

George Leveille
Chairman

Nicholas Behuniak
Member

Thomas Coffey
Member

Christine Motta
Member

Kate Powers
Member

Stephen Rice
Member

John Smolinsky
Member

TOWN OF BETHLEHEM

Albany County - New York
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Asst. Engineer, L.S.

Keith Silliman
Counsel

Deborah Kitchen
Assistant to the Board

MINUTES January 19, 2010

The Regular meeting of the Town of Bethlehem Planning Board was convened in public session in the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY at 6:00 p.m., on Tuesday, January 19, 2010. Attendance was recorded as follows:

Board Members Present	Board Members Absent	Counsel Present	Town Staff Present
George Leveille Nicholas Behuniak Christine Motta Kate Powers John Smolinsky		Keith Silliman	Michael Morelli Jeffrey Lipnicky Robert Leslie Deborah Kitchen
Others Present			
James Martley Zareh Altounian Antonio Trimarchi June Zych Francis Bossolini Charles Wiff	James Higgins Thomas Coffey Eric Smith Pat Clair Bob Baldwin Sean McCloskey	Bill Hennessey Scott Hollander Amy Musiker Joan Shack Havzi Ipek	Bill Mafrici Frank McCloskey Lynn Sipperly Allison Wise Paul Mesiti Mark Raven

Chairman Leveille called the meeting to order and noted the presence of a quorum.

Public Comment on Regular Agenda Items:

- 333 Delaware Avenue - Site Plan Amendment
- 500 Kenwood Avenue - Special Use Permit / Site Plan - Possible action/approval
- Blessings Corner at 572 Russell Road – Planned Development District
- College Park - Subdivision – Initial presentation
- Mesiti - Subdivision – Possible action/approval of Preliminary Plat

James Martley, 5 Blessing Road, North Bethlehem, NY

Mr. Martley stated that he received a notice from Hershberg & Hershberg, dated January 15, 2010, that indicated the applicant's intention to appear before the Planning Board on January 19, 2010 and request a public hearing on February 2, 2010. He stated that he would appreciate more advanced notice in the future. Mr. Martley also commented on the Planning Board Agenda, stating that he does not think the

project was identified accurately because there is no such thing as Blessings Corner and the location / intersection was listed incorrectly. He mentioned that he had recently learned there was a petition in the Stewart's store at Delaware and Elm that residents are signing in support of the Stewart's in North Bethlehem. However, there was a large turnout at the public meeting held at the North Bethlehem Fire House on November 11, 2009 and many people spoke in opposition of the project. Mr. Martley and one of his neighbors have been the victims of vandalism because of their opposition to the project. The type of vandalism includes broken down and painted over signs, and unkind messages. On a final note, Mr. Martley stated that he believes the residents of North Bethlehem should be made aware of the other project being proposed in the area, including the projects in New Scotland. He does not believe the traffic study is valid unless it includes information about the volume of traffic that will be generated by the other proposed projects.

Chairman Leveille thanked Mr. Martley for his comments and stated that the Planning Board has been asked by the Town Board to make a recommendation on the Planned Development District application. The Planning Board is not required to hold a public hearing. The official public hearing will be held by the Town Board. If the Planning Board does decide to hold a public hearing, it will be at the discretion of the Board and in accordance with the requirements of providing notice. Information about other proposed projects in the area may be obtained by contacting Town staff.

Joan Shack, 4 Beverly Drive, North Bethlehem, NY

Mrs. Shack stated that she owns property behind the proposed condominium project and is not in favor of the project. She would prefer single family homes over condominiums and fears that one of the long term ramifications of the proposed development would be increased traffic. With regard to the community, she believes rezoning of the area should be a wider community concern because it opens the door for further commercialization. Ms. Shack thanked the Board for allowing her to express an opinion and stated that she and her neighbors are concerned and will be paying close attention to the project.

Chairman Leveille thanked Mrs. Shack for her comments.

Bob Baldwin, 30 Windham Hill Road, Glenmont, NY

Mr. Baldwin stated that he arrived home from work this evening to find a notice about tonight's Planning Board meeting in his mailbox and he felt the notice was disingenuous because it did not give him or his neighbors enough time to prepare for the meeting. He also stated that five years ago he spoke with the individuals who were staking the property and was told that the property would never be developed because it contained wetlands. He is concerned about the wetland issues and hopes that they are being addressed.

Chairman Leveille thanked Mr. Baldwin for his comments.

The public comment period was closed.

333 Delaware Avenue - Site Plan Amendment

Mr. Morelli stated that the Planning Board granted site plan approval to the property owners of 333 Delaware Avenue in February 2008 to allow for expansion of the parking lot, improvements to the entrance, construction of a new concrete sidewalk, installation of landscaping, implementation of a stormwater management plan and relocation of parking spaces from the front of 335 Delaware Avenue to the rear of the site. In June 2009, the Planning Board approved an amendment to the site plan to allow for installation of an overhead door on the west side of the building and a reduction in the size of the dumpster screening in order to provide better access to the overhead door. In addition, 333 and 335

Delaware Avenue were merged into one lot of record and the entrance to 335 Delaware Avenue was removed, thereby reducing the number of curb cuts along Delaware Avenue. In December 2009 the applicant came back to the Planning Board to seek a second amendment in an effort to improve circulation in the parking lot and easier access to the overhead door. The applicant is now seeking to relocate the dumpster to the northwest corner of the parking lot. The total number of parking spaces will not be affected because four spaces in the rear of the building will be removed and the area that is currently used for the dumpster will be converted into parking spaces. The applicant will also install additional plantings to screen the new dumpster area.

Mr. Morelli indicated that the proposed amendment would be an improvement over the existing conditions because it will increase the amount of landscaping on the site and relocate the dumpster area to the rear of the parking lot which is further away from a residential property. A SEQR Determination of Significance – Negative Declaration and a Site Plan Approval Amendment document was drafted for the Board's consideration.

Zareh Altounian, Engineer for the applicant and the applicant, Hazi Ipek, were present at the meeting to provide information regarding the type of dumpster and proposed landscaping / screening. Mr. Ipek stated that he believes landscaping would be more aesthetically pleasing to the eye and fencing would draw more attention to the area. Mr. Altounian explained that the dumpster is a roll off container that opens from the end rather than the top. It will be utilized by the tenant (D.A. Bennett – a plumbing / heating contractor) to discard waste that would be too cumbersome to place in a conventional style/top loading dumpster. Mr. Smolinsky stated that the Board should take every opportunity to ask the applicant to make improvements to dumpster areas and be willing to consider alternative solutions.

Upon motion by Mr. Smolinsky, seconded by Ms. Motta, and unanimously approved by all Members present, the SEQR Determination of Significance – Negative Declaration Resolution was approved.

Upon motion by Ms. Powers, seconded by Mr. Behuniak and unanimously approved by all Members present, the Site Plan Approval - Amendment 2 (SPA 143-A2) sought by the applicant was approved with the following conditions: 1) the applicant will agree to work with staff to enhance the landscape plan and 2) the applicant will arrange for a dumpster which has been painted with a color that blends in with the landscaping.

500 Kenwood Avenue - Special Use Permit / Site Plan - Possible action/approval

The applicant, Michael Parker, DDS, representing Kenwood Avenue Holdings LLC, filed a Special Use Permit / Site Plan Application with the Planning Board to allow him to lease 1,322 +/- SF commercial space in an existing building at 500 Kenwood Avenue (NYS Route 140). The proposed tenant, Journey United Church of Christ would occupy the rear of the existing building. The remaining 2,990 +/- SF of the building will be occupied by the applicant's orthodontic office. The building is located in a Residential C Zoning District and the proposed use requires a Special Use Permit under Town of Bethlehem Code Chapter 128, Article VII. A house of worship is a permitted in said district subject to obtaining a Special Use Permit and Site Plan Approval from the Planning Board. It is anticipated that the Church will seat approximately 70 people. An additional emergency exit will be installed at the rear of the building to meet NYS Building Code requirements. The Church is considered a complementary use to the site because it will operate during non-operational hours of the orthodontist office. The use is not expected to generate significant traffic above present levels. Correspondence from the Journey United Church of Christ to the Bethlehem Planning Board, dated December 4, 2009, indicates proposed use activities (Sunday mornings between 9:00 a.m. and 12:00 noon) to include Sunday School at 9:00 a.m., Worship at 10:00 a.m. and Fellowship Time at 11:00 a.m. Monthly evening Leadership Team meetings and special evening worship services on holidays such as Christmas Eve and Good Friday are also proposed. Advertising space on the existing free-standing sign will be shared. A wall sign will be placed

at the front entrance of the orthodontic office. The existing parking lot will accommodate the required number of parking spaces for both occupants. A parking lot lighting plan was submitted. The plans were labeled as requested. A SEQR Determination of Non Significance – Negative Declaration was approved by the Planning Board on December 1, 2009 and a public hearing was held on December 15, 2009.

Upon motion by Mr. Smolinsky, seconded by Mr. Behuniak, and unanimously approved by all Members present, the Special Use Permit (SUP 12) Resolution was approved.

Upon motion by Ms. Motta, seconded by Ms. Powers and unanimously approved by all Members present, the Site Plan Approval (SPA 158) Resolution was approved.

Blessings Corner at 572 Russell Road – Planned Development District (PDD)

The applicant, Russell Road Partners, is seeking approval to construct six two-story buildings with 44 residential condominium units and a 2,990-square-foot Stewarts store with gas pumps at the intersection of Russell Road and Krumkill Road in North Bethlehem. Daniel Hershberg & William Mafrici of Hershberg & Hershberg and Frank McCloskey, partner/applicant, were present to answer questions related to the project. Mr. Mafrici indicated that the applicant submitted additional information regarding site views and grading in response to comments generated at a previous meeting. He also stated that the applicant seeking Planning Board approval to host an informal public hearing on February 2, 2010, so additional feedback can be gathered from the public. Mr. McCloskey noted that Russell Road Partners plans to host a separate informational meeting at the North Bethlehem Fire House on February 1, 2010.

Responding to a comment that was made by Mr. Martley during the public comment period, Mr. Morelli stated that the name of the project is Blessings Corner at 572 Russell Road and the legal address of the project is 572 Russell Road. He agreed that the intersection was incorrectly listed on the meeting agenda and should have been listed as Russell Road and Krumkill Road. He noted that the Planning Board is not obligated to host a public hearing on PDD applications, the Town Board is; however, if the Planning Board does decide to host an informational meeting, a notice will be posted on the Town's website and placed in the January 27, 2010 issue of the Spotlight. Notices to residents will be sent by the Town using mailing labels provided by the applicant. The applicant is not required to send notices to residents beyond 200 feet of a project boundary but has made an effort to notify property owners within ¼ mile radius of the project. It was noted that the Planning Board has until March 7, 2010 to make its recommendation to the Town Board regarding the PDD application.

In preparation for the upcoming public meeting, Member Smolinsky suggested that the applicant be prepared to respond to comments generated by the NYS Office of Parks Recreation and Historic Preservation (OPRHP) on August 27, 2009, calling attention to a section of the letter which lists two nearby properties (361 & 382 Krumkill) that are eligible for listing in the National Register. The letter states that OPRHP “feels the new construction will have no adverse impact on the properties provided adequate vegetal screening is provided to limit views from the National Register eligible properties into the new development.” Mr. Smolinsky also asked the applicant to submit a market analysis which addresses the need for condominiums in the Town of Bethlehem, particularly at that location. In addition, he would like the applicant to submit a fiscal impact analysis of the project that addresses the commercial component separate from the residential component so the Town can better understand the costs and revenues associated with the project.

Upon motion by Ms. Motta, seconded by Mr. Smolinsky, and unanimously approved by all Members present, the date of the Public Hearing was set for Tuesday, February 2, 2010 at 6:00 p.m.

College Park - Subdivision – Initial presentation

The applicant, Selected Realty Development Co., Inc. / Elias Wise, is seeking approval to subdivide a 17.94 acre parcel of land located along Wemple Road, Bryn Mawr Drive and Oberlin Place in Glenmont. The applicant is proposing to subdivide the parcel into 15 lots comprised of 12 building lots, 1 lot reserved for future development on the westerly side of the Dowerskill, 1 lot reserved for a detention basin and 1 lot reserved for parkland set aside. Lynn Sipperly of Sipperly & Associates and Allison Wise were present to answer questions related to the project. Mr. Sipperly noted that the site is comprised of gentle and moderate slopes. The property is currently undeveloped. It is vegetated with brush and trees. Utilities are available to the project via the nearby streets. Sanitary sewer is located along the Dowerskill which is adjacent to the property. Mr. Sipperly noted that there is a wetland area on the property along the Dowerskill and there is a pond that adjoins a neighboring property on Hartman Road. There is a swale or ditch on the property that is approximately three feet wide and is considered a water course of the United States. A cultural and archeological study indentified a foundation on Lot #12 that is to be considered culturally sensitive. A Phase 1B report was not generated because there was no development proposed for the area. A deed restriction would be placed on that particular lot to prevent any development from occurring in the area without further investigation and approval by the Office of Parks Recreation and Historic Preservation.

It is anticipated that the type of homes that will be constructed will be in the \$400,000 range because they will be in a very desirable location. Most of the building lots will be accessible by extending Oberlin Place to a cul-de-sac and extending Bryn Mawr Drive to intersect with Oberlin Place. One of the lots will front on Wemple Road. Water service within the development will be connected to Bryn Mawr Drive thereby providing a circulation loop. The sewer line will also be extended throughout the project and two existing homes on Wemple Road will gain access to the sewer at the back of their property. A 3rd home could be serviced if a private easement can be obtained by the Town. At present, Mr. Weis is working with a neighboring property owner because the neighbor's driveway is currently on his property. The lot to be reserved for future development is located on the west side of the Dowerskill. Access to this lot will be made via an easement across the National Grid right-of-way.

Mr. Sipperly stated that he provided neighboring property owners with information about the proposed project. The notices contained basic information about the subdivision as well as Mr. Sipperly's contact information. Mr. Leveille stated that it was laudable for Mr. Sipperly to have made the effort to reach out to the neighbors even though it was not required.

In response to a question raised by Member Smolinsky, Mr. Lipnicky stated that vacant lots are not usually approved unless there is probability of future access to the parcel. The lot would not be approved as a buildable lot until such time as it has access. He believes the adjoining parcel is likely to be developed. Language could be written into the deed regarding a future right-of-way. The number of crossings over the Dowerskill should be limited whenever possible. Mr. Ritz stated that this site is directly south of vacant parcel with an approved project on it.

The applicant is looking to convey 3.3 acres to the Town in lieu of a parkland fee for potential use as a nature pathway. Mr. Sipperly noted that in the past it had been the Town's goal to provide pedestrian access to residents via a trail corridor along the Dowerskill. This conveyance could help to provide an opportunity for access along the Dowerskill that would eventually provide a link to lands that were set aside when the Milltowne Plaza project was constructed. Mr. Sipperly indicated that the applicant is requesting leniency from the Town with regard to parkland fees in exchange for the conveyance of land. Mr. Lipnicky stated that the idea of setting aside parkland along the Dowerskill started with the Haswell Farms project where an area of land within the project was conveyed as a recreation easement for development of a future trail. Projects involving the trail along the Dowerskill include: Carriage Hill, Dowerskill Village, Elm Avenue East, Haswell Farms and Milltowne Plaza. Mr. Lipnicky noted the land

being offered by the applicant is primarily a federal wetland area and the criteria in the code points more to accepting usable space than what is being proposed. He suggested that the Board get input from the Parks Department before making a decision about whether or not to accept the conveyance in lieu of a parkland fee. Chairman Leveille stated that generally speaking, accepting constrained land for park purposes, especially in the absence of a formal plan to acquire land in that location, is probably less desirable to him than collecting a fee that could address other issues and ensure recreational opportunities for other residents in the area. Mr. Sipperly stated that it would be an opportunity for the Town to gain interest and control over the parcel as a recreation area. If the Town does not have an interest in the parcel, the developer could extend the proposed lot lines back to the Dowerskill which might make it more difficult for the Town to go back and acquire the land from the private land owners at a later date. Chairman Leveille stated that he is in agreement with Mr. Lipnicky that it would be beneficial for the Board to receive input from the Parks Department. He added that it might be a good time to revisit the idea of a recreational path along the Dowerskill and suggested that Town staff create a map showing the status of the recreational path as well as the proposed East/West connector Road.

In closing, Mr. Sipperly stated that the applicant is seeking preliminary plat approval on the layout of the project so he can turn his focus toward the more technical issues. Mr. Lipnicky noted that a public hearing will not be held until the project undergoes SEQR review and staff has had an opportunity to investigate the culturally sensitive area and parkland set aside issues. Chairman Leveille stated that based on the Board's discussion, the project seems to be headed in the right direction.

Upon motion by Mr. Behuniak, seconded by Mr. Smolinsky, and unanimously approved by all Members present, further discussion related to the project was tabled.

Mesiti - Subdivision – Possible action/approval of Preliminary Plat

The applicant, Paul Mesiti, is seeking approval to subdivide a 2.92 acre parcel into four residential building lots on Oakwood Road in Glenmont. Francis Bossolini of Ingalls & Associates and Paul Mesiti, owner/applicant, were present to answer questions related to the project. Mr. Bossolini noted that the project is in full compliance with the zoning requirements. He indicated that plans were recently altered in response to comments generated by staff regarding driveways and sight distances. At present sight distances for driveways on three of the four lots exceed the 340 foot minimum for the design speed of 35 mph. One of the driveways, located closest to the intersection of Montrose, was relocated in order to meet the 260 feet minimum design speed of 30 mph. Turnarounds have been designed for each driveway so the homeowners will not have to back out onto Oakwood Road. It is estimated that the price of the homes to be constructed on the proposed building lots will be \$400,000, for a 2,300 square foot single family home.

Chairman Leveille noted that Jeffrey Lipnicky, prepared a very thorough memo to the Planning Board, dated January 13, 2010, which included responses to comments generated at the public hearing held on December 2, 2009. In the memo, Mr. Lipnicky indicated that the issues raised during review of the project have been addressed. He also indicated that a draft Preliminary Plat Approval document and draft Resolution for Reservation of Public Parkland / Fee Requirement had been prepared for the Board's consideration.

With regard to the sidewalks along the site, Mr. Behuniak asked staff to comment on the potential for sidewalks along Oakwood Road. Mr. Lipnicky indicated that the applicant is proposing to provide an easement along the frontage of the property to allow for future construction of a sidewalk along Oakwood Road. The right-of-way along the front of the project is approximately 45 feet wide. In response to Mr. Behuniak's inquiry, Mr. Silliman stated that a multi-purpose easement is all that is needed if the Town decided to build a sidewalk later.

Chairman Leveille asked staff to provide information about a drainage ditch that is currently located on the parent parcel. Mr. Ritz indicated that he is aware that the approved land division shows a culvert under the driveway that is located on the parent parcel. He is not aware of any permit being issued to allow for the drainage of wetlands. Mr. Bossolini indicated that as part of the Army Corps of Engineers (ACOE) permitting process the applicant was required to provide greater mitigation based on prior wetland disturbance. He also noted that more information related to the mitigation can be found in the permit. Mr. Lipnicky stated that he thinks the mitigation requirement was a result of the driveway impact on wetlands. Mr. Smolinsky asked if the ACOE would have access to the mitigated areas to allow for monitoring of the wetlands and remediation if needed. Mr. Lipnicky stated that the area will be deed restricted and an easement will be provided until such time as the ACOE determines that the wetlands have been established.

Mr. Smolinsky noted that the ACOE generally requires a 50 foot buffer zone and he does not think a 35-40 foot rear yard setback makes much sense for a \$400,000 home. He suggested that the applicant come back to the Board with a three lot subdivision, combining lots two and three to provide for a larger building envelope on the combined lots. He would like the applicant to submit a revised plan so the Board can evaluate it in contrast with the proposed four lot subdivision. Mr. Behuniak asked Mr. Smolinsky to explain the motivation behind making this request. Mr. Smolinsky stated that his concerns are broader than wetland encroachment, his motivation is to create better lots with more useable space that are compatible with other lots in the surrounding neighborhood. He does not feel the Town needs to create a situation that invites encroachment and enforcement issues. He is concerned that the current setback invites encroachment on wetlands and also creates difficult enforcement situations with structures that are typically found in back yards, i.e., sheds. Mr. Lipnicky noted that combining two lots will not change the rear yard setback requirement. Mr. Smolinsky stated that the overall useable area would increase. Mr. Behuniak agreed that Mr. Smolinsky's suggestion was worth considering.

Chairman Leveille noted that existing homes, located in the Kenholm development between Montrose and Dumbarton do not front on Oakwood Road and he wondered if the homes could be reoriented. Mr. Lipnicky noted that there are homes that do front on Oakwood Road and he does not think reorienting the homes would be aesthetically pleasing from a visual perspective.

Ms. Powers asked Mr. Smolinsky if he thought his proposal would improve the undesirable visible impacts that were noted during the public hearing. Mr. Smolinsky indicated that he understands the concerns expressed at the public meeting and he would expect that one less home might decrease their concerns but he does not know if it would eliminate them.

Mr. Bossolini stated, for the record, that the applicant is not interested in reducing the number of lots. He noted that the project, as submitted, complies with the Zoning Law and the area and bulk requirements as verified by Town staff. With respect to ACOE permitting, the buffer as shown has been deemed sufficient by the ACOE and a split rail fence will be installed to minimize the potential for encroachment. He noted that the wetland areas will be depicted on the plat and incorporated into the deeds and papers of sale. He agreed that wetland enforcement is limited, but it does exist.

Mr. Bossolini also stated that the definition of useable yard area can vary depending on an individual's preferences. He noted that some individuals might like to have large areas in their yards that do not need to be maintained. Other individuals might want large back yards and would not be interested in purchasing one of these lots. He feels the size of the yard is subjective. The proposal, as drawn, includes homes with walk out basements that take advantage of the existing topography. Options to reorient the homes may be limited.

Mr. Silliman noted that Mr. Smolinsky had asked the applicant to come back with a proposal for a three lot subdivision to allow the Board to compare and contrast what has been proposed. He also stated that

other Members of the Board had indicated that they were also interested in seeing a three lot proposal. Mr. Silliman asked if the applicant would consider this request. Mr. Bossolini stated that if the Board were to ask the applicant to reduce the number of lots to three, he would advise his client of the Board's request and get back to the Board with a decision. Mr. Bossolini noted that the project had originally started out as a six lot project and the applicant had already reduced the number of lots to four. He reiterated that the project complies with the zoning requirements and the wetland areas are permitted with the ACOE in the condition they were presented. Mr. Silliman suggested that the Board table the project and direct staff to work with the applicant to prepare a three lot subdivision for the Board to take a look at. Mr. Mesiti noted that a homeowner had encroached on wetlands on a project in Saratoga and the ACOE took immediate action to address the situation.

Upon motion by Mr. Smolinsky, seconded by Ms. Powers, and unanimously approved by all Members present, the Board voted to table action on the draft Preliminary Plat Approval and draft Resolution for Reservation of Public Parkland / Fee Requirement, and direct staff to work with the applicant on developing an alternative proposal that would focus on a three lot subdivision instead of four lot subdivision.

Meeting Minutes

The minutes of the regular meeting held December 15, 2009 will be revised and considered for approval at a future meeting.

Non-Agenda Items

Map Showing Potential Trail System Along the Dowerskill & Potential East/West Connector Road

Chairman Leveille asked Town staff to create a map showing the status of the recreational path along the Dowerskill and the proposed East/West Connector Road.

Market Analysis and Fiscal Impacts

Chairman Leveille noted that it might be helpful if the Planning Board required applicants to provide information about how a project might affect the overall tax revenue and job market in the town. He suggested that the Planning Board consider the potential use of market analysis and fiscal impact reports and asked the Members and town staff to provide input on developing the report.

Planning Board Members

Chairman Leveille noted that there are two vacant seats on the Planning Board and the Town Board has not made a decision about whether or not to appoint two new Members to the Board or reduce the number of members from seven to five.

Planning Board Staff/Assistant

Chairman Leveille welcomed Deborah Kitchen as Administrative Assistant to the Planning Board.

Meeting Schedule

The next Planning Board meeting is scheduled to take place on Tuesday, February 2, 2010, at 6:00 p.m. The regular meeting will take place immediately following a public hearing for project known as Blessings Corner at 572 Russell Road.

Respectfully submitted,
Deborah Kitchen