

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

MINUTES OF THE PLANNING BOARD MEETING HELD August 18, 2011

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

ABSENT was MICHAEL CZORNYJ.

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

Chairman Oster noted that the Kennelly minor subdivision application matter has been adjourned to the September 1 meeting at the request of the Applicant.

The Planning Board opened a public hearing regarding the site plan application filed by James Snyder, seeking approval to operate a dog kennel at 1802 NY Route 7. The Notice of Public Hearing was read into the record, and such notice was published in The Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to all adjacent property owners. Chairman Oster requested the Applicant to present an overview of the project. Mr. Snyder stated that he was seeking to operate a kennel for approximately 10 dogs on his property. Mr. Snyder noted that he had regraded his driveway for access, and was waiting for NYSDOT approval for use of the driveway for commercial purposes. Chairman Oster then allowed public comment. Paul Gower, 1792 NY Route 7, handed up a written statement submitted by him and John Erickson, also residing at 1792 NY Route 7, and read that statement into the record. Mr. Gower indicated that he and Mr. Erickson have no initial objections to Mr. Snyder operating a kennel at his property, and have no reason to believe that Mr. Snyder would knowingly run such

an operation in a manner other than full consideration of the wellbeing of both the animals and his neighbors; however, Mr. Gower and Mr. Erickson do raise concern regarding possible disruptive noises, sanitation and disposal of waste material, and clarification as to the full range of animals which may be housed at this location. Hearing no further comments from the public on this application, the Planning Board then closed the public hearing on the Snyder site plan application.

The Planning Board reviewed the draft minutes of the July 21, 2011 meeting. Upon motion of Member Mainello, seconded by Member Esser, the July 21 minutes were unanimously approved as drafted.

The Planning Board reviewed the draft minutes of the August 4, 2011 meeting. Upon motion of Member Wetmiller, seconded by Member Tarbox, the minutes of the August 4 meeting were unanimously approved as drafted.

The next item of business on the agenda was the site plan application of James Snyder for property located at 1802 NY Route 7, seeking approval for operation of a kennel. Chairman Oster noted that comments had been received during the public hearing concerning noise and sanitation, and also the type of animals to be kept at the kennel. Mr. Snyder stated that with respect to all waste from the kennel operation, waste would be properly bagged and picked up as part of the regular solid waste disposal from that property. In terms of noise, Mr. Snyder stated that the animals would be kept in an insulated garage building, which is approximately 400' from the nearest residence. In addition, the Snyder home is located between the garage building and the closest off-site residence. Mr. Snyder did state that he would like to have a fenced area for animal exercise, but that the fenced area was not currently shown on the site plan. Mr. Snyder stated that he would put the fenced area on the opposite side of the garage building, further

removed from the off-site residence. Member Wetmiller stated that any outdoor exercise of animals, whether in the fenced area or simply walking animals, should occur at all times with supervision and oversight, and that animals should not simply be kept outside in a fenced area which could result in excessive noise to neighbors. Mr. Snyder concurred, and stated that any outdoor animal activities would be supervised at all times. Upon further discussion, it was determined that Mr. Snyder would not include any fenced area on the current site plan, but would rather commence the kennel operation with the garage building only, and if the business succeeded, Mr. Snyder would come back to the Planning Board for an amendment to the site plan to add a fenced area. In terms of the types of animals to be kept at the kennel, Mr. Snyder stated that 99% of the animals would be dogs, 1% may be cats, and that he will only accept small, caged domesticated animals at the kennel. The Planning Board discussed the best way to attach an appropriate definition to the types of animals that could be housed at the kennel. It was determined that Attorney Gilchrist would research for an appropriate definition for the type of domesticated animals that would be allowed, and that the current approval would be limited to dogs, cats, and other small, caged, domesticated animals. Mr. Snyder was agreeable to this limitation. Chairman Oster inquired whether there were any further questions or comments by the Board members concerning this site plan application. Hearing none, Member Tarbox made a motion to adopt a Negative Declaration pursuant to SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 6/0, and a SEQRA Negative Declaration was adopted. Thereupon, Member Wetmiller made a motion to approve the Snyder site plan application subject to the following conditions:

1. The kennel is limited to no more than a total of 20 animals at any one time, and limited to dogs, cats, and small, caged domesticated animals (specific definition consistent with this limitation to be discussed at September 1 meeting, which was agreed to by Mr. Snyder);

2. All times when the animals are outside the insulated, garage building must be under owner and/or manager supervision, and any fenced area for the animal use on the property will be subject to a site plan amendment to be reviewed by the Planning Board;
3. Approval by NYSDOT for use of the driveway as a commercial driveway, with proof of such approval filed with the Brunswick Building Department; and
4. Compliance with all applicable County and State regulations for the operations of a kennel.

Member Mainello seconded the motion subject to the stated conditions. The motion was approved 6/0, and the Snyder site plan application approved subject to the stated conditions.

Three items of new business were discussed.

The first item of new business concerned the Brunswick Woods PDD amendment, and specifically the waiver of subdivision for this property previously approved by the Planning Board in September 2010. The Applicant, through Paul Goldman, Esq., has refiled the waiver of subdivision application, updated to August 18, 2011 for consideration by the Planning Board. Mr. Goldman explained that the reason for this application was that the owner had not filed the approved plat in the office of the Rensselaer County Clerk within applicable timeframes. Accordingly, the owner is requesting that the approval be updated, and that the approved plat be stamped and re-signed, so that it can be recorded in the Office of the Rensselaer County Clerk within applicable timeframes. Mr. Goldman confirmed that there were no changes to the subdivision plat, and that the current application is being submitted only to comply with applicable filing timeframes. Upon confirming that there were no changes to the previously-approved plat for property, the Planning Board was willing to entertain the application for purposes of updating the approval to comply with applicable filing timeframes. It was noted that this project had already been reviewed pursuant to SEQRA, and that a Negative Declaration is on file. The Planning Board had no further questions regarding the application. Member Christian

made a motion to approve the current waiver application for the purpose of updating the previous approval to comply with filing timeframe requirements, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and the prior subdivision plat approval was thereupon updated for purpose of compliance with applicable filing requirements.

The next item of business discussed was the site plan application submitted by Wal-Mart Real Estate Business Trust in furtherance of the Brunswick Square Planned Development District amendment, which had been approved by the Brunswick Town Board on August 11, 2011. John Stockli, Esq. was present for the Applicant. The resolution approving the Brunswick Square PDD amendment was reviewed by the Planning Board, with particular attention to the conditions attached to the approval which will be pertinent to the site plan review which will be undertaken by the Planning Board. Mr. Kestner specifically reviewed with the Planning Board members the amendments to the plans concerning parking as well as greenspace/vegetation plans. In particular, the proposed vegetation plantings along NYS Route 7 were discussed, as well as appropriate vegetative screening for the entrance to the Brunswick Square/Wal-Mart Store off McChesney Avenue. Mr. Kestner also briefly reviewed the Applicant's letter dated August 12, 2011 which specifically responded to the comments raised by the Planning Board in its written recommendation to the Town Board on the PDD amendment application. The Planning Board directed the Applicant to coordinate with the Brunswick No. 1 Fire Department on all emergency access and fire code compliance issues, so that the issues could be incorporated as early as possible into the site plan review. This matter is placed on the September 1 agenda for further discussion.

The third item of new business discussed was a site plan application submitted by New York Light Energy LLC for installation of a solar panel array on the Sycaway Creamery property

located at 42 Duncan Lane. William Heffernan and Mark Richardson of New York Light Energy LLC were present on the application. New York Light Energy seeks to install two (2) solar facilities at ground level at 42 Duncan Lane (Tax Parcel #90.-2-9.2, a 6.17 acre parcel). The solar facilities will be constructed on a rack system, and each occupy an area of approximately 150' x 300', for a total area of approximately 300' x 300'. The solar panel array will be on an angle, with a total height at the highest point being approximately 8' off grade. New York Light Energy has entered into a power purchase agreement with the owner, and will sell power generated from the solar panel array to the property owner, as well as selling excess power back to the grid. Chairman Oster inquired why these panels are not being installed on roof tops on structures that already exist on the property. Mr. Heffernan explained that there were only two barn buildings on the property that would be suitable, but that they are located across the existing road over 1,000' from the connection point to the existing electric grid, and further that the barn structures would not be able to support the additional load from the weight of the solar panels. The Planning Board noted that the proposed location for the solar panel array is the area which has been recently filled by the property owner. Chairman Oster inquired about any safety considerations or access considerations. Mr. Richardson stated that he could not perceive any potential safety risk to the public, other than an individual who may be injured who may trespass onto the property or seek to damage the equipment. This led to a discussion regarding the equipment, including the wiring for this facility and the operation of the solar panel units. The Planning Board inquired into other solar panel installations by New York Light Energy. Mr. Heffernan responded that installations have been completed in Saratoga, Clifton Park, Colonie, and Averill Park, but most of these installations have been on roofs. The Planning Board inquired whether there were any other local installations by New York Light Energy at the

ground surface. Mr. Heffernan stated that a ground level installation had been created at the former BASF facility in Rensselaer. Member Wetmiller asked whether the panels get hot so as to create a safety issue. Mr. Richardson stated that while the panels do get warm, they do not rise to a temperature to cause any burn or injury. The Planning Board inquired about the ground installation, and whether permanent footers would be installed. Mr. Richardson stated that this particular installation includes pre-cast footers which will be placed on the ground surface, creating a weighted ballast configuration. Member Esser inquired as to maintenance of the ground surface between the solar panels, including weeds and overgrown brush. The Applicant was not clear as to whose responsibility it would be between the property owner and New York Light Energy for property maintenance. Member Mainello inquired whether the solar panels were reflective, and would a glare situation result. Mr. Richardson stated that excessive glare would not result from the solar panels. The Planning Board inquired about maintenance of the solar panels during the winter season, and whether snow removal from the solar panels is anticipated. Mr. Richardson stated that there would be no snow removal during the winter season, and given the angle of the solar panels together with the heat generated during sunny periods would result in the snow shedding off of the solar panels without any specific maintenance. It was confirmed that the solar panels would be angled in a southerly direction toward NYS Route 7. The Planning Board noted that while this is before the Board for concept review, the owner of the property must sign the site plan application form or submit a written statement that it consents to the site plan application and installation of the solar panels on the property. The Planning Board also stated that a full site plan application needs to be submitted, compliant with the Town Site Plan Regulations. The Planning Board requested that New York Light Energy inform the Board as to the closest location of a ground solar panel system, other

than the BASF site, so that the Planning Board members and engineer could visit that location. Also, the Planning Board requested that the area proposed on the Duncan property for the solar panel array be staked and flagged in the field for review by the Planning Board members. This matter has been placed on the September 1 agenda for further discussion.

The index for the August 18, 2011 meeting is as follows:

1. Snyder – site plan – approved with conditions;
2. Kennelly – minor subdivision – adjourned to 9/1/11 at request of Applicant;
3. Brunswick Associates of Albany, LP – waiver of subdivision – approved;
4. Wal-Mart Real Estate Business Trust – site plan – 9/1/11;
5. New York Light Energy LLC – site plan – 9/1/11.

The proposed agenda for the September 1, 2011 meeting currently is as follows:

1. Kennelly – minor subdivision;
2. Wal-Mart Real Estate Business Trust – site plan;
3. New York Light Energy LLC – site plan.