

Town of Bethel
Planning Board

PO Box 300, 3454 Route 55
White Lake, NY 12786

The Town of Bethel Planning Board held its Work Session on March 13, 2012, at 7 PM at the Duggan School, 3460 State Route 55, White Lake. A regular meeting of the Planning Board followed on the same date at 7:30 PM. On the agenda is the following:

In attendance: Daniel Gettel, Chairman, David Biren, Bill Brey, Vice Chairman, Susan Brown Otto Michael Cassaro, Steve Simpson, Wilfred Hughson, David Slater, Alternate, Jacqueline Ricciani Attorney, BJ Gettel, Code Enforcement Officer, Vicky Vassmer-Simpson, Councilwoman, Jannetta MacArthur, Recording Secretary

Not seating alternate

Also in attendance: Daniel Sturm, Supervisor, Bernard Cohen, Town Councilman, Jim Crowley, Zoning Board of Appeals member

Excused: Michael Weeks, Engineer

Pledge to the flag

Motion to approve the minutes from the December 13, 2011 meeting, by Steve Simpson second by Mike Cassaro

All in favor – 7

Opposed –0

Agreed and carried

1) Request for renewal of Special Use Permit for Lipman Flea Market, located at the corner of 17B and Pine Grove Road, known as Bethel Tax Map #: 37-1-21, proposed by Steve Altman.

Daniel Gettel: Mr. Altman, I understand you are looking for a number of changes. You wrote a letter to the board.

Motion to receive and file Mr. Altman's letter of March 13th, by Bill Brey, second Steve Simpson

All in favor – 7

Opposed –0

Agreed and carried

Daniel Gettel: Just come up and tell us what changes you are looking for. Just so you are aware, since it is a special use permit whatever changes you make will force us to open a new public hearing. That would need to be scheduled, presumably next month. We are looking at having the next meeting April 17th. That would be a week later. Easter and Passover fall within the time of our normal meeting date.

Steve Altman: That would be fine. Since the last meeting, a number of things have transpired with the Flea Market. It is a learning process. Everything is fluid. We were able to get the State to place “no standing signs” on 17B. This eliminated the problems everyone was concerned with, with the parking on 17B. Once Ray gave out a couple of tickets, there wasn't any more parking on 17B. The vendors were a cohesive group. They know each other. If I'm not around, they are all watching, they all have

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my cell phone number. They handled it themselves. I was in the parking lot, there was a woman parked by the handicap parking waiting for someone to come and she was blocking the flow. One of the vendors went over and told her to move. The way the parking lot was designed you have 230 ft from 17B to where the entrance is so parking doesn't hold up any people on 17B. You have another 60 ft from the entrance to where they turn in to either road they want to go in. One of the things that does have to be changed, the landscape architect put some shrubbery which prevented them from seeing while going out. You could go in, but you couldn't go out. In order to go to the next set of rows, you had to go back to Pine Grove Road so I eliminated that. I didn't want to put any shrubbery there that could block the view of people coming in and going out, or going the opposite direction. I didn't want to cause an accident by people not having good visibility to the entrance and exits from either direction so I left that clear and put some top soil there in that little area around where the well is and planted some flowers, something that has to stay low. I didn't plant the trees that weren't going to grow. We were trying to dig holes for the signs that soil is like rock.

Daniel Gettel: For the record, these are the trees that were supposed to be in the parking lot islands.

Steve Altman: In order to get stakes into the ground I had to use a 70 lb rotary drill to drill a hole first. It is compacted stone and stone dust. Mariana Capriano from Cornell Cooperative Extension came down and she looked at the site and made recommendations. What would and wouldn't grow. She said you can't dig down into the soil, you are either going to girdle the roots, or the roots are going to rot because the water doesn't drain. When the holes were dug originally we got some rain. The water just stayed there for a couple of days before it would drain. There is no drainage. This is great for a parking lot to drive on, but it is not good for any planting, only above ground. Everything there that is planted is above ground. Up in front I got up to 18 inches, which you can plant dwarf shrubs in. I got a list from her of what could be planted, and that is what we used. In the parking lot I didn't want to build the berm up to high, it is 6 inches, because then it becomes a step and people can trip on it. I put in grasses where the trees would go. Right now they are cut down for the season, but these tall decorative grasses don't need a lot of top soil. That is what is growing there.

Daniel Gettel: Those are the plantings in the parking lot. I agree with you that the parking lot is very firm, and I don't imagine much would grow there. The problem that we have it is in the zoning, and we really should enforce it.

Steve Altman: If you look at your zoning, when Steve Duborovsky was here he went through a whole list. It says specifically that if the conditions can't be met because of a particular problem you have with the particular lot or property that you could waive it, so you can waive it.

Daniel Gettel: You picked the only night I don't have my zoning book with me. Jacy if you don't mind.

Steve Altman: You can grant the variance.

Daniel Gettel: You also question the hours of the operation?

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Steve Altman: Part of the reason for the limit of the hours was because you wanted to eliminate and mitigate the problems on 17B. It has been mitigated. We don't make any more money with longer hours of operation. I'm trying to be fair to these guys. A lot of them are struggling. Some of them don't even make enough to pay the rent. I tell them forget about it, give me what you think is fair. It is more for them. Sometimes, especially the fruit guy, or the guy who sells barbecue, he usually he leaves early. He doesn't want to cook too much. Sometimes he gets stuck, he can't use it the next day. Let him stay later. Most of the vendors are there by 7 am. Most of them clear out by 4 or 5 in the afternoon. A few of them have bills to pay.

Daniel Gettel: I agree with you, it is learning curve for all of us. We all learned from your operation last year. We did discuss this as a board. I can't speak for the board, but would 7:30 be better for you?

Steve Altman: That would be fine. They are going to be gone by then.

Daniel Gettel: I would like all of the vendors to be packed up if the board actually goes along with that, we would like all of the vendors to be packed up and out of there by 7:30. I don't want the vendors to start packing up at 7:30 and leave at 9:00. I don't want to get..... If we say 7:30, we are going to want them out at 7:30. I think that is fair.

Mrs. Lipman: Some of the vendors take at least an hour to pack up. They need a little bit more time, I would like to stretch even another half an hour, so they could be out of there, and it doesn't get dark until 9 pm. Most of the vendors are out of there. We need at least another half an hour and I will tell everyone they need to get out of there.

Daniel Gettel: We will discuss that at the Public Hearing.

Mrs. Lipman: I would appreciate that, just to give them a little more time.

Steve Altman: There isn't going to be a lot there.

Mrs. Lipman: A handful if that much.

Steve Altman: Especially the fruit guy, he is in and out of there all day.

Daniel Gettel: I would like to specifically discuss the guy that sells the fruit, or the woman who sells the fruit, but later.

Steve Altman: Actually, he has a number of people who work for him.

Daniel Gettel: Just for the record, there is another sign on the property. It has to do with the Smallwood Civic Center. It isn't on 17B and it doesn't obstruct any views. As long as it doesn't obstruct traffic going in and out I don't personally have an issue with it. The intent of our telling you no more signs

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was to keep it clean in the front. That isn't a sign that is on the road. I don't personally have a problem with it. I don't think the board would either.

Steve Altman: It is one from the Community. It has been there for 10 years.

Daniel Gettel: The landscaping, it is too early to tell how it survived the winter. I think everything looks fairly good, considering it was a very mild winter.

Mrs. Lipman: I maintain that.

Daniel Gettel: I believe there was a bond posted for the landscaping.

Steve Altman: I watered all summer long. I was there every night watering.

Daniel Gettel: The maximum number of vendors. In the past we limited it to 8 during the week, 15 on Friday. I think we would like to relax that and let it be 35 all week. I think across the board 35, since you have adequate parking and you have shown that you can handle the maximum. I would entertain that we increase that to 35 across the board. I don't know how the board feels about that.

Mrs. Lipman: I thank you for that. That is fair enough.

Steve Altman: After Labor Day, everything dies

Daniel Gettel: My only comment and concern, I don't want to say specifically the person that sells fruit, but last year the person who sold fruit would set up close to 17B. That encouraged people to stop right on 17B. I don't necessarily even think that is the best place to set up, but by having one vendor set up by 17B, that almost encourages people to stop on 17B.

Mrs. Lipman: Do you have another suggestion where he should go.

Daniel Gettel: Perhaps up the hill, closer to Pine Grove Road. If the vendors set up on top of the hill by Pine Grove Road people would tend to turn in on Pine Grove then into the parking lot. By setting up on 17B, it encourages people to park right there.

Steve Altman: I can move that.

Jacqueline Ricciani: They need to conform to the plan.

Daniel Gettel: There were concerns raised last year about the fact that the vendors are policing themselves that they were not setting up in the rows. By the entrance on 17B there was a vendor that setup right in the middle of the driveway. It really doesn't conform to the plan. We would like you to be aware of that. One condition is that you are supposed to set up in the lot that is designated for vendors.

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Mrs. Lipman: Which vendor are we talking about?

Daniel Gettel: I believe it was a flea market vendor. I personally don't know.

Steve Altman: I put in steel markers, drilled into the hardpan there. I put in lag bolts, with steel washers, spray painted with bright orange. All of the vendors were set up on those spots.

Daniel Gettel: All I can do is point out what the issues were last year. I personally did not go to the Flea Market. I can't answer as to how the property was run, except I don't feel it was a nuisance. On the day the Goo Goo Dolls played, it was a little sketchy. There may have been a little bit of an issue, but that is also Bethel Woods traffic. We cannot shut down the Town to accommodate the Bethel Woods traffic.

Steve Altman: When there is a concert, and I am at the lot, I can't get out to go home.

Daniel Gettel: I don't know if there are any comments from the board. I think what we are looking for is a change in the timing of the Flea Market, when it has to close. I would like to entertain that we increase the number of vendors across the board to 35. Jacy, do we have to make any kind of recommendations since there are "no standing" signs up?

Jacqueline Ricciani: In the resolution last time, and I think this is something the applicant volunteered, was that when there were 20 vendors or more on a holiday weekend, there was going to be a parking attendant.

Daniel Gettel: That was something that I had required.

Jacqueline Ricciani: Right. But they also agreed to that. That was separate than having a manager there to make sure that the vendors are all....., it seems like there is a provision in place where the vendors set up.

Daniel Gettel: If we reopen a public hearing we can change that

Jacqueline Ricciani: At the end of the public hearing.... You will have the public hearing, the public will make their comments, and then this board is going to decide whether to renew this special permit, and if you do with conditions.

Daniel Gettel: So we would discuss that after the public hearing.

Jacqueline Ricciani: Yes.

Daniel Gettel: Those are the two main items. The changing of the time, and change the maximum number of vendors.

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Mrs. Lipman: Is a public hearing necessary.

Daniel Gettel: Yes. If we make any change .

Mrs. Lipman: It just cannot be decided between the board.

Daniel Gettel: It cannot be. We have to have a public hearing

Jacqueline Ricciani: Just to be clear, in addition to changing the hours and the number of vendors, the applicant is also seeking to eliminate the parking attendant?

Mrs. Lipman: Yes.

Steve Altman: I am there to make sure they park in the same spot. Most of the vendors are the same every week.

Daniel Gettel: I believe that addresses everything. Your main concern was the time it closes.

Steve Altman: Yes.

Daniel Gettel: And I would like to change the number of vendors. I believe those are really the 3 primary things, time, vendors, and parking attendant.

Jacqueline Ricciani: The landscaping part I opened up to that section. It does not specifically require trees, but it does require some kind of plantings, and if the ornamental grass is okay, and it is acceptable to the board, I think that fits within the requirements.

Daniel Gettel: Is this a 17B standard?

Jacqueline Ricciani: This is a parking, loading, access and traffic standard.

Daniel Gettel: I visited the site when the parking lot went in and I would agree that nothing is going to grow there. If you can get ornamental grass to grow there, I don't have an issue with it. It is just intended to break up the parking lot. Actually if you had one less space, the fact that you have 12 parking spots is the reason for the planting. I think 12 is the kicker. If you eliminate one parking space you wouldn't have to have to do anything. I think that in all fairness we should waive that requirement. Either waive it or just accept the grass. The plan calls for installing honey locusts. I don't have a problem if it is just ornamental grass. I don't even think it has to be part of the public hearing.

Jacqueline Ricciani: It does call for one shade tree.

Code Section 345-22 – Parking, loading and access.

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Daniel Gettel: Like we mentioned earlier the April meeting will be April 17th, after Passover and the Easter vacation.

Steve Altman: Are you okay with the parking attendant being eliminated?

Daniel Gettel: As a board are we okay with the fact that there isn't going to be a parking attendant? I would say we are, but let's see how the public feels. At the last public hearing a number of people raised questions about traffic. Granted there are signs, and things are different than last year. We will see at the public hearing

Steve Altman: All the years the church had a flea market there was never an accident.

Daniel Gettel: Let's not discuss the church. The church no longer has a Flea Market. The church was told to shut down for that reason. Let's not muddy the waters.

Motion to schedule a public hearing for April 17th for this application by David Biren, second by Susan Brown Otto

All in favor – 7

All opposed –0

Agreed and carried

Jacqueline Ricciani: BJ just asked if we need to go to the County for a 239m.

Daniel Gettel: This is not a site plan change, they are asking for a change in condition.

Jacqueline Ricciani: I will double check.

2) Request for an Extension of an approved 4 Lot subdivision located in the Beechwoods, known as Bethel Tax Map #: 31-3-17.1, proposed by Boymelgreen. (Cassidy)

Daniel Gettel: Ms. Cassidy was told she didn't need to come tonight to present this application. Jacy, it is my understanding they are still in litigation with the adjoiners.

Jacqueline Ricciani: I have a letter from Ms. Cassidy. I spoke with her also. The litigation is still pending. It's probably not going to be resolved soon because there is the Article 78, and they are waiting for the judge's determination. They are trying to determine what the Boymelgreen's rights are regarding traveling through Beechwoods, the different points of access. If they could access those two paper roads. I have a stack of papers, 4.5 inches high. If you would like to read them I will be happy to scan and email them to you. If the judge determines the Boymelgreen's do in fact have the right to travel and use those roads, then the judge is going to go to the Article 78, which challenges this boards decision, and then decide if this board acted properly and if the Town board also acted properly.

Daniel Gettel: How many days can we extend it?

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Jacqueline Ricciani: 90 days.

Daniel Gettel: You spoke to Ms. Cassidy, she wanted 6 months?

Jacqueline Ricciani: She wanted the number of days to begin after the judge makes his final decision.

Daniel Gettel: We have to stick with the 90 days.

Motion to grant the Boymelgreen subdivision an extension of an additional 90 days by Susan Brown Otto, second by Steve Simpson

All in favor – 7

All opposed –0

Agreed and carried

3) Request from Town of Lumberland Planning Board for lead agency on a 43 lot residential subdivision.

Daniel Gettel: Back in February I received a letter from the Town of Lumberland Planning Board, asking if we would be interested in being lead agency on a development in the Town of Lumberland. A portion of Chapin Estates is located in Lumberland. They did apply to the Lumberland Planning Board for a 43 lot residential subdivision. All 43 lots are in Lumberland, but since it is within 500ft of the municipal boundary we were asked if we had any interest in being lead agent. I told them no. I don't see why we would want to be involved with the Lumberland subdivision review. I am familiar with the application; I was there at the Lumberland meeting. I personally don't have a problem with it. If anyone else has any issues, let me know.

Reading letter to Mr. Gluckler responding to request – from Daniel Gettel.

Daniel Gettel: I believe the deadline has already passed, but if someone has a problem.

No response from board members.

Motion to receive and file letters from the Town of Lumberland Planning Board, dated February 23rd and letter from Daniel Gettel to the Town of Lumberland Planning Board dated February 29th, by David Biren, second by Wilfred Hughson.

All in favor-7

All opposed –0

Agreed and carried

4) Recommendation to the Town Board on the proposed Local Law #1 of 2012.

Daniel Gettel: I don't feel as a board that we need to open this up to a public debate, or a long drawn out discussion of this zoning. Everyone has had a chance to review Local Law #1. Rita was kind

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enough to provide every board member with a copy of it. There were a number of workshops, plenty of opportunity to ask questions to the Town Board. The Town Board has a public hearing on this local law scheduled this Thursday. If anyone on this board wants to make a public comment make it directly to the Town Board, either in writing prior to the public hearing, or at the public hearing which is here this Thursday. I personally had some concerns with the law, and I already did submit my recommendations and comments. I have discussed it with Mr. Sturm. I believe everyone here had the opportunity to review the law. If anyone has any real comments speak now, but if not we will just take a roll call vote whether we should recommend to the town board whether they should adopt Local Law #1 2012.

Motion is a recommendation to either recommend or not recommend Local Law #1 2012.

Michael Cassaro – Not to recommend

Susan Brown Otto – Not to recommend

Bill Brey – Not to recommend

Daivd Biren – Recommend

Steve Simpson - Recommend

Wilfred Hughson – Not to recommend

Daniel Gettel – Recommend – with my recommendations

Not to recommend – 4

Recommend – 3

Local Law #1 2012 was not adopted by Planning Board as written.

BJ Gettel: You have training March 29th. It will be 4 hours.

Daniel Gettel: There is also going to be 2 hours being offered here on March 22nd, a discussion on Farmland protection. Vicky, besides the public hearing you have scheduled, is there anything else coming up on the town board that we should be aware of?

Vicky Vassmer-Simpson: No

Jacqueline Ricciani: Effective October 1st, you will be required to use the new EAF forms. It has been redesigned; long form, a little bit longer, a few more pages. Short form added one more page.

BJ Gettel: It is on the DEC website.

Jacqueline Ricciani: You cannot use it until October 1st.

BJ Gettel: You should get a copy of it. March 29th – SEQRA class will be covering it. The class is at the Government Center. I will not be here on April 17th.

Daniel Gettel: The Mansion House will be coming back again; we don't know what form it will be.

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I assume it will be scaled back again. I'm not sure though.

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

All in favor – 7

All opposed – 0

Agreed and carried

8:10 pm

Sincerely,

Jannetta MacArthur

Recording Secretary