

**PLANNING BOARD
TOWN OF BETHLEHEM**

December 16, 2003

The Planning Board of the Town of Bethlehem, Albany County, New York, held a **Regular Meeting** on Tuesday, December 16, 2003, at the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY. Chairman Douglas C. Hasbrouck presided and called the meeting to order at 7:50 pm.

Agenda: The Pines @ Normanside

Present: Douglas C. Hasbrouck, Planning Board Chairman
 Howard Engel, Planning Board Member
 Katherine McCarthy, Planning Board Member
 Brian Collier, Planning Board Member
 Parker Mathusa, Planning Board Member
 Daniel Odell, Planning Board Member

 Janine Saatman, Deputy Town Planner
 Randall Passmann, Town Senior Engineer

 Paul Hite, L.L.S.
 Murat Kasparian
 John Stevens, Infinigy Engineering, The Pines @ Normanside
 Jonatha & Mike Carroll, 3 Morningside Dr., The Pines @ Normanside
 Sherry & Steve Einhorn, 1 Morningside Dr., The Pines @ Normanside
 Paul LaFalce, 7 Morningside Dr., The Pines @ Normanside
 Alice Cirillo
 Marilyn Hasbrouck
 Roman & Mary Hodges, The Pines @ Normanside

Chairman Hasbrouck turned the Board's attention to the subdivision project on the regular agenda to be known as The Pines @ Normanside for a first presentation. John Stevens of Infinigy Engineering did the presenting of the project which was located at the end of Leonard Place. Mr. Stevens had received comments from both the Planning Department and the Engineering Division, he stated that he would address the comments at a later date. Mr. Stevens stated that the subdivision consisted of 15 residential lots at the end of Leonard Place and 1 commercial lot on Delaware Ave. The zoning in the area allows for 15,000 sq ft lots, on average the residential lots were approximately 30,000 sq ft. per lot. Three of the lots would have access off of Salisbury, the other 12 would have access off of a proposed extension of Leonard Place. Mr. Stevens stated that one of the comments by staff pertained to the 5 to 1 slope setback. The proposed site was located on

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a high bluff that looks over tributaries of the Normanskill. The setback affects approximately 5 lots. Mr. Stevens stated that they had contacted Vern Hoffman as a consultant to address the slope stability which would be affected by high ground water and soil composition. They had not investigated that issue yet other than walking the property with their consultant. Further geotechnical work would take place at a later time and might involve some clearing of the property. They were proposing extending the utilities along Leonard Place to the subdivision. The storm drainage was designed to discharge into the existing storm water system along Delaware and Leonard and about half of the lots would discharge to the rear of the property. Mr. Stevens stated that he concluded his presentation and asked the Board for questions.

Mr. Collier stated that two issues that he wanted addressed were the access and the 1 to 5 slope line. He stated that it appeared that five or six of the lots appeared to be unbuildable from the line standpoint but also about 50% of the cul-de-sac appears to be within that 1 in 5 slope area. Mr. Stevens stated that the non-standard road assumed that Leonard Place would have to be improved back to Delaware Ave. within the existing Town right-of-way to bring it up to Town standards. Mr. Mathusa stated that the right-of-way standard of the Town was fifty (50) feet. Mr. Stevens thought that there would be sufficient footage to accomplish the standard. Mr. Passmann stated that as part of the Realty USA project, the Town had requested an additional 10 ½ foot right-of-way on one side of Leonard Place. The Engineering Division's comments that had been received by the applicant included a request for improvements to Leonard Place if the project went forward. Mr. Stevens stated that they would come up with plans that included those requests. As far as the slope stability was concerned, he stated that they would be drilling in the area to find out what was there. Once they had the boring information, they would better know how to deal with the slope stability. Evidence of heavy clay and high ground water would be a large concern. Mr. Odell felt that slopes were a special concern of residential development because of human behavior. Homeowners want a level backyard for their use and whether it was there when they purchase it and regardless of the wording in a deed to the contrary, they want to level it, install pools, other structures and retaining walls. These types of improvements would cause a large problem in an area with questionable stability. He also stated that the flag lots, especially the one that was accessed from Leonard Place, appeared to be rather small. In the past the Board had tried to minimize the use of flag lots for a variety of reasons. One being that the house would appear to be in someone's backyard. He asked if the white tape on the property indicated the wetlands. Mr. Stevens confirmed the location and stated that both DEC and the Army Corp of Engineers had agreed with their delineation of the wetlands. They had letters from both parties confirming that they are impacting less than a tenth of an acre. Mr. Odell stated that it appeared that along the boundary line shared with Lands of Einhorn, improvements had been made to the stream. There was a culvert in the area. He requested that the culvert and a fence in that area be shown on future maps. Mr. Stevens brought the discussion back to the concern of the flag lot accessed off Salisbury Rd. He pointed out the wood line that would be kept, thus minimizing the appearance of the house being in someone's yard. The entrance to the lot could be flipped over to Leonard Place. Mr. Stevens stated that they would have loved to have more lots, but the terrain did not allow for it. The placement of the lots was very difficult. Mr. Passmann asked what their plans

were to address the Phase II Storm Water regulations? Mr. Stevens stated that they had not addressed the issue, but would. Mr. Passmann stated that they should make sure that they have space allocated for features that would be needed to treat water quantity and quality. Chairman Hasbrouck stated that the Storm Water Management was a significant aspect of projects causing some dramatic changes to the project to be necessary. Mr. Stevens stated that he had worked outside of New York State in areas that had higher standards. He had used creative measures in these environmentally sensitive areas. Chairman Hasbrouck suggested that he speak with DEC to make sure that his ideas would fit within their acceptable models. Ms. Saatman returned the conversation to the flag lots. She stated that in the past there had been projects that had come back requesting amendments to remove flag lots because they were less marketable. The applicant might want to keep that in mind. Mr. Collier asked Mr. Passmann what the Engineering Division's position was on the 1 on 5 slope setback as far as the Town needing to do testing in the area for the Town right-of-way. Mr. Passmann stated that the geotechnical engineer would be required to evaluate it as part of their report and provide recommendations to the designer. Chairman Hasbrouck asked Ms. Saatman if it was necessary to test the soil on every proposed lot as per her memo. She stated that the reason for the suggestion was that the project fell within an urban area and the soil would be considered disturbed urban complex. Under these conditions, it was recommended to do the testing but the geotechnical engineer could determine the extent of the testing needed. Ms. McCarthy asked Ms. Saatman about the reference to the project being in a historical district. Ms. Saatman stated that it was mentioned because of the concentration of bungalow and colonial revival homes. Chairman Hasbrouck asked if the people in the front row wanted to make any comments. Mr. Einhorn stated that he lived at 1 Morningside Drive, an adjacent street, for about 30 years. He wanted to inform the Board as what was happening to the stream in that area. When he first moved there, it was very small. The same stream was now very wide and continued to widen every year. This occurred due to the runoff from Delaware Ave. He experienced a slope failure in his yard a few years ago due to erosion. It had removed the toe of the slope and everything started to slide down. The high water table and the clay soil contributed to this movement. He stated that it had been him that placed the culvert in the streambed. It was to stabilize the erosion. The slippage had gone up as far as the back of his house. The foundation had been exposed to the frost line. The Einhorns had to spend about \$40,000 to fix the problem. The culvert was working as a brace so their property was now stable but the erosion problem continued. He felt that the additional weight of houses on the top of the slope would add to the problems. He stated that this was a large problem for all of the people that lived along the ravine. Mr. Odell asked Mr. Passmann from what portion of Delaware Ave. the drainage was coming from that drained into the un-named tributary. Mr. Passmann stated that though he didn't know offhand, there were maps in the Engineering Division that would show the section. Mrs. Carroll stated that she had lived in the area for thirty (30) years and frequently walked the woods. She had witnessed slope slippage along the stream from one end to the other. There was now a waterfall behind Elsmere School where there was once just a muddy area. Mr. Einhorn stated that Niagara Mohawk had to reset the poles in the area because they were at a significant tilt. Mr. Carol stated that in the spring each person who had property along that stream had experienced some slope slippage. The stream continues to widen. Roman Hodges who

lived on Salisbury agreed with the statements made by the Einhorns and the Carrolls. Mr. LaFalce stated that per the applicant 50% of the drainage would go to the back of the property and 50% of the drainage would go to Delaware Ave.; the Delaware Ave. drainage would find it's way back to the stream in question. He stated that the vegetation in the area grows at an angle due to the slippage beneath it. Chairman Hasbrouck informed the audience that there would be a public hearing in the future and invited them back. He was glad that they had come forward because the information was helpful to both the Board and the applicant. Mr. La Falce stated that he had contacted the County, the State, and Cornell about the contamination of the stream from silt and they all agreed that it was a major concern of those agencies. Chairman Hasbrouck stated that the Board and the Town worked to make sure that projects that came before them, complied with the current Phase II Storm Water regulations. A key part of those regulations was to keep the storm water onsite until such time that the sediment has a chance to settle out before being allowed into the stream. Chairman Hasbrouck suggested that the applicant check early on with DEC for their requirements.

A motion to table was made by Mr. Odell seconded by Mr. Mathusa and approved by all present.

The minutes from June 3, 2003; June 17, 2003; October 7, 2003; November 3, 2003; November 18, 2003; December 2, 2003 were approved with corrections.

Chairman Hasbrouck turned the Board's attention to prior business. He stated that the Town Squire Project \$70,000 escrow letter of credit that was part of the approval of the project had never been issued. There was a draft that was given to Mr. Silliman and Mr. Alessi for review but not the final letter of credit. Mr. Hasbrouck stated that he had received a letter from John Nigro requesting a release of the \$70,000 to them or their contractor to help offset the cost of the highway work. They tied the request directly to the cost of the southbound right-hand turn lane on 9W to Feura Bush. This was the part of the highway work that was used to determine the amount of the letter of credit. The approval documents for Town Squire ties the use of that money specifically to that intersection with minimum flexibility. Mr. Hasbrouck stated that he had spoken with Mr. Lipnicky and Mr. Secor about the letter. Mr. Secor had stated that the Town had wanted to complete the sidewalk from the Town Squire driveway on south to Glenmont Road. Some of the sidewalk was being built by Nigro, part by the Town and part by the Town Squire Phase II project. They had anticipated the letter and they felt that releasing at least a portion of the \$70,000 was reasonable. Mr. Hasbrouck had drafted a letter to Mrs. Fuller about the request from Nigro because being in the Planned District it becomes a Town Board determination. He believed that the Town Board would have to sign off on the request because it is an expenditure of funds that the Planning Board was not authorized to approve. He had received comments from Mr. Lipnicky and made changes to the draft. He mentioned to the Board that Nigro or one of their subsidiary corporations was fined by DEC for failure to comply with certain storm water management regulations during construction. The fine was \$70,000. He believed that the two \$70,000 amounts were coincidental. Mr. Powers had called Mr. Hasbrouck to find out if the request would be granted. Mr. Hasbrouck told him that they were working on a recommendation to the

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Town Board. Mr. Hasbrouck asked the Planning Board for their input on the recommendation. He reminded the Board that it had been determined that with the Town Squire project built, even if the Bethlehem Town Center had not been built that the turning lane would still be necessary. The escrow had been established to guarantee that the turning lane would be built. Mr. Collier felt the Board was under the impression that with the Bethlehem Town Center going forward, that the right turn lane was a part of that project. Mr. Collier felt that Nigro had not done anything that was not expected of them. Mr. Hasbrouck stated that DOT had also imposed further highway work on them beyond what the Planning Board had required. Mr. Mathusa stated that he felt it was critical to make the point and wanted it clarified. He stated that going from north to south, the improvements that Nigro had done were as follows: they filled in the ravine a little, put up guard rails on both sides of the road, they put the walkway in up to Feura Bush Road and they put in the right turn lane. It wasn't clear as to who paid for what. Mr. Passmann stated that DOT had actually done some of the work. Mr. Mathusa felt that DOT had put a lot of money into the improvements. He had remembered that Mr. Powers had stated that the cost of all the improvements they were being asked to do could reach one million dollars and then DOT took on more of the work than first anticipated. Under those circumstances he felt that the release of a portion of the funds to Nigro would not be appropriate. Chairman Hasbrouck stated that the right hand turn lane had been a requirement when the project was approved. He felt that Nigro could document the fact they had built the lane. Chairman Hasbrouck stated that the issuance of a letter of credit in the amount of \$70,000 from the Town Squire Redevelopment project for improvements to the intersection at Rt. 9W, Feura Bush Rd., and Glenmont Rd. had been required. Chairman Hasbrouck stated that there were three commitments of funds; \$70,000 from Town Squire, \$50,000 from the Nigro company for sidewalks, and the third one was \$20,000 from the Town Squire Phase II. Mr. Mathusa felt that the \$70,000 was to be used for improvements to Glenmont Rd. for a left hand turn going south. Chairman Hasbrouck stated that the traffic study had not supported that improvement. The \$70,000 was based on an estimate from Nigro and the Engineering Division as to the cost of a right turn lane from 9W to Feura Bush. In prior discussions it had been determined that the two projects share the cost of the lane. The only way that could be accomplished now would be through the release of funds. Mr. Collier felt that Nigro hadn't done anything more at that intersection than the Planning Board had expected. Chairman Hasbrouck disagreed, because they had to do more drainage and now are being required to resurface the entire road from Bethlehem Town Center frontage to the intersection at Feura Bush Road. Mr. Collier still did not feel that Nigro was entitled to any of the escrow funds. He felt that the funds were for future improvements that might be necessary once the Town Squire project was in full operation. Chairman Hasbrouck stated that he would finish his draft letter and distribute it for the Board's consideration.

Chairman Hasbrouck stated that Ms. Egan had called to inform him that a new Chairman would be appointed.

A motion to adjourn was offered by Mr. Odell seconded by Ms. McCarthy and approved by all present.

The meeting concluded business at 9:20PM.

Respectfully submitted,

Nanci Moquin

**PLANNING BOARD
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December 16, 2003

The Planning Board of the Town of Bethlehem, Albany County, New York, held a **Public Hearing** on Tuesday, December 16, 2003, at the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY, re: **HEDGEFIELD SUBDIVISION**, 3 lot subdivision on Weisheit Rd. Chairman Douglas C. Hasbrouck presided and called the hearing to order at 7:30 pm.

Present: Douglas C. Hasbrouck, Planning Board Chairman
Howard Engel, Planning Board Member
Katherine McCarthy, Planning Board Member
Brian Collier, Planning Board Member
Parker Mathusa, Planning Board Member
Daniel Odell, Planning Board Member

Janine Saatman, Deputy Town Planner
Randall Passmann, Town Senior Engineer

Paul Hite, L.L.S.
Murat Kasparian
Alice Cirillo
Marilyn Hasbrouck

CHAIRMAN HASBROUCK: The first thing I want to do tonight doesn't have anything to do with business. I want to welcome my wife. I've been on this Board for almost twelve years; a little over twelve years actually, she has never been to a Board meeting until tonight. I could never convince her to come. And that other woman over there I don't know her. It's Alice. So anyways I just want to say welcome to my wife. Thanks for coming and we'll talk later. First thing on our agenda tonight is the Public Hearing for the Hedgefield Subdivision on Weisheit Road. Board is familiar with this, it's been on

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our agenda a couple of times, been some recent revisions to it, first thing I'll do is ask for a motion to indent the Public Notice into the record.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on TUESDAY, December 16, 2003, at the Town Offices, 445 Delaware Ave., Delmar, New York, at 7:30 p.m., to take action on the application of Murat S. Kasparian and Arjanti Kaspasroglu for approval of a one lot (1) subdivision located at Weisheit Road and Wemple Road, as shown on map entitled, "PROPOSED SUBDIVISION, "HEDGEFIELD", WEISHEIT ROAD & WEMPLE ROAD, Town of Bethlehem, Albany County, NY", dated February 13, 2003 and made by Paul E. Hite, Licensed Land Surveyor, 230 Delaware Avenue, Delmar, New York 12054.

MR. MATHUSA: So moved.

MR. COLLIER: Second

CHAIRMAN HASBROUCK: All in favor.

PRESENT BOARD MEMBERS: Aye.

CHAIRMAN HASBROUCK: Opposed. Thank you. And Mr. Hite has represented the applicants throughout this project and Paul we'll ask you to make a presentation if you would.

MR. HITE: Can everyone see? Thank you Mr. Chairman, members of the Board and audience. My name is Paul Hite a Land Surveyor and Land Planner in Delmar, New York. I'm here tonight representing the owners of property located at the intersection of Wemple Road and Weisheit Road, consisting of approximately 4 acres of land that we propose to subdivide into 3 separate parcels of land allowing the construction of three single family dwellings. The corner lot consisting of approximately 81 hundredths of an acre, lot number two in the middle, consisting of approximately 80 hundredths of an acre, lot number three being 2.03 hundredths of an acre. Lot number three is larger because originally and maybe this answers the letter that was submitted to the Board tonight, originally we had proposed to have a fourth lot but because of complications that arose due to a drainage area that drifts through this area and subject to some design, we decided to not do that design and hopefully this Board approves this subdivision to construct only three single family homes. Wemple Road borders the project on the north on the west by Weisheit Road, on the east by lands of James, which I believe sometime last year was approved by this Board as a three-lot subdivision. About three years ago, across the road from here was a one-lot subdivision approved for Mrs. Weisheit that was sold off to

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Mueller I believe it is. It's never been constructed on, but was approved as a one-lot subdivision, very large lot. And again the reason for that was had to do with this drainage tributary and of course it was lying within those lands. Each lot will be, have a septic system as you see outlined lightly dash square areas on each lot. Each lot will have a drilled well that we have shown; there may be some slight modification and also some slight modification of the septic systems. We have been in constant contact with the Albany County Health Department and for all intents and purposes they have approved the system that we have designed, if fact they are the ones that gave the design, I had to fit them into the lots to meet the grading that hopefully the engineering department and myself are very close to working out to their satisfaction. All three houses will have a side loop driveway that comes in off of Wemple Road there will be no access proposed to Wemple Road because someday Wemple Road may become a heavy carrier of traffic so therefore all access to the three lots will be off of Weisheit Road. The three lots consists basically of open field area that was cultivated some number of years ago I don't know how many but generally speaking we've shown that this is a hedge row through here into a wooded area that borders the lot next door that is owned by Weisheit, all the rest of it is open field and that is how I came up with the name of Hedgefield using the hedge row and the open field. Each house will have a cellar drain line that exits the foundation into a seepage pit and allows it to drift out across the ground into the low areas that adjoin the property and also within the property. I believe that is the extent of my presentation, I've tried to keep it simple, I will answer any questions hopefully that the Board or the audience or the consultants may have. With me tonight is Mr. Kasparian who is one of the owners and can answer any questions if the Board has any.

CHAIRMAN HASBROUCK: Thank you Paul. Any questions from the Board first of all? OK, than if not, I'll open the floor to any questions or public comment, if there is anyone here that has any inquires about this project. No one? OK, I think you made the presentation for the Board Paul I'm not sure. Thank you. Then I'll ask for a motion to close the public hearing.

MR. ODELL: So moved

MR. MATHUSA: Second

CHAIRMAN HASBROUCK: All in favor

ALL PRESENT BOARD MEMEBERS: Aye

CHAIRMAN HASBROUCK: Opposed, Thank you Paul

MR. HITE: Thank you Mr. Chairman.

The Public Hearing concluded at 7:50.

Respectfully submitted,

Nanci Moquin
Secretary to the Planning Board