

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

**MINUTES OF THE PLANNING BOARD MEETING HELD July 19, 2012**

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 reviewed the draft minutes of the June 21, 2012 meeting. Upon motion of Member Czornyj, seconded by Member Esser, the draft minutes of the June 21, 2012 meeting were unanimously approved without change.

The first item of business on the agenda was the commercial subdivision and site plan application by Reiser Bros. Inc. for property located NY Route 2 and NY Route 278. Scott Reese was present for the Applicant. Henry Reiser and John Reiser were also present. Mr. Reese presented responses to additional public comments received by the Planning Board at the June 21 meeting. Mr. Reese submitted to the Planning Board a letter prepared by his office dated July 17, 2012 which addressed comments concerning location of a gas station near an aquifer, odor generation, as well as presenting site plan updates. Mr. Reese discussed the proximity of the proposed gas station to an aquifer, specifically addressing potential for surface and subsurface petroleum spills. With regard to surface spills, Mr. Reese explained that the project was designed to direct all surface drainage to a series of catch basins, and discharging to an oil/water separator; a gate valve is proposed which can be closed in the event of a surface spill

to prevent petroleum from reaching the subsurface, and that a series of catch basins with piping connecting to a subsurface stormwater management facility designed for non-infiltration with a 3,000 gallon capacity. Regarding the underground petroleum storage, Mr. Reese stated that the underground storage tanks were designed to be in full compliance with all applicable regulations, including leak protection, interstitial monitoring, and secondary containment systems. In addition, Mr. Reese stated that the soils in this location were predominantly dense shale, which did not promote infiltration. The Planning Board generally discussed whether the surface spill containment provisions were sufficient. Member Christian observed that tankers coming to the site to fill underground storage tanks are now generally designed with multiple chambers, so that the risk of a significant surface spill from tank filling is reduced. Mr. Kestner also stated that the system is designed to adequately address any surface spills in connection with vehicle fueling. Chairman Oster inquired whether the petroleum systems at the Sunoco Station and Stewarts were similarly designed. Mr. Kestner stated that the Sunoco Station did have an oil/water separator, and Member Christian commented that all underground storage tanks currently in use need to meet all applicable regulations for spill prevention. Member Esser discussed the location of the underground storage tanks, which have all been located outside of the floodplain in this area. Member Tarbox inquired whether the gate valve was triggered automatically in the event of a fuel surface spill, or needed to be operated manually. Mr. Reese stated that the gate valve had a manual shutoff, but could be located close to the entrance to the store to allow quick access, and that the facility will have an emergency action plan in the event of a fuel spill which will be reviewed with all employees. Mr. Reese then generally discussed the pump location for diesel fuel, location of underground storage tanks out of the floodplain, elevation of the sleeve for a pipe under NY Route 2, and that the site plan currently shows expansion areas for the septic

fields for the residences located in the Brook Hill Subdivision. On the issue of odor, Mr. Reese stated that potential odor impacts were specific to a particular tenant that may occupy one of the retail units on proposed Lot #2, that a number of different odor mitigation measures could be put in place dependent on a particular tenant, but that right now no particular tenant is identified and therefore any potential odor generation and odor mitigation measures were speculative at this time. Mr. Reese confirmed that the Applicant is not sure what the particular tenant or end use will be for the retail units on proposed Lot #2, but would come back to the Planning Board if the particular tenant identified for one of their retail units resulted in odor impacts to the community, at which time particular odor mitigation measures could be discussed and implemented. Member Czornyj said that coming back to the Planning Board would need to be required not only for odor but for potential noise impacts as well. Again, Mr. Reese stated that potential odor and noise generation would be tenant specific. Chairman Oster then confirmed that when a final plan for a specific tenant in the retail units on proposed Lot #2 were finalized, the Applicant will need to come back before the Planning Board for further review. Mr. Reese understood this and agreed to this procedure. Henry Reiser stated that the issue of noise had been addressed by implementing a buffer and trees between the commercial use and adjacent residential use in the Brook Hill Subdivision. Mr. Reese also stated that he had submitted additional information concerning truck traffic circulation for the gas station/convenience store on Lot #1. Chairman Oster inquired whether there was any proposed signage on the site to indicate the truck route. Mr. Reese stated that signage and also painting arrows on the pavement were options that could be examined. Member Wetmiller stated that signage should be required for the entrance off NY Route 278 in particular, and specifically regarding right hand turns off NY Route 278 into the gas station/convenience store. Member Czornyj inquired about extension of the traffic

circulation pattern for Lot #1 going, in part, onto Lot #2. Mr. Reese stated that the entire area was proposed to be paved, and that cross easements could be proposed between the two lots for purposes of traffic circulation. Henry Reiser stated that the principal use for the diesel fuel pump would be dump trucks, but that a traffic circulation pattern for tractor trailers can be accommodated. The Planning Board then generally inquired regarding procedural status. Attorney Gilchrist stated that the public hearing on the commercial subdivision and site plan proposals was completed and that the Planning Board had closed the public hearing. Attorney Gilchrist then stated that the Planning Board, serving as SEQRA lead agency, needed to make a SEQRA determination on this action. Attorney Gilchrist noted that part of the action included the consideration of a special permit application by the Brunswick Zoning Board of Appeals, but that the Brunswick ZBA could not act upon the special permit application until the Planning Board rendered its SEQRA determination. Concerning the SEQRA determination, Attorney Gilchrist stated that the action before the Planning Board was a 3-lot subdivision, a specific site plan for proposed Lot #1, a general site plan for a commercial building on proposed Lot #2, and no site plan nor any specific site plan use proposed for proposed Lot #3. In this regard, Attorney Gilchrist stated that from a SEQRA perspective, the Planning Board needed to make a determination of environmental significance concerning the 3-lot subdivision, and the specific site plan for proposed Lot #1 (the gas station/convenience store), but that the Planning Board had only before it a general site plan for a commercial building with parking areas for proposed Lot #2, and no site plan for proposed Lot #3. Attorney Gilchrist stated that the Planning Board did not have a specific site plan for Lot #2, and that many of the public comments received on the site plan application addressed potential uses which could generate noise and odor impacts, but that the application did not have a specific tenant or a specific use for the retail units proposed

for Lot #2. Attorney Gilchrist stated that the Planning Board could only make a determination of environmental significance on a generic basis concerning proposed Lot #2, with the understanding that the Applicant would need to come back to the Planning Board for further SEQRA review and specific site plan review once specific uses were identified for the retail units in Lot #2. After further discussion, the Applicant stated that it would identify specific uses for the retail units in Lot #2, and that any action by the Planning Board on that specific site plan for Lot #2 would be limited to the identified tenants or specific uses for the retail units on Lot #2, and that if any different end use or specific tenant was proposed for the retail units on Lot #2, an amendment to the site plan would be required so that potential environmental impacts from the different commercial uses for Lot #2 could then be analyzed. The Planning Board carefully reviewed that option, and the Applicant understood that it would submit a specific site plan for Lot #2, and that upon the submission of such additional information, the Planning Board could review that specific site plan for Lot #2 with regard to potential significant environmental impacts, which could then allow them to make a specific SEQRA determination with respect to the proposed uses for Lot #2 in addition to the proposed use for Lot #1. The Applicant understood that in the event different tenants or commercial uses were proposed for the retail units in Lot #2 in the future, the Applicant would need to submit an amended site plan for review by the Planning Board. In addition, the Planning Board made it clear that once the specific site plan for Lot #2 were submitted and reviewed by the Planning Board, a determination would also be made as to whether any additional public hearing would be required. The Applicant then stated it would submit additional and specific site plan information for proposed Lot #2, which would be presented and discussed at the August 2 meeting. Member Tarbox then discussed the option of a pedestrian walkway on NY Route 2 and NY Route 278. Mr. Reese stated that a

sidewalk was proposed on the Applicant's property along NY Route 2, but that coordination with NYSDOT would be required before any pedestrian walkway was proposed adjacent to NY Route 2 within the State right-of-way. As to NY Route 278, Mr. Reese stated that the Applicant was already proposing a pedestrian walkway closer in proximity to NY Route 278 given the grading plan. The Planning Board was generally satisfied with the additional pedestrian walkways proposed adjacent to NY Route 278 and on the Applicant's property along NY Route 2. This matter is placed on the August 2 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Wagar for property located off Higbee Road and Tamarac Road. Lee Wagar was present, but Brian Holbriiter was not present at this meeting. Mr. Kreiger reported that he had reviewed records of the Town between 1987 and 2002, and could find nothing of record regarding a formal abandonment of Higbee Road. Mr. Kreiger did confirm that the Town does not have a deed for Higbee Road, and that to the extent Higbee Road was a public road at one point in time, it was a highway by use and not a deeded highway owned by the Town. Mr. Kreiger stated that in his discussions with Highway Superintendent Eddy, Mr. Eddy confirmed that since he became Town Highway Superintendent in 2002, the Town has not maintained Higbee Road, and that it was Mr. Eddy's understanding that Higbee Road had been officially abandoned. The application did include a copy of a letter dated 1993 from the then-Town Attorney stating that Higbee Road was a public road. Upon further discussion, it was determined that additional research needs to be undertaken on the issue of the legal affect of the Town not maintaining for a period of several years a public highway-by-use, and also the issue of the width of the public highway-by-use at this location. Also, the Applicant indicated that Higbee Road now has a gate across it at a certain location, which had been installed by the adjacent property owner with the consent of Wagar.

This issue likewise needs further research. This matter is placed on the August 16 agenda for further discussion.

One item of new business was discussed.

An application for waiver of subdivision has been submitted by John Pember for property located at 63 Creek Road. The Applicant seeks to divide 1.10± acres from an existing 5.729± acre parcel. This matter is placed on the August 2 agenda for discussion.

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

1. Reiser Bros., Inc. – commercial subdivision and site plan – 8/2/12;
2. Wagar – waiver of subdivision – 8/16/12;
3. Pember – waiver of subdivision – 8/2/12.

The proposed agenda for the August 2, 2012 meeting currently is as follows:

1. Reiser Bros., Inc. – commercial subdivision and site plan;
2. Pember – waiver of subdivision.