

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

**MINUTES OF THE PLANNING BOARD MEETING HELD May 20, 2010**

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO and VINCE WETMILLER.

ABSENT was DAVID TARBOX.

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

The Planning Board reviewed the draft minutes of the May 6, 2010 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the waiver of subdivision application submitted by Lisa Kinne for property located on Tamarac Road (Tax Map No. 83.-3-2.12), located north of Camel Hill Road and south of Higbee Road. Mark Danskin of Danskin Surveyors appeared for the applicant. Scott Gallerie, Highway Superintendent for the Rensselaer County Department of Engineering and Highways, was also present. Mr. Danskin reviewed for the Planning Board that Kinne owns approximately 20.5 acres on the east side of Tamarac Road, and seeks to create a building lot of approximately 5.8 acres. Mr. Danskin advised the Board that sight distances on Tamarac Road have been measured and added to the map, and that the sight distances are within DOT standards. Mr. Danskin then described the topography of the proposed waiver site for the Board. He indicated there was a steep slope towards the back of the property, but that it sloped gently towards Tamarac Road. He said that based upon the test holes

dug, the composition of the soil is loam, underlain by a clay lense and below that a clay loam mix; he did not note any mottling or groundwater. In his opinion, this is a good homestead site. He believes this is a well-drained lot and indicated that the proposed home would be located approximately 200' from the old wetland delineation. He explained that the flooding that he is aware of on the property occurred as a result of a pond breaking to the south, on the Esposito land. He stated that the Esposito pond has since been filled in.

Chairman Oster and Consulting Engineer to the Planning Board, Mark Kestner, visited the site, saw the proposed driveway, test holes, and had walked the property. Chairman Oster advised that there seems to be a natural swale at the toe of the slope, which would appear to catch drainage and run it to the north. Chairman Oster also indicated that they were out there in the rain and that the property seemed dry. Mr. Danskin indicated he will utilize the natural swale to drain around the house and will put a curtain drain in with swale on top. Scott Gallerie, the Highway Superintendent for the Rensselaer County Department of Engineering and Highways, then commented on the waiver application. He advised the Board that last summer there was approximately one foot of water on Tamarac Road at that location, and that the flooding appeared to back up over 80' onto the proposed site. He indicated that it looked like a big pond back to the toe of the slope. He further advised the Board that he had checked the culverts, and there appeared to be no blockage. Mr. Gallerie believes there will be a flooding problem which must be addressed if the proposed lot is to be developed. To his knowledge, that property has flooded 5 or 6 times in the recent past, and that the waiver lot is in the area of a low spot in the road. Gallerie stated he thought the proposed lot was a "marginal situation at best now".

Mr. Danskin advised the Planning Board that the proposed tile field will be approximately 85' from the nearest culvert under Tamarac Road. He further added that one

house will not increase the drainage into the culvert, and that he cannot design for a 100 year storm. Member Czornyj asked if the tile field could be relocated behind the house so that in the event of flooding, the tile field would not be under water. Mr. Danskin advised that he believes this is the best position for the tile field.

Chairman Oster then inquired of Attorney Coan as to the Planning Board's obligation, if any, to consider the Rensselaer County Department of Engineering and Highway's comments. Attorney Coan advised the Board that the comments of Scott Gallerie concerning the flooding conditions at the proposed waiver lot are on the record, and that while the Planning Board did not have to except any recommendations made by the Department of Engineering and Highways, the Board would have to consider the comments and make a reasoned elaboration as to its decision one way or the other.

Attorney Coan then advised the applicant that the wetland should be delineated in order to establish the extent of State DEC jurisdiction. According to Mr. Kestner, the DEC is aware that there is a proposal to subdivide the Kinne parcel. Currently, the wetland has only been delineated for USDA purposes. Member Czornyj recommended that the applicant obtain the wetland delineation before the Planning Board acted on the application. Mark Kestner indicated that wetland delineation is good for a period of three years.

Member Wetmiller then inquired whether or not a note could be placed on subdivision map concerning the flooding conditions that are known to exist at the site. Attorney Coan advised that such a note could be placed on the map advising future buyers of the condition. Mr. Kestner also indicated that written comments of the Rensselaer County Department of Engineering and Highways concerning the flooding conditions could be attached to the map in

lieu of specific notes on the map. John Kreiger will get in touch with the Rensselaer County Department of Engineering and Highways and see about getting such a letter.

This matter has been placed on the June 3, 2010 agenda for further discussion.

The next item of business on the agenda was the subdivision and commercial site plan application by Reiser Bros. Inc. for a proposed commercial development along NYS Route 2 and NYS Route 278. Henry Reiser appeared on behalf of the applicant, as did Scott Reese and Harold Berger, the applicant's engineers. Henry Reiser handed up a package of documents, including email correspondence between himself and Al Hewitt of the NYSDEC dated December 2009, which Mr. Reiser believes shows that the NYSDEC will issue a mining exemption for Phase I, and a letter from the New York State Department of Transportation dated April 5, 2010. Mr. Reiser also indicated that the neighboring or adjoining houses have been identified on the proposed subdivision map, and that the closest home is approximately 215' from the proposed building and approximately 110' from the property line.

Mr. Kestner indicated that on May 18, 2010 there was a meeting between the Rensselaer County Department of Health (RCDOH) and the New York State Department of Environmental Conservation (NYSDEC), at which time RCDOH asked NYSDEC to conduct a technical review of the proposed septic system.

With respect to that May 18, 2010 letter, Mr. Kestner explained that the NYSDEC is requiring the applicant to demonstrate that it has evaluated all other methods of disposal, including the effluent onsite through subsurface disposal, before the applicant will be permitted to discharge the effluent into the DOT drainage ditch. Mr. Kestner also suggested that Harold Berger meet with the DEC to discuss the applicant's soil/site evaluation to insure that the same is satisfactory to the DEC.

According to Scott Reese, the applicant updated the EAF to reflect the changes to the proposed project and site plan. That EAF was then handed up to the Planning Board for review.

Chairman Oster questioned what role, if any, the RCDOH is planning with respect to the technical review of the septic system. He further asked whether the RCDOH would simply accept the NYSDEC's technical review, or would it review the proposal and/or stamp the proposed septic system on its own. These are issues the applicant must address with the RCDOH. Mr. Berger indicated that he would try to obtain from the RCDOH, a letter indicating that the RCDOH has relinquished all responsibility for the technical review to the NYSDEC, and that it will accept the NYSDEC's sign off on the drawings. This matter has been placed on the agenda for the June 3<sup>rd</sup> meeting.

There are no items of new business.

As the first item of old business, the Planning Board was updated on the situation involving the Maxwell Subdivision on Tamarac Road. According to John Kreiger, West had puttings in the ground approximately 60' from the wetlands. Enforcement action by the NYSDEC is being considered. Mark Kestner and Chairman Oster had spoken with Maxwell on or about May 19, 2010, who acknowledged that the wetlands had grown in size.

Chairman Oster also advised the Board that current owner of the site, West, was unhappy with Mark Kestner and Chairman Oster going on his property. Accordingly, Chairman Oster believes it necessary to explain to applicants that during the application process Planning Board members and the Town's engineer have the right to go on the subject property for purposes of conducting review and inspection, but that such site visit can be scheduled on notice to the owner.

As a second matter of old business, Chairman Oster reported on the public hearing held on May 18, 2010, concerning the S.M. Gallivan, LLC operations on Oakwood Avenue in Troy. Chairman Oster and Member Czornyj attended the public hearing. Chairman Oster informed the Planning Board that the public hearing is still open, and the continuation of the public hearing is scheduled for June 30, 2010. He suggested that the Planning Board members go if at all possible. The Planning Board members would also like copies of the transcripts of comments presented at the public hearing for their consideration and review.

The **index** for the May 20, 2010 meeting is as follows:

1. Kinne – waiver of subdivision – no action taken - 6/3/10;
2. Reiser – commercial subdivision and site plan – no action taken – 6/3/10.

The **proposed agenda** for the June 3, 2010 meeting currently is as follows:

1. Kinne – waiver of subdivision;
2. Reiser – commercial subdivision and site plan.