

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

**MINUTES OF THE PLANNING BOARD MEETING HELD May 5, 2011**

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

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

The Planning Board opened a public hearing on the proposed major subdivision by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID# 102-2-3.12). The Notice of Public Hearing was read into the record. Brian Holbriiter and Scott Reese were present for the Applicant. Chairman Oster requested that a short presentation of the project be made. Mr. Holbriiter presented an overview of the project, which seeks approval for 23 residential lots on 54.75 acres of land. The project includes a proposed new public road connecting Town Office Road with McChesney Avenue Extension, off which 21 of the residential lots would be accessed, with the remaining two residential lots having access directly off Town Office Road. The proposed residential lots average 2.5 acres in size. Private well and private septic are being proposed for the residential lots. Mr. Holbriiter stated that the Applicant is now responding to initial comments by the Town engineer and the Rensselaer County Health Department. Chairman Oster then opened the floor for receipt of public comment. Robert Duncan, 41 McChesney Avenue Extension, raised concern regarding potential traffic and whether a traffic study has been undertaken; whether the project

would impact his real property taxes; whether the projected number of school children would impact the Brittonkill District; whether the wells and/or septic will effect his property; and whether this project would impact the Town overall. Mr. Duncan stated that there was a large amount of runoff this Spring, but as soon as the test wells were installed on the project site and a pump test undertaken, he experienced a significant amount of water in his basement which he had never had before. Mr. Holbriiter stated that with current stormwater requirements, the construction of this project should improve surfacewater runoff conditions from the project site onto the Duncan property. Mr. Duncan also had questions regarding adequate law enforcement, and the impact of the project upon his property value. Mr. Duncan also stated that he is operating a farm, and wants to be able to insure that he has the ability to continue farming without complaints from additional nearby residences. Mr. Duncan stated that when he moves equipment including tractors on a public road, traffic becomes an issue and that the addition of 23 lots at this location will only add to problems. Mr. Duncan stated that this project will not help him at all. Mike Seddon, 494 McChesney Avenue Extension, stated that he owns property directly opposite this project site on McChesney Avenue Extension, that his home is an historic 1850 farmhouse, and does not want to see his property impacted from the project. Mr. Seddon stated that there are already groundwater and drainage problems that currently exist, that if you dig down a couple of feet you hit groundwater, that his project is downhill from this proposed project, and that he has concern regarding surfacewater and groundwater impacts upon his property. Mr. Seddon is very concerned that his house could be rendered uninhabitable if stormwater facilities fail, and there is additional runoff that impacts his property. In particular, Mr. Seddon stated that he wanted to make sure that some entity had accountability and responsibility in the event his property is impacted from the project, and against which entity

would he have recourse if damage occurred. Mr. Reese stated that NYSDEC was involved in the review of this project as well as from a stormwater regulatory standpoint, both in terms of surfacewater quantity and quality. DEC will be reviewing the erosion and sediment control plan as well as a full stormwater pollution prevent plan, as will the Town of Brunswick as a MS4 community. Mr. Seddon stated that stormwater runoff must be looked at carefully, especially the impact upon his historic home. Mr. Seddon reiterated that he wants some accountability or avenue of recourse built into the process for any mistakes, unforeseen occurrences, or other condition which may impact his property from this project. Mr. Seddon also identified the creek which runs through the project site and along his property boundary, which is a tributary to the Poestenkill. This creek runs sparsely in the Summer, but runs very vigorously in the Spring and Fall. Mr. Seddon wanted to make sure that this creek was not in any way diverted, rerouted, impacted, or ecologically damaged, as this will affect the Seddon property. Mr. Seddon stated that upon his review of the project plans, stormwater basins that flow into this creek are a major concern. Mr. Seddon also stated that his review of the project application documents showed that 6 acres of trees needed to be removed from the project site, and that this raises significant surfacewater and groundwater impact issues. Mr. Holbriiter responded that the figure 6 acres was not correct, and should be no more than 1 acre of trees or vegetation removed as a result of this project. Mr. Seddon also stated that 700 tons of earth/soil are projected to be moved on the site, and wants to know how that will impact groundwater flow and what the site will look like upon completion. Mr. Seddon also stated that he reviewed the pump test report, and finds it to be incomplete and repetitive, and suggests that further testing should be done. Mr. Seddon also stated that a stormwater basin is proposed to be located directly in front of his house, and is very interested in what it will look like and potential impact in terms of mosquitos or other insects.

Mr. Seddon questioned why a stormwater basin needs to be located in front of his property. Mr. Reese responded that this is a low point of the project site, and that the stormwater facilities have been designed to be located on the project site which would be most effective for stormwater control. Mr. Seddon also suggested that inquiry be made with National Grid to determine whether natural gas can be brought to the site for power, which would be much cleaner than wood or oil fired furnace, especially with 23 homes being proposed. Mr. Holbriiter stated that he will look into this. Mr. Seddon also raised the possibility of extending public water and public sewer to the project, and whether this project is close enough to extend the public water and public sewer. Mr. Holbriiter stated that they did look into that issue, and that the closest connection was approximately one mile away, and that the project would need more density to justify the cost of extending public water and public sewer and the Applicant did not want to increase the density on the site. Mr. Seddon also questioned whether these homes would be marketable in today's real estate market. Mr. Seddon questioned what the build-out schedule would be, since the longer the build-out is the more impact there would be on the neighbors, and suggested that a much smaller project be proposed for this location. Mr. Seddon stated that he is not opposed to development in general, but was looking out for his property and the overall best interest of the Town. Mr. Seddon also requested that the public hearing remain open until all requested data has been submitted for public review. John Ontkeen, 4 Town Office Road, commented that drainage that is proposed near the test well location must remain open and drain as it does now. Mr. Ontkeen also stated that the project will have impact on deer and other wildlife, and have an overall impact on the area. Mr. Ontkeen stated that he was not against development, but this project needs more study. Peter St. Germain, 490 McChesney Avenue Extension, concurred that the project would affect wildlife. Mr. St. Germain stated that after the

Sugar Hill Apartments was built, he got sand in his well water, and that this project would cause more groundwater impacts. Mr. St. Germain stated that all the plants and vegetation on his property will be eaten by deer, since 60 acres of open area will be lost to this project. Mr. St. Germain questioned the location of the proposed subdivision road, and raised concern about the projected traffic in terms of number of cars, speed, and safety concerns because there is a sight distance issue on McChesney Avenue Extension. Mr. St. Germain questioned the style of the proposed homes, and how this would impact real property taxes in the area. Debbie DuJack, 82 Town Office Road, questioned the projected value of the homes and style of the homes, since this would affect total number of school children and total projected traffic volumes. Jim DuJack, 70 Town Office Road, stated that he lives directly across Town Office Road from the proposed subdivision road location. Mr. DuJack stated that surfacewater volumes vary greatly over the course of the year, with significant seasonal variations, and that this should be considered in conjunction with this project. Mr. DuJack also stated that he needed assurance from the Town of Brunswick that the right to farm is protected, and that there should be conditions or notifications set forth in any action on this project that farms exist in the area and are allowed to continue in farm operation without opposition from new residential owners. John Tamorow, Town of Grafton, stated that he owns property adjacent to the project site, and questioned whether there would be any barriers or fencing between the project site and his property. Mr. Holbriiter stated that a significant hedgerow between the project site and the Tamorow property would be maintained. Larry Funk, 20 Lance Avenue, asked whether a homeowner association would be created for ownership and operation of the stormwater basins. Chairman Oster asked if there were any further public comments. Hearing none, Chairman Oster suggested to the Planning Board that the public hearing remain open until the Applicant has responded to the comments

received. The Planning Board concurred. Accordingly, the public hearing has been adjourned and will remain open without date. At this point, the project Applicant, Charles Farrell, was present and stated that the types of homes would be based on market conditions, but that he was proposing to have homes between 1,700-3,000 square feet, similar in style to the homes in the area, a farmhouse style house and not a contemporary look, with 3-4 bedrooms with attached garages, and hopes to create a family style neighborhood.

The Planning Board then opened its regular business meeting.

The minutes of the April 21, 2011 Planning Board meeting were reviewed. Upon motion of Member Wetmiller, seconded by Member Christian, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the major subdivision application by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID #102-2-3.12). Chairman Oster stated that a number of public comments were received on this application, including traffic, stormwater management, groundwater impacts, affects on adjacent properties, impacts to the creek on the project site, volume of vegetation and tree removal, responsibility or recourse in the event of impacts to adjacent properties, investigation of bringing natural gas to the project site, and the issue of public water and public sewer. Chairman Oster inquired whether there was adequate room within the road right-of-way for water/sewer line installation in the future, in the event public utilities were extended in the future. Mr. Kestner stated that the 60 foot right-of-way for the proposed subdivision road provides adequate room for water and sewer line installation in the future. Chairman Oster also stated the public comments included impact to wildlife, effect on property taxes, a visual rendering of what the stormwater basins on the project would look like,

information on the proposed type and size of the homes, and that the Planning Board is still looking for information on the driveway to proposed Lot 6. The Applicant will need to respond to all of these comments. This matter has been tentatively placed on the June 2 Planning Board agenda.

The next item of business on the agenda was the major subdivision application by Berkshire Properties, LLC for the Berkshire Properties PDD project. Attorney William Doyle was present for the Applicant. Attorney Doyle handed up renderings for the types of homes that are being proposed for the 10 lot subdivision. Attorney Doyle also handed up written responses to the comments received at the public hearing. Attorney Doyle also briefly reviewed technical information submitted including first floor elevations and right-of-way issue at the end of Betts Road which is identified in one residential lot. Attorney Doyle generally discussed the proposed house styles, which will largely be dependent on market considerations, but would be consistent with the style of homes in the area. Attorney Doyle confirmed that a homeowner association would need to be created for ownership and operation of the stormwater facilities in connection with the residential subdivision. Attorney Doyle did confirm that deed restrictions would be included for this project, which would place certain restrictions on these residential lots, and that the proposed deed restrictions would be submitted to the Town for review. The Planning Board generally discussed the requirement for the homeowner association and ownership and operation of stormwater facilities, which will include an easement for the benefit of the Town to access these stormwater facilities in the event the property owners do not properly maintain them. Member Wetmiller inquired whether there would be any notation on the project plans concerning the ownership and operation of the stormwater facilities by the homeowners association. Attorney Doyle stated that such a note will be placed on the final subdivision plat which will

then be recorded in the County Clerk's Office, and that all deeds to this residential subdivision will reference the membership of the homeowner association and so notice will be placed in the chain of title that a homeowner association exists for the purpose of ownership and operation of the stormwater facilities. Attorney Doyle stated that the draft homeowner association documents will be submitted to the Town for review. Member Tarbox inquired about the status of test wells for potable water. Mr. Kestner stated that test wells are being currently investigated. Mr. Kestner also confirmed that test holes for septic have been done on 7 of the proposed lots, currently being completed on the final 3 proposed lots. Mr. Kestner reported that at the final subdivision plat stage, he still needs to review information on all final grading and stormwater compliance issues, and that the project is not ready for final approval. Mr. Kestner did report, however, that the proposed subdivision road grades have been reviewed and accepted, and that the Town could consider issuance of an excavation permit for initial grading of the subdivision road area as long as adequate financial security was in place and escrow established for oversight. Attorney Doyle stated that the Applicant is requesting the issuance of an initial grading permit to start preliminary grading in the road area, and that the Applicant was working on reviewing numbers for proposed financial security for the benefit of the Town in connection with any grading permits. The Planning Board confirmed that this was a determination for the Town Building Department, but again recommended that a grading permit be issued as long as there was adequate financial security in place. Attorney Doyle confirmed that he had prepared the Deed for the parcel to be transferred to the Town for open space and/or recreation use, and that the Deed has been sent directly to the Town Attorney for review. Mr. Kestner confirmed that the parcel to be conveyed to the Town had been pinned in the field. Member Mainello generally discussed the location of the right-of-way shown in one of the residential lots at the end of Betts Road, and that

the configuration of that right-of-way was discussed. Attorney Doyle stated that Member Mainello's comments regarding the location of that right-of-way will be reviewed with the Applicant's engineer. Mr. Kreiger reported that the Highway Department raised comments regarding the subdivision road having a 50 foot right-of-way width, and the use of a "Miami curb" as part of the subdivision road. Mr. Kreiger reported that the Highway Department did not want a "Miami curb" included due to future maintenance issues. Mr. Kestner stated that the 50 foot right-of-way width for the subdivision road was approved by the Town Board as part of the PDD approval, and that this right-of-way width does provide sufficient area for future utility installation. Mr. Kestner also stated that he would review the "Miami curb" issue with the project engineer, and review the general Town use of wing gutters. Cindy Robinson, Betts Road, was present and inquired about the proposed berm or vegetative screen between the commercial portion of the Berkshire Properties PDD and her house, and whether water and sewer could be extended to her house. The Planning Board stated that the project before the Board at this meeting was the residential subdivision only, and that a site plan for the commercial portion of the Berkshire Properties PDD needed to be submitted in the future, and such comments would be appropriate in connection with the commercial site plan application. This matter has been placed on the May 19 agenda for further discussion.

The next item of business on the agenda was the site plan application by Sphere STP, II, LLC, which proposes to construct a Tractor Supply Store on approximately 4 acres of property located at 864 Route 7 (Tax Map No. 91.00-2-18). Rod Ives of Napierala Consulting Professional Engineers and Tom Cooney of Sphere STP, II, LLC were present for the Applicant. Mr. Ives stated that a revised set of final site plan documents have been delivered to the Town approximately 2 weeks ago which principally address stormwater compliance issues. Mr. Ives

also handed up a letter from NYSDOT dated April 26, 2011 which granted conceptual approval for the project. The NYSDOT conceptual approval addresses both the proposed access driveway location off NYS Route 7 and stormwater discharge calculations for facilities discharging to NYSDOT stormwater system. Mr. Kestner confirmed that the stormwater pollution prevention plan is in approvable form, and does include the required green infrastructure practices now required by NYSDEC. Mr. Ives explained that under the SWPPP, while the project initially included permeable pavement, it was determined that permeable pavement is not practical for this project site, and has now been replaced with a series of storm planters and bioretention basins which do comply with NYSDEC's current green infrastructure requirements. Member Wetmiller inquired how these facilities handle stormwater from a very big storm. Mr. Ives explained that the storm planters and bioretention basins would overflow, and direct the stormwater to additional detention basins on site which were designed to handle the 100 year storm event. Chairman Oster inquired as to the status of the grading plan with respect to the adjacent A&S Diesel site. Mr. Ives explained that the grading has been revised to have only approximately 5 foot of encroachment onto the adjacent A&S Diesel site, and that it was his understanding that Gary Joy, owner of A&S Diesel, was in agreement with the revised grading plan. Mr. Kestner confirmed, stating that he had spoken with Gary Joy, and that Mr. Joy was agreeable to the revised grading plan with approximately 5 foot encroachment onto his property with the stipulation that no additional stormwater would be discharged onto his property. Chairman Oster inquired whether all engineering comments have been addressed. Mr. Kestner confirmed that all engineering issues have been addressed, and that the project is ready for action. Member Czornyj inquired as to the location of signage on McChesney Avenue. Mr. Ives explained that the final location had not yet been determined, but that a map note had been added

to the site plan indicating that final location of all required signage must be worked out with the Town Highway Department. The Planning Board reviewed the issue of the split rail fence along the rear property line, and maintenance of all existing vegetation and trees are along the rear property line. Further, the Planning Board reiterated that vegetative in-fill to fill in any vegetative gaps along the rear property line occasioned as a result of construction activities, and include 6 foot conifers as additional vegetative buffer. A representative of the Brunswick No. 1 Fire Department asked whether the entrance to the parking lot off NYS Route 7 was for customers only. Mr. Ives stated that that entrance was for customers only, and provided an access of 24 feet in width with a 33 foot turning radius, which was compliant with NYSDOT requirements. The Brunswick No. 1 Fire Department is also requesting that a Knox box be installed at the Tractor Supply Store. The Applicant was in agreement with that request. Chairman Oster inquired whether there were any further comments. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the site plan subject to the following conditions:

1. Final approval of the project SWPPP by the Town of Brunswick, and execution of the SWPPP Notice of Intent as a MS4 community;
2. Installation of split rail fence along rear property line, subject to inspection and approval by Brunswick Building Department and consulting engineer;
3. Vegetative in-fill with 6 foot conifers along the property line in areas of sparse vegetation due to construction activities, subject to inspection and approval by the Brunswick Building Department and consulting engineer;
4. Installation of Knox box at Tractor Supply Store in coordination with Brunswick No. 1 Fire Department;
5. Letter from Gary Joy, A&S Diesel, consenting to grading onto the A&S Diesel parcel as set forth on the approved grading plan;

6. All necessary and applicable approvals for public water and public sewer connections;
7. Consultation with Brunswick Highway Department on signage on McChesney Avenue as set forth on the final site plan; and
8. All final engineering comments.

Such motion was seconded by Member Wetmiller. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The next item of business on the agenda was the Wal-Mart Real Estate Business Trust/Brunswick Square PDD amendment application, upon referral from the Brunswick Town Board for recommendation. The Applicant was represented by Mary Elizabeth Slevin, Adam Fishel, Amy Dake, and Greg Ottman. Attorney Slevin presented a brief overview of the proposed Brunswick Square PDD amendment, which includes an expansion of the Wal-Mart Store plus addition of the former DiGiovanni parcel to the PDD project site for purposes of stormwater management and wetland enhancement. Mr. Fishel generally reviewed the site layout, proposed wetland improvements, proposed drainage improvements including reconstruction of a section of McChesney Avenue and installation of new drainage facilities under McChesney Avenue. Ms. Dake generally reviewed the traffic assessment report, concluding that off-site mitigation is required and that NYSDOT has already granted conceptual approval of the traffic analysis. Mr. Ottman generally reviewed architectural issues, including a proposed new building facade and signage. Finally, all necessary project approvals were discussed. The Planning Board questioned the McChesney Avenue reconstruction, which proposes to raise a certain portion of McChesney Avenue approximately 1 foot, and questions whether that section of McChesney Avenue located in proximity to the Wal-Mart entrance could be raised any higher. There was general discussion

concerning road elevation construction and stormwater issues. Member Tarbox commented that he did not approve of the loss of greenspace along NYS Route 7. Mr. Fishel replied that the required greenspace was met on the entire parcel, which now would include the former DiGiovanni parcel, and that the additional parking was needed. The Planning Board commented that these number of proposed parking spaces were proposed by Wal-Mart, and not required pursuant to the Town parking requirements. Member Czornyj concurred that he wanted to see greenspace maintained in the front of the project site along NYS Route 7. Attorney Slevin discussed the parking space issues and requirements and ratios which Wal-Mart was seeking to achieve regarding its proposed expansion, and concluded that the current number of proposed parking spaces are less than what was originally approved in the Brunswick Square PDD. Attorney Slevin also commented that the minimum greenspace requirements are met on the current proposal, but that the greenspace directly adjacent to NYS Route 7 is lost and replaced with greenspace along McChesney Avenue. Member Czornyj also raised the issue of sidewalks along McChesney Avenue connecting the Wal-Mart Store with the pedestrian walkway that is being constructed in connection with the Duncan Meadows PDD project. This matter has been set down for the May 19 agenda for further discussion concerning the Planning Board's recommendation to the Town Board on the PDD amendment.

The next item of business on the agenda was a site plan application submitted by Boswell engineering in connection with the proposed Stoneledge Terrace project in the City of Troy, with proposed access to the project off Oakwood Avenue situated in the Town of Brunswick. Dominic Arico of Boswell Engineering was present for the Applicant. Mr. Arico presented an overview of the project, which is set on an approximate 50 acre parcel and proposes 240 apartment units. None of the proposed apartment buildings are located in the Town of

Brunswick. The only proposed use of the property located in Brunswick adjacent to Oakwood Avenue is for the access road into the apartment project, as well as stormwater basins. The balance of the project site, including all proposed buildings and amenities, are located in the City of Troy. Mr. Arico stated that the City of Troy had already rezoned the parcel to PDD, and that the project was before the City of Troy Planning Board on site plan review. Mr. Arico indicated that the Troy Planning Board had brought the project through the SEQRA process through an Environmental Impact Statement, which included traffic studies, grading plans, design plans, and stormwater compliance. Mr. Arico confirmed that the only items on this project that are located within the Town of Brunswick is the access road off Oakwood Avenue and stormwater basins. Mr. Arico stated that the road for this project would remain private, and that the stormwater basins would be privately owned. Member Czornyj inquired whether the Town of Brunswick receives any percentage of the real property taxes, and questioned why all the apartment buildings were located in the City of Troy. Mr. Arico also stated that the water connection is proposed from Farrell Road and Gurley Avenue, and that the proposed sewer is gravity fed to the City of Troy sewer system, except for a small pump station which is required for a certain section of the project site. Mr. Arico confirmed that the City of Troy Fire Department has jurisdiction over the project site. The Planning Board commented that the road system for this project connecting Gurley Avenue with Oakwood Avenue could potentially become a through road, creating additional traffic on Oakwood Avenue. Mr. Arico stated that given the road design, it is unlikely that anyone would use the project road system as a through road. The Planning Board had several issues concerning the stormwater plan, road location, and also referred the matter to the Town Building Department for an initial zoning compliance review concerning that portion of the project located in the Town of Brunswick. Mr. Arico stated that he

would file a complete set of all the project plans, Environmental Impact Statement, and stormwater pollution prevention plan for review by the Planning Board. This matter has been set down for the May 19 agenda for further discussion.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by Hernick for property located at 421 Bonesteel Lane. The Applicant seeks to divide an existing 4.9± parcel into two properties, which will include a 2.9± acre parcel with the existing house, and a 2.0± acre parcel with existing barns and outbuildings to be used for residential construction. The Applicant has stated that he is intent on constructing a new residence on the 2.0± acre parcel on which the barns and outbuildings sit, but needs to sell the 2.9± acre parcel with the existing house in order to finance his new home construction. The Planning Board considered the option of conditioning any approval on obtaining a building permit on new home construction on the 2.0± acre parcel within 30 days of project action, and to complete the construction of the residence within 12 months or require that all existing bonds and outbuildings be removed from the site. This matter is placed on the May 19 agenda for further discussion.

The second item of new business discussed was the site plan application by Snyder for property located at 1802 NY Route 7. This project site is approximately 11.6 acres, and the Applicant seeks to operate a dog kennel at that location. This matter is placed on the May 19 agenda for discussion.

The **index** for the May 5, 2011 meeting is as follows:

1. Farrell – major subdivision – 6/2/11;
2. Berkshire Properties PDD – major residential subdivision – 5/19/11;
3. Sphere STP, II, LLC – site plan – approved with conditions;

4. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation – 5/19/11;
5. Boswell Engineering - Stoneledge Terrace site plan – 5/19/11;
6. Hernick – waiver of subdivision – 5/19/11;
7. Snyder – site plan – 5/19/11.

The **proposed agenda** for the May 19, 2011 meeting currently is as follows:

1. Berkshire Properties PDD – major subdivision;
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation;
3. Boswell Engineering - Stoneledge Terrace site plan;
4. Hernick – waiver of subdivision;
5. Snyder – site plan;
6. Oakwood Property Management, LLC – recommendation on rezone petition for Tax Map Parcels 90-1-12.2 and 90-1-13.1.