

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 APRIL 18, 2022

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

ABSENT were PATRICIA CURRAN 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 March 21, 2022 regular meeting were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the March 21, 2022 regular meeting without correction, which motion was seconded by Member Mainello. The motion was unanimously approved, and the minutes of the March 21, 2022 regular meeting were approved.

The draft minutes of the April 7, 2022 joint special meeting with the Planning Board were reviewed. There were no edits or corrections to be made. Chairperson Clemente made a motion to approve the minutes of the April 7, 2022 joint special meeting without correction, which motion was seconded by Member Schmidt. The motion was unanimously approved, and the minutes of the April 7, 2022 joint special meeting were approved.

The first item of business on the agenda was an area variance application submitted by Thomas Wagner for property located at 66 Weyrick Road. Member Schmidt recused himself. This matter was adjourned due to the lack of a quorum. Attorney Gilchrist stated that Mr. Wagner also

has a special use permit application currently pending before the Planning Board, and that the Planning Board discussed a joint public hearing with the Zoning Board at its last meeting on the applications submitted by Mr. Wagner before both Boards and that the Planning Board was in favor of a joint public hearing. The Zoning Board members were also in favor of a joint public hearing. A special meeting of the Zoning Board of Appeals will be held on May 19, 2022 and a joint public hearing with the Planning Board will be held regarding the Wagner applications on May 19, 2022 at 7:00pm.

Member Schmidt returned to the meeting.

The second item of business on the agenda was an application for sign variances submitted by Saxton Sign Co. for property located at 841 Hoosick Road. The applicant sought sign variances to advertise the Harbor Freight Tools store at that location. Terry Miser of Saxton Sign Co. was present to review the application. Chairperson Clemente reviewed how the building was proposed to have three signs: one above the entrance, one on the side of the building, and a monument sign along Hoosick Road. Chairperson Clemente also reviewed how the applicant was seeking two variances: one for the total number of signs, as two signs are allowed and three are proposed, and one for having a sign on the side of the building. Chairperson Clemente stated that at the Zoning Board's March 21, 2022 meeting, the Zoning Board had completed deliberating the elements for the variance, but could not act due to Rensselaer County not having responded to request for comment, and the 30 day deadline for Rensselaer County to respond not having elapsed. Chairperson Clemente stated that since the Zoning Board's March 21 meeting, the Town had received a letter from the Rensselaer County Bureau of Economic Development and Planning, stating that the project will not have a major impact on County plans and that local consideration shall prevail. Chairperson Clemente asked the Zoning Board members if there were any further

questions or comments on the application, and there were none. Attorney Gilchrist asked if a determination under SEQRA had been made at the March 21 meeting. Chairperson Clemente reviewed the minutes from the March 21 meeting and confirmed that a Negative Declaration had been declared at that meeting. Chairperson Clemente made a motion to grant the sign variances, which was seconded by Member Schmidt. The motion was unanimously approved and the sign variances were granted. Chairperson Clemente directed the applicant to continue to coordinate with the Town Building Department on this matter.

The third item of business on the agenda was two use variance applications submitted by Atlas Renewables, LLC for properties on Shippey Lane and Brunswick Road. No one was present for the applicant. This matter is tentatively placed on the May 16, 2022 agenda for further discussion.

One additional item of business that was added to the agenda before the meeting was then discussed: the two area variance applications submitted by Changing Visions of Energy (CVE North America, Inc.) for property located off Belair Lane. Carson Weinand, Senior Project Developer for Changing Visions of Energy, was present to review the application. Mr. Weinand stated that the applicant had submitted written responses to comments from the April 7, 2022 joint public hearing by the Zoning Board of Appeals and the Planning Board via email the previous Friday and was prepared to review those responses. Mr. Weinand stated that the project would have a low visual impact on surrounding properties, that there would be no battery or energy storage of any kind on-site, and that there would be some increased traffic during the construction period, but very little traffic post-construction, specifically 1-2 vehicles per month for maintenance and 1-2 vehicles per year for landscaping. Mr. Weinand stated that there will be public benefits available, and that a condition of the New York State Energy Research and Development Authority

(NYSERDA) is to offer subscription benefits to at least 900 customers within the County. Mr. Weinand then reviewed the overall benefit to the environment, including carbon removal from the air. Mr. Weinand then reviewed the benefits to the local government, stating that it will cause an increase to the tax base via a PILOT (Payment in Lieu of Taxes) Agreement without causing an increase to Town services. Mr. Weinand stated that the applicant is planning for the limited use of herbicides once or twice annually where needed to address the growth of weeds, but that the use of herbicides will ultimately be up to the consideration of the Planning Board. Mr. Weinand stated that the applicant is currently drafting a decommissioning plan and will submit it once completed to the Planning Board for review, and that the decommissioning plan will likely include recycling the panels upon completion of the project, if feasible at that time, and that panel donation is also possible. Mr. Weinand reviewed the timeline for construction, as well as the construction delivery route and the specific parcels where delivery and staging will be done, specifying that only 5 acres will be disturbed at a time. Chairperson Clemente asked how long it would be after the solar facility was shut down that the facility would be declared no longer active and begin decommissioning. Mr. Weinand stated that he was not sure offhand, but that the applicant would comply with all Town requirements, that this would be addressed in the project's decommissioning plan, and reiterated that the applicant was leasing the land for 35 years. Member Mainello asked how residents participating in the community solar program would be affected if the project was to be shut down earlier than anticipated. Mr. Weinand stated that all residents participating in the community solar program would simply stop receiving credits on their utility bills, that customers are not required to make any commitment of any kind when joining the community solar program, and that all residents participating in the program may cancel at any time without penalty. Member Mainello asked how it would be decided who gets credits on their utility bills. Mr. Weinand stated

that whoever signs up earliest would qualify. Member Mainello asked how Town residents would be made aware of the community solar program. Mr. Weinand stated that the applicant would use basic advertising to let the community know. Member Mainello asked if there were any additional details for the access road to the site, specifically for emergency vehicles. Mr. Weinand discussed the access road, stating that it would be a general gravel construction road. Chairperson Clemente asked which school district would be listed in the PILOT Agreement. Mr. Weinand stated that the Lansingburgh school district would be listed. Chairperson Clemente noted that no other solar facilities that had come before the Zoning Board of Appeals had planned to use herbicides on-site, and that since the Planning Board had asked about mowing or using livestock such as sheep rather than herbicides at the joint public hearing, if the applicant had given any thought to using an alternative to herbicides. Mr. Weinand stated that herbicides would not be used on the entire site and would only be used in specific locations to target specific vegetation on the site. Mr. Weinand also stated that the applicant was open to using grazing animals instead and could discuss it further with the Planning Board. Chairperson Clemente asked where the solar panels are being manufactured. Mr. Weinand stated that where the panels would be purchased from had not yet been determined, but that the applicant had a list of choices and that Federal tariffs would play a part in the final decision. Member Schmidt asked how herbicides were planned to be used on the site in relation to mowing. Mr. Weinand stated that the applicant's first choice is mow the site, and confirmed that herbicides would be used in areas difficult to mow. Member Mainello asked if herbicides would be stored on the site, and Mr. Weinand stated that they would not. Chairperson Clemente stated that the Zoning Board members have now received responses to public comments and that further review is necessary by the Planning Board. Mr. Weinand asked what the next steps

were for the project, and Attorney Gilchrist reviewed the procedure. This matter is placed on the May 16, 2022 agenda for further discussion.

Three items of new business were discussed.

The first item of new business was an area variance application submitted by Peter Hickey for property located at 5 Heather Ridge Road. Peter Hickey was present to review the application. Mr. Hickey stated that he was seeking the area variance so he could build an inground pool in his back yard and was specifically seeking a 10-foot side yard setback when a 25-foot setback is required. Mr. Hickey stated that the proposed location of the pool on his property is the best location due to the location of the septic system, electric lines, and the house on the lot. He stated that the pool should not be an issue for his neighbors as there is significant vegetation between the proposed location of the pool and his adjacent neighbor. Chairperson Clemente asked if there were any other viable locations on the property to put the pool. Mr. Hickey stated that there was not due to topography constraints. Member Mainello noted that he would have to recuse himself from any action due to a family connection to Mr. Hickey. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application was scheduled for May 16, 2022 at 6:00pm.

The second item of new business was an area variance application submitted by Mark Schifano for property located at 5 Tarbell Avenue. Paul Engster, Esq. was present to review the application. Mr. Engster stated that he represented Dominick Maselli, who has entered into a contract to purchase part of the lot at 5 Tarbell Avenue, that Mark Schifano currently owns the lot at 5 Tarbell Avenue, that Mr. Schifano is represented in the transaction by Dorothy Tischler, Esq., and that there was a mutual agreement between the two parties that Mr. Engster pursue the variance on behalf of Mr. Maselli and Mr. Schifano. Mr. Engster stated that Mr. Maselli seeks to purchase

only part of the lot, that during the transaction it was discovered that there was a discrepancy between the deeds to the property held by Mr. Maselli and Mr. Schifano, and that the proposed transaction will eliminate this discrepancy. Mr. Engster stated that the Schifano lot is residential in nature, but the lot is currently located in a B-15 business zoning district. Mr. Engster also stated that there is a 15,000 square foot minimum lot size in a B-15 zoning district, that the Schifano lot is currently approximately 11,000 square feet, and that the transaction would decrease the size of the lot to approximately 8,400 square feet, which is why the area variance is necessary. Mr. Engster stated that Mr. Maselli has no plan to use the property for a business and simply wants the additional square footage to add a buffer to his lot. Mr. Engster also stated that he was aware that he would also need to go before the Planning Board for the subdivision of a non-conforming lot. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application was scheduled for May 16, 2022 at 6:15pm.

The third item of new business was a use variance application submitted by David Leon for property located on Hoosick Road. Walter Lippmann, Project Manager with M.J. Engineering and Land Surveying, P.C., was present to review the application. Mr. Lippmann stated that since the time the Leon project was approved by the Planning Board and Zoning Board of Appeals, there had been some changes to the site plan proposed by the applicant, and that Mr. Lippmann was before the Planning Board at its April 7, 2022 meeting to discuss that. Mr. Lippmann stated that the applicant is also in front of the Zoning Board due to recently purchasing 0.1 acres of land towards the rear of the site, and that the applicant proposes to extend the parking lot for the Planet Fitness gym onto that 0.1 acres, which would result in an additional 23 parking spots. Mr. Lippmann stated that a use variance is required because the lot is in an R-9 residential zoning district, where parking lots are not an allowable use. Mr. Lippmann then reviewed the other

changes to the site plan, but clarified that the only issue before the Zoning Board was the use variance for additional parking on an R-9 zoning lot. Attorney Gilchrist stated that a public hearing would be required, and Mr. Lippmann stated that he was aware. Chairperson Clemente stated that the application was complete for purposes of holding a public hearing. A public hearing on this application was scheduled for May 16, 2022 at 6:30pm.

The index for the April 18, 2022 regular meeting is as follows:

1. Wagner – area variance (May 19, 2022).
2. Saxton Sign Co. – sign variance (approved).
3. Atlas Renewables – use variances (May 16, 2022) (tentative).
4. Changing Visions of Energy – area variances (May 16, 2022).
5. Hickey – area variance (May 16, 2022).
6. Schifano – area variance (May 16, 2022).
7. Leon – use variance (May 16, 2022).

The proposed agenda for the May 16, 2022 regular meeting is as follows:

1. Hickey – area variance (public hearing to commence at 6:00pm).
2. Schifano – area variance (public hearing to commence at 6:15pm).
3. Leon – use variance (public hearing to commence at 6:30pm).
4. Changing Visions of Energy – area variances.
5. Atlas Renewables – use variances (tentative).

The proposed agenda for the May 19, 2022 special meeting is as follows:

1. Wagner – area variance (public hearing to commence at 7:00pm).