

## **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 FEBRUARY 28, 2022**

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

ALSO PRESENT was CHARLES GOLDEN, Brunswick Building Department.

Chairperson Clemente reviewed the agenda for the meeting, as posted on the Town sign board and Town website. The draft minutes of the January 24, 2022 regular meeting were reviewed. Chairperson Clemente noted two corrections: on page 2, line 3 and on page 3, line 16, “light poles” should be changed to “utility poles.” Chairperson Clemente made a motion to approve the minutes of the January 24, 2022 regular meeting subject to the noted corrections, which motion was seconded by Member Curran. The motion was unanimously approved, and the minutes of the January 24, 2022 regular meeting were approved subject to the noted corrections.

Chairperson Clemente then introduced Daryl Lockrow, the newest member of the Zoning Board of Appeals, who had been named to the Board after the January 24, 2022 meeting to fill the vacant fifth seat on the Board.

The first item of business on the agenda was an area variance application submitted by Borrego Solar for property located at 308 Brick Church Road. This application was adjourned before the meeting at the request of the applicant, and is adjourned without date.

The second item of business on the agenda were two area variances submitted by Changing Visions of Energy (CVE North America, Inc.) for property located off Belair Lane. Jared Lusk, an

attorney at Nixon Peabody LLP, was present for the applicant. Mr. Lusk briefly reviewed the background of the project, stating that it had been initially submitted in May 2021. Mr. Lusk then reviewed the procedural background of the project and general location of the solar facility, stating that the application is for one project on three parcels. Mr. Lusk stated that two of the three parcels on which the project is proposed to be constructed were not zoned for solar facilities, meaning that a zoning amendment would be necessary for the project moved forward. Mr. Lusk stated that the applicant submitted a petition for a zoning change to the Town Board, who in turn asked the Planning Board for a recommendation. Mr. Lusk stated that the Planning Board deliberated and submitted a recommendation to the Town Board. Mr. Lusk then stated that at the Town Board's February 17, 2022 meeting, the Town Board reviewed and deliberated the zoning change petition, made a negative declaration under SEQRA on the project, and approved the petition. Mr. Lusk stated that the two area variances being sought are for the required 100-foot setback from lot lines, as the project is proposing zero feet of setback for the internal lot lines, and for utility poles, as poles will be required for the project's interconnection to National Grid's powerlines, and that the applicant is proposing six utility poles on the site. Mr. Lusk also clarified that the submission dated December 2021 addresses the area variance standards. Attorney Gilchrist then reviewed the procedural status of the application, stating that the Brunswick Zoning Law encourages coordination between Boards whenever possible, that area variances before the Zoning Board require a public hearing, that the Planning Board must hold a public hearing on the special use permit and will therefore also hold a public hearing on the site plan application pending before the Planning Board, and that he would advise that the Zoning Board and Planning Board schedule a joint public hearing on the applications in front of each Board once the Planning Board declares the applications before it complete. Chairperson Clemente stated that there have been several solar

projects in Brunswick, which have had between two and six utility poles on-site, and asked why six utility poles were being requested here. Mr. Lusk stated that the project engineer could provide an answer. Mr. Golden asked where the interconnection to National Grid would be located. Mr. Lusk stated that he was not sure specifically, but that it was shown in the site plans and that the project engineer could provide a more specific answer. Mr. Lusk then reviewed the project materials submitted in May 2021 and December 2021. Chairperson Clemente stated that the Zoning Board did not have copies of the submissions. Mr. Lusk stated that he would resend hard copies of all the submissions. Mr. Golden clarified that six copies each would be needed. Attorney Gilchrist stated that the Planning Board can make a decision on the completeness of the application at one of their two March meetings, then the Zoning Board can set a date for the public hearing at its March meeting. This matter is placed on the March 21, 2022 agenda for further discussion.

The third item of business on the agenda were 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. Mr. Torrent stated that the applicant had received responses from Laberge Group, the technical consultant to the Zoning Board on this application; that Atlas Renewables had submitted written responses to those comments in a letter dated February 21, 2022; and that Laberge Group had submitted subsequent comments based on those written responses. Ron Laberge, of Laberge Group, was also present and he reviewed maps requested by the Zoning Board at its January 24, 2022 meeting. Mr. Laberge reviewed one map highlighting 30+ acre parcels in Brunswick, showing where solar farms would be zoning compliant, which of these parcels are currently vacant, and which of these parcels contain wetlands, with steep slopes on those parcels identified, noting that approximately 14,500 acres on the map are available for solar facilities in the Town. Mr. Laberge then reviewed a second map

that showed all parcels in Brunswick, not just those 30 acres or larger. Again, Mr. Laberge identified where solar fields would be zoning compliant, which parcels are currently vacant, and which parcels contain wetlands, with steep slopes on those parcels identified, noting that approximately 16,300 total acres are available for solar facilities in the Town. Mr. Laberge also pointed out all National Grid substations located in Brunswick. The Zoning Board and Mr. Laberge then discussed the maps. Mr. Torrent then reviewed the applicant's responses to Laberge Group's comments, noting that the two main issues raised by the Zoning Board on the project were why the specific parcels and the substation in Sycaway were chosen. Attorney Gilchrist stated that the Zoning Board had just received the responses dated February 21, 2022 from the applicant and that the Board members needed to time to review them, and would also need time to review the maps presented by Mr. Laberge as well. Mr. Torrent agreed and stated that he would keep his review of the responses brief. Mr. Torrent stated that the parcels and the Sycaway substation were chosen for economic reasons, and that it was not economically feasible for the project to locate elsewhere, and that the applicant had provided economic data in its response justifying the need for the project to be at the proposed location. Mr. Torrent then showed a map of the project site, and further explained that it would cost one million dollars per mile to extend the feeder lines for an interconnection at another substation, and that extending the feeder lines even one mile would cause the project to have a negative economic value. Member Mainello stated that he would like to see the applicant's map of the feeder lines overlaid onto the map provided by Laberge group. Mr. Torrent stated that the applicant's map shows both the applicant's and Laberge's data, then reviewed the map. Mr. Torrent reviewed the Laberge map showing how many vacant parcels in the Town are zoned for solar, and stated that 99% of them were not economically viable for this project, and that the locations proposed by Atlas Renewables meet the Rosenberg legal standard.

Mr. Torrent then reviewed the applicant's map overlaid on the Laberge map, stating that while many parcels are available for the project from a zoning perspective, most are not economically feasible. Mr. Torrent then reviewed the feeder line locations on the map. Mr. Torrent stated that the applicant's basis for the use variance position is an economic argument, and that no other location is economically feasible due to the substation and feeder line locations. Member Mainello asked for clarification on the interconnection availability as shown on the map. Mr. Torrent reviewed Exhibits D, E, and F of the February 21, 2022 submittal, which highlighted how New York State is requiring 70% renewable energy by 2030. Member Mainello then pointed out that the 70% renewable energy requirement was for all of New York collectively, not just Brunswick, that the Town will not be able to change the existing infrastructure to achieve 70% renewable energy in just 8 years, and noted that every area of New York State must contribute to the extent possible, meaning that existing substations must be used and the utilities must contribute. Member Mainello asked if the cost per acre for the leasing of the land was considered in the project's economic analysis. Mr. Torrent confirmed that it was, stating that the applicant had set a limit of \$1,000 per acre if the land was being leased and \$10,000 per acre if the land was being bought when selecting a site for the project, as the project would not be economically viable after that. The Zoning Board members inquired whether the 70% renewable energy figure required by New York State was the responsibility of Brunswick or National Grid. Mr. Torrent stated that the requirement is the responsibility of New York municipalities, not energy companies. Member Schmidt asked what would happen if New York State did not reach the 70% renewable energy figure by 2030, and who specifically would be held responsible for not meeting that figure. Mr. Torrent stated that New York State incentivizes the market to meet the 70% renewable energy goal, and that energy companies need municipal approvals in order to obtain a portion of the

market block from New York State. Mr. Lockrow noted the thorough visuals provided with the application, but also stated that he would like to see visual assessments from other properties surrounding the project site. Mr. Torrent stated that the applicant has already provided visual impact analysis for requested locations, and will supply additional visual information at the request of the Zoning Board. Chairperson Clemente stated that the Zoning Board will review the information provided by the applicant. Attorney Gilchrist stated that the applicant should submit a letter containing the applicant's responses to the maps provided by Laberge. Mr. Torrent stated that he would provide such a letter. This matter is placed on the March 21, 2022 agenda for further discussion.

Two items of new business were discussed.

The first item of new business was an application for sign variances submitted by Saxton Sign Co. for property located at 841 Hoosick Road. Terry Miser of Saxton Sign Co. was present to review the application. Mr. Miser stated that the signs are for the previously-approved Harbor Freight Tools building at the location and that three total signs are proposed: on the front of the building, on the side of the building, and a monument sign along Hoosick Road. Mr. Miser stated that the variances are for the total number of signs, as only two are allowed under the Brunswick Zoning Law, and for having a sign on the side of building, which is prohibited under the Zoning Law. Mr. Golden then explained that since the side of the building is facing Hoosick Road, it is actually the sign at the entrance of the building that is technically the sign on the side of the building requiring the variance. Mr. Golden stated that the monument sign along Hoosick Road and the sign on the side of the building facing Hoosick Road have already been approved, and that the total square footage of the three signs is below the maximum allowable square footage for signs. Mr. Golden also confirmed that the variances are for three total signs and having a sign on the side

of a building. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application is scheduled for March 21, 2022 at 6:00pm.

The second item of new business was an area variance application submitted by Atlas Renewables, LLC for property on Oakwood Avenue. Lluís Torrent of Atlas Renewables was present to review the application. Mr. Torrent stated that a prior application had been submitted by the applicant for a solar facility on Oakwood Avenue, specifically on a site where an incinerator had been located, but that NYS DEC requirements for remediation of the former incinerator location made the project too expensive. Mr. Torrent stated that the new proposal was also for a solar facility, but at a location adjacent to the previous location owned by the same landowner and zoned Industrial – Light, where solar is an allowable use. Mr. Torrent stated that the same National Grid interconnection would be used, and that the project is currently before the Planning Board for site plan and special use permit approval. Mr. Torrent stated that the area variance was needed in order to cross over the former incinerator site with above-ground utility poles, with 7 poles requested, 3 to cross the site and 4 for the interconnection with National Grid’s power lines. Mr. Torrent also stated that the plan to cross the incinerator site has been conceptually approved by NYS DEC. Attorney Gilchrist confirmed that the project is currently in front of the Planning Board for site plan and special use permit, where it is undergoing technical review. Attorney Gilchrist also stated that the Zoning Board could coordinate with the Planning Board on the applications before them and that a joint public hearing could be possible down the road, but that the Planning Board must be allowed to continue its review. This matter is placed on the March 21, 2022 agenda for further discussion.

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

1. Borrego Solar – area variance (adjourned without date).
2. Changing Visions of Energy – area variances (March 21, 2022).
3. Atlas Renewables, LLC – use variances (March 21, 2022).
4. Saxton Sign Co. – sign variance (March 21, 2022).
5. Atlas Renewables, LLC – area variance (March 21, 2022).

The proposed agenda for the March 21, 2022 regular meeting is as follows:

1. Saxton Sign Co. – sign variance (public hearing to commence at 6:00pm).
2. Changing Visions of Energy – area variances.
3. Atlas Renewables, LLC – use variances.
4. Atlas Renewables, LLC – area variance.