

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD MAY 4, 2023

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

ABSENT was 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 Planning Board opened a public hearing on a special use permit application submitted by James Gardner of Kasselmann Solar, LLC for property located at 168 Smith Hill Road. Alex Martin was present on behalf of the applicant. 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 Mr. Martin to briefly review the project for the public. Mr. Martin stated that the application was to install a 13.65 KW ground-mounted solar array on the property, that the solar array would not be visible from Smith Hill Road due to an existing tree line providing screening, that the solar array would only provide power for the applicant's property, and that the solar array would be screwed into the ground, not placed on a concrete foundation.

Mr. Martin also stated that the applicant would be removing one of three older existing solar arrays from the property and placing the new solar array at the same spot. Chairman Oster then opened the public hearing on the application. There were no public comments on the application. Chairman Oster 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 20, 2023 regular meeting were reviewed. Upon motion of Chairman Oster, seconded by Member Henderson, the draft minutes of the April 20, 2023 regular meeting were unanimously approved without amendment.

The first item of business on the agenda was a special use permit application submitted by James Gardner of Kasselmann Solar, LLC for property located at 168 Smith Hill Road. Alex Martin was present on behalf of the applicant. Chairman Oster stated that there had been no comments from the public at the public hearing, so no written responses were necessary. Chairman Oster asked if there were any further questions from the Planning Board members, and there were none. Mr. Bonesteel stated that all of his questions and comments had been addressed by the applicant. Member Stancliffe 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 to be considered by the Planning Board. Attorney Gilchrist stated that one condition for the Planning Board to consider was that the applicant remove all existing above-ground solar arrays on the property prior to installation of the new solar array, and dispose of all waste in compliance with all applicable laws. Member Kreiger made a motion to grant the special use permit subject to the stated condition, which was seconded by Member Tarbox. The Planning Board voted unanimously to grant the special use permit subject to the stated condition.

The second item of business on the agenda was an application for an amendment to a site plan and special use permit submitted by Blue Sky Towers III, LLC for property located off Creek Road. Jeff Twitty, Esq., from Nixon Peabody, LLP was present for the applicant. Mr. Twitty stated that the applicant had submitted written responses to all public comments made at the April 20, 2023 public hearing in a letter dated April 28. Attorney Gilchrist stated that he and the Planning Board had reviewed the letter and that the written responses were in compliance with Section 6409 of the Federal Spectrum Act. There were no questions or comments from the Planning Board members on the written responses. Attorney Gilchrist then passed out a draft Resolution to approve the eligible facilities request under Section 6409 of the Federal Spectrum Act, and reviewed the draft Resolution with the Planning Board. There were no questions or comments from the Planning Board members on the draft Resolution. Mr. Bonesteel stated that he had no comments on the draft Resolution. The Resolution was offered by Member Stancliffe and seconded by Member Kreiger. The Planning Board voted unanimously to approve the Resolution, a complete copy of which is attached to these minutes. Attorney Gilchrist stated that the Resolution would be finalized and filed in the office of the Town Clerk, with a copy provided to the applicant. Mr. Twitty asked if a new building permit needed to be applied for or if the building permit for the initial construction of the cell tower could be amended. Mr. Golden stated that he would review the existing building permit application for compliance with the Resolution.

The third 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. Lynn Currier was present to review the application. Ms. Currier stated that an updated site plan and Full Environmental Assessment Form (EAF) had been submitted to the Town earlier that day, that she did not yet have any information on on-site water and sewer, and that investigation into the on-site

water and sewer would begin next week. Member Stancliffe asked what the approximate location of the water and septic was. Ms. Currier pointed out the approximate location of the water and septic on the site map. Ms. Currier also stated that she had submitted all New York State application forms for a daycare center to New York State. Member Tarbox asked Ms. Currier if she was planning to add fencing on the site. Ms. Currier confirmed that she would be installing fencing at the back of the site. Member Tarbox asked if there would be handicapped parking spots, as none were noted on the site map. Ms. Currier confirmed that there would be handicapped parking spots. Chairman Oster asked Ms. Currier if she would be leasing the property. Ms. Currier confirmed that she would be signing a five-year lease for the property. Member Henderson asked how many children were expected to enroll at the daycare. Ms. Currier stated that she was expecting 30-35 children. Member Henderson asked what ages the children would be. Ms. Currier stated that the children would be between six weeks to five years old. Chairman Oster asked how many employees there would be at the daycare. Ms. Currier stated that she was planning on having nine employees at the daycare, including her, and that she had hired three employees already. Member Henderson asked about the square footage of the building. Ms. Currier stated that the building was 32 feet by 60 feet. Mr. Bonesteel asked if improvements would be made to the property outside the building. Ms. Currier confirmed that improvements would be made outside of the building. Member Henderson asked what the New York State requirements were for employees at a daycare center. Ms. Currier stated that there were extensive requirements from New York State and described them. Chairman Oster asked what the parking requirements were for the number of employees and children expected at the daycare. Mr. Golden stated that he would review any specific parking requirements in the Town Zoning Law. Ms. Currier stated that other than herself and the daycare's employees, cars would mostly drop off children and leave in the

morning and pick up children and leave in the afternoon, so there would not be a need for long-term parking. Chairman Oster asked if any buses would be dropping off and picking up children at the daycare. Ms. Currier stated that there would be no buses as the children at the daycare would not be school-age yet. Mr. Bonesteel asked if there was only a single two-way access point from the building onto Oakwood Avenue. Ms. Currier confirmed that there was only one access point to Oakwood Avenue. Mr. Bonesteel stated that he was concerned about traffic circulation with only one access point, and that he would need to see the dimensions of the road and access point to further analyze traffic circulation on the site. Chairman Oster asked what the hours of operation for the daycare would be. Ms. Currier stated that the hours would be 7:00 AM to 5:30 PM Monday through Friday, but that the closing time could be extended to 6:00 PM. Member Stancliffe stated that if 6:00 PM was intended, then the application should be amended to include hours of operation until 6:00 PM. Chairman Oster asked if there would be a kitchen on-site. Ms. Currier stated that she was planning to build a kitchen in the building. Chairman Oster asked if the Rensselaer County Health Department was involved in the construction of the kitchen. Ms. Currier confirmed that the County was involved. Chairman Oster asked the Planning Board had any requirements for an on-site kitchen that needed to be analyzed. Attorney Gilchrist stated that the Planning Board did not have jurisdiction concerning the construction of the kitchen, and that the Rensselaer County Health Department would be involved. Chairman Oster asked if the building had a sprinkler system. Ms. Currier confirmed that the building had a sprinkler system. Chairman Oster noted that the sprinkler system would need to be reviewed by the fire department having jurisdiction over the site. Mr. Golden stated that the site was in the Center Brunswick fire district. Mr. Bonesteel asked if the site plan showed the existing limits of the pavement on the site. Ms. Currier confirmed that it did. Mr. Bonesteel asked Ms. Currier if she would be using the existing paved area. Ms. Currier confirmed

that she would be using the existing paved area for parking and traffic circulation. Chairman Oster stated that the Planning Board would need to analyze the parking and circulation on the site. Member Stancliffe asked if the site plan needed to show the limits of the leased area on the site. Mr. Bonesteel stated that he would review that issue. The Planning Board and Ms. Currier then discussed the lease area and the entire parcel. Member Tarbox asked what was currently in the building. Ms. Currier stated that kitchen equipment and a few offices were currently in the building. Member Henderson asked if the application was for a daycare or a pre-school, since there would be classrooms inside the building. Ms. Currier stated that it would be a daycare, and explained the differences between a daycare and a pre-school, and why her business would be a daycare. Member Stancliffe asked if there would be dumpsters on-site for garbage collection. Ms. Currier confirmed that there would be a dumpster on-site. Member Stancliffe stated that the location of the dumpster must be added to the site plan. Ms. Currier stated that she would add the dumpster location to the site plan. Chairman Oster asked if there was existing lighting on the building. Ms. Currier confirmed that there was existing lighting on the building. Chairman Oster stated that the Full EAF and updated site plan must be reviewed by the Planning Board, as well as the additional information discussed at the current meeting, in order to determine if the application was complete for the purpose of holding a public hearing, which is necessary for special use permit applications. Chairman Oster asked if the Planning Board should have a copy of Ms. Currier's lease agreement. Ms. Currier stated that she had not signed a lease agreement yet, but had signed a letter of intent to lease the property. Attorney Gilchrist stated that the Planning Board should be given a copy of the letter of intent, with financial information redacted. Ms. Currier stated that she would provide a copy of the letter of intent to the Planning Board. This matter is placed on the May 18, 2023 agenda for further deliberation.

The fourth item of business on the agenda was a waiver of subdivision application submitted by Brianne Galipeau and Noah Cipperly for property located across from 428 Dater Hill Road. Brianne Galipeau and Noah Cipperly were present to review the application. Chairman Oster asked if sight distances and a proposed driveway location had been added to the site plan as Mr. Bonesteel had requested at the previous meeting on April 20. Ms. Galipeau confirmed that sight distances and the proposed driveway location had been added to the site plan. There were no questions or comments on the application from the Planning Board. Mr. Bonesteel stated that all of his comments had been addressed. Member Petersen 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 to be considered by the Planning Board. Attorney Gilchrist stated that two conditions for the Planning Board to consider were: that Rensselaer County Highway Department permit be obtained before constructing a driveway on the property, and that Rensselaer County Health Department approval be obtained for water and septic prior to the issuing of a building permit by the Town Building Department. Member Tarbox made a motion to approve the waiver of subdivision subject to the stated conditions, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the waiver of subdivision subject to the stated conditions.

The Planning Board discussed two items of new business.

The first item of new business was a site plan application submitted by Humble Country, LLC for property located at 740 Hoosick Road. Caryn Mlodzianowski, Assistant Project Manager at Bohler Engineering, and Paul Engster, the property owner, were present to review the application. Ms. Mlodzianowski stated that the applicant was proposing a cannabis dispensary in

a 4,000 square foot space in the Walmart Plaza, and that there would be no construction required as there would be no changes to water, sewer, the structure, or parking. Member Henderson asked which specific space in the Walmart Plaza the applicant would be taking. Ms. Mlodzianowski stated that it was listed in the application materials, which she reviewed. Mr. Engster stated that there is currently an existing 8,000 square foot space in the Walmart Plaza that he will be splitting into two 4,000 square foot spaces, and that the applicant will be located in one of the new spaces. Mr. Engster also stated that the tenant for the space would actually be the New York State Dormitory Authority and that the leasehold interest in the space would be assigned by the NYS Dormitory Authority to the applicant. 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 stated that the application was for a destination-type business and asked about traffic volume to and from the site. Mr. Engster stated that as a landlord, he must make sure that the site is properly maintained, and that one tenant's use is not interfering with any other tenants. Chairman Oster asked if there were any parking requirements for a cannabis dispensary. Attorney Gilchrist stated that the Walmart Plaza is currently approved with the required parking for retail, and as this proposed tenant will be selling a product at retail, there was no need for additional parking. Mr. Golden stated that parking is based on the square footage of a space, not the use, and since the square footage was not changing, there was no need for additional parking. Attorney Gilchrist reviewed the procedure for the project, including SEQRA review, site plan review, and a referral to Rensselaer County. Mr. Bonesteel noted that a traffic study had been submitted with the

application and that he would review it. Chairman Oster noted that once the application materials were deemed complete, the issue of whether a public hearing would need to be held must be considered. The Planning Board discussed this issue, and determined that a public hearing will be held on this application. This matter is placed on the May 18, 2023 agenda for further deliberation.

The second item of new business was a waiver of subdivision application submitted Matthew Guzzo for property located at 137 Town Office Road. Matthew Guzzo was present to review the application. Mr. Guzzo stated that he was proposing to subdivide approximately 10.7 acres from a 60-acre parcel and build a house on the new lot. Mr. Golden noted that the site map had not been stamped by the surveyor and needed to be. Member Stancliffe asked where the well and septic system were located on the existing 60-acre parcel. Mr. Guzzo stated that the well and septic were not near the proposed new lot line. Mr. Bonesteel stated that the location of the well and septic should still be shown on the site map. The Planning Board discussed the location of a potential driveway on the new lot, and stated that sight distances must be added to the site map. This matter is placed on the May 18, 2023 agenda for further deliberation.

The index for the May 4, 2023 regular meeting is as follows:

1. Gardner – special use permit (approved subject to condition).
2. Blue Sky Towers III, LLC – amendment to site plan and special use permit (approved).
3. Currier – site plan and special use permit (May 18, 2023).
4. Galipeau & Cipperly – waiver of subdivision (approved subject to conditions).
5. Humble Country, LLC – site plan (May 18, 2023).
6. Guzzo – waiver of subdivision (May 18, 2023).

The proposed agenda for the May 18, 2023 regular meeting is currently as follows:

1. Currier – site plan and special use permit.
2. Humble Country, LLC – site plan.
3. Guzzo – waiver of subdivision.

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

May 4, 2023

**RESOLUTION APPROVING ELIGIBLE FACILITIES REQUEST
UNDER SECTION 6409 OF THE FEDERAL SPECTRUM ACT
FOR BLUE SKY TOWERS III, LLC**

WHEREAS, the Town of Brunswick granted a special use permit, site plan approval, and a use variance for a major wireless telecommunications tower from Blue Sky Towers III, LLC and Cellco Partnership d/b/a Verizon Wireless at its meeting on March 18, 2021, to be located on two parcels off Creek Road in the Town of Brunswick; and

WHEREAS, construction of the major wireless telecommunications tower has been completed; and

WHEREAS, Blue Sky Towers III, LLC (hereinafter “Blue Sky”) submitted an application for an amendment to the site plan and special use permit dated February 28, 2023; and

WHEREAS, through such application, Blue Sky sought a 20-foot height extension of the major wireless telecommunications tower under Section 6409 of the Federal Spectrum Act; and

WHEREAS, Section 6409 of the Federal Spectrum Act mandates that an application to extend the height of an existing wireless communications tower must be approved, and cannot be denied, if it meets the qualifications as an eligible facilities request, and if such an application meets the qualification as an eligible facilities request such approval must be granted within 60 days of the submission of such an application; and

WHEREAS, Section 6409 of the Federal Spectrum Act includes the extension of height of an existing telecommunications tower of 20 feet or 10% of its existing height, whichever is greater, as an eligible facilities request requiring approval as a matter of federal law; and

WHEREAS, the application was first presented to the Town of Brunswick Planning Board (hereinafter “Planning Board”) at its March 2, 2023 meeting; and

WHEREAS, the Planning Board reviewed and considered the application at its March 2, 2023 meeting and placed it on the agenda for its next meeting on March 16, 2023 for further deliberation; and

WHEREAS, the Planning Board reviewed and considered the application at its March 16, 2023 meeting and determined that more information was necessary in order to determine if the application met the qualifications for an eligible facilities request; and

WHEREAS, the Planning Board discussed the issue of timeliness at its March 16, 2023 meeting, noting that there was a 60-day time limit from the date of submission to complete the review of the application and to approve the project in the event it qualified as an eligible facilities request; and

WHEREAS, a public hearing is required under the Brunswick Zoning Law for an amendment to a special use permit; and

WHEREAS, the Planning Board scheduled a special meeting for March 30, 2023 to further discuss the application and schedule a public hearing; and

WHEREAS, the Planning Board reviewed and considered the application at its March 30, 2023 special meeting; and

WHEREAS, the Planning Board determined that, based on the application materials and supplemental information submitted by Blue Sky, the application qualifies as an eligible facilities request under Section 6409 of the Federal Spectrum Act in that it requests an extension of 20 feet to an existing telecommunications tower under federal law, and the proposal does not defeat the tower's concealment elements as defined under federal law; and

WHEREAS, the Planning Board scheduled a public hearing on the application for April 20, 2023 at 7:00 PM; and

WHEREAS, public notice of the public hearing, to be held April 20, 2023, was duly published in the Eastwick Press, placed on the Town sign board, and posted on the Town website in compliance with the Brunswick Zoning Law; and

WHEREAS, public notice of the public hearing, to be held April 20, 2023, was duly mailed to the owners of all properties within 750 feet of the project site by Blue Sky; and

WHEREAS, the Planning Board held a public hearing on the application at the Planning Board's April 20, 2023 meeting; and

WHEREAS, Blue Sky was required to respond to all public comments received by the Planning Board at the public hearing in writing; and

WHEREAS, the Planning Board further considered the application at its April 20, 2023 meeting, noting that the next Planning Board meeting would be beyond the 60-day time limit from the date of submission to complete the review of the application and approve the project in compliance with federal law; and

WHEREAS, Blue Sky consented to extending the 60-day time limit from the date of submission to complete the review of the application and to act upon such application to the date of the next Planning Board meeting; and

WHEREAS, the Planning Board placed the application on the agenda for its next meeting on May 4, 2023 for further deliberation; and

WHEREAS, the Planning Board received a letter dated April 28, 2023 from Blue Sky responding to all public comments made at the public hearing on April 20, 2023; and

WHEREAS, the Planning Board reviewed and considered the application at its May 4, 2023 meeting; and

WHEREAS, the application is not subject to New York State Environmental Quality Review Act (hereinafter “SEQRA”) review, as federal law mandates a non-discretionary approval; and

WHEREAS, the Planning Board has fully reviewed the application record, and has duly deliberated on the application for an amendment to the previously-approved site plan and special use permit as described hereinabove; and

WHEREAS, with respect to the maintenance of the concealment element of the tower, the Planning Board requires that all elements of all antenna arrays must be concealed within the monopine branches, and Blue Sky is required to apply color, to the extent the same does not impair technical function, to the tower structural elements and antenna array within the extension area so as to camouflage such equipment within the monopine branches; and

WHEREAS, in this matter, the Planning Board is mandated under federal law to approve the application for an amendment to the previously-approved site plan and special use permit;

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 approves the amendment to the previously-approved site plan and special use permit as mandated under Section 6409 of the Federal Spectrum Act.

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

| | | |
|--------------------------|---------------|--------|
| CHAIRMAN OSTER | VOTING | aye |
| MEMBER MAINELLO | VOTING | absent |
| MEMBER KRIEGER | VOTING | aye |
| MEMBER PETERSEN | VOTING | aye |
| MEMBER HENDERSON | VOTING | aye |
| MEMBER TARBOX | VOTING | aye |
| MEMBER STANCLIFFE | VOTING | aye |

The foregoing Resolution was thereupon declared duly adopted.

May 4, 2023