

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD SEPTEMBER 3, 2020

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

ABSENT was 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, noting that the special use permit and site plan application submitted by Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless has been moved to the October 1, 2020 agenda at the request of the applicant.

The first item of business on the agenda was the special use permit and site plan application submitted by AC Property and Development LLC for property located at 4048 NYS Route 2, at the intersection of Route 2 and Route 278. The applicant seeks approval to develop a 10.7-acre parcel into a mixed used development consisting of two buildings for use as retail and apartments. The applicant was not present. Mr. Golden confirmed that the Eagle Mills Fire Department has provided comments concerning the application. This matter will be placed on the September 17 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application submitted by Lynn and Richard Patton for property located at 529 Pinewoods Avenue. Chairman Oster noted for the record that he had visited the site with Mr. Bonesteel to review the site,

including any areas of potential wetlands, the location of the stream in relation to the proposed property line, as well as the location of the existing septic system for the existing home at this site. Mr. Bonesteel stated that he had looked at the topography of the proposed building lot, noting that the stream was located toward the rear of the lot and would not impact buildability; that he had discussed with the owner of the property the location of the proposed lot line and proposed house location on the new building lot; that the homeowner had identified the location of the septic system, which will not pose any setback or separation distance issues for the new proposed building lots; that he had reviewed with the property owner the required separation distances between the existing septic system and any new septic system on the new building lot; that he had checked the NYSDEC wetlands maps, noting that there are not DEC regulated wetlands on the site; that while the stream on the property is classified by NYSDEC, it is a class C stream and will not impact the buildability of the lot; that there will be no sight distance limitations for a driveway from the new proposed building lot onto Pinewoods Avenue; and that he sees no other issues regarding the waiver application. Chairman Oster confirmed that both he and Mr. Bonesteel had discussed the location of the existing septic tank and leach field at the existing home on the property, with the septic tank being located between the house and existing garage and the leach field being located behind the garage, and that this does not pose any issue regarding the proposed new lot line. Chairman Oster also stated that he told the owner it was not necessary to attend the meeting, as the applicant had previously discussed the application with the Planning Board members and that both he and Mr. Bonesteel had completed the site visit. Chairman Oster inquired with the members as to whether they wanted the location of the existing septic system put on the waiver map. The members determined that adding the location of the existing septic system to the waiver map was not necessary in this case. Thereupon, Member Mainello made a motion to adopt

a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a SEQRA negative declaration adopted. Member Henderson then made a motion to approve the waiver of subdivision application, subject to the condition that Rensselaer County Health Department approval be obtained prior to issuance of any building permit for the new building lot. Member Mainello seconded the motion subject to the stated conditions. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the minor subdivision application submitted by Sean Gallivan for property located on Deepkill Road. Member Stancliffe recused herself from consideration of this application. No one was present on behalf of the applicant. It was confirmed on the record that the applicant had submitted to the Town a writing confirming his agreement to extend the time for the Planning Board to make a determination on the subdivision application, pending submittal by the applicant of final engineering plans. Given the applicant's letter extending the time to decide the minor subdivision application, the Planning Board members determined to adjourn this matter without date pending the submittal of final engineering plans by the applicant. Member Tarbox did raise a question concerning whether there was adequate room on one of the proposed new lots to construct a driveway along the existing stream and proposed lot line, given the length of the driveway and the requirement for private road standards of a 16-foot wide driveway with required shoulders. Mr. Bonesteel stated that he would further look into that matter, but upon review of the subdivision map at the meeting, stated that it was likely that there was adequate width in this location to construct a driveway in compliance with Town requirements. That issue will be confirmed prior to any final determination on the minor subdivision application.

The Planning Board did confirm that the Blue Sky Towers III, LLC application will be placed on the October 1 agenda. Member Mainello did note that he had further viewed the cell tower designed as a pine tree located in Clifton Park, and did confirm that the panels are located outside the pine branches at that location, and questioned whether the Brunswick Planning Board could require that the panels be concealed behind the branches. Attorney Gilchrist stated that it was his recollection on the record that Attorney Brennan had confirmed that the panels would be located within the pine branches and that the application record will provide the specifications and confirmation that the panels will be located within the pine branches to mitigate visual impact, and that the Planning Board can confirm the specifications and visual simulation on the record and require compliance as part of any action on the application.

There was one item of new business.

An application has been made by Borrego Solar to renew the special use permit and site plan application granted by the Planning Board for the commercial solar facility located on Dusenberry Lane. Greg Gibbons, P.E. was present on behalf of Borrego Solar. Member Stancliffe recused herself from consideration of this matter. Mr. Gibbons confirmed that the Planning Board had granted special use permit and site plan approval for this commercial solar facility, but that Borrego Solar was not in the process of finalizing the stormwater management agreement with the Town of Brunswick as well as the sale and assignment of the approvals to an independent power producer (AES) for the construction of the facility; that the Brunswick Zoning Law does state that the special use permit and site plan approval will expire if a building permit is not issued to start the construction within one year of the date of the approval; that the special use permit and site plan approvals will currently expire on October 17, 2020; that Borrego Solar anticipates having the stormwater management agreement details resolved and sale and assignment of the project to

the independent power producer completed in the short-term, but did request an extension on these approvals for a six-month period in order to complete all of the agreement details and sale and assignment and have an application for a building permit made to the Town in a timely manner. Attorney Gilchrist confirmed that the Brunswick Zoning Law does provide that the special use permit and site plan approval will expire if the applicant fails to obtain the necessary building permit for the approved use within twelve months of the approval if such time limit expires without renewal. Chairman Oster wanted to confirm on the record that no changes have been made to the site plan or the commercial solar project described in the special use permit following the project approvals. Mr. Gibbons stated that there have only been very minor changes to the stormwater plan per the comments of the Town stormwater officer, Bill Bradley, but that the project otherwise has not changed at all. Attorney Gilchrist confirmed on the record that he was involved in the discussions concerning the project stormwater management agreement and has been working toward finalizing that agreement with the Town stormwater officer, Borrego Solar, and AES, the independent power producer which is moving toward acquisition of the project. Member Tarbox stated that the renewal should be for the full twelve month period so as to avoid any need for the project owner to return to the Planning Board in the event there was any further delay. Member Tarbox made a formal motion to renew the site plan and special use permit approvals for the Borrego Solar project located on Dusenberry Lane for an additional twelve-month period, which motion was seconded by Member Kreiger. The motion was unanimously approved, and a twelve-month extension on the site plan and special use permit approvals for this project was granted.

The Planning Board generally discussed public hearing procedures in light of the current Covid-19 restrictions, both in terms of number of available seats at the meeting room in Brunswick Town Hall and also the possibility of utilizing alternate venues for any public hearings which may

attract a large number of the public. It was determined that approximately 33 seats would be available for the general public, including representatives of the applicant, in addition to the seats available for the Planning Board members, Mr. Golden, Mr. Bonesteel, and Attorney Gilchrist, and still maintain required social distancing. It was noted that the public hearing for the Brunswick Acres PDD major subdivision has been noticed for September 17 to be held at the Brunswick Town Hall.

The index for the September 3, 2020 meeting is as follows:

1. AC Property and Development LLC - Special use permit and site plan - September 17, 2020;
2. Patton - Waiver of subdivision - Approved with condition;
3. Gallivan - Minor subdivision - Adjourned without date;
4. Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless - Special use permit and site plan - October 1, 2020;
5. Borrego Solar, Inc. - Extension of site plan and special use permit approval - Granted for an additional term of twelve months.

The proposed agenda for the meeting to be held September 17, 2020 currently is as follows:

1. Brunswick Acres Planned Development District - Major subdivision - Public hearing to commence at 7:00pm;
2. AC Property and Development LLC - Special use permit and site plan;
3. Leon - Site plan.