

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

**TOWN OF BETHLEHEM
BOARD OF APPEALS**

May 19, 2010

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York, was held on the above date at the Town Offices, 445 Delaware Ave, Delmar New York

PRESENT: Daniel Coffey, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
Keith Silliman, Planning Board Counsel
Lennie Micelli, Board of Appeals Member
David DeCancio, Board of Appeals Member
Matt Watson, Board of Appeals Member
Kenneth Umina, Board of Appeals Member
Mark Platel, Assistant Building Inspector
Justin Harbinger, Assistant Building Inspector
Rob Leslie, Senior Town Planner
Ron Graiff, PE Radio Frequency Consulting Engineer
Peter Ebert
Bill Banahan
Paul E. Hite
Jennifer Dougherty, Phillip Lytle
James Loder, ESCO
Thomas Butler, ESCO
Tom Drake
Chuck Radliff, Sr.

Chairman Coffey called the meeting to order at 7:02 pm noting that there is a quorum with all members being present as well as Attorneys Mike Moore and Keith Silliman.

The first order of business is to schedule a Public Hearing for the application for Thomas Paonessa, Proposed Grove Subdivision, North Bethlehem on June 2 at 7 pm. Motion made by Mr. Umina, seconded by Mr. Watson. Motion approved with all in favor, none opposed.

No further action on Hoffman Car Wash resolution prior to review and findings by the Albany County Planning Board.

PUBLIC HEARINGS

Peter Ebert for property at 109 Bridge Street, South Bethlehem for an area variance under Article V, Section 128-38, Heavy Industrial District, D. 1) additional 100 foot buffer, to construct a commercial garage in the 100 foot additional buffer.

The applicant is proposing to construct an 80' by 100', 8,000 square foot garage that will not meet the 100' additional buffer for structures, parking and access in an Industrial Zoning District that is adjacent to a district zoned for residential use.

The proposed garage will be located 110' from the front property line encroaching 90' into the buffer; the side yard setback will be 108' encroaching 17' into the buffer and the rear yard setback will be 130' encroaching 20' into the buffer. The parking and access will be 40' from the side property line encroaching 75' into the buffer and 25' from the rear property line encroaching 90' into the buffer. The access and parking at the front of the garage will encroach into the buffer the entire 100'. All of the regular setbacks for the structure and parking will be in compliance. The variances requested are to the additional 100' buffer only.

It was further noted that if granted a variance, the project will require review by the Planning

57 Board. As it is a non- residential structure in excess of 4000 square feet, it is an unlisted action
58 under the State Environmental Quality Review Act. In addition, the project has been referred to
59 the Albany County Planning Board.

60
61 Mr. Platel verified the planned structure is to be 80' x 100' with Mr. Hite to correct an error on
62 the application for the record.

63
64 Mr. Micelli moved to indent the Public Hearing notice into the record, seconded by Mr. Umina.
65 Motion passed with all in favor, none opposed.

66
67 Mr. Hite introduced himself as a land surveyor, land planner and a representative of Mr. Ebert.
68 The property consists of three (3) pieces of property purchased by Mr. Ebert, including the old
69 YMCA, an old railroad building and adjacent properties, combined into one property. It was
70 discovered that because the area in question faces an area where single family or residential
71 homes can be constructed, the site plan must include an additional 100' buffer zone. Mr. Hite
72 referenced a color coded site plan that shows what buildable area is left after allowing for the
73 double setback. Because the buildable area left is, in Mr. Hite's estimated, around the size of a
74 tent, the applicant is requesting a variance. Mr. Hite also referenced a topographic map that
75 illustrates where the structures have been razed, where stone has been placed in the drive and
76 parking areas, where the building exits and entrances are planned and proposed driving areas.
77 The property is bounded on the north by a rural zone, which can have single family homes, on
78 the northeast by single family residences, across the way is totally vacant land with railroad ties
79 and debris, on the south is bordered by Speeder Road, and bordered on the east by SR 396
80 (Bridge Street).

81
82 Mr. Hite indicated he met with a neighbor, Mr. Di Castro, who advised him he would welcome
83 the planned improvements to the property.

84
85 Mr. DeCancio asked what the previous zoning was pre-Comprehensive Plan. Mr. Platel advised
86 it was Industrial and/or Commercial.

87
88 Chairman Coffey asked for details on planned use for the property. Mr. Ebert advised it is for
89 storing equipment used in his business. Mr. Hite further described specific limitations of the
90 allowable buildable space on the lot, pointing out the location of the intended septic system,
91 building lot, and tree line.

92
93 Mr. DeCancio asked when Mr. Ebert purchased the properties. The applicant responded around
94 June or July 2009. The equipment was previously kept at the rail yard. Chairman Coffey asked
95 for further details on the planned septic system and Mr. Hite indicated on the plan.

96
97 Mr. Ebert further described the size and intended use of the structure. Mr. Watson asked about
98 any additional comments from neighbors. Mr. Hite described some of the neighbors, mostly
99 non-residential. He further elaborated on the limitations if his client was required to work only
100 in the permitted area. Mr. Ebert advised the previous building was 14,000 square feet, much
101 larger than the structure he has planned.

102
103 Chairman Coffey asked if there was anyone else in the room who would like to speak for or
104 against the applicant. He discussed with Mr. Hite and members and counsel for the board
105 whether to proceed with a coordinated or uncoordinated review with the Planning Board,
106 specifically as it relates to when and how to get the SEQRA determination. Mr. Platel advised
107 the request is expected to go before the Albany County Planning Board the following evening.
108 The three options are defer all action, decide to do a coordinated review, in which case the
109 applicant can be sent to the Bethlehem Planning Board to start the process there as well, or
110 decide to do an uncoordinated review, which essentially is deferring action to next meeting. June
111 2. Mr. Platel re-confirmed the County will be reviewing the following evening (May 20).
112 Motion was made by Mr. DeCancio to close public hearing on the matter and defer action until
113 June 2, seconded by Mr. Micelli and approved by all in favor, none opposed. Mr. Ebert
114 requested clarification on procedure and Chairman Coffey explained the technicalities in detail,

115 including that by law, the board has 62 days from the close of the public hearing to decide.
116 The public hearing was closed at 7:31 pm.

117
118 The minutes of the April 21, 2010 meeting were approved as changed on a motion from Mr.
119 Micelli and on a second by Mr. Watson.

120
121 Chairman Coffey asked if there is any additional business that requires Attorney Moore's
122 presence. Attorney Moore was excused and Attorney Silliman took his place at the table.

123
124 **ESCO Tower for property located at Van Dyke Road** for area variances under Article VI,
125 Section 128-61 F 7(b) and Section 128 - 61 (F) (9) Height and setbacks, to construct a 120 foot
126 telecommunications tower.

127
128 The applicant is proposing to construct a Telecommunications Tower that will exceed the
129 maximum height allowed for such structures and also not meet the minimum setback for towers
130 to both property and power lines. The proposed tower will be 120' tall exceeding the 90'
131 allowable for towers in a Residence "A" Zoning District by 30'. The tower would be located
132 150' from the adjacent property line, 30' shy of the minimum required and 175' from the
133 National Grid power lines, 5' shy of the same 180' required.

134 Also for the Board's information, the applicant's application does mention the possibility of
135 expansion for this tower to 150'. Any future expansion to this tower will require the applicant to
136 follow the same procedure that it is going through at this time, requiring both a Zoning Variance
137 from the Zoning Board and a Special Use Variance from the Planning Board.

138
139 Chairman Coffey introduced Ron Graiff, present on behalf of the Town, to comment on the
140 application and more specifically, review his response to the comments from the applicant dated
141 April 8, 2010. Mr. Graiff presented his response of May 11, 2010. First, he feels the signal level
142 specified by AT&T exceeds the level required in the area. He also questions the validity of using
143 models to substantiate the specifications as he feels drive test data is more reliable and verifies
144 the model. Mr. DeCancio asked if drive test data had been requested from the applicant and Mr.
145 Graiff indicated it had.

146 Mr. Graiff also discussed the height of 120' the applicant requested and said that the applicant
147 had indicated that since Verizon is at 110', AT&T would need to be at 120'. He hadn't received
148 specific data from the applicant that demonstrated 110' would not be adequate to meet AT&T's
149 coverage needs for the area. He had recommended to the applicant to investigate the coverage
150 provided by the Elm Avenue Water Tank, currently used as a Telecommunications Tower, as a
151 comparative basis. The applicant maintains -75 dbm is required for cell phone use in buildings
152 and -85 dbm for cell phone use in cars. Mr. Graiff felt the model provided by the applicant did
153 not entirely support the applicant's assertion and used overlays on an overhead projector to
154 demonstrate his points. Mr. Graiff briefly discussed the difference between factors affecting
155 coverage and factors affecting capacity and used another overlay on the overhead to demonstrate
156 the coverage at the Elm Avenue Water Tank. His point, he went on to reiterate from his
157 response of May 11, 2010, is the calculated models somewhat understate the actual coverage
158 achieved in the area. He then clarified in response to Chairman Coffey's question that the data
159 provided refers to area coverage, specifically roads, and not individuals and that the data doesn't
160 take into account demographics. Chairman Coffey asked if Mr. Graiff felt there is any substance
161 to the applicant's assertion of a difference in signal strength required when using a cell phone
162 compared to when using a Blackberry or other data device.

163 Mr. Graiff continued to review his response of May 11, 2010 and clarified the difference
164 between a best server drive test and a continuous wave drive test. The conclusion of his response
165 was the applicant needs to provide more accurate data for him to make a recommendation to the

166 Board. He feels there is strong evidence that the tower would be more effective over 90' in
167 height, but there is still information needed to determine how much higher than 90'.
168

169 Further clarification was requested regarding proximity of a cell tower to schools and other
170 safety concerns relating to cell towers. Mr. Graiff advised that to that point, every applicant he
171 reviews includes an OET65 analysis as a matter of procedure and feels it would be appropriate to
172 be submitted by this applicant.
173

174 Chairman Coffey introduced Ms. Dougherty. She explained why she thought the data previously
175 submitted was sufficient and that she now understands the need for additional data as had been
176 requested by Mr. Graiff, including the drive test data to support the planned signal strength,
177 tower height and also the Maximum Permissible Exposure analysis or OET65. Ms. Dougherty
178 expressed her intention to demonstrate that Verizon will need another location besides the Water
179 Tank. She also indicated several areas she contends are not covered by the Water Tank as well
180 as they would be by the ESCO Tower as well as her intention to demonstrate the visual
181 difference in height would not be significant.
182

183 Mr. Graiff expressed again that the color-coded model the applicant submitted, in his opinion,
184 grossly understated coverage, while Ms. Dougherty pointed out that the applicant's request for
185 -75dbm was not unique for the area and that several other towers on the map were providing
186 -75dbm. Ms. Dougherty said at the next meeting, she would demonstrate the necessity for
187 Verizon to collocate on the ESCO Tower to handle the coverage gap. She also explained how
188 the RF height analysis is done in 10' increments. Mr. Graiff explained the reason is because
189 when fabricating a monopole, it is easier to space at 10' increments, so it has become a standard
190 when in fact, the antennas can be placed much closer to each other without interference.

191 Mr. DeCancio asked if he could see a list of the heights of various cell towers in Town and if the
192 land in the application is an active farm. Ms. Dougherty confirmed it is an active dairy farm.
193

194 Chairman Coffey asked if one of the photos in the packet showed 175' as an option and Ms.
195 Dougherty confirmed there was a photo that showed various heights, including 175'. Ms.
196 Dougherty also expressed the desire on the part of the applicant to build a tower that is
197 appropriate for collocation without additional review or variances. The applicant picked a lattice
198 design to match the form, design and scale of the existing transmission lines that are adjacent to
199 their site.
200

201 Chairman Coffey asked if there is anyone else who would like to speak on behalf or opposed to
202 the applicant and indicated the Public Hearing will remain open and revisited at the June 16
203 Zoning Board Meeting. Ms. Dougherty indicated she will provide any requested info as it
204 becomes available.
205

206 The meeting was closed on a motion from Mr. Micelli and Seconded by Mr. DeCancio with all
207 in favor at 9 pm.
208
209

210 Respectfully submitted.
211 Robin Nagengast