

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

**MINUTES OF THE PLANNING BOARD MEETING HELD April 4, 2013**

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

ABSENT was GORDON CHRISTIAN.

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

The Planning Board opened the public hearing on the major subdivision application submitted by Bohler Engineering for the Berkshire Properties Planned Development District. The Notice of Public Hearing was read into the record. The Notice of Public Hearing 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 make a brief presentation of the project. Chris Boyea of Bohler Engineering was present for the Applicant. Mr. Boyea also stated that the project attorney, William Doyle, Esq., and the project owner, Randy Stratton, were also present. Mr. Boyea gave a brief presentation of the subdivision layout. Mr. Boyea noted that this project had previously been reviewed and approved by the Planning Board in May 2011, but that the owner had thereafter been coordinating with the Rensselaer County Department of Health on septic design and approval, and that certain issues had arisen on one lot (Lot 4) which are addressed in the current proposal. Mr. Boyea also stated that a full stormwater pollution prevention plan had also been prepared for the subdivision, which had been submitted to the Planning Board engineer for review. Mr.

Boyea stated that there were no substantial changes to the project layout, and that the owner is ready to move forward with construction of the project. Mr. Boyea did indicate that the one modification dealt with the septic review for Lot 4. Subsequent to the May 2011 approval, it was discovered that while the lot passed a soils analysis, it was determined that Lot 4 had a high water table. Because of this, the Rensselaer County Health Department was requiring the installation of an underdrain system, which would have the effect of lowering the water table by a few inches, and that after the under-drain had been installed and operating for a full one year cycle, the septic design would again be reviewed by the Rensselaer County Health Department. Because of this, the Applicant is proposing to combine Lot 4 with the adjacent Lot 6 in the current proposed plat, with the understanding that it will be installing the under-drain in the area of Lot 4, and in the event the Rensselaer County Health Department approves the lot for septic, the Applicant will seek to again re-subdivide this combined lot into two building lots. In the event the Rensselaer County Health Department does not approve the lot or area for septic, then no further re-subdivision will be sought, and the project will keep one large combined lot, and the project will then total only 9 lots. Chairman Oster then opened the floor for receipt of public comment. Norman Fivel, 101 Wilrose Lane, asked a further question regarding the phasing of the project. Mr. Boyea further explained the combining of Lots 4 and 6 while the under-drain was installed and operated in the area of Lot 4, and how the combined lot would be re-subdivided in the future in the event the under-drain system proves successful and the Rensselaer County Health Department approves the Lot 4 area for septic. Mr. Boyea confirmed that there were no other changes to the project, and the remaining lots did not have any change in terms of lot line or location. Hearing no further public comment, the public hearing was closed on the major subdivision application on the Berkshire Properties Planned Development District.

The Planning Board then opened its regular business meeting.

The draft minutes of the March 21, 2013 meeting were reviewed by the Planning Board members. Upon motion of Member Czornyj, seconded by Member Wetmiller, the draft minutes of the March 21, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda was the major subdivision application submitted by Bohler Engineering with regard to the Berkshire Properties Planned Development District. Chris Boyea of Bohler Engineering confirmed on the record that he had submitted an email to both Kestner Engineering and the Town Building Department dated April 3, 2013 regarding the proposal on combining Lots 4 and 6, and in the event the Rensselaer County Health Department subsequently approves the Lot 4 area for septic, the Applicant will seek to re-subdivide that combined lot into two building lots. The Bohler Engineering email dated April 3, 2013 is on file with the Brunswick Building Department. Mr. Boyea explained that by combining Lot 4 with Lot 6 at the present time, there will be no risk that a vacant parcel remains in the future in the event the Rensselaer County Health Department does not approve septic for the area of Lot 4. Member Wetmiller asked whether the combined lot (Lots 6 and 4) could be built on, given that the Applicant will be seeking to have the area of Lot 4 approved for septic. Mr. Boyea stated that it could be built on as an approved lot, but in all likelihood it would be the last lot built on, and would not be built until such time as it was determined whether septic could be approved for the area of Lot 4. Attorney Gilchrist also stated that such issue could be handled privately through negotiation between the Applicant and any future owner of the combined lot. Mr. Kestner stated that his office was completing its review of the stormwater pollution prevention plan for the project, and will be meeting with Mr. Boyea to address certain issues. Chairman Oster inquired whether there were any further issues or questions concerning the subdivision

project. Hearing none, Chairman Oster inquired as to the procedural status. Attorney Gilchrist stated that given the project is part of an approved planned development district, he would like the opportunity to review the PDD conditions prior to any action by the Planning Board on the major subdivision. Mr. Kestner also stated that he would like to complete his review of the SWPPP. Chairman Oster has scheduled this matter for the April 18, 2013 meeting.

The next item of business on the agenda was the minor subdivision application submitted by Farrell Homes, Inc. for the former Welch Farm property located between Pinewoods Avenue and NY Route 2. Attorney Gilchrist, Mr. Kestner, and the Planning Board members reviewed proposed conditions on this minor subdivision application. Following deliberation on those conditions, 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 SEQRA negative declaration adopted. Thereupon, Member Mainello made a motion to approve the minor subdivision application subject to the following conditions:

1. Lots 3 and 4 are each greater than 5 acres in size. The Owner/Applicant is seeking approval of these lots as a non-realty subdivision. Accordingly, Rensselaer County Health Department approval for septic will be required to be obtained by any owner (current or future owner) of Lot 3 and/or Lot 4, with proof of such approval filed with the Brunswick Building Department, prior to the issuance of any building permit for any structure on said lots.
2. Rensselaer County Health Department approval for private water supply to Lots 1 and 2.
3. The current Owner/Applicant must coordinate with the Town of Brunswick Water Department on the disconnection of public water from the existing homes on Lots 1 and 2, and further coordinate with the Town of Brunswick Water Department on connection of the existing homes on Lots 1 and 2 to a private water supply; these activities are to be completed without interruption of potable water supply to the existing homes on Lots 1 and 2, and further to be completed within six months from the date of final subdivision approval.
4. Prior to the construction of any structure on Lot 3 and/or Lot 4, the owner (current or future owner) of any such lot must coordinate with the Town of Brunswick

Water Department on connection of Lot 3 and/or Lot 4 (as the case may be) to public water supply.

5. The current Owner/Applicant must provide a 30' wide waterline easement to the Town of Brunswick, located on the western boundary of the project site as depicted on the final subdivision plat; the waterline easement must be prepared by the Owner/Applicant, and submitted to the Town of Brunswick for review and approval as to form and content; such waterline easement must be recorded in the Rensselaer County Clerk's Office at the expense of the Owner/Applicant.
6. Payment of all consultant review fees.
7. Payment of the park and recreation fee in the amount of \$2,000.00 (\$500.00 per lot).
8. The owner (current or future owner) must obtain all necessary permits from Rensselaer County for construction of driveways to Lots 3 and 4.
9. This approval for the Farrell Homes, Inc./Welch Farm minor subdivision is for residential subdivision only, and does not constitute an approval of any specific activities occurring on the project site, which may include commercial and/or industrial activities, nor does this approval constitute a direct or indirect approval and/or acknowledgement as to compliance of any such activities with the Town of Brunswick Zoning Ordinance or any other law or ordinance of the Town of Brunswick.

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

The next item of business on the agenda was the application submitted by Reiser Bros. Inc. for a commercial subdivision and site plan on the Brunswick Farms project. At the request of the Applicant, this matter has been adjourned to the April 18 meeting.

The next item of business on the agenda was the site plan application submitted by Bohler Engineering on behalf of McDonalds USA, LLC regarding the existing McDonalds located on Hoosick Road (780 NY Route 7). Chairman Oster requested that Mr. Kreiger review the prior site plan approval for this location. Mr. Kreiger stated that the site plan for the McDonalds site was approved by the Planning Board in 1993, but the site plan did not include

any exterior order board but rather the building contained a drive-up window for placing orders and a second window for food pickup. The approved site plan did not include an exterior order board, which is currently in use at the McDonald's site. The current application seeks approval to do minor changes to the drive-thru lane and to add a second order board. Since this will amount to an amendment to the approved site plan on file with the Town, site plan review is appropriate. Chris Boyea of Bohler Engineering was present for the Applicant. Mr. Boyea stated that Francis Essian, McDonalds Corporation, Boston Regional Office, was also present for the Applicant. Chairman Oster stated that the Planning Board was in receipt of a memorandum from the Brunswick No. 1 Fire Department dated April 4, 2013, which included comments on the site plan submittal. Mr. Boyea stated that he was in receipt of the Brunswick No. 1 Fire Department memorandum. Mr. Boyea explained that this application seeks to renovate the current McDonalds, which will include upgrades to the both the exterior and interior of the facility to meet all current ADA requirements; that a sidewalk will be installed leading out to the current sidewalk system on NY Route 7; that a new façade will be constructed on the building; and that the existing drive-thru layout will be modified to add greenspace, realign the drive-thru, and add a second order menu board. Mr. Boyea stated that this would provide more efficiency, and less traffic stacking during peak hours at the drive-thru. Member Wetmiller asked whether the additional greenspace will result in any loss of parking. Mr. Boyea stated that three parking spaces would be lost, going from the current 41 spaces to a proposed 38 spaces, but that the Town Code requires only 13 spaces, so the site does contain adequate parking. In addition, Mr. Boyea stated that current statistics show that the drive-thru option is more popular than parking and using the sit down tables within the McDonald's restaurant. Chairman Oster again inquired whether a full site plan review requirement has been triggered. Attorney Gilchrist stated that

since the current proposal is not consistent with the approved 1993 site plan, and since part of the current proposal will effect internal vehicular flow, site plan review by the Planning Board is appropriate. Mr. Kestner also stated that during the public hearing held on the project in 1993, there were comments submitted by nearby residents that they were concerned the noise from an order intercom would be heard, particularly at night, and that the addition of a second order board could raise certain issues. However, Mr. Kestner did confirm that in 1993, there were a number of residential uses surrounding the McDonalds, which have subsequently been converted to commercial use, and other commercial facilities have been built in that area since 1993, including Walmart, the Brunswick Plaza, Dunkin Donuts, and Burger King. Member Wetmiller inquired whether the McDonalds is proposing to be open 24 hours a day. Mr. Boyea stated that the request would be to have the option of staying open 24 hours a day, but that it would be market driven, and likely that the drive-thru only would be open 24 hours. Mr. Kestner asked whether the detention basin at the facility was being reviewed. Mr. Boyea stated that he has not included any amendment to the detention area. Mr. Kestner stated that Mr. Boyea should look into the operation of the detention basin to insure that it was functioning properly. Member Tarbox asked whether the addition of the second menu board would allow for people in the drive-thru lane to pull around cars waiting at the first menu board after ordering at the second menu board. Mr. Boyea stated that the drive-thru lane would continue to be a single lane, and cars would need to stay in line regardless of which menu board is used. Mr. Boyea confirmed that both of the order boards would be located to the rear of the McDonalds building approximately 20 feet apart from each other. The Planning Board noted that the proposal also included new signage, and it appears that a sign variance would be required. Mr. Boyea understood this, and indicated that an application for a sign variance would be made to the

Brunswick ZBA in the event the site plan was approved. The Planning Board confirmed that the site plan will be referred to the Rensselaer County Department of Planning and Economic Development for recommendation. The Planning Board next discussed whether a public hearing should be held on the site plan. It was determined that a public hearing would be held, and scheduled for the April 18 meeting commencing at 7:00 p.m. Mr. Kestner stated that Mr. Boyea should be prepared to address how far the sound from the menu board could travel, particularly with respect to residents on McChesney Avenue. Mr. Boyea stated that the volume of the new proposed order boards is not significantly different from the current order board, and that if comments were raised at the public hearing concerning offsite impact by residences, he will address those issues with those property owners. This matter is placed on the April 18 agenda for public hearing.

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

The Planning Board addressed one item of old business. With respect to the Duncan Meadows Planned Development District, formal action by the Planning Board on the subdivision of the apartment parcel must be taken, and the Planning Board would review and update the approvals for the subdivision of the athletic field parcel and the northeast parcel which was not subject to the approved Planned Development District. Andrew Brick, Esq. was present for the Applicant. Attorney Gilchrist stated that the Planning Board had recently approved the site plan for the apartment parcel, and had considered the proposed lot lines for the apartment parcel, but had not formally acted to approve the subdivision of the apartment parcel from the balance of the Duncan Meadows PDD site. The Planning Board would need to take formal action on the subdivision of the apartment parcel. Attorney Gilchrist also stated that while the Planning Board had previously approved the subdivision of the athletic field parcel which will be transferred to

the Town of Brunswick, and also the remaining land of the Applicant to the northeast of the PDD site, which was not part of the approved Planned Development District, formal subdivision plats were not recorded in the Rensselaer County Clerk's Office. To address that issue, Attorney Gilchrist recommended that the Planning Board update those approvals so that there are no issues concerning the filing of the approved subdivisions at the Rensselaer County Clerk's Office. Attorney Brick concurred with that description, and also added to the record that SEQRA has been completed with respect to the Planned Development District, including the subdivision of the apartment parcel as well as the subdivision of the athletic field parcel which will be transferred to the Town. Thereupon, the Planning Board first addressed the subdivision of the apartment parcel. Chairman Oster inquired whether any conditions should be attached to the action on these subdivisions. Attorney Gilchrist stated that this project has gone through review and approval, that several conditions were attached to the Planned Development District approval, and that a meeting has recently been held between the Town of Brunswick and the project applicants and builders concerning compliance with the conditions to the project. It is noted for the record that a memorandum dated March 27, 2013 is on file in the Town of Brunswick concerning the conditions which must be complied with by the project applicant and builder in conjunction with the Duncan Meadows PDD project, and that such memorandum has also been provided to the attorneys for the project owners. All parties, including the project owner and applicant, confirmed that these conditions must be addressed and complied with in connection with the buildout of this project. Attorney Brick concurred. After noting that for the record, the Planning Board moved forward with the subdivisions at issue. Member Czornyj made a motion to approve the subdivision of the apartment parcel from the remaining lands of the project owner as set forth on the final project plan, which motion was seconded by Member

Tarbox. The motion was unanimously approved, and the subdivision of the apartment parcel from the remaining project site was approved. Thereupon, Member Wetmiller made a motion to approve the subdivision of the athletic field parcel from the remaining land of the Duncan Meadows PDD project site, which motion was seconded by Member Czornyj. The motion was unanimously approved, and the subdivision of the athletic field parcel was approved. It was noted that the athletic field parcel is to be conveyed in title to the Town of Brunswick in conjunction with the Duncan Meadows PDD project. Thereupon, the Planning Board addressed the subdivision of the remaining land of the project owner located northeast of the Duncan Meadows PDD site. Since this parcel was not part of the approved Planned Development District, the Planning Board first addressed SEQRA with respect to this subdivision. Member Czornyj made a motion to adopt a negative declaration under SEQRA with regard to the subdivision of the remaining land of the project owner located to the northeast of the project site, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the subdivision of the remaining land of the project owner located to the northeast of the Duncan Meadows PDD project site as depicted on the final Duncan Meadows PDD project plan, which motion was seconded by Member Mainello. The motion was unanimously approved, and the subdivision of the remaining land of the project owner located to the northeast of the Duncan Meadows PDD project site was approved.

The index to the April 4, 2013 meeting is as follows:

1. Bohler Engineering – Berkshire Properties PDD major subdivision – 4/18/13;
2. Farrell Homes, Inc. – Welch Farm minor subdivision – final approval subject to conditions;

3. Reiser Bros. Inc. – Brunswick Farms commercial subdivision and site plan – 4/18/13;
4. Bohler Engineering (McDonalds USA, LLC) – site plan – 4/18/13 (public hearing to commence at 7:00 p.m.);
5. Duncan Meadows Planned Development District – subdivision approvals.

The proposed agenda for the April 18, 2013 meeting currently is as follows:

1. Bohler Engineering – (McDonalds USA, LLC) – site plan – public hearing to commence at 7:00 p.m.
2. Bohler Engineering – Berkshire Properties PDD major subdivision.
3. Reiser Bros., Inc. – Brunswick Farms commercial subdivision and site plan.