

## **Zoning Board of Appeals**

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

### **MINUTES OF THE BRUNSWICK ZONING BOARD OF APPEALS REGULAR MEETING HELD JANUARY 24, 2022**

PRESENT were ANN CLEMENTE, CHAIRPERSON, E. JOHN SCHMIDT, PATRICIA CURRAN, and JOHN MAINELLO III.

ABSENT was ADRIAN MORIN.

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

The draft minutes of the December 20, 2021 regular meeting were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the December 20, 2021 regular meeting without correction, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the December 20, 2021 regular meeting were approved.

The first item of business on the agenda was a request for an extension of the approvals for two area variances granted to Tamarac Solar, LLC on May 17, 2021 for property located at 126 Brick Church Road. Gillian Black, Director of Project Development at Eden Renewables, was present to review the request. Attorney Gilchrist reviewed the history of the project, stating that the two area variances had been previously approved by the Zoning Board in 2021, that the applicant was requesting extensions on both area variances, and that the Planning Board extended the site plan and special use permits that they had previously approved at its November 18 meeting. Attorney Gilchrist also stated that while the Brunswick Zoning Code allows the Planning Board to grant extensions to site plan and special use permit approvals, the language in the Zoning Code for area variances brought before the Zoning Board require a “hearing” before an extension can be

granted. Mr. Black then briefly reviewed the request for the extension on the area variances, stating that it was due to supply chain and financing issues due to the Covid-19 pandemic. Chairperson Clemente reviewed the two area variances, stating that one area variance was to allow two light poles on the project site, and the second area variance was to allow for the solar panel structures to be within the 100-foot setback, which was requested due to the site's northern boundary being shared with another existing solar field. Chairperson Clemente also reiterated that the two area variances had been previously approved and that the request for an extension on the variances would not alter the variances in any way. The Notice of Public Hearing was read into the record by Attorney Gilchrist, noting that the Public Hearing Notice was published in the Eastwick Press, which was designated the new official Town newspaper for Brunswick by Resolution at the Town Board's December 30, 2021 meeting, as well as placed on the Town sign board, posted on the Town website, and mailed to the owners of all properties located within 300 feet of the project site. Chairperson Clemente opened the public hearing on the application. There were no public comments on the application. Chairperson Clemente 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. Chairperson Clemente asked the other Zoning Board members if there were any questions or comments on the application and there were none. Chairperson Clemente made a motion to close the public hearing, which was seconded by Member Curran. The motion was unanimously approved, and the public hearing was closed. The Zoning Board then deliberated on the extension of the area variances, noting again that the Planning Board had already granted extensions on the site plan and special use permit approvals for the project. Chairperson Clemente reviewed how the applicant was requesting an extension of an additional 12 months, extending the expiration of the area variance approvals from May 17, 2022 to May 17, 2023. Attorney Gilchrist advised that a

condition for the Zoning Board to consider be that all prior conditions on the approval of the two area variances remain applicable, noting that the Planning Board had extended the conditions on the site plan and special use permit approvals when it granted its extension. Chairperson Clemente made a motion to grant the extension on the two area variances subject to the stated condition, which was seconded by Member Curran. The motion was unanimously approved and the extension of the two area variances was granted subject to the stated condition.

The second item of business on the agenda was two use variance applications submitted by Atlas Renewables, LLC for properties on Shippey Lane and Brunswick Road. Lluís Torrent of Atlas Renewables was present to review the application. Chairperson Clemente stated that Laberge Group, technical consultant to the Zoning Board on the application, had submitted a letter dated January 20, 2022 reviewing the project to the Zoning Board. Mr. Torrent stated that the applicant had also received the letter and was currently preparing response comments, which would be submitted to the Zoning Board for its February meeting. Chairperson Clemente asked Ron Laberge, of Laberge Group, to review his response letter for the Zoning Board. Mr. Laberge gave a brief overview of the letter, which stated that: two use variances are being applied for; the applicant will also require an area variance for setbacks and the number of light poles on the site; the applicant will also require a special use permit and site plan approval from the Planning Board; there are wetlands on the site, and that while they will likely be avoided, they should still be shown on the site map; there are corrections needed on the Environmental Assessment Form (EAF); there are visual impact issues that will need to be assessed, specifically pertaining to elevation; review by the New York State Historical Preservation Office will be required; there are residences very close to the project site on Shippey Lane; Shippey Lane is very narrow and that the application should be reviewed by the Brunswick Fire Department regarding emergency vehicle access; the

Brunswick Fire Department should review the Brunswick Road project site as well. Mr. Laberge asked the Zoning Board if one SEQRA review should be done for the two use variance applications due to the proximity of the project sites. Attorney Gilchrist stated that he would review that issue. The Zoning Board then discussed use variances. Mr. Laberge then returned to one item in his review letter concerning the need for the solar facility, asking why the project needed to be at the specific sites on Shippey Lane and Brunswick Road; discussing the number of potential connections to the nearest electrical grid; stating that there must be a demonstration of the need provided; that the electrical power generated by the solar facility might not be sold locally; that all other solar facilities in Brunswick are zoned properly for solar; that there is additional substation availability according to National Grid; and that no detailed economic analysis was provided in the application. Mr. Laberge also asked if a solar facility could be considered a utility. Chairperson Clemente addressed the issue of whether or not there was a need for a solar facility at the two specific locations. Mr. Golden confirmed that all approved solar facilities, both built and approved but not yet built, were in locations compliant with the allowable uses listed in the Brunswick Zoning Code. Attorney Gilchrist then reviewed the approved and pending solar projects for zoning district compliance. Member Mainello asked about the need for the solar facility, noting that the review letter mentioned energy in a “queue” and asking for what that meant. Mr. Laberge stated that it meant that proposals to connect into the grid were in a queue. Member Mainello asked if that meant that it was like a “set aside” and Mr. Laberge confirmed that it was. Chairperson Clemente asked if the number of acres zoned for large-scale commercial solar facilities in Brunswick be calculated. Mr. Laberge stated that it could be calculated, both the gross number and the acreage that has already been developed. Chairperson Clemente then asked if it could then be determined which substations would be available for all areas zoned for commercial solar in

Brunswick. Mr. Laberge stated that it could be done, that it would depend on proximity, and that he could prepare a map of existing substations and available land zoned for large-scale commercial solar. Member Mainello asked what would happen if a substation couldn't handle the additional capacity. Mr. Laberge stated that it would impact the need issue. Chairperson Clemente asked if there was any type of maximum number or full capacity that the Town has to bear the burden for with commercial solar facilities, and what would happen if the Town were to reach that capacity. Mr. Laberge stated that there is no simple formula for calculating such a capacity, and that there is no limit stated in the Brunswick Zoning Code. Chairperson Clemente asked if the maximum capacity was dependent on the capacity of the substation and Mr. Laberge confirmed that it was. Member Curran noted that anyone with a National Grid account would be able to buy the electricity produced and that therefore, it is possible that no one in Brunswick would end up using the power produced by the solar facilities. Mr. Laberge confirmed that was correct and that because Brunswick residents not only wouldn't be prioritized, but might not end up getting any power from the solar facilities, that suggests that there isn't actually a need for the solar facilities at these specific locations. Mr. Laberge also stated that he was not aware of any current power need for any area within the Town of Brunswick. Chairperson Clemente asked how the applicant could prove that there was a need. Mr. Laberge stated that he did not know, and that further analysis of that legal standard will be required. Chairperson Clemente asked if the selling of electrical power to National Grid would count as a utility. Mr. Laberge stated that he was unsure and that he also unsure of whether the solar company or National Grid would be providing the utility in that scenario. Mr. Torrent thanked the Zoning Board and Mr. Laberge for their comments and stated that he would respond to the comments in writing.

The Zoning Board then noted that the date of the next Zoning Board regular meeting, February 21, 2022, was Presidents' Day, and unanimously concurred to move the meeting back one week to February 28, 2022 at 6:00pm.

The index for the January 24, 2022 regular meeting is as follows:

1. Tamarac Solar – extension of approvals for area variances (approved subject to condition).
2. Atlas Renewables, LLC – use variances (February 28, 2022).

The proposed agenda for the February 28, 2022 regular meeting is as follows:

1. Atlas Renewables, LLC – use variances.