

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

**MINUTES OF THE PLANNING BOARD MEETING HELD October 6, 2011**

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

ABSENT was KEVIN MAINELLO.

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

The Planning Board opened a public hearing concerning the site plan submitted by Wal-Mart Real Estate Business Trust in connection with the amendment to the Brunswick Square Planned Development District. The Notice of Public Hearing was read into the record, noting that the Public Hearing Notice was published in The Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to all property owners within 500' of the project site. Chairman Oster requested a brief presentation of the site plan by the Applicant. Adam Fishel, PE of APD Engineering gave a brief presentation of the proposed site plan, including building expansion, parking, delivery truck access, wetland enhancements, stormwater improvements, and reconstruction of McChesney Avenue, including culvert replacement. Mr. Fishel also reviewed options for the construction associated with the McChesney Avenue reconstruction, which may include closure of McChesney Avenue subject to approval of the Rensselaer County Highway Department and New York State Department of Transportation, or single lane closure on McChesney Avenue during reconstruction activities. Charles Jordan, architect for the project, also generally reviewed changes to the exterior of the Wal-Mart

building as well as signage. Chairman Oster noted that this is the second public hearing held by the Town of Brunswick concerning this project. The first public hearing was held by the Town Board regarding the proposed amendment to the Planned Development District, which was subsequently approved by the Town Board. This public hearing is being held by the Planning Board on the site plan submitted pursuant to the approved amendment to the Planned Development District. Paul Tooms asked the proposed start date for the reconstruction work as well as the duration of that reconstruction work. Mr. Fishel stated that Wal-Mart is proposing to go out to bid to contractors in March 2012 and that the project would take 12-14 months to complete. Margaret Malley, Riccardi Lane, asked how people would get in and out of Riccardi Lane during the construction project, and what impact this project would have on the creek that runs behind her property. Mr. Fishel stated that residents on Riccardi Lane would have access in and out onto McChesney Avenue during the construction project, and also stated that the project would not have an impact on the creek due to application of the stormwater regulations which require the post-construction flows from the project site to be no greater than pre-construction flows, and that the project includes stormwater improvements to the current culvert pipe located under McChesney Avenue. Hearing no further comments, Chairman Oster closed the public hearing on the site plan application by Wal-Mart Real Estate Business Trust.

The Planning Board then opened a public hearing on the site plan application submitted by New York Light Energy, LLC for the installation of solar facilities at the Sycaway Creamery property located at 42 Duncan Lane, including one building roof installation and two ground-level installations. The Notice of Public Hearing was read into the record, noting that the hearing notice was published in The Troy Record, placed on the sign board at Town Hall, placed on the Town website, and mailed to all adjacent property owners. Bill Heffernan and Mark Richardson

of New York Light Energy were present, as well as Frank Polumbo of CT Male. Mr. Heffernan presented a brief overview of the site plan, noting the type of solar panel installations and location. John Gulli, 47 Norfolk Street, stated that he was not opposed to the project in general, but was looking to see how the project would be screened from his property. Hearing no further public comments, Chairman Oster closed the public hearing on the site plan application submitted by New York Light Energy, LLC.

The Planning Board then opened its regular meeting.

The Planning Board reviewed the draft minutes of the September 15, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Wetmiller, the minutes of the September 15, 2011 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application submitted by Wal-Mart Real Estate Business Trust regarding the amendment to the Brunswick Square Planned Development District. Chairman Oster noted that the comments received at the public hearing had been addressed by Wal-Mart, both with respect to traffic flow from Riccardi Lane during construction and impacts to the creek running behind lots on Riccardi Lane. Chairman Oster stated that he would like to review two issues, the delivery truck route as well as the McChesney Avenue reconstruction. Chairman Oster inquired whether Wal-Mart had received any approval from the Rensselaer County Highway Department or the New York State Department of Transportation regarding McChesney Avenue closure during the reconstruction period. Mr. Fishel stated that he had not received approval from either agency concerning closure of McChesney Avenue reconstruction, but that this issue would be worked out during the construction phase of the project. Further, Mr. Fishel stated that it would be appropriate to place a condition on any action by the Planning Board on this site plan requiring approval from both

Rensselaer County Highway Department and New York State Department of Transportation on closure issues associated with McChesney Avenue reconstruction. Chairman Oster inquired whether Rensselaer County Highway Department approved the McChesney Avenue reconstruction proposal by Wal-Mart. Mr. Fishel stated that he had submitted plans on the McChesney Avenue reconstruction to the Rensselaer County Highway Department, and that he had received back a letter from the County Highway Department in July which did not state that the County opposed the reconstruction proposal. Member Czornyj asked whether Wal-Mart had coordinated with the Brunswick No. 1 Fire Department on potential closure of McChesney Avenue. Again, Mr. Fishel stated that he had submitted plans directly to the Brunswick No. 1 Fire Department, and that the Fire Department had no comments. Member Czornyj stated that he would like to see something from the Brunswick No. 1 Fire Department on this issue. Mr. Kestner stated that he would contact the Chief of the Brunswick No. 1 Fire Department directly. Mr. Kestner also stated that closure of McChesney Avenue would need to be coordinated with the school district. Mr. Fishel stated that the McChesney Avenue reconstruction work would not commence until after the school year concluded in June, 2012. Mr. Kestner also asked whether Wal-Mart had received any response from the New York State Department of Transportation concerning the McChesney Avenue road closure, since road closure would require the installation of a temporary traffic signal at the eastern intersection of McChesney Avenue and New York State Route 7. Mr. Fishel stated that he had not received any objection from New York State Department of Transportation, but that a formal approval has not been obtained. Mr. Kestner also stated that Town water and sewer lines along McChesney Avenue need to be considered in conjunction with the proposed McChesney Avenue reconstruction, most particularly in terms of access for repair and maintenance after the reconstruction is completed.

Mr. Fishel stated that he had been working with Mr. Kestner's office, and that a further submittal would be made to Mr. Kestner's office shortly concerning a proposal for the water and sewer line access. Chairman Oster inquired whether the McChesney Avenue reconstruction was within the Planning Board's jurisdiction, or rather solely in the jurisdiction of the Rensselaer County Highway Department and the New York State Department of Transportation. Attorney Gilchrist stated that while the reconstruction activities within the public right-of-way are within the jurisdiction of the Rensselaer County Highway Department, and that the New York State Department of Transportation would need to address the road closure issue in terms of any temporary light on Route 7, approval by the Rensselaer County Highway Department of the McChesney Avenue reconstruction, culvert replacement, proposed outlet control structures and spillway location should be obtained, even on a preliminary or conceptual basis, since redesign of the McChesney Avenue reconstruction work could impact portions of the site plan off the public right-of-way. The Planning Board determined that preliminary or conceptual approval of the McChesney Avenue reconstruction project from the Rensselaer County Highway Department needs to be obtained before the Planning Board will act on the site plan, given the potential that the site plan may need to be modified if the County does not approve the current reconstruction proposal. Mr. Fishel and the Town will coordinate with the Rensselaer County Highway Department. Chairman Oster inquired about material storage and staging during the construction project at the Wal-Mart store. Mr. Fishel stated that this information will be detailed on the construction set of drawings. Mr. Kestner also stated that the construction activities were reviewed in a meeting he held with the project architect. Mr. Kreiger stated that he also attended the meeting with the project architect and that the construction activities over the 12-14 month period will be sequenced to allow the store to remain open during the reconstruction activity. The

Planning Board next discussed the truck route for delivery of merchandise. Mr. Fishel presented a map showing the truck route currently being used by Wal-Mart delivery trucks, which accesses the site from New York State Route 7 at the signalized intersection, and proceeds along the internal roadway bisecting the property between the parking area for Wal-Mart and the parking area for the Johnston Associates retail stores, turning left at the internal road adjacent to the storefront of the Johnston Associates retail stores, and proceeding to the rear of the Wal-Mart Store. Mr. Fishel explained that the delivery trucks are unable to navigate the left hand turn at the current Trustco Bank location in order to allow the trucks to proceed to the rear of the Johnston Associates retail stores. Wal-Mart is proposing to maintain the currently-used delivery truck routes. Chairman Oster stated that he felt the use of the internal roadway on the Brunswick Square Plaza site was acceptable, as long as the delivery trucks were not proceeding into the customer parking areas. Also, Chairman Oster noted that there were limited numbers of delivery trucks during the business day, and that many truck deliveries are made at night. Member Czornyj noted that two additional stop signs need to be installed at the internal road system which was required during the Johnston Associates site plan modification, and requested that Mr. Fishel contact Johnston Associates on that issue. Attorney Mary Elizabeth Slevin, attorney for Wal-Mart on this application, stated that she would contact the attorney for Johnston Associates on that issue. This matter has been placed on the October 20 agenda for further discussion.

The next item of business on the agenda was the site plan application submitted by New York Light Energy, LLC for the installation of solar facilities at the Sycaway Creamery property located at 42 Duncan Lane, including one building roof installation and two ground-level installations. Frank Polumbo of CT Male reviewed a visual assessment prepared for this action, showing three line-of-sight profiles from two vantage points. The visual assessment map is

identified as “Visual Assessment, Sycaway Creamery, New York Light Energy”, prepared by CT Male Associates, Sheet VA-1, dated September 9, 2011. Mr. Polumbo reviewed the Visual Assessment, with particular attention to the view from Norfolk Avenue and the property of Mr. Gulli. Mr. Polumbo stated that screening could be added along the westerly property line of the subject parcel, and recommended that a line along the westerly property boundary of approximately 160’ has been identified as an area to mitigate any visual impact. Mr. Polumbo stated that 80’ of this 160’ line would require the planting of vegetation, whereas the remaining 80’ is already mitigated through existing contours. In terms of the planting of vegetation, Mr. Polumbo recommended something in the nature of a high hedge, such as arbor vitea, that would not get too high but would also provide a thick visual screening. Mr. Polumbo explained that while vegetative plantings may address visual screening, the project is seeking to install solar panels designed to collect as much solar energy as possible, and that any plantings must take into account the potential for shading or shadow on the area of the solar panel. Mr. Polumbo stated that in his opinion, planting of a hedge vegetation along an 80’ stretch on the westerly property line as depicted on the visual assessment map, together with maintenance of existing contours on the remaining 80’ of the identified 160’ subject area, would adequately mitigate any visual impacts on properties along Norfolk Street. The Planning Board generally discussed the type of vegetation to be planted, considering impact from deer. Member Czornyj noted for the record that he appreciated the preparation on the issue of visual impact and screening, and that a final planting plan could be addressed between the Applicant and the Town in conjunction with Mr. Gulli. Chairman Oster also noted for the record that this property is agricultural, and in the event the property owner sought to construct a 75’ pole barn he could do so without any site plan by the Planning Board, and that this proposal only proposes solar panel installation that would be

approximately 8.5' in height. Chairman Oster noted that while screening is an important issue, it must be taken into consideration with regard to this particular project site. Member Christian asked about the projected life of the solar panels. Mr. Heffernan stated that New York Light Energy has a 20 year contract with the property owner, that the warranty associated with the type of solar panel to be installed at this location is 25 years, and that in practice these panels last as long as 30 years in the field. The Planning Board asked whether these panels result in any light glare. Mr. Richardson stated that the panels are constructed with tempered, non-reflective glass, and that reflectivity defeats the purpose of collecting the solar energy. Member Esser then inquired as to the number of trees that should be planted along the hedgerow. Mr. Polumbo stated that he would recommend that hedges be planted 7' on center, for a total of approximately 12-14 plantings over the 80' area in question. Mr. Polumbo did state that an appropriate condition to any action on the site plan would be the approval of a final vegetative plan for the area in question. Mr. Kestner and the Planning Board then generally reviewed the Environmental Assessment Form, noting several corrections that needed to be made, including the soil type, whether the property was well drained, and depth to water table. Mr. Polumbo stated that the Environmental Assessment Form was prepared based on general reference material, and that the Environmental Assessment Form should be read in conjunction with the detailed geotechnical and soils report which had been prepared and submitted on the application. Mr. Polumbo stated that he had signed the Environmental Assessment Form, and stated on the record that the complete responses on those issues should include the information contained in the geotechnical and soils report. Mr. Kestner also noted that the Environmental Assessment Form indicated that the property was located in an agricultural district whereas the project site itself is not in an agricultural district but is within 500' of an agricultural district. Chairman Oster inquired if the

Planning Board had any further questions or comments on the application. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the site plan application subject to the following conditions:

1. Submission of a revised/corrected Environmental Assessment Form based on the discussion at the Planning Board meeting on October 6, 2011 and inclusion of information in the geotechnical and soils report;
2. Submission of a vegetative planting plan for an 80' area as depicted on a visual assessment map titled "Visual Assessment, Sycaway Creamery, New York Light Energy", prepared by CT Male Associates, labeled as "VA-1", and dated September 9, 2011, for review and approval by the Town Consulting Engineer and the Town Building Department;
3. No grading of the remaining 80' area of a total 160' area depicted on the Visual Assessment Map identified as "Visual Assessment, Sycaway Creamery, New York Light Energy", prepared by CT Male Associates, labeled as "VA-1", and dated September 9, 2011, and that if the property owner seeks to grade that subject area in the future, the owner must return to the Planning Board for amendment to the site plan to address additional plantings for visual screening.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The third item of business on the agenda was the waiver of subdivision application submitted by ECM Land Development for the recreation parcel on the Duncan Meadows Planned Development District project. Francis Bossolini, PE was present for the Applicant, and explained that the application sought approval to subdivide off the recreation parcel from the Duncan Meadows Planned Development District project for transfer to the Town of Brunswick. Mr. Bossolini generally reviewed the boundaries of the recreation area, which were established in coordination with the Town consulting engineer. Attorney Gilchrist stated that SEQRA had

been completed on this project as part of the Planned Development District review, and no further action under SEQRA on this waiver application is required. Member Czornyj made a motion to approve the waiver of subdivision application, which motion was seconded by Member Esser. The motion was unanimously approved, and the waiver of subdivision application approved for the purpose of establishing the recreation parcel on the Duncan Meadows Planned Development District for transfer to the Town of Brunswick.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application submitted by Robert Duncan for property located at 481 McChesney Avenue Extension. The Applicant seeks to divide off a 1.26 acre parcel from an existing 5 acre parcel for the creation of a building lot. Chairman Oster confirmed that there had been no previous waivers of subdivision for this property within the last 7 years, and that all application fees had been paid. The proposed lot has approximately 55 feet of road frontage, but the map did not include any information concerning sight distance for a proposed driveway location, and also did not indicate any proposed well and septic location. Further, an agricultural data statement is required on this application. This matter has been placed on the October 20 agenda for further discussion.

The second item of new business discussed was a minor subdivision application submitted by Eric Willson for property located at 8 Creek Road (Tax Map No. 113-04-6-6-11). The owner of the property is the Neitzel Family Trust. The property is located at the intersection of Spring Avenue Extension and Creek Road. The property totals 40 acres, and a proposal has been submitted to divide the property into four lots. The resulting lots will include two lots that have existing buildings on them, and two lots for building purposes. This matter has been placed on the October 20 agenda for concept review.

Mr. Kestner updated the Planning Board on the Doubleday Estates major subdivision application, stating that a pump test has been scheduled to be conducted during the week of October 10.

The index for the October 6, 2011 meeting is as follows:

1. Wal-Mart Real Estate Business Trust – site plan – 10/20/11;
2. New York Light Energy LLC – site plan – approved with conditions;
3. ECM Land Development – waiver of subdivision – approved;
4. Robert Duncan – waiver of subdivision – 10/20/11;
5. Willson – minor subdivision – 10/20/11.

The proposed agenda for the October 20, 2011 meeting currently is as follows:

1. Wal-Mart Real Estate Business Trust – site plan;
2. Duncan – waiver of subdivision;
3. Willson – minor subdivision.