

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

MINUTES OF THE PLANNING BOARD MEETING HELD April 18, 2013

PRESENT were RUSSELL OSTER, CHAIRMAN, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, 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 members reviewed the draft minutes of the April 4, 2013 meeting. Upon motion of Member Czornyj, seconded by Member Christian, the draft minutes of the April 4, 2013 meeting were unanimously approved without amendment.

The first item of business on the agenda had been the site plan application submitted by Bohler Engineering on behalf of McDonalds USA, LLC for its site located on Hoosick Road (780 NY Route 7). Chris Boyea of Bohler Engineering was present for the Applicant, and explained to the Board there had been miscommunication between his client and the Town concerning his client's intent on the site plan application. Mr. Boyea explained that while he did request the public hearing to be cancelled, his client did not intend to withdraw the site plan application, but had merely been working on certain internal economic issues and site issues before proceeding. At this point, his client would like to proceed with the site plan application, and requested that the Planning Board schedule a public hearing on the site plan application for its May 2 meeting. After discussing the matter, the Planning Board agreed to reschedule and hold the public hearing on the site plan application at its May 2 meeting commencing at 7:00

p.m. Mr. Kreiger noted that the referral to the Rensselaer County Department of Economic Development and Planning had been completed, and that the County determined that local consideration shall prevail. The County did note that the proposed sidewalk from the McDonalds restaurant to the sidewalk system along NY Route 7 was positive and long overdue. Chairman Oster stated that the Applicant will need to establish the required site plan review escrow. Mr. Boyea stated that the escrow would be completed by the Applicant. This site plan application is scheduled for public hearing at 7:00 p.m. on May 2, 2013.

The second item of business on the agenda was the Berkshire Properties Planned Development District major subdivision. Chris Boyea of Bohler Engineering was present for the Applicant. The public hearing has been held on this application, and the matter is before the Planning Board for final subdivision action. After due deliberation, Member Czornyj made a motion to grant final subdivision plat approval on the Berkshire Properties PDD major subdivision subject to the following conditions:

- a. With respect to the residential subdivision portion of the Berkshire Properties PDD, a bonding security agreement for the proposed subdivision road in form and content acceptable to the Town Board and Town Attorney must be executed by the Applicant.
- b. With respect to the residential subdivision portion of the Berkshire Properties PDD, the Applicant must provide to the Town of Brunswick a performance bond or other acceptable financial undertaking for the construction of the proposed subdivision roadway. The form and content of such performance bond or other acceptable financial undertaking is subject to approval by the Town Board, Town Attorney, and Town Consulting Engineer as to form, content, and amount.

- c. With respect to the residential subdivision portion of the Berkshire Properties PDD, until the subdivision roadway is completed, offered for dedication and accepted by the Town Board, the Applicant shall be responsible for all subdivision roadway maintenance, including paving, repairing, and snow plowing, for the benefit of all homeowners within the Berkshire Properties residential subdivision, to insure that all roadways are open, passable, and accessible to Betts Road, and further that all such roadways are open, passable, and accessible to and by emergency vehicles. In addition, until such time as the subdivision roadway is offered for dedication and accepted by the Town Board, the Applicant shall be responsible for the maintenance of a sign at the entrance to the residential subdivision, providing the following: “NOTICE: this subdivision road is being maintained by the developer. Upon completion and final inspection, this roadway will be taken over by the Town of Brunswick”.
- d. With respect to the residential subdivision portion of the Berkshire Properties PDD, the subdivision roadway is designed to be a public roadway. Upon construction of this subdivision roadway in compliance with applicable specifications, the Applicant shall offer for dedication such subdivision roadway to the Town of Brunswick.
- e. Approval by the Rensselaer County Health Department with respect to private water and private septic facilities. Former Lot #4 has been merged into Lot #6. In the event the Rensselaer County Health Department approves a septic facility for the area of Lot #6 encompassing the former Lot #4, then an application will be entertained by the Planning Board to re-subdivide Lot #6 into two residential lots.
- f. The Applicant shall pay the sum of \$4,500 as a park and recreation fee. This amount shall be required to be paid by the Applicant on a \$500 per lot basis at such time as the Applicant applies for issuance of a building permit for residential construction on the residential subdivision portion of the Berkshire Properties PDD. In the event Lot #6 is re-subdivided in the future, an additional \$500 park and recreation fee shall be due.

- g. The Applicant must comply with all New York State Department of Environmental Conservation (NYSDEC) Stormwater Regulations and Town of Brunswick Local Laws concerning stormwater compliance. In addition to any mandatory notice of intent to commence construction activities, the Applicant must complete a full Erosion and Sediment Control Plan (ESCP) and Stormwater Pollution Prevention Plan (SWPPP) in compliance with NYSDEC Stormwater Regulations. The Applicant shall supply a complete copy of the ESCP and SWPPP to the Town of Brunswick, and shall not commence any grading or construction activities on the Berkshire Properties PDD site until such time as the Town has executed the NYSDEC Notice of Intent to commence construction activities in its capacity as a MS-4 community.
- h. All stormwater management facilities for the Berkshire Properties PDD action shall be constructed in compliance with the approved SWPPP. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such stormwater management facilities. The Town of Brunswick shall have no responsibility or liability with respect to such stormwater management facilities. The stormwater management facilities proposed for the residential subdivision and commercial portions of the Berkshire Properties PDD shall be as follows:

 - (i) Residential Subdivision: All stormwater management facilities shall be owned and maintained by a homeowners association for this residential subdivision. This obligation shall be set forth in homeowner association documents. The Town of Brunswick shall be granted an easement for access to such stormwater management facilities pursuant to homeowner association documents. The form and content of the homeowners association documents as to stormwater management facility ownership, operation, maintenance, insurance and access, including the easement granted in favor of the Town of Brunswick for access as described herein, shall be subject to review by the Town Board and Town Attorney. The homeowners association must further execute a Stormwater Management Facilities Maintenance Agreement with the Town of Brunswick. The form and content of the Stormwater Management Facilities Maintenance Agreement shall be subject to approval by the Town Board and Town Attorney.
- i. The Applicant must comply with all requirements of the United States Army Corps of Engineers and New York State Department of Environmental Conservation concerning wetlands, wetlands buffers, and restrictions on the project site.
- j. All site work and construction activities on the Berkshire Properties PDD site, both with respect to the residential subdivision and commercial lots, shall be limited to the following hours of operation: Monday – Friday, 7:00 a.m. –

7:00 p.m.; Saturday, 7:00 a.m. – 5:00 p.m.; no site work or construction activity shall be permitted on Sundays or legal holidays.

- k. The following note shall be placed on all plans and specifications for the Berkshire Properties PDD project:

The undersigned Applicant for the property and undersigned owner of the property state that they are familiar with all conditions of the Town Board of the Town of Brunswick on the Berkshire Properties Planned Development District, and consent to all said conditions.

Applicant

Date

Owner

Date

- l. The Applicant shall provide the Town of Brunswick GIS data, including but not limited to property boundary area, roads, utilities, control points, and drainage elements.
- m. The Applicant shall pay all consulting review fees incurred by the Town Board in connection with the review of the Berkshire Properties PDD application. A final accounting for all such fees shall be made, and all such fees shall be paid by the Applicant within 30 days of notification of such a final accounting.
- n. The Applicant shall be required to establish at the Town of Brunswick an engineering review escrow account in an amount to be determined by the Town Board upon review with its consulting engineer. The Applicant must submit an estimate for projected infrastructure costs, including subdivision roads, and stormwater facilities; and further, the Applicant must submit an estimated construction schedule. This information will be used by the Town in considering an appropriate engineering review amount, which amount is anticipated to be five (5) percent of the total estimated infrastructure construction costs. The Town Board shall retain an engineer for the purpose of providing engineering review and oversight on all construction plans and site construction activities related to the Berkshire Properties PDD project infrastructure. In addition, such consulting engineer shall assist the Town Building Department, as necessary, in all mandatory inspections pursuant to all applicable codes. All fees for engineering oversight shall be the responsibility of the Applicant, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such escrow account shall be subject to review from time to time by the Town Board during

construction activities on the Berkshire Properties project. At no time shall such account be in an amount less than \$5,000. In the event the Applicant fails to maintain such escrow account in a minimum balance of \$5,000, a Stop Work Order shall be issued by the Town of Brunswick Building Department on all construction activities at the site. The Applicant shall be entitled to an accounting of all invoices of engineering review fees. At the conclusion of construction and completion of engineering oversight activities, and upon a final accounting of all engineering fees, all funds remaining in such escrow account shall be returned to the Applicant.

- o. All final engineering review comments of Brunswick Building Department and consulting engineer on final plat and project plans.
- p. Subdivision road plan shall include the Town's standard wing gutter specification and eliminate the use of "Miami curb".

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and final conditional subdivision plat approval granted on the Berkshire Properties PDD major subdivision. Attorney Gilchrist noted for the record that SEQRA compliance has been completed on this action in conjunction with the Planned Development District review and approval. Mr. Kestner stated that in his discussions with Mr. Boyea, the issue of the Applicant constructing a model home on one of the proposed lots adjacent to Betts Road had been raised, and whether construction on such model home could be commenced while the conditions are being satisfied on the final plat approval. Attorney Gilchrist stated that this would primarily be a matter for the Building Department, but that it should be noted that the Applicant could not market or offer for sale any subdivided lot until such time as the subdivision plat has been stamped, signed, and recorded in the Rensselaer County Clerk's Office. Mr. Boyea stated that he would review the matter with his client.

The next item of business on the agenda was the Brunswick Farms commercial subdivision and site plan application submitted by Reiser Bros. Inc. for property located along NY Route 2 and NY Route 278. Scott Reese, RLA, was present for the Applicant, together with

Henry Reiser and John Reiser. Chairman Oster confirmed that the matters before the Board included both commercial subdivision and site plan action for the proposed Lot 1 and Lot 2. Attorney Gilchrist confirmed that both matters were currently before the Planning Board. Attorney Gilchrist also confirmed that SEQRA had been completed on this action pursuant to a coordinated environmental review, and that the Brunswick Zoning Board of Appeals has granted a special permit for the “filling station” proposed use on Lot 1. Mr. Kreiger confirmed that all required escrow payments for consultant review have been paid by the Applicant. After due deliberation, the Planning Board first addressed the commercial subdivision action. A motion was made by Member Czornyj to approve the three lot commercial subdivision, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and the commercial subdivision approved. It was noted that the site plan action addressed proposed uses only on Lot 1 and Lot 2, and that there is no current action proposed or addressed by the Planning Board with respect to commercial Lot 3. Any use on commercial Lot 3 would be subject to further review and consideration by the Brunswick Planning Board. With respect to the action concerning the site plan for Lot 1 and Lot 2, Member Czornyj made a motion to approve the site plan for Lot 1 and Lot 2, subject to the following conditions:

1. The following conditions apply to the grading of the project site and removal of excavated material from the project site:
 - a. Compliance with the grading plan, Sheet 3 of 9, last revision date February 27, 2013 (revision 8) (plan set includes Sheets 1 of 9 through 9 of 9, Brunswick Farms).
 - b. Compliance with NYSDEC construction exemption requirements.
 - c. No trucking of excavated material into Langmore Lane neighborhood or Brook Hill Subdivision.
 - d. Notification to NYSDEC prior to commencement of grading and excavation.
 - e. Notification to the Town of Brunswick Building Department prior to grading and excavation.

- f. A pre-work conference with the Town of Brunswick Building Department must occur prior to commencement of grading and excavation.
 - g. Grading and removal of material from the project site is limited to Monday – Saturday 7:00 a.m. to 5:00 p.m.; no grading or removal of material from the project site on Sunday or legal holidays.
 - h. NYSDOT must approve entrance point onto NY Route 278 and/or NY Route 2 for all trucks removing excavated materials from the project site.
 - i. Compliance with the Stormwater Pollution Prevention Plan and Erosion and Sediment Control Plan; MS4 acceptance must be obtained from the Town of Brunswick, and Notice of Intent (NOI) filed with NYSDEC.
 - j. A permit from the Town of Brunswick is required if excavated material is deposited in another location within the Town of Brunswick.
 - k. The berm located between the project site and residential lots in the Brook Hill Subdivision must be completed prior to issuance of a building permit for structures on Lot 1 and/or Lot 2.
 - l. Written authorization from the owners of all residential lots in the Brook Hill Subdivision on which the berm is to be constructed must be filed with the Town of Brunswick Building Department.
 - m. All grading and removal of excavated material from Lots 1 and 2 must be completed within two years from commencement, with progress meetings with the Town of Brunswick Building Department required each quarter during such two year term.
2. NYSDOT work permit for all entrance driveways off NY Route 278 and NY Route 2.
 3. NYSDOT approval for stormwater discharge to the State drainage system on NY Route 278 and/or NY Route 2.
 4. Rensselaer County Health Department approval for septic on Lots 1 and 2.
 5. The shared entrance driveway between Lot 1 and 2 off NY Route 2 must be fully constructed and completed prior to the issuance of a certificate of occupancy for any structure on Lot 1.
 6. Lot 2 site plan is not approved for construction and operation of a restaurant or automobile and equipment service use.
 7. Compliance with all NYSDEC and/or federal requirements for petroleum bulk storage on Lot 1.
 8. The Owner will prepare and implement an emergency spill response plan and training program for the petroleum bulk storage and containment system for the “filling station” on Lot 1.
 9. Cross easement for access regarding the entrance driveway off NY Route 2 for Lots 1 and 2.
 10. All stormwater management facilities for the Brunswick Farms site plan shall be constructed in compliance with the approved stormwater pollution prevention plan. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such stormwater management facilities. The Town of Brunswick shall have no responsibility of liability with respect to such stormwater management activities. All stormwater management facilities shall be

owned and maintained by the private lot owner(s). The Town of Brunswick shall be granted an easement for access to such stormwater management facilities by such owner(s). The lot owner(s) must execute a stormwater management facilities maintenance agreement with the Town of Brunswick. The form and content of the stormwater management facilities maintenance agreement shall be subject to approval by the Brunswick Town Board and the Town Attorney. The execution of the stormwater management facilities maintenance agreement shall be completed prior to the issuance of any certificate of occupancy for any structure on the Brunswick Farms project.

11. Final comments of the Town of Brunswick Building Department, Water Department, and consulting engineer.
12. No work permits of any kind will be issued by the Town of Brunswick until all required fees, including consultant review fees, are paid by the owner as required by the Town of Brunswick.
13. The owner shall comply with all requirements of the Town of Brunswick with respect to inspections of all site construction activities, including all required fees for such inspections.
14. All conditions set forth on project narrative dated July 27, 2012 prepared by Scott D. Reese, RLA (copy in Brunswick Building Department file).

The motion with conditions was seconded by Member Christian. The motion was unanimously approved, and the site plan for the Brunswick Farms Lot 1 and Lot 2 was approved subject to the stated conditions.

One item of new business was discussed.

A waiver of subdivision application has been submitted by Patrick Abrams, for property located at 10 Kreiger Lane (Tax Map No. 83.-2-8.2). The Applicant seeks to divide 2 acres from an existing 11.04 acre parcel for transfer to his daughter for construction of a home. The Planning Board members reviewed the concept map showing the area of the proposed new residential lot. It was noted by Mr. Kreiger that there are currently 13 lots located on Kreiger Lane, and that Kreiger Lane is a dead-end road, and therefore a waiver from the Code limit on the number of lots on a dead-end road system must be obtained from the Town Board. In this regard, the Planning Board commenced its deliberations on a recommendation to the Town Board on such a waiver. Attorney Gilchrist was directed to prepare an outline of the Planning

Board recommendation on the requested waiver consistent with its deliberations. This matter is placed on the agenda for the May 2 meeting.

The index for the April 18, 2013 meeting is as follows:

1. Bohler Engineering (McDonalds USA, LLC) – site plan – 5/2/13 (public hearing to commence at 7:00 p.m.);
2. Bohler Engineering – Berkshire Properties Planned Development District major subdivision – final conditional plat approval;
3. Reiser Bros. Inc. – Brunswick Farms commercial subdivision and site plan – final commercial subdivision approval and final conditional site plan approval;
4. Abrams – waiver of subdivision – 5/2/13.

The proposed agenda for the May 2, 2013 meeting currently is as follows:

1. Bohler Engineering (McDonalds USA, LLC) – site plan (public hearing to commence at 7:00 p.m.).
2. Abrams – waiver of subdivision.