

**PLANNING BOARD
TOWN OF BETHLEHEM
December 1, 2009**

The Planning Board, Town of Bethlehem, Albany County, New York held a Regular Meeting on the above mentioned date, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY.

Present: George Leveille, Planning Board Chairman
Keith Silliman, Planning Board Counsel
Nicholas Behuniak, Planning Board Member
Daniel Coffey, Planning Board Member
Kathy McCarthy, Planning Board Member
Chris Motta, Planning Board Member
Kate Powers, Planning Board Member
John Smolinsky, Planning Board Member

Michael Morelli, Director DEDP
Jeffrey Lipnicky, Town Planner
Rob Leslie, Senior Planner
Terry Ritz, Assistant Town Engineer

Agenda: Mesity Subdivision
500 Kenwood Avenue SP/SUP
Traeger Subdivision

Chairman Leveille called the meeting to order and noted the presence of a quorum.

PUBLIC COMMENT PERIOD

No comments were made.

PUBLIC HEARING

Mesity Subdivision

Chairman Leveille introduced the proposed four (4) lot subdivision on Oakwood Rd.

A motion to indent the public hearing notice was offered by Ms. McCarthy, seconded by Ms. Motta and approved by all Board members present.

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, December 1, 2009 at 6:00 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application for Mesity Subdivision located on Oakwood Road, east side of Oakwood, across from Devon Road, Delmar, Albany County, N.Y., as shown on map entitled: Subdivision Plat, lands N/F of Dominick Cubello – 86.00-1-17.1, 40 Oakwood Rd. – Mesity Residential Subdivision Town of Bethlehem, Albany County, State of New York, dated October 20, 2008, last revised October 16, 2009, map prepared by Ingalls & Associates, LLP, 2603 Guilderland Avenue, Schenectady, N.Y. 12306.

Paul Mesiti, the applicant, presented. He is proposing a four (4) lot subdivision on land previously owned by Mr. Cubello. He said they dealt with NYSDEC pertaining to the wetlands on the property. Those wetlands have been delineated and will be identified on each of the lots with a split rail fence. The homes will be high end, about \$400,000, each with their own driveways and about 2300 sq feet and up. The homes will have brick or stone fronts and vinyl siding on the rest. The basements will be walk outs.

John LaForte, 153 Dumbarton Drive asked how many lots. He said he had one reservation. When Mr. Rizzo's house was built, he thought the drainage changed. Prior to that time, he had never seen water rise above his cellar floor. After the house was built, he has see the water rise above it when the sump pump became defective. He thought when fill was put in to construct Mr. Rizzo's house a subterranean water way was closed off. He said there is an underground stream in the area. He said any fill placed could be a problem for the drainage.

Mr. Ritz said each lot, as part of the building permit review, will be required to submit a grading plan with contours, garage door elevations, driveway elevations. There will be a 6 to 8 foot drop in the back of each house. The engineering division will review the proposed drainage for each of lots prior to building permit being issued.

Nick Ferraro, lives on corner of Montrose and Oakwood Rd. He has lived there since 1979 and he's been looking at the fields for thirty years. Two (2) of the proposed homes are close together and will block his view. They will be taking away the beauty he has been looking at for thirty (30) years. He asked if it would affect taxes, would it change the aesthetics of the property. He put an addition on his home with the view in mind. He said the view will be gone. He thought the farm land was being changed to residential. He has been paying taxes on property zoned residential and on the proposed site the owner has been paying on farm land. Chairman Leveille said the land has been zoned for residential for many years. Mr. Ferraro is against the project.

Nancy Mackey, 155 Dunbarton Dr. She asked if the homes would be placed close to the road or set back. Mr. Mesiti said they would be set back. They had worked with NYSDEC and the placement of the homes would be determined by the delineated wetlands. The proposed houses shown would adhere to the minimum setback requirements for the zoning district. Mr. Lipnicky said they wouldn't be placed much further back because of the restricted wetland areas. He said the ACOE usually wants a fifty (50) foot buffer around their wetlands. She asked if everyone in the Kenholm area received a public hearing notice. Ms. Moquin said a list of property owners within 200 feet is given to the department and they are mailed notices.

John LaForte, 153 Dunbarton Dr., asked if fill would be used along Oakwood Rd. for the parcels. Mr. Mesiti said the property dips down from the front and the lots would need to be built up to make sure the drainage went to the rear of the properties. Mr. LaForte said it sounded as if they were referring to surface drainage. He said there was an underground creek that runs through Kenholm and it drains into the pond. He wanted to make sure that wasn't covered.

Francis Bossilini, Ingalls and Associates, said the last time they were before the Board they were asked about the drainage pattern. The wetland area comes up to Oakwood Rd. and based on that, the drainage pattern goes through that area and will remain undisturbed.

Chairman Leveille said the project was before the Board at the last meeting for initial discussion and told the audience they could read the minutes on line. He said they would back before the Board and all meetings were open to the public.

Nick Ferraro, corner of Montrose and Oakwood Rd., said when he put on his addition there were setbacks he had to adhere to. He said two of the homes appeared to be very close to one another. Chairman Leveille said Mr. Ferraro was a corner lot and the setbacks were different. Mr. Ferraro and Mr. Strominger were back yard to back yard not side yard to side yard as the proposed homes were which were different setbacks. Mr. Bossilini said the homes would be built at existing grade and the basements would be walk out at the lower grade level. Mr. Ferraro asked if the taxes would change.

Mr. Bossilini said as part of the review of the project the applicant is being required to make upgrades to the municipal water system as in the area as part of the project and some additional connections to the system to complete the water loop. This would be an additional expense for the developer but it will benefit the Town and the residents in the area.

A motion to close the public hearing was offered by Ms. Motta, seconded by Ms. McCarthy and approved by all Board members present.

The public hearing closed at 6:20.

REGULAR AGENDA ITEMS

500 Kenwood Avenue

Mr. Leslie said this project was to accommodate a new tenant in the rear of an existing building. Dr. Parker, the owner of the property, occupies the front portion of the building. The property was before the Zoning Board in 1990 for use variances for office space. The current zoning allows for a professional office and a house of worship, with a special use permit.

William Hennessy, PE presented for the applicant. He said the project was for a new tenant in an existing building. The building has been used for a variety of businesses throughout the years. Dr. Parker purchased the building about two (2) years ago. The building is about 4,300 square feet. The existing driveway access point is onto Kenwood Ave. Most of the parking lot to the rear is paved and twenty-three (23) spaces are currently painted. There is room for thirty-nine (39) spaces. The church wants to occupy the rear of the building. That space is one thousand three hundred twenty-two (1,322) square feet. The proposal includes a second egress for the rear of the building, per NYS building code. No other exterior improvements are proposed. Exterior lighting exist on the wall. There are concrete light bases in the back parking lot but no lights are there now. Per the Town zoning, Dr. Parker needs fifteen (15) parking spaces and the church will need fourteen (14) spaces for a total of twenty-nine (29). The lot will support thirty-nine (39). Dr. Parker's hours of operation are Monday through Friday, 8:00am to 5:00pm. The church's service is Sunday at 10:00AM. They might have a few other services throughout the year that wouldn't be on a Sunday and some meetings at night during the week that would need less than ten (10) parking spaces. Mr. Hennessy said the sharing of the lot would work well. The property perimeter is wooded, mostly mature trees and the adjoining lot is wooded and owned by Dr. Parker. The rear of the lot has ornamental grasses and the front landscaping has been updated by Dr. Parker.

Mr. Hennessy said the site distance on Kenwood Ave. is adequate, about five hundred (500) feet in either direction. Required site distance in a thirty-five (35) mile an hour zone is about three hundred (300) feet.

Mr. Smolinsky asked what the max occupancy would be for the space. Mr. Hennessey said there are different occupancy rates for 1322 square feet per NYS building code. They have laid out the space for

seventy (70) chairs. The Town's building department will set the maximum occupancy. They have enough parking for the max occupancy of the space.

Mr. Hennessey said they were trying to finalize the signage, that's why it hasn't been submitted yet. He had some samples with him. The current sign is twelve (12) square feet and zoning allows ten(10). The church is considering eighteen (18) square feet, they will need a variance. Mr. Hennessey said they are proposing to add twelve (12) inches to the bottom of the existing sign. It isn't now nor is it proposed to be illuminated.

Mr. Smolinsky said if the far end of the parking lot were used at night, the lack of lighting to the rear parking area might be a problem. Mr. Hennessey said they could supply lighting but Mr. Greco lives adjacent and they were concerned that the lighting might disturb him. Chairman Leveille said the existing lighting will need to be looked at to make sure it doesn't shine onto others property. Mr. Hennessey said there are currently four (4) down lights that are shielded and one wall pack in the rear that is fifteen (15) feet above grade that shines to the back of the lot. Mr. Behuniak didn't think that was sufficient lighting for the back of the lot. There isn't a dumpster now and none are proposed.

Mr. Coffey asked if it was an accurate estimate that the service on Sundays would create about thirty-five (35) cars. Mr. Hennessey said he calculated the ITE trip generation for a church on a Sunday between nine and noon and compared it to Sunday peak hour vehicular traffic along Kenwood Avenue. According to Mr. Hennessey, approximately 500 to 700 cars per hour travel along Kenwood Avenue during the Sunday peak hour. The addition of approximately thirty-five cars (the estimated trip generation of the church during the Sunday peak hour) is less than 10% and they don't perceive that as an issue. There is one existing driveway onto Kenwood Avenue and there isn't a proposal to change that.

Chairman Leveille asked how the traffic analysis and conclusions were made. Mr. Leslie said he used the ITE Trip Generation Manual. It gives rates for churches. Chairman Leveille asked if the rates would change if they met every day of the week and would it still be under the thresholds. Mr. Leslie it would still be within the thresholds and their proposal is only for Sunday services. Chairman Leveille said they could use the space during the week. Mr. Leslie said it is a commercial space and no matter what use is in the space, it will generate traffic. Chairman Leveille said these types of programs have a tendency to load and unload all at once instead of spread out during the day. Mr. Hennessey said they would prepare a letter outlining how the church will be using the space. Dr. Parker doesn't have any other doctors in his practice so he rarely has more than five (5) parking spaces being used at any given time.

Reverend Sandy said currently they don't have anything that occurs during the day. Most of the focus is on outreach but they go out into the community instead of inside programs. She said they have leadership meetings once a month in the evening comprised of seven (7) people. The church is currently in another rented structure in New Scotland. The congregation comes from the area.

The Board reviewed the draft SEQR Resolution, Negative Declaration prepared by staff.

A motion to approve the SEQR Resolution, Negative Declaration as drafted was offered by Ms. Powers, seconded by Mr. Smolinsky and approved by all Board members present.

A motion to set the public hearing for 500 Kenwood Avenue SP/SUP for December 15, 2009 at 6:00PM was offered by Mr. Coffey, seconded by Mr. Behuniak and approved by all Board members present.

A motion to table was offered by Ms. Motta, seconded by Ms. McCarthy and approved by all Board members present.

Traeger Subdivision

Paul E. Hite, LLS, presented for the applicant. The applicants August March and George March want to subdivide property that had been owned by their late mother. The ten (10) acre property is located on the north side of Rt.396 and east side of Spawn Hollow Rd. On the north side of the parcel, there is a property owned by a different owner that had gotten in trouble with NYSDEC and they had to do a land fill about twenty (20) years ago. The Health Department didn't have a problem with the March's developing their property. The proposed subdivision site drops down to the land fill. It wasn't toxic waste, the previous owner was a contractor and he hauled bricks and lumber into that parcel. The applicants had recently finished a land division, separating the original Marsh home containing two (2) acres to the March's sister. The applicants now want to subdivide the remainder of the property into three (3) lots 2 acre parcels. Soil tests have been done to identify the appropriate area for a septic system. There is ample water on the property for a well. All of the lots will have access onto Spawn Hollow Road.

Ms. Motta said Mr. Ritz suggested testing the water quality because of the land fill. Mr. Hite said the Albany County DOH sent a letter and it said they didn't have a problem with the subdivision. He had met with two (2) individuals from the ACDOH and they didn't think the land fill presented a problem. They thought the proposed well was a sufficient distance from the land fill. Mr. Silliman said the letter stated that they had no assurances there would be sufficient water supplies and no permits could be issued until the ACDOH has reviewed, inspected and approved the water supply. Mr. Hite said that was standard for well approval. Mr. Ritz said a building permit would not be issued until the ACDOH approved their well.

A motion to table was offered by Ms. Motta, seconded by Mr. Smolinsky and approved by all Board members present.

Minutes

The Board reviewed the draft minutes of November 17, 2009 prepared by staff.

A motion to approve the minutes as drafted was offered by Mr. Coffey, seconded by Ms. Powers and approved by all Board members present.

A motion to adjourn was offered by Mr. Coffey, seconded by Ms. McCarthy and approved by all Board members present.

The meeting adjourned at 6:55 pm.

Respectfully submitted,

Nanci Moquin