

Town of Bethel
Planning Board

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The Town of Bethel Planning Board held a Work Session on December 8, 2009 at 7 PM at the Bethel Senior Center, 3594 State Route 55, and Kauneonga Lake. A regular meeting of the Planning Board followed on the same date at 7:30 PM.

Pledge to the Flag

In attendance: Dan Gettel Chairman, Steve Simpson, Bill Brey Vice Chairman, David Biren, Michael Cassaro, Susan Brown Otto, BJ Gettel Code Enforcement Officer, Vicky Vassmer-Simpson, Councilwoman, Jacy Ricciani, Attorney, and Jannetta MacArthur – Recording Secretary

Excused: Michael Weeks Engineer, Wilfred Hughson

David Slater arrived 7:40 pm

Dan Gettel: I believe there is a correction on the minutes from last month, page 4 of 7, under the 3 conditions that are listed on top of the pages, it says "Letter stating that Michael's concerns, specifically the one stated in the October meeting are addressed prior to my signing the maps." That should say letter stating that Michael's concerns specifically the ones stated in the October **letter** are addressed prior to my signing of the maps. I would like that correction made. Does anyone else have any comments on the minutes?

Susan Brown Otto: Yes, two comments. #1, on page 4, cul-de-sac should be spelled with a u, not a.

Jannetta MacArthur: Yes, those corrections have already been addressed.

Susan Brown Otto: I have another comment. Last month with the Spenseria project which was the first project before the board. There was a gentleman that came up before the board that sat next to the easel there. He is not noted here in the minutes in terms of who he was, I have spoken to several board members, and some people said that on the record he identified who he was, but his name does not appear in the minutes.

Jannetta MacArthur: He did not identify himself

Susan Brown Otto: I would like to know what the rules are for recusal when you have a person who is an attorney sitting up front who is representing the project and he previously represented the Town of Bethel as our attorney. Is that a conflict of interest?

Dan Gettel: In my opinion there were a number of attorneys that sat in the audience at the last meeting. Nobody identified themselves, I don't feel it's this board's....., I don't think it is proper for this board to question why people are sitting in the audience, whether they are attorneys or whether they are..... I just don't

Susan Brown Otto: But he sat up front, and therefore I think it would leave one to believe though he did not identify himself and speaking to several board members, some board members said he did identify himself, and some people said he didn't identify himself, the minutes do not reflect that he did identify himself. To what degree, you know, when someone is sitting up front, right next to the engineer, is that person, be it, what are the rules whether he is identifying himself or not in terms of the fact that he previously represented the board on this project.

Jannetta MacArthur: He did not speak at all

BJ Gettel: He did not speak.

Jannetta MacArthur: He didn't identify himself, and he did not speak

Jacy Ricciani: There would be no reason for him to identify himself. It is an open meeting, anybody can come and watch.

David Biren: He just happen to sit there.

Susan Brown Otto: But still, the thing is, let's say okay he identify himself. Let's say he sat in the back, what are the rules then for recusal, let's say he is representing the Spensiari project, is that a conflict of interest the fact that he previously represented the board.

Dan Gettel: I don't know that he could represent the Spensiari project if he already was on the board when that project was reviewed.

Jacy Ricciani: The ethical rules for attorneys that they cannot take a position that is adverse to a former client, now being that the Planning Board is a former client, if he was to advocate for something on behalf of Spensiari, that was contrary to this body, then that could present a potential conflict of interest what that attorney would need to do is essentially ask this board to waive any conflict in order to allow him to represent another party. So if an attorney, lets say that there is a former attorney who is now coming before this board on a new project, the first thing that attorney would need to do is disclose to this body that he had previously represented the Planning Board, or even if its somebody who may have previously represented the town they would need to disclose that and then the analysis would continue to determine whether it is an actual conflict because if this

attorney has acquired confidential information about the Planning Board that could then be used against the board, then that attorney would be disqualified from representing the applicant. I think the chances of that happening are very very remote. I don't think there is a lot of confidential information going on, everything is done publicly. So then it would be that it's a potential conflict of interest - which means that it looks bad, because you are now going against your former client and in that case there's a number of different things that can be done short of asking the attorney to disqualify himself but I don't believe that it would ever get to that point because any attorney who is going to be approached by a potential applicant, what I mean to say is that if an applicant walks into an attorney's door and says that I want you to represent me before the Town of Bethel Planning Board, that attorney should say wait a minute that is my former client, let me talk with them, let me talk with BJ, or talk with Dan, and find out if it would be permitted. I don't think it would ever get to the point where in a public meeting it would be an issue. I don't think that the fact that the gentleman that was sitting there created any kind of a conflict that would require him to recuse himself because he didn't do anything to be disqualified. Questions?

Susan Brown Otto: I just..... It wasn't clear to me, when he's sitting right up there, and I didn't recall whether he did identify himself, and since speaking to different board members some people thought he did, some people thought he didn't

Jacy Ricciani: Everybody knows him. It's a small world, everybody knows who he was.

Dan Gettel: I honestly didn't see him. I thought he was sitting over here. I was paying attention to who was speaking. I didn't even notice him sitting over there.

Jacy Ricciani: From an attorney's ethical perspective it was not a conflict of interest or a means to disqualify him, just the fact that he was present at the meeting. He is allowed to do that.

Dan Gettel: We had half a dozen attorneys at the meeting last month.

Motion to approve November 2009 minutes with the corrections that were stated earlier, by Steve Simpson, second by David Biren

All in favor – 6

All opposed – 0

Agreed and carried

1. Site Plan & Special Use Permit application for a project located on Behr Road, known as Bethel Tax Map#: 1-1-64.4, proposed by James Karadontes.

Bill Sattler – Adler Engineer – representing applicant Jim Karadontes. Basically BJ covered it pretty good.

Dan Gettel: That wasn't on the record, so if you don't mind.

Bill Sattler: We'll start over again. So Jim owns the corner lot where his residence is, he also owns the almost 14 acres immediately behind that. He has a swimming pool business..... (Showing on map) There is Jim's house, this is Behr Rd, and this is Townsend Rd immediately behind his house he owns almost 14 acres where he would like to put a building up. He is in the Swimming Pool business, and part of his business is installing pools and maintaining those pools. So rather than buy chlorine from other distributors, he would like to be a distributor himself. Store the chlorine there, not for sale to the public to load his own trucks in the morning, go out, and service his pools. Buy in bulk and store there. We do have a copy of the building plans here. You will see on the right hand side a separate containment area for 3 – 2500 gallon vats, the DEC requires that we have spill holding capacity 110% of that. That is also in the building plans it is highly unlikely the three separate vats are going to spring a leak all at the same time but, as remote as it is, it is possible, so we will be able to contain that, plus 10%.

Dan Gettel: That's the 15 x 19 ft room?

David Biren: Are all the vats piped together, or are they separate?

Bill Sattler: They will be connected together at the bottom

David Biren: So it is a possibility

Bill Sattler: They are valved separately. This way he can isolate one from the other.

David Biren: That's what I wanted to know.

Dan Gettel: They are going to need to meet DEC requirements.

Bill Sattler: We're obligated to.

Dan Gettel: Just let the record show that David Slater is here, and I am seating him as a replacement for Willie Hughson.

Arrived 7:40 pm. David Slater – alternate – seated to replace Wilfred Hughson

Bill Sattler: Also in the area of the garage he will keep his trucks and other equipment there and there will be a small office area, which he will keep heated. No bathrooms or plumbing or maybe he will keep a johnny on the spot or something, which will be maintained should he have that many employees that he would require bathroom.

Dan Gettel: And the project meets zoning as far as setbacks go. Just for the record, it is 330 ft off of the road, 304 ft off of the rear property line. The closest you are 60 ft to his own property line.

Bill Sattler: Yea, he is 60 ft to his own property line. 409 on the left hand side, 304 in the back, 330 from the road. The area, the frontage facing the road is heavily wooded. You would be pressed to see this from the road.

Susan Brown Otto: The further, because I am very familiar with the road, so it's not going to be where it is cleared in through here then.

Bill Sattler: No. This driveway is existing, and he is going to put off to the side. Even if you want to look up the driveway you still wouldn't see the building. Not that it is going to be an ugly building, but it is a pole building. It is commercial looking. But it will be a new modern building. And we have talked about the possibility of not going with a pole building and amending the plans to go with block constructions and a monolithic slab, it is all on shale.

Dan Gettel: There were some concerns raised during the work session about getting a fire truck in and being able to turn it around in case there is a problem on the site.

Bill Sattler: Well there are lots of turn around area here (showing on map) accessed to the side door to fill the vats to his garage, but he is going to have a non paved driveway that goes around the building, so a fire truck could come in drive right around the building and go out without backing up.

Jim Karadontes: I have to make the driveway go around for the truck to come in and fill the tanks. That trailer is going to go around the whole building.

David Biren: How big is this truck that we are talking about?

Jim Karadontes: A tractor-trailer

Bill Sattler: It holds about 2500 gallons. I'm thinking about the size of a fuel oil truck. Not a tractor-trailer

David Biren: It's still a decent size

Bill Sattler: That holds 10,000 gallons. It is sodium hypo chloride. It is much less abrasive than chlorine. There is a big difference between the two chemicals.

Dan Gettel: For the record, please indicate on the plan that there will be a drive around the building, in case of emergency access

David Biren: I would also like to know the width of the road

Susan Brown Otto: If you had, if there was a fire, would you use water or foam?

David Biren: It's a special system you should have for the chlorine.

Susan Brown Otto: I mean to put out the fire. Would you use water?

David Biren: No.

Susan Brown Otto: Foam?

Bill Sattler: The liquid won't burn

David Biren: The fumes will

Bill Sattler: On sodium hypo chloride?

David Biren: Yes, it will still have fumes. Not as much as chlorine, but they still do

Bill Sattler: So the width of driveway, we are showing it about 16 ft, which 2 cars could pass and any truck should be able to drive up there. So we will carry that same 16 feet around here to the right of the building and in front of the building

Dan Gettel: Just indicate it on the plan. What is the existing driveway now, and are you making improvements to it

Bill Sattler: The existing driveway is pretty passable, it has been used for it is heavy shale, it needs maintenance, but it doesn't need any more base

David Biren: 16 ft is kind of narrow

Susan Brown Otto: Yes, cause one of the concerns we've had with previous projects is the issue of fire trucks, this would not be a fire truck with a tanker or whatever, but getting....., lets say it's icy and you could only, let's say the truck gets blocked, you know to what degree can you have, especially with chemicals as opposed to lets say a wood shed

Bill Sattler: 16 ft is a pretty generous width when you think what a two lane is, when you think, each lane is 12 ft, 6 inches wide, so it is wider than a two lane road where trucks are traveling 55 mph, this is a driveway

Dan Gettel: It's not a commercial driveway either

Bill Sattler: That's 10 mph traffic

David Slater: I don't think it would be a problem. I have driven past that road thousands of time. Being a fire chief in Kenoza Lake, I don't think it would be a problem. I have driven past that. As long as it is plowed, there would be no problem getting a truck or two trucks, it wouldn't be a problem, I don't think

Bill Sattler: It's level, the site distance is good. If they needed a source of water, the pond is there

Dan Gettel: You can tell by the topography that is not a very steep site. BJ, you were saying

BJ Gettel: The storm water SWPPP, they are not going to disturb more than an acre of land. It's not going to trip that whatsoever. Like I said, he will have to comply with DEC regulations.

Dan Gettel: Since it is not open to the public, there is no signage

Susan Brown Otto: Does the DEC, I'm just saying, you know, we are dealing with chemicals here, we hear of like a railroad car exploding with chemicals and things like that, and I'm not a scientist, or chemical engineer, are there any rules in terms of locking the facility so kids can't get in there and create problems, no because, I mean we have these large quantity of chemicals

Bill Sattler: That is why I included a smaller scale version of the floor plan for the building, you'll see the two doors, and they will be locked. They will be key access probably by Jim himself maybe an employee

Jim Karadontes: There is going to be an alarm system. The DEC, they have to inspect it or they won't let me fill it. You need alarm, you need eyewash, there is a lot, there has to be secondary containment. The DEC before I can do anything, they have to come out and approve everything before I can..... The chlorine company has to approve as well, or they won't deliver.

Susan Brown Otto: Just understand where I'm coming from

David Biren: Will the DEC allow trucks e into the building.

Bill Sattler: There is a definitive separation

BJ Gettel: There has gotta be a firewall separation between the chlorine and the rest of the building

David Biren: What are you using for a firewall?

Jim Karadontes: It is block wall – 8" block while 2x4 partitions

Dan Gettel: Did you bring pictures?

Bill Sattler: We have these pictures; we were going to bring more. I am going to let Jim explain the pictures because he brought them.

Jim Karadontes: This is the existing driveway. I think it measures quite more.....

For the record 2 pictures showing of the existing driveway cut at Behr Road.

Jim Karadontes: (Explaining pictures) this is the road, and comes up and circles – the building will be in back, this picture is looking down

Dan Gettel: You are looking away from Behr Road in the property

David Slater: Where the building would sit, looking back at the backside

Dan Gettel: So you are showing us a picture that shows the area where the building is going is already cleared.

Jim Karadontes: Yea, it's all shale.

Dan Gettel: The pictures show it is relatively flat site; the building is going in a spot that is already cleared. It looks like an old field. Any questions from the board. Since it's not open to the public, we are not looking for signage, or any real landscaping I don't think. Lighting is going to be security lighting I assume if you want to indicate something on the building. We talked about; just indicate the width of driveway, and what improvements you are going to make to it as far as if it is going to remain shale just call it a shale driveway. You are going to show a loop on the plan.

Susan Brown Otto: And there will be no signage? Correct, or?

Jim Karadontes: People drive on Behr Road will know that there is, the truck will know where to go.

BJ Gettel: There will be 911 # at the base of the driveway. I know what you are referring to yes.

Susan Brown Otto: But it is from a consistency standpoint.

Dan Gettel: We are looking at something that is less than 8 sq ft.

Bill Sattler: Definitely. Just for delivery, emergency vehicle identification, not for consumer identification.

Susan Brown Otto: Is it 8 sq ft?

Dan Gettel: I think that is fine for delivery. Any other questions from the board? My only thing is, lead agency with DEC. How does that work?

BJ Gettel: Short form seqr – I will send them a letter. I'm going to find out from Jim and Bill who they have been dealing with down at the DEC, I will send a letter directly to

them. This way I will get an immediate response. Otherwise it goes to New Paltz, and I wait. They will get a copy of the application because of the nature of the business

Dan Gettel: Any other questions? They would like a public hearing; they would like that next month.

David Biren: Will there be a phone system in the building

BJ Gettel: There has to be

Steve Simpson: How is the power coming to the building?

Jim Karadontes: I haven't looked into it yet. We are going to have to run electric to it. I guess bring from a pole.

Bill Sattler: It is at the street. There are probably 3 poles on the property.

Jim Karadontes: If I can go underground, I would rather it looks nicer.

Steve Simpson: Sometimes they put the pole lines in – straight shot.

Dan Gettel: It is really your call

Bill Sattler: With all the trees I don't know.

Dan Gettel: I don't think we are going to require it either way. But look into it. We don't want you to open up the view to the road.

Jim Karadontes: I don't want that either

Susan Brown Otto: Being the fact that it is January, should we consider that since it's January when we are going to have the public hearing what the date will be in case the weather is inclement state that it would then be held in February because of the weather?

Dan Gettel: It would have to be readvertised.

BJ Gettel: If for some reason we don't hold a meeting regularly scheduled in January the earliest I can reschedule would be 2 weeks after the January date would be the earliest. I have to be able to do renotification and I have to have 14 days notice for the newspaper, so it would be 2 weeks after that date.

Dan Gettel: But the adjoiners would be renotified.

Susan Brown Otto: But that would be at our next Planning Board meeting in February.

BJ Gettel: No, two weeks after the January date could be the earliest.

Susan Brown Otto: We wouldn't have a special public hearing.

Dan Gettel: We would push it to February.

BJ Gettel: That is up to the board

Susan Brown Otto: I'm just saying in terms of the communication that goes out to the neighbors, given the fact that it is January, should we say that in the event of inclement weather.

Dan Gettel: You can't do that. You have to renotify

Bill Sattler: Can we schedule a public hearing?

Motion to schedule public hearing for this application at the January meeting by Bill Brey, second by Susan Brown Otto

All in favor –7

All opposed –0

Agreed and carried

2. Administrative Items

a. Appointment of Chairman

b. Appointment of Vice-Chairman

c. Re-appointment of Member

d. Revised Application Form – 3 pages

Dan Gettel: With the exception of revised application form, we need to discuss 2 a, b, & c.

Susan Brown Otto: Is Vicky going to be here after the meeting?

Dan Gettel: Vicky is going to update the board, what the Town Board is planning tomorrow night.

Motion to go into executive session – 8:00 am by David Biren, second by Steve Simpson

All in favor –7

All opposed –0

Agreed and carried

Motion to go back into regular meeting by Steve Simpson, second by David Slater

All in favor –7

All opposed –0

Agreed and carried

8:20 pm

Dan Gettel: In executive session we discussed the reappointment of the chairman and the appointment of the vice chairman, and also a reappointment of a member in this case it would be Susan Brown. BJ, I guess you do a letter to the Town Board – for the January reorganization meeting. Please indicate in the letter that the board asked that I be reappointed as chairman, Bill Brey be reappointed as vice chairman, and at this time we are not recommending that Susan not be reappointed by majority vote. Susan, I'm sorry about that.

BJ Gettel: As far as the revised application form, is everyone okay with that? I will be making a couple adjustments to it.

Dan Gettel: I don't want to go through the whole thing, since David (Slater) wasn't here early. The application form right now.....

BJ Gettel: The current application form David, is 10 pages long. I have revised this application to bring it down to approximately 3 pages. The old application had a lot of checklists into it, which has been incorporated into chapter 300 & chapter 345 of the code of the Town of Bethel. To save time in my department, and to save time my time I have shortened, you as Planning Board members have hired a Planning Board engineer and a Planning Board attorney their responsibilities would incorporate the code reviewing for the applicants, I will be handing them 345 and 300 depending on what form, I do have extra copies of those particular sections in the office, not a problem, it's just that I'm trying to save myself time. My secretary does not do any of this work. I've always done it for the board, and unfortunately it's just me.

Dan Gettel: David, any questions?

David Slater: Not at all.

Dan Gettel: Any questions from the board on the application form. I personally don't have a problem with it.

BJ Gettel: It can always be tweaked down the road if we need to. I'm trying to save a few trees, the initial application when I get it will only be like two sets, and when they come to the meeting in case there are changes in between, I can't see submitting 15 sets right off the get go. That is too many sets

David Biren: At least four.

Dan Gettel: A lot of times we get the applicants submitting 18 copies and then they come to the board with a different set. Vicky do you have anything?

Vicky Vassmer Simpson: I want to make sure that everyone realizes, we promised a class on the new zoning. That will probably not happen until January. We will be it retroactive to 2009. Because of scheduling with the holidays.

Dan Gettel: On that same item would you check with the board and see about the Ed McMahon seminar. It was that Friday seminar at Bethel Woods that may be available for credit. If we could watch the video.

Vicky Vassmer Simpson: This is a video

David Biren: There is only one copy floating around

Vicky Vassmer Simpson: I will check into it. Starting in January, we are only going to have one meeting a month. January 6th, February and March will be the 2nd Wednesday. We are skipping the 4th Wednesday. As far as tomorrow night's meeting, we do have a resume considering as building inspector part time. I can't tell you if that will happen, I don't know how the board will vote. The gentleman's name is Gregg Sementz

Dan Gettel: I don't know if it matters, but I don't know since he will be part time, whether he needs to be here or not. Timmy was here occasionally.

Vicky Vassmer Simpson: With BJ here, Michael Weeks and Jacy here, unless we requested him, if we needed him, and there was a project, I'm sure we could request him to be here.

Dan Gettel: I believe you are also looking at adopting another local law.

Vicky Vassmer Simpson: It has to do with conservation subdivision it has to do with increasing into 3 other districts. 17B, Red zone going up by Bethel Woods, into rural 17B, the green zone, to Cochection line, and also into the RD, which would be the 2-acre zones.

Dan Gettel: That would give our board the opportunity to entertain cluster developments at our discretion. Some properties can be better developed in a cluster. I think this board would agree. Because of the way the zoning is written right now, we can't review them. Even in the districts that have sewer.

Vicky Vassmer Simpson: What we are hoping to do is to let the town of a little bit more opportunity for start up housing. You do want to have some housing that our younger people could go into

David Biren: That is part of the master plan anyway.

Vicky Vassmer Simpson: It is part of the comprehensive plan.

Dan Gettel: We didn't have the opportunity to review it though.

Vicky Vassmer Simpson: Exactly. Now you will

Dan Gettel: We have the ability to

Vicky Vassmer Simpson: That is what's on the agenda regarding the Planning Board.

Susan Brown Otto: Did anyone go to yesterday's economic POW wow?

Dan Gettel: There were quite a few county people there. 200 county people were there. They wanted to break off into groups and talk about certain sections of the county, what these focus groups thought should be looked into as far as economic development, more land conservation. Bethel was kind of lumped in with Thompson if feel like, because we are more the corridor with the commercial. But Fremont was more forest, and agricultural. I didn't stay for the focus groups, I couldn't stay. They had quite a good turnout. They were going to get together at the end and go through each group's comments, and see how the County Planning Department should proceed. It was good.

Motion to adjourn by Steve Simpson second by David Slater

All in favor -7

All opposed -0

Agreed and carried

8:30 pm

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur
Planning Board Recording Secretary