

**PLANNING BOARD
TOWN OF BETHLEHEM**

March 7, 2006

The Planning Board, Town of Bethlehem, Albany County, New York held a **Regular Meeting**, on March 7, 2006, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Mathusa presided and called the meeting to order at 7:30 pm.

Present: Parker Mathusa, Planning Board Chairman
Keith Silliman, Planning Board Counsel
Daniel Odell, Planning Board Member
Howard Engel, Planning Board Member
Christine Motta, Planning Board Member
Thomas Cotrofeld, Planning Board Member
Brian Collier, Planning Board Member
Kathy McCarthy, Planning Board Member

Michael Morelli, Deputy Director of Economic Development & Planning
Jeffrey Lipnicky, Town Planner
Janine Saatman, Deputy Town Planner
Terry Ritz, Assistant Engineer

David Wendth, Beverwyck
Doug Miller, Beverwyck
Davie Caesar, Beverwyck
Brett Steenburgh, Beverwyck
Sam Messina, Town Board Member
Peter Reilley, Esq. Epstein/ Anguish
Mr. Epstein
Mr. Anguish
Vicki Wright, RCS Superintendent, Epstein/ Anguish
Howard Schafer, Epstein/ Anguish

Agenda: Beverwyck IV
Bethlehem Town Center II
Epstein/ Anguish Lotline Revision

Chairman Mathusa called the meeting to order at 7:30pm and noted the presence of a quorum.

Beverwyck IV

Chairman Mathusa turned the Board's attention to the first item on the agenda, Beverwyck Phase IV. Mr. Wendth stated that the project consisted of 14 cottages with access from Beverwyck Lane, which is a continuation of a private road system. The applicant was hoping to start construction this spring.

The first item for the Board's consideration was an information waiver request from the applicant. The Board had been sent the applicant's request and the draft Information Waiver Resolution prepared by staff and reviewed by counsel.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

A motion to accept the Information Waiver Resolution was offered by Mr. Collier and seconded by Ms. McCarthy.

There being no further discussion or changes proposed, the Board voted to approve the motion to accept the Information Waiver Resolution as drafted.

The next document for consideration was a draft Building Project Approval Recommendation, Amendment #4 to BPA No. 26. The document had been prepared by staff and reviewed by Counsel.

A motion to accept the Building Project Approval Recommendation, Amendment #4 to BPA No. 26 was offered by Mr. Collier and seconded by Mr. Engel.

The Board discussed the document and minor changes were proposed. Chairman Mathusa reminded the Board that the march 3rd letter from Terry Ritz would be a part of the conditions that needed to be satisfied. The Board voted to approve the motion to accept the Building Project Approval Recommendation, Amendment #4 to BPA No. 26 as amended.

Bethlehem Town Center II

Chairman Mathusa turned the Board's attention to the next item on the agenda, Bethlehem Town Center II's request for an amendment to their approved site plan.

Mr. Giovenco presented for the applicant. He stated that Staples had changed their space requirements for their store and the changes reflected that request. They had requested a deeper store. The total square footage of the stores had been reduced by @ 91 sq ft. The other significant change was the elevation of the building had been lowered by two (2) feet. By lowering the building, they could reduce the amount of earth disturbance. Environmentally and economically it was a benefit. This would also lower the parking lot and the view from Rt. 9W would be improved. The loading dock and the dumpster facility had been moved to the rear reducing the visibility. The front entrance to the site remained the same.

Mr. Giovenco stated that there was now an access easement to the Van Derpoel property. The snow removal storage area would be moved. If the access was ever built, Nigro Companies have agreed to remove that snow from the access point. Mr. Giovenco stated that the retaining wall in the rear was lowered and Mr. Gifford, the Geotechnical Engineer, had reviewed the plans and saw a benefit.

Mr. Collier asked if the new green space behind the smaller stores had a specific purpose. Mr. Giovenco said if they had paved the area it would have put the applicant over the threshold that had been established by SEQR.

Mr. Lipnicky mentioned that the approved plans had shown columns in the front of the proposed Pet Smart. The current plans did not show those columns. He asked if the applicant was proposing a change to the approved elevations. Mr. Giovenco said that the covered walkway did not extend to the entrance of Pet Smart. Mr. Collier asked if the façade of Pet Smart would be different from the other parts of the plaza. He said that the prototypical front of Pet Smart did not fit with the remainder of the plaza. Mr. Odell asked if the elevation was a change from what was approved. Mr. Giovenco stated that it was a change. He said it would be a significant distance from the road and didn't think it would

be that visible. Mr. Odell stated that if the revised plans indicated a change, he wanted a large enough rendering to make an informed decision. The board agreed.

Barton & Loguidice, the Town designated engineer, would be reviewing the revised plans for any technical issues.

A motion to table was offered by Mr. Cotrofeld, seconded by Ms. McCarthy and approved by all members present.

Epstein/Anguish

The next item on the agenda was a proposed lot line revision in Dowerskill Village. It would be an amendment to an approved Building Project Approval. Mr. Reilly from Ianniello, Anderson and Reilly presented for the applicant. He stated that two neighbors, Mr. Anguish and Mr. Epstein, had proposed a lot line revision to rectify the problems caused by an erroneous survey. Certain improvements were made by Mr. Anguish based on that survey, on what has been identified as Mr. Epstein's property.

Mr. Silliman stated that the circumstances surrounding this proposed lot line revision were unique. He had worked in conjunction with Mr. Moore, the Zoning Board Counsel, crafting the language in the recommendation before the Board. He understood that the lot lines as proposed would not be favorable in an initial division of land, but in this instance the neighbors had worked together on the solution. Mr. Silliman stated that the attorneys agreed that this would not have precedent setting status. The documents were crafted to reflect this statement.

Mr. Engel thought there was potential to set precedent. He did not feel that the exchange of property was of equal value, as stated in the letter. The prime reason for this exchange was to change school districts. He thought there were other solutions to land exchange. Mr. Engel wanted to know if the RSC School District had been notified of this proposal. He was concerned with their loss of revenue.

Mr. Reilly said that the Education Law allowed a homeowner to choose what school district to send their children if their lot had land in both districts. There was no minimum area necessary for this choice to be an option. He said that the circumstances involved in this case were caused by honest errors and not intentional.

Chairman Mathusa wanted to know why Mr. Anguish had another survey done and not use the survey that had been done by C.T. Male during the approval of the PDD. Mr. Anguish said they had a survey done so they could place a row of trees. The problems and mistakes continued to compound from there.

Mr. Collier stated that he thought other circumstances could arise that would be equally unique so he did not agree with that argument. He felt that there were other solutions.

Mr. Schafer and Ms. Wright, both representing RCS School district, said that the applicant had not contacted the school district for their input. Ms. Wright felt that since neither home owner had applied for a building permit for their sheds, where line problems would have been identified and neither home owner had contacted the RCS School District, she was not in favor of the Board approving this lot line revision. Mr. Schafer thought that there must be a better solution. He wanted to know if the sheds could be moved. The homeowners said there wasn't enough land.

Mr. Epstein said that his attorney had advised him that this solution kept the value of his mortgage whole. This was his concern. He said that the neighbors had tried to monetarily negotiate and it didn't go well.

Mr. Morelli agreed with Mr. Silliman that this was a unique situation and the Town did not object to the proposed solution.

Mr. Silliman stated that there was a Recommendation before Planning Board to send back to the Town Board. The Town Board would have the final approval authority.

Mr. Odell said that the design of this lot line adjustment was not consistent with good planning of laying out lots. He thought that this was a reach.

The Board reviewed the Information Waiver that had been prepared by staff.

A motion to approve the Information Waiver was offered by Mr. Collier, seconded by Ms. McCarthy and approved by all members present.

The Board reviewed the Building Project Approval Recommendation, Amendment #2 to BPA #32 that had been prepared by staff.

A motion to accept the Recommendation as drafted was offered by Ms. McCarthy, seconded by Ms. Motta, the Board voted 3 in favor 4 against to approve. The Building Project Approval Recommendation, Amendment #2 to BPA #32 as drafted was disapproved.

A motion to accept the minutes as drafted was offered by Mr. Collier, seconded by Mr. Engel and approved by all members present.

A motion to adjourn was offered by Mr. Cotrofeld, seconded by Ms. Motta and approved by members present.

The meeting adjourned at 9:35.