

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

**MINUTES OF THE PLANNING BOARD MEETING HELD August 2, 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 reviewed the draft minutes of the July 19, 2012 meeting. Two corrections were noted. At page 2, line 10, the following is added: "Mr. Kestner also stated that with the inclusion of an emergency action plan and employee training, the system is designed to adequately address any service spills in connection with vehicle fueling." At page 3, line 23, the phrase "for the diesel pumps" is added to the last sentence. With these corrections, Member Wetmiller made a motion to approve the minutes, which motion was seconded by Member Czornyj. The draft minutes of the July 19 meeting with the noted corrections were then unanimously approved.

The first item of business on the agenda was the commercial subdivision and site plan application of Reiser Bros. Inc. for property located on NY Route 2 and NY Route 278. Scott Reese, Henry Reiser and John Reiser was present for the Applicant. Mr. Reese noted that the Applicant had submitted a revised project narrative dated July 27, 2012 as well as a revised Environmental Assessment Form. The principal revision to the project is that the Applicant is now proposing that the 3,500 square foot commercial building proposed for Lot #2 will not

include a restaurant or automobile/equipment service use, even though such uses are allowed in the B-15 zoning district. The Applicant stated that this proposal was included to address public comments, principally from the homeowners in the Brook Hill Subdivision and Langmore Lane area, concerning potential odor, noise and lighting impacts from a restaurant/sports bar in the commercial space on Lot #2. Further, Mr. Reese stated that in the event a bank were to locate in the commercial space in Lot #2, the Applicant agrees that there would be no outdoor ATM to eliminate any potential lighting impacts. Mr. Reese reviewed proposed hours of operation for both the convenience/filling station proposed use on Lot #1 and the commercial building on Lot #2. Specifically, the Applicant is proposing hours of operation for the convenience/filling station on Lot #1 to be consistent with the operating hours of Stewarts located on NY Route 278 and Tamarac Road, that being Monday – Sunday 4:30 a.m. to 11:00 p.m. The Applicant is proposing hours of operation for the commercial building on Lot #2 to be Monday – Sunday 7:00 a.m. to 11:00 p.m. Chairman Oster reiterated that with the submission of the revised project narrative and revised EAF, that both the Planning Board and the public needs to be aware that the Applicant is agreeing to prohibit a restaurant use and an automobile/equipment service use for the commercial building on Lot #2 unless a proposed amendment to the site plan is submitted to the Planning Board for further review both under SEQRA and the Site Plan Review Regulations of the Town. Chairman Oster noted that the Applicant is proposing this prohibition to address comments from the public regarding odor, noise, lighting, and impacts from hours of operation. The Applicant stated that it is proposing to eliminate those uses for Lot #2 to address public comments, with the understanding that if a restaurant or automotive use is proposed in the future, it will require an amendment to the site plan and will be subject to further SEQRA review and site plan review. Chairman Oster again confirmed for the record that the restaurant and

automotive/equipment service uses for Lot #2, even though allowed in the B-15 zoning district, are expressly prohibited on consent of the Applicant unless and until an application to amend the site plan is made in the future to propose such uses on Lot #2, which application to amend the site plan will be subject to further SEQRA review and site plan review. Therefore, Chairman Oster said the current proposal for commercial uses on Lot #2 are for those uses allowed in the B-15 zoning district, except for restaurant and automotive use. The Applicant understood and agreed to this prohibition, and the members of the Planning Board understood that review of the site plan for Lot #2 was now limited to the commercial uses allowed in the B-15 zoning district except for restaurant and automotive uses, and that restaurant and automotive uses would be prohibited on Lot #2 unless and until an application is made in the future to amend the site plan. Member Czornyj then raised a question regarding the grading of the site, build-out of the commercial buildings on the site, and whether this project will be phased. Member Czornyj noted that the Environmental Assessment Form provides that the project will be phased, and inquired whether this is consistent with the NYSDEC letter regarding compliance with the Department's Policy on the construction exemption from the State Mining Law Requirements. The Applicant stated that the grading of this site would not be phased, but that the entire grading plan, including the grading on Lots 1 and 2, would be done in one phase. The Planning Board then discussed the construction build-out, and whether the construction would be phased between Lot 1 and Lot 2, and whether this was consistent with the NYSDEC Policy on the construction exemption to the State Mining Program. Mr. Reese stated that he would further review the NYSDEC letter on the applicability of the construction exemption from the State Mining Laws to this project, and will provide further clarification. Member Czornyj stated that he did not want the Applicant to be in a position where it was not in compliance with NYSDEC

requirements for the construction exemption from the State Mining Program. Member Esser inquired about the stormwater plan for the project, including management of stormwater runoff after the site was graded and during construction activities. Mr. Reese stated that stormwater during the construction phase will be handled by temporary stormwater controls, which is mandated under the stormwater pollution prevention plan. Member Wetmiller inquired as to how long the temporary stormwater controls would work. Mr. Kestner stated that the temporary stormwater controls needed to be maintained and operational during all construction activities, which is a requirement under the stormwater pollution prevention plan. Member Tarbox asked whether the Planning Board could provide for conditions on the gravel removal for the project site, and when such conditions would be imposed. Attorney Gilchrist stated that since NYSDEC has applied a construction exemption to this project, and that a State Mining Permit is not required, that the Planning Board would be permitted to add conditions to the gravel removal for this project, and that any such conditions would be imposed at the time of action on the subdivision and site plan itself. Chairman Oster wanted to confirm with the Planning Board members what its SEQRA determination would cover on this action. Attorney Gilchrist said that with the further submission of the Applicant concerning specific uses for proposed Lot #2, the SEQRA determination made by the Planning Board would address the three lot commercial subdivision, and the proposed uses for Lot 1 and Lot 2. Attorney Gilchrist reiterated that the Applicant had not submitted any site plan for Lot #3, and therefore the SEQRA determination would not cover any proposed use for Lot #3, but rather would address the creation of a commercial building lot bounded by proposed Lot #3. Mr. Kestner advised Mr. Reese that the Environmental Assessment Form must be further revised to note that a zoning determination must be made by the Brunswick Zoning Board of Appeals, and that a special use permit required

from the Brunswick Zoning Board of Appeals for the proposed filling station on Lot #1. The Planning Board reviewed a schedule for this action, and anticipates making a SEQRA determination on this action at its meeting to be held on August 16. Thereafter, the Applicant will need to pursue its application for special use permit before the Zoning Board of Appeals for the filling station on Lot #1. In the event the Zoning Board of Appeals approves the special use permit for Lot #1, then the Planning Board will move forward with action on the commercial subdivision and site plan applications. Member Tarbox also reiterated that the application include the area for pedestrian walkway/sidewalk adjacent to NY Route 278, and that the sidewalk provision on the Applicant's property along NY Route 2 be included. The Applicant was in agreement. This matter is placed on the August 16 agenda for consideration of a SEQRA determination on this action.

The next item of business on the agenda was the waiver of subdivision application by John Pember for property located on Creek Road. John Pember, Sr., residing at 17 Langmore Lane, was present for the Applicant. The application is being made by Mr. Pember's son. Chairman Oster confirmed that all application fees had been paid for this application. Chairman Oster explained to Mr. Pember that this proposed division of land would result in a lot with an existing barn on it, and that the Brunswick Code does not allow an accessory structure, such as a barn, to exist on a divided lot without a principal structure, such as a residence. When the Applicant has indicated that he intends to construct a principal residence on the divided lot, the Planning Board has entertained the application with the understanding of the condition that an application for a building permit for the principal residence would be submitted within six months of subdivision approval, and that the principal residence would be completed within two years of issuance of the building permit. The condition addresses the code requirement for a

principal structure on the lot in connection with the accessory barn structure. Mr. Pember understood this condition. Mr. Kestner stated that he had been at the site, and further information on the map needs to be provided as to the location of existing wells and septic systems on adjacent lots in relation to this proposed subdivided lot. The Planning Board noted that while approval of the well and septic is in the jurisdiction of the Rensselaer County Health Department, setback distances from existing and proposed well and septic locations in relation to the proposed lot line must be reviewed by the Planning Board, and therefore the information regarding location of existing well and septic systems on adjacent lots is required. It was also determined that this property is located in an agricultural district, and therefore the Applicant will need to complete and file an Agricultural Data Statement. Member Czornyj asked if the existing barn meets all setback requirements with these proposed lot lines. Mr. Kreiger confirmed that the setbacks are in compliance. This matter is placed on the August 16 agenda for further consideration.

There were no items of new business.

The index for the August 2, 2012 meeting is as follows:

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

The proposed agenda for the August 16, 2012 meeting currently is as follows:

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