

Town of Bethel  
*Planning Board*  
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In attendance: Dan Gettel Chairman, Steve Simpson, Bill Brey, David Biren, Michael Cassaro, Susan Brown Otto, David Slater, Alternate, BJ Gettel Code Enforcement Officer, Vicky Vassmer-Simpson, Councilwoman, Jaclyn Ricciani, Attorney, and Jannetta MacArthur – Recording Secretary

Excused: Wilfred Hughson, Michael Weeks, Engineer

Pledge to the flag

The Town of Bethel Planning Board held a Work Session on January 12, 2010 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. On the agenda at this time were the following:

***Motion to approve minutes for December 2009 meeting by Steve Simpson, second by Bill Brey***

***All in favor – 7***

***Opposed –0***

***Agreed and carried***

Seating David Slater in place of Wilfred Hughson.

Starting with Item #3, then Item #1, and then Item #2

***1) Town Board is requesting review of Proposed Local Law # 4 of 2009.***

Dan Gettel: The other item on the agenda was the discussion; the Town Board is requesting that we review proposed local law #4. That is the local law that Vicky was discussing earlier. Like I said at the work session, it really gives us more discretion and gives us an option to consider a cluster development. We have had applications come in here, where I think it is fair to say that it would be better to propose, let's call it a cluster development, then a traditional subdivision. And we haven't been able to review them. Assuming that parcel is in one of the 4 districts, that would then give us an option to at least consider reviewing cluster developments. Which goes right along with the conservation subdivisions and the way everything is going.... does anyone have a question on proposed local law #4?

BJ Gettel: The town board is looking for a recommendation from this board.

***Motion to recommend local law #4 to the Town Board by David Biren, second by Susan Brown Otto***

*All in favor -7*

*All opposed -0*

*Agreed and carried*

*Motion to open public hearing by Bill Brey, second by Susan Brown Otto*

*All in favor -7*

*All opposed -0*

*Agreed and carried*

**2) *Public Hearing for a Site Plan & Special Use Permit application for a project located on Behr Road, known as Bethel Tax Map#: 1-1-66.4, proposed by James Karadontes.***

Dan Gettel: There is no one here for the public hearing.

The applicant is turning in the return receipts.

Dan Gettel: If you don't mind just briefly telling the audience what we have, what your proposal is, where your property is located, what you want to do, and what your business is.

James Karadontes: It's basically a storage building for chlorine.

Dan Gettel: You were at the last Planning Board meeting, and at the last Planning Board meeting we spoke to your engineer. Our engineer has reviewed the original application. He has reviewed your engineer's response. We will discuss that outside the public hearing. You are basically proposing a 50 x 32 building. You have a pool business. You want to be able to store chemicals inside the building. We realize the DEC is involved in the storage of the chlorine. Not chlorine, but whatever the chemical is.

James Karadontes: Sodium hydrochloride

Dan Gettel: If there are no questions from the board, I need a motion that we close the public hearing, and move back to our regular meeting.

***Motion to close the public hearing by Steve Simpson, second by David Biren***

*All in favor - 7*

*All opposed -0*

*Agreed and carried*

Dan Gettel: At the last meeting, Bill Sattler, your engineer, was here. We received the review after the last meeting. Michael our engineer did review the original application. He came up with a list of 11 items. He spoke about the buffer zones between the residential and non-residential uses; the plan has no landscaping, but utilizes existing vegetation. A lot of items were discussed at the last meeting and were in the minutes. There is one question about you providing an office but are you going to be providing bathroom facilities?

James Karadontes: It's really only 3 people; my house is down the street. We're probably going to get a port- a- john.

Dan Gettel: BJ, do you know if in the commercial building code if they are going to be required to have a bathroom facility, or will you handle that on the permitting side?

BJ Gettel: We'll handle that on the permitting side.

Dan Gettel: If that could be worked out on the permitting side, I have no objection.

James Karadontes: I can put one in.

Dan Gettel: Michael made a comment about the zoning code permitting us to increase the side yards. This building has a 409 ft side yard, and one is 60 and it is up against your own house. I don't think that is an issue that the board needs to discuss. He spoke about the need for parking, incorporating a loading area, construction details of the driveway, identifying the stream on the plan, the impact that the driveway may have on the stream. He pointed out that it is less than one acre of disturbance, if you don't exceed one acre of disturbance you don't need to do a storm water prevention plan. He also asks that the limits of clearing be shown on the plan. Like I said, Michael reviewed this, Michael was not at our last meeting so therefore he was not part of the original discussion that we had with your engineer. Do you have Bill Sattler's response? (Speaking to BJ) Bill Sattler pointed out the only disturbance would be those that would interfere with bringing in overhead electric to the street. He suggested that you plant short growth evergreens approximately 100 ft off the road to block any view of the proposed building, should you feel it is necessary. David, did you have a comment on that?

David Biren: As long as it is short growth evergreens, something that isn't going to be too high.

Steve Simpson: You will have to contact the utility company and get a list of approved plantings.

Dan Gettel: This is assuming that you can actually see the building from the road. If you can limit the disturbance when you bring in the electricity, if you can't see the building from the road, it's not even an issue.

Steve Simpson: They mentioned they are going to have selective cuttings around the poles. It may not even be two poles, it may be one pole, as long as they can achieve without hauling the trees, then you can contact the utility company to get the approved listing for areas right on the street, you should be okay. You have to make sure you contact them.

Dan Gettel: Bill (Sattler) also mentioned that the office was shown as an option on your plan. If you decide to build an office, then you will have to supply a bathroom. I think we pointed out, as long as you can work that out with BJ as part of the building permit application, I don't have a problem with the bathroom. I don't feel the need to increase the setbacks by 50%. If you were up against a different adjoiner, and the adjoiner was actually here, and had a concern... It was pointed out at the last meeting that it is a heavily wooded area. You probably won't be able to see it from Behr Road. Nine parking spots are shown on the revised plan. Most likely four spaces will be built. To meet town code, you have to provide an area space for 7.7, so let's say at least 8 parking spaces.

Jim Karadontes: Does it have to be paved?

Dan Gettel: I don't feel that – it's not a public building. There are no clients going to be there. I feel 4 is a fair number of parking spaces, what Bill noted on his plan.

David Biren: You're still going to need a handicap spot.

Dan Gettel: I would like you to reserve an area enough for 9 spaces. You have 14 acres, relatively flat areas; I don't see it as a problem. If you provide 4 parking spaces, and retain an

area large enough to build 9, one of the 4 being handicapped. I don't have a problem with the parking.

Bill Brey: We didn't answer whether it had to be blacktopped or not.

Dan Gettel: Nothing on his property is blacktopped, and I don't really see a need for it.

Jim Karadontes: It just needs to be an open space for parking. It is all shale, and flat, and open

Dan Gettel: I don't think it needs to be paved. There would be more of a runoff if it were paved. A 60 x 12 ft loading area is now shown on the plan. I think he is just reserving an area for loading. He had mentioned that was the area at the last meeting. We are going to talk about the configuration of this new driveway, and the parking and loading when I get through this letter. He says the driveway already exists, but a section is added to the site plan for the extended driveway. I didn't happen to see what the new driveway is. It is basically 6" of shale, 4 "of item four, crusher run. I don't have a problem with that for the proposed roadway around the building. The existing stream is now shown on the plan; it is noted as an unknown stream. It dries up in the summer. He also goes on to say that they are working closely with DEC. They are not concerned with driveway impact and so called stream. One of Michael's review comments was additional..... after Michael reviewed Bill Sattler's response letter, he writes additional details may be required to determine the adequacy of the existing driveway and he goes on to say documentation should be provided documenting that no permitting is necessary for disturbance of the watercourse. Am I right that you are not making any improvements to the existing driveway, and its existing crossing?

Jim Karadontes: The driveway is existing

Dan Gettel: And it already crosses the stream.

Jim Karadontes: The driveway doesn't cross the stream. The stream that comes from the pond (showing on map) is over here. There is a large space from the driveway to the stream.

Dan Gettel: The plan itself shows that the stream is the 1,280 line, which is not possible

Jim Karadontes: No it doesn't.

Dave Slater: It crosses above the road.

Dan Gettel: So what you are saying, the driveway is not in the vicinity of the stream so therefore any improvements won't impact the stream.

Jim Karadontes: No

Dan Gettel: I feel he labeled the wrong line. I thought that the last time too. (showing on map) This is a contour line.

David Biren: You should have a map that shows where the stream is.

Dan Gettel: Remind me to come back to that.

Jim Karadontes: There is a lot of room from here to where the stream is.

Dan Gettel: You are indicating to us that the stream is not within 120 ft of the existing driveway, so therefore there wouldn't be impact on the stream.

David Biren: But it should be shown

Dan Gettel: It will be shown on the map that is signed. Mr. Sattler goes on to say; well under one acre will not be disturbed. The disturbance is almost zero. The disturbance is as big as the area you are going to clear for the grade for the driveway and the building. During the work session we had discussed the new plan that was submitted for this planning board meeting. Bill shows a loop road around the building that we feel is a great improvement to that which was proposed originally, but the turning radius' on the driveway doesn't look like you can turn a fire truck around there.

Jim Karadontes: It has to be.....

Dan Gettel: It is not possible for a fire truck to make that turn. The turn is perhaps a 20 ft interior radius, and I am being very generous. They can't make that turn and stay on the driveway. If the parking were flipped so that the parking faces the building, and if the driveway was on the outside, you would be further away from the building.

David Biren: You would have a much better radius.

Dan Gettel: What we are going to ask is that obviously we mentioned a revised site plan being submitted showing the existing stream, and where it is actually located. One thing that we are going to ask is that Mr. Sattler look at the turning radius for a fire truck for this loop road around the building and perhaps rethink but show a loading dock, not just a designated area for loading. I don't know how a truck would be able to back up to the building to make a delivery with that kind of loading driveway.

Susan Brown Otto: What is revised? This is dated September 22<sup>nd</sup>

Dan Gettel: This is revised December 28th. I don't think it is a controversial project. I think what we are going to ask is to have your engineer revisit the idea of the parking spaces, perhaps let the parked cars face the building and have the driveway on the opposite side, and increase the tuning radius around the building so you could actually drive a fire truck around. If you have a concern about the loading area, show a proper loading area, show how an actual truck could get to the loading area, back in and unload.

Jim Karadontes: Loading area is on this map (showing on map)

Dan Gettel: Containment area is on the other side of the building

David Biren: You also have to show the lighting. There is no lighting plan.

Dan Gettel: We did talk about security lighting

David Biren: It's not on the plan. I have a question. You are showing R13 insulation here, you show the insulation, but it's not marked down.

BJ Gettel: He doesn't have to show it in front of the Planning Board.

Dan Gettel: They haven't submitted plans yet. It is computer generated

David Biren: I saw it on one spot, and not another.

David Slater: I had once concern, my concern was in your loading area, and I used to build gas stations. One of the biggest concerns was when loading and unloading, what happens with that little bit of drip, or whatever, is there something, BJ you might know with the plans, that could contain that, because with the stream just below that, running down hill, 5 gallons doesn't sound like a lot.....

Jim Karadontes: They load it through the hose and it goes to the piping

David Slater: What catches that drop at the end? Is there containment on that? I know in gas stations.....

Jim Karadontes: In all honestly, I'm trying to get through this part, then I have to go through the DEC part. They come out to inspect it before I am even allowed to do this. I have to go through the whole thing with them. No one will deliver until everything is the way they want it.

Dan Gettel: I am also assuming that whoever is making the delivery would be monitoring the delivery, we talked at the last meeting, the delivery truck is the size of a residential oil truck,

Jim Karadontes: They have to inspect this too.

Dan Gettel: They watch the delivery. There would be at least somebody there to watch the delivery.

David Slater: We are not dealing with oil here; we are dealing with something a little more....

BJ Gettel: Because the type of quantity that he will be storing on site, it is not what they call.... he still does have to get all DEC permits, and those permits dictate what he has to have. Those are stricter than what we could put together or anything like that. I do have the MSDS sheets in the file regarding that. I can pass it down to you. They are pretty stringent. If he does have a spill, it has to be reported, no matter what the quantity is

Dan Gettel: It is inspected not only by the DEC; it is inspected by the Company itself that is supplying the product, and inspected the Building Dept.

BJ Gettel: If we see an issue, it will be addressed. Because of the nature of the beast, he will be subject to more inspections than the average other fire safety inspection that I do.

Dan Gettel: Any other questions from the board.

Steve Simpson: We talked last time about a fire suppression system. Is that something that is also discussed with the DEC?

Dan Gettel: Yes. BJ, do you have a short form environmental statement

BJ: For the record, Ag data statements have been filed, County 239 came back, local community jurisdiction.

Dan Gettel: Okay, 32 x 60 garage building to be used as an office. (reading from the EAF).

***Motion to grant negative declaration by David Slater, second by Susan Brown Otto***

***All in favor – 6***

***Opposed – 1***

***Agreed and carried***

David Biren: I am opposed. I have some questions. The chemical that you are using, I would like the break down. I want to see exactly what the environmental impact is of this chemical, and see what it can do to the environment if there is a problem. I would like to read it, and look at it. I want to know what type of suppression system that will be used, how it is going to be guaranteed, and as David mentioned, if there is a leak, there is a problem, possibly. And I don't want to be responsible for anyone being exposed in any way, matter, or form. I understand the DEC controls it, but I want to have knowledge that this building has the right suppression system, and everything else in it. I just don't want to vote on something and say yes, and then it is out of our hands.

BJ Gettel: New York State dictates the fire suppression system. It's not a Planning Board.....

David Biren: I understand that, but it is still a hazardous material. And as a Planning Board we have to protect the health, welfare, and safety of the community.

Dan Gettel: I agree with BJ, we are talking about a small operation, minimal storage of pool chemicals. Any regulations, as far as the chemical itself is not going to exceed what the DEC is going to require, I don't believe. I don't have a problem with this specific chemical, based on what was discussed at the last meeting

David Biren: I just wanted to make sure we are protecting the neighbors.

Dan Gettel: Are there any other comments from the board? Does anyone feel the need to bring it back to review the application again, or can it be reviewed as part of my signing of the site plan.

Bill Brey: I think it can be reviewed

Dan Gettel: Well I would review it as part of the signing of the site plan

***Motion to approve this application with the following stipulations:***

- 1. All fees be paid***
- 2. The land disturbance be restricted to less than 1 acre***
- 3. Maintain the buffer zone, specifically where the electric is going to be brought to the building. If it can't be maintained, contact NYSEG, and ask what evergreens could be planted in that right of way to screen the view from Behr Rd.***
- 4. Security lighting shown on the plan, on the building itself***

5. *At the time of filing the building plans, the Building Dept. will determine whether a bathroom is required*
6. *Engineer to revisit the idea of access around the building, perhaps parking facing the building, so the driveway is further away*
7. *Show the loading dock on the plans, bounds of the driveway*

*Motion to approve application with the above conditions, by Bill Brey, second by Steve Simpson*

*Roll Call vote*

*Mike Cassaro – Y  
 Susan Brown Otto – Y  
 Bill Brey – Y  
 Dan Gettel – Y  
 David Biren – N  
 Steve Simpson – Y  
 David Slater – Y*

*In favor – 6*

*Opposed – 1*

*Agreed and carried*

**3) *Requesting input from the Board regarding a Pre-Existing Business Use in the AG District, known as Bethel Tax Map #: 18-1-43.1, requested by George Fulton and Tom Goetz.***

George Fulton: Thank you for allowing me to come and just get some information. It is a little bit of a complicated issue. Mr. Goetz has operated an automobile repair shop on Old White Lake Tpke. It has been there about 29 years. The area was zoned Ag and the map that I show you is your zoning map. The red is the RD district. The green Ag district. You'll see a little dot in the green area, that little dot that is in the green area, right in the turn, I put a little dot there so you can get some idea, and right across the street from that dot is where he is operating his automobile repair shop at this time. He's grandfathered, because he's been there 29 years. Right next to door to a residence, is his Mom's house. He would really like to move across the street, on the same tax parcel, and do away with being right next to Mom's house. He had to put a building the same size, square footage..... I am going to back up just a little bit. I wanted to give you some idea why we are here. If you go to the second sheet, you'll see that the zoning map you have is not quite correct, because Mrs. Goetz sold everything on the Bethel side of the river to the Town of Bethel. So, if you go back to the first sheet, you'll see that it's a triangle, but it's not really a triangle. The Town of Bethel actually got two pieces. If you go to the 3<sup>rd</sup> sheet, this was a map that was used to transfer to the town, and you'll see that the large area marked AG, is what the town purchased from Mrs. Goetz. Of course, that's in the Ag district. Part of the landfill parcel, but it's in an Ag district. So if you look at again, the 3<sup>rd</sup> sheet, you will see a little piece down at the bottom, which is the Old White Lake Tpke, and there is a .036 acre parcel and a 4.41 acre parcel that the town acquired. All that according to your current zoning maps is still Ag. Which it really isn't, as far as the landfill parcel. What we would like to do is ask the board for recommendation on how to try to straighten this out. If you go back to the first sheet, you will see that the obvious area to straighten out might be where that little dot is, since everything is RD on all sides. If it were changed in zoning, then the Town of Bethel would be

properly zoned, the way the dump is, or the landfill. Bethel saw fit to own everything to the stream, back quite a few years ago. And again the zoning doesn't quite reflect what actually happened in there. So if you go to that second sheet again, you'll see that the yellow area is what the Goetz family has on that side. About 7 acres total. What Tom Goetz would like to do is move out of the district that he is in, which he's grandfathered, move his operation across the street. It is the same tax parcel. The tax parcel comes across the road. It includes everything on both sides of the road, all as one piece.

Dan Gettel: As far as what the town owns, all that you are saying is that the zoning district line does not follow the actual property line. But your client's parcel is still in the Ag zone. The problem that we have is that the garage is not permitted in the Ag zone, but is permitted in the RD zone, which is the adjoining lot. If it isn't permitted in the zone, we can't review it. It would need to go to the Zoning Board, for use variance. If the Town Board would entertain a change, but I don't like to do spot zoning.

BJ Gettel: This would not be spot zoning. They could change, if you go back to page 1, see where all the red is, that is the RD district. That is the hooked parcel, everything on the left side of the road, except for little dotted area, is RD.

Dan Gettel: It would be permitted in the RD district, but not the Ag. If it were subdivided off the parent parcel, could a garage be built? It would be a commercial garage.

George Fulton: He wants to build in that little green area where the dot is

Jaclyn Ricciani: I thought the green area was the existing.

George Fulton: No, his garage is across the street, on the same tax parcel.

Showing on map

George Fulton: It is in spot zoning. It would put it in one district. To include that little triangle, it would also get him out of the district he is in now, and he wouldn't have to worry about a grandfather clause on the garage.

BJ Gettel: He could petition the town board.

Dan Gettel: What would happen across the street with the existing garage? That would move, and that would cease to exist?

George Fulton: That would cease to exist as a garage.

Dan Gettel: So that could remain in the Ag zone.

George Fulton: Yes that could remain.

David Biren: How much land is that?

George Fulton: Probably about 7 acres.

David Biren: This little piece here?

George Fulton: What makes it a little complicated, they own a little bit in RD. They use the stream as the boundary.

BJ Gettel: That is not a New York State wetland stream. We looked it up. It is not a NYS DEC wetland

Dan Gettel: Jacy correct me if I'm wrong, our hands are tied, unless it is permitted in the zoning district.

Jaclyn Ricciani: Our hands are tied. What could happen is if the applicant wants to make an application to the Town Board, they can then refer it back here, that is one of the powers that they can delegate to you or they can handle it on there own.

Dan Gettel: Or go to the Zoning Board and ask for a variance

Jaclyn Ricciani: They can go for a use variance at the Zoning Board that is another option

Dan Gettel: I would probably go to Town Board first, then Zoning

Jaclyn Ricciani: Use variances are traditionally difficult. Which is what you need. What you really need is to change the zoning line, ultimately going to require action by the Town Board. This board doesn't have the authority to ultimately do that. It can come back here for a recommendation

George Fulton: I understand. Could I get some feeling from this board here? For instance if we do go to the Town Board, and if we get through the town board, how would this board feel about putting a garage across the street?

Dan Gettel: Without having the Town Board ask us for a recommendation, I don't know if I would give the Town Board a recommendation from this board, but I would be concerned what the existing adjoining think. I would need some kind of application, some kind of indication of what you are actually proposing. Some kind of site plan, some kind number of lots closer to.....

George Fulton: The Goetz family owns across the street, so that's not a problem. And the red basically is the Town of Bethel.

Dan Gettel: There are a number of lots closer to Fraser Road.

George Fulton: It is up the street quite a ways. It actually surrounds the green right now as an RD district all the way up.

Dan Gettel: I don't know of any complaints about the existing business being there, but without an application before the board I think we can just tell you what we would recommend to get the ball rolling, lets say. We can't do anything until it goes to Town Board, or Zoning Board, and the Town Board sounds like your best bet.

George Fulton: He can stay there now, it's not a problem, but it would be nice to move the garage away from the house.

Dan Gettel: He can stay there, but not expand.

George Fulton: He can do a nice site plan across the way, a nice looking building, and get rid of the garage right next to the home which has been there for 29 years

BJ Gettel: I have not had any complaints from the area. It's not a common area.

Dan Gettel: Jacy, in your opinion, if the existing building were lets say torn down, and relocated on that parcel, would it still be permitted.

Jaclyn Ricciani: No.

Dan Gettel: I didn't think so either. So I don't think relocating onto any parcel would be an option. I think your option.....

Jaclyn Ricciani: It's not part of the parcel.

George Fulton: Well it is part of the tax map.

Jaclyn Ricciani: Your difficulty is that the zoning line goes right through the parcel. That's your problem. So if the zoning line followed the same contour that the parcel, assuming that it is in the district.

Dan Gettel: Well he mentioned relocating the garage within the AG district, which I don't think is an option because it is not a permitted use. The way I read the new zoning is you can't exceed what your existing footprint is. I don't think adding up is going to help your garage. Your footprint can't increase, I don't believe.

George Fulton: It would be the same size. I appreciate your time.

Dan Gettel: Unfortunately, if it's not permitted, we really can't review it. We can just give you some direction.

George Fulton: That is what I was looking for. We will approach the town board. We will see if the Town Board is willing.

BJ Gettel: Just a reminder, March 24<sup>th</sup> – Training class - @Senior Ctr @ 7pm

Steve Simpson: On projects like this, (referring to project #2) and others where the DEC comments, review, and recommends for approval, when that paperwork comes back from the DEC, is the town copied on all of these projects? There are issues, while we are okay with it, I would like to make sure.....

BJ Gettel: The DEC will send us copies of everything. DEC is backlogged again. They are backlogged about 6 months

Dan Gettel: Our own engineer didn't really point out any real concerns either.

***Motion to adjourn by Dave Slater, second by Steve Simpson***

*All opposed –7*

*All opposed –0*

*Agreed and carried*

*8:20 pm*

Respectively submitted,

Jannetta MacArthur

Jannetta MacArthur  
Recording Secretary