

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

**MINUTES OF THE PLANNING BOARD MEETING HELD June 21, 2012**

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 reconvened the public hearing on the Reiser Bros. application for commercial subdivision and site plan for property located on NY Route 2 and NY Route 278. The Notice of Public Hearing was read into the record, and stating that the Notice had been published in the Troy Record, placed on the Town website, placed on the Town sign board and mailed to all adjacent property owners and owners of lots in the Langmore neighborhood. Scott Reese was present for the Applicant. Mr. Reese presented an overview of the project, including three commercial lots. On the first commercial lot, the Applicant seeks to construct a convenience store with gas station; on the second commercial lot, the Applicant seeks to construct an approximate 3,500 square foot building for commercial use, including potential restaurant, sports bar, bank, or other commercial use; there is no current development plan for the third commercial lot adjacent to Langmore Lane. Mr. Reese stated that there had been a few changes to the site plan since the last presentation to the Board, including an addition to the proposed berm between the commercial lots and residential lots in the Brook Hill Subdivision, and adding evergreen buffer to the berm; that a sidewalk area had been proposed along the parameter of the project connecting to NY Route 2, and that the Applicant had explored extending the sidewalk further into the commercial site but was inhibited from doing that due to the site grades; presented building elevations and visual assessment

of the project from the view point of the residential lots in the Brook Hill Subdivision; and confirmed that the proposed commercial use is consistent with the zoning for the property. Chairman Oster stated that the Planning Board had already received a number of public comments at prior public hearings and letters, and that the Planning Board had considered such prior comments and had the Applicant submit responses to those comments, and that the Planning Board was looking to receive any new or additional comments, with particular regard to the updated stormwater plan and modifications to the commercial site plan. Katherine Romano, 15 Brook Hill Drive, stated that the zoning for the site should be changed, that the proposed commercial uses could not have been taken into account when the Brook Hill Subdivision was approved, that her house in the Brook Hill Subdivision will be approximately 75 yards to the proposed commercial building on commercial lot #2, that this proposal could have potential health impacts given the impairment of peace and enjoyment of their residential properties, that hours of operation for these proposed commercial uses should be considered, that the May 17 letter from the Applicant responding to public comments was inadequate, that the letter from Heer Realty did not address property values and was very vague, that the proposed septic systems for the commercial lots were too close to the residential lots and were within an aquifer, that there would be light pollution from this proposal, that the Applicant did not inform the purchasers of the residential lots in the Brook Hill Subdivision concerning his commercial plans, that this proposal should be changed to provide for buildings that are more similar to the historic school house along NY Route 278 and Buck Road, that the Applicant and Planning Board should be seeking better alternatives for this site, and handed up a full written comment letter for the Board's consideration. The Planning Board noted that the written comment letter will become part of the record. Kathy Murray, 69 North Langmore Lane, and president of the Tamarac Regional Homeowners Association, stated that while zoning may allow these uses, this proposal does not make common sense; that it is not consistent with the Town's Master Plan; that this will have an

impact on the character of the area; that the Applicant's response to concerns regarding traffic are inconsistent; that this project will result in noise impacts, odor impacts, lighting impacts, impacts to water; that there should not be a gas station within a flood plain; that the residents do not want this proposal and that it is the residents that should be considered; that while this project may fit legal requirements it is not ethical; and also handed up a written comment letter to the Planning Board. The Planning Board noted that the written comment letter will become part of the record. John McCarthy, 81 North Langmore Lane, stated that he had purchased his lot in the Brook Hill Subdivision nine months ago from the Applicant, that the Applicant had presented this area as peaceful and quiet, and that the Applicant had not informed him about the extent of the commercial proposal, that the Applicant had not met at all with the residents about this commercial project, that his property value will go down, and that the Applicant needs to work more closely with the residents. Paul Barringer, 4 Long Hill Road, stated that the proposed left hand turn from NY Route 2 into the commercial site was going to result in a problem, and was also concerned about the requirement that a certain percentage of lots in the Brook Hill Subdivision be required to be fully constructed before the Town would take over the roads in the Brook Hill Subdivision, and that with this commercial project being proposed, it is unlikely that the remainder of the residential lots in the Brook Hill Subdivision would sell thereby putting the existing residents in the Brook Hill Subdivision at risk of not having the road taken over by the Town, and that the Applicant was not being honest with the Planning Board. Jim Tchacik, 387 Brunswick Road, concurred that there would be a problem with the left hand turn off of NY Route 2 into the entrance to this commercial project, questioned the traffic flow pattern at the gas station with particular regard to room for trucks, that the building elevations for the convenience store and gas station did not include the gas canopy, and that the Applicant was making trouble for himself by not being creative, and that if there were no identified tenants what will the specifics of a site plan approval include. Jan Valkenstein, 81 North

Langmore Lane, stated that she was the owner of one of the vacant lots in the Brook Hill Subdivision overlooking this commercial project. Marsha Barringer, 4 Long Hill Road, stated that she did not want a sports bar at this location, and questioned why a restaurant was being proposed when other restaurants in the immediate area have not been able to stay open, and that no one wants a restaurant or bar at the end of a residential road. Mike Romano, 15 Brook Hill Drive, stated that the berm proposed between the commercial properties and the residential properties was behind lots 2 and 3 in the Brook Hill Subdivision, and that he is the owner of lot 4, and stated that the berm should continue and go behind lot 4 as well, but be put on the Reiser property not on his property. Member Esser questioned whether the owners of lots 2 and 3 had consented to having part of the proposed berm constructed on their private property. Henry Reiser of Reiser Bros. was present, and stated that the owners of those lots had given permission. Mr. Gardner, owner of lot 3, was present and stated that he had given permission for the berm construction on his property, that noise and light pollution already exist at this location, that he agreed to the berm since he thinks it could be an improvement over existing conditions, and that while he would rather not see anything constructed at this location it is consistent with zoning and that the berm may be an improvement over existing conditions. Joe Castiglione, owner of Giuseppe's on NY Route 2, stated that there would not be enough parking on site for a proposed restaurant use. Katherine Romano, 15 Brook Hill Drive, also stated that the berm should be extended behind her lot (lot 4 of the Brook Hill Subdivision), but should be constructed on the Reiser property. Chairman Oster stated that the public should be aware that the Planning Board has no control over the zoning on this site, and that any comment concerning the zoning of this property should be made to the Town Board or the Zoning Board of Appeals. Chairman Oster inquired whether there were any further public comments. Hearing none, Chairman Oster asked the Planning Board members whether the public hearing should be closed at this time. The Planning Board members concurred that the public hearing should be closed on this application. At that point,

Chairman Oster formally closed the public hearing on this application. Chairman Oster stated that the Applicant would need to address any new comments received at this meeting, and further that the Planning Board would need to complete the SEQRA review on this application.

The Planning Board next opened a public hearing on the minor subdivision application of Cornelius Malone for property located on Moonlawn Road. The Notice of Public Hearing was read into the record, stating that the notice had been published in the Troy Record, placed on the Town website, put on the Town sign board and mailed to all owners of adjacent properties. Cornelius Malone was present for the application, and gave a general presentation concerning the proposed 3-lot subdivision. Mr. Malone confirmed that the Rensselaer County Highway Department had granted approval for the driveway locations for these three lots. Chairman Oster then opened the floor for receipt of public comment. Michele Krill, 1 Michele Manor, inquired whether the water for these three lots would be connected to public water or be private wells. Mr. Malone stated that each of these lots would have a private well, and would not hook up to any public water. Sheryl Burke, 209 Moonlawn Road, questioned the driveway location for proposed lot 3, noting that the speed of traffic on Moonlawn Road is a problem. Mr. Malone stated that the driveway location had been relocated on proposed lot 3 at the recommendation of the Rensselaer County Highway Department, and that the county had approved the revised driveway location. Chairman Oster inquired whether there were any further public comments. Hearing none, the Planning Board closed the public hearing on the Malone minor subdivision application.

The Planning Board reviewed the draft minutes of the June 7, 2012 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the draft minutes of the June 7, 2012 meeting were unanimously approved without amendment.

The first item of business on the agenda was the minor subdivision application by Cornelius Malone for property located on Moonlawn Road. Chairman Oster noted that the public hearing had

been completed, that the Applicant had submitted proof from the Rensselaer County Highway Department for approval of the driveway locations, and confirmed that the lots would have private wells and not be connected to public water. Mr. Malone stated that the County Highway Department had approved the location of each proposed driveway, but will require an individual permit for each driveway when the lots are constructed. Mr. Kreiger confirmed that the County has approved the driveway locations for the overall project, but the County does require an individual driveway permit for each of the lots at the time of construction. Mr. Kestner also confirmed that the subdivision plat should be amended to note that the lots are subject to Rensselaer County Health Department approval for septic and also for private water supply wells. Member Tarbox noted that this property is generally wet, and that the buyers of the lots should be on notice of generally wet conditions in that location. The Planning Board noted that the approval of the Rensselaer County Health Department would be needed for septic locations, and building permit would be required for home construction. Chairman Oster inquired whether there were any further questions or comments from the Board members. Hearing none, Member Czornyj 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. Thereupon, Member Czornyj made a motion to approve the 3 lot minor subdivision subject to the following conditions:

1. Rensselaer County Highway Department permit for each driveway on each subdivided lot;
2. Rensselaer County Health Department for well and septic for each lot prior to residential construction;
3. Subdivision plat amended to add note that Rensselaer County Health Department approval is required for well and septic; and
4. Payment of park and recreation fee.

The motion was seconded by Member Tarbox subject to the stated conditions. The motion was unanimously approved, and the minor subdivision approved subject to the stated conditions.

The next item of business on the agenda was the commercial subdivision and site plan application by Reiser Bros. Inc. for property located on NY Route 2 and NY Route 278. Chairman Oster stated that he was concerned regarding the comment about lack of communication between the Applicant and the owners of lots in the Brook Hill Subdivision and Langmore neighborhood, but that the Planning Board is focusing solely on the merits of the subdivision and site plan applications. Further, Chairman Oster stated that the Planning Board does not make any determination concerning the financial viability of any proposed business, but rather focuses on the merits of the subdivision and site plan application pursuant to the standards in the Town Code. Mr. Reiser stated that he had taken time to design this project with thought of the general character of the area, and was of the opinion that this proposal did fit into the character of that immediate area. Member Esser wanted the dumpster locations for these commercial lots identified on the site plan. Member Czornyj stated that while he was pleased that the Applicant considered the installation of sidewalks or pedestrian walkways, he wanted to confirm that these would be built in connection with the project. Mr. Reese stated that the sidewalks internal to the project site would be built, but that the walk areas adjacent to NY Route 2 could not be built without NYSDOT approval. The Planning Board had further discussion regarding the proposed berm to the rear of the commercial site and lots 2 and 3 of the Brook Hill Subdivision, and specifically whether that berm could be extended to the rear of lot 4. The Planning Board members noted that this area also served as access for future maintenance purposes for the septic area servicing lot 1, and was also in close proximity to a water line. Member Mainello raised the issue of the expansion for the septic systems for the adjacent lots in the Brook Hill Subdivision, and whether those had been considered in connection with the location for berm installation. Mr. Reese stated that the expansion areas had been considered, and the proposed berm location was outside the expansion area. Mr. Reese also generally discussed drainage associated with the berm. Member Esser raised a question regarding elevations of the road/driveway and manholes.

Chairman Oster also noted the public comment regarding left turn off NY Route 2 into this commercial site, and whether that would pose a traffic problem. Mr. Reese stated that he had reviewed that proposed driveway location with NYSDOT, and that NYSDOT had given conceptual approval to that location. The Planning Board discussed the visual assessment of the project from the adjacent homes in the Brook Hill Subdivision, the impact of the berm and proposed trees on the view shed of the valley, the distance between these homes and the proposed commercial buildings, and the conflict between adding a vegetative screen and impairing the view of the mountains and valley from the Brook Hill Subdivision lots. Member Esser inquired about grading of the slope adjacent to NY Route 278, and how that slope would be held during construction. Mr. Reese stated that during construction, the slope would be held by a seed and mulch mixture or hydroseeding, with perennials then being planted to hold the slope permanently. Chairman Oster noted that a comment had been received from the Town Superintendent for Water regarding the location of the proposed gas station/convenience store in a flood plain. Mr. Reese stated that the Applicant will respond to that comment in writing, but that he was coordinating with NYSDEC regarding the petroleum underground storage tank location in flood plain areas. Mr. Reese also generally discussed the stormwater management design, including incorporation of an oil – water separator and gate valve to address any potential petroleum release. Member Esser stated that the proposed tank size and tank location for all underground storage tanks needs to be shown on the site plan. The Planning Board also generally discussed the pump locations for both gasoline and diesel. Member Mainello next raised the issue regarding potential odors and how the Applicant was going to address potential odors from both a restaurant as well as the gas station. Mr. Reese stated that the gas station use is similar to the existing condition at the Stewarts shop, and as to the restaurant, odor could be addressed through the installation of filters, and also that the Applicant would consider limiting the restaurant to a sit-down restaurant type use only so that there was no drive-thru. The Planning Board generally

concluded that the issue of odor generation, including exhaust from trucks at the gas station, must be examined. Attorney Gilchrist confirmed the procedure, which requires the Planning Board to next consider a determination of environmental significance under SEQRA, after which the Applicant needed to have the special permit acted upon by the Zoning Board for the “filling station”, and ultimately then the Planning Board must address the proposed subdivision and commercial site plan. This matter is placed on the July 5 agenda for further discussion.

The next item of business on the agenda was the Highland Creek Planned Development District amendment, and referral of this application by the Brunswick Town Board for recommendation. Andrew Brick, Esq., attorney for the Applicant, was present and presented updated traffic information as well as updated school district impact information to the Planning Board. Attorney Brick noted that he had spoken with the Brittonkill School District Superintendent, who confirmed that the Brittonkill District can immediately absorb an additional 28 students projected from the proposed amendment to the Highland Creek project. The Planning Board then generally reviewed a draft recommendation based upon deliberation at the June 7 meeting. The Planning Board noted that an addition to the draft recommendation needs to be made, adding that the owners of the Sugar Hill Apartments on McChesney Avenue Extension also indicated that they would be willing to participate in the construction of pedestrian walkway areas on McChesney Avenue Extension in front of the Sugar Hill Apartment complex. The Planning Board then generally discussed with the Applicant the proposal to rent these units prior to condominium conversion, the potential for these units staying as rental units as opposed to condominium conversion, and the timing on potential condominium conversion. It was noted that in the event the Town Board approves the amendment to the Planned Development District, the Applicant will need to present a detailed site plan to the Planning Board for review, at which time further discussion regarding phasing would be entertained. The Planning Board members then completed the deliberation on the

recommendation, and adopted the draft recommendation as revised by a vote of 6/0 (Member Mainello abstaining). The Planning Board recommendation is generally a positive recommendation, subject to certain issues which the Planning Board feels the Town Board should consider prior to acting on the proposed amendment. The Planning Board recommendation will be forwarded to the Town Board for consideration.

The next item of business on the agenda was the waiver of subdivision application by Wagar for property located at Tamarac and Higbee Road. Brian Holbriter was present for the Applicant. The Planning Board raised the issue of whether Higbee Road remained a public road. Mr. Kreiger stated that he inquired with the Town Highway Superintendent, and that the Town Highway Superintendent stated that Higbee Road had been officially abandoned, but that the Town was still researching the public record for the official abandonment. Mr. Kreiger did confirm that the Town does not maintain Higbee Road, and has not done so for several years. The Planning Board members and Mr. Holbriter had extended discussion regarding Higbee Road, determining that further research was required regarding the status of Higbee Road as a public road or having been officially abandoned. In the event Higbee Road is a public road, the current proposed subdivision would be considered by the Planning Board. In the event Higbee Road has been officially abandoned and is no longer a public road, revision to the proposed subdivision would be required to meet the required frontage for the proposed lot on the public road. Mr. Kreiger was directed to further investigate that issue with the Town Highway Department and Town Attorney. This matter is placed on the July 19 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Marjorie Roden for property located at 79 White Church Road. Mr. Kreiger confirmed that the Brunswick Zoning Board of Appeals had issued a special permit for this project to allow the existing barn to remain on a separate lot without a principal structure, for use as storage of equipment.

Member Czornyj inquired whether a residence could be built on this lot. Mr. Kreiger stated that the Applicant had presented to the Zoning Board of Appeals that in the short term, the only use of the lot would be for storage of equipment in the barn, but that the purchaser of the lot could potentially construct a home on the lot in the future. The Planning Board wanted to make the record clear that in the event a residence is constructed on this lot in the future, it would be subject to approval by the Rensselaer County Health Department for well and septic. Chairman Oster inquired whether there were any further questions regarding the application. Hearing none, Member Czornyj 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. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision subject to the condition that in the event a residence is constructed in the future, approval from the Rensselaer County Health Department for water and septic is required. Member Wetmiller seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the waiver of subdivision application by Edward Bonesteel for property located at 78 Willard Lane. The Planning Board reviewed the application, again noting that the proposal amounted to a lot line adjustment. This application seeks to divide off two portions of an existing residential lot for transfer to each adjacent lot, thereby creating larger adjacent lots and resulting in a smaller residential lot from the original parcel. The resulting smaller residential lot will be put on the market for sale. The Planning Board noted that one of the existing adjacent lots did not have frontage on a public road and was serviced by an easement, and that the Applicant had already revised that easement in connection with this proposed subdivision and that the revised easement had been filed in the Rensselaer County Clerk's Office. It is noted for the record that this lot serviced by an easement to a public road is an existing condition,

and will not be changed as a result of this waiver application. Mr. Kreiger also noted that this lot line adjustment would address and correct an existing encroachment issue on these lots. The Planning Board informed Mr. Bonesteel that the portions of the original lot transferred to the adjacent lots must be merged into the title for the adjacent lots. Mr. Bonesteel understood this condition. Chairman Oster inquired whether there were any further questions or comments on the application. Hearing none, Member Tarbox 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. Thereupon, Member Wetmiller made a motion to approve the waiver application subject to the condition that portions of the original lot transferred to the adjacent lots be legally merged into the adjacent lots, with proof of merger submitted to the Town Building Department. Member Czornyj seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

Mr. Kreiger reported that there were no items of new business.

The index for the June 21, 2012 meeting is as follows:

1. Reiser Bros., Inc. – subdivision and site plan – 7/5/12;
2. Malone – minor subdivision – approved with conditions;
3. Highland Creek – amended Planned Development District application – recommendation adopted;
4. Wagar – waiver of subdivision – 7/19/12;
5. Roden – waiver of subdivision – approved with condition;
6. Bonesteel – waiver of subdivision – approved with condition.

The tentative agenda for the July 5, 2012 meeting currently is as follows:

1. Reiser Bros., Inc. – subdivision and site plan.