

**PLANNING BOARD  
TOWN OF BETHLEHEM**

**July 6, 2004**

The Planning Board, Town of Bethlehem, Albany County, New York held a **Public Hearing Meeting**, on **VAN VALKENBURG SUBDIVISION**, 515 Dawson Road, Delmar, NY on Tuesday July 6, 2004, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Parker D. Mathusa presided and called the meeting to order at 7:30 pm.

Present: Parker Mathusa, Planning Board Chairman  
Howard Engel, Planning Board Member  
Thomas Cotrofeld, Planning Board Member  
Katherine McCarthy, Planning Board Member  
Christine Motta, Planning Board Member  
Daniel Odell, Planning Board Member

Jeffrey Lipnicky, Town Planner  
Janine Saatman, Deputy Town Planner  
Randall Passmann, Senior Town Engineer

Howard Johannessen, Boutelle & Sons, Van Valkenburg Subdivision  
William Van Valkenburg, 16 Werner Avenue, Delmar, NY, Van Valkenburg Subdivision  
Esther Sosman, 510 Dawson Rd., Delmar, NY, Van Valkenburg Sub.  
Percy Cotton, 30 Bellwood Way, Castleton, Beacon Harbor  
Frank Tate, 1698 Central Ave., Colonie, Beacon Harbor  
Tom Yardley, BFJ Planning & Consulting, Beacon Harbor  
Steven Kinley, ACO Property Advisors, Inc.  
Sally Rooney, 24 St. Claire Dr., Delmar, Van Valkenburg Sub.  
Michael Rooney, 24 St. Claire Dr., Delmar, Van Valkenburg Sub.  
Simone Sebastian, Times Union

**Van Valkenburg Subdivision**

CHAIRMAN MATHUSA – I would like to welcome you to the meeting of the Town of Bethlehem Planning Board here on Tuesday July 6<sup>th</sup>. I would note for the record that our colleague Brian Collier will not be joining us tonight he's absent and we will miss his input, but he could not make the meeting. As you notice on the agenda, we are having a public hearing on the Van Valkenburg Subdivision. It's a project that is located on Dawson Road. I would begin by asking for a motion to indent the notice of the public hearing to our record. I need a motion.

MS. MCCARTHY: So moved

CHAIRMAN MATHUSA: Second?

MR. ENGEL: Second

---

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

CHAIRMAN MATHUSA: All those in favor.

BOARD MEMBERS PRESENT: Aye

CHAIRMAN MATHUSA: All those opposed

CHAIRMAN MATHUSA: One absent. All those in favor, thank you.

## **NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, July 6, 2004 at 7:30 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of William Van Valkenburg for approval of a two (2) lot subdivision located at 515 Dawson Road, Delmar, NY 12054, Albany County, N.Y., as shown on map entitled: PRELIMINARY PLAT OF PROPOSED SUBDIVISION OF LANDS OF WILLIAM VAN VALKENBURG, ST. NO. 515 DAWSON ROAD, Town of Bethlehem, Albany County, State of New York, dated February 18, 2004, revised May 19, 2004 and prepared by Edward W. Boutelle & Son, Civil Engineers and Surveyors, A Division of J. Kenneth Fraser and Associates, PE, LS, LA, P.C., 423 Kenwood Avenue, Delmar, New York 12054.

CHAIRMAN MATHUSA: Now I'll call on Mr. Johannessen to represent the applicant and give us a short summary on the status of the site.

MR. JOHANNESSEN: I'm Howard Johannessen from Edward W. Boutelle and Son. This property is located on the south side of Dawson Road, this is Dawson Road which runs generally east west direction. The property is located just west of Lansing Drive. The existing property consists - you probably can't see it, but it's outlined in red. There's an existing home on the lot, located right there. What is proposed is to take this lot and split it in half, which will result in that this lot here will be approximately 15,000 sq ft and the new lot, this would be connected or will cover the existing building. This lot here which is about 19,000 sq ft. is proposed to be a building lot. There are existing town utilities both at Dawson and Lansing. The sanitary, there is an end manhole here and it runs west from that manhole and then there's another sanitary sewer that comes down Lansing Drive and then goes east on Dawson. The proposed building will be connecting in, this right here is the proposed building, that will be using this sewer over here because of the preferred differential in grades and not this one here. So this will provide sanitary services. The building is going to be placed approximately in here, there will be some fill needed and grading to prepare the site for acceptance of a building. Also in the road there's a water main on the north side of Dawson, this will provide water service. There's a storm sewer which runs along the south side between the pavement and the property line. Included with that storm sewer system, there's a 36 inch culvert which exists and runs to a point approximately here in this property. What is proposed is that this will be extended for another 50 feet, so that the end section will allow discharge in this area here and then flows will continue down through where they have been going. With the storm sewer in Dawson, that will provide a means to connect the footing drain from the proposed building. We'll utilize this manhole here. Part of the proposal is to grant

---

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

the Town an easement for the existing storm sewer and then for the proposed storm sewer all the way through the lot and that'll be for purposes of maintaining the storm sewer which exists through this lot. I think that about sums up what is proposed.

CHAIRMAN MATHUSA: Do any of the Board members have any questions or thoughts at this point? Jeff, any thoughts?

MR. LIPNICKY: Not right at this moment.

CHAIRMAN MATHUSA: At this time I will open the floor to receive comments from the public, both for and against the project. I ask that those proposing to speak, speak into the microphone, clearly stating their names and addresses for our record so if we have to contact you or something like this we'll be able to that. If anyone would like to make their comments at this point, we'd be pleased to hear any thoughts that the neighbors or others might have at this point. Yes.

MS. O'BRIEN: I'm Majorie O'Brien, I live at 29 Preston Road which is just up at the next corner here. Know the area well and I know the wetlands behind Lansing Drive there. It's all open area which washes down through here. I do have a lot of concerns about the proposals and although they say they'll bring the culvert down further it's still going to be discharging on somebody's land which will create, particularly if you put fill in here, it's going to create some drainage that's not what's there now. We all have sump pumps, we all have drainage problems and we're not interested in seeing anything that's going to make any of it any worse. Couple of other questions, what is the frontage here, is it sufficient for a building lot or is that going to need a variance. The other thing is this is an existing duplex, which I believe is allowed in that zone, are they proposing a single family or a duplex. So a few questions that need answers and I think others have questions as well.

CHAIRMAN MATHUSA: Thank you. Any other questions?

MR. ROONEY: My name is Mike Rooney, I live at 24 St. Claire Drive which is up on the corner right here. I have lived there since the existing, when this whole area was developed. I was there when this whole area was nothing but woods. And the proposal here this culvert that their talking about this has always been wetlands not really, it's always been damp ground. And the culvert was installed in here when this area was developed for the drainage purpose for back here and goes down through here and goes into the pond which used to be Porter Howard's pond which is right on Delaware Avenue, right next to the Christine Science church that 's where it drains into and that's where I would assume the extension of this would even improve the drainage into that pond. As a resident of that neighborhood, I see nothing but an improvement of a dwelling there to improve the value of the real estate in that neighborhood. I have no problems with it.

CHAIRMAN MATHUSA: Thank you

MS. SOSMAN: My name is Ester Sosman, I live at 510 Dawson. I'm probably one of the most impacted neighbors by this project. And I would like to back up what Mr. Rooney said, I'm hoping that the extension of the culvert will help the water situation that I have in my basement. My sump pump runs 24, 7. I believe it's related in some way to that pond in talking to old timers in the neighborhood. In any rate, I'm looking forward to some relief from the water problem and I see this project as a positive that's happening.

CHAIRMAN MATHUSA: Thank you.

MS. NILES: I'm Maureen Niles, I live at 16 St. Claire Drive, which would be down in this area. I'm confused because I don't think that we allow building on wetlands and that is existing wetlands and I'm very concerned that it may perhaps ease the problem for the folks across the street but for those of us that are down wind of this water I can see our sump pumps going all the time. And I'm also concerned about putting two houses on one lot and I think that would be a variance and I think it would make it much more crowded.

CHAIRMAN MATHUSA: Are there any other comments, for or against?

MR. JOHANNESSEN: I just jotted down some things here so if I don't get, if I've forgotten something, maybe you can remind me. As far as variances, there are no variances needed from the Zoning Board of Appeals. The lot conforms with all the zoning regulations including the required frontage. As far as wetlands, there are no designated wetlands on this lot, I know that you folks are talking about areas north of Dawson Road there maybe, sure there are just because there is low area coming down through here and there is drainage that is picked up coming down through these back of the lots fronting on Lansing, So I know that there is flows being picked up. It's also evidenced by that there's a culvert, a Town culvert, that picks that up. All this does is that it goes into a storm structure here goes across the road and currently what's flowing , it's not just what's coming down through here but it's also picking up the flows that come through the storm sewer system in this direction and in that direction so this discharge pipe is picking up a number of sources of storm water runoff and the extent of which I'm not sure of but all that's being done with this proposal is extending the existing culvert 50 feet. That's all it's doing. The net impact of the extension of the culvert plus putting a house and a driveway on this lot is really a drop in the bucket because it's so much, you have a 36 inch pipe coming through here and whatever. I mean a 36 inch pipe represents quite a volume of water in an area in which that is servicing and to add 19,000 square feet, well it's not, the area is the same and you're adding a building and a driveway and the amount increase of runoff is really nothing compared to what's currently coming down through there. There was a comment or a question about whether it's a single family home or a duplex and maybe Bill you can, you're planning on a single family?

MR. VAN VALKENBURG: Well actually I wasn't planning on anything. But I assume that any builder that would want to buy it would probably restrict it. I've always been geared towards a single family house, I assumed that was only what was allowed. If I might add that even if this were approved and the lot was divided in half, each of the existing halves would still be as big or bigger than most of the neighboring homes. So we're not going to squeeze something into a tiny lot.

MR. LIPNICKY: I believe this is a Residence A district. Correct Howie?

MR. JOHANNESSEN: Yes.

MR. LIPNICKY: Two families are not allowed in this district, single family homes only.

MS. O'BRIEN: There's a duplex right next door to it.

MR. LIPNICKY: That might very well be and that may be a non-conforming use.

MS. SAATMAN: At one time they were allowed in the district.

CHAIRMAN MATHUSA: You have to come back to the microphone.

MS. O'BRIEN: The drainage, obviously the water is going to go back further, go into somebody else's property. Do we know whose property that is and do they know. Well if your extending the culvert to the back to the end of the property line there, with the assumption that the water is going to drain into the pond. The pond is on someone's property. It will have an impact on that.

MR. JOHANNESSEN: No. What it is, is that right now the water that is being discharged through this pipe at a point at approximately right here from here's it leaves the pipe and it follows the, whatever you want to call it, a stream, a ditch, a drainage swale, it leaves the end of the pipe and it follows this drainage ditch or swale through this person's property and ultimately to that pond. All it's going to do now is instead of leaving the culvert here, it's going to leave the culvert 50 feet away on this property and will continue through the course, the existing course. You are not changing.

MS. O'BRIEN: The fifty feet that's gonna be covered by the additional culvert, that's fifty feet of land, wetlands, stream whatever you want to call it, that some of this water has an opportunity to disburse a little bit before it gets to the pond. This is gonna direct it far more directly into that pond and onto that land.

MR. JOHANNESSEN: Well part of doing that is providing an area in here that has riprap which currently it is not so riprapping definitely slows...

MS. O'BRIEN: And creates ponding. There'll be stationary water there.

MR. JOHANNESSEN: No, that's not the intent. Basically all that's being done... the whole purpose of the pipe is to provide greater area upon which, a sufficient amount of area that can be filled and graded to accept the home. That's the only reason that it's 50 feet in extending it. It probably could be something shorter but there's no reason to make it shorter.

MS. O'BRIEN: You're saying that what is existing there now it's stream like and water flows through there and yet it's not classified as wetlands? How is the classification given? What's it based on?

MR. JOHANNESSEN: Well I'm not a biologist and it takes a biologist to classify it. There are isolated wetlands, I'm not going to even pretend to ...

MS. O'BRIEN: It's hard to believe that it's not.

MS. SOSMAN: I'd like to get back to the wetlands issue for a moment. I believe that the people who own that pond are new home owners and I would hate to see any construction taking place that might effect their pond without them being aware of it. That would be one thing. I believe there's also some state law that are in the bill process right now that are to do with designating smaller wetlands in the state and I think we need to do some research about that too because that is wetlands right now.

CHAIRMAN MATHUSA: Thank you, any other comments?

---

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

MR. ROONEY: I would like to remind everyone that I've been around that area since I was a kid and that was nothing but woods. There was a stream going through there. This culvert area was put in there to control and help the homes along Lansing, Preston, everything else drain much better. I don't know why the pond was there, the pond was always there since I been here for forty some years. It was always used for the drainage, wetlands, I don't know what's classified wetlands or what's not. If it classified wetlands then all these houses up in here are probably built on wetlands. I can tell you that it has probably helped, it's probably helped Ester's home, it's probably helped the home next to Sally Young's old home, it's probably helped Bill's home and everything for the drainage. As far as, Mrs. Niles brought up how this would impact farther down the line, I believe. Let's see, it's probably 200 feet maybe from us. My sump pump never runs, I mean we have to have a deluge for days before that sump pump will come on. And that's just water on my property which probably from the proposal here is 150 feet, 175 feet away from that ditch. So I don't think it will have any impact, in fact I think it will improve it to control it much better. The purpose like I said of the pond, it was always there since I've been here and that's forty some years. It was Porter Howard's , the people who just sold the house, they even drained it and dug it deeper. This was about 10 years ago, blocked it and dug it deeper to clean out all the leaves etc. They wanted the pond. The people who bought the new house, the pond is theirs, the know its theirs and they know where it came from. Thank you.

MS. O'BRIEN: In response to Mike, I'm delighted that he has no problem with his sump pump. I dare you to speak to the people along Lansing Drive and my house and everybody else. Cause we've been dealing with Niagara Mohawk because we have trouble with the electricity and the big problem is then the sump pump can't go. 24-7 no kidding, we've all got sump pumps, I've got a backup sump pump for when the electricity goes off. I suspect like Mike said about all these houses built on wetlands I think the whole Kenaware Park there would not today qualify for building because there are streams all over the place. Where my house is I know there's a stream under there. The whole area and any building that goes on is going to impact on it, no question. Ask the people on Lansing.

MR. NILES: John Niles, 16 St. Claire. We have a sump pump, we have two sump pumps a back up that doesn't require electricity for the same reason that Marge was talking about. I'm concerned what impact this has with anything over in here. We had just gone through this thing with the Fire Department buying the property, the old Bennett bike shop, the fire department wanted to take two houses and just level them and now I understand that's not going to happen supposedly but I'm very concerned what's gonna happen back in here. And we were told by the fire department this is wetlands and we can't build back there. When I spoke to the fire department, that's what they were told. We do have a problem with water and we're always afraid to go away in the winter time particularly spring so I had a second sump pump put in that would work off the water pressure. That was our biggest concern was water, we're afraid to leave.

MR. VANVALKENBURG: I'm Bill Van Valkenburg, I'm the property owner. Everybody has water problems in Delmar, most, not everybody. My house existing house is right here, the closest to the proposed lot and I don't have a water problem. This house on the corner of Delaware and St. Claire her sump pump runs continuously, I've had water once in 22 years, the day the power was out for seven days back 12 years ago. As to the fire department, it was my understanding the wetland had nothing to do with it, they wanted Verstandigs that was their first choice, they bought Verstandigs after they bought this place.

MS. SOSMAN: I wish there was a representative from the fire department here because now I'm confused about what I've been told by the fire department. There is a nice woods back there now in back of Bennett's property, I've been around for 38 years here so I remember, the woods is always been there and I was concerned that that might get paved over for the fire department and the first thing they said was we'd love to do something there but we can't, it's all wetlands back there. So I'm concerned that all of a sudden these wetlands are not important or they've disappeared not only for Bill's property but also for what plans there are for the property that now belongs to the fire department. I understand that they've bought Verstandigs, I don't know if that's a done deal or not but in the mean time they still own the Bennett property and they will perhaps try to sell it or try to use it and they said you just don't have to worry about us building because nobody can build there it's all wetlands. So now I'm hearing something totally different, which concerns me not only for my water but also for the woods perhaps getting paved over.

MR. JOHANNESSEN: Let me just reiterate what I said earlier, obviously there are some people in this area that have water problems but I'm going to reiterate what I said before. What is being proposed here will have no or such a miniscule impact on increase in water that especially if you're upstream this isn't going to do anything because all your water and your neighbors is coming down through here OK. All this does, the only thing you can say that will contribute and if you've got a 36 inch pipe, you've got a ton of water coming through there. That's a lot of water servicing a large area and if all you're taking is putting a house and driveway, that's what you're adding, cause those are the impervious services and that increases runoff, that's all you're contributing in an area that's being served by a 36 inch pipe, it's nothing. All this is doing this 50 foot of culvert, all it's doing is changing the point at which this pipe is discharging. You're moving it 50 feet down inside this guys property. It's still going to go through this drainage swale, if it's going there today, it'll be there tomorrow when this pipe is put in or 6 months from now. You're not changing that and so this water is going to continue to flow through the properties that they flow through now to get to that pond. You're not, again if I had some sort of analogy if I had a bucket of water the amount of increase that your putting in here is a drop. Cause a 36 inch pipe conveys a tremendous amount of water. And you gotta remember to it's not only taking the water that's coming from the lots fronting on Lansing. I don't really know the extent all I know is that there's 28 inch pipe which serves this area here, there's an 18 inch pipe here, and there's a 24 inch pipe here. They're all big pipes. And this 36 inch pipe is an indicator of how much water is coming down through there. So you really can't, from what impact this lot will have on increased flows is virtually nothing and the fact that you're putting in, that you're extending this pipe 50 feet. You're not changing anything, cause the flows today come from here and down through the ditch, tomorrow they're just going to come from this point down through the properties to that pond.

MR. NILES: If we agree this is wetlands....

MR. JOHANNESSEN: No, I'm not saying it's wetlands. It isn't wetlands.

CHAIRMAN MATHUSA: It's not designated wetlands.

MS. SOSMAN: Who does the designation, the Town or the State?

CHAIRMAN MATHUSA: At this point I don't if the Town does that. Do you recall?

MR. LIPNICKY: It's clear there are no state wetlands on this property. Whether or not there's federal wetlands, I do not have an answer to that and I don't know if there's been a wetland

delineation performed on this property or not. In terms of the stream disturbance generally speaking the federal government in terms of federal wetlands will allow up to 300 hundred feet of stream disturbance without having to mitigate. So clearly we're within that threshold. In terms of wetland disturbance we're talking about 1/10<sup>th</sup> of an acre before mitigation will be required. I do not have any information one way or another whether there's any wetlands on this property or how much if there is any is being disturbed. I don't know if Howie has had Bagdon or some other consultant go out and take a look at this or not.

MR. JOHANNESSEN: No, we have not had any indication that there are and we have not had a biologist out there to do it.

MS. O'BRIEN: Can I make one final statement? Thank you very much. Just a final statement, I appreciate what you're saying I know you've put a lot of effort into coming up with these plans and you're saying nothing to it and you're also saying big pipes lots of water, we know that, we know that well. The problem comes if you put the extension on, the 50 foot extension and it goes down here, we really can't tell at this point how much it's going to disturb and the problem comes again, we know it's all wetlands, maybe not designated, if it's disturbed to the point that we do have problems with the pond overflowing or with other people having more water than they have now, once it's done it's done. How do we go back? It's wetlands, go out and walk it, take a look at it, see where all the water is coming through and I don't know that we're gonna be doing any improvement here, I'm real concerned about the potential that when this is done it's gonna be whoops, I guess there was more water there than we thought there was. Hope not.

CHAIRMAN MATHUSA: Thank you. Does the Board have any thoughts at this point? Any other questions? If not, I'll entertain a motion to close the public hearing.

MR. ODELL: So moved.

CHAIRMAN MATHUSA: Second?

MR. COTROFELD: Second.

CHAIRMAN MATHUSA: All in favor

BOARD MEMBERS PRESENT: Aye

CHAIRMAN MATHUSA: Opposed.....That's carried.

Public hearing closed at 8:35.