

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

**MINUTES OF THE PLANNING BOARD MEETING HELD April 3, 2014**

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

ALSO PRESENT were DAN BRUNS, Building Department, and WAYNE BONESTEEL, P.E., Review Engineer to the Planning Board. JOHN KREIGER, Code Enforcement Officer, arrived after the meeting began and was present for the remainder.

Chairman Oster noted that there was no formal meeting agenda posted on the Town website for this meeting. Chairman Oster also noted that the meeting for March 20, 2014 had been cancelled.

The Planning Board reviewed the draft minutes of the March 6, 2014 Planning Board meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes of the March 6, 2014 Planning Board meeting were unanimously approved without amendment.

The first item of business on the agenda was the application by Carbone Auto Group for an amendment to a previously approved site plan application for premises located at 800 Hoosick Road. Jeff Hilenbrandt of Plumley Engineering, P.C. was present on the application for the Applicant. Mr. Hilenbrandt explained that the purpose of the amended site plan application was to replace the existing New York State Department of Transportation stormwater pond to the west of the site with an underground stormwater management piping system and to construct additional parking on which the Applicant will display vehicles for sale. Mr. Hilenbrandt

explained that the proposed underground stormwater management system was designed by ADS and has been sent to New York State Department of Transportation for review and that the Applicant is waiting for approval. Mr. Hilenbrandt explained that New York State Department of Transportation will maintain control of the parcel, but will issue a use and occupancy permit to the Applicant. Chairman Oster noted that the plans had been forwarded to County Planning and that information had been received back. Mr. Bruns reported that County Planning commented that while local consideration shall prevail, the redesigned stormwater management system must be sufficient to accommodate stormwater flows from Route 7 as well as any additional flows caused by the additional pavement. Mr. Hilenbrandt explained that the proposed underground system would comply with that requirement, since New York State Department of Transportation will be required to approve the revised system. Member Mainello asked whether the Applicant had completed the construction activities necessary to fulfill the prior approved site plan. The Applicant indicated that no exterior changes to the site had been made in furtherance of the prior site plan approval, which was issued in or about October of 2012. Member Mainello explained that he would like to have the prior site plan approval in front of him in order to compare it to the current application to fully understand the differences between the prior approval and the current application. Member Czornyj asked whether the sidewalk under the prior site plan approval was being proposed as part of this application. The Applicant responded that it would. Member Esser noted that he would like additional time to review the application. The Applicant summarized the changes to the site plan that were applied for in this amendment as compared to the prior site plan approval. The Applicant noted that some shrubbery would be relocated from the western part of the site under the currently approved site plan to the area on the western side of the proposed new paving on the site on which the

stormwater pond is currently located. The Applicant also noted that the application for an amendment also shows a pavement phasing plan. The Applicant explained that the current proposal to replace the stormwater pond with an underground system was not part of the application for the prior site plan approval. However, since the prior application, the Applicant has been progressing discussions with the New York State Department of Transportation and they appear to be in agreement with the proposed underground system. Member Oster asked whether everything on the amended site plan would be the same except for the additional parking in the location of the currently existing stormwater pond. The Planning Board generally discussed that there appeared to be a change from the prior site plan approval with respect to the building on the site. Member Mainello asked whether the retaining wall in the rear of the site that was approved as part of the prior site plan application had yet been built to which the Applicant explained that nothing had been done on the exterior of the site in furtherance of the prior site plan approval, although interior changes have begun. The Board asked Attorney Tingley to determine whether or not there is a time within which the site plan approved previously must be completed before it expires. Attorney Tingley also noted that the Board should determine the extent of the Applicant's right to operate on the DOT parcel, which the Applicant has explained DOT will continue to own. Member Casey asked the Applicant to explain the pavement phasing plan on the amended site plan application. The Applicant explained that Carbone was considering a business relationship with another dealership at the site and if that dealership relationship is finalized, the site plan will need additional parking spaces for additional vehicles. The Board generally agreed that additional time was necessary to review the application. Mr. Bonesteel requested that the Applicant provide a copy of what was submitted to the New York State Department of Transportation for this project, and the

Applicant agreed. Member Mainello asked whether the application for an amendment to the site plan would supersede the prior approval. Attorney Tingley explained that to the extent the site plan application amendment is inconsistent with the prior approval, it would supersede the prior approval. Attorney Tingley further explained, however, that as a practical matter all of the detail from the prior site plan approval that will remain as part of the site plan should be shown on the amended site plan. Member Czornyj asked whether the Town easement is shown on the application for an amendment. The Applicant explained that it was shown on the plan. The matter was placed on the agenda for the April 17, 2014 meeting.

The next item of business on the agenda was the site plan application by Stewarts Shops Corp. for property located at NYS Route 278 and Tamarac Road. Chris Potter from Stewarts Shops Corp. was present on the application on behalf of the Applicant. Chairman Oster asked Mr. Potter whether there was a resolution on the location of a public waterline crossing the site, to which Mr. Potter explained that the location of the line had been determined. Mr. Potter then generally reviewed the application, noting that Stewarts intended to purchase a 2.6 acre parcel behind its existing property in order to construct the new convenience store and to expand the gas pump canopies. He also explained that the proposal included the addition of a 12,000 gallon petroleum underground storage tank and increased parking. He explained that the access onto Tamarac Road would remain unchanged, and that access onto State Route 278 would be changed with approval of the New York State Department of Transportation. Mr. Potter explained that the Applicant had received a letter from the New York State Department of Transportation outlining its recommendation, and he agreed at the request of Chairman Oster to provide a copy to the Board. The Applicant further explained that the proposal is to install down-lit, fully recessed lighting in the parking lot and would include an LED gas price sign. Chairman Oster

asked the Applicant whether the Zoning Board of Appeals had approved the special use permit application. The Applicant confirmed that the Zoning Board of Appeals had not yet acted on the special use permit application. The Board explained to the Applicant that the Board could not act on the site plan application until the ZBA approves the special use permit. The Board then discussed the waterline that crosses the property with the Applicant. The Applicant explained that there is an existing 1” copper waterline that runs through the site that services three houses on Tamarac Road. The Applicant explained that the plans for construction at the site present no conflict with the existing waterline. He further explained that there exists a general cross-easement to allow the location of the waterline and maintenance thereof. The Applicant is willing to grant a more specific easement to the Town for the waterline. The Applicant stated that the waterline is owned by the Town. The Applicant explained that the plans will have to be revised slightly to adjust the location of the septic system to avoid the waterline. He also explained that the Applicant had not received approval from the County Health Department, who reported to him that they would not approve the system until the Town approves the project. Member Mainello and Member Casey discussed with the Applicant that it was important to determine the depth of the existing waterline, especially since there would be some grading and paving above the waterline’s current location. Mr. Bonesteel explained that he had previously met with Mr. Potter and the most recently received plans incorporated Mr. Bonesteel’s comments as they then existed. Mr. Bonesteel explained that he will also be reviewing the stormwater management plan. Member Mainello asked the Applicant whether the proposal will present the possibility of headlights shining into neighboring properties. The Applicant explained that it likely would, but that the Applicant is open to constructing a fence or installing additional landscaping in that area to mitigate that potential. Chairman Oster explained to the

Applicant that the Planning Board had the discretion to hold a public hearing on the application, although the Zoning Board of Appeals has held the public hearing on the special use permit. Member Mainello asked whether any comments were received from the Fire Department (Eagle Mills). The Board agreed that Mr. Kreiger should send a copy of the plans to the Fire Department. The matter was placed on the agenda for the May 1, 2014 Planning Board meeting.

Chairman Oster noted that the application of Alta East, Inc. for the proposed redevelopment of property located at 1163 Hoosick Road was not on tonight's agenda, but would be on the agenda for the April 17, 2014 Planning Board meeting.

Mr. Kreiger joined the meeting.

There were five items of new business discussed.

An application for minor subdivision was submitted by Gene A. Coletti for property located at Cooksboro Road, which property is partially located within the Town of Brunswick and partially within the Town of Pittstown. Mr. Coletti was present on the application. Mr. Kreiger explained that approximately 90%-95% of the property is located in the Town of Pittstown, and that the Town of Pittstown has approved the subdivision with respect to that portion of the property located in its jurisdiction. Mr. Kreiger confirmed that the Applicant had paid the necessary application fees. Chairman Oster explained to the Applicant that he would be responsible for the consulting fees incurred by the Town in reviewing the application. The Applicant explained that the property exists of approximately 160 acres, and that the purpose of the subdivision was in furtherance of estate planning. The Applicant has no intention to build any structures at this time. The Board generally discussed the location and area of the portions of the three lots that were within the Town of Brunswick jurisdiction. Lot 3 could be a buildable lot solely within the Town of Brunswick. Two of the proposed lots already have structures

located thereon, and one does not. The Board asked whether the proposed subdivision provided for the appropriate setbacks given the existing structures, and Mr. Kreiger confirmed that it did. The Applicant explained that two lots would have road frontage in the Town of Brunswick, whereas one lot would have road frontage in the Town of Pittstown. The Applicant explained that the driveways are currently existing and that the subdivision has been approved by Pittstown. It was explained to the Applicant that the minor subdivision application required a public hearing, and the Board would have to complete the SEQRA process. The Applicant asked questions concerning the SEQRA process and the public hearing process, and received an explanation from Attorney Tingley and Chairman Oster. Mr. Kreiger explained that he would be required to complete an agricultural data statement. The Board agreed that the application was sufficiently complete, including the submission of an Environmental Assessment Form, in order to schedule a public hearing for the April 17, 2014 meeting. The Planning Board scheduled the public hearing to begin on April 17, 2014 at 7:00 p.m. at the Brunswick Town Hall.

The next item of new business was the waiver of subdivision application made by Jane Spikler for property located at 316 Deepkill Road. Ms. Spikler was present on the application. Ms. Spikler explained that she has listed her house for sale, but believes that she would be more successful in selling her property if the lot line was adjusted so that the house parcel included 3.68 acres and the adjacent additional parcel contained 5.33 acres. Chairman Oster confirmed that all application fees had been paid, and explained that the Applicant would be responsible to pay any consulting fees incurred by the Board in reviewing the application. Member Mainello asked about the sight distance in that location and it was explained that there is sufficient sight distance. Member Wetmiller recused himself. The Board asked when a prior portion of property had received waiver of subdivision approval, and the Applicant explained that it was

approximately 5 or 6 years earlier. Mr. Kreiger explained to the Board that it was discretionary with the Planning Board as to whether the current application should be treated as a waiver of subdivision or instead as a minor subdivision application given that the prior waiver of subdivision application was approved within 7 years prior to this application. The Board agreed that it should treat the current application as a waiver of subdivision. The Planning Board discussed that there was no need to condition any approval of the waiver of subdivision application on Health Department approval because the lot on which there was no previously existing septic system would be over 5 acres. Attorney Tingley explained that the Board could include the same condition, noting it as “if applicable”, and if the Health Department approval was not required, then there would be no need to obtain it. Member Czornyj made a motion to waive the 7 year rule and treat the application as a waiver of subdivision application rather than a minor subdivision application, which was seconded by Member Mainello, and was unanimously approved by the Board with Member Wetmiller abstaining. Member Czornyj then made a motion to adopt a negative declaration under SEQRA with respect to the application, which was seconded by Member Tarbox, and was unanimously approved by the Board, with Member Wetmiller abstaining. Member Tarbox made a motion to approve the waiver of subdivision application conditioned on obtaining any necessary approvals, if applicable, from the County Health Department, which was seconded by Member Czornyj, and was unanimously approved by the Board, with Member Wetmiller abstaining.

The next item of new business was the application of Justin Ashe for a waiver of subdivision for property located on Tamarac Road. The Board confirmed that all application fees had been paid, and Chairman Oster explained to the Applicant that the Applicant would be responsible to pay any consulting fees incurred by the Town in reviewing the application. Justin

Ashe was present on the application. Mr. Ashe explained that the application sought to divide a property that is 2.5 acres, and has an existing home on the eastern side of the property. He further explained there is an existing line of trees between the proposed new lots and each of the proposed new lots already has a preexisting driveway. The Board asked whether any subdivisions or waivers of subdivision have been approved in the prior 7 years. The Applicant explained that he had purchased the property in 2009 and he has not sought any subdivision approval or waiver of subdivision approval for the property since that time. Chairman Oster asked whether the parcel on which the existing house would be located was under 1 acre. Mr. Kreiger explained that it was under 1 acre but that the code only required that the lot be in excess of 40,000 square feet, and that the proposed parcel on which the existing house is located would be over 40,000 square feet. Mr. Bonesteel asked the Applicant whether the plans had been submitted to the County Health Department for review. The Applicant explained that the Health Department is currently scheduled to undertake percolation testing on or about April 16, 2014. Member Mainello asked about the sight distance for the driveways or the proposed lots. The Applicant explained that the proposed lots had preexisting driveways. He further explained that there is sufficient sight distance given the topography of the property and surrounding properties, as well as the layout of Tamarac Road in that location. The Board explained to the Applicant that he would be required to coordinate with the County Highway Department to confirm that the existing driveways were permitted. Member Czornyj then made a motion to adopt a negative declaration in connection with the application, which was seconded by Member Wetmiller, and which was unanimously approved by the Board. Member Czornyj then made a motion to approve the waiver of subdivision application with the condition that the Applicant receive County Health Department approval and County Highway Department approval for the proposed

lots. The motion was seconded by Member Wetmiller, and was unanimously approved by the Board.

The next item of new business on the agenda was the application of David Mulinio for an amendment to a previously approved PDD application for the Capital Combat Zone paintball facility at 99 Farrell Road. Mr. Mulinio and Attorney Polly Feigenbaum, Esq. appeared on the application. Ms. Feigenbaum explained that the PDD for the paintball facility had been approved approximately 2 years earlier and that the application was seeking an amendment in order to extend the hours from Saturday and Sunday 9:00 a.m. – 5:00 p.m. to include also Thursday nights from 5:00 p.m. – 10:00 p.m., Friday nights from 5:00 p.m. – 11:00 p.m., Saturday nights from 5:00 p.m. – 11:00 p.m., and Sunday night from 5:00 p.m. – 9:00 p.m. in conjunction with an autumn seasonal additional paintball attraction. Ms. Feigenbaum also explained that the Applicant would provide private security on the premises, that there would be no drinking or possession of alcohol permitted on the premises, that there would be a lighted parking area, as well as an open roof maze with a tent. The primary attraction to be added was the paintball ride through a haunted field. Ms. Feigenbaum explained that they reached out to Ron LaBerge, the consulting engineer for the Town on the project, and are awaiting a call back. The Applicant explained that the proposal for the haunted paintball rides would result in the local manufacturing of five 26' trailers with installation of 15 paintball guns on each side and benches on which participants would sit as they were transported through the existing paintball field through a designated course. The field would include hired actors who would be dressed in paintball safety equipment in haunted apparel. The participants in the haunted paintball ride would target the actors and other props. The trailers would move at a rate of 3 miles per hour through the facility, and there would be up to five trailers moving through the ride at any given

time. The proposed lighting consists of two additional highway work lamps that can be transported to and from the site as necessary. The Applicant also explained that there would be strobe lights and a fog machine in the field and that he expected that 3 generators would be sufficient to power the site for the entire project. The Applicant stated that the extended hours and the proposed attraction would only be conducted during the fall season each year, specifically the last weekend of September and all weekends in October. The Applicant explained that the decibel level of the generators is lower than the decibel level on the paint guns. Chairman Oster asked how many people currently go to the site for the paintball activities on Saturday and Sunday. The Applicant explained that typical attendance is approximately 100 people on Saturday and 100 people on Sunday, although the business also conducts scenario games at which they could have about 250 people attend. The Applicant explained that he has received no complaints from any of the neighbors, including neighbors that previously opposed the PDD application for the paintball facility. Mr. Kreiger explained that his office had not received any complaints from nearby residents either. Member Mainello asked the Applicant to check the decibel level on the generator that powered the highway work lamps, which may or may not be higher than the decibel levels on the stand-alone generators. The Planning Board asked whether the Applicant had any current proposal to provide permanent electric service to the site and the Applicant stated that no such plans currently existed, primarily because the Applicant would like to make sure that the facility is sufficiently profitable before making such an investment. The Planning Board generally discussed safety issues associated with the project including the fact that there were five moving trailers with up to 30 participants shooting paintball guns through the facility. The Applicant explained that the guns would be limited to turning 30° in either direction, that the participants would be required to sit on benches during

the entire ride, that the trailers would move at a maximum pace of 3 miles per hour through the ride, and that there would be an attendant on the trailer to supervise the ride. The Applicant also explained that the proposal was to make the haunted paintball ride as child-friendly as possible. The Applicant further explained that the speed of the paintball guns was reduced by about half in order to reduce the travel distance of the paintballs. He explained that the paintballs would begin to drop at approximately 175 feet, so as to insure that the participants on one trailer would not be attempting to shoot paintballs at another trailer. Member Casey asked whether the project will be of significance to the Highpointe development. The Board generally discussed that in connection with the prior PDD application and approval, residents of Highpointe had appeared and commented at the public hearing. Chairman Oster asked whether the Fire Department had been consulted with respect to the proposed plan. Mr. Kreiger explained that it would be more likely that EMS, rather than a fire truck, would be necessary. The Planning Board discussed the emergency access with the Applicant, who explained that the site had sufficient access for an ambulance to enter the paintball field and to, if necessary, drive to the opposite end of the field. The Board explained to the Applicant that the consulting engineer for the Town, Ron LaBerge, on this project had not yet provided any engineering review comments and that the Board would need his comments before taking any further action on the current recommendation. The matter was placed on the agenda for the April 17, 2014 meeting with the understanding that the matter could be adjourned to the May 1, 2014 meeting if the consulting engineer did not by then provide comments to the Board.

The final item of new business on the agenda was the Brooks Heritage application for a waiver of subdivision. The subject property is located on Dusenberry Lane and is the property formerly owned by Mr. Morrissey. The Applicant was not in attendance. The Applicant requests

a waiver of subdivision regulations for the former George Morrissey property. The application states that the parcel will be subdivided to separate a 2± acre parcel on which an existing single family home with driveway, utilities, well and septic, from the remainder of the parcel which will be retained by Brooks Heritage. Mr. Kreiger explained that it was his understanding that the parcel had been subject to some litigation as a result of a contract to purchase the property and potentially a foreclosure action. It was Mr. Kreiger's understanding that the litigation may have been settled based on the proposal currently applied for this parcel. The Planning Board generally discussed the fact that the preliminary plat approval in connection with the Brooks major subdivision application had appeared to expire and questioned how this application related to the Brooks subdivision development. Mr. Kreiger explained that it was his understanding that the Applicant intended to address the issue relating to this application and the resolution of the pending litigation, in order to insure that Dusenberry Lane could be widened and improved as previously approved in connection with the Brooks major subdivision application. Following a decision on this application, it was Mr. Kreiger's understanding, that the Applicant would then reapply for major subdivision approval in connection with the prior preliminary plat approval that has expired. The Board generally discussed that it did not appear that the proposal would be considered a waiver of subdivision application since it appeared to create three separate lots. This issue will be further researched, and a further explanation from the Applicant will be requested concerning the project proposal. The matter was placed on the agenda for the April 17, 2014 Planning Board meeting.

The index for the April 3, 2014 Planning Board meeting is as follows:

1. Carbone Auto Group – site plan amendment – 4/17/14.
2. Stewarts Shops Corp. – site plan – 5/1/14.

3. Coletti – minor subdivision – 4/17/14 (public hearing to commence at 7:00 p.m.).
4. Spikler – waiver of subdivision – approved with conditions.
5. Ash – waiver of subdivision – approved with conditions.
6. Mulinio – PDD amendment – 4/17/14.
7. Brooks Heritage – waiver of subdivision/potential minor subdivision application – 4/17/14.

The tentative agenda for the April 17, 2014 Planning Board meeting is as follows:

1. Coletti – minor subdivision – public hearing.
2. Carbone – site plan.
3. Mulinio – PDD amendment.
4. Brooks Heritage – waiver of subdivision/potential minor subdivision application.
5. Alta East, Inc. – site plan.

The tentative agenda for the May 1, 2014 Planning Board meeting is as follows:

1. Stewarts Shops Corp. – site plan.