

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

MINUTES OF THE PLANNING BOARD MEETING HELD March 18, 2010

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

As a first matter of business, Chairman Oster read the public hearing notice concerning the site plan application of the Volunteer Fire Company of Center Brunswick, Inc. and opened the public hearing. Neil Rivchin, Esq., appeared on behalf of the Applicant, along with Tim Donlan, the Applicant's engineer. Attorney Rivchin reviewed the history between the Fire Company and Marie D'Entrone, and in particular, that in December 2001, the Fire Company conveyed a 20' x 200' strip of land to D'Entrone, and D'Entrone conveyed an 80' x 200' parcel to the Fire Company. At that time, the Fire Company and D'Entrone entered into written, revocable License Agreements to run with the land whereby the Fire Company was allowed to use the 20' x 200' strip on the westerly side retained by D'Entrone for parking purposes, and D'Entrone was able to use the Fire Company parcel for purposes of accessing the existing residential driveway servicing the rear residential lot. At such time as the Fire Company sought to expand its firehouse, a new residential driveway servicing the rear D'Entrone residential lot would be constructed along the 20' x 200' strip. Attorney Rivchin stated that the Fire Company

is willing to convey an additional 6' of land to D'Entrone in order that the private driveway to be constructed will meet Town private road standards.

The Applicant's engineer, Tim Donlan, reviewed the site plan application. The Fire Company proposes to construct two additional bays on the westerly side of the existing building, which will allow fire trucks to exit directly onto Route 7. The Fire Company will also add some additional parking spaces, dry wells, dumpsters and move the existing fuel tanks. Mr. Donlan noted that most of the improvements will be made inside the building, which will allow more room in which to move the trucks around and will provide for a decontamination area. The roof will be altered, but the colors on the building will remain generally as they are now.

At that point, public comments were solicited, though no one present chose to make any comments. Marie D'Entrone was present at the public hearing, but did not want to speak. Hearing no comments, the public hearing was then closed, and the Planning Board commenced its regular meeting.

The draft minutes of the March 4, 2010 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Christian, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the site plan application by the Volunteer Fire Company of Center Brunswick, Inc. for property located at 1045 Hoosick Road. Chairman Oster explained that given the length of the private driveway to be constructed to access the D'Entrone residence, the driveway had to meet Town private road specifications and be 22' wide, with 3' wings on each side. According to the Fire Company's attorney, Neil Rivchin, the Fire Company will deed a 6' strip of land to D'Entrone in order to achieve sufficient width.

Member Czornyj thought something should be done to widen the driveway at its end to get it away from the steep bank. The Fire Company's engineer indicated that the Fire Company may have some demolition materials that could be used to fill and grade the D'Entrone driveway. The Applicant's engineer stated that he thought it would be more feasible to fill, rather than cut in, the driveway. He indicated that the worst grade he has measured is 9' and thinks that D'Entrone will have to tie in further up the hill.

Attorney Rivchin indicated that the Fire Company had formally terminated D'Entrone's license and had spoken briefly with D'Entrone's attorney, Fred Fowler.

Chairman Oster asked Ms. D'Entrone if she understood the situation, to which she replied no. She further stated that she did not know what she needs to do with respect to the driveway.

Member Esser wanted someone from the Fire Company to speak with Ms. D'Entrone to explain what is involved and what it could cost to construct the driveway. Attorney Rivchin stated that based upon a conversation he had with Fred Fowler, it was his understanding that the parties were aware of the nature of revocable licenses and that the purpose of granting the revocable licenses in 2001 was to allow Ms. D'Entrone to defer construction of the driveway until a later date.

Ms. D'Entrone then recounted how she came to own the parcel at the rear of the Fire Company and ultimately conveyed a part of that property to the Fire Company. She further stated that while she does not object to the proposed addition to the firehouse, she always thought she would be able to access her driveway through the Fire Company parking lot.

Chairman Oster stated that the Planning Board wants to make sure there was proper communication with Ms. D'Entrone, and that the Planning Board understands Ms. D'Entrone's

concern about having to put in a driveway that long. Member Esser added that he thought the Fire Company should help D'Entrone by rough grading the driveway and then she could pave it at her option.

Chairman Oster wanted to know if the demolition material generated by the Fire Company would be suitable as fill material. Mark Kestner asked whether the demolition material would be crushed. The Applicant's engineer thought most of the material would come out in small pieces and suggested that Ms. D'Entrone may want to coordinate with the Fire Company's contractor.

Attorney Rivchin said they have not considered allowing D'Entrone to continue accessing her driveway through the Fire Company's parking lot as there were liability issues. The Fire Company always deemed D'Entrone's accessing her driveway through their parking lot to be a temporary situation. D'Entrone disagreed and said all she wanted was permanent access to her driveway.

Applicant's engineer stated that he thought D'Entrone could run her driveway closer to the parking lot which would give her less of a grade to contend with. He indicated that he would discuss this issue with the Fire Company. He will also run quick numbers on what it may cost to put in a driveway. Attorney Rivchin acknowledged that neither he nor the Fire Company have had sufficient opportunity to speak with Fred Fowler or Ms. D'Entrone. Chairman Oster indicated that it was his understanding that the Fire Company had been communicating with Ms. D'Entrone all along.

Mr. Kestner stated that he liked the idea of moving the driveway away from the corner as it will be less expensive to construct the driveway, and less of a grade to contend with. Member

Esser further suggested that the Fire Company do more of the engineering of Ms. D'Entrone's driveway.

Chairman Oster tabled further action on the site plan until the Fire Company had further discussion with Ms. D'Entrone. John Kreiger indicated that the application had been sent to the County for review, and that the Planning Board had received a response in writing which noted some concerns over stormwater issues. According to Mr. Kestner, those stormwater issues have been satisfactorily addressed by the Fire Company. This matter has been placed on the April 1st agenda for further discussion.

The second item of business on the agenda was the Engel/Welch Farm, LLC waiver of subdivision application. Mr. Engel appeared in connection with the application. Chairman Oster noted that it was his understanding there needs to be two (2) easements, namely a drainage easement from the NYS DOT with regard to the discharge pipe under Route 2, as well as an easement from Engel (as the receiving property owner) to Welch, permitting the discharge of stormwater runoff onto the Engel field.

Mr. Engel explained that he met with the DOT in the field and that the DOT told him the location of the drainage pipe is not properly identified in the existing easement. DOT intends to correct the easement and has also indicated that it would like to extend the easement to cover the drainage pipe from Route 2, past its outfall all the way to the Poestenkill. However, Mr. Engel was told by DOT that it could take quite a while to prepare the modified easement. Accordingly, it was discussed that in order to obtain approval of the waiver application, Welch could obtain the easement from Engel covering the discharge of water from the end of the drainage pipe to the Poestenkill, and then let the DOT come in behind and clean up its easement. It was noted that a Agricultural Data Statement had been submitted and that there were no concerns.

Chairman Oster inquired whether the Board had any additional comments or questions. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0 and a negative declaration was adopted. Thereupon, Member Czornyj made a motion to approve the application for waiver of subdivision subject to the following conditions:

1. That Welch obtain a drainage easement from Engel, allowing drainage from the end of the drainage pipe on the Engel field to flow to the Poestenkill; and
2. That the DOT modify its easement to identify the correct location of the drain pipe.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 5/0, and the waiver of subdivision application was approved subject to the stated conditions.

The next item of business on the agenda was the site plan application by National Grid for property located at 166 Plank Road. National Grid seeks to replace an existing switch gear structure with new switch gear structure at a new location on the site, approximately 60 feet east of the existing structure. In addition, National Grid is proposing the installation of approximately 300 feet of fencing on the site. Rick Spagnoti and Joe Prizack appeared for the applicant. Mr. Spagnoti again explained the reason for the site plan application is to replace the existing equipment with which National Grid has had problems. He further indicated that National Grid intended to expand this station on the northeast side and enclosed it with fencing. National Grid ultimately intends to take out the old unit once the new unit has been installed. He indicated that a SWPPP had been developed and that erosion and sediment controls will be instituted. In addition, National Grid will install security fencing around the top of the hill, and that a swale will be constructed inside the fence line at the top of the hill to channel the drainage from each

side of the station. National Grid will also stabilize the top of the hill and will add crushed stone around the foundation for additional drainage.

Chairman Oster indicated that he, Member Christian and Mark Kestner had visited the site. Mr. Kestner thought that the Planning Board's grading concerns had been adequately addressed. In addition, the County referral had been made and local consideration shall prevail. The Planning Board is in receipt of revised drawings.

Mr. Spagnoti indicated that the Fire Department is not involved as National Grid has its own people to handle in-substation fires.

Chairman Oster was satisfied that the safety fencing will work as proposed and confirmed that there will be no barbwire or razor wire installed.

According to Mr. Spagnoti, National Grid plans to do in-ground work starting in the Spring of 2010. During the Summer, the building will be removed and National Grid hopes to be operational by December. Mr. Spagnoti stated in response to a concern of the Planning Board that the building will not sit vacant for any prolonged period of time, and that there are no hazardous materials to be removed.

Chairman Oster inquired whether the Board had any additional comments or concerns. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0 and a negative declaration was adopted. Thereupon, Member Wetmiller made a motion to approve the site plan, which was seconded by Member Esser. The motion was approved 5/0, and the site plan was approved.

The next item of business on the agenda was the Smith/Maselli site plan application. Ed Smith was present for the applicant and explained he wanted to open an automobile repair

facility at 693 Hoosick Road. Mr. Kreiger confirmed that he has received the application, but has not received any site plan. Mr. Kreiger indicated that the applicant has advised that there are no proposed changes to the last set of plans approved when the site was used for automobile detailing.

The Planning Board has some concerns with regard to the site. In particular, the Board is concerned about parking on the side of the hill given the proximity it has to Route 7. The applicant explained he is not looking to store vehicles in the parking lot. Rather, it is his intention to perform oil changes, tire rotations and perform occasional engine work. In response to Mr. Kestner, Mr. Smith indicated that the site presently has no facilities for storing oil. He further confirms he has no plans to wash cars, so that there will be no issue with runoff onto Route 7. The Planning Board reminded Mr. Smith that it had prohibited the sale of cars on prior approvals due to the steep slope.

Chairman Oster questioned Mr. Smith about the volume of cars he intended to service at any given occasion. Mr. Smith explained that they have plans to operate a pickup service. He is not looking to operate at a high volume. Any storage overnight of cars would occur within the garage itself.

The Planning Board further advised Mr. Smith that they would not allow the use of side roads for parking of additional cars, and that the Board is inclined to limit the number of cars that could be on the site at any given time to no more than five (5), which would include the owner/operator's vehicles.

Chairman Oster noted that he does not see the need for a public hearing which is optional under the circumstances, as there had been no changes to the site plan. Mr. Kreiger will refer the application to the County for review.

Mr. Kestner then questioned the applicant as to his intended hours of operation. Mr. Smith advised that he planned to operate his business from 8-5 during the week and from 9-4 on Saturdays. He has no plans to operate on Sunday. Mr. Kreiger advised the applicant that he should submit a narrative to the Planning Board, confirming his intended hours of operation, explaining how he intended to handle waste oils, transmission fluids, and describe the kind of equipment he intends to use. This matter has been placed on the April 1st agenda.

One item of old business was discussed, namely the site plan and commercial subdivision application by Reiser Bros. Inc. for a proposed commercial development along NYS Route 2 and NYS Route 278 (Brunswick Farms). Henry Reiser and Scott Reese appeared on behalf of the applicant. Mr. Reese explained the new proposed site plan, which includes the decision to proceed with Phase I of the project only. He advised that that would reduce the project to the removal of approximately 50,000 cubic yards of material. He further indicated that Mr. Reiser has a potential client for the gas station on the corner lot. According to Mr. Reese, the preliminary design for the sand filters has been prepared, and the applicant has discussed the access points to Route 2 with the DOT. However, the applicant is still waiting for approval from the DOT to discharge stormwater and drainage from the sand filters into the right-of-way. According to Mr. Reese, DEC has advised the applicant that the MLRL construction exemption will likely be granted in connection with this project.

Per Mr. Reese, the balance of property will remain in its current state. In addition, the applicant intends to break up the hillside through the use of swales and that the retaining wall will be stepped and constructed out of readi-rock. With respect to the front of the property, it is a 3 on 1 slope, therefore, no retaining wall will be necessary, but the applicant may take steps to improve its appearance and they will keep the guardrail.

Mr. Reese indicated that they have updated their EAF to reflect the changes to the site plan.

Chairman Oster inquired as to the timetable in which the applicant expects to receive the preliminary approval letters from the DOH and the DEC. According to Mr. Reese, they anticipate that the septic drawings will be prepared and into the DOH and DEC by next week. The applicant was reminded that the Planning Board wants to see approval from the DOT allowing the discharge of stormwater and discharge from the sand filters into the DOT trench.

Member Mainello inquired how far the residences are away from the rear property line. Mr. Reiser indicated that Lots 3 and 4 are equally closes to the rear property line and that their septic systems are in the rear of their lots. He estimated those residences to be approximately 150'-170' from the property line. There will be a split rail fence along the whole upper bank. Member Esser requested that the houses be shown on the site plan. Mr. Reiser indicated that both proposed buildings on the site plan are shown with a maximum height of 29', where as the bank in the back rises between 32'-34' in height.

The Planning Board indicated that they would wait for the formal approvals from the necessary State agencies before scheduling public hearings on the matter. This matter was placed tentatively on the April 1st agenda for further discussion. The applicant is to call at least 3 days in advance of the April 1st meeting if they are not prepared to further discuss the matter.

Chairman Oster noted that Walmart is off the agenda and would be placed on the agenda for the April 1st meeting for further discussion.

There were two items of new business discussed.

The first item of new business was the waiver of subdivision application filed by Anthony Taylor for the division of 16.07 acres from the Peter Taylor Estate located on the

southerly side of Taylor Lane. Rod Michaels, P.E., appeared on behalf of the applicant and advised the Planning Board that 21.64 acres lay within the Town of Brunswick, with the remaining property lying within the City of Troy. Mr. Michaels advised that the 16± acres that they were proposing to subdivide off were around an existing house and garage, with 8.7 of those acres lying within the City of Troy. He further advised that 3 acres would be left on the north side of Taylor Lane and that the remaining property had 70 feet of frontage on Cole Lane.

The Planning Board inquired of John Kreiger whether the County Planning Board reviewed subdivision applications, which he advised does not.

Upon a question from the Planning Board, Mr. Michaels stated that while Taylor Lane was technically a private road, it was being maintained by the Town. John Kreiger thought that Taylor Lane was a highway by use.

This is properly a waiver application as there is the creation of only 1 new lot, with 2 lots in total. The house and road frontage on Taylor Lane lays within Brunswick. According to Mr. Michaels, Russ Reeves is reviewing this application on behalf of the City.

The Planning Board generally discussed whether there were any other structures on the remaining parcel. Mr. Michaels confirmed that there is a house and garage on the remaining property. Chairman Oster inquired whether the Board had any further comments or concerns on the matter. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which was seconded by Member Mainello. The motion was approved 5/0 and a negative declaration was adopted. Thereupon, Chairman Oster made a motion to approve the waiver of subdivision application subject to the following conditions:

1. That the Planning Board receive a copy of consent and/or approval of the waiver of subdivision application from the City of Troy; and

2. Written confirmation from the Highway Superintendent that Taylor Lane is a highway by use and has the appropriate area for turnaround.

Member Czornyj seconded the motion subject to the stated conditions. The motion was approved 5/0 and the waiver of subdivision application approved subject to the stated conditions.

The next item of business on the agenda was the Duncan Meadows Planned Development District application for review and recommendation to the Town Board. Fran Bossolini, P.E., appeared on behalf of the applicant and gave an overview of the site plan. Mr. Bossolini advised that the PDD application has been submitted to the Town Board, for which a positive declaration was issued and a Draft Environmental Impact Statement has been prepared. The scoping documents have also been prepared and are available for public review.

Mr. Bossolini advised that the public hearing was held by the Town Board on January 14, 2010 and the comment period is now closed. The applicant is in the process of preparing the FEIS. The applicant is also seeking recommendations from the ZBA and the Planning Board.

Mr. Bossolini explained that there are two parcels for development which straddle McChesney Avenue Extension. The property includes approximately 91± acres with three pods of development. Toward the west there will be the development of 88 condominiums, toward the northeast there will be 50 units of senior apartments, age restricted, as well as 78 additional condominiums. Mr. Bossolini indicated that the density will amount to 1 unit per 17,000 square feet, which is less dense than other PDDs in the area. Member Czornyj questioned whether there will be any dynamiting, especially with respect to the center pod where there is a lot of rock closer to the surface. Mr. Bossolini indicated that the possibility of dynamiting was addressed in the DEIS and that there may be some small controlled blasting.

Mr. Bossolini advised that there will be public water and sewer. The center and west pods will be gravity fed to the existing manholes on McChesney Avenue Extension. Some upgrades to the pump station are required, and there will be a joint effort with the existing developments, Highland Creek and Sugar Hill Apartments, to make those improvements. The water and sewer calculations included within the applicant's DEIS were cumulative and take into consideration the existing projects.

Mr. Bossolini indicated that all wetlands have been identified and there are no impacts to those wetlands. Traffic impacts have been analyzed on a cumulative basis as well. Member Mainello questioned whether the roads within the development would all remain private roads, and Mr. Bossolini confirmed that they would be owned by the HOA.

Mr. Bossolini indicated that all water and sewer infrastructure will be dedicated to the Town with permanent easements for access and maintenance. He also stated that all the housing units would be owned as condominiums, and that there was no proposed construction of estate homes.

The developer of the project is Pigliavento Builders.

Mr. Bossolini further stated that approximately two-thirds of the property will remain green. There is also the possibility of a community garden plot, and there will be some sidewalks within the project.

Member Mainello requested that the Planning Board be provided with transcripts of the public hearings. Mr. Bossolini confirmed that he will email those transcripts to the Planning Board members.

Mr. Bossolini indicated that some material would have to be brought in for backfill, but grading will be for the most part self-contained on each site. Further, all buildings will be

sprinklered per the New York State Building Code, since each building contains more than 2 units. There will also be some lighting within the roadway system and on the buildings, but the lighting will be dark sky friendly.

Mr. Bossolini expects to submit the FEIS to the Town Board at the Town Board's April 8th meeting. He hopes that the Planning Board will be able to issue a recommendation to the Town Board at its May meeting. Chairman Oster indicated that the application will be placed on the April 1st Planning Board agenda for discussion under old business, but that the applicant do need to attend.

Having no further business, Chairman Oster made a motion to adjourn the meeting, which was seconded by Member Czornyj and unanimously approved.

The **index** for the March 18, 2010 Planning Board meeting is as follows:

1. Volunteer Fire Company of Center Brunswick, Inc. – site plan;
2. Smith/Maselli – site plan;
3. Reiser Bros. Inc. – subdivision & commercial site plan;
4. Taylor – waiver of subdivision;
5. Duncan Meadows – Planned Development District – review and recommendation.

The **proposed agenda** for the April 1, 2010 meeting currently is as follows:

1. Volunteer Fire Company of Center Brunswick, Inc. – site plan;
2. Smith/Maselli – site plan;
3. Reiser Bros. Inc. – subdivision & commercial site plan;
4. Walmart – waiver of subdivision;
5. Duncan Meadows – Planned Development District – review and recommendation.