

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

MINUTES OF THE PLANNING BOARD MEETING HELD April 19, 2012

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDN 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.

Chairman Oster reviewed the agenda for the April 19 meeting, noting that the subdivision and site plan application of Reiser Bros., Inc. has been adjourned at the request of the Applicant. The Reiser application will be placed on the agenda for the May 3, 2012 meeting.

The draft minutes of the April 5 meeting were reviewed. One typographical correction was made at page 15, replacing “new items” with “new business”. Subject to the typographical correction, Member Czornyj made a motion to approve the draft minutes of the April 5 meeting, which motion was seconded by Member Mainello. The motion was unanimously approved, and the April 5 meeting minutes were approved subject to the typographical correction.

The first item of business on the agenda was the site plan application by Charles McCauley for the installation of a seasonal ice cream concession trailer to be located at the Tamarac Plaza on NYS Route 2. Charles McCauley was present. Also present was Ken Bruno, managing member of Tamarac Plaza, LLC, owner of the Tamarac Plaza. Mr. McCauley stated that he had considered the deliberation of the Planning Board at the April 5 meeting, had further reviewed the prior discussions of the Planning Board, and had further meetings and discussions

with the Rensselaer County Department of Health, and presented a revised proposal to the Planning Board. Specifically, Mr. McCauley proposes to relocate the ice cream concession business to the east side of the Tamarac Plaza lot, east of the access roadway and parking area, and in proximity to the property line between the Tamarac Plaza and the recreation fields. Mr. McCauley stated that he is proposing to install a permanent wood shed building, not a seasonal trailer. The permanent wood shed building would remain in place on the site, but continue to be operated only between May 1 and Columbus Day. Mr. McCauley said he was interested in executing a five (5) year lease with Tamarac Plaza, LLC, and he is intending to be a permanent business in the Town of Brunswick. Mr. McCauley also explained that based upon his discussions with the Rensselaer County Department of Health, he is now proposing to connect the permanent wood shed building to water and septic, and have use of restrooms in the Tamarac Plaza building for his customers. Mr. McCauley stated that he would no longer be proposing to use a holding tank which would be periodically pumped, but rather install a wastewater line directly to the septic system utilized by the Brunswick Plaza. Mr. McCauley reports that the Rensselaer County Department of Health stated that the permanent woodshed structure connected to water and septic was a more acceptable proposal. Mr. McCauley stated that given the proposed new location of the business, the crosswalk across the access road would no longer be required. Mr. McCauley also stated that he is proposing to locate the business in an area where there is no parking identified in the parking lot in front of the building location. Chairman Oster stated that the Planning Board's engineer, Mr. Kestner, had made inquiry with the Rensselaer County Department of Health, and that there was a potential issue concerning the temporary trailer and use of a holding tank for wastewater, and that the revised proposal to locate the business in a permanent wood shed building and connect to the septic system for the Tamarac

Plaza addresses and solves this issue. Chairman Oster also stated that given the revised location of the business, the crosswalk along the access road to the parking lot no longer seems necessary. Chairman Oster did say that the issue regarding pedestrian safety and the fence between the recreation fields and the Tamarac Plaza remains an issue, and that the Planning Board may want to coordinate with NYSDOT and the Town of Brunswick regarding the fence since the fence is located up to the edge of the right-of-way for NYS Route 2. Member Wetmiller stated that he always felt that the holding tank for wastewater was going to be a problem, and that connecting into the septic system for the Tamarac Plaza is a much better approach. Member Czornyj then stated that he agreed a crosswalk in the area of the access road may no longer be necessary, but he is of the opinion that a crosswalk should still be added in proximity to the revised business location. Mr. McCauley stated that he would comply with whatever requirements the Planning Board had concerning installation of crosswalks. Chairman Oster re-visited the pedestrian safety issue, and stated that the reasons for the initial fence installation should be investigated, and that there does now seem to be adequate parking at the recreation fields to address any initial concern that patrons of the recreation fields would utilize the Tamarac Plaza parking lot. Mr. Kestner also reviewed his understanding of the history regarding the installation of the fence. Member Czornyj stated that he remains concerned regarding the safety of children going from the recreation fields to this ice cream concession business, particularly since kids will be walking in close proximity to Route 2, and that based on his site observation, there does exist a berm in the general location of the end of the fence and the Route 2 right-of-way, which may require children to walk in close proximity to the shoulder of Route 2. Chairman Oster stated that in his opinion, one option would be the elimination of one length of fence near the Route 2 right-of-way, while retaining the remaining of the fence area. This would potentially allow adequate

room for pedestrians to go from the recreation field to the Tamarac Plaza without walking in close proximity to Route 2. Chairman Oster made it clear that the Planning Board was not focusing the pedestrian safety issue only on the McCauley site plan, but that this issue concerning pedestrian safety between the recreation field and the Tamarac Plaza apparently exists today as well. It was noted that the Planning Board was analyzing this issue given that one of the site plan standards which the Planning Board must address is pedestrian circulation and safety. Mr. Bruno stated that he was willing to work with the Town on this issue, but reminded the Board that the site plan in front of the Board members concerned the Tamarac Plaza, and not the recreation fields. Mr. Bruno confirmed that he would support the removal of a section of the fence or the installation of a gate, which ever was acceptable or desirable by the Town. The Planning Board then addressed the issue of whether the modification of the site plan discussed at this meeting was a significant change so as to require re-opening of the public hearing. After discussion, the majority of the Planning Board members determined that this was not a significant change to the proposed site plan, and that reopening of the public hearing was not necessary. The Planning Board next addressed the site plan as currently proposed. Attorney Gilchrist stated that the Planning Board should consider the site plan on the presumption that no change would be made to the fence between the recreation fields and the Tamarac Plaza, and whether the Planning Board members deemed the site plan to be approvable without any change to the fence. After further deliberation, the majority of the Planning Board members deemed the site plan to be approvable even if there were no change to the fence between the recreation field and the Tamarac Plaza, but would strongly recommend to the Town that a change be made to the fence, with options including removal of a section of the fence next to the Route 2 right-of-way, removal of a section of the fence within the middle of the fence length, or installation of a gate in

the fence. The Planning Board would recommend that the plaza owner (Mr. Bruno), business owner (Mr. McCauley), Supervisor Herrington, Town Board member Salvi, and John Kreiger meet to discuss this fence issue. Member Mainello wanted to confirm that the façade of this permanent wood shed building would be the same as previously presented for the trailer, and that the façade would be maintained. Mr. McCauley stated that the façade would be the same, and would be maintained in the future. Member Mainello also had suggestions concerning crosswalk locations, which were discussed by the Planning Board and Mr. McCauley. The Planning Board then generally discussed the site plan, determining that the revised location was an improvement over the previous location, and the connection to water and septic addressed the wastewater and Rensselaer County Health Department issues. The Planning Board also then discussed conditions which it would deem appropriate on this site plan. The Planning Board determined that it was ready to act upon the site plan. Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved by a vote of 5-2, with Member Czornyj and Member Christian voting no. Accordingly, a negative declaration under SEQRA was adopted. Thereupon, Member Mainello made a motion to approve the McCauley site plan subject to the following conditions:

1. The operation of the ice cream and dessert concession business is permitted from May 1 through Columbus Day of the calendar year. Operating hours are limited to Monday through Friday, 3:00 p.m. to 9:00 p.m.; weekends, 12:00 p.m. to 9:00 p.m.
2. The items offered for sale shall be limited to those presented by the Applicant, including ice cream and dessert items only.
3. The building to be installed will be permanent to the site, and will not be removed at the end of the operating season; the façade of the permanent wood shed structure shall be the same or equivalent to the façade presented by Mr. McCauley during site plan review.

4. Pedestrian crosswalks shall be installed and located in areas to be finalized by the Brunswick Building Department, and must be painted and maintained at all times while the ice cream concession business is in operation.
5. Public restrooms shall be available for customers of the ice cream concession business in the Tamarac Plaza building; signage shall be installed at the ice cream concession building noting that bathrooms are available in the Tamarac Plaza building.
6. The owner/operator of the ice cream concession business must notify the Brunswick Building Department annually prior to resumption of operation to allow the Brunswick Building Department adequate opportunity to inspect the building, signage, and pedestrian crosswalks to determine compliance with the site plan approval.
7. All required permits, licenses and/or other approvals from the Rensselaer County Health Department must be obtained by the owner/operator of the ice cream concession business, and copies of all permits and approvals of the Rensselaer County Health Department shall be provided to the Brunswick Building Department before operation of the ice cream concession business is allowed.
8. The owner/operator of the ice cream concession business must provide proof to the Brunswick Building Department that all required permits, licenses, and/or other approvals of the Rensselaer County Health Department are valid and/or renewed prior to resumption of concession operations in all subsequent years.
9. The owner of the Tamarac Plaza and owner of the ice cream concession business must meet with the Town of Brunswick to discuss options concerning the fence located between the Tamarac Plaza site and the adjacent recreation fields. The Planning Board members recommend that the Town of Brunswick consider a change to such fence, with options including removal of a section of fence adjacent to the NYS Route 2 right-of-way; removal of a section of a fence near the middle of the fence in proximity to the Tamarac Plaza buildings; or installation of a gate in the fence to allow pedestrian access between the recreation fields and the Tamarac Plaza. The Planning Board makes this recommendation to allow pedestrian access only.

Member Esser seconded the motion subject to the stated conditions. The motion was approved by a vote of 5/2, with Members Czornyj and Christian voting no. Thereupon, the site plan was approved subject to the stated conditions.

The next item of business on the agenda was the Reiser subdivision and site plan. This matter has been adjourned to the May 3, 2012 meeting.

The next item of business on the agenda was the waiver of subdivision application by Julie Harper for property located at 12 Berkshire Drive, Tax Map No. 113.3-1-4.15. Julie Harper was present. Ms. Harper explained that she is seeking to divide 4 acres off her existing 9.2 acre lot to be transferred to an adjoining property owner. Chairman Oster confirmed that the application fee has been paid. The Planning Board generally discussed the map, identifying the adjacent owner to which the 4 acres would be transferred. The adjacent owner, now or formerly "Carl", owns 3 parcels bounded by Atlantic Avenue and Pleasant Street, with deeds for these parcels identified in Liber 1462, CP 14 and Liber 1450, CP 234. The Planning Board made it clear that this 4 acre subdivision would not result in a separate lot, and was required to be legally merged into one of the lots owned by "Carl". Ms. Harper understood this requirement. The Planning Board also confirmed that there is no setback issue concerning well and septic on the Harper lot in the event this subdivision is approved. Mr. Kestner also noted that Ms. Harper had used a map previously prepared by his office on this application, and stated that the Planning Board should require a separate waiver map be prepared by a separate licensed engineer. Chairman Oster inquired whether there were any further questions or comments on the application. 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 negative declaration adopted under SEQRA. Member Czornyj then made a motion to approve the waiver application subject to the condition that the 4 acres divided off the Harper parcel be legally merged into one of the lots referenced on the map owned by "Carl", that such lot have frontage along the public street, that proof of legal merger into the "Carl" lot be

filed with the Brunswick Building Department, and that Harper prepare a new waiver map signed by a licensed professional engineer or land surveyor. Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the waiver application approved subject to the stated conditions.

The next item of business on the agenda was the site plan application by Steven Chan to add an addition to the rear of the Plum Blossom Restaurant located at 685 Hoosick Road, Tax Map No. 90.20-11-5. Steven Chan was present. Mr. Chan explained that he was seeking approval to put the addition on the back of the restaurant for purposes of creating more storage for the restaurant business, including relocating coolers and freezers and providing more storage area for furniture. Mr. Chan also explained that this would provide a greater area for the kitchen, which currently is too small and creates potential safety issues. Chairman Oster inquired whether the addition was to add one floor or two floors. Mr. Chan stated that the addition was a one floor addition only. Chairman Oster noted that the Board reviewed a copy of the previous site plan, noting that the Board had waived the 35% greenspace requirement on the prior site plan due to the widening of Route 7, and wanted to confirm that this addition would not further reduce greenspace. Upon review, the Planning Board determined that the proposed addition was limited to an area that was identified as a patio on the previous approved site plan, and that there would be no further loss of greenspace. The Planning Board then discussed the foundation that had been installed in the area of this proposed addition. Mr. Kreiger confirmed that the foundation had been placed on bedrock, that he did not identify any structural issues, and that compliance issues would be addressed through the building permit process. Member Wetmiller wanted to confirm that the addition was for one story only, without the possibility of installing a second floor. Mr. Chan stated that the addition was one story only, and limited to storage. The

Planning Board determined that this constituted a minor modification to the existing approved site plan, and determined that a public hearing was not necessary. Member Czornyj then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was unanimously approved, and a negative declaration adopted under SEQRA. Member Czornyj then made a motion to approve the site plan subject to the condition of the installation of a knox box pursuant to the comments of the Brunswick No. 1 Fire Department. Member Tarbox seconded the motion subject to the stated condition. The motion was unanimously approved, and the site plan approved subject to the stated condition.

The next item of business on the agenda was the Planned Development District referral by the Town Board of the Mulino Planned Development District application. Attorney Tom Kenney and David Mulino were present. This PDD application seeks approval to install and operate a paint ball recreation facility on 13.6 acres located off Oakwood Avenue and Farrell Road. Mr. Mulino is leasing the property from the property owner (Murley), access to the site is off Farrell Road to a parking area, that the facility will be open to the public only on Saturday and Sunday from 8:30 a.m. to 5:00 p.m., that three paint ball fields are proposed, that it is anticipated to be approximately 75 – 100 players on the weekend, and that the nearest home to this area is approximately 2,500 to 3,000 feet away and is owned by the son of the property owner. Chairman Oster asked whether the paint ball guns result in any noise. The Applicant stated that some noise is generated but the guns are air operated, act similar to a pellet gun, and produce a noise of 60-70 decibels at the loudest, which will not present any noise impacts at the property line. The Planning Board asked Mr. Kreiger regarding any parking requirements. Mr. Kreiger stated that there were no specific parking requirements in the code for recreation uses, but that the Applicant is proposing 60 parking spaces. The Planning Board stated that this

should be adequate for 75-100 patrons on the weekends. The Applicant also stated that there was adequate room to expand the parking area if necessary. It was confirmed that this was proposed for recreation use only, and not for any type of league or tournament play. Chairman Oster asked whether there were any spectators at these types of facilities. The Applicant said that there are areas for spectators on the “speed ball” area, but that there is safety netting entirely around the speed ball field, and that all national standards applicable to paint ball facilities will be adhered to. Attorney Kenney reiterated that there were national standards applicable for paint ball facilities, and that all such standards would be adhered to. Member Tarbox asked whether the access road off of Farrell Road had already been cut in, and whether the Board members could drive into the site. The Applicant stated that the access road had been cut in, that the road is 26 feet wide, and that it is accessible. Chairman Oster inquired whether there were any wetlands on the project site. The Applicant responded that there were no wetlands on the project site itself, and that the wetland area on the underlying parcel are adjacent and along Oakwood Avenue, off the specific 13.6 acre project site. Concerning bathroom facilities, the Applicant stated that port-a-johns would be used. The Applicant confirmed that firearms were not allowed on the site, and that the site would not contain any shooting range. The Applicant confirmed that a gate would be installed on the entrance road. The Applicant stated that the facility would be open year round, but that use was very slow in the winter months. The Applicant also stated that the project site would be double posted, specifically that the site would be posted in a perimeter of approximately 200 feet from the playing area, and also posted from the interior of the site from the perimeter of the playing area, which results in a 200 foot buffer between anyone on the outside of the project site from the players utilizing the recreation field. John Mainello, realtor for the underlying property owner, also confirmed that the underlying parcel will be properly

posted. The Planning Board generally discussed the application, and concurred that it would issue a positive recommendation to the Town Board. Attorney Gilchrist was directed to prepare a draft positive recommendation for review by the Board at the May 3 meeting.

No new items of business were filed.

Mr. Kreiger did report that comment letters had been received from the Brunswick No. 1 Fire Department on the Wal-Mart expansion project and the Johnston Associates site plan.

The index for the April 19, 2012 meeting is as follows:

1. McCauley – site plan – approved with conditions;
2. Reiser Bros. Inc. – subdivision and site plan – 5/3/12;
3. Harper – waiver of subdivision – approved with conditions;
4. Chan (Plum Blossom Restaurant) – site plan – approved with condition;
5. Mulino – PDD referral – 5/3/12.

The proposed agenda for the May 3, 2012 meeting currently is as follows:

1. Johnston Associates – site plan (public hearing to commence at 7:00 p.m.);
2. Mulino – PDD referral;
3. Reiser Bros., Inc. – subdivision and site plan.