

**TOWN OF BRUNSWICK
JOINT SPECIAL MEETING OF
TOWN BOARD AND PLANNING BOARD
MAY 10, 2011, 7:00 P.M.
TOWN HALL**

Town Board Members Present: Supervisor Herrington, Councilman Poletto, Councilman Salvi, Councilman Casale and Councilman Sullivan.

Town Board Members Absent: None.

Planning Board Members Present: Chairman Russell Oster, Member Czornyj, Member Esser, Member Christian, Member Mainello, Member Tarbox and Member Wetmiller.

Planning Board Members Absent: None

Also Present: Town Attorney, Thomas Cioffi; Town Clerk, Susan Sherman.

The Supervisor and Planning Board Chairman called the meeting to order at 7:00 p.m.

All joined in with the salute to the flag.

SPECIAL JOINT MEETING:

Supervisor: Philip H. Herrington

The Supervisor stated that the purpose of the special joint meeting of the Town Board and Planning Board was to conduct a joint public hearing concerning the applications filed by Oakwood Property Management, LLC, which include an application to rezone Tax Map Parcels 90-1-12.2 and 90-1-13.1 from the current zoning classifications of "A-40" and "School and Cemetery" to "B-6" commercial district, and applications for site plan review for Tax Map Parcels 90-1-14 and 90-1-15. The public notice of special meetings and notice of public hearing was read into the record. This public notice was published in The Troy Record, placed on the Town Sign Board, posted on the Town website, and mailed to all property owners within 500 feet of the project site.

The Supervisor requested that the Applicant make a brief presentation concerning the project. Teresa Bakner, Esq. representing Oakwood Property Management, LLC made a brief presentation regarding history of the site operations, previous applications to the Town of Brunswick, and the current applications pending before the Town Board and Planning Board. Ms. Bakner also stated that the Applicant was working to obtain economic development assistance to relocate certain critical components of the site operations.

The Supervisor and Planning Board Chairman then opened the floor for receipt of public comment.

COMMENTS BY VISITORS:

Chris Sullivan, 18 North Star Drive, emphasized that the Town of Brunswick needs to step up enforcement of its Zoning Code concerning the Oakwood Property Management operations. Mr. Sullivan stated that the current site plan applications were an opportunity for the Town to put strict penalties into any action on the site plan in the event of violations in the future, and repeated that the Town needs to be more effective on enforcement concerning this operation.

Mr. Sullivan also raised questions concerning the empire zone designation for this property, and questioned the Town's involvement in the empire zone designation process.

Henry Scarton, 14 Kestner Lane, handed up a written letter report concerning the noise assessment performed concerning this project. The letter report of Dr. Scarton is on file at the Town Clerk's Office. Dr. Scarton concludes that pursuant to his analysis, the project violates NYSDEC Part 360 Regulations concerning noise impacts, that noise impacts are too high, and that such noise impacts can be mitigated but it will be very expensive.

Maureen Sullivan, 18 North Star Drive, reiterated that the Town of Brunswick must step up enforcement of its Zoning Code requirements on this project, and stated that the residents of the North Forty Subdivision were there first, prior to the Oakwood Property Management operations. Ms. Sullivan states that the noise is like a helicopter landing on her front lawn. Ms. Sullivan states that despite the hours of operation restrictions on the original site plan for the Gallivan operations, she is awoken as early as 5:30 a.m. by noise. Ms. Sullivan thinks that the Town Board has been negligent in this matter.

Tom Meyer, 7 North Star Drive, read from a series of written comments, which were handed up to the Boards. Mr. Meyer's written comments are on file with the Town Clerk's Office. Mr. Meyer stated that trust is a significant issue in this matter, and that the Oakwood Property Management operation cannot be trusted, that the Town has shown a lack of enforcement, and that the current operations have expanded which should be considered a clear violation of the existing Memorandum of Agreement. After reviewing his written comments, primarily on the history of this matter before the Town of Brunswick, Mr. Meyer listed out several issues including noise, odor, scale of the operation, itemization of activities on the property, limitation of materials brought to the site, hours of operation being more detailed including both activities and locations on the site, and stated that the 101' buffer in the area of the proposed rezoning is inappropriate. Mr. Meyer concluded that enforcement needs to be stepped up by the Town of Brunswick.

Harry Efstathiadias, 116 Hickory Court, gave a video presentation concerning a piece of grinding equipment now operating on the Oakwood Property Management site, known as a rotochopper B66. Mr. Efstathiadias presented comments on the noise assessment report, and handed up a set of written comments regarding the supplementary noise data report dated March 14, 2011. These written comments are on file at the Office of the Town Clerk. Mr. Efstathiadias stated that he would provide a CD of the video presentation concerning the grinding equipment known as rotochopper B66, and provide that to the Office of the Town Clerk. Mr. Efstathiadias also stated that the noise is like a helicopter, and that the walls of his house are vibrating due to the low frequencies of the noise generated from this operation.

Michael Schongar, 26 Lindsay Drive, reviewed a written submission he had prepared, and handed the written submission up to the Town Clerk. A complete copy of the written comments of Michael Schongar are on file with the Office of the Town Clerk. Mr. Schongar concluded that

if the proposals are approved by the Town, the Town cannot allow the same noise and odor to be generated that is currently impacting his property. Mr. Schongar stated that restrictions should be imposed in the 101' buffer in the event the rezoning was approved by the Town. Mr. Schongar concluded that significant mitigation measures need to be imposed in order to keep the operation from continuing to create significant impacts on his property and the North Forty Subdivision. Mr. Schongar concluded by stating that the Town needed to better enforce its Zoning Code and any project restrictions.

Marie Schongar, 21 Lindsay Drive, handed up written comments to the Town Clerk. A complete copy of the written comments of Marie Schongar are on file in the Office of the Town Clerk. Ms. Schongar described noise impacts, and odor impacts being in the nature of "putrid" smells impacting her property, that she cannot sit on her deck or enjoy her yard, that she was awoken at 6:00 a.m. on Mother's Day (May 8, 2011), that she could hear traffic on Oakwood Avenue because of Gallivan's removal of the tree buffer, that her property value has decreased and no one will want to buy her property because it is next to the Gallivan operations, and she concluded by stating the Town should act on these new applications without delay.

Chris Sanders, 3 Lindsay Drive, stated that the new grinding equipment is very noticeable, that the Gallivan Companies do what they want regardless of violation of law, that the Town needs to step up enforcement, and that there is a significant lack of trust because he is of the opinion that the Gallivans will continue to disregard the law.

Kathy Croson, 8 Stone Arabia Drive, read from written comments, which were handed up to the Town Clerk. A complete copy of Ms. Croson's written comments are on file in the Office of the Town Clerk. Ms. Croson stated that she was hoping both the Town Board and the Planning Board are listening to the concerns of the North Forty residents before any decisions are made on these applications. Ms. Croson stated that the property owners in the North Forty Subdivision pay higher taxes, and if this project is approved, she will be seeking a lower assessment on her property. Ms. Croson stated that people needed to live in the North Forty Subdivision 24 hours per day in order to understand the impacts being discussed, regardless of the number of technical reports in the filed application materials. Ms. Croson concluded that odor and noise impacts are significant, including the slamming of dump truck gates.

Beth Randall, 200 Oakwood Avenue, stated that her property is impacted by noise, trucks, visual impacts of the operations, and that her house is filthy as a result of the dust and other emissions from the Gallivan operations. Ms. Randall questions whether health issues she is experiencing are as a result of the Gallivan operations. Ms. Randall handed up a series of photographs to the Town Clerk. The photographs submitted by Ms. Randall are on file in the Office of the Town Clerk.

Jim Brearton, 4 North Star Drive, stated that the Town should turn down the application to rezone this property, and enforce the law.

Dennis Specich, owner of a vacant parcel on Lindsay Drive, stated that he owned the building lot but had not yet built any residence on it. Mr. Specich indicated that he had no idea that the Oakwood Property Management operations were there when he bought the lot, that the odor is terrible, and stated that it was like living next to a landfill. Mr. Specich stated that he has been in the building business for several years, and that he cannot understand how this operation was allowed to expand without Town approvals or Town enforcement.

Gail Beaudoin, 250 Oakwood Avenue, stated that she had purchased her house in 2003, has made improvements to the house, and is now subject to smell, noise, and traffic resulting from the Gallivan operations. Ms. Beaudoin also stated that she has been experiencing health issues, and questions whether the health issues are being caused by the Gallivan operations.

Ron Brosnihan, 14 North Star Drive, stated that nothing has been done by the Town to assist the neighbors in the North Forty Subdivision or to help the neighbors' quality of life. Mr. Brosnihan questioned the review criteria for the applications pending before the Town currently, and the criteria for empire zone designation.

Don Maurer, 10 Stone Arabia Drive, wanted to make sure that all decisions on the applications were made in a public forum, with the public able to hear the decision.

Lee Odell, 11 Ledgewood Drive, commented on smell, noise, and traffic impacts from the current Gallivan operations.

The Supervisor and Planning Board Chair inquired whether there were any further public comments. Hearing none, the Town Board and Planning Board deliberated on closing the public hearing, and establishing a period for receipt of written comments.

Councilman Poletto made a motion to close the public hearing on the applications by Oakwood Property Management, LLC to rezone Tax Map Parcels 90-1-12.2 and 90-1-13.1, and establish a written comment period of five (5) business days concluding May 17, 2011. The motion was seconded by Councilman Sullivan. The motion was unanimously approved, and the public hearing closed with a written comment period established.

A motion was made by Planning Board Member Mainello to close the public hearing on the site plan applications submitted by Oakwood Property Management, LLC concerning Tax Map Nos. 90-1-14 and 90-1-15, and provide for a written comment period of five (5) business days ending May 17, 2011. The motion was seconded by Planning Board Member Tarbox. The motion was unanimously approved, and the public hearing on the site plan applications was closed with the establishment of a written comment period.

ADJOURNMENT:

Thereupon, both the Town Board and Planning Board passed motions to adjourn the joint special meeting. The joint special meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Susan Quest-Sherman
Town Clerk

Note: An audio compact disc of this special meeting and joint public hearing is available at the Town Clerk's Office.