

George Leveille
Chairman

Nicholas Behuniak
Member

Thomas Coffey
Member

Christine Motta
Member

Kate Powers
Member

Stephen Rice
Member

John Smolinsky
Member

TOWN OF BETHLEHEM

Albany County - New York

PLANNING BOARD

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Terrence W. Ritz
Asst. Engineer, L.S.

Keith Silliman
Counsel

Deborah Kitchen
Assistant to the Board

MINUTES February 16, 2010

The Regular meeting of the Town of Bethlehem Planning Board was convened in public session in the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY at 6:00 p.m., on Tuesday, February 16, 2010. Attendance was recorded as follows:

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Counsel Present</u>	<u>Town Staff Present</u>
George Leveille Thomas Coffey Christine Motta Kate Powers Stephen Rice	Nicholas Behuniak John Smolinsky	Keith Silliman	Michael Morelli Robert Leslie Terrence Ritz
<u>Others Present</u>			
David Caesar Peter Lynch	Doug Miller Charles Radliff, Sr.	Mike Tucker David Wendth	Charles Wiff

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

Public Comment on Regular Agenda Items

- Eddy Village Green at Beverwyck – Phase 5A/Amendment 5A
- Phillipin Kill Manor
- The Pines at Normanside

There was no public comment on regular agenda items.

Eddy Village Green at Beverwyck – Phase 5A / Amendment 5A (a.k.a. BPA No. 26, PRD No. 12)

The project is located within the existing Beverwyck campus. It includes construction of two 10,025 square foot buildings to house 24 skilled nursing beds.

Mr. Leslie provided the Members with an overview of the Building Project Approval (BPA) amendment process, whereas the amendment application is submitted to the Town Board, and the Town Board refers the application to the Planning Board for a recommendation on approval.

It was noted that the project was presented to the Town Board at the December 9, 2009 Town Board meeting and the Town Board voted in favor of referring the application to the Planning Board for review

and recommendation. The project design was then presented to the Planning Board at the December 15, 2009 Planning Board meeting.

In a memo to the Planning Board, dated February 10, 2010, Mr. Leslie recommended that the Members approve the draft Resolution on SEQR Determination of Significance and the draft Resolution to Amend the Building Project Approval (BPA No. 26, PRD No. 12) for the existing Planned Residential District - The Eddy Village Green at Beverwyck, Phase 5A / Amendment 5A. The approval would be conditioned on the completion and acceptance of a SWPPP. Chairman Leveille asked about the significance of the bioretention areas that are being proposed for the stormwater management practice. Mr. Leslie stated that engineered soils and vegetation are used to treat runoff, providing an aesthetically pleasing feature to the site, as compared to a typical stormwater pond. It will be the first time this type of stormwater management practice will be used in Town to satisfy the NYSDEC water quality treatment requirements.

Upon motion by Ms. Powers, seconded by Mr. Rice, and unanimously approved by all Members present, the SEQR Determination of Significance – Negative Declaration Resolution was approved.

Upon motion by Mr. Coffey, seconded by Ms. Powers, and unanimously approved by all Members present the Resolution to Amend the Building Project Approval for Eddy Village Green at Beverwyck - Phase 5A (BPA No. 26, PRD No. 12) was approved.

A copy of the Planning Board's Recommendation of Approval will be forwarded to the Town Board, along with the SEQR Determination of Significance, the Building Project Approval Amendment document and a set of plans for the Board to consider at its February 24, 2010 meeting.

Phillipin Kill Manor, Fisher Boulevard & Orchard Street, Slingerlands, NY

Peter Lynch, Esq. was present on behalf of the applicant and noted that the project appeared before the Planning Board on December 15, 2009 and was granted a 60 day extension for SEQR review extending the Board's review to February 9, 2010. Discussions related to conservation lands and an access easement took longer than anticipated and the applicant is now seeking an additional sixty (60) day extension to allow the Board to complete its SEQR review and recommendation of the Planned Development District zoning application. If granted, the SEQR review period would be extended to April 10, 2010. It was noted that changes made to the plans, following the December 2009 meeting, were described in a letter from Brewer Engineering, dated February 8, 2010.

Mr. Lynch stated that 35.30 acres along the Phillipin Kill and a 30-foot wide easement between Fisher Boulevard and NYSDEC lands (referred to as the Joel property) would be dedicated to Five Rivers. Chairman Leveille noted that a pedestrian connection from Fisher Boulevard to Five Rivers had been a goal of the Town for some time now. The Town had originally expressed an interest in obtaining an easement from a previously proposed project but the project had been withdrawn.

Mr. Leslie stated that NYSDEC Region 5 Director, Gene Kelly, reviewed the map of proposed conservation lands to be deeded to NYSDEC Five Rivers prepared by Brewer Engineering. NYDEC was willing to accept the 35.30 acres of land surrounding the Phillipin Kill and requested access to Fisher Boulevard through dedication of the entire northwestern parcel, which is labeled as "Remaining Lands of Cade, 10.44 acres" on the Site Development Plan. The applicant was unwilling to dedicate the entire 10.44 acres to NYSDEC Five Rivers, but was willing to provide for a 30-foot wide easement along the western property line to allow for pedestrian access from Fisher Boulevard to NYSDEC Five River Lands, known as the Joel Property.

Mr. Leslie noted that he and a member of the Engineering Division had visited the site to inspect the proposed easement area and concluded that a 30-foot wide easement would be sufficient for developing a

pedestrian trail similar to those that are currently in use at the Five Rivers facility. Discussions with Craig Thompson, Director of NYSDEC Five Rivers, and Peter Innes, NYSDEC Region 4, also indicated that the proposed 30-foot wide easement would be acceptable. The Town had hoped to obtain a wider easement around the wetland areas to reduce impacts and provide for more pedestrian crossing options. Vehicular parking would not be accommodated within the 30-foot wide easement.

Mr. Leslie referred to a map he created which shows the project site including conservation lands, easement area and lands owned by NYSDEC Five Rivers. The easement would cross two wetland areas impacts to those areas could be minimized by utilizing a boardwalk crossing. Overall, the easement would achieve the main goal of providing pedestrian access from Fisher Boulevard to NYSDEC Five Rivers for Bethlehem residents.

Upon motion by Ms. Motta, Seconded by Mr. Rice, and approved by all Members present, the project was awarded a 60 day extension for SEQR Review extending the Planning Board's review to April 10, 2010.

The Pines at Normanside Subdivision, Leonard Place & Delaware Avenue, Delmar, NY

Mr. Tucker of Infinigy Engineering was present on behalf of the applicant to provide the Members with an update regarding the proposed subdivision consisting of 10 residential lots and 1 commercial lot. It was noted that the project last appeared before the Planning Board on June 16, 2009 to receive input from the Board regarding driveway access to Lot #11. Since that time, the project has also undergone the following revisions:

- Obtained an area variance awarded by the Zoning Board of Appeals for lot width of Lot #11
- Obtained a use variance awarded by the Zoning Board of Appeals for access to Lot #11 through a residential zone along Leonard Place in response to Planning Board member comments from the June 16, 2009 meeting
- Received conceptual approval from NYSDOT to cut and connect to existing sewer utility lines on Delaware Avenue
- Notification that the proposed work within Delaware Avenue may require adherence to the recently adopted Bethlehem Noise Abatement and Containment Ordinance, regarding §E.6. "Noise from Construction." The project may require an application for a special permit, §F.
- Project plans reflect landscaping between Lot #11 and Lot #1, and along the frontage of 2 Leonard Place in response to Planning Board member comments from the June 16, 2009 meeting

Mr. Leveille noted that Member Smolinsky had submitted comments via email, and had expressed concern about the slope setbacks along Lots #4 and #8, particularly Lot #4 which appeared to be extremely close to the setback, and had minimal useable area in the rear yard. Mr. Tucker indicated that most of the homes would have walk out basements. Mr. Leslie stated that an option could be to reduce the lot widths of Lots #1, #2 and #3, which are approximately 86 feet - noting that the zoning district (Core Residential) only requires a minimum of 50-foot lot width. This reduction could provide a large buffer area between Lot #11 and Lot #1, as well as a more useable yard space for Lot #4, without reducing the total number of building lots. Mr. Smolinsky's comments will be forwarded to Mr. Tucker.

Mr. Tucker asked the Board if it would be appropriate for the applicant to submit a site plan for the mixed use Lot #11 while the project is still undergoing subdivision review. Chairman Leveille indicated that this would be appropriate since the layout of Lot #11 could influence the subdivision layout.

Mr. Leslie noted that the applicant still needs to address Town comments on the utility plan designs and the SWPPP before moving forward on a SEQR Determination of Significance. A public hearing will not be scheduled until these issues are addressed. There was no further discussion. The project was tabled.

Non-Agenda Items

Mesiti Subdivision – Oakwood Road, Glenmont, NY

The Members discussed a letter and Notice of Action and Declaration for filing that had been submitted to the Town Clerk by Nichols Mesiti, Esq., of Heslin, Rothenberg, Farley & Mesiti, P.C., on behalf of Paul Mesiti, applicant for the proposed subdivision known as Mesiti Subdivision on Oakwood Road, Glenmont, NY, Tax Map ID No. 86.00-1-17.1.

The letter, dated February 4, 2010, asserts that preliminary approval of the above-referenced Mesiti Subdivision occurred by default, based on the fact that a public hearing was held on December 1, 2009 and the Board did not grant preliminary plat approval within 62 days, as required by law. The letter states that “pursuant to Section 276-8 of the New York state Town Law, preliminary approval of the aforementioned subdivision has occurred by default and, the certificate of the Town Clerk as to the date of submission of the preliminary plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient evidence of subdivision approval.” Mr. Mesiti also requested that the Town Clerk “certify the date of submission of the preliminary plat and the failure of the Planning Board to take action within the prescribed time period, i.e., by February 1, 2010, and issue the same.”

Paragraph #3 of the Notice of Action and Declaration states that “according to Chapter 103 of the Town Code for the Town of Bethlehem, Section 103-14, subsection I (3), the Planning Board shall approve, with or without modification, or disapprove such preliminary plat within 62 days after the close of the public hearing, i.e., February 1, 2010.”

Chairman Leveille stated that Planning Board Counsel, Keith Silliman, responded to Mr. Mesiti’s request in a letter dated February 9, 2010 and advised him that the Board does not agree with the statements contained in the February 4, 2010. In the letter, Mr. Silliman quotes Section 103-2 of the General Provisions of the Town of Bethlehem Subdivision Law, which states that “this chapter is also intended to supersede and amend inconsistent provisions of NYS Town Law § 276, Subdivision 8, by eliminating the provisions for default approval resulting from the Planning Board's failure to take any action or hold any hearing on a preliminary or final plat within the statutory time periods.” Mr. Silliman also indicated that the Town would welcome the opportunity to meet with the applicant in an effort to advance the project and suggested that the applicant contact the Town’s Planning Staff to set up a meeting.

Minutes

Minutes from the December 16, 2009 meeting will be considered at the March 2, 2010 meeting due to the fact that two of the Members who were present for the December meeting were not present at the February 16, 2010 meeting.

Meeting Schedule

The next Planning Board meeting is scheduled to take place on Tuesday, March 2, 2010, at 6:00 p.m.

Respectfully submitted,
Deborah Kitchen