

**PLANNING BOARD
TOWN OF BETHLEHEM**

May 2, 2006

The Planning Board, Town of Bethlehem, Albany County, New York held two (2) **Public Hearings** and a **Regular Meeting**, on May 2, 2006, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Mathusa presided and called the meeting to order at 7:00 pm.

Present: Parker Mathusa, Planning Board Chairman
Keith Silliman, Planning Board Counsel
Daniel Odell, Planning Board Member
Katherine McCarthy, Planning Board Member
Christine Motta, Planning Board Member
Tom Cotrofeld, Planning Board Member
Howard Engel, Planning Board Member

Michael Morelli, Deputy Director of Economic Development & Planning
Terry Ritz, Assistant Engineer
Janine Saatman, Deputy Town Planner

Howard Johannessen, Edward Boutelle & Son
Rob Spiak, Bohler Engineering
Robert Walsh, Charlew Builders
Robert Jasinski – Bender Lane
Mr. & Mrs. Jensen – Old Rt. 9W
Jared King – Paxwood Rd.
Chris Grant – Corning Hill Rd.

Agenda Public Hearing – Carriage Hill Subdivision
Regular Meeting – Carriage Hill Subdivision; Cumberland Farms
Public Hearing – Cumberland Farms

Chairman Mathusa called the meeting to order at 7:00PM and noted the presence of a quorum.

Carriage Hill Subdivision – Public Hearing

CHAIRMAN MATHUSA: The first item on the agenda is our scheduled public hearing for the Carriage Hill Subdivision located on Jericho Road in Selkirk. The project was last before the Planning Board on April 4th, 2006. We noted at that time that the new Comprehensive Plan for the Town now defines the proposed amendment to the Carriage Hill Subdivision as a resubdivision. Resubdivisions are required to follow the procedures for subdivisions, which requires a public hearing. At the April 4th meeting we scheduled a public hearing for tonight. May I have a motion to indent the notice of the public hearing into our record so we don't have to read it?

MR. ODELL: So moved

CHAIRMAN MATHUSA: Second?

MR. ENGEL: Second

CHAIRMAN MATHUSA: All in favor

ALL BOARD MEMBERS PRESENT: Aye.

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, May 2, 2006 at 7:00 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application for a Subdivision Amendment for Carriage Hill Subdivision, located at Jericho Road, Selkirk, NY, Albany County, N.Y., as shown on map entitled: FINAL PLAN, AMENDED, CARRIAGE HILL SUBDIVISION, Map of Lands of Charlew Construction Corp. Town of Bethlehem, Albany County, State of New York, dated January 18, 1999, last revised March 6, 2006, map prepared by EDWARD W. BOUTELLE AND SON, Civil Engineers and Surveyors, 423 Kenwood Avenue, Delmar, NY.

CHAIRMAN MATHUSA: Thank you. Also at that time we approved a supplemental findings statement for the SEQR. I now ask the applicant to make a short presentation outlining the concept of the project.

MR. JOHANNESSEN: My name is Howard Johannessen, I'm from Edward W. Boutelle and Son. I'll just give a brief summary of what we have before the Board tonight. The project is located on Jericho Road; Jericho Road is towards the bottom of the two maps. It's about one thousand (1,000) feet southwest of Jericho Roads intersection with Elm Ave. East. The subdivision before the Board tonight consists of eighty-five (85) lots. Originally it was approved as a ninety (90) lot subdivision back in 2002. Since that time NYSDEC adopted some new guidelines in regards to Storm Water Management. Because of those new requirements we needed to do some redesign of the storm sewer system of the project. This resulted in the loss of five (5) lots. It has been accepted by DEC, the new storm water system was reviewed by the Town and engineering has accepted it. We are before the Board tonight for the amendment to the subdivision. One of the other things that we did was we took care of landscaping requirements which included providing some landscaping along this lot, along Bridle Path, to comply with some requirements from SHIPO. Part of the approval back in 2002 required that we also provide some landscaping for an adjacent landowner. We have prepared it, they have seen it, and they've accepted it. It's in an existing water district now; it's in a sewer district. So it has public water and public sewer. It's about 5,800 linear feet of public road that's going in, including all the infrastructure. That's about it.

CHAIRMAN MATHUSA: Thank you. Do the Board members have any questions or thoughts at this point? We'll open the meeting to receive comments to the public regarding the project. I will ask those who wish to speak to provide us with your name and address for the record and speak clearly into the microphone. Does anyone have any comments on the project?

MR. JASINSKI: My name is Robert Jasinski, Bender Lane, my daughter and I do own property on the corner of Rt.9W and Jericho Road. I also own some property down Jericho Road a little ways. I find that this builder is very good; the plan he submitted has all the amenities that are needed. I know the Town is going to prosper and grow and I think this is a good thing for the Town. I want to speak in approval of it. Thank you.

CHAIRMAN MATHUSA: I'll now entertain a motion to close the public hearing. Can I have a motion for that?

MS. MCCARTHY: So moved.

MS. MOTTA: Second

CHAIRMAN MATHUSA: All in favor?

ALL BOARD MEMBERS PRESENT: Aye

The public hearing closed at 7:07.

Chairman Mathusa turned the Board's attention to the draft documents before them. The Board reviewed the Draft Preliminary Plat Approval 164-P-M.

A motion to approve Draft Preliminary Plat Approval 164-P-M as amended was offered by Ms. McCarthy, seconded by Mr. Cotrofeld and approved by all Board members present.

The Board turned its attention to the question of whether the parkland set aside requirements applied to this project. Mr. Silliman stated that the Planning board had discretion regarding whether this project was subject to this requirement and that the original project approval predated the Local Law; the delay in the start of the project was due to circumstances beyond the control of the applicant, the applicant had lost lots when coming into compliance with storm water requirements and the Department of Economic Development and Planning did not think it would be justified.

A motion that the applicant was not subject to the parkland fee was offered by Mr. Odell, seconded by Mr. Engel and approved by all board members present.

Cumberland Farms

Chairman Mathusa turned the Board's attention to the next item on the agenda, Cumberland Farms. There were two (2) items that needed to be addressed: the draft SEQR Resolution, Classification of Action and Negative Declaration and the public hearing.

Mr. Spiak stated one of the issues staff wanted addressed was the internal circulation of the truck traffic. The driveway had been shifted to line up with the residential driveway across Corning Hill Road. The other curb cut had been modified for the truck traffic.

The Board reviewed the draft SEQR Resolution

A motion to approve the SEQR Resolution as drafted was offered by Mr. Engel, seconded by Ms. Motta and approved by all Board members present.

Cumberland Farms – Public Hearing

Chairman Mathusa opened the Public Hearing for the Special Use Permit at 7:24.

CHAIRMAN MATHUSA: The applicant is proposing to have a drive thru restaurant on the site which is allowed in a commercial district but a special use permit must be granted by the Planning board within the overall context of the approving the project. May I have a motion to indent the public hearing notice into the record?

MS. MCCARTHY: So moved.

MR. COTROFELD: Second

CHAIRMAN MATHUSA: All in favor.

ALL BOARD MEMBERS PRESENT: Aye

Notice is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, May 2, 2006 at 7:15 p.m., at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application for a Special Use Permit for Cumberland Farms, Inc. located at 68 US Rt. 9W, Glenmont, NY 12077, Albany County, N.Y., as shown on map entitled: SITE DEVELOPMENT PLANS FOR CUMBERLAND FARMS, 68 Route 9W – NYS ROUTE 9W & NYS ROUTE 32, Town of Bethlehem, Albany County, State of New York, dated April 11, 2005, last revised March 10, 2006, map prepared by Bohler Engineering. P.C., 5 Computer Drive West. Albany, NY 12205.

CHAIRMAN MATHUSA: Rob, could you please give us a short presentation on the project.

MR. SPIAK: Basically what we're proposing here is a 3,800 square foot convenience store with a Dunkin Donuts which will take up approximately 1,000 square feet. The site has two (2) fueling canopies, one is for retail gas sales up front and there is also a diesel fueling facility on the northern end of the site. The truck pattern has been set up to keep the tractor-trailer traffic for both the fuel sales and the deliveries, out of the main pedestrian vehicular circulation. Parking on the side, parking along the front, one-way traffic pattern with a by-pass lane for the customers. Currently there is a landscaping proposal along the southern property line. We have some air vac powers up along the front which are landscaped and landscaping throughout the site and up in the front. To get into a few more of the comments we met with staff about, some of the items were housekeeping technical type items. We had talked about the grading along this side of the property to reduce the slope a little. Staff was looking for some additional plantings in this area and also within the public right-of-way. This will be dependent on state approval. One of the other items raised by Mr. Odell was to try to get the canopy to blend a little better with the façade. What we have passed out is that we have added a mansard feature to the canopy to get it to blend further than before. I think those are the main features from the staff meeting.

CHAIRMAN MATHUSA: I know there have been a number of questions from the residents in the area, and I know that you've spoken to some of them. Could you give us a status of where you are with some of the questions of noise, lights, etc?

MR. SPIAK: when we had gone through the ZBA process the residents showed up to the meeting with particular comments. The two direct abutting properties here to the south were of most concern to the Zoning Board at that time. We did provide some heavy landscaping along the side, we are replacing and redoing the fence, we reduced our lighting level and added some plantings along the front to

screen the headlights from the neighbors across the street on Corning Hill Road. We've also had some additional landscaping in this area, turned the menu board, turned the speaker board to screen the residents. We have made some considerations to help protect the residents.

CHAIRMAN MATHUSA: Do the board members have any thoughts at this point?

MR. MORELLI: Just a follow up to what Rob had said, we've been in contact with DOT, there is a pretty extensive right-of-ways, surrounding the site, particularly along Rt. 9W and they've indicated verbally that they would not be opposed to additional landscaping within the right-of-way as long as it doesn't cause any visibility problems.

CHAIRMAN MATHUSA: I'd now like to open the meeting to receive comments from the public. I ask those individuals who would like to speak to come to the microphone and give us your name and address, speak clearly for our records. Would anyone like to speak?

JARED KING: I'm Jared King and I'm from 22 Paxwood Road. I'm a little concerned from what I've seen here having an additional exit onto Rt. 9W for a number of reasons. First I'm very familiar with the Stewarts on Delaware Avenue but that's a situation where you have a busy road and sometimes have traffic around the fuel dispensers. And where some people are coming into the convenience store and trying to come out and it would be helpful to have people come in from this entrance and then come out that entrance.

CHAIRMAN MATHUSA: Is there an entrance to the north?

MR. MORELLI: No.

MR. KING: No there's nothing here, it's just on Corning Hill Rd. There are two curb cuts, one for the trucks coming in the back but there's only one entrance with the entrance and the exit in the same location. What I'm suggesting would make for better traffic patterns. It seems quaint but unfortunately it's really kind of poor for traffic control. So I would suggest something like an exit here even if you denominated one way like this or if you had it flow like that, whatever. Second thing is, I can understand why people around Corning Hill would be concerned is that 9W is the main..., Corning Hill Rd. is the secondary road and yet the main entrance and exit are onto Corning Hill Rd. and that to me doesn't make a lot of sense. Ultimately the last point is that when you talk about curb cuts, I know it's the real vogue of the day to actually have these high curbs with very limited width in the driveways but that can be often difficult to navigate with an automobile especially if your in a busy road where you are trying to enter the road more at an acute angle. So that you are in a sense coming in as merging traffic as opposed to doing a perpendicular turn. In fact the same logic and philosophy behind the roundabouts and the modification is being suggested for New Scotland Avenue and in my opinion that makes a lot of sense. So I think that, well I like green space and landscaping but that's something I would look at if you do add a driveway there.

CHAIRMAN MATHUSA: Any other comments?

MR. JENSEN: My name is Craig Jensen , I live at 22 Old Route 9W. The entrance to my residence is this driveway. Without this and even with the existing property that's there now there's a real danger with the yield sign here and trucks coming through there at 45 miles per hour when you pull out of your driveway. My concern is and if anyone has been in that area now, with the traffic particularly on 9W right now with the construction that's taking place there and the incoming traffic that going to

occur once Marshall's opens and all the other areas. This becomes a by-pass down to 144 to by-pass any traffic on 9W to get up to that area. My concern is, everyday my wife brings my children to school out of there, I go to work, when this is backed up from coming off of here as well as coming up the hill with poor traffic and everyone else that is being brought from the thruway to get gas. How do I do that? I'm very concerned and just had my taxes raised \$3,000 in one year. I would think that I am able to get out of my driveway. So that's one of my concerns, the other concern is in that I assume and I realize that this is the closest area to the new construction. I have no argument that this is going to be an aesthetic improvement, without a doubt. My argument though is, but concern is, if I am called to the meetings, I am within a vicinity that I receive a note that there's a meeting, obviously I am close enough that I should be concerned about what I'm going to be looking at in my residence especially in the winter time with no leaves on the trees are anything else as well. And this area will become as before, a parking area for trucks that didn't want to pull in, but just wanted to jump out, run into Dunkin Donuts, get their coffee and get back on the road. It's just a consideration. The Town put up markers after I asked them and they were very courteous and the trucks ran them over, trucks idle there at night. I open my windows at night and I breathe in the fumes. Those are my only concerns. I just want to bring that to your attention. I am perplexed as to why there wasn't a traffic study done for this project. I think it would make sense with the incoming traffic that's going to come from a 24-hour store. I have some issues, not knowing the increase in traffic and what it's going to do to that area.

CHAIRMAN MATHUSA: Any other comments.

MRS. JENSEN: My name is Doris Jensen, my husband Craig. Some of my concerns which may be the same as his, is garbage. It gets thrown now, I've called the Town, I've called the state. They won't even put up a do not litter sign. I finally found someone that if I call and twist his arm he will come and send out a crew. My husband has been out there three times in a year picking up garbage because nobody cares. But we can pick up garbage along 9W in front of the diner, that's not a problem. As far as this goes here I understand that this will look better but I don't want to be lying in bed trying to go like that to go to sleep from the lights. From what I understand we need some light shields facing our house, not just on the sides. Maintenance of the road, because you can't get them to fix what needs to be fixed because I don't own it, the Town doesn't own it, State owns it, nobody knows who owns it. It takes wear and tear on your car. Again the traffic study at this point is null and void with Big M being closed, it's pretty pathetic though. Everybody wants to sit in their house and look at the stars and we're going to get to look at light pollution. No more breathing fresh air, we're going to be breathing diesel because you can call until the cows come home, nobody wants to take responsibility for that idling diesel truck. I don't want to be a thorn in anybody's side, yes I know I bought a house next to truck stop with limitations but it gets ridiculous. I also have two young children we know what it's like out there with kids nowadays. I have to worry about somebody; I've already been broken into. It's a nice area but it's also a nice secluded area where people can get in get out and do whatever they need to do. A nice picnic table, we know what kind of people have been hanging out at these picnic tables, I don't mean to stereotype but this is not why I moved into the area. I don't mind a trucker coming in and going out but I do mind the people. Who are we going to call when we can't get rid of the riff raff. It's going to be a 24/7 operation; you see what happened at Walmart's. People just sit there, beer cans there, my kids are right there, I found people sleeping in my front yard. I opened the door and let the dog out and let him do his thing to go after these people. It's a concern of mine, what this is going to bring as far as safety. Trees and fences, we were never addressed as far as adjacent landowners. Like my husband said things get knocked down by Town trucks, plows, people pulling in and out. It would be nice if we could address that issue and maybe something can be done about that. Another thing, I'm told the Dunkin Donuts is a drive thru, is there going to be any eating inside with seating.

MR. SPIAK: 6 or 8.

MRS. JENSEN: People camp out at Lark Street Dunkin Donuts, that's where the homeless live. I'm concerned about it. Again with the reassessment, everybody gets reassessed but the I don't think the comparables they put my house next to would like it if I up and put a Cumberland Farms in their little happy development. Here you are sucking it up and paying the extra taxes for what.

CHAIRMAN MATHUSA: Do the board members have any thoughts at this point?

MR. SPIAK: We have talked in the past about doing some trees or a fence over there. That's still a standing offer that's on the table to you folks. We are happy to talk about it at any time with you. Some of the purpose of the landscaping on this side of the property was two-fold, protect them from the headlights and also collect the trash. We like to think that we can control the customers and the people that drive this road. We do the best we can, Cumberland Farms is very diligent about cleaning up and picking their site and operating a clean site but we can't control everybody. We would petition the state for no parking signs along Corning Hill Road. It is a state road; they are the only ones with jurisdiction on that. To jump back on the access issue over 9W: we couldn't get an access to 9W. A portion of this right-of-way is a no access right-of-way; we couldn't get one if we wanted one. There are some grade issues over there. We're here to work with all the all neighbors, doing what we can to make this development suitable to them also.

CHAIRMAN MATHUSA: So you want to address some of the light issues?

MR. SPIAK: The light poles along Corning Hill Road do have the shields on them also, they house shields on three sides of them. So standing from your driveway, there will be no light coming towards your way.

MR. MORELLI: I just wanted to mention that concerning the traffic flow; Terry Ritz of the Engineering Division, spent a lot of time reviewing this plan to allow for the smooth flow of not only passenger vehicles but also tractor trailers. He had a couple meeting with Rob Spiak from Bohler Engineering to make sure there was good traffic flow. We didn't want tractor-trailers exiting or entering the site where they would slip into the other lane. There was a traffic analysis done for this project.

MR. SPIAK: We did prepare a traffic report. We got actual counts and ran models based on ITE numbers, which are general categories for the types of use here. Because the Big M Truck Stop was closed so a physical count was not available. We like to term these uses as pass by uses; they will feed off the traffic that's passing by not a destination use. The diesel fuel will be a destination use but the general results of the traffic models was that the new trip generation was minimal.

CHAIRMAN MATHUSA: Could you speak to the idling issue.

MR. SPIAK: The idling issue that even remains today, well this facility is set up so that there are no places for the trucks to park. They will have time to go into the store and fuel but the management will not allow them to sit there. There isn't any truck parking on site. We like to think we have eliminated the problem.

AUDIENCE: Will there be signs about the idling?

MR. SPIAK: Cumberland Farms will post signs and there are DEC standard signs. Those are the only regulatory signs we can post and actually enforce. The Town of Bethlehem doesn't have a local law concerning idling. We will go with the DEC regulation.

PM: Does anyone else have any questions?

AUDIENCE: I just need to know where the driveway is going to be.

MR. SPIAK: Here is the old plan that you've see in the past, you can see where it's looping out about fifteen feet. Same location for the sign so you can see that this curve is kicked out about another five feet or so further away from your driveway.

AUDIENCE: the only concern I had was that a tractor trailer with a forty-five or fifty-foot bed trailer on the back and makes a swing in if he's going west on 32.

MR. SPIAK: That's one of the things that we worked with the Town Engineering Division here, that was the reason behind the modification to the curb cut.

MR. ENGEL: I just wanted to reinforce Mr. Jensen's concern about Corning Hill being used as a bypass between 144 and 9W, that's happening now. Because of the traffic down in the Glenmont area and Marshall's going in and all the other proposals coming along, I think it's going to happen more and more. I know a number of people from the southern part of Albany County and Town or the Town of Bethlehem that just don't travel 9W anymore. They go 144 and come up 32 or up by K-Mart and I think it's going to get worse. One of my concerns for everything that's going on in the Town right now is infrastructure that bypass with the yield that comes off 9W onto Corning Hill, I've seen people 60 miles per hour on that corner. I don't have an answer for it, they're both state roads and my feelings with the state is until some catastrophe happens, they won't do anything. This is a concern that I feel very strongly about, we can certainly keep this issue at the forefront with the Town and maybe the Town can address the issue with the State. Whether a stop sign would help coming off, I'm not sure if it would back traffic up on 9W but that would be an option.

MR. SPIAK: That was one the things I was going to suggest. Replacing the yield sign with a stop sign would give better enforcement powers. That would a Town petition that would go to the State.

CHAIRMAN MATHUSA: Are there any other actions you can take in terms of suggesting signs to the State in addressing this issue? Maybe no parking signs along Corning Hill Rd. The neighborhood has been gracious in terms of asking for some things, it's just a question if it can be pursued.

MR. SPIAK: We could take a look at it again to what other traffic control devises would be prudent pending State approval.

MR. MORELLI: Parker, I just wanted to mention a few things. The proposed building is actually a little smaller than what is there now. Some of the proposed improvements are the existing fuel tanks will be remove as well as the contaminated soil. They will be replaced with state of the art double walled fiberglass tanks with a sensor for leaks. This project would bring the amount of green space up to 35%. Currently there isn't any storm water management for the site; the developer has submitted a plan that was conceptually approved by engineering that will be located on the north end of the site.

MR. SPIAK: All the water is being collected on site and stored in an underground chamber system, released through a sand filter system which is the quality control then it will discharge into the Town property in it's existing drainage way.

MR. MORELLI: Two other items that I wanted to mention regarding lighting. The applicant did submit a lighting plan and zero foot candles are proposed for the property line. And lastly it is a commercially zoned piece of property and generally consistent with the Town's Comprehensive Plan which encourages redevelopment of existing sites.

AUDIENCE: Will you seek a variance for the fifty-foot sign?

MR. SPIAK: We will not at this time but reserve our right in the future. That part of the application was withdrawn. There would be another public hearing if it was filed again and the neighbors would be notified. I was curious if the Board had any feed back on the canopy elevation that were presented with the modifications that had been made.

MR. ODELL: It was actually Brian not me that had the concern. He's our canopy concern person.

MR. COTROFELD: What is the material?

MR. SPIAK: The mansard is to duplicate the mansard that is on the building elevation. It's a straight mansard, wood framed, architectural shingled to match the building. We had the colonial fascia board that matched the building and we also did the mansard.

MS. MOTTA: This colonial fascia is the same as the building. I saw one of these in Glens Falls and it looked nice.

CHAIRMAN MATHUSA: If we don't have any other thoughts, I'll entertain a motion to close the public hearing.

MR. ODELL: So moved.

MR. COTROFELD: Second.

ALL BOARD MEMBERS PRESENT: Aye

The public hearing closed at 7:54.

A motion to table was offered by Ms. McCarthy, seconded by Mr. Odell and approved by members present.

A motion to approve the minutes of April 4, 2006 as amended was offered by Ms. Motta, seconded by Mr. Engel and approved by all Board members present.

A motion to approve the minutes of April 18, 2006 as drafted was offered by Mr. Odell, seconded by Ms. Motta and approved by all Board members present.

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

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

The meeting adjourned at 8:20.