

Town of Bethel
Planning Board

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The Town of Bethel Planning Board held a Work Session on January 13, 2009 at 7 PM at the Bethel Senior Center, 3594 State Route 55, Kauneonga Lake. A regular meeting of the Planning Board was held on the same date at 7:30 PM.

In attendance: Dan Gettel Chairman, Bill Brey Co Chairman, Wilfred Hughson, Steve Simpson, Michael Cassaro, William Thelman, Alt #, David Slater, Alt #2, Tim Dexter – Code Enforcement Officer, Vicky Simpson Councilwoman, BJ Gettel – Asst. Enforcement Officer, Jannetta MacArthur – Recording Secretary, and Kimberly Shaw-Rea – Attorney

Excused - Susan Brown-Otto, David Biren, and Michael Weeks – engineer

Seating Bill Thelman and David Slater alternates to fill vacant seats.

Pledge to the Flag

Motion to approve minutes from December 9, 2008 meeting. Made by Bill Brey, second by Willie Hughson

All in favor – 7

All opposed – 0

Agreed and carried

Dan Gettel: We have three pieces of correspondence that came to the board in regard to the ***Boymelgreen*** project. I would like a motion from the board to receive and file letters from Randzo, Beechwoods Community Club, and Domoro

Motion to receive and file these letters by Willie Hughson, second by Steve Simpson

All in favor – 7

All opposed – 0

Agreed and carried

Dan Gettel: Before we start into our regular meeting, I would like to address the public. Obviously there is one thing on the agenda tonight, so I am assuming you are all interested in the Boymelgreen project, this is an open meeting but it not a public meeting as far as our board receiving public comment. We have a certain procedure that we have to follow as a board in order to move this project along. One of those things when we feel it is time we will grant the applicant a public hearing, and which time it will be advertised in the newspaper as a public hearing we will ask the adjoiners to come in to tell us you love the project you hate the project what your comments are about the project. Tonight is not that meeting. Tonight is just a meeting for the applicant to introduce the project to this board. This board hasn't seen this project yet that I am aware of. Some of us haven't seen it at all, we have all seen the plan, I

assume, but it has never been presented to the Planning Board. Mr. Meltzer if you don't mind.

1. Application for a 4 lot subdivision located on Plum Beach Road, known as Bethel Tax Map #: 31-3-17.1, proposed by Shaya Boymelgreen. (Gottlieb

Mr. Meltzer – It is my practice not to get involved. Jonathan Farber is going to start the presentation, and then Tim Gottlieb will jump in as necessary, I am just here to listen to what goes on in case a question comes up that I might have to answer.

Dan Gettel: Just some kind of presentation of the project

Jonathan Farber – I am from R/F Landscape Architecture – New York City

On the easel I am going to show at least two drawings from the application. This is a major subdivision application. It's 4 units. The total area to be subdivided is 28.2 acres. Lot 1 is approximately 6 acres, lot 2 is approximately 16 acres, and lots 3 and 4 are each approximately 3 acres. The Planning Board granted us a relief from the moratorium. At that meeting we agreed and the client agreed not to further subdivide the land for another 5 years, and that the land not be further subdivided more than twice, and not less than 3 acres each. The house on lot #1 shows the client has applied for a building permit for that house. The other 3 houses on lots 2,3, and 4 are schematic. The driveways on those lots are also schematic. All of the proposed houses are accessed off of a Hemlock Road. Lot 1 has its own driveway, off of Birch Road. The houses on 2,3, and 4 are accessed off of Hemlock Road through the property owned by our client, that is section lot and block 31 – 5.6. That is shown on the plan. Lot #1 includes a US Army Corp of Engineer wetland. Approximately .75 acres. Each of the proposed units, has it's own individual sanitary disposal system, and it's own individual water well. As I said the driveway for lots 2, 3 and 4 are shared. It is also on Hemlock Road. The site is heavily wooded. It is primarily hemlock and immature beech trees. The total area to be disturbed during the construction process is approximately 3 acres. That is less than 10% of the total. We have received the technical comments from MH & E. The client's team of consultants are here tonight including Tim Gottlieb from Gottlieb Engineering – John Axel the surveyor from Axel Scateset and Zieger, Steven Grog Engineer from McLarenon Engineering Group; he is handling our storm water drainage issues, and Perry Meltzer the client's attorney, and myself, the landscape architect. I think that summarizes it, I would like to take questions and hopefully answer things as best we can.

Dan Gettel: Are there any specific questions from the board?

Bill Brey: This is accessed from a private driveway right?

Dan Gettel: Lot #1 is what he is referring to

Jonathan Farber: Lot #1 is accessed through Birch Road. I'll let Perry answer this question. As far as I understand it is a deeded road.

Perry Meltzer: Birch Road is on the White Lake Bungalow Colony subdivision map. It is a road, which we have, rights due to conveyances that were made to our predecessors in title going back to the 1930's. Which gave us a right to use the streets of the White Lake Bungalow Colony. The only access will be the driveway to get into the property, it will be improved sufficiently to allow in and out of the property. It will be a rather narrow drive, we do understand that a neighboring property on the west has used that property for a driveway going

in and out we don't expect to disturb their use, and whatever improvements we might have to make will probably enhance their ability to use the property. Again it's use being for ingress and egress to a single-family dwelling.

Bill Brey: You have to widen to 50 ft according to our code

Perry Meltzer: It is only going to be a driveway, not a public road, it will continue not to be open to the public, it is the same size as all the other roads in the development we don't intend to unless the board requests it. To widen it to it's full width, we just need to get in and out to our driveway on the property which would be about a 100 ft of usage along the length of the lot.

Dan Gettel: If you don't mind Perry, if I could address you directly, a lot of concerns were raised by people on this board and the public in regards to the ownership of certain roads. It is my understanding even Mr. Boymelgreen might own a couple of roads in this development.

Perry Meltzer: What we own, the lot where lots 2,3 and 4 would have their access. That conveyance precluded to us rights to use and to have the enjoyment of the roads of the White Lake Bungalow Colony. That acquisition was written and sent by the Beechwood Club. We do have control and there is a road that is used by all uses to the existing Plum Beach development and that's the road that runs along the eastern side of the property, for engineering reasons, wetland issues, ground disturbance issues, and grade, that is an engineering issue, that road is not a realistic means for ingress and egress to the property, and not a realistic way to be able to develop this property. Again this is a private development, not a development that will be up for sale to the public.

Dan Gettel: The reason you can't access the property off of Lakeview

Perry Meltzer: Excuse me?

Dan Gettel: You said it's not.....

Perry Meltzer: It is an engineering recommendation and issue not that we don't have a legal right to take Lakeview, but there are reasons why it would be inappropriate to develop the property that way.

Dan Gettel: So we can clarify the record, I would like somebody from your group prepare something in writing addressing the ownership of the road so we have a chance to look at the deeds, map references, something in writing

Perry Meltzer: I will provide it. I understand Beechwood had it's own search. The initial deed that conveys to the Plum Beach development the right to use the roads goes back to 1937; there is another conveyance in 1939, which has the rights to use the road. And of course we have the rights from the most recent conveyance from 2007.

Dan Gettel: If you wouldn't mind providing a narrative to the board, I think that would be very helpful.

Perry Meltzer: I will also provide copies of the deed to the old type written records where the clerk would type up the deeds, into a record. I will attach them as samples. I have the title company working on it now.

Dan Gettel: Okay. And your reasoning behind accessing the property?

Jonathan Farber: Lets start in terms of broad strategy the client asked us form the subdivision and site the houses in a way that would minimally disturb the site. We were very careful to minimize the amounts of trees that amount of regarding that would have to be done on the site. We will give you these maps; this is a map that super imposes in red the subdivision plan on top of an aerial photograph that was taken in the winter of 2006. You can see that each of the houses and each of the properties were located in an open and clear of area as possible. And as flat of area as possible to minimize the removal of hemlock trees and minimizes the disturbance to the ground. As I said, it is 28.2 acres being subdivided in less than 10% of that total is being disturbed during construction. For lot #1 there is also another map that I'm showing here and that is a map that is showing slopes of 15% or greater. You can see on the map, it is a significant portion there are also many areas on the site that are very close to 15%. What this means for lot #1 is we have a house that sits on the brow of the hill hidden from the houses up land, if you were to take Lakeview drive along the way you would have to cross a Army Corp of Engineer wetland, or the buffer for that wetland you would have to cross it, come up a hill and cross a significant portion of grade that is well above 15% causing a massive amount of regarding just up on the level. Instead of coming through Birch Road you could see from the application plan, we have to do minimum of grading into and between hemlock trees to an open area. It would be very impractical from engineering and also from an environmental stand point to try and access for Lakeview for lot #1. Off of lot #2 the client prefers to come off of Hemlock Road again because ease of access and it would prevent them from traveling all around Lake Road coming up hill disturbing again hemlock trees and accessing each owner come all the way around the property and back up hill. Also the plans allow for 2 further divisions. If that were to happen, it would most likely happy this lower portion. There is an existing really beautiful stand of hemlocks there, probably 75-year-old hemlocks. So, we would not want to put a house there. The house would probably go in this area, right where a proposed driveway off Lakeview Road would go. Those are primary issues effective

Dan Gettel: How do you access the tennis court now? An obviously with construction you will be using a driveway off of Lakeview.

Jonathan Farber: There is an existing circular driveway there now, I should say that the tennis court and handball court will be relocated up hill to a flat area, as you can see on the application plan, two very flat plots – the tennis courts are sunken, is below grade and is nestled in between hemlocks. The house for lot #2 will go approximately in the area where the tennis courts and handball courts are now.

Dan Gettel: Since we are talking about the tennis court, will it be illuminated?

Jonathan Farber: The client hasn't made a decision whether it will be illuminated or not.

Dan Gettel: That is something we would be concerned with.

Jonathan Farber: We'll have the client consider that.

Tim Dexter: What is the setback from the property line to the tennis court.

Jonathan Farber: 30 ft off the property line.

Tim Dexter: Unless it is private it should be 100 ft. setback

Jonathan Farber: We will check that.

Dan Gettel: The subdivision plan itself shows a number of paths through the property. Are these existing, or proposed?

Jonathan Farber: Those paths are proposed and they will be either mowed or wood chip paths, probably 4 ft wide. They will be one of the last things to go in.

Dan Gettel: They are just for enjoyment?

Jonathan Farber: Yes

Dan Gettel: We are not talking about easements

Jonathan Farber: No, they are not easements.

Dan Gettel: Comments from the board? We do have Michael Weeks comments. I believe the applicant was provided with these comments. If you don't mind, I would like to run through them quickly. I don't necessarily need to touch on each item, but there are a number of things that do stand out

The Sewage disposal system, since it is a major subdivision you do acknowledge yourself as a major subdivision. They do need to be witnessed by an engineer; the perc tests need to have a town engineer to witness the perc test. That is something that needs to be addressed. The code calls for no more than 33% of the total lots in the major subdivision that have alternate sewage disposal system, and the plan as proposed now does not conform with that to my knowledge. And, that is Mr. Gottlieb, I believe?

Tim Gottlieb: We will look into that further

Dan Gettel: I believe they eased up on some of the requirements as far as separation to bedrock. Look at the new code on the sewage, it needs to be addressed. Obviously there is question of the legal right a way of the adjoining private roads to the project. We need to have that addressed. I do think that is something that needs to be addressed before we move anywhere on this project, even as far as going ahead with seqr or scheduling a public hearing. I think that is something that needs to be addressed; I do think it is a threshold item.

Perry Meltzer: Who do I submit that to?

Dan Gettel: Planning board, and we will forward to Planning Board attorney.

Kimberly Rae: Mr. Meltzer, I am Kimberly Brown, counsel to the Planning Board, I would request to provide in your submission to the board in addition to the right to access to Birch Road also right to access to Hemlock Road access. Please provide both of those

Perry Meltzer: It would be the same information. Will provide everything as necessary

Kimberly Rae: With as many attachments you can provide

Dan Gettel: I am quickly looking at the list. I believe most of the items are self-explanatory and

we have touched on most of them. Storm water plan is going to be required. Obviously as the engineer you might as well get a jump on some of these items. Any comments from the board?

Bill Brey: In the older subdivision the right of way wouldn't that be 50 ft.

Bill Thelman: Which road are you talking about?

Dan Gettel: We are talking about access to lot #1

Bill Thelman: What about the other road? That would have to be 50 ft.

Dan Gettel: We are talking about the new access to lots 2, 3, and 4. Check the town code on the width of the right away.

Jonathan Farber: Is that the paved surface or the easement?

Dan Gettel: The easement itself.

Dan Gettel: It's not a make or break.

Bill Thelman: Does that piece of property become part of lot #2? Or does that stay a separate lot off of Hemlock?

Dan Gettel: We're talking about the access to Hemlock for lots 2, 3, & 4.

Perry Meltzer: It will be up to the real tax property services if they would be allowed to be separate lot or an existing lot. The question whether it will be committed to a race the line that separates the two properties, if you can't erase that line, that existing lot will get a separate tax bill.

Bill Thelman: I think what happens when you cut this 50 ft down the center of that road you have two lots that you can't build on. Is that correct?

Dan Gettel: You are basically splitting an existing small lot in half.

Bill Thelman: Wouldn't that piece of property be.....

Perry Meltzer: Aren't there two lots there now?

Bill Thelman: Two lots but the road is going down in-between, I don't know if it is two lots or not, I only see one name there.

Perry Meltzer: It is one single tax lot now. At worst it would continue to be a single tax lot. Or Real Property Tax Service may combine it with the existing lot. We are not adding new lots.

Steve Simpson: But it would be absorbed into lot #2.

Perry Meltzer: If Real Property Tax Service allows it. If they don't allow it, then it will continue to be a separate lot.

Dan Gettel: We do have a problem in Bethel where undersized lots are sold every 3 years at tax

sales. The County loves it, but we have hundreds of them through Bethel. They are sold every 3 years.

Perry Meltzer: I don't think we are talking about one of these lots.

Dan Gettel: We are talking if you split that lot.

Perry Meltzer: We are not splitting that lot; we are just going to improve it with the road that is going to allow us access

Dan Gettel: The road is bisecting the center of the lot is what we are saying. We don't want you to create a lot that is not buildable.

Perry Meltzer: We are not creating a new lot. It is going to be exactly the same lot that we have now; it is just going to have a road through.

Bill Thelman: Right now you can build a house on that lot. After you put the road through, you cannot build a house on that lot.

Perry Meltzer: It will still be an existing lot. Unless it is merged. We wouldn't have a problem with that.

Steve Simpson: The minimum is one acre

Dan Gettel: You are proposing a right away through that lot, you are not proposing actually conveying a piece of that property out for a road

Perry Meltzer: Our property will have common ownership.

Dan Gettel: So Lot #2 will have an easement through that lot. Or a right away through that lot.

Perry Meltzer: The lot immediately adjacent, lot #2 is going to be Mr. Boymelgreen who currently owns the lot in which the right away will run

Dan Gettel: It is a right away, it is not a conveyance.

Perry Meltzer: That is the way it is intended. The other lots will have certain rights to use it, and to cross over it among the various other descriptions that will be on this development to restrict the varies uses to protect against conveyances, other than what is in the family.

Dan Gettel: Tim, do you have any comments? I know you have been at the site.

Tim Dexter: I guess my main concern is if they can show they have legal access to these roads that is the real key to this project the way it is proposed. I have no concern I think they have done a good job to minimize the disturbances.

Dan Gettel: As far as our counsel goes, any comments

Kimberly Rae: No, we will wait for the conditions.

Perry Meltzer: What I will do is email to BJ, and she can distribute.

BJ: Folks look, most likely the board will be tabling this project now to February. The wonderful weather that we have in Sullivan County especially in Bethel, we never know if we are going to get a snowstorm the next date or not. The easiest thing for you to do is call the office the day of the Planning Board meeting, I will know by 2:00, 3:00 the latest whether we will be holding our meeting that night.

Dan Gettel: We tried last year to have a February meeting we couldn't.

BJ: We couldn't do it, and March is no better, so with all due respect it is okay to call my office it is okay to email me to find out whether or not we will be holding a meeting that night.

Dan Gettel: It will be on WSUL also

BJ: We hate for people a lot of you do travel we are talking 2 or 3 hours, we hate for someone to be injured coming up. I know this project is important to everybody, but safety is too.

Vicky Simpson: So the next meeting also will not be public hearing

BJ: Will not be a public hearing that is correct.

February 10th is the next meeting

Dan Gettel: If I could speak for the board, if we feel that a number of items have been addressed and we are comfortable with the proposal to proceed, then we would decide if a public hearing is warranted. That would be for March.

Audience: Is there a chance that there will be no public hearing, and if there is no public hearing is there a way we can petition to have one?

Dan Gettel: It has to have a public hearing. I don't really want to address the public at this time, but this project has to have a public hearing. There is no two ways about it, we are going to have a public hearing, and you will be informed of it well in advance.

Tim Gottlieb: We submitted a short form. Do you want us to prepare a long form?

Dan Gettel: It was discussed. We anticipate going to take lead agency, and I anticipate a long form if you want to get a jump on it

Jonathan Farber: The other technical issues raised in the engineers report, we will make progress on those items this month and present in advance 2 weeks in advance of the February meeting understanding that the legal issues will also be.

BJ: Can I get a motion from the board to table this to February 10th, please?

Motion to table to February 10th by Bill Brey, second by Willie Hughson

All in favor -7

All opposed -0

Agreed and carried.

Dan Gettel: Since the board is all together recently we have had discussions with the Town Board about the fact that Planning Board members are supposed to have a certain amount of hours every year of continuing education. I know it has been pretty lax in the past and we have come to find out that nobody really has been keeping track. So I have agreed to take over keeping track of these hours with Dan Sturm. We do have a list that Leon provided us with. It at least gives us a start, so we know where some people are. I know there are some people on the board that have plenty of hours, some people that don't have hours. I know that there are a lot of times when it is very hard to get the continuing education. I think as the years go on it is going to get harder and harder and harder. BJ was able to get the group that is doing the Town of Tusten, basic zoning and basic planning that the state says you must have.

BJ: On April 22nd here at the Senior Center @ 7 pm it is a mandated class that all board members must attend. If you can't make the April 22nd then you are expected to take the class at Tusten. That is in February. I got it strictly for the Town of Bethel. Both Planning and Zoning will be a joint work session that evening.

Steve Simpson: Is there a cost for that?

BJ: No

Bill Thelman: The class @ Tusten is February 11th – Town of Tusten – 6:30 – 8:30.

BJ: The April 22nd is 7:00 pm – 9:00 pm. The other thing is if you want to explain that you are trying with NYMIR.

Dan Gettel: We also have the opportunity or the option to take courses on line and over the Christmas break I did go on the internet to look up what programs are available. Pace University put together a 9 section program that talks about basic zoning and I do think it is good for the Planning Board and beneficial as far as site plans, subdivision plans, seqr forms and it addresses certain aspects that we deal with. It is also good for the Zoning Board it talks about special use permits and variances, and things of that nature. What we are trying to get going is NYMIR which is an insurance company New York State recognizes as a somebody that can provide us with teaching instruction they do offer online. The problem we are facing is there is a problem with their registration page. If you go to their site you can't register to take the test that go with this program so what we are looking at we are talking with the Town Board and with Dan Sturm about possibly letting the Planning Board members go through the certain chapters that they want, if they take 5 chapters, and let lay they go to town hall or something of that nature they could take the section of test at Town Hall. If you take 5 courses you get 4 hours of continuing education. It is something that the reading you can do the reading at your leisure, and then stop in Town Hall and take 5 tests in a row. There are 10 questions a test, I don't think it is difficult, but I do think the program would be worthwhile. It may be very similar to the one that is being offered in April. It is a good way for the Planning Board members to catch up on their hours, and do it at your leisure. Like I said, it is getting harder and harder. The Planning Board a lot of the members are very behind on their hours. At the next meeting, whether it is February or March, I will try to bring in a list of what our records show. I do think it is time we are going to have to be conscious of it, as far as catching up time and putting in our hours and keeping track of it more diligently. Like I said, we are looking into that right now. I do think it is something we are going to end up doing. At least offering it to the board members. Even if you read one or two chapters that interest you, there are approximately 17, 18, and 20 pages a lesson; it is not a huge deal. It takes about a half hour to read through, 10 minutes to take the test maybe, I don't

know. I do have it printed out, and I do have a zip file of the lesson plans, it is something that is available. It is pretty comprehensive. PACE University did a pretty good job of putting it together.

Kimberly Rae: Is it online somewhere?

Dan Gettel: You can access it online, and in theory you are supposed to be able to go to this NYMIR website. Go under zoning code, and register to take this program online, and when you register they give you a user name and password, and you can sign in and take the test online and it is a way of them keeping track. Unfortunately the administration page doesn't work, I did contact them the woman that was supposed to be in charge of that was on vacation. It is supposed to be fixed. As far as I know, it still doesn't work. We might just go after NYMIR and try to get them.....we assume you get a certificate at the end, with a completion of 5 courses.

Bill Thelman: The courses that I have taken, I have not received one certificate for any of them.

BJ: We know that's the problem.

Dan Gettel: Unfortunately, we are going to have to be on the honor system for this. We are really cheating ourselves if we are going to start making up project. I know the information on mine was right, but I happen to get two certificates for the two that I took. But people that were in the class with me didn't get any credit for those classes. They were on the Zoning Board, not the Planning Board. At the time I was on the Zoning Board, a lot of people took the classes but never turned in certificates. Some of the Zoning Board members, not to talk bad about the Zoning Board, or single people out, some don't show any training. And I sat through classes with them, at least 2 different classes with some of those individuals, so I know they have the hours, but it was never recorded. Steve Morey is also aware of this too. A lot of people don't give certificates. Some people have taken online courses. I believe someone on this board.

BJ: Right now I have the list

Dan Gettel: Leon had a list

Bill Thelman: At the end I want to tell you that I took the course.

BJ: What I am looking for is the date, what type of course, and the number of hours.

Bill Thelman: We'll tell you about it, but if we don't get a certificate

Dan Gettel: But we are going to have to keep track of it. It's has to be the honor system

Bill Thelman: Basically it is our response. If I spent 2 hours taking a course, and 6 months later I find out you don't have a record of it, I have to keep track of that, otherwise I just threw 2 hours away.

Bill Brey: We took 4.5 hours over @ Alan Gerry's. We never received a certificate for that.

BJ: Okay, just so that we can wrap this up, this is one of the few nights we can get out of here early, Kimberley do you have anything you would like to address the board regarding training?

Kimberly Rae: No, I just want to say that I personally think the 4 hours minimum that is required is really the barest minimum. You all deal stress over such difficult issues. I am just amazed, at the end of a long day and work on these issues. It is very difficult, very hard. Lawyers do it all the time. You really struggle with this stuff

Dan Gettel: When the government passed it, there were a lot of courses available. The first year was great. Every week you turned around. I am not willing to go to Liberty to a facility @ 1pm in the afternoon on a Wednesday. Scheduling is a problem, and missing work for a volunteer board is a problem.

Kimberly Rae: I know that. It's a pity I can't certify. There are some things I would like to talk to you all about. Maybe the next time we get together, the next time we are in executive session.

Dan Gettel: The town board pretty much has to approve if we get credit for a certain course. If it is not specifically listed as PACE University and NYMIR is acknowledged by the State as someone that offers a program that they accept. I know a lot of the people wanted to take the gas drilling lectures, they didn't take them because they weren't getting credit for them. The Town Board also has to be aware of the fact that the Town Board has to approve these programs for us.

Vicky Vassmer Simpson: I will talk to Danny.

Bill Thelman: With the moratorium hopefully be listed this year

Vicky Vassmer Simpson: Yes, it will be lifted

Bill Thelman: All these changes, couldn't that be a course for the Planning Board, Zoning Board to go take to find out what is going on in our own town

Dan Gettel: I discussed that specifically with Dan Sturm, I don't know if that is going to happen or not, but I think the Town Board should. I don't see why the Town Board can't sit down with the Planning Board and the Zoning Board, and say this is the new zoning and run through it. I don't know who would run through the new zoning. But it was an opportunity that we discussed.

Vicky Vassmer Simpson: We have an attorney, and a planner. I will let Dan know your desire for that.

BJ: I know that has been done in the past. Tom Shepstone did it. We got 2 hours credit for it.

Bill Brey: How many credits do we get for the April one?

BJ: 2 hours a credit. If it goes longer than 7 – 9, say you go to 9:30, I'll give you 2.5.

Kimberly Rae: You know there is another opportunity, this is during the day. The association with Towns is having in February, and I'm certain a number of those, I am going to teach them.

Dan Gettel: If that's it, I would like to make a motion to adjourn.

Steve Simpson made motion to adjourn, second by Bill Thelman

All in favor – 7

All opposed –0

Agreed and carried

8:10 pm

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur
Recording Secretary