

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

MINUTES OF THE PLANNING BOARD MEETING HELD September 2, 2010

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

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

Chairman Oster reviewed the agenda for the September 2 meeting, noting that the site plan application of Rensselaer Honda for the addition of a fueling station at its new facility on Hoosick Road is added to the agenda.

The draft minutes of the August 19 Planning Board meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Wetmiller, the August 19 minutes were unanimously approved without amendment.

The first item of business on the agenda was the Zoning Board of Appeals referral of the area variance application of Baumes for property located at 44 Betts Road (Tax Map ID No. 91.-2-25.22). William Doyle, Esq. had presented this matter to the Planning Board at its August 19 meeting, at which point the Planning Board had deliberated on the standards for the area variance review by the Zoning Board of Appeals. A draft written recommendation had been prepared and circulated to the Planning Board members based on that deliberation. The Planning Board then reviewed the draft written recommendation. It is noted for the record that Attorney Doyle had received a copy of the draft written recommendation, and had no comment or proposed changes

to that recommendation. After making one typographical correction to the written recommendation, the Planning Board members were in agreement that the draft written recommendation was consistent with their deliberation from the August 19 meeting. Upon motion of Member Czornyj, seconded by Member Christian, the written recommendation was unanimously approved. The Planning Board directed Attorney Gilchrist to transmit the written recommendation to the Brunswick Zoning Board of Appeals. It is noted that Baumes/Berkshire Properties, LLC has a pending waiver of subdivision application for this property before the Brunswick Planning Board. The Planning Board tentatively scheduled consideration of the waiver of subdivision application for its October 7 meeting, pending action by the Brunswick Zoning Board of Appeals on the area variance application.

The next item of business on the agenda was the waiver of subdivision application by Lindsay Partnership for property located on Kestner Lane (Tax Map ID No. 90.16-2-19). Mark Kestner recused himself as review engineer for the Planning Board, and presented the waiver application as a partner of the Lindsay Partnership. Mr. Kestner generally reviewed the application, which seeks to divide the existing lot into two building lots. Mr. Kestner explained that the Lindsay Partnership acquired this parcel in 1976 as a single parcel, with portions of that parcel located on both sides of Kestner Lane. It is adjacent to Mr. Kestner's former engineering office. The applicant seeks to divide this one lot into two building lots, with the division being Kestner Lane, resulting in a building lot located on each side of Kestner Lane. The property is located in a R-9 zoning district, and each resulting building lot will be in excess of the minimum 9,000 square feet. The Planning Board did note that the map showed existing shed building from a third-party adjacent lot onto one of the proposed lots. Mr. Kestner stated that Lindsay Partnership had allowed the third-party adjacent owner to have his shed in that location, but that Lindsay Partnership could require that the shed be located so that it is off the Lindsay Partnership

property. Mr. Kestner noted that this property is already serviced by public water and public sewer. Chairman Oster inquired whether there were any further comments for discussion. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the waiver of subdivision application, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and the waiver application approved.

The next item of business on the agenda was the waiver of subdivision application by Brunswick Associates of Albany, LP to divide the area of the Brunswick West Apartments PDD into two lots for financing purposes. This matter was addressed at the August 19 meeting, with two items requiring further investigation. First, Attorney Gilchrist noted that the applicant, through Attorney Paul Goldman, had forwarded a proposed Declaration of Reciprocal Easement for review. Attorney Gilchrist reported that he had reviewed the Declaration of Reciprocal Easement, had made certain comments on that document which were incorporated by the applicant, and that the Declaration of Reciprocal Easement was acceptable. Second, Mr. Kreiger looked into compliance with all building setback requirements with respect to the proposed subdivision line. Mr. Kreiger reported that all applicable setback requirements are met. Chairman Oster inquired whether there were any further issues for discussion. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the condition that a copy of the Declaration of Reciprocal Easement as recorded in the Rensselaer County Clerk's Office be filed with the Brunswick Building

Department. Member Wetmiller seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the site plan application by Rensselaer Honda for the addition of a fueling station at its new location on Hoosick Road. Dan Cleary, PE appeared for the applicant. Mr. Kreiger noted for the record that upon review, his office has determined that a special permit will not be required on this application since no retail sales of gasoline to the general public are proposed. Chairman Oster inquired whether this would be the interpretation for all future applications. Mr. Kreiger reported that each application will need to be reviewed on its own facts, but that a significant factor in determining whether a proposal constitutes a “fueling station” requiring a special use permit will be whether the applicant is seeking to offer gasoline or petroleum products for retail sale to the general public, or whether the gasoline or petroleum storage is used exclusively for the applicant’s own purposes and not made available for sale to the general public. Chairman Oster then noted that Rensselaer Honda had previously requested approval for a fueling station at its original location on Hoosick Road, and that in connection with the review of that proposal, the Planning Board had discussed requiring fire suppression, a concrete pad for the fueling area, as well as contained drainage, including an oil/water separator. Mr. Cleary stated that he had addressed the issue of fire protection with John Ray Fuels, who will be providing the fuel tank to Rensselaer Honda, and had also reviewed the applicable New York State Fire Code Provisions. It is Mr. Cleary’s understanding that given the proposed tank size (1,000 gallons), there are no applicable requirements under the New York State Fire Code itself requiring fire suppression, and that local jurisdictional requirements would apply. Mr. Cleary did note that the New York State Fire Code requirements of setbacks from any building or structure, rights-of-way, and property lines are met under the current proposal, and therefore the application would otherwise be compliant

under the New York State Fire Code. Mr. Kestner noted that in connection with the prior application by Rensselaer Honda for the fueling station at its original location, Chazen Engineering had prepared the application and requested an opinion from the New York State Division of Codes regarding the need for fire suppression under the State Fire Code. Mr. Kestner noted that the New York State Division of Codes had rendered an opinion that fire suppression was required even in the instance where the capacity of the tank was 1,000 gallons. Mr. Kestner also noted that the City of Troy maintains a petroleum tank in Frear Park which appears to be 1,000 gallons in capacity, and that it does have fire suppression equipment, and handed out a picture of that tank to the board members and Mr. Cleary. Mr. Cleary stated that whatever the local jurisdiction may require will be followed, and that if the Planning Board is requiring fire suppression, then fire suppression could be installed. Mr. Cleary did note that fire suppression would add expense, and that if not required under State Fire Code or local jurisdictional requirements, the applicant's preference would be to avoid installation of the fire suppression equipment. However, if the Planning Board requires fire suppression equipment, such will be installed. Both Mr. Kestner and the Planning Board stated that it was appropriate to get comment from the Brunswick No. 1 Fire Department on this issue, and that the Planning Board will defer to the Brunswick No. 1 Fire Department on this issue. Member Mainello stated that he still felt that the installation of a concrete pad for the area where the cars will be fueled should be required. Chairman Oster noted that the Planning Board's concern regarding the fueling station at the original Rensselaer Honda location stemmed from the fact that that location is in close proximity to a stream and wetlands, and that those conditions were not present here. Chairman Oster also noted that he was not aware of any other fueling locations where a drain system with an oil/water separator was required. Member Mainello concurred, but still felt that a concrete pad would be appropriate since incidental spills are more likely to degrade blacktop and have the

potential to enter subsurface soil, whereas incidental spills onto concrete would generally be more contained and subject to evaporation before entering subsurface soil. The Planning Board members concurred with this opinion. Mr. Cleary stated that he would add a location for a concrete pad for vehicle fueling purposes to the site plan. Member Tarbox noted that the proposed tank location is situated between parking spaces, but felt that adjacent parking spaces should be removed so that there was more access to the tank and cars would not be parking in close proximity to the fuel storage tank. Mr. Cleary noted that under the Town's parking requirements, a total of 72 parking spaces are required for this application, and with the addition of the fuel tank, 73 parking spaces are provided. The Planning Board felt that the Brunswick No. 1 Fire Department should address this issue as well. Mr. Cleary noted that the fuel tank would be subject to periodic inspection by an independent company. The Planning Board will coordinate with the Brunswick No. 1 Fire Department for comments on this application, and this matter has been placed on the September 16 agenda for further discussion.

One item of new business was discussed.

A site plan application has been submitted by Edward Engel for the installation of a farm stand at the Engel Farm (former Welch Farm) on Route 2, 445 Brunswick Road, Tax Map No. 102-2-10. Edward Engel presented an overview of the application to the Planning Board, noting that he was looking to have the farm stand installed so that he could both plant and sell produce in the 2011 season. Mr. Engel did note that he had plans in the future to install a barn and trailer for his agricultural workers. Member Tarbox and Mr. Kreiger confirmed that the installation of the barn and trailer for agricultural workers did not require site plan approval and are allowed as agricultural uses. Mr. Kreiger did confirm that the proposed farm stand was compliant with applicable zoning. Mr. Engel stated that he has already obtained a driveway permit from NYSDOT for the driveway leading to his home that is currently being constructed on the

property, and the proposal is to use that same curbcut to access the farm stand. The proposed farm stand is approximately 48' x 64' with awnings and a rear loading area. Parking will be in front of the proposed building, with area for 20 parking spaces. The parking lot will be gravel, and the Planning Board noted that a handicapped parking space will need to be identified through signage. Mr. Engel stated that the farm stand will be seasonal only, not year round. Mr. Engel stated that there will be a bathroom facility and a separate septic system for the farm stand. The Planning Board required that the proposed location for the septic be added to the site plan. In terms of water supply, the proposal is to use water from the well drilled in connection with the home, since it had significant yield during its pump test. Member Wetmiller noted that a loading area was proposed for the farm stand, and said that the driveway leading to this rear loading area should also be noted on the site plan. The Planning Board noted that a public hearing on a site plan is discretionary, but has determined that a public hearing should be held given its location on Route 2. It is also noted that this application does need to be referred to the Rensselaer County Department of Economic Development and Planning for review and recommendation. The Building Department will request a full written narrative regarding all proposed activities to be conducted in the farm stand. This matter has been set down for public hearing to be conducted at the September 16 meeting at 7:00 p.m., to be followed discussion during the regular business meeting.

Mr. Kreiger informed the Planning Board that the subdivision application by Precision Homes for property located on Riccardi Lane has been withdrawn.

The Planning Board commenced discussion on the Zoning Board of Appeals referral of the Appeal by Oakwood Property Management, LLC from a Notice of Violation concerning operations at 215 Oakwood Avenue. The Planning Board members requested additional information, including all prior Planning Board minutes at which operations at this Oakwood

Avenue site were discussed, and also all applicable site plans and maps of current operations. This information will be distributed to the Planning Board members for review, and this matter has been placed on the September 16 agenda for further discussion at a workshop session.

The **index** for the September 2, 2010 meeting is as follows:

1. Baumes area variance referral from Brunswick Zoning Board of Appeals – recommendation adopted;
2. Lindsay Partnership – waiver of subdivision - approved;
3. Brunswick Associates of Albany, LP – waiver of subdivision – approved with condition;
4. Rensselaer Honda – site plan – 9/16/10;
5. Edward Engel – site plan – 9/16/10 (public hearing to commence at 7:00 p.m.);
6. Brunswick Zoning Board of Appeals referral of Oakwood Property Management, LLC Appeal from Notice of Violation – 9/16/10 – workshop session.

The **proposed agenda** for the September 16, 2010 meeting currently is as follows:

1. Edward Engel (Engel Farm) – site plan (public hearing to commence at 7:00 p.m.);
2. Rensselaer Honda – site plan;
3. Duncan Meadows Planned Development District – site plan;
4. Oakwood Property Management, LLC Appeal – referral from Zoning Board of Appeals.