

Town of Bethel
Planning Board

PO Box 300, 3454 Route 55
White Lake, NY 12786
845-583-4649 Ext 15
845-583-4710 Fax
Email: bldgdept@libertybiz.rr.com

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

Excused: David Slater, Alternate

The Town of Bethel Planning Board held a Work Session on November 10, 2009 at 7 PM at the Bethel Senior Center, 3594 State Route 55, Kauneonga Lake. A regular meeting of the Planning Board followed on the same date at 7:30 PM.

Pledge to the Flag

Motion to approve minutes for October 2009 meeting with the correction on page 7. Bill Brey's statement should read, "I would like to make a comment: I think this proposal is good for Bethel. A new bank will attract more business and development for the immediate area, and also more development means more jobs".

Motion by Bill Brey, second by Steve Simpson

All in favor –7

All opposed –0

Agreed and carried

Dan Gettel: I see a lot of people in the audience this evening. Unfortunately, this is not a public hearing; we cannot take public comment tonight.

- 1) Request for Final Conditional Approval located on Horseshoe Lake Road, known as Bethel Tax Map #: 30-4-31.1, proposed by Spensieri. (Sandor – MJS Engineering)***

James Clearwater, PLS – representing – this project has been before the board numerous times. It has been given preliminary approval and several extensions to the preliminaries to the point that there are no preliminary's available. The applicant would like conditional final approval, subject to, conditioned on two outstanding items, one being the road, bonding of the road, and secondly forming the Homeowners Association maintenance agreement for the entire road. That's it in a nutshell.

Dan Gettel: We had one comment. Obviously, some of the board members haven't been on the board long enough to even know this project to be that familiar with the project. Are there individual wells?

James Clearwater: Yes

Dan Gettel: Because there was a statement made about the Health Department approving water supply.

James Clearwater: Yes. The Health Department has to approve the water testing, which they have; I have a copy right here.

Dan Gettel: This is all yields?

James Clearwater: They tested the water and the volume and the quality, and approved. It is also public sewer, so it needed sewer main extension from the NYS DEC. Which is there also.

Dan Gettel: I have seen this before.

James Clearwater: This is not new.

Dan Gettel: Has any progress been made on the project since the last

James Clearwater: No, nothing has been done.

Dan Gettel: Are you looking to build the road, or bond the road.

Luca Spensieri: To answer the question, I do intend to build the road.

Dan Gettel: As opposed to bonding it. Correct, Mike? Either build it, or bond it?

Luca Spensieri: Hopefully within the next 30 days, 60 days at the most. Weather permitting. We are meeting winter now, I will do my best.

Michael Weeks: That will be for all of the requirements, the sewer system would have to be built or bonded as well.

Luca Spensieri: Correct

Dan Gettel: Just so that you are aware, it has to be built or bonded. Any questions from the board?

Michael Weeks: I would say, prior to starting any construction, you may want to get together and talk about everything, especially the sewer system. So there are no questions. I have a couple of comments. I had a few E & S comments looking at the plans. I do see you filed an NOI, but I do have a few comments

James Clearwater: One we spoke about is some silt fence

Michael Weeks: That's not shown on the plans.

James Clearwater: We have no issue with that.

Michael Weeks: I think you can look at the E & S plan, maybe there is some silt fences needed that is in your sequence of construction but it's not showing on the plan.

James Clearwater: That's pretty standard procedure. Every contractor knows that they have to

put up silt fence, statutorily required to put up

Dan Gettel: Everybody may know about it, but that doesn't mean it's going to get done

David Biren: May I ask a question, also? Schedule the work hours, so the neighbors aren't affected. I would like to make sure that the hours are within reason that we don't have to be told they are working to early

Dan Gettel: BJ, don't we have a requirement in the code?

BJ Gettel: There is a requirement in the code. Look at the noise ordinance, you will be fine.

David Biren: I just want to make sure it is in force and understood.

Dan Gettel: Any other comments from the board? If that is the case, we have 3 conditions that are outstanding. One is either build or bond the road (cul-de-sac), and the public utilities, which is the sewer, your maintenance agreement for the road maintenance, and we would like a letter from Michael stating that his concerns have been met.

Jacy Ricciani: Do you want to include the E & S in the conditions?

Michael Weeks: Yes. Dan said I needed to produce a letter that all of the concerns have been met.

Dan Gettel: Michael, one of your original letters, November 2009, we also feel that additional controls are necessary of the proposed cul- de -sac due to steep slopes leading to the cul- de- sac as well as close proximity to federal wetlands? Is that more than the silt fencing that you are talking about?

Michael Weeks: There is a detail for a couple of E & S controls that do not show up anywhere, which I noted. I think if they take a look at their E & S plan, look at my comment, they probably can get something revised. It is a steep slope. There are obviously some concerns there.

Susan Brown Otto: What are our options with regard to this?

Dan Gettel: Our option right now is grant them a 6-month extension for conditional final approval; it is a 6-month approval.

BJ: They have 6 months to complete the conditions.

Susan Brown Otto: Can they come back to the board after 6 months, or is that it?

Jacy Ricciani: They can come back 2 more times.

Michael Weeks: If their intention is to build the road, it is unlikely it is going to be done in 6 months. I don't know if you want to consider that now.

Dan Gettel: The 6 month extension is in our code, I think we should stick to it. I know it's not an extension, it's a deadline. Susan, anything else?

Susan Brown Otto: I just wanted to make sure our option.....

Dan Gettel: That is our option. I am looking for a motion that we grant this application final conditional approval, which will expire in 6 months, with three conditions.

1. Build or bond the road (cul-de -sac), and the public portion of the utilities.
2. Present maintenance agreement that the attorney (the town attorney) will review and approve for the road (cul-de-sac).
3. Letter stating that Michael's concerns, specifically the one stated in the October meeting are addressed prior to my signing the maps

Susan Brown Otto: Even though in 6 months given the history of the project should we state the date so there is no misunderstanding for the record.

Dan Gettel: If you would like to?

Jacy Ricciani – 180 days from today.

Dan Gettel: And if I can add that all fees be paid prior to my signing of the maps.

Michael Weeks: Do you want to add, before construction begins, that there be a preconstruction meeting. There is going to be sewer that is going to be extended. That has to go in front of the Town Board to see how we are going to handle that as far as inspection. I think it is a good idea before they start any work.

Dan Gettel: That's not a condition that is just a requirement.

Michael Weeks: Correct

Dan Gettel: You will contact the town before you begin.

Luca Spensiri: It is my intention, when I start a job, I haven't started many lately, I contacted the town, the building inspector, I will not do anything until I speak to them first.

Motion by Susan Brown Otto, second by Michael Cassaro

Roll call vote

Mike Cassaro – Y

Susan Brown Otto – Y

Bill Brey – Y

Dan Gettel – Y

David Biren – Y

Steve Simpson – Y

Wilfred Hughson – Y

All in favor –7

All opposed –0

Agreed and carried

Motion by David Biren, second by Bill Brey to go into executive session. 7:45 pm

All in favor – 7

All opposed -0

Agreed and carried

Vicky Vassmer -Simpson, Bob Blais, Jacy Ricciani, and BJ Gettel invited into executive session.

Motion to into regular meeting by Susan Brown Otto, second by Steve Simpson. 8:10 pm

All in favor –7

All opposed –0

Agreed and carried

2) Request for Lead Agency Coordination Request form NYS Department of Environmental Conservation for a project located on Ballard Road, known as Bethel Tax Map#: 51-1-2.1, proposed by Lema-Bedoya, Inc.

Dan Gettel: BJ, if you don't mind

BJ Gettel: Basically what happened was, I received this packet in the mail from NYS Department of Environmental Conservation. They were requesting that they be named lead agency on this project. I forwarded this information for you. They are looking for feedback. We do have a time line on this.

Dan Gettel: I understand that you have a lake on the property, and you are looking to expand the lake. Is there a lake there now, or is it new?

Mr. Bedoya: A small

Dan Gettel: The DEC is requiring a mining permit.

Mr. Bedoya: They say it is mining, I am putting my house. The only thing. Why build a house and donate the house to the town.

Dan Gettel: I don't think any of the board members really have any interest, I don't want to speak for the board members, but the DEC did show an interest in being lead agency, but it is my understanding, and Michael correct me if I'm wrong, there are a number of discrepancies on the EAF that was filed.

Michael Weeks: I believe so, based on the town code.

Dan Gettel: Based on town code, mining is not permitted in your district.

Mr. Bedoya: I'm not talking about mining. The DEC and me are not best friends in the world. This is no mining, I am allowed by law to put a lake there. I spent \$16,000 dollars. I'm allowed to dig a lake there. Either way, it doesn't matter. The town was always nice to me. I never asked the town for nothing. I am getting angry; nobody goes in front of the planning board. I think this is discrimination against me. I am allowed to dig a lake

Dan Gettel: Unfortunately, it is my understanding if the DEC is classifying as a mine, and a mine is not permitted,

Mr. Bedoya: What he classified and I classify is two different things. If anyone has to go and dig a lake there, I'm allowed. I have two properties. I don't have to go in front of nobody. Nobody can stop me. A mining permit. I am trying to do it the right way.

Michael Weeks: The application that we received from DEC, there is an engineering report at the end of the application. In the scope that indicates that two ponds will be constructed the excavating material transported from the existing owned and operated by the applicant for

processing and sale, so that is in their scope of work for the project. That clearly meets our definition of mining. Mining is not permitted in this zone. The other thing is that your new zoning code requires that any land disturbance of greater than an acre comes in front of the Planning Board for site plan approval. Those are the two big discrepancies in the EAF that I noticed. It does require Planning Board approval, and does require Zoning Board approval based on the use.

Dan Gettel: Unfortunately, our hands are tied. We are not making this decision. This is our code we are bound by.

Mr. Bedova: I worked all my life, I'm still working. I'm 70 years old. I pay a lot of taxes. I think I can put the lake in. I have to do what I have to do. You have to do what you got to do.

Dan Gettel: We are bound by the town code.

Mr. Bedova: I understand. That is called discrimination. You understand what I say, you are very smart. I am smart too. This is between the DEC and me. I don't want to do this to the town. They are very nice. The supervisor, the previous supervisor, everybody was very nice to me. This time I come in front of the Planning Board for something that is legal to do, if you want to build a new house, pay taxes for 20 years, I don't do nothing, after I pay \$16,000.00. The other thing DEC they approved already.

Dan Gettel: Any comments from the board. Unfortunately, like I said, we are bound by town code.

Mr. Bedova: What is my rights

Dan Gettel: If by definition what you are proposing is considered a mine, if town classifies definition as a mine, we cannot review it. It goes to the Zoning Board. The Zoning Board has to approve it first. We have nothing to say. If the Zoning Board approves your special use for a mine, then it can come before the Planning Board because you are disturbing more than one acre and than that is our code. That would be a site plan approval for you to construct the mine. Unfortunately, that is what we are bound by.

Mr. Bedova: You understand what I'm saying

Dan Gettel: I do understand what you are saying.

Mr. Bedova: I understand your point, but you gotta understand my point.

Dan Gettel: It is my understanding we can tell the DEC that we have no interest to be lead agency on this application for the mine, but we need to point out to them it is not permitted in the zoning district and it does require Planning Board approval because it is a disturbance of one acre or greater. "Correct?"

Michael Weeks: Yes.

Dan Gettel: That is the best we can do. To tell them we have no interest in being lead agency for the mining permit itself. That is what we are being asked. I appreciate you coming in and telling us your plight, but.....

Mr. Bedova: They are not my best friends.

Motion to indicate to the DEC that we do not want to be lead agency on this application but we do need to point out to the DEC that based on our research if this is classified as a mine it is not permitted in zoning district there fore it needs Zoning Board approval and if they are disturbing more than acre based on our town code, they need to come to Planning Board.

By David Biren, second by Bill Brey

All in favor – 7

All opposed – 0

Agreed and carried

Bill Brey: Let me ask you a question. You have a mining permit right now at the other place.

Mr. Bedova: We have had for many years. I have 115 acres. I can mine more. This I want to put by my house. My plans have been in the Building Department 3 months.

Dan Gettel: This is something new to us also. This just came to us.

Mr. Bedova: I want to retire. I am going to put in the lake. Nobody can stop me.

Dan Gettel: Those are the only two items on agenda. Vicky if you would, please.....

Vicky Vassmer – Simpson: The town board has promised you training on the new zoning. That would be 2 hours of your required training. That will be done before the end of the year. I will let you know sooner than the next Planning Board meeting. Everybody should try to make it. It will be offered to the Zoning Board as well.

Dan Gettel: Anything else from the board?

Bob Blais: I want to point out on item #1 tonight, both fire companies were here; the cul-de-sac was increased to 120 ft. They can't make the turn, and we can't pass two of them down there. I just want to make sure it is on the record for that project.

Dan Gettel: Michael, if you point that out

Michael Weeks: It's not on their plans. That will be part of my comments

Motion to adjourn, by David Biren, second by Steve Simpson

All in favor –7

All opposed –0

Agreed and carried

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur
Recording Secretary

Revised 12/9/09