

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

**MINUTES OF THE PLANNING BOARD MEETING HELD June 2, 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 draft minutes of the May 19, 2011 meeting were reviewed by the Planning Board. Upon motion by Member Czornyj, seconded by Member Christian, the draft minutes of the May 19 meeting were unanimously approved without amendment.

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 No. 102-2-3.12). Brian Holbritter and Scott Reese were present for the Applicant. Mr. Holbritter had submitted a written response to the comments received at the public hearing, and generally reviewed that written response with the Planning Board. Regarding comments concerning traffic, Mr. Holbritter stated that the proposed new public subdivision road will have access onto two County Highways (Town Office Road and McChesney Avenue Extension) and that posted speed limit on each of these County Highways is 35 mph. Mr. Holbritter also stated that access to State Highways is in close proximity to the subdivision road, including 1.3 miles to Route 7 at the end of Town Office Road, 1.9 miles to Route 7 at the end of McChesney Avenue, and 1.1 miles to Route 2. Mr. Holbritter also reviewed sight distances in

both directions at the terminus of the proposed subdivision road on Town Office Road and McChesney Avenue Extension, and all sight distance requirements are met. Mr. Holbriiter also reviewed projected trip generation information. Mr. Holbriiter also commented that based on his observation, the traffic on McChesney Avenue Extension and Town Office Road traveled at or slightly above the posted speed limit of 35 mph, and that a majority of the traffic at peak times on McChesney Avenue Extension is proceeding east to Route 2, and not west toward Route 7. Mr. Holbriiter also stated that the owner was coordinating with the Rensselaer County Highway Department, and that the County Highway Department has not expressed any concern regarding traffic impact. Chairman Oster requested that the owner obtain a letter from the Rensselaer County Highway Department on that issue. Mr. Holbriiter also addressed potential school district impact issues. Mr. Holbriiter stated that according to the 2010 U.S. Census, on average there is less than 1 child projected per residential household. In that regard, Mr. Holbriiter stated that with 23 proposed lots, it is reasonable to anticipate approximately 23 school age children from this project from the Brittonkill School District. According to his research, there is approximately 1,400 students in the Brittonkill District, and the assimilation of 23 additional students is not significant. The Planning Board directed the owner to address that issue directly with the Brittonkill Superintendent. Regarding property tax and home value impacts, Mr. Holbriiter confirmed that the Applicant is proposing moderately priced homes that will benefit the residential tax base in the Town without significantly impacting the value of surrounding homes. Mr. Holbriiter stated that these homes should be consistent with the existing homes in the area. On the issue of existing farms, Mr. Holbriiter stated that the Town of Brunswick has a right to farm law, and that the Applicant was willing to place a note on the plat indicating that Brunswick has the right to farm law and that there are existing farms in proximity to this

subdivision. Chairman Oster stated that such a plat note would be appropriate, and that the Planning Board has experience with this issue on other projects where a notation has been made to alert future owners that surrounding properties are used for agricultural purposes and that Brunswick has a right to farm law. In terms of drainage, Mr. Holbriiter stated that the current NYSDEC Stormwater Regulations apply, and are very strict. The Stormwater Regulations require that no increase to stormwater flows can result from the project as compared to preconstruction conditions, and that the stormwater plan for this project complies with these state requirements. Chairman Oster noted that the Center Brunswick Fire Department Chief had requested that the Applicant investigate creating a pond on site for purposes of installation of a dry hydrant for fire fighting purposes. Mr. Reese responded that creating such a pond for firefighting purposes is problematic given that the current Stormwater Regulations promote detention basin infiltration to groundwater, and that the stream which traverses the project site is under the authority of the Army Corps of Engineers. Mr. Reese did state that there was an existing pond located off the project site which could serve for firefighting purposes, but it is beyond the Applicant's control since it is off the project site. The Planning Board Members generally stated that the request of the Fire Department to investigate that issue had been followed, and if it is not feasible to create such a pond for firefighting purposes on the project site due to Stormwater Regulations and Stream Regulations, then that feature should not be included in project plan. Mr. Holbriiter stated that with respect to accountability for stormwater facilities, it would be the responsibility of the builder/developer to do inspections during construction and provide compliance reports to the Town, and that the homeowners' association for this project would have responsibility for ownership and maintenance for the stormwater facilities upon buildout. Mr. Holbriiter stated that in terms of protection of the stream on the

project site, it is noted that the stream flows through an Army Corps of Engineers regulated wetland, and therefore the Applicant will be staying away from both the wetland area and the stream as part of the project proposal. Mr. Holbriter confirmed that the only wetland impact on this project is the stream culvert located adjacent to Town Office Road, and that the Applicant was coordinating with the Army Corps of Engineers and the Rensselaer County Highway Department on that issue. Mr. Holbriter addressed the comment on the stream leaving the project site and going onto the property owned by Seddon, and that Mr. Holbriter had obtained information concerning the first floor elevation of the Seddon home and the elevation of the stream, and it appears that there is several feet elevation difference between the stream and the first floor elevation. Mr. Holbriter did note that there is likely to be an 8' basement, but that he did not have any information concerning the basement of the home as to whether it was a concrete floor or earth floor. Mr. Holbriter confirmed that the Applicant must comply with Wetland and Stream Protection Requirements, and that the Applicant could not impact the stream to a point where the flow to the Seddon property is impacted. Mr. Holbriter also confirmed that Stormwater Regulations require no increase in offsite stormwater flow as a result of construction activities. Mr. Kestner did state that he had done a site visit to the Seddon property, and that surface water flows are being examined as part of this project. Mr. Holbriter confirmed that the original long Environmental Assessment Form was incorrect in terms of tree removal and earth removal from the project. Mr. Holbriter stated that no more than one quarter acre of treed area would be impacted by the project, and that a total amount of 750 ton of soil removal is anticipated from the project. In terms of soil removal, Mr. Holbriter noted that that volume is below any NYSDEC Mining Regulation, and will amount to approximately 30 dump trucks at most. Mr. Holbriter explained that most of the soil removal is for road construction,

and that the Applicant is trying to balance the grading on the rest of the project site in terms of cuts and fills. In terms of the well and water testing undertaken by the Applicant, Mr. Holbriter stated that the Applicant has complied with the requirements of the Rensselaer County Health Department, which require the installation of one test well for every 8 proposed lots. Here, the total of 3 test wells were drilled given the proposed 23 lots. Further, Mr. Holbriter stated that the County requires one pump test while the other test wells are monitored, and that the Applicant had complied with this requirement. Mr. Holbriter further stated that the County required water quality testing on one test well, and that the Applicant had complied with this requirement. Mr. Holbriter stated that in terms of the pump test, the test well had produced 17 gallons per minute average over a 24 hour period, and that there was no drawdown impact on the 2 monitoring wells on the site. Further, Mr. Holbriter stated that he did not receive any complaints in terms of lack of groundwater from any surrounding properties during the term of the pump test. Mr. Holbriter concluded that given the results of the pump test, there was adequate groundwater supply for all 23 proposed lots. Mr. Kestner stated that he will be setting up a meeting with the Applicant and the Rensselaer County Health Department to address his concern regarding the location of the test wells and the monitoring wells on the project site, and that this meeting should be set up before the next Planning Board meeting. Regarding the comments concerning the appearance of the proposed stormwater facilities, Mr. Holbriter had provided copies of pictures of stormwater detention areas that are being proposed for this project site for review by the Board. Member Wetmiller had a question regarding future maintenance of the detention facilities and vegetation. Mr. Holbriter confirmed that the homeowners' association for this subdivision would be required to maintain the stormwater facilities in the future. Mr. Holbriter also stated that he had addressed the comment concerning impact to wildlife on the project site, and also that no trees or

other vegetation is being proposed to be removed along the property line adjacent to McChesney Avenue Extension. In terms of the comment of availability of natural gas, Mr. Holbriiter stated that the natural gas line is approximately one mile away from the project site, and similar to the water and sewer extension issue, it is not economically feasible to extend a gas line to the project site without adding additional density. The Planning Board generally discussed the Applicant's response to the public comments, stating that the Applicant still needed to supply to the Planning Board a letter from the Rensselaer County Highway Department concerning traffic impact, information directly from the Brittonkill School District concerning any impacts to the school, and also the results of the proposed meeting with Mr. Kestner and the Rensselaer County Health Department concerning well and water issues. The Planning Board determined that aside from these three outstanding issues, the Applicant had addressed the remaining comments received during the public hearing. Member Czornyj raised a question concerning the driveway for proposed Lot 6 in terms of its proximity to an Army Corps Wetland. Member Czornyj suggested that in the event this project is approved, that the Applicant install the driveway on this lot, since the Town has recently experienced a situation where a subdivision was approved but not immediately built and thereafter was impacted by a wetland which had expanded in size from the time of the initial project review. Mr. Holbriiter stated that this would not be an issue, as Lot 6 is proposed to be one of the first lots to be developed, and that the driveway installation would not result in any wetland impacts. Also, Mr. Holbriiter stated that the wetlands on this project site are regulated by the Army Corps of Engineers, which do not include any regulatory setback area as opposed to NYSDEC wetlands. This matter has been placed on the June 16 agenda for continuation of the public hearing, which will commence at 7:00 p.m.

The second item of business on the agenda was the Wal-Mart Real Estate Business Trust application to amend the Brunswick Square Planned Development District, upon referral from the Town Board for recommendation by the Planning Board. Attorney Mary Elizabeth Slevin, Esq. and Adam Fishel, P.E. were present for the Applicant. Mr. Fishel generally discussed a proposed amendment to the plan to include a revised landscaping plan along the Route 7 corridor, as well as proposed changes to the berm and greenspace area near the southern portion of the site and entrance onto McChesney Avenue. The Planning Board generally reviewed and discussed a proposed recommendation to the Town Board on the PDD amendment request, concluding that in general a positive recommendation would be made to the Town Board subject to identified considerations. The Planning Board then raised the issue of proposed outdoor display/sales area in the parking lot. Mr. Fishel confirmed that Wal-Mart would like to include an area for retail display/sales in the parking lot, which could be done either through an area shown on the site plan or an agreement to request a permit for such display area on an annual basis from the Town Building Department. After extended discussion on the issue, the Planning Board determined that it would make a recommendation to the Town Board against permitting any outdoor display/sales area in the parking lot, but that continued display of items on the sidewalk adjacent to the building in proximity to the garden center would be acceptable. After completing its deliberation, Member Czornyj made a motion to approve a recommendation to the Town Board on this PDD action, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a recommendation completed. The Planning Board directed Attorney Gilchrist to add a specific provision concerning a recommendation against any outdoor display/sales area in the parking lot, and forward the final recommendation from the Planning Board to the Town Board for its consideration.

The next item of business on the agenda was the site plan application submitted by Boswell Engineering for the proposed Stoneledge Terrace project, a condominium and apartment project located primarily in the City of Troy with a portion of the project site located in the Town of Brunswick adjacent to Oakwood Avenue and Farrell Road. Victor Caponera, Esq. was present for the Applicant. Mr. Caponera stated that only 6% of the project site was located in Brunswick, that there were no buildings or structures proposed for the Brunswick portion of the project, and that the request was for approval of the interior private road and stormwater facilities on the Brunswick portion of the project. Mr. Caponera also stated that it was his understanding that all documents requested by the Planning Board for review in connection with this application have been received by the Town either from the Applicant or from the City of Troy, including DEIS, SEQRA Findings, the Stormwater Plan, and other project documents. Chairman Oster stated that based on the Board's previous discussion, there was a potential issue concerning zoning compliance. Mr. Kreiger, as Brunswick Code Enforcement Officer, stated that the proposed use of the Brunswick property was not consistent with the zoning designation of "school and cemetery" in which the property is located. Accordingly, the zoning compliance issue must be resolved prior to the Planning Board addressing the site plan application. Mr. Caponera disagreed with this zoning interpretation, but requested that a written determination concerning this zoning compliance matter be issued by the Building Department. Thereafter, Mr. Caponera asked the Planning Board whether there were any questions or comments regarding the site plan review of this project as well, so that these questions and comments can be addressed while the zoning compliance issue was being addressed. Mr. Kestner stated that there were stormwater issues which needed to be addressed, including the fact that the current stormwater plan directs approximately 30% of the project drainage to stormwater facilities to be located in Brunswick,

while only 6% of the project site is located in Brunswick. Mr. Caponera and Dominic Arico, project engineer, stated that stormwater was being redirected from one point in the City of Troy to another point in the City of Troy, and should not impact the Town of Brunswick. There was general discussion regarding current stormwater MS4 responsibilities, as well as where the detention ponds were located, where drainage facilities and drainage culverts were located along Oakwood Avenue, and ownership and maintenance responsibilities concerning the stormwater facilities. Mr. Kestner also raised an issue which had initially been raised by the Center Brunswick Fire Company concerning the request for a fire hydrant to be located on this project site within the Town of Brunswick. There was general discussion regarding issues associated with locating a fire hydrant extension from the City of Troy to be situated within the Town of Brunswick, and agreed that this matter would be further investigated. This matter has been tentatively placed on the June 16 agenda for further discussion.

The next item of business on the agenda was the site plan application by Snyder for property located at 1802 NY Route 7. The Applicant seeks to operate a dog kennel on an approximate 11.6 acre parcel. The Applicant explained that he was looking to build an oversized garage, and walled area for a kennel for housing a maximum of 10 dogs. The Planning Board raised the issue of the steepness of the current driveway, noting that the Town standards for a commercial driveway has a maximum slope of 10%, and that the existing driveway is significantly greater than 10% in slope. The Applicant concurred, stating that he did not think it would be feasible to regrade the property to obtain a 10% slope for the driveway. Attorney Gilchrist stated that he would need to research the issue of whether the Applicant would require a variance from the Zoning Board of Appeals or a waiver of commercial driveway standards from

the Town Board, or whether there was another procedural option available to the Applicant. This matter has been tentatively placed on the June 16 agenda for further discussion.

The next item of business on the agenda was the Oakwood Property Management, LLC applications, including a referral from the Brunswick Town Board of the petition to rezone Tax Map Parcels 90-1-12.2 and 90-1-13.1 to “B-6”, and also site plan review for Tax Map Parcels 90-1-14 and 90-1-15. Ronald Laberge, PE was present as consulting engineer to the Planning Board on these applications. Teresa Bakner, Esq. and Scott Reese were present for the Applicant. The Planning Board generally reviewed a draft recommendation on the petitions to rezone based on deliberations held at a previous meeting. Attorney Bakner then stated that upon further consideration, and based upon the inability to market the parcels in the current poor economic conditions, the Applicants would prefer to maintain the option of a “filling station” as a B-6 use for the subject parcels, despite the request by the adjoining residences in the North Forty Subdivision that the “filling station” use be eliminated. While the Applicant had initially agreed with this proposal, upon further consideration, the Applicant would like to have the ability to maintain a “filling station” option as a special permit use within the B-6 zone. The Planning Board understood the request of the Applicant, but maintained its recommendation that the “filling station” special use within the B-6 zone be eliminated by the Town Board on this rezoning petition. Member Czornyj made a motion to adopt its recommendation on the rezone petition to the Town Board, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a final recommendation on the rezoning petitions made. The Planning Board directed that the final recommendation be forwarded to the Town Board and the Applicant. Thereafter, the Planning Board continued its deliberation on the site plan applications for Tax Map Parcels 90-1-14 and 90-1-15, located in the Industrial Zoning District. Attorney

Bakner stated that Brendan Gallivan and Sean Gallivan were not able to attend the meeting due to a conflict, and requested that the site plan discussion be continued at the June 16 Planning Board meeting when the Gallivans could be present. Also, Attorney Bakner explained that the Gallivans had retained Dr. Henry Scarton for additional noise mitigation assessment, and that Dr. Scarton was still working on his report, which would be helpful for the Planning Board during their site plan deliberations. The Planning Board was agreeable to place the site plan review matter on its June 16 agenda. Member Czornyj raised an issue concerning the Applicant's requested lot line adjustment options, which were presented as a way of bringing the existing auto building adjacent to Oakwood Avenue in compliance with setback requirements, and also to allow the Applicant to propose a minor lot line adjustment to the rear of the parcel to allow adequate access around the equipment and stockpile areas. Member Czornyj noted that three options had been presented by the Applicant, but that option 2 and option 3 were significant lot line adjustments that appeared to him to significantly expand the proposed industrial area. Further, Member Czornyj stated that even with respect to option 1 and in his opinion, the Applicant was requesting too much room around the equipment and stockpile area for access than should be allowed. Mr. Laberge reviewed the lot line adjustment options, and reiterated that the proposal was previously discussed so as to correct building setback issues for the auto building, and also to provide for a realistic work area around the equipment and stockpile location to the rear of the property so as to avoid compliance issues in the future. The Planning Board generally discussed the proposed lot line adjustments as they relate to the current memorandum of agreement between Oakwood Property Management, LLC and the Town of Brunswick. The Planning Board then generally discussed the number of trucks on the property, and the area for parking on the industrial site plan. The Planning Board noted that it appeared

employees were parking on the shoulders of the access driveways off Oakwood Avenue, and there appeared to be inadequate parking on the current site. The Planning Board discussed means to address parking issues on the site, which include identifying and limiting the areas for truck parking and employee parking on the site plan, as well as potentially limiting the number of trucks or vehicles on the site. Attorney Bakner explained that limiting the total number of trucks is problematic in connection with the Gallivan operations, since the types of trucks and sizes of trucks vary at any given time and vary throughout different seasons. In this way, Attorney Bakner stated that at one time of the year a smaller truck may be used to a greater extent so that a larger total number of trucks could be parked within one area, whereas during a different time of the year a larger truck may be used to a greater extent so that a lesser number of trucks could be parked at any one time. Attorney Bakner argued that given the variability of the operations during different points of the year, limiting the total number of vehicles or trucks to be parked on the site was problematic. The Planning Board generally discussed the option of clearly delineating all parking areas on the site plan, which Attorney Bakner will discuss with her clients. The Planning Board next discussed the material processing area marked on the site plan, and whether the current proposed site plan identified specific locations for mulch piles. Mr. Reese explained that the area does not show specific mulch pile or material pile locations, due to the need of the company to have flexibility as to specific locations of piles at any one time and different types of materials for the piles. Mr. Reese stressed that all material processing would be within the area marked on the site plan, and that no pile would be greater than 30 feet in height. The Planning Board wanted to further consider specific areas for processed material piles. This matter is placed on the June 16 agenda for further discussion.

One item of new business was discussed.

An application to amend the Brunswick West Apartments site plan has been submitted by Brunswick Associates of Albany, LP. Tim Owens was present for the Applicant, and presented the proposed site plan amendment to the Planning Board. Mr. Owens generally reviewed a proposal to relocate the “k garage” from its original location to a location in a parking lot, consistent with other similar garages on the site. Mr. Owens explained that during the build out of the apartment building extensions, the Applicant had determined that the alternate location for the garage was preferable to the original location for the “k garage”, and requested the ability to relocate the “k garage” to a similar parking lot area. Mr. Owens stressed that there was no change to the overall number of parking spaces available on the site as a result of this modification. Next, Mr. Owens explained that the Applicant was looking to renovate and expand its existing clubhouse, which would include expanding clubhouse facilities to an area of the existing clubhouse building housed by a garage, and therefore the Applicant would need permission to construct a separate freestanding garage facility near the expanded clubhouse. Mr. Owens explained the proposal to the Planning Board, stressing that the total number of parking spots available on the project site remained compliant with the project approvals. The Planning Board determined that these two site plan amendments were minor changes and consistent with the underlying PDD approval, will not create any additional facilities but rather relocate facilities and provide for a limited expansion of previously approved facilities, and that this matter can be addressed presently. Member Czornyj made a motion to adopt a negative declaration under SEQRA with respect to these two minor site plan modifications, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve these two minor amendments to the existing site plan, subject to the condition that the Applicant submit a final as-built plan to the

Brunswick Building Department so that these changes are on file at the Town of Brunswick. Member Esser seconded the motion subject to the stated condition. The motion was unanimously approved, and the two minor site plan modifications approved subject to the stated condition.

The **index** for the June 2, 2011 meeting is as follows:

1. Farrell – major subdivision – 6/16/11 (public hearing to be reconvened at 7:00 p.m.);
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment - recommendation adopted;
3. Boswell Engineering - Stoneledge Terrace site plan – 6/16/11 (tentative);
4. Snyder – site plan – 6/16/11 (tentative);
5. Oakwood Property Management, LLC – recommendation completed on rezone petition – site plan 6/16/11;
6. Brunswick Associates of Albany, LP – minor amendment to Brunswick West Apartments PDD site plan – approved subject to condition.

The **tentative agenda** for the June 16, 2011 meeting currently is as follows:

1. Farrell – major subdivision (public hearing to reconvene at 7:00 p.m.);
2. Boswell Engineering - Stoneledge Terrace site plan (tentative);
3. Snyder – site plan (tentative);
4. Oakwood Property Management, LLC – site plan.