

Planning Board

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

MINUTES OF THE PLANNING BOARD MEETING HELD JANUARY 7, 2021

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

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 website.

The Planning Board opened a public hearing on the Suncommon/Laughing Earth Farm solar array. The notice of public hearing was read into the record, with the public hearing notice having been published in the Troy Record, placed on the Town sign board, posted on the Town website, and mailed to owners of all properties located within 300 feet of the project site. Sam Wilo was present for the applicant. Mr. Wilo made a brief presentation concerning the project, stating the solar array will consist of 58 panels, be 9 feet tall and approximately 100 feet wide, is a 22-kilowatt power project, will have a limited footprint, and will be a private use array, providing power only for on-site use. There were no public comments made. Member Stancliffe made a motion to close the public hearing, which was seconded by Member Henderson. The Planning Board voted unanimously to close the public hearing.

Chairman Oster noted that the minutes from the December 29, 2021 Planning Board meeting are not complete, but are being prepared. Chairman Oster noted that at the January 4, 2021 Town Board meeting, Member Henderson was appointed to another seven-year term as a member of the Planning Board; Attorney Gilchrist also noted that the Town Board appointed Chairman Oster as Chair of the Planning Board for 2021.

The first item of business on the agenda was a special use permit application submitted by Suncommon/Laughing Earth Farm for property located at 3842 NYS Route 2. The owners of the property are Zachary and Ann Metzger. The property size is approximately 175.36 acres, and the owner is proposing the installation of a 24.18-kilowatt ground-mounted fixed-tilt solar array. The solar array will be located in a field and be used for on-farm energy use. Sam Wilo was present to review the project. Chairman Oster noted that a public hearing on this application was at the beginning of this meeting. Member Henderson asked how many panels will be on the solar array. Mr. Wilo said that there would 58 panels. Chairman Oster asked if there were any additional requirements for a solar array built in an agricultural district rather than a residential district. Mr. Gilchrist said there are not and Mr. Bonesteel concurred. Mr. Gilchrist noted that the application will aiding an agricultural use and that the New York State Department of Agriculture and Market maintains the general policy that a Board cannot unreasonably restrict agricultural uses. There were no further questions or deliberation. Member Henderson made a motion for a negative declaration on the project, which was seconded by Member Tarbox. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was adopted. Chairman Oster asked if there was anything in the application that would warrant conditions being placed on the project. Mr. Bonesteel stated that since there were no topographical or visual issues, no conditions on the project were warranted. Member Mainello made a motion to approve the special

use permit, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the motion and the special use permit was approved.

The second item of business on the agenda was a waiver of subdivision application submitted by Frank Tybush IV for property located at 40 Tybush Lane. The owner of the property is the Estate of Frank L. Tybush III. This proposed project size is approximately 6.42 acres, and is proposing to combine two parcels into one and combine a third parcel with a neighboring parcel owned by the applicant, all by lot line adjustment. The property currently consists of a road (Tybush Lane), house, garage (barn), and house lot and this application is to combine the house and road, and the garage (barn) and house lot in order to settle the estate. Brian Holbritter was in attendance to present the project. Member Tarbox recused himself due to being an adjacent landowner. This matter had been reviewed at the last Planning Board meeting, with the only remaining issue being whether the waiver would result in a lot with an accessory structure closer to the front lot line than the primary structure. Mr. Golden stated that he had examined the property earlier that day and determined that the accessory structure is not in front of the primary structure, but rather behind it. He noted that it is an odd-shaped lot, but that the Town does maintain the entire loop of Tybush Lane, resulting in a front lot line location near the front of the house, with the accessory structure located to the rear of the house. Mr. Holbritter stated that since the Planning Board's December 29, 2021 meeting, Member Tarbox had provided the applicant with additional title information. Mr. Holbritter reviewed the previous title and mapping, as well as the new layout updated due to the new information. Mr. Holbritter stated that the Tarbox Farm parcel is slightly larger than initially believed, extending slightly onto Tybush Lane, resulting in the Tybush lot being 0.05 acres smaller, but also stated that this change does not affect any access roads to the property. Chairman Oster asked if there would any procedural problems with the application due

to using the updated map. Mr. Gilchrist said there would not be. Member Kreiger made a motion for a negative declaration on the project, which was seconded by Member Henderson. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was adopted. Chairman Oster noted that there was no need for any conditions attached to the project should it be approved. Member Mainello made a motion to approve the waiver of subdivision, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the motion and the waiver of subdivision was approved.

Member Tarbox returned to the meeting.

The third item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located on Deepkill Road. The owner of the property is Sean Gallivan. The proposed project size is approximately 18.94 acres, and proposing a subdivision that would result in three new lots on the property and lot line adjustments to two existing lots. Brian Holbritten was present to review the application. Mr. Holbritten stated that there was nothing new to report on the project since it was last reviewed at the December 29, 2021 meeting. Mr. Holbritten stated that North Country Ecological Services, serving as environmental consultant on the project, has contacted NYS DEC about the pending wetlands application, but DEC is still reviewing it. This matter is placed on the January 21 agenda for further discussion.

The fourth item of business on the agenda was a waiver of subdivision application submitted by Michael Blair, Jr. for property located at 390 Moonlawn Road. The owner of the property is Michael Blair, Jr. The project consists of a 4.27-acre parcel bordered by a paper street, Crestin Lane. The applicant seeks to transfer 1.12 acres of land to the Kaisers, who own the property north of the Blair property, and merge that 1.12 acres into the Kaiser lot. Mark Danskin was present to review the project. Mr. Danskin stated that the Planning Board had questions about

the rights to Crestin Lane, the paper street and that he had done further research on the subject. Mr. Danskin gave Mr. Golden copies of a 1932 map of Moonlawn Road he had found, as well as a copy of a deed to the property signed and filed in 1963. Mr. Golden handed copies of these two documents to the Planning Board members. Mr. Gilchrist and Mr. Bonesteel reviewed the documents and discussed general issues with paper streets and options on how to proceed. Mr. Gilchrist requested a copy of an additional deed, and Mr. Danskin said he would provide it. This matter is placed on the January 21 agenda for further discussion.

The fifth item of business on the agenda was a special use permit and site plan application submitted by Blue Sky Towers III/Cellco Verizon Partnership d/b/a Verizon Wireless for property located on Creek Road. The proposed project is for the construction of a wireless communications facility. Ronald Laberge, P.E., the Town designated engineer, was present to review the project. Mr. Laberge stated that at the December 3, 2021 Planning Board meeting, he had reviewed parts 2 and 3 of the project's Environmental Assessment Form and that a few changes had subsequently been made to the form concerning archeological resources, limiting the time of day and hours generator tests would occur, and impact on human health, based on comments from Planning Board members at that meeting. Chairman Oster stated he had a few questions concerning the "human health" section of the EAF and asked if the generator would be diesel-powered and how much power it would require. Mr. Laberge stated that he wasn't sure how much power would be required, but that he was certain it would be below the threshold for any significant impact. Mr. Laberge said that the generator would have a small to no impact. Member Tarbox asked what affect Sharon Zankel's cultural resource review letter would have on the application. Mr. Laberge stated that the letter is more relevant to the project's federal review. Mr. Gilchrist stated that the Planning Board had previously named itself lead agency under SEQRA and has reviewed all

documents and information related to the application, including all application documents, the Full EAF, all supplemental information submitted by the applicant, review memoranda prepared by Ron Laberge, and the full record of proceedings. Member Tarbox made a motion for a negative declaration on the project as set forth in Parts 2 and 3 of the Full EAF reviewed by the Planning Board, which was seconded by Member Henderson. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was adopted. Mr. Gilchrist stated that now that a negative declaration has been adopted, the Zoning Board of Appeals can act on the variance applications concerning the project in front of them, and that the Planning Board can take no further action until the Zoning Board acts on their applications. This matter is adjourned without date pending action by the Zoning Board.

The sixth item of business on the agenda was a major subdivision application submitted by Brunswick Road Development, LLC for property located along the north side of Brunswick Road just west of Heather Ridge Road. The proposed project includes 26 single-family home building lots and one stormwater management lot on an approximately 44.1-acre parcel. Catherine Serra, P.E., the new project manager from C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, was present to review the project. Ron Laberge, P.E., was also present, and serves as the Town's review engineer on this project. Ms. Serra first introduced herself, explained that she had taken over the project, and stated that this is the first time the project has been in front of the Planning Board since their October 15, 2020 meeting. Ms. Serra also stated that the project will result in 26 single-family lots, as well as a stormwater lot that will be deeded to the Town upon completion of the project. CT Male is currently reviewing the project's septic systems, as well as public water system and Water District extension. Stormwater management on the project site is currently being reviewed with Mr. Laberge and the Town's stormwater officer.

Ms. Serra briefly reviewed the site history and discussed the grading on the site. Ms. Serra said that during the PDD review of the project, it had been stated that the site will be balanced with cuts and fills. However, the final grading plan for the site will result in an excess of material totaling approximately 90,000 yards, which will need to be removed from the site. Ms. Serra described this as a “substantial change” to the site. Chairman Oster asked about the slopes on driveways on the project site. Ms. Serra stated that the driveways will have a 10% slope, which meets the Town of Brunswick and Fire Code requirements, and that she is working with the Building Department on this. Member Tarbox asked if there would be pump septic systems on the project site. Ms. Serra stated that there would be due to the grades on the site. Member Stancliffe asked to confirm that the stormwater lot would be deeded to the Town. Ms. Serra confirmed it would be. Member Mainello asked again how much material would be taken off the site. Ms. Serra said 90,000 yards of material would be removed. Member Mainello asked what direction the truckloads of material would be taken off-site. Ms. Serra said she did not know. Mr. Bonesteel asked how many truckloads would be required to remove the 90,000 yards of material. Ms. Serra stated that it would take 5,000 truckloads, which would be brought off-site over 36 months. Ms. Serra then discussed the grading sequencing, the impact on the subdivision road, SEQRA compliance issues, and construction inspection issues. Member Stancliffe asked if a DEC mining permit was necessary for this project. Ms. Serra said it was not. Member Henderson asked where the stream on the project site discharges. Ms. Serra stated that water on the site would move under NYS Route 2 and into the Poesten Kill stream. Member Henderson asked about infiltration galleries on the site. Ms. Serra stated that rain gardens would be built. Member Henderson asked if the project would affect the natural flow of water on the land. Ms. Serra said no, there would be no more water runoff than pre-construction conditions. Member Henderson asked if there were

any conditions placed on the construction of the road. Ms. Serra said there were not. Member Henderson still expressed concern with runoff from the site moving into the Poesten Kill, especially due to sandy soils on the project site. Ms. Serra stated that Laberge group would review the stormwater pollution prevention plan again to alleviate any concerns. Mr. Golden briefly discussed road width and drainage issues. Member Henderson asked if the applicant would monitor the Poesten Kill after construction. Ms. Serra said they were not planning to as they are not legally required to do so. Member Mainello asked if the applicant was anticipating encountering a lot of groundwater on the site. Ms. Serra said they were not. Member Mainello asked about the foundation and footing drains on the site. Ms. Serra stated that they will be a standard design meant for groundwater, and were not intended to address surface water. Chairman Oster asked if Planning Board members were allowed to visit the site. Ms. Serra said they were, as long as they emailed Jim Kehrer beforehand. Chairman Oster asked if the applicant had discovered any natural springs on the site during testing. Ms. Serra said they had not. Member Henderson discussed the 5-foot tall retaining walls at the back of each lot and asked if there would be any protection along the top of the walls. Ms. Serra stated that each lot would be designed by a licensed P.E. for each lot owner and that the plans only currently show general design. Member Henderson asked if a property owner made a change to the wall on their lot, if the Planning Board would be made aware of it. Ms. Serra stated that the Planning Board would not be notified as that work would be done through the Building Department, not the Planning Board. Chairman Oster asked when the final plans for the project would be ready. Ms. Serra stated that they would be ready next week. Chairman Oster asked if the applicant would monitor the impact of the project on the Poesten Kill. Mr. Laberge stepped forward and addressed the project's SWPPP and inspection requirements. Mr. Bonesteel also discussed stormwater issues for the project. Mr.

Gilchrist stated that there was a need for a further extension on the time for Planning Board action, and the applicant indicated that a 3-month extension for the Planning Board to make a decision would be provided. During this time, the Town Board will review the project's plans, after which the Planning Board can put the project back on its agenda. This project is adjourned without date.

The seventh item of business on the agenda was a site plan application submitted by David Leon for property located at 660 Hoosick Road. The proposed project is building two fast food restaurants with drive-thrus and a grocery store. Jamie Easton, P.E., was present to review the project. Mr. Easton began by reviewing the 99-page response letter submitted by the applicant to the Planning Board responding to public comments concerning the project. Mr. Easton stated that there were four classes of comments received by the applicant. The first class of comment didn't want the project at all. Mr. Easton pointed out that the project is compliant with the Town of Brunswick Zoning Law and had previously been approved by the Planning Board. The second class of comment brought up the 26-foot wide access road to the rear of the property. Mr. Easton stated that the 26-foot wide road, which needs Planning Board approval, is required regardless of what is built on the project site. The third class of comment took issue with drivers from Hoosick Street possibly using the new road to cut through the neighborhood, greatly increasing traffic. Mr. Easton stated that this makes no sense distance-wise and regardless, the road would be one-way. The fourth class of comment stated that the parking field design on the site would create a conflict with pedestrians if it crosses the travel lane. Mr. Easton stated that the parking field design is typical among larger facilities. Chairman Oster stated that the concern over drivers from Hoosick Street using the new road to cut through the neighborhood wasn't about using the road as a cut through to get back onto Hoosick Road and avoid traffic on it, but using the new road as a cut through to get to McChesney Avenue. Mr. Easton stated that it would still be longer to cut through the

neighborhood and drivers would have to go the wrong way on a one-way road, so this still doesn't make sense. Mr. Easton reviewed the procedure for SEQRA, and procedure at both the Planning Board and Zoning Board of Appeals. Mr. Golden stated that the increase in traffic in the existing Planet Fitness parking lot would be due to people being directed from Hillcrest and Cumberland Farms into that parking lot to get to the proposed traffic light, not just from customers. Mr. Easton addressed the amount of traffic through that parking lot, saying it was a low traffic engineering safety concern. Member Stancliffe asked about the road being 26 feet wide, specifically that neighboring streets like Woodward and Watson are very narrow, and that the connector on Ferdinand does not need to be 26 feet wide. Mr. Gilchrist stated that the Planning Board's concerns about the road are relevant, but that the Town Board will make the final decision on building on the paper street owned by the Town. Mr. Easton stated that the road can be 16 feet wide, not 26 feet, but there must be enough space for a full width right-of-way. Mr. Gilchrist stated that he, Mr. Bonesteel, and the Planning Board needed sufficient time to review all 99 pages of the response letter. Mr. Easton had no objection to that schedule. This matter is placed on the January 21 agenda for further discussion.

There was no new business to discuss.

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

1. Suncommon/Laughing Earth Farm – special use permit (approved).
2. Tybush – waiver of subdivision (approved).
3. Gallivan – minor subdivision (January 21, 2021).
4. Blair – waiver of subdivision (January 21, 2021).
5. Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless – special use permit and site plan (SEQRA Negative Declaration adopted, adjourned without date).

6. Brunswick Acres Planned Development District – major subdivision (adjourned without date).

7. Leon – site plan (January 21, 2021).

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

1. Gagnon – minor subdivision (public hearing to commence at 7:00pm).

2. Zugalla – special use permit (public hearing to commence at 7:15pm).

3. Gallivan – minor subdivision.

4. Blair – waiver of subdivision.

5. Leon – site plan.