

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD OCTOBER 7, 2021

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

ABSENT were KEVIN MAINELLO and ANDREW PETERSEN.

ALSO PRESENT were CHARLES GOLDEN, Brunswick Building Department and WAYNE BONESTEEL, P.E.

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 the Matopato, LLC site plan and minor subdivision application. Attorney Gilchrist read the notice of public hearing into the record, with the notice of public hearing having been published in the Troy Record, placed on the Town signboard, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. The notice of public hearing was also mailed to the City of Troy Clerk and Planning Department as the project site is within 500 feet of the boundary between the Town of Brunswick and the City of Troy. Thomas Murley was present to review the application. Mr. Murley made a brief presentation on the project, stating that the application is to park school buses at Diamond Rock Plaza, a 9500 square foot retail plaza building that was approved 4-5 years ago, with a gas station and car wash among the approved uses in the plaza. Mr. Murley stated that the current proposal is to use Diamond Rock Plaza as a school bus parking and transportation facility

in place of the car wash, which was never built. Mr. Murley stated that the bus company which contacted him is currently contracted with the Lansingburgh School District, that they are currently using a facility near Albany International Airport for bus parking, and that they contacted him about using the Diamond Rock Plaza site for parking buses. Mr. Murley stated that absolutely no repair would be done on the site. Mr. Murley described the layout of the project site and the surrounding/adjacent parcels which he also owns. Mr. Murley noted that Oakwood Avenue is a County Highway. Mr. Murley described the drainage plan for the project site and the existing lighting on the building, adding that no additional lighting would be added for the parking. Mr. Murley stated that the bus hours in the morning would 6:00-8:00, that 95% of the buses would be turning right onto Oakwood Avenue, and that there are traffic gaps from the traffic light at Northern Drive that will help the few buses that turn left off the site. Mr. Murley stated that the bus company will lease one of the retail spaces in Diamond Rock Plaza as well to use as an office. Mr. Murley stated that in addition to a driver, each bus will have a monitor as well, and that all bus monitors will park elsewhere and be shuttled to the project site. Mr. Murley stated that some of the bus drivers will be shuttled to the site as well, while others drive their cars to the site every morning and park in the spots the buses will be parked each night. Mr. Murley stated that the buses are expected to end their afternoon run and return to the site around 3:30, but that due to the limited number of drivers, which could decrease the number of buses used, but extend the length of bus routes, buses may return to the site as late as 4:30-5:00. Mr. Murley stated that 23 large buses and 21 small buses are currently proposed, but reiterated that due to a shortage in the number of bus drivers and monitors, there could ultimately be fewer buses. Chairman Oster then opened the floor for the receipt of public comment. Bill Dowd, of 7 Highland Circle, stated that he was is the former President of the Highpointe Association, which includes property within the Town of Brunswick

and City of Troy, and is located within the Lansingburgh School District. Mr. Dowd stated that when he moved to the area in 1995, the project site was a heavily wooded area, but that it has since been cut and graded over the years and now has Diamond Rock Plaza in its place, which sits empty and is unsightly and degrades the land it sits on. Mr. Dowd stated that the project will have significant environmental impacts, including increasing traffic on Oakwood Avenue, ground pollution from any leaks or spills from the buses, noise pollution during the early morning and late afternoon hours, and air pollution from exhaust, which would be very harmful to humans. Mr. Dowd stated that the Planning Board approving the project would not support the public good, and would severely impact the quiet enjoyment of neighboring private homes. Steven Sanders, of 18 Highland Drive, stated that he is the President of the Highpointe HOA. Mr. Sanders stated that there have been numerous changes to Oakwood Avenue over the last 30 years, and that it initially was mostly light industrial, with a cemetery and limited residential properties; but now there are multiple large residential developments, including Highpointe, Terrace at Highpointe, Moneta, and Stoneledge, resulting in thousands of residents and hundreds of cars. Mr. Sanders stated that despite the exponential growth in residential properties and traffic, Oakwood Avenue is still a narrow two-lane highway with a 45 MPH speed limit. Mr. Sanders stated that adding 44 school buses will further add traffic congestion, air pollution, and noise to the densely-populated area, all of which would impair the quality of life. Mr. Sanders stated that a school bus parking lot would not fit into the character of the area and that the project should be denied. Ms. Sanders stated that the Oakwood Avenue residential communities in the City of Troy deserve consideration from the Planning Board, the submitted letters from State Assemblyman Jake Ashby and Councilman Jim Gulley to the Planning Board. Fred Fowler, of 9 Highpointe Circle, a former Town of Brunswick resident and former Town Attorney, inquired about the proposed subdivision. Mr. Golden stated

that he had determined parking school buses to be a primary use of the parcel, meaning that the current parcel would have two primary uses, which is prohibited in the Town of Brunswick, and made the subdivision necessary and allowing for separate primary uses on each proposed lot. Mr. Fowler noted that the number of parking spaces being proposed must all be limited to the single subdivided lot and cannot be added to the remaining Diamond Rock Plaza lot, and that having 33 school bus parking spaces on a single lot does not seem possible. Mr. Murley stated that the bus company had looked at the site and said it would be acceptable. Mr. Fowler asked if there were bathroom facilities on the site and if bus drivers and monitors would be using them. Mr. Fowler asked how long the contract with the bus company would be. Mr. Murley stated that it would be just for the current school year. Mr. Fowler asked if the subdivision was being done just to park school buses for six months and Mr. Murley confirmed it was. Mr. Fowler reminded the Planning Board that if the site plan were to be approved, that it would be an approval use indefinitely, not just for the one year Mr. Murley was proposing. Mr. Fowler stated that noise in the area is already bad and would be made worse by the project, and that air pollution and impacts to wetlands should be concerns as well. Mr. Fowler asked why a traffic study was not done, and that one should be done and submitted to the Planning Board. Mr. Fowler stated that there is no turn lane on Oakwood Avenue, which impacts traffic safety, and that the project would result in increased traffic going south all the way to a Stewart's Shop further down Oakwood Avenue, and would make traffic even worse. Mr. Fowler concluded by stating that the project is not plausible given the proposed size of the subdivided lot. Barry Green, of 114 Oneida Avenue, asked what fuel the buses would be using, as they would likely not be electric buses. Mr. Murley stated that the buses use diesel fuel. Mr. Green asked if any fuel would be stored on-site. Mr. Murley stated that no fuel would be stored on the site. John Patchione, of 19 Highland Court, a professional engineer with a focus on air

pollution, stated that the burning of diesel fuel produces very harmful particles, identified as PM 2.5 particles, especially when cold engines are first starting up. Mr. Patchione noted that there are many children and elderly residents at Highpointe, who will be more seriously affected by the air pollution produced by the school buses. Mr. Patchione stated that there will be significant counter-current traffic problems from the project being on such a small site, impacting local residents who drive on Oakwood Avenue frequently. Mr. Patchione stated that the project site must have adequate capacity for all vehicles that could be parked on the site, not just the number of vehicles the applicant thinks or hopes will park there. Mr. Patchione stated that since 44 school buses will be parked there, and some of the drivers will be parking their cars at the site while driving the buses, the applicant must plan for a situation where all bus drivers must park their cars on the site while the buses are still there, meaning that the applicant must plan for 88 vehicles to be parked on the site as a worst-case scenario. Mr. Patchione stated that based on the project's site plan, the site clearly cannot sustain 88 vehicles, and that since there must also be space for buses to back up and turn around, there is clearly not enough space for the manipulation and flow of traffic on the site either. Michael Barrett, of 14 Viewpoint Drive, stated that he lives next to the project site that he agreed with and endorsed all of Mr. Fowler's comments, and that he strongly opposes the project. Mr. Barrett also suggested the Planning Board take a poll of hands for those for or against the project among those present at the public hearing. Bill Bradley, of 398 Bald Mountain Road, stated that he is a taxpayer in the Town of Brunswick, and further stated that he appreciates communication between municipalities on projects when appropriate. Mr. Bradley stated that Oakwood Avenue is zoned industrial, which means that commercial projects, such as Mr. Murley's project, are allowable uses that are consistent with the Town of Brunswick's Comprehensive Plan. Mr. Bradley also stated that the traffic currently on Oakwood Avenue is not as extreme as previous

commentors have stated and that the project would not result in as significant an impact as has been suggested. Frank LaPosta, of 5 Stratton Circle, stated that he is a 27-year resident of Highpointe and President of the Association. Mr. LaPosta stated that he is opposed to the project as the area is not able to handle the increase in traffic, especially from school buses. Mr. LaPosta also stated that there is a greater potential for accidents on Oakwood Avenue, especially the enter/exit of Highpointe, due to the project. Chairman Oster stated that the Planning Board had heard numerous concerns of speakers, many concerning traffic along Oakwood Avenue, and asked if there were any different issues that the public wished to address. Janet Fowler, of 9 Highland Circle, asked how the project would affect groundwater on the site, as the site is covered in gravel, is not paved, and has no filtration system. Ms. Fowler also stated that she hopes a significant environmental study will be done on the site. Russ Denny, of 20 Viewpoint Drive, stated that he is a 3.5-year resident of Highpointe and that he chose to move to Highpointe due to it being a highly residential and rural area and that he'd like it to stay that way. Mr. Denny stated that while he lives in Troy, he spends a lot of time and money in Brunswick, as do many of his neighbors, so his opinion and comments on the project are valuable to the Planning Board. Chairman Oster asked Mr. Golden if any written comments had been received on the project, and Mr. Golden stated that one email had been received, which also expressed concern on the traffic impacts. Chairman Oster asked if there were any other questions or comments on the application. Chairman Oster stated that the application would be discussed at the Planning Board's regular meeting and was first on the agenda, and that the meeting would be open to the public, but that comments from the public are not heard at the Planning Board's regular meetings, unlike meetings of the Town Board, so any and all comments on the application must be made at the public hearing. There were no further public comments on the application. Member Henderson made a motion to close the public hearing,

which was seconded by Member Kreiger. The Planning Board voted unanimously to close the public hearing.

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

The draft minutes of the September 23, 2021 joint special meeting with the Zoning Board of Appeals were reviewed. Upon motion of Chairman Oster, seconded by Member Tarbox, the draft minutes of the September 23, 2021 joint special meeting with the Zoning Board of Appeals were unanimously approved without amendment.

The first item of business on the agenda was a site plan and minor subdivision application submitted by Matopato, LLC for property located at 291 Oakwood Avenue. Thomas Murley was present to review the application. Chairman Oster stated that the comments at the public hearing focused on traffic, noise, air pollution, and turning hazards in and out of the site. Chairman Oster agreed with a comment made during the public hearing that the number of school buses and number of bus drivers parking their cars at the site must be considered when determining the total number of spaces that will be on the site. Mr. Murley stated that he needed to confirm the total number of buses with the bus company. Chairman Oster asked Mr. Murley to explain how cars would park in the spots for buses. Mr. Murley stated that the school buses would not all return to the site at the same time and that drivers would initially park their cars off to the side, pull their bus out of its spot, then pull their car into the open parking spot. Mr. Murley also stated that National Grid has a location further down Oakwood Avenue, and that since National Grid trucks are about the same size as a school bus and National Grid trucks do not have a problem turning onto and off of Oakwood Avenue, it should not be a problem for school buses either. Chairman

Oster noted that based on the most recent site plan, and the fact that some of the parking spots will be built on a slope, some fill will need to be brought onto the site and asked how much there would be. Mr. Murley stated that he did not know and would need to calculate it. Member Stancliffe asked if a retaining wall would be needed on the site in connection with the fill. Mr. Murley stated that a retaining wall would not be necessary as the site is workable, and that he planned to build a guiderail around the heavily sloped areas. Member Stancliffe stated that there is inadequate topographical information on the site plan and that the Planning Board cannot know where specifically fill will be needed without that information. Member Henderson asked if fill would be needed to level the whole site. Mr. Murley stated that fill was not needed for the entire site, but that the entire area that would be used for parking spots would be graded. Chairman Oster asked if importing fill to the site was previously shown in the application or if was new information. Mr. Murley stated that it was new information as he only received the site topography information within the past week. Mr. Bonesteel asked if a circulating driveway around the site was still planned and if fill would be needed at a 25-foot depth as stated on the plans. Mr. Murley stated that the depth of the fill would need to be calculated. Mr. Bonesteel stated that he needed the proposed final contours and the site's drainage and stormwater plans. Mr. Bonesteel stated that he discussed the site with Francis Bossolini, P.E., Mr. Murley's engineering consultant on the project, about the drainage and stormwater plans, but that he needs additional information. Mr. Bonesteel asked how much crusher run would be used. Mr. Murley stated that he had not yet calculated that amount either, but that he would likely need about 6 inches worth of crusher run. Mr. Bonesteel stated that the overall site is 1.89 acres and that Lot 1B, which is where the school buses will be parked, is planned to be 1.19 acres, and since the project will be disturbing more than 1 acre, the limits of disturbance must be delineated. Mr. Bonesteel asked if the parking layout shown in the

plans was final or if it could be changed later on. Mr. Murley stated that he needed to check with the bus company, but it was possible that the parking layout could change. The Planning Board discussed fill and drainage on the site. Chairman Oster stated that given the amount of fill that is needed based on the most recent plans, the number of parking spots is not feasible and the parking layout must be reconfigured or the number of parking spots must be reduced, which would affect how many buses the site would be able to allow. Mr. Murley stated that he would need to discuss with the bus company the exact number of buses that are being proposed for the site. Chairman Oster stated that based on the layout and amount of fill needed, the site may not work for the proposed use. Mr. Bonesteel asked if there was enough space on the site for a bus to turn around, and that he needed the final plan and proposed circulation and turning radius. Chairman Oster stated that Mr. Murley needed to address and respond to each public comment and needed to provide the Planning Board with the final site layout, including total number of parking spots, circulation, amount of fill needed, and amount of grading to be done. Chairman Oster asked if the bus company had looked at other sites for parking. Mr. Murley stated that they had, but none worked as well as his site. Chairman Oster asked if Mr. Murley could use other parts of his property for parking the buses. Mr. Murley stated that no other part of his property works as well for parking the buses and that the bus company identified the current location as their preferred place to park buses. Chairman Oster asked Mr. Murley to respond to concerns about groundwater on the site. Mr. Murley stated that the site is mostly solid rock, so there should be no major issues with groundwater. Chairman Oster asked if residents to the north of the site used public water. Mr. Murley confirmed that they did, and that all the residential developments in the area, including Highpointe, Terrace at Highpointe, Moneta, and Stoneledge, also used public water, and that his site does as well. Member Henderson asked how much fill was on the site already, including during

the construction of the Diamond Rock Plaza. Mr. Murley said there was not much fill on-site currently. Chairman Oster asked Mr. Murley if he still planned to rent out one retail space to the bus company as well. Mr. Murley stated that it had been discussed with the bus company, but not yet finalized. Chairman Oster asked what the schedules for the drivers would be. Mr. Murley stated that it would vary. Chairman Oster noted that there are actually two traffic issues based on a normal school bus schedule, leaving and arriving back at the site in both the morning and afternoon, which the Planning Board must take into consideration. Mr. Murley stated that he would get the requested additional information from the bus company as soon as possible. This matter is tentatively placed on the agenda for the October 21 meeting for further deliberation.

The second item of business on the agenda was a waiver of subdivision application submitted by Jeffrey Geene for property located at 19 South Road. Mr. Geene was present to review the application. Mr. Geene stated that he had obtained a letter from his adjacent neighbor saying he consented to the lot line adjustment being proposed, which he had submitted to the Planning Board. The Planning Board and Mr. Bonesteel had no questions on the application. Member Henderson made a motion for a negative declaration on the project, which was seconded by Member Stancliffe. The Planning Board voted unanimously to adopt a negative declaration on the project under SEQRA. Member Kreiger made a motion to approve the waiver of subdivision, which was seconded by Member Stancliffe, with the condition that the map as filed in the Rensselaer County Clerk's Office must be provided to the Brunswick Building Department for its records. The Planning Board voted unanimously to approve the waiver of subdivision subject to the stated condition.

The third item of business on the agenda was a special use permit application submitted by Zachary Froio for property located at 502 Pinewoods Avenue. Mr. Froio was present to review the

application. Mr. Froio stated that he is a graduate of Clarkson University who is currently a construction estimator and that he has lived in the area for about 7 years. Mr. Froio stated that he has always wanted to own his own business and seeks the special use permit to operate a Federal Firearms License (FFL) business to purchase and sell firearms at his home at 502 Pinewoods Avenue. Mr. Froio explained that the business would be 100% online or over the phone; specifically, Mr. Froio would place orders with a firearm manufacturer, the firearms would be sent to Mr. Froio's home, and Mr. Froio would ship the firearms to the customer. Mr. Froio stated that if the Planning Board approves the special use permit, he would still need to apply to both New York State and the Bureau of Alcohol, Tobacco, and Firearms (ATF) to legally operate an FFL business, which would include a lengthy in-person interview with ATF. Mr. Froio also stated that no customers will be coming to his home for any reason, and that there will be no signage in front of his home to advertise his FFL business. Chairman Oster asked what inventory Mr. Froio would be keeping on-site. Mr. Froio stated that except for the brief periods when he received firearms from the manufacturer and shipped them out to the customer, he would have no inventory on-site at all, and that he would have no displays for the firearms either. Mr. Froio reiterated that he would only be placing orders for firearms, that customers would not be coming to his home under any circumstances, that there would be no signage for the business in front of his home, and that he also has no parking for customers at his home and does not plan to add any parking either. Chairman Oster asked what security was on-site for the firearms that would be delivered to the property. Mr. Froio stated that he already has multiple safes for inventory on-site and that he is planning to purchase another safe if the FFL business is approved. Chairman Oster stated that he was uncomfortable having a significant number of firearms stored in a single residence. Mr. Froio stated that he would be shipping out firearms to customers shortly after he received them from the

manufacturer, meaning that there would not be any significant amount of inventory at any one time on the property. Chairman Oster stated that a public hearing is required for all special use permits and Mr. Froio stated that he was aware. Member Stancliffe asked if there is a maximum number of firearms allowed on-site under an FFL license. Mr. Froio stated that there is not a set number, but that the Planning Board can set a limit and ATF would be informed of that number and abide by it. Mr. Froio also stated that the Planning Board can set other conditions on the special use permit, such as no signs or on-site customers, and ATF would abide by those as well. Member Henderson asked if there was a minimum number of firearms that must be sold under an FFL license. Mr. Froio stated that he doesn't know the exact number or amount, but he confirmed that he must sell enough firearms to be profitable, which ATF would regularly check. Chairman Oster asked Mr. Froio how he planned to advertise his business since he would have no signs on-site. Mr. Froio stated that he would advertise through family members, signs and flyers at local rifle/pistol ranges, online, and through social media. A public hearing on this application is scheduled for November 4, 2021 at 7:00pm.

The fourth item of business on the agenda was an amendment to the previously approved site plan submitted by TNKY, Troy LLC for a Harbor Freight Tools facility on property located at 841 Hoosick Road. Joseph Dannible, R.L.A., from Environmental Design Partnership, LLP was present to review the project. Mr. Dannible stated that since the site plan was approved at the Planning Board's August 19 meeting, there have been issues raised by NYS DEC while applying for a wetlands permit, and that DEC requested modifications be made to the site plan, specifically to the parking area that will extend onto the wetlands buffer area. Mr. Dannible stated that the updated plan is to use a permeable paver system for 2,700 square feet of the parking area going over the wetland buffer, and that there will be no other change to the site. Mr. Dannible also stated

that a referral to Rensselaer County had already been completed. Chairman Oster asked if the permeable paver material was suggested by DEC or by Bill Bradley of the Town of Brunswick Water and Sewer Department. Mr. Dannible stated that Mr. Bradley initially suggested it and discussed its use with DEC. Chairman Oster stated that the Planning Board should know whether DEC will approve the use of the permeable paver material, or whether DEC will deny its use and request that another different type of material be used, before the Planning Board votes on its use in the site plan modification. Mr. Bradley stated that he has not had any direct contact with DEC regarding the use of the permeable paver material, but stated that he is familiar with it and believes it could be used as a demonstration to DEC that it is an acceptable product for use in New York. Mr. Golden stated that he had contacted DEC and stated that DEC initially wanted none of the parking area in the wetlands buffer area, but that once the concept of using the proposed permeable paver material was suggested, DEC became supportive of its use. Member Stancliffe asked if the area where the permeable material would be used would be primarily for tractor trailer use. Mr. Golden confirmed tractor trailers would be primarily used there. Mr. Dannible stated that there would be manufacturer review for the specific application at this site. The Planning Board discussed with Mr. Dannible the specifications and design of the permeable material, including what would be underneath the material. Chairman Oster asked if the material could be plowed during the winter months, and also asked about snow storage areas. Mr. Dannible confirmed that plowing the permeable material will occur, and that DEC was aware that snow could be stored on the material. Mr. Dannible also confirmed that salt would not be used to melt snow on the site for environmental reasons. Chairman Oster asked what the impact to the project site would be if the parking area was removed from the wetlands buffer area. Mr. Dannible stated that the site would lose parking spots, which would require the reconfiguration of the parking area. Chairman Oster

asked if any modifications needed to be made to the SEQRA determination due to the site plan amendment. Attorney Gilchrist stated that no SEQRA amendment was necessary unless the proposed modification raised an issue not previously considered during SEQRA review. Mr. Bonesteel stated that the proposed amendment does not raise any potential adverse environmental impacts that were not already reviewed, and that the minor modification being made is consistent with the prior SEQRA determination. Member Stancliffe noted that the new plans provided to the Planning Board do not include an edge condition next to the soil. Mr. Bonesteel stated that the applicant would need to amend a section of the new plans to be consistent with the manufacturer's specifications for the permeable paver material. Attorney Gilchrist asked Mr. Bradley if there should be any further conditions on the site plan given the use of the permeable paver material. Mr. Bradley stated that a maintenance detail should be added to the project's stormwater pollution prevention plan (SWPPP) and that the approval of the site plan amendment be contingent on DEC approval. Attorney Gilchrist drafted the following conditions:

1. A description of, and maintenance detail for, the permeable paver system must be added to the project SWPPP.
2. NYS DEC wetlands permit, approving the use of the permeable paver system.
3. Amend plan set to be consistent with permeable paver specifications.
4. Add edge detail to plan set.
5. Repeat and re-apply all conditions imposed on site plan approval granted August 19, 2021.

The Planning Board, Mr. Bradley, and applicant concurred with the conditions. Member Stancliffe made a motion to approve the site plan amendment subject to the stated conditions, which was

seconded by Member Tarbox. The motion was unanimously approved and the site plan amendment was approved subject to the stated conditions.

Two items of new business were discussed.

The first item of new business was a special use permit submitted by Michael Dzembo for property located at 130 Dater Hill Road. Mr. Golden reviewed the application for the Planning Board, stating that the applicant was looking to built a ground-mounted solar facility that would be stationary and non-tracking on a residential property for personal use. This matter is placed on the October 21, 2021 agenda for further deliberation.

The second item of new business was an amendment to a site plan submitted by David Leon for property located at 660 Hoosick Road. Mr. Golden reviewed the application for the Planning Board, stating that the stormwater design has been reconfigured and that the Ferdinand Avenue improvement has been eliminated. This matter is placed on the October 21, 2021 agenda for further deliberation.

The index for the October 7, 2021 regular meeting is as follows:

1. Matopato, LLC – site plan and minor subdivision (October 21, 2021).
2. Geene – waiver of subdivision (approved).
3. Froio – special use permit (November 4, 2021).
4. Harbor Freight Tools – site plan amendment (approved subject to conditions).
5. Dzembo – special use permit (October 21, 2021).
6. Leon – site plan amendment (October 21, 2021).

The proposed agenda for the October 21, 2021 regular meeting is currently as follows:

1. Barry – minor subdivision (public hearing to commence at 7:00pm).
2. Matopato, LLC – site plan and minor subdivision.
3. Dzembo – special use permit.
4. Leon – site plan amendment.

The proposed agenda for the November 4, 2021 regular meeting is currently as follows:

1. Froio – special use permit (public hearing to commence at 7:00pm).