

# **Planning Board**

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

## **MINUTES OF THE PLANNING BOARD MEETING HELD MAY 2, 2024**

PRESENT were RUSSELL OSTER, CHAIRMAN, DONALD HENDERSON, LINDA STANCLIFFE, DAVID TARBOX and ANDREW PETERSEN.

ABSENT were J. EMIL KREIGER and KEVIN MAINELLO.

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 first item of business on the agenda was a public hearing concerning a minor subdivision application submitted by Henry Reiser for property located on Tybush Lane (Tax Map No. 82.-2-12.2). Henry Reiser and John Tybush, the property owner, were present. Member Tarbox recused himself. 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. Reiser stated that he was seeking to divide approximately 1.5-acres from an approximately 4-acre lot, that the subdivided lot would have frontage along Tybush Lane, and that the lot would meet all septic/well separation requirements and all size requirements under the Town Zoning Law. Chairman Oster

opened the public hearing on the application. There were no public comments on the application. Chairman Oster asked Mr. Golden if there had been any written comments on the application and he stated that there had been none, either by written letter or email. There were no questions or comments from the Planning Board members. Member Henderson made a motion to close the public hearing, which was seconded by Member Stancliffe. The motion was unanimously approved, and the public hearing was closed.

Member Tarbox returned to the meeting.

The second item of business on the agenda was a public hearing concerning an application for a special use permit amendment submitted by Zachary Froio for property located at 502 Pinewoods Avenue. Zachary Froio was present. 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. Froio stated that he started his business, Freedom Firearms USA, in 2021, and that his business is an online retailer for firearms and ammunition. Mr. Froio described the online order procedure for both ammunition and firearms, specifically stating that for firearms, there was no in-person pickup at his home, and that customers had to pick up the firearms from another brick-and-mortar dealer. Mr. Froio stated that recently, the firearms dealers that he had been working with had stopped allowing transfers from him. Mr. Froio stated that his application was requesting three customers per week at his home to pick up firearms, with no more than one per day, and all must be by appointment only. Mr. Froio stated that his property has a 200-foot driveway and that the amendment to the special use permit would not result in excess traffic. Mr. Froio stated that his type of business is heavily monitored by the US Bureau of Alcohol, Tobacco and Firearms

(ATF) and that the ATF is very strict and thorough in its reviews. Mr. Froio stated that since the Covid-19 pandemic, many people work remotely from home and that many businesses feature customer pickup at homes. Chairman Oster asked the applicant to describe the background check procedure he used. Mr. Froio stated that the FBI previously did background checks on firearm purchases, that New York State now wants to do background checks on ammunition, and that NYS Troopers now do background checks on purchases of both firearms and ammunition. Mr. Froio stated that he also did supplementary background checks when firearms were purchased from him and that if the amendment to the special use permit was approved, that he would do his own background checks at his home. Chairman Oster then opened the public hearing on the application. Chairman Oster noted that two written letters had been received by the Town, both dated May 2, concerning this application: one from Maureen Madden, of 385 Brunswick Road, and one from Matthew Perfetti, of 380 Brunswick Road, both of which were against the amendment to the special use permit as the amendment would constitute Mr. Froio's business as being a retail use, which is not allowed in an R-40 residential zoning district, and asked that the Planning Board deny the application. Jim Tkacik, of 387 Brunswick Road, stated that when the Planning Board approved the special use permit in 2021, there had been a condition on the approval that no in-person sales could occur at the applicant's home, yet that was exactly what the applicant was now requesting. Mr. Tkacik asked if the applicant's business would qualify as a retail activity if the amendment were approved, read the definition of "Retail Establishment" from the Town Zoning Law, noted that "provides goods and/or services directly to the consumer" was stated in the definition, and concluded that the applicant's business would qualify as a retail business if the amendment were approved. Mr. Tkacik also read the definition of "Home Occupation" from the Town Zoning Law, noted that the definition stated that "no retail sales therein" are allowed, and that a person cannot

have retail at their premises as a home occupation. Mr. Tkacik also read the definition of “Office, Business & Professional” from the Town Zoning Law, noted that “and not involving the manufacture, storage, display or direct retail sale of goods” was stated in the definition, and stated that the applicant’s business would not qualify as a home office for that reason. Mr. Tkacik also reviewed the Use Regulations in the Town Zoning Law, stating that “Retail Establishment” had four categories in the Use Regulations, which were Convenience, Large, Large Product, and Neighborhood, and that none of those retail establishment categories are allowed in a residential zone. Mr. Tkacik stated that if the Planning Board were to approve the application, it would set a bad precedent for sales of goods out of a residence, stating that any business would then be allowed in a home. Mr. Tkacik also stated that the applicant had the option of setting up his business in a properly-zoned location, and that the Town had no obligation to help his business be profitable. Mary Beth Bruno, of 102 Lumax Road, stated that from a homeowner’s perspective, if this business was next door to her, it would negatively affect the property value, and that it would raise serious safety concerns in a home with small children. Ms. Bruno also asked that if the amendment were allowed this time, how long would it be before another firearms distributor wanted to establish this type of business out of their home, and asked if such a business could be set up in her neighborhood. There were no further public comments. There were no questions or comments from the Planning Board members. Member Tarbox made a motion to close the public hearing, which was seconded by Member Henderson. The motion was unanimously approved, and the public hearing was closed.

The draft minutes of the April 18, 2024 regular meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Stancliffe, the draft minutes of the April 18, 2024 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a minor subdivision application submitted by Henry Reiser for property located on Tybush Lane (Tax Map No. 82.-2-12.2). Henry Reiser and John Tybush, the property owner, were present. Member Tarbox recused himself. Chairman Oster stated that an updated plat dated April 3 had been submitted to the Town. Mr. Reiser stated that the Planning Board had requested the entire parcel be shown on the plat, so the plat has been updated to show the entire parcel, as well as an existing well, and that there was adequate separation between the well and the proposed new lot line. Chairman Oster stated that the Town subdivision regulations require a plat to only show the part of a parcel being affected by a subdivision or lot line adjustment, but that showing only part of a parcel may be an issue when the map is filed with Rensselaer County. Chairman Oster stated that since the new plat shows the entire parcel, there should be no risk of an issue arising when the map is filed with Rensselaer County. Chairman Oster asked Mr. Bonesteel if he had any further questions or comments on the application. Mr. Bonesteel stated that all of his comments had been addressed and that he had no further questions. There were no further questions or comments from the Planning Board. Member Stancliffe made a motion for a negative declaration on the project under SEQRA, 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. Attorney Gilchrist stated that two conditions for consideration by the Planning Board were that Rensselaer County water and septic approval be obtained prior to the issuance of a building permit, and that the Town Parks and Recreation fee be paid. Mr. Tybush stated that there were no plans to build on the new parcel, stating that the new parcel was being created to be sold to a neighbor who had explicitly stated that that he did not want to build on the newly-created parcel. The Planning Board discussed the issue and concluded that a plat note would be added

stating that Rensselaer County water and septic approval would need to be obtained prior to the issuance of a building permit if a future owner ever wanted to build on the lot, and that the Town Parks and Recreation fee would still need to be paid. Member Stancliffe made a motion to approve the minor subdivision application subject to the stated conditions, which was seconded by Member Petersen. The Planning Board voted unanimously to approve the minor subdivision application subject to the stated conditions.

Member Tarbox returned to the meeting.

The second item of business on the agenda was an application for a special use permit amendment submitted by Zachary Froio for property located at 502 Pinewoods Avenue. Zachary Froio was present. Chairman Oster stated that most comments made at the public hearing addressed zoning compliance issues, specifically if the amendment would result in Mr. Froio's business becoming a retail establishment, and that the Building Department would need to address that issue and make a determination. Chairman Oster stated that property values and safety had also been brought up during the public hearing. Mr. Froio stated that if the amendment were approved, it would not set a precedent, as there were many other at-home firearms businesses throughout Upstate New York. Mr. Froio addressed concerns over his business potentially becoming a retail establishment, stating that this issue was covered during the initial special use permit discussions in 2021 and it was determined that his business would not qualify as retail. Mr. Froio also stated that the firearms and ammunition that he sells are sold at many locations and asked how it could be fair that his business might be singled out. Mr. Froio stated that concerning property values decreasing due to his business, he has less firearms in his home than the average hunter, and that living near or next to a hunter does not affect property values. Mr. Froio also stated that in terms of profitability, Freedom Firearms USA was a secondary job, not his primary source

of income. Chairman Oster clarified that the Planning Board was only concerned with the Town of Brunswick, not other towns or villages in Upstate New York. Chairman Oster also stated that while other people in Brunswick did sell things from their homes, this case was different due to a firearms dealership being involved. Attorney Gilchrist stated that the Planning Board did not have jurisdiction to interpret the Town Zoning Law, and that whether the applicant's business would qualify as a retail establishment would require a Building Department determination. Member Stancliffe stated that written responses to public comments would be required. Mr. Froio stated that written responses would be provided. This matter is tentatively placed on the May 16, 2024 agenda for further deliberation, subject to the Building Department determination.

The third item of business on the agenda was an application for a site plan amendment submitted by Park East Ventures, Inc. for property located at 1173 Hoosick Road, at the intersection with Brick Church Road. Travis Rosencranz, P.E., from Creighton Manning Engineering, was present to review the project. Ron Laberge, of Laberge Group, the Town-designated review engineer for this project, was also present. Mr. Bonesteel recused himself. Mr. Rosencranz stated that the applicant had received a review memo from Mr. Laberge, that he had met with Mr. Laberge, and that edits had been made to the application based on those comments, which had been submitted to Mr. Laberge for review. Mr. Rosencranz reviewed the changes to the application, stating that visual screening had increased, specifically to provide more screening for the house to the west of the site, the size of the gravel lot had been reduced to reduce the amount of grading to be done, and that the grading plan had subsequently been modified. Mr. Rosencranz stated that a lighting plan had been submitted, and that the applicant would confirm that the lighting plan was in compliance with the lighting requirements under the Brunswick Zoning Law. Mr. Rosencranz stated that the Environmental Assessment Form (EAF) had been updated, that a

covered wash pad would be added next to the building on the site, and that there would be a separate catch basin and holding tanks on the site, with the holding tanks to be pumped and the water hauled off the site. Mr. Laberge confirmed that he had met with Mr. Rosencranz to review his comments, that he had received the supplemental submissions, which were currently under review, and that it appeared that his engineering comments had been addressed, subject to completion of his review. Mr. Laberge stated that the Planning Board may want to consider a streetscape issue and asked the Planning Board members if they wanted to require any improvement to the greenspace or landscaping. Mr. Laberge noted that he had recently seen equipment stored at the front of the site and asked if they were for sale. Mr. Rosencranz stated that those were on-site trucks and were not for sale. The Planning Board discussed the parking of equipment on the site. Mr. Rosencranz stated that the long-term plan is to have a gravel staging area built, which would be done as part of this site plan amendment. Chairman Oster stated that the applicant had an opportunity to add landscaping to the front of the site and make the site look less industrial and look better from Hoosick Road. Mr. Rosencranz stated that he would review that issue with the applicant. Member Tarbox asked if the black surfacing material on the site was grindings from paved roads, and if it was, asked how that would affect stormwater on the site. Mr. Rosencranz stated that he was not sure and that he would review that issue. Member Stancliffe stated that the applicant should specify what species of trees are being proposed for screening. Mr. Rosencranz stated that information concerning the trees would be submitted. Chairman Oster asked if there was any signage for the site. Mr. Rosencranz stated that there was currently no signage for the site, and that signage was not being proposed to be added. Chairman Oster stated that he wanted the Laberge review completed before scheduling a public hearing on the application. This matter is placed on the May 16, 2024 agenda for further deliberation.



Mr. Bonesteel returned to the meeting.

The fourth item of business on the agenda was two applications, for an amendment to a previously-approved site plan and a special use permit, submitted by Tom Chenaille for property located at 20 Tybush Lane. Tom Chenaille was present to review the application. Member Tarbox recused himself. Mr. Chenaille stated that he was looking to add 23 storage units to the existing storage facility site, that the new units would comply with all required setbacks, that he was proposing two new buildings to the rear of the site for the new units, that the site is not very visible from NYS Route 7 and that the new units would also not be significantly visible from Route 7, and that crusher run would be used for travel lanes, just like what exists now on the site. Member Stancliffe asked what the buildings would be made of. Mr. Chenaille stated that the new buildings would be metal, just like the existing buildings. Mr. Chenaille stated that the current largest building on the site is 10 feet by 30 feet and that the largest proposed new building would be 10 feet by 20 feet. Member Henderson asked if there would be outside parking for boats, campers, or other large vehicles. Mr. Chenaille stated that there would not be as there was no room. Member Stancliffe asked if there would be any clearing or landscaping at the rear of the site. Mr. Chenaille stated that there would not be any clearing except for overgrowth in an existing ditch that had filled in over the years. Mr. Bonesteel stated that the ditch location should be added to the site plan. Member Stancliffe asked about the site's lighting plan. Mr. Chenaille stated that there would be no new lighting added as the existing lighting was sufficient. Chairman Oster stated that the existing lighting should be added to the site plan. Chairman Oster asked if there was a gate into the site. Mr. Chenaille stated that there currently was no gate, that there had been a gate previously that was removed, and that he may replace the gate in the future. Chairman Oster stated that the applicant had submitted a consent letter from the property owner consenting to the applicant

representing him in this matter, and that an Agricultural Data Statement had also been submitted. Chairman Oster stated that the application must be sent to Rensselaer County for recommendation. Chairman Oster asked Mr. Bonesteel if he had any further comments. Mr. Bonesteel asked if the current traffic circulation would continue to work with the new buildings. Mr. Chenaille confirmed that the current traffic circulation would continue to work. Chairman Oster asked if there would be petroleum storage on the site. Mr. Chenaille stated that there would not be. This matter is placed on the May 16, 2024 agenda for further deliberation.

There was no new business to discuss.

The index for the May 2, 2024 regular meeting is as follows:

1. Reiser – minor subdivision (approved with conditions).
2. Froio – special use permit amendment (May 16, 2024).
3. Park East Ventures – site plan amendment (May 16, 2024).
4. Chenaille – site plan amendment and special use permit (May 16, 2024).

The proposed agenda for the May 16, 2024 regular meeting is as follows:

1. Froio – special use permit amendment.
2. Park East Ventures – site plan amendment.
3. Chenaille – site plan amendment and special use permit.