

**TOWN OF BRUNSWICK
PUBLIC HEARING
MAY 18, 2010, 6:30 P.M.
TOWN HALL**

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

Board Members Absent: None.

Also Present: Town Attorney, Thomas Cioffi, and Town Clerk, Susan Quest-Sherman.

Supervisor Herrington called the meeting to order at 6:33 p.m.

All joined in with the salute to the flag.

The Town Clerk read the notice of Public Hearing which was published in the Troy Record on May 2, 2010.

Supervisor Herrington explained that the purpose of the meeting was for the Town Board to accept comments. He thanked everyone for attending. After the comments the Town Board will have the option of closing the Public Hearing or holding it open and scheduling another meeting.

Mr. Gilchrist explained the purpose of the hearing which will include a presentation by the applicant and then comments from the public. There will be a written transcript of the hearing. This hearing is to receive comments it is not a question and answer period, nor a debate. The Applicant will need to address all comments raised. Ron Laberge is in attendance he has been retained by the Board for technical review.

Mr. Jeff Baker attorney for Oakwood Properties LLC gave an overview of the Project. The operation began on 5 acres zoned industrial in 2001. It had the appropriate approvals and in 2003 the operation expanded. They could seek to have the entire property zoned industrial or apply for a PDD. This PDD can define the activities that are currently occurring on the site. The proposal is to limit the activity to the area it is currently occupying. Originally they sought to expand the operation to the South. There is now no proposal for expansion. They are looking at mitigation.

Mr. Tim Allund of the Gallivan Companies gave an overview of the Gallivan Companies and their operations. They are a local company opened in 1993 with 87 employees and an annual payroll of \$3.7 million. This is a professional landscape company. There is an in house design staff. There is organic and recycled products. SM Gallivan is a diversified truck transportation company, wood recycling, and snow removal in the winter.

Scott Reese showed pictures of the site with multiple mulch piles. They make topsoil, handle trees and stumps. They grind trees and use a screener. They handle leaves and grass clippings. The operational equipment at the site includes tumblers, grinders and screeners. Pallets are ground and mixed with mulch. The company seeks to manufacture and package

and store landscaping materials, and park their vehicles and equipment. They have a green house facility. On the site they will collect and separate yard waste. Leaves will only be stored for 30 days and Grass clippings will be stored for 7 days. They will construct a berm. Originally they sought to expand the facility to the South.

Supervisor Herrington mentioned that notices have been sent to neighboring residents.

Mr. Gilchrist noted that the notice of Public Hearing was posted on the Town Web site and letters were sent to residents within 500 feet or more of the site. The letter notification is not required by Town Law. Notice was also given to the City of Troy.

Mr. Reese gave an overview of the site showing topography facility placements. Noise assessment were performed by Continental Placer Incorporated using DEC methodology. Three receptors were installed. The Federal Highway Association considers an acceptable out door noise level of 57 decibels. Some of the equipment generated 61.8 decibels. Mitigation will be looked into. The Topography of the site can reduce decibel levels by 12 decibels.

Odors are caused by the decomposing grass clippings. Grass clippings will not be held for more than seven days.

Mr. Tim Allund explained the Taxes and payroll that the Company has paid.

The Company has been modifying their proposal sensitive to the Community. They have committed to not using any back up alarms on any of the equipment. They are voluntarily restricting the amount of the organic material on the site. Two letters of support were submitted from Assemblyman Ron Canestrari and Robert Passinello Jr. of the Rensselaer County Economic Development and Planning Department. The letters were read into the record.

Supervisor Herrington apologized to the people who were in the hall way. If another Public Hearing is held on this project the Town will seek to hold the meeting at Tamarac Auditorium.

VISITORS WHO WISH TO SPEAK:

Mr. Tom Meyer 7 Northstar Dr., read a petition signed by 202 adult Brunswick Residents. The petition was asking that the application be denied. Noise and Odor has been extreme since 2007.

Mr. Meyer also read a personal letter outlining his concerns.

The Petition and letter will be annexed to these minutes.

Supervisor Herrington stated that the Code Enforcement had gone to the site and were informed that they were not allowed on the site. Mr. Gallivan explained that because it is a work site with a lot of equipment an appointment must be made before accessing the site.

Mr. Michael Shongar read a prepared statement.

All Statements and Letter will be Annexed to these minutes.

Mr. Don Maurer, Stone Arabia Dr., read a letter he prepared and another letter from his wife Denise Maurer.

Mrs. Beth Randall, Oakwood Ave., is concerned with noise, odor, water contamination and air quality. Mrs. Randall also offered up towels she used to wipe black dust from her furnishings. *Written statement is annexed.*

Mr. Ken Herrington, Herrington Ln., spoke in favor of the Gallivan Operation. He is a farmer with 1200 animals. He doesn't believe that the water is being polluted. DEC would be monitoring the operation. The Company is one of the few left in the area. They contribute to the tax base, they bring in sales tax money, they employ 80 to 100 people, pay high school taxes and do not put one child in the school. He is in favor of the PDD and doesn't want the Board to vote on emotion.

Mrs. Tricia Almeida, 7th Ave., read a letter complaining of the odor which can detected in Lansingburgh. The odor has been so intense that the Fire Department has been called. She believes that her daughter's asthma is caused by the odor. She wants the operation shut down. *Letter is annexed.*

Mrs. Maureen Sullivan, Northstar Dr., explained that this has been a problem for the last three years. She purchased her house adjacent to a cemetery. She complained of the noise, the trucks and the odor. She is embarrassed to have people over to her house. She has seen Waste Management Trucks going to the site and questioned what they were doing.

Mr. Carl Trinkle, Nassau, is a Gallivan Employee. He thanked the Gallivans for his employment for the past 10 years. He believes that they are good people. He and his fellow employees are concerned about their future employment. He hopes that the Town Board takes into consideration that there are a lot of families involved.

Mrs. Joan Kruegler, Ledgewood Dr., has lived in the North 40 for the past 6 years. Her asthma has gotten worse in the last few years. She is concerned that she is constantly breathing in fungi and spores. The Health Department suggested she attend the meeting tonight. There needs to be pollution control.

Mr. John Lazinski, a driver for the Gallivan Companies, was unemployed and was recently hired. He is back supporting his family and paying his fair share of the tax burden. He feels

that Sean Gallivan operates efficiently with the needs of the residents and neighbors in his fore thoughts. Mr. Gallivan is environmentally sensitive and takes yard waste and turns it into good products.

Mr. Preston Stevens, Grant Ave., works for the Gallivan's and believes them to be good people. They make all natural products. DEC monitors everyone.

Mrs. Marie Shongar, Lindsay Dr., moved to North 40 but now cannot sit outside. She wants to leave because of the smells and the noise. It goes on all day long everyday except Sunday. The Gallivan's are not good neighbors. She can't enjoy her home. Over two hundred people have signed the petition. She wants the operation shut down.

Mr. Chris Sullivan, Northstar Dr., has called National Grid about the odor. He thought it had to be a gas leak. He has called Sean Gallivan many times and has not received a call back.

Mr. Jim Brearton, Northstar Dr., is concerned that the property is zoned for a cemetery. This should be in an industrial zone. The Town Board should listen to the 202 people who signed the petition.

Mrs. Jo Ann Vadney, Northstar Dr., is concerned that the statistical readings have ignored the outer areas. She can hear the noise clearly at her house. She requests the Board to deny the applicant. She has been keeping a log of the noise and odor. The situation is getting out of control.

Mr. Jim Tkaick, Brunswick Rd., lives by a farm and knew that when he moved there. The farm was there first he has accepted the odor. The documents from the applicant states that they didn't know the zoning of the property. If this is in an industrial zone they would need a site plan. He admires the audacity of the Gallivan's for just going ahead with the operation. The Town should have known what was going on but he understands that there was no co-operation from the applicant. PDD's are supposed to provide a need. He doesn't see the need. The property has not been reassessed. He questions the description of the mulch process. He would like to know what additives are added to color the mulch and wants to know about run off. He asked if concrete was being ground or stones or construction debris. There may be asbestos or mineral contamination. He questioned the sound testing which was done for only one hour. The maps do not show the original site plan. He believes that the photos don't show the mulch piles next to the cemetery. If the PDD is approved who will monitor the size of the piles or will it be left up to the company. The company doesn't have a very good track record. There would need to be a full time enforcement officer. He believes that the company is now on their best behavior.

Mr. Harry Efstathiadis, Hickory Ct., is a new resident, and one of his children has asthma. He has since been bothered by noise and odor. He believes that the Gallivan's will not allow access to the property for enforcement and monitoring.

Mr. Ron Brosnighan, Northstar Dr., thanked the Supervisor for keeping the hearing open. He would like to know how the Town rationalizes allowing the Company to continue operate. He wants to know what the Board is thinking. He would like to know the criteria for acceptance or denial. He is bothered by the noise and the odor and the hours of operation. He would like the Company kept to there original zoning. This is not playing by the rules.

Mr. John Brown, Maple Ave., is a Councilman from Troy. It is disturbing that the Gallivan Company has expanded with out a site plan or zoning change. He would like the Town to hold the Company's feet to the fire with a time line to resolve or mitigate the problems or take a negative vote on the proposal.

Mrs. Joyce Diwan, Northstar Dr., has voiced her concerns directly to the Gallivan Company. If phase two goes forward her property value will drop.

Mrs. Kathy Croson, Stone Arabia Dr., has called the Town Office over the past two years complaining about the odors. Her home is her greatest investment. She is concerned with the size of the operation and the southern end of the project.

Dr. Henry Scarton, Kestner Ln., is a professional noise consultant. He also is the Director of the Laboratory for Noise and Vibration Control at RPI. He has examined the study by Jeffery A. Slade a senior geologist. Geologist usually don't do noise studies. He questioned the placement of the receptors one of which is in a valley. There weren't any receptors on the Randall Property or on Stone Arabia Drive. He questioned the validity of the noise study. A temperature inversion will cause noise and odors to be trapped. He asked if a Draft Environmental Impact had been prepared. He is concerned about the water run off and if dyes are ending up in the water shed.

Mr. Dan Vadney, Northstar Dr., is not opposed to the original site but does oppose the expansion. He would like to know if the applicant had to get a permit for the removal of the trees. If the Gallivan's own other property in the Town they should move the operation further out into the country. He would like Mr. Gallivan to go back before the Planning Board because of the noise issue as was provided in the approval. He would like to know the mission statement of the Town. He would like the Town to deny the expansion.

Supervisor Herrington is proud of the way the Public Hearing is being conducted.

Mr. Mathew Doran, Lindsay Dr., noted the issues of noise, smell and odor. The Gallivan's have exceeded their approvals. He request that the PDD be denied.

Mr. Mike Lebanowski, Glenview, has known the Gallivans for a long time. He has found that they are good to their word. He feels the Town needs to be in harmony with the Businesses.

Mr. Mike Shongar mentioned that there are still 12 questions not answered in a report mentioned in a letter 3-10-2010.

Supervisor Herrington mentioned that the original operation was started in 2002 the expansion began in 2005 which is not easy to see from Rt. 40. The Town did not shut the operation down as they were trying to work with them but it has taken too long. This has been going on since 2007. There are many issues and many questions.

Mr. Gilchrist explained that the transcript will take some time and the applicant will need time to address the questions.

Councilman Poletto explained that written comments and questions can still be submitted.

A Continuation of the Public Hearing was tentatively scheduled for June 30th, to be held at the Brittonkill Auditorium.

Mr. Matthew Doran, Lindsay Dr., stated that the operation is in violation of there prior approvals.

Mr. Tom Meyers, Northstar Dr., asked what would happen after the next meeting. He asked why the Town is not enforcing the zoning.

Dr. Henry Scarton believes that the Town needs to draft a noise ordinance.

Mr. Tkacik asked if a DEIS will be filed for this project.

Mr. Gilchrist explained that no SEQRA determination has been made. The Board will need to declare either a Negative or Positive declaration.

Mr. Tkacik asked the time frame.

Mr. Gilchrist explained that there is no typical time frame.

ADJOURNMENT:

Councilman Poletto made a motion to adjourn the hearing, seconded by Councilman Salvi. Approved. The meeting adjourned at 9:35 p.m.

Respectfully submitted,

Susan Quest-Sherman
Town Clerk

Note: An audio compact disc of this meeting is available in the Town Clerk's Office.