

Planning Board

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

MINUTES OF THE PLANNING BOARD SPECIAL MEETING

HELD DECEMBER 29, 2020

PRESENT were RUSSELL OSTER, CHAIRMAN, DAVID TARBOX, J. EMIL KRIEGER, LINDA STANCLIFFE and KEVIN MAINELLO.

ABSENT were DONALD HENDERSON and ANDREW PETERSEN.

ALSO PRESENT were CHARLES GOLDEN, Brunswick Building Department and WAYNE BONESTEEL, P.E.

Chairman Oster reviewed the agenda for the meeting, as posted on the Town sign board and website.

The draft minutes of the December 3, 2020 meeting were reviewed. Upon motion of Member Stancliffe, seconded by Member Mainello, the draft minutes of the December 3, 2020 meeting were unanimously approved without amendment.

Chairman Oster noted the scheduled Planning Board meeting on December 17, 2020 had been cancelled due to weather and that this Special Meeting was being held in place of the cancelled meeting.

The first item of business on the agenda was a minor subdivision application submitted by Sean Gallivan for property located on the northerly and easterly side of Deepkill Road. The owner of the property of the proposed project is Sean Gallivan. The proposed project size is

approximately 18.94 acres, and proposing a subdivision that would result in three new lots on the property and lot line adjustments to two existing lots. Member Stancliffe recused herself from consideration on this application. Brian Holbriiter was present to present the project. Mr. Holbriiter said that the project is still pending in front of the New York State Department of Conservation for an Article 24 wetlands permit. Mr. Holbriiter said that he will contact the Town of Brunswick Building Department when he receives any updates on the project. The applicant agreed to extend the time for the Planning Board to make a decision on the project. This matter is placed on the January 7 agenda for further discussion.

Member Stancliffe returned to the meeting.

The second item of business on the agenda was a minor subdivision application submitted by Farrell Homes for property located at 467 McChesney Road. The owner of the property is Charles Farrell. The proposed project size is approximately 11.75 acres, and proposing a subdivision that would result in three new lots built on 2.5 acres of the project site. Brian Holbriiter, the surveyor on the project, was in attendance to present the project proposal. Mr. Holbriiter had nothing new to report on the project and he is currently waiting on the engineering report for lot layouts, which he will submit to the Planning Board once he receives it. This matter is adjourned without date and is not scheduled for any future Planning Board agenda at this point.

The third item of business on the agenda was a minor subdivision application submitted by Farrell Homes for property located at 4 and 16 Line Drive. The owner of the property is Charles Farrell. The proposed project size is approximately 8.97 acres, and proposing a subdivision of two lots into four lots, one of which would involve annexing a small portion of a neighboring lot also owned by the property owner. Brian Holbriiter, the surveyor on the project, was in attendance to present the project proposal. Mr. Holbriiter said that like the minor subdivision application for 467

McChesney Road, there is nothing new to report on this application and he is waiting for the engineering report for lot layouts, and that he will submit the report to the Planning Board once he gets it. Chairman Oster asked if the other properties along the loop on Line Drive have been sold. Mr. Holbriiter confirmed that all of them have been but one. Chairman Oster asked if there had been any agreement made by the other homeowners on Line Drive for additional lots. Mr. Holbriiter said that there had not been and stated that there is no restriction on further subdivisions. This matter is adjourned without date and is not scheduled for any future Planning Board agenda at this point.

The fourth item of business on the agenda was a waiver of subdivision application submitted by Frank Tybush IV for property located at 40 Tybush Lane. The owner of the property is the Estate of Frank L. Tybush III. This proposed project size is approximately 6.42 acres, and is proposing to combine two parcels into one and combine a third parcel with a neighboring parcel owned by the applicant, all by lot line adjustment. The property currently consists of a road (Tybush Lane), house, garage, and house lot and this application is to combine the house and road, and the garage and house lot in order to settle the estate. Brian Holbriiter was in attendance to present the project. Member Tarbox recused himself due to being an adjacent landowner. Mr. Holbriiter reviewed the layout of the project site and stated that the project would have a lot line adjustment and create no new building lots, making a non-compliant parcel into a compliant parcel. Chairman Oster asked about the setback of the barn on the property. Mr. Holbriiter stated that the barn is very close to the existing property. Chairman Oster asked how old the barn on the property is. Mr. Holbriiter stated that it is very old, built before the Town of Brunswick had a zoning law and that its existence is grandfathered with the parcel. Mr. Holbriiter also stated that Tybush Lane is a highway-by-use, specifying that it stops at the barn and driveway. Mr. Golden asked if the

house and barn would be considered non-compliant due to being an accessory structure in front of a primary structure. Mr. Holbritter said again that the barn is grandfathered with the property and is an existing non-conforming use. Mr. Golden stated that because of being grandfathered, the barn is in compliance for setback, but merging the barn parcel with the house parcel creates the issue of an accessory structure being located closer to the front lot line than the primary structure. Mr. Gilchrist stated that the application must be further reviewed with the Building Department. This matter is placed on the January 7 agenda for further discussion.

Member Tarbox returned to the meeting.

The fifth item of business on the agenda was a minor subdivision application submitted by James Gagnon for property located at 67 Sweetmilk Creek Road. James Gagnon and Christine Gagnon were present to review the application. Mr. Gagnon stated that information had been added to the map with the application since it was introduced to the Planning Board at its November 19 meeting, including information on topography, sight distance for the driveway, and soil erosion. Mr. Gagnon also stated that the project's septic system plan had been approved by the Rensselaer County Department of Health. Mr. Bonesteel stated that he had reviewed the updated plat and noted the additional topography information, the proposed locations for the driveway and house, and the septic locations. Mr. Bonesteel asked about the speed limit on the Town roads. Mr. Gagnon stated that it is 30 mph and that Darling Lane is a dirt road with a dead end. Mr. Bonesteel stated that the sight distances on the project were adequate and that the application has enough information to hold a public hearing on it. Mr. Bonesteel asked Mr. Gagnon to talk to the project engineer concerning soil erosion and sediment control, and that this information could be submitted later as another sheet attached to the plan set. Member Stancliffe asked if the overhead utility line on the property had an easement. Mr. Gagnon stated that no easement for the overhead

utility line was in the deed. Member Stancliffe asked about the wire vs. driveway height limit and if a height variance would be required due to the distance between the wires for the overhead utility line and the ground. Mr. Gagnon said he wasn't sure and would look into it. Mr. Gagnon also stated that the power poles were replaced recently and that they are very high. A public hearing on this matter is scheduled for January 21, 2021 at 7:00pm.

Five items of new business were discussed.

The first item of new business discussed was a waiver of subdivision and lot line adjustment application submitted by Robert Pollack for property located at 144 Dearstyne Road. Brian Holbriiter was present to present the application. This project proposes to have Robert Pollack sell two areas of the property to Adam Pollack. The first lot, which is a new lot, totals 13.92 acres and is located on the west side of Dater Hill and bounded by the Quacken Kill. The second lot, which totals approximately 1 acre, is located along the north side of Dearstyne Road and Adam Pollack plans to annex this 1 acre to 9.2 acres next to it that he already owns, creating a new 10.2-acre lot. Mr. Bonesteel asked if there was an issue with an accessory structure, a barn, being located on the lot. Mr. Gilchrist stated that there was no problem so long as the barn continues to be used for agricultural purposes. Member Tarbox made a motion for a negative declaration on the project, which was seconded by Member Kreiger. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was adopted. Chairman Oster asked if a condition would be necessary for the parcel to remain in agricultural use, thus addressing the existing barn. Mr. Gilchrist stated that a condition was not necessary so long as the record noted that there is a barn on the property currently used for agricultural purposes. Member Tarbox made a motion to approve the waiver of subdivision, which was seconded by Member Krieger. The Planning Board voted unanimously to approve the motion and the waiver of

subdivision was approved. For the lot line adjustment concerning the merging of the 1-acre parcel and 9.2-acre parcel, Member Tarbox made a motion for a negative declaration on the project, which was seconded by Member Krieger. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was approved. Mr. Gilchrist noted that requiring the new deed merging the 1-acre parcel with the 9.2-acre parcel being filed with the Town of Brunswick Building Department should be added as a condition for the lot line adjustment. Member Stancliffe made a motion to approve the lot line adjustment subject to the condition that proof of the merging of the 1-acre and 9.2-acre parcels be filed with the Building Department. The motion was seconded by Member Mainello. The Planning Board voted unanimously to approve the motion, and the lot line adjustment was approved subject to the stated condition.

The second item of new business was a waiver of subdivision and lot line adjustment application submitted by Charles Farrell for property located along NYS Route 7. The property, consisting of 3.5 acres, was purchased previously by Charles Farrell and the existing lot line is close to property owned by Daley. Farrell seeks to divide a small section of land 58 feet wide and totaling 0.33 acres from the 3.5 acres, and transfer the 0.33 acres to Daley. Mr. Bonesteel and Mr. Gilchrist stated that they had no questions concerning the application. Member Krieger made a motion for a negative declaration on the project, which was seconded by Member Stancliffe. The Planning Board voted unanimously to approve the motion, and a SEQRA negative declaration was approved. Mr. Gilchrist noted that proof of the filing proof of the merging of the 0.33-acre parcel and the Daley parcel with the Town of Brunswick Building Department should be made a condition of the project. Member Krieger made a motion to approve the lot line adjustment subject to the condition that proof of the merging of the 0.33-acre and Daley parcel be filed with the Building Department. The motion was seconded by Member Tarbox. The Planning Board voted

unanimously to approve the motion, and the lot line adjustment was approved subject to the stated condition.

The third item of new business was a waiver of subdivision submitted by Michael Blair, Jr. for property located at 390 Moonlawn Road. Mark Danskin was present to present the project. The project consists of a 4.27-acre parcel bordered by a paper street, Crestin Lane. The applicant seeks to transfer 1.12 acres of land to the Kaisers, who own the property north of the Blair property, and merge that 1.12 acres into the Kaiser lot. Mr. Danskin stepped through the action and review on a map what was being proposed, stating that no new lot will be created by this action. Mr. Bonesteel stated that he will review the application, but did not have any immediate questions. Mr. Gilchrist asked who owned Crestin Lane, the paper street. Mr. Danskin stated that Crestin Lane was shown on a map filed in the County Clerk's Office, but was never built. Mr. Danskin stated that the filing of the map showing Crestin Lane was considered dedication to the Town at that point. Mr. Gilchrist stated that the filing of a map does not result in Town dedication, and that ownership of a paper street depends on the deed, not the map. Mr. Gilchrist continued that if the paper street is not included in a deed, then it may be considered to be owned by the original subdivider. Mr. Gilchrist stated that he would review the issue before the next Planning Board meeting. Chairman Oster asked what was on the parcel past the paper street. Mr. Danskin stated that there were undeveloped lots that do not have separate tax ID numbers. Mr. Danskin stated that the goal of the application is ultimately to create one piece of property with an unbuilt road going through it. This matter is placed on the January 7 agenda for further discussion.

The fourth item of new business was a special use permit submitted by Anne Zugalla for property located at 3 Clinton Place. Ms. Zugalla was present to present the project. The applicant seeks approval for an accessory apartment. Chairman Oster asked if the building had its amenities,

such as electric, heating, septic, and plumbing. Ms. Zugalla confirmed that the building does have its own amenities. Chairman Oster asked what specific uses were planned for the accessory apartment. Ms. Zugalla stated that she initially bought the house intending for her mother to live in the apartment, but she found out after closing on the house that the apartment was not legally approved as an additional living space. Since her mother now lives in an assisted living facility, she now plans to rent the apartment to nurses travelling to help with COVID-19 relief, with each tenant staying a maximum of three months at the apartment. Member Stancliffe asked about the house and apartment location. Ms. Zugalla reviewed the layout and stated that the apartment would have a separate entrance. Member Tarbox asked if the house has any off-street parking. Ms. Zugalla stated that there is a garage attached to the house, but that there is also a driveway in front of the house that can hold up to 12 vehicles. Ms. Zugalla stated that she is currently working on correcting any noncompliance issues on the apartment space. She also stated that she will have the apartment inspected before renting it if the application is approved. Chairman Oster stated that accessory apartments can be for family members or can be a long-term incoming-producing use, reviewing the background of accessory apartments according to the Town Zoning Code. Member Tarbox asked if the past work done on the house was done in coordination with the Building Department. Ms. Zugalla stated that she did not know, but confirmed that all future work on the house will be and that it will be inspected before use as an apartment if the application is approved. Mr. Golden stated that the Building Department will review the file on the property for a building permit and inspections. Mr. Gilchrist reviewed the current Town of Brunswick Zoning Law standards for an accessory apartment use. A public hearing on this matter is scheduled for January 21, 2021 at 7:15pm.

The fifth item of new business was a sketch plan conference submitted by Eden Renewables for property located at 126 Brick Church Road. Norman Ward, a landscape architect from Environmental Design Partnership, LLP, and Gillian Black, the Director of Project Development from Environmental Design Partnership, LLP, were present to present the project. Mr. Ward stated that the project is a community solar facility that will be built on 25 acres of a 58-acre parcel. The parcel is zoned A-40 agricultural, is owned by the Wenonah Buck Trust, and is currently used for the production of hay. The solar facility will have a 5-megawatt AC unit and produce enough energy for 1200 homes. The project needs a special use permit, site plan, and area variance. Mr. Ward stated that EDP has already met with Mr. Gilchrist and Town of Brunswick Supervisor Herrington to discuss the project. Mr. Black stated that this is the fifth project EDP has worked on in Rensselaer County and that the previous four were also community solar facilities. Mr. Black stated that the solar facility may be visible from the nearby Brittonkill school, but noted that the solar facility has been located as far uphill as possible to avoid visual impacts, making it necessary to apply for an area variance. Mr. Black also noted that the higher wattage module is necessary in order to shrink the project as much as possible. Mr. Black stated that the solar facility will be located within a perimeter fence, utilize an existing farm road, and that the power connection will be located in the center of the lot. Mr. Black also stated that wetland delineation has been completed, coordination with utility agencies has begun, and that an OPRHP visual impact has been completed and EDP has received a letter of no impact. Member Stancliffe stated that a fixed tilt solar facility was used recently by Borrego Solar, which is a different system than what EDP is proposing here. The current proposal is to have the panels rotate to follow the sun. Member Stancliffe asked whether they would use pound or screw poles. Mr. Black stated that they would determine which poles to use after a geo-tech investigation. Member Stancliffe asked about

wetlands on the parcel. Mr. Black stated that EDP is looking for federal NW permit coverage from the Army Corps of Engineers. Member Stancliffe and Mr. Black briefly discussed the proposed interconnect with the existing power grid. Member Stancliffe asked if on-site storage was included and Mr. Black said that it was. Chairman Oster asked if there is an access road currently on the property. Mr. Black stated that they will need a NYS DOT driveway permit. Chairman Oster asked why the application had a road looping into a farm field. Mr. Black stated that the road is currently located there, and will remain there to access the field. Mr. Black stated that EDP is purchasing the project site from the Wenonah Buck Trust, not leasing it. Mr. Black also stated that the application does include a stormwater pollution prevention plan. The Board members discussed the visual impact and screening of the project. Mr. Black stated that EDP will submit a map to the Planning Board so the Board can identify points they want EDP to study for visual impact. Mr. Gilchrist discussed the procedure for the application going forward, including under SEQRA. This matter is tentatively placed on the January 21 agenda for further discussion, but could be moved back to February if necessary.

The index for the December 29, 2020 meeting is as follows:

1. Gallivan – minor subdivision (January 7, 2021/tentative).
2. Farrell Homes – minor subdivision (adjourned without date).
3. Farrell Homes – minor subdivision (adjourned without date).
4. Tybush – waiver of subdivision (January 7, 2021).
5. Gagnon – minor subdivision (public hearing on January 21, 2021).
6. Pollack – waiver of subdivision and lot line adjustment (approved, subject to condition).
7. Farrell Homes – waiver of subdivision and lot line adjustment (approved, subject to condition).

8. Blair – waiver of subdivision and lot line adjustment (January 7, 2021).
9. Zugalla – special use permit (public hearing on January 21, 2021).
10. Tamarac Solar – sketch plan conference (January 21, 2021/tentative).

The proposed agenda for the January 7, 2021 meeting currently is as follows:

1. Suncommon/Laughing Earth Farm – special use permit (public hearing to commence at 7:00pm).
2. Tybush – waiver of subdivision.
3. Gallivan – minor subdivision.
4. Blair – waiver of subdivision.
5. Blue Sky Towers III, LLC/Cellco Partnership d/b/a Verizon Wireless – special use permit and site plan.
6. Brunswick Acres Planned Development District – major subdivision.
7. Leon – site plan.