

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

**MINUTES OF THE PLANNING BOARD MEETING HELD September 15, 2011**

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

ABSENT was KEVIN MAINELLO.

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

The Planning Board opened a public hearing concerning the minor subdivision application by James Kennelly for property located on Cooksboro Road near NYS Route 7. Chairman Oster reviewed the public hearing guidelines. The Notice of Public Hearing was read into the record, noting that the notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Oster requested the Applicant to present a brief overview of the project. James Kennelly generally reviewed the proposed four lot layout covering a 13 acre parcel, with driveway locations and septic locations noted. Mr. Kennelly explained that all driveways enter and exit onto Cooksboro Road, which is a County Highway and that the County Highway Department has issued permits for each of the proposed driveways. Mr. Kennelly also stated that the Rensselaer County Health Department has approved the septic designs for each of these lots. Further, Mr. Kennelly stated that wetlands have been identified and delineated on the project site, and that NYSDEC had reviewed the wetland areas and concurred that all proposed construction was outside of wetland areas and the 100 foot buffer. Chairman Oster then

requested any public comment. David White, 1927 Route 7, stated that he had moved to his house for purpose of seclusion, and that he had a 15 year old autistic child and wanted to know how much privacy would be lost as a result of the subdivision proposal. Mr. Kennelly reviewed the lot layout in relation to the White parcel, stating that there was existing wooded area between proposed Lot 3 and the White property and that no other tree clearing is being proposed. Mr. Kennelly also offered to plant white pines to provide an additional buffer. Jeremy Dunteman, 71 Cooksboro Road, raised the same issue concerning privacy in relation to Lot 3. Again, Mr. Kennelly reviewed the lot layout in relation to the Dunteman parcel, and again offered to plant white pines as an additional vegetative buffer. Mr. Dunteman stated that the project site was wet. Mr. Kennelly reviewed the drainage plan, as well as the wetland location and maintenance of the wetland and buffer areas. Mr. Dunteman raised a question concerning the septic systems. Mr. Kennelly explained that all of the septic systems have been approved by the Rensselaer County Department of Health. Bernie Barber, Route 7, inquired as to the type of houses being proposed for construction. Mr. Kennelly explained that he would either sell lots to persons wanting to build in Brunswick, or that he would construct the homes. Mr. Kennelly explained that he was proposing a ranch style house, and that some of the lots would have walkout basements given grades. Mr. Barber raised a question regarding the wetland border. Mr. Kennelly and Mr. Kestner reviewed the DEC wetland location, as well as the 100 foot buffer area. Mr. Barber wanted to confirm that there were no driveways being proposed directly onto Route 7. Mr. Kennelly stated that all driveways will connect to Cooksboro Road. Hearing no further comment, Chairman Oster closed the public hearing on the Kennelly minor subdivision application.

Chairman Oster then opened the regular meeting of the Planning Board.

The Planning Board reviewed the draft minutes of the September 1, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the minor subdivision application by James Kennelly for property located on Cooksboro Road near Route 7. Chairman Oster reviewed the public comments received during the public hearing, which have all been addressed by Mr. Kennelly. Specifically, the maintenance of a vegetative buffer as well as planting of white pines on Lot 3 to maintain a vegetative buffer between the White parcel and Dunteman parcel was discussed. After further discussion, it was determined that additional white pines would not need to be planted on the project site, but rather the final subdivision plat would identify an existing forested area on Lot 3, and a map note would be added restricting the cutting of any trees with a 2.5 inch diameter at breast height within that forested area identified on Lot 3. Mr. Kennelly was agreeable to this condition. Chairman Oster confirmed that the septic systems for each of the proposed lots have been approved by the Rensselaer County Department of Health. Chairman Oster also confirmed that an Erosion and Sediment Control Plan had been submitted by Mr. Kennelly, which was reviewed and accepted by Mr. Kestner. Chairman Oster inquired whether any of the Planning Board members had any issue with any of the driveway locations. Member Czornyj stated that the driveway locations were acceptable, but he requested that an as-built drawing of the driveway profile be submitted to the Building Department concerning Lot 2, since the grade was approaching the maximum 12%. Member Esser also noted that the map indicated the driveways would be asphalt. Mr. Kennelly stated that the asphalt note was an error, and that the driveways will be gravel. This was acceptable to the Planning Board, and a corrected map note will be made. It was confirmed that all fees have been paid on the application, including the

\$500.00 per lot park and recreation fee. It was also noted that an agricultural data statement had been completed and mailed to all owners of all agricultural property within 500 feet of the project site, and that Mr. Kreiger had heard from each owner and there was no objection to this project. Chairman Oster inquired whether there were any further comments or questions on the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the Kennelly minor subdivision application subject to the following conditions:

1. Submission of an as-built driveway profile for Lot 2;
2. A map correction noted that the driveways will not be asphalt, but rather gravel;
3. An existing wooded area will be noted on Lot 3 on the final subdivision plat, with a map note that no tree greater than 2.5 inches in diameter at breast height will be removed within this denoted area.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Kennelly minor subdivision application approved subject to the stated conditions.

The next item of business on the agenda was the consideration of site plan approval for James Snyder for property located at 1802 NY Route 7. At the August 18, 2011 meeting, the Planning Board approved the site plan for James Snyder for the operation of a kennel for the boarding of animals at 1802 NY Route 7. Condition #1 to the site plan approval stated as follows:

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).

At the September 1 meeting, the Planning Board determined that a general definition would be difficult to apply, and rather sought to specifically list out the type of animal that would be permitted to be boarded at this kennel in addition to dogs and cats. The Planning Board thought this was important in order to avoid a situation where any dangerous or exotic animal was being boarded at this kennel. The Planning Board then requested Mr. Snyder to submit a list of the types of animals in addition to dogs and cats that he sought permission to board at this kennel.

Mr. Snyder submitted the following list of animals to be boarded at this kennel:

Dog, cat, bird, rabbit, guinea pig, hamster, gerbil, ferret,  
potbellied pig, lizard, fish.

Mr. Snyder was present, and explained that this was the total list of animals that he sought to board at this kennel, and if there were any changes in the future he would need to come back to the Planning Board for an amendment to the site plan. Member Wetmiller then made a motion to approve this list of animals as a clarification of Condition #1 attached to the site plan approval for this project issued August 18, 2011. Member Tarbox seconded the motion. The motion was unanimously approved, and the site plan approval for this project is amended accordingly.

The next item of business on the agenda was the site plan application submitted by Wal-Mart Real Estate Business Trust in conjunction with the Brunswick Square Planned Development District amendment. Attorney Mary Elizabeth Slevin and Adam Fishel, P.E. were present for the Applicant. Attorney Slevin briefly discussed procedural status. Mr. Fishel then reviewed the site plan which had been amended in accordance with the PDD approval, which in turn had considered the Planning Board comments and recommendations. Mr. Fishel generally reviewed the greenspace proposal in conjunction with the amended parking lot along NYS Route 7, as well as the amended parking area along the McChesney Avenue entrance/exit. Chairman

Oster inquired regarding the drainage and road improvements on McChesney Avenue. Mr. Fishel generally reviewed the proposal, which includes raising the elevation of McChesney Avenue by 1 foot in a certain location. Mr. Fishel explained that he was continuing to coordinate this work with both the Rensselaer County Highway Department as well as the New York State Department of Transportation. Mr. Kestner raised the issue of the actual road reconstruction, and any proposal by Wal-Mart to close McChesney Avenue between McChesney Avenue Extension and NYS Route 7 in this location. It was Mr. Kestner's understanding that this was one option being pursued by Wal-Mart, and the total time for road closure would be approximately 3-4 weeks. Mr. Fishel explained that this was one option being proposed by Wal-Mart, and was being proposed because this would make road reconstruction tasks less complicated. Alternatively, Mr. Fishel explained that a lane closure approach for this reconstruction work could also be proposed, but this would make the road reconstruction activities more complicated and probably take a longer period of time to complete. Mr. Fishel explained that a road closure would require the approval of both the Rensselaer County Highway Department as well as the New York State Department of Transportation, since a temporary traffic light would need to be added in all likelihood at the McChesney Avenue/NYS Route 7 intersection in proximity to the new Tractor Supply Store being constructed. The Planning Board generally discussed how this issue would be handled at a public hearing, and it was determined that the actual site plan construction activities are explained and depicted on the site plan, and that the potential road closure issue is in the nature of a buildout issue, but that the public should be aware that there is the potential for a road closure in conjunction with the McChesney Avenue reconstruction, or alternatively that a reconstruction period with a limited lane closure would be proposed, but that the construction period may take a longer time. Mr. Fishel also noted that he

had corresponded with both the Fire Department and school regarding the McChesney Avenue reconstruction proposal, and that he had not received any comments from the Fire Department, and that in terms of the school district and school buses, Wal-Mart could schedule the road reconstruction work for June 2012 after the 2011-2012 school year is concluded. It was determined that at the public hearing for this site plan, both road reconstruction buildout options would be presented. Member Czornyj then inquired as to the inclusion of a sidewalk/walking area along McChesney Avenue. Mr. Fishel confirmed that Wal-Mart had agreed to install a 6 foot paved shoulder along McChesney Avenue adjacent to its property, and to carry that paved shoulder into the parking lot area via a sidewalk along the McChesney Avenue entrance/exit, and continue a cross-walk area to the Wal-Mart building. Member Tarbox inquired as to the internal truck route on the site. Mr. Fishel confirmed that the Applicant was proposing to maintain the same internal truck route as originally approved, and that all turning radius at critical points will remain the same so that trucks will be able to maneuver through the site. Mr. Fishel confirmed that signage would be added to McChesney Avenue regarding no trucks. Member Wetmiller inquired about adding a sign on Route 7 indicating that no trucks were allowed on McChesney Avenue for deliveries to the Brunswick Plaza. Mr. Kestner stated that NYSDOT controls any signage on Route 7. Member Christian stated that he felt McChesney Avenue was too narrow for large trucks. Mr. Kreiger stated that it has been his experience that the large tractor trailer is not a problem on McChesney Avenue, but that the smaller bread-style delivery trucks have been an issue on McChesney Avenue delivering to the Brunswick Plaza. The Planning Board further discussed internal truck routes on the site plan, and Mr. Fishel will clarify all internal truck routes on the site plan. The Planning Board then determined that adequate information exists on the site plan application to conduct the public hearing. The Planning Board set October 6, 2011

at 7:00 p.m. for the public hearing on the site plan in conjunction with the Brunswick Square PDD amendment.

The next item of business on the agenda was the site plan application submitted by New York Light Energy, LLC for property located at 42 Duncan Lane. The Applicant proposes to install solar facilities at ground level on the Sycaway Creamery property located at 42 Duncan Lane. William Heffernan and Mark Richardson of New York Light Energy, LLC were present for the Applicant, together with Frank Polumbo of CT Male. Mr. Heffernan explained that the proposal has been revised to include both a ground system as well as a solar panel roof application on one of the buildings used for refrigeration. Mr. Heffernan also stated that a fence had been included around the solar panel ground array for safety and maintenance purposes. Chairman Oster wanted to confirm that the underlying property owner has consented to this application. Mr. Heffernan has submitted an affidavit of Keith Duncan, owner of the property at 42 Duncan Lane, Tax Map #90.-2-9.2, authorizing New York Light Energy, LLC to act as his agent and secure Planning Board approval for the proposed solar panel installation. Mr. Kestner then generally reviewed geotechnical issues with the Applicant, including soil stability and settling. Both Mr. Polumbo and Mr. Richardson addressed these structural and geotechnical issues. Mr. Heffernan confirmed that New York Light Energy, LLC will continue to own the solar panel array system, and will be required to maintain that system in the future. Member Esser inquired whether any surplus energy was produced from this solar panel system, and what happened to any surplus energy. Mr. Heffernan stated that if there is any excess energy produced, it is sold back to the grid with the underlying property owner (Mr. Duncan) getting credit. Member Esser confirmed that part of the energy being produced was to be used in conjunction with the refrigeration building, and inquired what would happen to that energy in the

event the refrigeration building were no longer used. Mr. Heffernan again explained that this excess energy would be sold back to the grid. Mr. Heffernan did confirm that there is a 20 year agreement that will exist between New York Light Energy, LLC and Duncan for these facilities. Member Czornyj inquired whether there would be any screening between these solar panels and residents located both to the south and west directions. Mr. Polumbo stated that there were no plans for screening, and the Applicant did not consider this solar panel array to be a significant visual impact, that they will be very low to the ground, and that there is a significant distance between the location for the solar panel array and adjoining residences. Member Czornyj stated that these panels may be visible from some of the back yards of the homes in the southerly and westerly direction, principally from the west. The Planning Board will need to consider both the potential visual and aesthetic impact, as well as consider any comments which may come from adjoining property owners. Mr. Kestner then had further discussions concerning construction issues and topography issues, to which Mr. Richardson provided response. Chairman Oster inquired as to the weight of the structures, which Mr. Richardson generally calculated to be in excess of 45,000 lbs., and that the structures are rated to withstand winds of 110 miles per hour. The Planning Board discussed whether there was adequate information on the record to schedule a public hearing. Determining that adequate information is included in the record, the Planning Board scheduled a public hearing on this site plan application to the October 6 meeting to commence at 7:15 p.m.

One item of new business was discussed.

An application for waiver of subdivision has been submitted by ECM Land Development in conjunction with the Duncan Meadows Planned Development District project. Specifically,

the application seeks the subdivision of the recreation field area which the owner proposes to deed to the Town of Brunswick. This matter is placed on the October 6 agenda.

The index for the September 15, 2011 meeting is as follows:

1. Kennelly – minor subdivision – approved with conditions;
2. Snyder – site plan – clarification/amendment to site plan approval;
3. Wal-Mart Real Estate Business Trust – site plan – 10/6/11 (public hearing to commence at 7:00 p.m.);
4. New York Light Energy LLC – site plan – 10/6/11 (public hearing to commence at 7:15 p.m.);
5. ECM Land Development – waiver of subdivision – 10/6/11.

The proposed agenda for the October 6, 2011 meeting currently is as follows:

1. Wal-Mart Real Estate Business Trust – site plan – public hearing to commence at 7:00 p.m.;
2. New York Light Energy LLC – site plan – public hearing to commence at 7:15 p.m.;
3. ECM Land Development – waiver of subdivision.