational cannabis. Chairman Oster repeated that the dispensary was for retail purchase of cannabis and that no on-site consumption of cannabis was allowed. Chairman Oster asked Attorney Gilchrist to review the New York State and Brunswick laws concerning the legalization of cannabis. Attorney Gilchrist reviewed how New York State had passed a law allowing the sale and on-site consumption of cannabis, that the law had allowed for municipalities to opt out of either on-site consumption or both the sale and on-site consumption of cannabis, that the Town of Brunswick had passed a local law opting out of on-site consumption, and that retail sale of cannabis is allowed in the Town of Brunswick. Chairman Oster then opened the public hearing on the application. There were no public comments on the application. Mr. Golden stated that one written comment had been received, from Jim Tkacik of 387 Brunswick Road, dated June 13, 2023. Mr. Golden reviewed the letter, stating it asked about hours of operation, customer queuing, trash receptacles, an overhang off the building for customers queuing outside, if it was a cash-only retail operation, safety concerns, certification of security guards, whether employees could refuse to sell to impaired customers, and questions on federal laws concern cannabis. Mr. Golden also gave a copy of the letter to the applicant. The letter was made part of the record. Chairman Oster asked the Planning Board members if there was any need to extend the public hearing, and it was determined that there was no need. Chairman Oster made a motion to close the public hearing, which was seconded by Member Petersen. The motion was unanimously approved and the public hearing was closed.

The draft minutes of the June 1, 2023 regular meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Stancliffe, the draft minutes of the June 1, 2023 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a site plan application submitted by Humble Country, LLC for property located at 740 Hoosick Road. Al Burgazoli, from AOW Associates, Inc., Caryn Mlodzianowski, from Bohler Engineering, and Paul Engster, the property owner, were present to review the application. Chairman Oster noted that while no comments had been received from the public at the public hearing, written comments had been received via letter and that the applicant was required to respond to those comments in writing. Chairman Oster stated that he was concerned over the dispensary's proposed hours of operation, specifically the dispensary staying open until 11:00 pm, noting that he had stopped at the liquor store in the Price Chopper Plaza to ask the owner what its hours of operation were. Chairman Oster stated that the liquor store owner had told him that the store stayed open until 9:00 pm, and when asked by Chairman Oster if he would ever consider staying open later, the owner stated that he would not due to safety concerns. Chairman Oster asked if it was necessary for the dispensary to be open until 11:00 pm and thought it would be more appropriate for the dispensary to close at 9:00 pm. Mr. Burgazoli stated that New York State law requires dispensaries to be closed between 2:00 am and 8:00 am, noted that Walmart is open until 11:00 pm, and that the applicant wants the same hours as Walmart. Chairman Oster noted that the other tenants in the Walmart Plaza close at 9:00 pm, so the dispensary would be the only business in the plaza open from 9:00-11:00 aside from Walmart. Member Henderson stated that keeping the dispensary open after 9:00 pm would create a safety issue and that closing the dispensary at 9:00 pm should be adequate. The other Planning Board members concurred that closing at 9:00 pm would be better. Chairman Oster stated that he was concerned with the

numerous incidents with crime that have occurred at Walmart, especially later at night. Member Tarbox agreed, stating that he knows several people, including family members, who will not shop at Walmart after dark due to safety concerns. Mr. Burgazoli stated that the applicant had requested that the dispensary close at 11:00 pm and would provide appropriate security for a later closing time. Member Stancliffe stated that the dispensary closing at 9:00 pm should be adequate, that customers are savvy enough to know the closing time by looking it up online, and that since the dispensary would be open seven days a week, closing at 9:00 pm would be adequate. Member Stancliffe also stated that she would be concerned for the safety of employees taking a cash deposit from the dispensary after the close of business if the dispensary were to close at 11:00 pm. Chairman Oster stated that the written letter had asked if customers would be allowed to carry firearms into the dispensary. Mr. Burgazoli stated that he did not believe people with firearms would be legally allowed in the dispensary, but would confirm. Member Henderson asked if the owner of the dispensary owned any other stores. Mr. Burgazoli stated that this was the first dispensary for the owner. Member Mainello asked if safety regulations for dispensaries were required by New York State. Mr. Burgazoli stated that certain safety regulations were required by NYS. Member Mainello asked if the number of security guards, both armed and unarmed, was mandated by NYS. Mr. Burgazoli stated that the number of guards was not stated by NYS, only that the premises must be secure. Member Mainello asked if security would be on-site for all hours of operation. Mr. Burgazoli confirmed that security guards would be on-site the entire time the dispensary was open. Member Henderson asked where the two security guards would be located in the store. Mr. Burgazoli stated that one guard would be at the front door and the second guard would walk through the store throughout the day. Member Mainello asked what would happen if a customer started smoking the cannabis on-site. Mr. Burgazoli stated that the store owner would

ask that customer to leave and call the police, with the New York State Police having jurisdiction in Rensselaer County. Member Henderson asked if the applicant had sent the application to the New York State Police. Mr. Burgazoli stated that NYS coordinates with law enforcement in these cases. Chairman Oster clarified that he was not opposed to cannabis sales in the Town, but was very concerned about safety, and recommended that the applicant consider 9:00 pm as the closing time. Mr. Burgazoli stated that the applicant would be informed of the Planning Board's request for an earlier closing time and address the request. Chairman Oster stated that the applicant would be required to respond to all public comments in writing, which would then be reviewed by the Planning Board. Attorney Gilchrist stated that since there were no comments made verbally at the public hearing, that the only comments were from the written letter, and that a copy of that letter had been given to the applicant, the applicant could start drafting written responses to comments immediately rather than waiting for the meeting minutes to be published. Mr. Burgazoli asked when written responses to comments would need to be submitted by. Chairman Oster stated that the applicant should submit written responses by June 22, one week from the present meeting, so the Planning Board members would have adequate time to review them before the next meeting. Member Tarbox asked what the benefit to the Town was from the dispensary. Mr. Burgazoli stated that the Town would receive sales tax from all purchases at the dispensary. Member Henderson asked how cash deposits would be taken from the dispensary, specifically whether an employee would take them or if some sort of armored car would be used. Mr. Burgazoli stated that the handling of cash deposits would be addressed in the written responses. Mr. Bonesteel asked how the security cameras in the dispensary would be monitored. Mr. Burgazoli stated that the footage from the security cameras would be monitored off-site by a third party, and that the security cameras would extend into the parking lot for additional security. Member Henderson asked how

long the security camera recordings would be kept. Mr. Burgazoli stated that the recordings would be kept for 60 days. Mr. Bonesteel asked if the sidewalk outside the dispensary would be covered. Mr. Burgazoli confirmed that there would be a canopy over the sidewalk in front of the dispensary. Mr. Engster stated that the canopy would be 12 feet off the front of the building. Member Mainello asked if there would be a panic button inside the dispensary for security. Mr. Burgazoli confirmed that there would be a panic button inside the store. Member Henderson asked what the expected number of customers per day would be. Ms. Mlodzianowski stated that the expected peak morning hours would see 22 customers per hour, that the expected peak evening hours would see 38 customers per hour, that the expected Saturday peak would see 58 customers an hour, and that the applicant was expected approximately 420 customers per day on average. Member Tarbox asked what the maximum capacity of the space would be. Mr. Golden stated that he was in the process of calculating the maximum capacity. Member Henderson asked how many people the applicant expected to be waiting in line at a given time. Mr. Burgazoli, Ms. Mlodzianowski and the Planning Board then discussed the number of customers anticipated and the queuing of customers, as well as online ordering. Member Tarbox asked how cannabis would be delivered to the dispensary. Mr. Burgazoli stated that the cannabis would be delivered through a rear door and reviewed the security for the deliveries. Ms. Mlodzianowski asked if the Town had sent the application to Rensselaer County. Attorney Gilchrist confirmed that the application had been sent to Rensselaer County and that the Town had received a response 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. This matter is placed on the July 6, 2023 agenda for further deliberation.

The second item of business on the agenda was a site plan application and special use permit application submitted by Lynn Currier for property located at 215 Oakwood Avenue. No one was present for the applicant. Mr. Golden stated that the applicant had not submitted any additional documents since the last meeting on June 1. The Planning Board noted that this matter had been placed on the last three agendas and that the applicant had not been present and had submitted no new information, and that Mr. Golden should reach out to the applicant to inquire as to the status of the application. This matter is tabled.

The Planning Board discussed two items of new business.

The first item of new business was a waiver of subdivision application submitted by Ken Maxwell and Jodi Maxwell for property located at 4 Johnson Street. No one was present for the applicants. Mr. Golden reviewed the application for the Planning Board, stating that it was more in line with a lot line adjustment to address the location of an accessory structure on the property. Mr. Golden stated that that even with the lot line adjustment, the accessory structure would not meet the required setbacks and may ultimately be demolished. Chairman Oster asked why the applicant would be adjusting the lot line if the accessory structure could be demolished. Chairman Oster also asked how the Planning Board could act on a potential lot line adjustment if the location of the accessory structure would not be in compliance with the Town Zoning Law. The Planning Board discussed whether the accessory structure was an existing nonconforming structure and if the applicant would also need a variance from the Zoning Board. This matter is tabled.

The second item of new business was a site plan application submitted by Maries Muse, LLC for property located at 727-737 Hoosick Road and 4 Mohawk Avenue. Caryn Mlodzianowski, from Bohler Engineering, was present for the applicant. Ms. Mlodzianowski presented the site map and reviewed the layout of the project, stating that the eastern portion of the

site would have a medical building and drive-thru quick serve restaurant with access to the traffic signal at McChesney Avenue, and that the western portion of the site would have a 5,000 square foot drive-thru quick serve restaurant with access off Mohawk Avenue and cross-access from the entrance off Hoosick Road. Ms. Mlodzianowski stated that the applicant would be consolidating the number of parcels on the site, combining seven parcels into two total parcels, both of which would be owned by the applicant and leased. Ms. Mlodzianowski stated that cross-easements would be required between the two newly-created parcels and that turning movements on the site would be analyzed. Ms. Mlodzianowski stated that there would be an awning in front of the western lot, which would need area variances from the Zoning Board. Member Tarbox requested a rendering of the proposed awning, and Ms. Mlodzianowski stated that she would provide one. Chairman Oster asked who the tenants would be. Ms. Mlodzianowski stated that no tenants had been confirmed at this time. Member Mainello asked about greenspace on the site. Ms. Mlodzianowski stated that the greenspace was not designed yet, but that she could provide the Planning Board with the percentage of the site that would be greenspace. Member Mainello asked if there would be on-site sidewalks. Ms. Mlodzianowski stated that adding on-site sidewalks would be reviewed. Ms. Mlodzianowski and the Planning Board then discussed the site and general standards under Brunswick site plan regulations. Mr. Golden noted that most of the stormwater on the site would go underground. Ms. Mlodzianowski confirmed that the site planned for most of the stormwater to go to an underground retention. Mr. Bonesteel stated that NYS Department of Transportation (DOT) had certain restrictions on water flows and that the applicant must coordinate with NYS DOT on the stormwater plan and traffic signal. Ms. Mlodzianowski stated that the applicant had already begun coordination with NYS DOT. Mr. Bonesteel stated that he wanted to see a full Environmental Assessment Form (EAF) for the project and recommended that

the Planning Board retain a traffic consultant to review the extensive traffic study submitted by the applicant. Mr. Bonesteel also noted that the project was proposed for an already busy site and was proposing to change the three-way traffic signal at McChesney Avenue to a four-way signal. Chairman Oster stated that the Planning Board would review the submitted materials and discuss them at the next Planning Board meeting. Attorney Gilchrist stated that the Planning Board should consider retaining a traffic engineer to serve as a review consultant for the traffic study at the next meeting as well. Mr. Bonesteel stated that the application and supporting documents should be forwarded to the Capital District Transportation Committee as part of its ongoing Hoosick Road corridor traffic study, and that he would forward the documents to the Committee. This matter is placed on the July 6, 2023 agenda for further deliberation.

The index for the June 15, 2023 regular meeting is as follows:

1. Humble Country, LLC – site plan (July 6, 2023).
2. Currier – site plan and special use permit (tabled).
3. Maxwell – waiver of subdivision (tabled).
4. Maries Muse, LLC – site plan (July 6, 2023).

The proposed agenda for the July 6, 2023 regular meeting is currently as follows:

1. Humble Country, LLC – site plan.
2. Maries Muse, LLC – site plan.