

**PLANNING BOARD
TOWN OF BETHLEHEM**

November 18, 2008

The Planning Board, Town of Bethlehem, Albany County, New York held a Regular Meeting, on November 18, 2008, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY.

Present: Keith Silliman, Planning Board Counsel
Howard Engel, Planning Board Member
Nick Behuniak, Planning Board Member
Kathy McCarthy, Planning Board Member
Chris Motta, Planning Board Member
Kate Powers, Planning Board Member
John Smolinsky, Planning Board Member

Michael Morelli, Assistant Director of DEDP
Jeff Lipnicky, Town Planner
Rob Leslie, Senior Planner
Terry Ritz, Assistant Town Engineer

Kevin Supple	Skip & Betty Albright
Edward & Sheri Ciccone	Robert Doody
Terresa Bakner	James Zyneckiff
Ken Hayden	Joan Marizonti
Vincent Crisafulli	Rick Bader
Maria Mancuso	Peter Mahr
Marc Marchessault	Bob Burnett
Jarrett Carroll	Steve Bolduc
Michael Naughton	

Agenda: Capital Communications Federal Credit Union
Carol Richards Subdivision
Edward and Sheri Ciccone
Diversified Auto

Mr. Silliman addressed the audience. He regrettably announced that Chairman Mathusa had passed away a few days earlier. He asked for a moment of silence in his memory. Mr. Silliman said for those who knew Parker, the Town of Bethlehem was near and dear to his heart, as was the Planning Board. He was still working on Planning Board issues the prior week. He had a conversation with the Supervisor and Ms. Moquin in which he made a request that this Board honor the tradition of appointing the most senior Planning Board member as Acting Chair when a Planning Board Chairman cannot make a meeting. Under Town Law, the Planning Board does request that one of its members serve as Acting Chair in the absence of the Planning Board Chair. There are three (3) meetings left in this year.

Mr. Silliman called for a motion from the Board, that Mr. Howard Engel, the most senior member of the Board, serve as the Acting Chair for the balance of the year.

A motion to approve Mr. Engel as the Acting Chair for the remainder of 2008 was offered by Ms. McCarthy, seconded by Mr. Smolinsky and approved by all Board members present.

Mr. Engel said, though not easy, the Board in the remainder of the year, would hopefully complete some of the projects that were very important to Chairman Mathusa.

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

Capital Communications Federal Credit Union

The first item on the agenda was a request for a site plan amendment for five (5) parking spaces for employees. The project was last before the Board on October 21, 2008.

Mr. Marchessault from Baron Construction presented for the applicant. He said at the last meeting they presented their project for adding five (5) parking spaces for employees at the rear of the site. He said they adjusted the plan to comply with the Town's requirements to have parking spots nine (9) feet by twenty (20) feet. They have pushed the edge of the parking lot closer to the property line. They have increased the travel lane around the back of the building. The smallest portion of that lane is thirteen and one half (13 ½) feet wide. He thought those were the issues that had been a concern of the Board.

Acting Chairman Engel said the most recent plans submitted had addressed the concerns of the Board.

The Board reviewed draft the site plan amendment S.P.A. A-1 prepared by staff.

A motion to approve S.P.A. A-1 as drafted was offered by Ms. Powers, seconded by Ms. McCarthy and approved by all Board members present.

Carol Richards Subdivision

The next project on the agenda was the possible action on the Preliminary Plat approval for Carol Richard's Subdivision on the corner of Fisher Blvd. and New Scotland Ave. It was last before the Board for a public hearing on October 7, 2008.

Mr. Leslie said there hasn't been any progress on the issue of access onto Fisher Blvd. The Planning Department has recently received a letter from the Open Space Institute indicating their purchase of the twenty-four (24) acres is contingent on access to Fisher Blvd. They also indicated in the letter that the conveyance to New York State is also contingent on the access onto Fisher Blvd. He said the Board has for their review, a Preliminary Plat Approval with an item indicating Parkland Reservation will be required as part of the Conditional Final Plat Approval. The Preliminary Plat Approval puts the applicant on notice that the Planning Board recommends the Parkland Reservation, which is a twenty (20) foot wide area discussed at prior meetings. The Board also has a memo for their review to the Town Board and the Parks Department. As part of the Reservation of Parkland, the Planning Board is required to refer the recommendation to the Town Board and the Parks Administrator for their input.

Mr. Silliman said the letter from the Open Space Institute states the exclusion of the access to the interior lot significantly affects public accessibility to the property and public access is critically important to both the Open Space Institute and the State of New York. Therefore both OSI and the State support the Town's request for an access to Fisher Blvd. The letter further states that OSI's acquisition of the twenty-four (24) acre interior parcel is contingent on such access. He asked if anyone from OSI was present to verify.

Mr. Leslie said he read the letter to mean that the purchase was definitely contingent on the access. Ms. Bakner said in an earlier letter from OSI she had received and staff had a copy of, OSI said it will acquire the interior parcel. She felt they had changed their position.

Mr. Engel said the letter staff had was dated November 17, 2008. He said the project has been before the Board for awhile and the public hearing has been held. He acknowledged the receipt of correspondence from interested parties. Mr. Leslie has presented the documentation for the Board's consideration along with a map to be sent to the Town Board. Ms. Powers asked the applicant to explain the objection to the access.

Ms. Bakner, Esq. said she represents Carol Richards. The position Ms. Richards maintains is that she does not wish to provide a public access easement along lot 45. Ms. Richards has directed Ms. Bakner to respectfully request that the Preliminary Plat be approved without the Parkland Reservation condition. She understands that without the access there will be parkland fees in lieu of that would be assessed. In the event OSI or the State do not want the property, her intention is to preserve the interior lot. She has worked with OSI for a few years to handle the sale. It is unfortunate that they have changed their position. Ms. Richards has authorized Ms. Bakner to indicate that in the event it is approved with the access easement, she will most likely not move forward with the filing of the plat.

The proposal has been and continues to be to preserve twenty-four point sixty-three (24.63) acres, partially in the Town of New Scotland and in an area of the Town that is adjacent to Five Rivers. She thinks her request is reasonable. She is proposing only seven (7) lots to be built upon and each lot is at least twice the size the zoning requires. Ms. Richards directed the parcels to be designed without any impacts to the wetlands. One of the reasons she objects to the access is because in that area it will have an impact on wetlands. ACOE has confirmed the delineation of the wetlands on the property. NYSDEC has confirmed there aren't any state wetlands. Ms. Bakner said the issue before the Board is weighing and balancing what is before them. If the Board doesn't see any value in the preservation of the twenty-four plus (24+) acres or Ms. Richards' proposal, there wasn't anything more to be done. Ms. Bakner thought it was unfair to assume the only people that would benefit from the preservation were the surrounding parcels. She thought it was a benefit to preserve areas like this in urban and suburban areas. Ms. Richards has remained consistent in her desire to sell the property to OSI or another group for fifty thousand (50,000) dollars with a development restriction in the deed. Ms. Bakner was disappointed that the letter from OSI came so late in the process. She thought her proposal was reasonable.

Mr. Leslie said as part of the Parkland Reservation, the Planning Board needs to refer their recommendation to the Town Board and the Parks Department. Those entities would weigh in on whether they agreed with the Planning Board's recommendation. Once the Planning Board has that information, they would be able to proceed with the Parkland Resolution and the Conditional Final Plat. The Parkland should be shown on the final plat.

Mr. Leslie said a lot of the information the Board has heard this evening is in regards to an access easement. He said this will not be an access easement but a Parkland Reservation that the Board has the authority to require. As far as the wetlands on the strip of land identified for the Parkland, staff has had conversations with the ACOE and any impacts to those wetlands would be covered under the Nationwide permit #42 for recreational facilities. The Town would work with the State, the adjoining land owner, to minimize any impacts to those wetlands which amount to about one hundredth of an acre. He said Lot 25 had a driveway that goes back to the interior lot and there aren't any wetlands on that parcel. The Board could look at another area for the Parkland Reservation if they have a concern with the wetlands. Mr. Leslie stated that Carol Richard's attorney in California was in contact with OSI and he was sent a copy of the letter on Monday.

Ms. McCarthy asked if the Board required the Parkland Reservation, does it mean that in addition to the twenty-four (24) acres, the Board is also requiring Ms. Richards to give the Town more land. Mr. Silliman said the Town would not be getting the twenty-four (24) acres it would go to OSI then Five Rivers. Additional land is being required under the Parkland Reservation.

Ms. Powers asked if the Parkland Reservation would diminish the value of a lot Ms. Richards could sell. Mr. Leslie said they haven't heard from any realtors that that would be the case. It does take twenty (20) feet from a lot that is a two (2) acre lot.

Mr. Engel said he has been involved with the Planning Board for seven (7) years now and was involved with the Comprehensive Plan. He said the project had been presented and received with great enthusiasm because Ms. Richards wanting to preserve land and the Town wanting to meet the objectives of the Comp Plan by working to provide open space land for all residents to enjoy. All parties involved in this project on both sides have worked diligently to try to bring this to fruition as a model project. Supervisor Cunningham, DEDP Director Mr. Leveille,

Mr. Morelli and Mr. Leslie have worked hard to make this project happen. Unfortunately the project has come to a road block in trying to agree on an access for all parties involved. He said the letters from OSI, Five Rivers and the Town all feel that access from Fisher Blvd. is of critical importance to the project. Mr. Engel said he was aware of the feelings of the surrounding neighbors but he felt the key to this and part of the Comprehensive Plan was deciding issues on the relevance and importance to the entire Town of Bethlehem. He said the current access to Five Rivers was not pedestrian or bicycle friendly but designed for vehicular access. Mr. Engel said even though he has received a lot of positive comments on the project, the Board was now at a point where a decision must be made.

The Board reviewed the draft Preliminary Plat Approval 240-P prepared by staff.

A motion to approve Preliminary Plat Approval 240-P as drafted was offered by Mr. Behuniak, seconded by Mr. Smolinsky and with of five (5) for and Ms. McCarthy no, the motion was approved.

The Board reviewed the draft recommendation letter to the Town Board from the Planning Board concerning proposed Parkland Reservation for the Carol Richards Subdivision.

A motion to forward the letter to the Town Board and the Administrator of Parks and Recreation as drafted was offered by Mr. Smolinsky, seconded by Mr. Behuniak and with a vote of five (5) for and Ms. McCarthy no, the motion was approved.

A motion to table the project was offered by Ms. Motta, seconded by Ms. McCarthy and approved by all Board members present.

Edward and Sheri Ciccone

This item on the agenda is a proposal to rezone lots 99 through 111 on Corning Hill from a Residential A District to Commercial Hamlet.

Mr. Buldoc from Keystone Builders presented for the applicant, Mr. Ciccone of C & S Classic Car Restorations. Mr. Buldoc is working on the architectural aspects of the project. He wasn't as familiar with the rezoning aspects. He said the project was in a residential district directly adjacent to the Cumberland Farms on Rt. 9W. The Town Board has accepted this application and referred it to the Planning Board for review and recommendation. Mr. Ciccone said there are five (5) parcels on Corning Hill Road that are interested in the rezone. The total acreage is six point one (6.1) acres of land. Mr. Buldoc said there is currently a single family home with a three (3) bay garage on Mr. Ciccone's parcel. Mr. Ciccone's intention is convert the entire parcel into a commercial use. He wants to use it for classic car restoration. Mr. Buldoc showed the Board the proposed architecture of the rehabbed building for the commercial use. The three (3) bay garage would remain and the house would be brought down to one (1) story and attached to the garage. Mr. Ciccone wants the new building to look like an old fashioned garage. The façade will be a mix of vertical board and stone. The new garage doors will have a carriage look. Mr. Buldoc said the area on Corning Hill is very busy with truck traffic and in his mind it's a commercial area. Mr. Ciccone said the other property owners, of which there are five (5), that want the zone change feel that the commercial hamlet will be a nice transition from the general commercial on the corner to the residential further down the hill. They would like to try to increase the value of their properties. A neighbor of Mr. Ciccone's tried to sell his property within the last two (2) years and after being on the market for a year, he didn't have any success. Mr. Ciccone said his business would not increase traffic because he only works on three (3) cars per year. He said they are not open for the public to come in. His customers are appointment only.

Mr. Morelli said at this point, the Planning Board is reviewing the rezoning application only. Any change to the Official Zoning Map needs approval from the Town Board. The Planning Board's role is review and to make a recommendation to the Town Board. He said the general commercial zone along Rt. 9W allows for the large retail businesses. The proposal here is for a transitional zone and commercial hamlet would allow for that transition. The commercial hamlet zone allows and encourages the adaptive reuse of residential structures for commercial

purposes.

Mr. Behuniak asked if there would be a public comment period for the project. Mr. Morelli said once the Planning Board makes a recommendation to the Town Board, the Town Board will hold a public hearing on the rezoning application. If it is approved, Mr. Ciccone will need to apply to the Planning Board for a site plan/Special use permit, that also requires a public hearing. Mr. Morelli said currently Corning Hill Road on the south side is Rural Zoned and the north side is Residential A, the bottom of the hill near Rt. 144 is Rural Light Industrial.

Mr. Morelli said if the Planning Board is in favor of the rezone, staff would prepare the SEQR document and Recommendation to the Town Board for the Planning Board's review and approval at the next Planning Board meeting.

A motion to table the project was offered by Ms. Motta, seconded by Mr. Smolinsky and approved by all Board members present.

Diversified Auto

The next item on the agenda is a possible site plan located at 75 Speeder Road for construction of a self service fueling station.

Mr. Zynecki from Father and Sons Engineers, presented for the applicant. He said the proposed plan is to put a private fueling station at 73 Speeder Road for their car haulers. It would consist of two (2) pumps and one (1) card reader as well as a fuel tank located within an existing building. He said that 75 Speeder Road is the garage next to the fueling station. Mr. Lipnicky said Diversified Auto will lease two (2) structures at 73 & 75 Speeder Road.

Acting Chairman Engel said Mr. Lipnicky has indicated there aren't any significant issues with the proposal. Speeder Road is a private road with no residents on that road.

Mr. Behuniak asked the applicant to explain a letter submitted on November 11, 2008 in regards to the septic system approval. Mr. Zynecki said there was some concern about Albany County approval of the septic system there. They had some difficulty finding the original approval. They ran some of their own tests to determine that the system was functioning properly. They don't plan on changing or increasing the load on the system, the letter states that the septic system will continue to serve its purpose. Mr. Ritz said that three (3) or four (4) building are serviced by one (1) septic system. The Engineering Department's concern was that the septic system was functioning properly. The applicant did some research and Albany County also found out that back in 1995/96 the original applicant filled out a permit, was inspected by the County and the County approved the system that is currently there. Mr. Ritz said everything was fine for the fueling station because no additional load is being added.

Mr. Behuniak asked the applicant to resubmit the letter with more details. Mr. Ritz said Albany County had a copy of the letter and they were satisfied with the information. Mr. Silliman said because the Town's Engineering Department was satisfied and the Albany County Health Department was satisfied, the revised letter was not necessary to proceed with Site Plan Approval. The additional letter would be put in the file.

The Board reviewed the draft SEQR Resolution prepared by staff.

A motion to approve the SEQR Resolution as drafted was offered by Ms. McCarthy, seconded by Ms. Motta and approved by all Board members present.

The Board reviewed draft Site Plan Approval S.P.A. 151 prepared by staff.

A motion to approve Site Plan Approval S.P.A. 151 as amended was offered by Mr. Smolinsky, seconded by Ms. McCarthy and approved by all Board members present.

The Board reviewed the draft minutes of September 16, 2008 prepared by staff.

A motion to approve the minutes of September 16, 2008 as drafted was offered by Ms. McCarthy, seconded by Ms. Motta and with a vote of four (4) for and Ms. Powers and Mr. Smolinsky abstaining, the motion was approved.

The Board reviewed the draft minutes of October 7, 2008 prepared by staff.

A motion to approve the minutes of October 7, 2008 as amended was offered by Ms. McCarthy, seconded by Mr. Smolinsky and approved by all Board members present.

The Board reviewed the draft minutes of October 21, 2007 prepared by staff.

A motion to approve the minutes of October 21, 2008 as drafted was offered by Ms. McCarthy, seconded by Ms. Motta and approved by all Board members present.

A motion to adjourn was offered by Mr. Smolinsky, seconded by Mr. Behuniak and approved by all Board members present.

The meeting adjourned at 7:30 PM.

Respectfully Submitted,

Nanci Moquin