

**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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**Sam Messina**  
*Town Supervisor*

**Michael Morelli**  
*Director of DEDP*

**Jeffrey Lipnicky**  
*Town Planner*

**Robert Leslie**  
*Senior Planner*

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

**Keith Silliman**  
*Counsel*

**Deborah Kitchen**  
*Assistant to the Board*

**MINUTES**  
**March 2, 2010**

1  
2  
3 The Regular meeting of the Town of Bethlehem Planning Board was convened in public session in the  
4 Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY at 6:00 p.m., on Tuesday, March 2, 2010.  
5 Attendance was recorded as follows:  
6

Board Members Present	Board Members Absent	Counsel Present	Town Staff Present
George Leveille	Kate Powers	Keith Silliman	Michael Morelli
Nicholas Behuniak			Jeffrey Lipnicky
Thomas Coffey			Terrence Ritz
Christine Motta			Deborah Kitchen
Stephen Rice			
John Smolinsky			

7

Others Present			
Daniel Hershberg	Danny Patel	Joan Shack	Robert Correia
Bill Mafriaci	Richard Green	Alina Spectorov	Musiker
John Prusinski	Matt McCloskey	Yuri Lvov	Lois Vadney
Brian Joray	Sean McCloskey	Bill Miller	Joel Vadney
Darlene Joray	Barry	Jim Tobin	Mariellen Vadney
Joseph Berdar	Charles Waldenmaier	Tony Cassaro	Lura Correia
Angela Berdar	Charles Wiff	Jahmeen Breland	Richard Tice

8  
9 Chairman Leveille called the meeting to order and noted the presence of a quorum.

10  
11 **Public Comment on Regular Agenda Items**

- 12  
13 • Econolodge  
14 • Phillipin Kill Manor  
15 • Blessings Corner at 572 Russell Road  
16 • Van Dyke Spinney  
17 • Yasemin Fuels

18  
19 Public comments were recorded as follows:

- 20  
21 Brian Jerry, 10 Andover Road, Slingerlands  
22  
23 -Comments related to project known as Blessings Corner at 572 Russell Road  
24 -Lives near the Krumkill Creek

- 25 -Has witnessed dramatic Krumkill Creek ...caused by abuse from development over past 10 years  
26 -Wants the Board to be aware that the State has placed the Creek on the 303D list of impaired waters  
27 -The impairments found in the creek are toxins, combined sewer over flows, stormwater from point  
28 sources and non-point sources  
29 -Herein lies the true cost of development to the taxpayers of Bethlehem  
30 -The Environmental Protection Agency's (EPA) clean water act requires that a water body placed on a  
31 303D list be restored in water quality  
32 -The mandatory restoration by Department of Environmental Conservation (DEC) is charged by the EPA  
33 to develop a total maximum daily load of pollutants for the Krumkill Creek  
34 -Each municipality located within the watershed will have to reduce their daily input of pollutants in order  
35 to meet the water quality standard  
36 -Submitted a stream assessment from DEC – which was performed by a Stream Biologist from Stamford,  
37 NY who evaluated the dynamics of the Krumkill to determine the cause of the problems and corrective  
38 actions to be taken to fix the problems  
39 -Copy of report was also sent to the Town's Highway Superintendent  
40 -The report states that any further commercial or residential development occurring upstream will result  
41 in increased runoff from impervious surfaces that will ultimately find its way into the watershed.  
42 -The report recommends three things: 1) increase the size of a culvert on Krumkill to 45 sq. ft., 2)  
43 stabilize the banks of the creek, 3) reduce the amount of stormwater  
44 -Asking the Planning Board to impose a moratorium on development, which the clean water act allows  
45 for as a controlling measure, until such time that the DEC finishes their restoration program and study for  
46 the Krumkill watershed  
47 -Most financially prudent thing to do at this point with so many unanswered questions.

48  
49 Darlene Jerry, 10 Andover Road, Slingerlands  
50

- 51 -Comments related to project known as Blessings Corner at 572 Russell Road  
52 -We live in a primarily single family residential community and moved to the area because of it  
53 -Loves the community the way it is and wants to keep it the way it is  
54 -Wants the developer and Planning Board to understand that the community made a commitment to the  
55 Town and where they live because of what North Bethlehem offers to its residents without zoning  
56 changes and disruptions to their daily lives  
57 -Petitions submitted to the Board indicate that the residents are opposed to Stewarts and condominiums  
58 -People who signed the petition, and those who spoke against the project at the February 2, 2010 Planning  
59 Board meeting, stand as a community opposed to the zone change  
60 -Do not object to building 11 homes  
61 -Asking the Board to deny the requested zone change and keep the area residential  
62

63 There were no other public comments and the comment period was closed.  
64

65 **Econolodge, 15 Frontage Road, Glenmont, NY**  
66

67 Mr. Lipnicky provided the Board with a brief overview of the proposed expansion project which consists  
68 of a three story addition including 23 additional motel rooms and a swimming pool. The project had  
69 originally obtained a variance for a setback requirement in 2006 and Site Plan Approval in 2007 but was  
70 not constructed before the variance expired. The lending environment contributed to the delay in  
71 construction and as a result, the applicant needed to reapply for the both approvals. In addition,  
72 the applicant was also delayed due to the death of the architect who had drawn the plans for the proposed  
73 project. A variance was granted by the Zoning Board in 2009. The project was last before the Planning  
74 Board on December 15, 2009, at which time the Board requested samples of the proposed building  
75 materials and revised elevation drawings.  
76  
77

78 Richard Green, engineer, and Danny Patel, applicant, were present to discuss the revised drawings and  
79 display the building materials. It was noted that the amended Site Plan application includes a minor  
80 reduction in the number of parking spaces as well as a revised building elevation on the side of  
81 the building closest to Frontage Road. The applicant is planning to reside the existing structure  
82 to match the three story addition. Mr. Lipnicky noted that an aphis material will used on the side of  
83 the building closest to Frontage Road.

84  
85 Chairman Leveille called for a motion to consider the recommendation on SEQR Determination of  
86 Significance and Site Plan Approval for renovation and expansion of the renovation and expansion  
87 application.

88  
89 Upon motion by Mr. Smolinsky, seconded by Ms. Motta, and unanimously approved by all Members  
90 present, the SEQR Determination of Significance – Negative Declaration Resolution was approved.

91  
92 Upon motion by Mr. Smolinsky, seconded by Mr. Coffey and unanimously approved by all Members  
93 present, the Site Plan Approval (SPA 134-A) was approved – calling attention to the modifications made  
94 to paragraph 7 & conditions set forth in paragraph 9.

95  
96 **Phillipin Kill Manor – PDD, Fisher Boulevard, Slingerlands, NY**

97  
98 Mr. Morelli provided the Board with a brief overview of the proposed project and noted that the project  
99 was last before the Board on December 15, 2009. The project was originally proposed as 90+ single  
100 family homes. Based on recommendations from the Town’s Development Planning Committee (DPC),  
101 the applicant decided to submit a zone change application for a Planned Development District (PDD) in  
102 order to provide for some diversity in the type of housing that would be offered - such as estate lots along  
103 Orchard Street, single family homes on Fisher Boulevard and 30 twin homes. The Town Board referred  
104 the PDD application to the Planning Board for recommendation. Issues related to wetlands, traffic,  
105 parkland requirements, connectivity to the Five Rivers Environmental Center and pedestrian access have  
106 all been addressed.

107  
108 Richard Tice of Brewer Engineering was present on behalf of the applicant to answer questions about the  
109 project. Mr. Behuniak asked for clarification as to what exactly the Planning Board would be approving.  
110 He wanted to know if the Planning Board would be granting preliminary approval to the project as  
111 currently proposed? Mr. Morelli stated that if the Planning Board makes a recommendation to the Town  
112 Board and the Town Board votes in favor of the proposed project, the project must come back to the  
113 Planning Board to undergo a detailed subdivision review. Mr. Smolinsky noted that the Army Corps of  
114 Engineers has not issued a final permit and he wondered if the Planning Board will have the flexibility to  
115 alter the layout of the project based on input from the ACOE. Mr. Silliman stated that if the ACOE were  
116 to act after the subdivision approval was granted and the two are inconsistent, the applicant would need to  
117 come back to the Planning Board to revise the subdivision. Mr. Tice noted that the applicant is currently  
118 working with the ACOE and the applicant does not expect the Planning Board to act until after the ACOE  
119 has acted.

120  
121 Mr. Behuniak stated that he believes there is already sufficient housing diversity within close proximity to  
122 the proposed project which meets the desired goals of the comprehensive plan. He is opposed to the  
123 project because of its general scope/size, aspects of the proposal do not fit in with the existing character of  
124 the community and traffic concerns still exist.

125  
126 Mr. Leveille asked what the estimated lot yield would have been if the project had been proposed as a  
127 conventional subdivision under the current zoning. Mr. Tice stated that the original proposal called for  
128 90+ lots and the number of lots would have been reduced by 16, given the known constraints. The  
129 current plan calls for 57 single family homes, six (6) estate lots and 15 twin homes. Mr. Tice indicated

130 that the applicant may decrease the number of lots, and the Planning might approve fewer lots but the  
131 number of lots would never exceed what is being proposed at this time.  
132 Chairman Leveille called for a motion to consider the recommendation on SEQR Determination of  
133 Significance and Zoning Application. If approved, the document will be forwarded to the Town Board  
134 for scheduling a public hearing within 62 days of receipt of the approval document. He noted that the  
135 document would recommend affirmatively to the Town Board that the Planning Board consents to the  
136 project as proposed. The Town Board would then consider the recommendation and hold a public  
137 hearing before making a determination about rezoning the parcel to PDD. If the PDD is approved, the  
138 application would be forwarded back to the Planning Board for a detailed subdivision review. Ms. Motta  
139 noted that on page 6 there is a new paragraph related to DEC stormwater regulations.

141 Upon motion by Mr. Smolinsky, seconded by Mr. Rice, the recommendation on SEQR Determination of  
142 Significance and Zoning Application was approved with a vote of five in favor, one opposed, one absent.

#### 144 **Blessings Corner at 572 Russell Road – PDD, 572 Russell Road, North Bethlehem, NY**

146 Mr. Morelli provided the Board with a brief overview of the proposed Planned Development District  
147 (PDD) project and noted that the applicant decided to eliminate the proposed Stewart's shop/gas station at  
148 the corner of the site and replace it with eight (8) condominium units based on comments received at the  
149 February 2, 2010 public hearing. It was also noted that the applicant submitted a letter to the Planning  
150 Board, dated February 17, 2010, requesting and agreeing to a sixty (60) day extension for the Board to  
151 complete its review and recommendation of the PDD zoning application. If the extension is granted,  
152 SEQR Review will be extended to May 6, 2010.

154 Daniel Hershberg and William Mafri of Hershberg and Hershberg were present on behalf of the  
155 applicant to provide information and answer questions. Mr. Hershberg noted that there is a mix of uses in  
156 close proximity to the project. The project will add another modality of housing and the site is in an ideal  
157 location for the proposed use. The current plan shows 52 condominium units. The projected number of  
158 school age children will remain the same. Extra fill will be utilized on site and may be used to raise  
159 berms to shield the view of the condominiums. Removal of the Stewarts/gas station will help to reduce  
160 traffic impacts. A stormwater treatment plan is in place. The DEC's 303D designation for the Krumkill  
161 Creek will require the applicant to define pollution loads and the review period is extended to 30 days.  
162 Chairman Leveille stated that this was a good case of the developer listening to the public.

164 Mr. Behuniak asked if the installation of 1,000 feet of sidewalk was still part of the plan. Mr. Hershberg  
165 stated that it was no longer part of the plan because it had been originally proposed as a means to get to  
166 Stewarts and the applicant did not get the impression that the public was particularly impressed by the  
167 concept. However, the applicant would be willing to include the sidewalk in the proposal if the Planning  
168 Board determined that it would be a valuable addition to the pedestrian capabilities.

170 Chairman Leveille asked the Board for a motion to consider the applicant's request for a time extension.  
171 Upon motion by Mr. Behuniak, seconded by Mr. Coffey, and unanimously approved by all Members  
172 present, the applicant was awarded a 60 day extension for SEQR Review extending the Planning Board's  
173 review to May 6, 2010.

175 Upon motion by Mr. Behuniak, seconded by Mr. Smolinsky, and unanimously approved by all Members  
176 present, further discussion related to this project was tabled.

#### 178 **Van Dyke Spinney – Phase 1, Van Dyke Road, Delmar, NY**

180 Mr. Morelli provided the Board with a brief overview of the proposed Planned Development District  
181 (PDD). Mr. Morelli referenced a memo that he had written to the Planning Board, dated February 23,  
182 2010, which contained a list of dates and sequence of events related to the review of the project since the  
183 Town Board accepted the PDD application in August of 2006. He stated that in May of 2008, Van Dyke

184 Spinney, LLC received approval from the Town Board establishing the PDD. The PDD approval allows  
185 for construction of up to 229 active adult apartments on the east side of Van Dyke Road, on land  
186 commonly referred to as the Leonard Farm. The townhomes within the PDD would range in size from  
187 800+/- square feet to 1,400+/- square. Each unit would have an attached one-car garage or an adjacent  
188 covered parking area. The project also includes a 4,400+/- sq. ft. clubhouse for residents, which includes  
189 a swimming pool and potential tennis/multi-purpose courts. The applicant is also proposing to seek  
190 subdivision approval to create up to eight (8) individual lots for detached single family residences on land  
191 located on the west side of Van Dyke Road which remains in the existing Residential A zoning district.  
192 The applicant has also indicated that they are willing to deed land, which is located along the Phillipin  
193 Kill, to the Mohawk Hudson Land Conservancy for open space/conservation purposes. It was noted that  
194 the project was last presented to the Planning Board in September 2008. Since that time, the applicant has  
195 continued to work with Town staff but did not aggressively pursue site plan approval due to the downturn  
196 in the economy.

197  
198 The applicant is now proposing to build the project in five (5) phases. Phase 1 involves 44 units to be  
199 built on the north end of the site. The applicant proposes to utilize the existing sanitary force main on  
200 Van Dyke Road for Phase 1 and has submitted an Engineer's Report which evaluates the capacity of that  
201 line. That report is being reviewed by the Engineering Division. Phases 2 through 5 of the project call  
202 for the installation of a new sanitary force main down the Delmar By-Pass Extension to Juniper Drive and  
203 to the units in Phase 1, which would be redirected to the new line once it is installed. Phase 2 of the  
204 project calls for the installation of a multi-purpose path along Van Dyke Road extending to the Delmar  
205 By-Pass Extension. It was noted that the traffic study that was completed for this project found no  
206 decrease in the level of service at the intersection of Van Dyke Road and Meads Lane and the applicant  
207 has agreed to develop the design drawings for improvements at that intersection. The design drawings  
208 will provide the details needed for the Town Highway Department to make the improvements.

209  
210 Although additional details and information are needed before the Planning Board can consider site plan  
211 approval, staff felt it would be appropriate for the applicant to provide an update on the status of the  
212 project. It was noted that the applicant also hosted two neighborhood / informational meetings on  
213 January 25, 2010 and February 11, 2010. Alex Ruthman, Mark Dempf and Bruce Secor of Stantec  
214 Consulting were present to provide information and answer questions about the project. Mr. Ruthman  
215 stated that the project consists of 218 cottage style, single story, 800-1,200 sq. ft. apartments. He noted  
216 that housing needs are changing and the project is gaining a lot of interest. The new design will provide  
217 for more effective delivery of services and reduce the impacts on wetlands. The property owner would be  
218 responsible for maintaining the landscaping, roadways, sidewalks, and stormwater facilities which will  
219 help to reduce the amount of Town services that will be needed in the proposed PDD.

220  
221 Mr. Dempf utilized a power point presentation to display information related to the design, layout, size,  
222 floor plans, visual impacts, landscaping, wetland impacts, archeological impacts, density, parking,  
223 ingress/egress, parkland / open space, traffic study, stormwater management, project phasing, off site  
224 water & sewer improvements, intersection improvements and multi-use path. He stated that the site  
225 consists of 90 acres but only 40 acres would be developed. The type of architecture will be craftsman  
226 style, similar to old Delmar. The buildings will not front on Van Dyke. Stormwater will be managed on  
227 site - utilizing 11 ponds. Wetland disturbance will be less than .10 of an acre. Two traffic studies have  
228 been submitted along with an update in 2008 that encompasses the YMCA and Eagle Elementary School.  
229 A 3% gross factor was also added. With regard to intersection improvements at Van Dyke Road and  
230 Meads Lane, it was noted that the Capital District Transportation Committee had granted funding to the  
231 Town for the intersection improvements but has since redirected the funds elsewhere.

232  
233 Mr. Secor summarized the next steps including project phasing (1-5) and off site water and sewer  
234 improvements. He noted that the water main will be extended along Van Dyke Road and the Bypass  
235 Extension. A 50 ft right-of-way will be used for installation of the water main. A stub line will be  
236 extended to Vadney Road. He referenced two reports on grinder pumps and the function of the forced  
237 main. The development will be served by a master meter pit. A landscape plan will be submitted. A

238 multi-use path will be installed in Phase 2. Property located on west side of Van Dyke (currently zoned  
239 Residential A) is not part of Phase 1. The open space component will be between 26 & 40 acres. There is  
240 an avoidance plan for archeological sensitive areas. Contributions toward the intersection improvements  
241 will be made via engineering design. Estimated cost of improvements is between \$200,000 & \$400,000.  
242 Developer is willing to bear the cost of designing the intersection and is willing to donate land if it is  
243 needed for the improvements. Developer will absorb cost of water & sewer installation.  
244

245 The applicant is seeking approval for Phase 1 of the project and will come back to the Planning Board for  
246 approval of Phases 2 - 5. Chairman Leveille suggested that the multi-use path be extended to the  
247 Mohawk Hudson Land Conservancy property. Mr. Ritz stated that all of the utilities will need to be  
248 installed before the multi-use path could be installed. Mr. Morelli noted that the Town will need to  
249 review the Engineer's Report on tying into the existing sanitary force main for Phase I and the applicant's  
250 response to comments from the Town Engineering Division on the plan set submittals and Stormwater  
251 Pollution Prevention Plan (SWPPP). The applicant will need to submit detailed building architectural  
252 elevations and a landscaping plan/planting schedule for Phase 1 before the project can be referred to the  
253 Albany County Planning Board.  
254

255 Upon motion by Mr. Smolinsky, seconded by Mr. Rice, and unanimously approved by all Members  
256 present, further discussion related to the project was tabled.  
257

258 **Yasemin Fuels, 414 Route 9W, Glenmont, NY**  
259

260 Mr. Lipnicky stated that the applicant is proposing a change in use to utilize an existing 1,232 sq.ft., two  
261 bay, garage/ repair shop for a convenience store. The overhead garage doors would be removed and  
262 replaced with windows and brickwork and existing windows would be replaced on the front and north  
263 sides of the building. The applicant is also proposing to replace wheel stops and restripe existing parking  
264 spaces to comply with current zoning requirements. The Zoning Law requires six parking spaces. Eight  
265 parking spaces would be provided. A new planting bed is also proposed in front of the current garage  
266 bays.  
267

268 The site is in a Commercial Hamlet (CH) zone and the proposed use is permitted in the district subject to  
269 site plan approval. There are a number of nonconformities that exist on site which are grandfathered and  
270 may continue as per §128-55 and §128-59.K of the Zoning Law. These nonconformities are listed in a  
271 table on the site plan drawing and include nonconformance with: (1) min. front yard setback; (2) min.  
272 sign setback; (3) max. freestanding sign area; (4) max. freestanding sign height; (5) internal sign  
273 illumination; and (6) no. of freestanding signs (although the plan indicates the number of signs will be  
274 reduced from two to one).  
275

276 The project has been reviewed for consistency with the US 9W Linkage Study, specifically with regard to  
277 potential installation of a roundabout at the intersection of 9W/Glenmont Road/Feura Bush Road. No  
278 new site improvements are proposed within the area of potential intersection reconstruction. Concerning  
279 access management, there are currently two full-service, unrestricted driveways to Route 9W and one full  
280 service driveway to Glenmont Road. The Board should consider whether two driveways are necessary  
281 along Route 9W. The northernmost driveway is located immediately adjacent to the intersection and  
282 potentially may interfere with intersection operation. Preferably, this driveway would be closed – or at  
283 minimum converted to a right-in / right-out only.  
284

285 The project has been placed on the Planning Board agenda for initial presentation and discussion. The  
286 application requires referral to Albany County Planning Board and should be referred at this time. In  
287 addition, there are a number of items that need to be clarified on the drawings as noted in Mr. Lipnicky's  
288 memo to the Planning Board, dated February 22, 2010.  
289

290 Mr. Tobin was present on behalf of the applicant to provide information and answer questions. He stated  
291 that the current site configuration was constructed in 1968. The site has three entrances, two off Route

292 9W and one off of Glenmont Road. A canopy was added around 1980. The existing lighting does not  
293 extend onto neighboring properties. The existing signs are non-conforming. The applicant plans to  
294 remove the sign on the southern portion of the property. The NYS Department of Transportation has  
295 indicated that one of the entrances along Route 9W and the non-conforming freestanding sign will need to  
296 be eliminated when the proposed roundabout is installed. Fuel delivery trucks currently enter the site  
297 from the northernmost entrance on Route 9W. Parking will exceed the minimum requirements.  
298 Improvements will be made to the exterior of the building. At present one third of the building is utilized  
299 for commercial sales.

300  
301 Mr. Smolinsky asked if the lighting is in conformance with the current code. Mr. Tobin stated that he  
302 would check into this and get back to the Board. Mr. Smolinsky asked if the Town knows enough about  
303 the proposed roundabout to show how it might impact the signage at this site. Mr. Lipnicky stated that  
304 NYS Department of Transportation has provided a conceptual design which shows that this site will be  
305 the most impacted but a final design has not been provided. Mr. Smolinsky wondered if it might be an  
306 appropriate time for the Town to ask the developer to take the conceptual design into consideration and  
307 bring the sign into conformance. Mr. Smolinsky also asked if the applicant anticipates additional traffic  
308 due to the expansion of the retail facility. Mr. Tobin stated that the applicant is hoping that the existing  
309 gas customers will utilize the retail facility but does not anticipate a large increase from drive by traffic.  
310 Mr. Behuniak asked if the applicant knew when the last environmental assessment had taken place. Mr.  
311 Tobin stated that the facility has monitoring wells and he is estimating that the tanks have been replaced  
312 within the last 15 years. Mr. Tobin will research the date and report back to the Board. Chairman  
313 Leveille suggested that the applicant provide possible alternatives for fuel deliveries since the  
314 northernmost entrance on Route 9W may be eliminated.

315  
316 Chairman Leveille called for a motion to consider the recommendation on SEQR Determination of  
317 Significance. Mr. Smolinsky stated that he feels there have been enough questions raised to table the  
318 application and would like to move that the project be tabled.

319  
320 Upon motion by Mr. Smolinsky, seconded by Mr. Behuniak, and unanimously approved by all Members  
321 present, further discussion related to the project was tabled.

### 322 323 **Minutes**

324  
325 Upon motion by Mr. Behuniak, seconded by Mr. Smolinsky, the Members voted to approve the revised  
326 minutes from the December 15, 2009. Members Coffey & Rice abstained because they were not present  
327 for the December 15, 2009 meeting.

328  
329 Minutes from the January 19, 2010 meeting will be considered at a future meeting.

330  
331 Upon motion by Mr. Rice, seconded by Ms. Motta, the Members voted to approve the minutes from the  
332 February 16, 2010 meeting. Members Behuniak and Smolinsky abstained because they were not present  
333 for the February 16, 2010 meeting.

### 334 335 **Meeting Schedule**

336  
337 The next Planning Board meeting is scheduled to take place on Tuesday, March 16, 2010, at 6:00 p.m.

338  
339  
340 Respectfully submitted,

341  
342 Deborah Kitchen