

**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**  
445 DELAWARE AVENUE  
DELMAR, NEW YORK 12054  
(518) 439-4955, Ext. 1159  
(518) 439-5808 Fax

**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**  
**June 1, 2010**

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

<u>Board Members Present</u>	<u>Board Members Absent</u>	<u>Counsel Present</u>	<u>Town Staff Present</u>
George Leveille	Kate Powers		Michael Morelli
Nicholas Behuniak			Jeffrey Lipnicky
Thomas Coffey			Robert Leslie
Christine Motta			Terrence Ritz
Stephen Rice			Deborah Kitchen
John Smolinsky			

5

<u>Others Present</u>			
Matt Miller	Thomas Butler	Lou Giampaglia	Nick Costa
Erik Larsen	James Loder	Tony Califano	John
James Tobin	Marc Goldberg	Amy Musiker	Dan Schweigard
Adam Leonardo	Anthony DeThomasis	Rich DeThomasis	Scott Hannay

6  
7 Chairman Leveille called the meeting to order and noted the presence of a quorum.

8  
9 **Public Comment on Regular Agenda Items**

- 10
- 11 • Trinity Manor – Phase 5
  - 12 • Millwood
  - 13 • Yasemin Fuels
  - 14 • Kings Chapel
  - 15 • 35 Hamilton Lane
  - 16 • 48-50 Hudson Avenue
- 17
- 18 Matthew Miller, 11 Trinity Place, Selkirk, NY
- 19
- 20 -Comments related to Trinity Manor project
  - 21 -Mr. Miller is a teacher and union official for the Ravena Schools
  - 22 -He understands the need for an increased tax base
  - 23 -Was the first person to purchase a home on Trinity Place in 1996
  - 24 -Was aware the development had four phases
  - 25 -Had been under the impression that the land in the proposed development was land-locked

26 -Concerned about the impacts that this project will have on the existing development, specifically traffic,  
27 and wondered if a traffic study had been done

28

29 Thomas Butler, 245 Winchester Drive, Delmar, NY

30

31 -Comments related to proposed ESCO Towers Telecommunications Facility on Van Dyke Road

32 -Resident of the Town

33 -Speaking on behalf of himself and James Loder as applicant's for the proposed tower

34 -James Loder has been a resident of Bethlehem for 45 years

35 -The project is located on the Preska Farm, owned and operated by Charles Preska

36 -Mr. Preska has owned and farmed the property for multiple generations

37 -Mr. Preska plans to continue farming the property

38 -Mr. Preska worked with Chairman Leveille on developing the Town's Agriculture and Farmland

39 Protection Plan which includes ways for farmers to gain income and not have to development their land

40 -The revenue that Mr. Preska will receive from the tower will help him to continue his farming operation

41 -The tower is in an ideal location and is 1,000 feet from the nearest residence

42 -Situated next to similar structures owned by National Grid

43 -The proposed tower has been a long and expensive process that began with the submission of a site plan  
44 application in February 2008

45 -The applicant's have been working closely with Town staff

46 -A visual impact study was conducted in May 2008

47 -The project will have positive benefits for the community

48 -The nation's largest cellular carriers (Verizon & ATT) will be leasing space on the tower

49 -The project will pay school and property Taxes

50 -The applicants have been before the Zoning Board four times

51 -A radio frequency consultant has determined that this tower will provide sufficient coverage for the  
52 carriers

53 -The applicants have also been before the Planning Board and have demonstrated that the project is  
54 visually benign and should be granted a SEQR Negative Declaration

55 -The applicants have diligently spent the past 2 ½ years patiently meeting and addressing the Town's  
56 concerns

57 -Further delays will negatively impact the applicants and the residents of the Town who are not currently  
58 receiving the proper service from the carriers

59 -The applicants respectfully ask the Planning Board to take this time frame into consideration during  
60 deliberations

61 -The applicants also ask the Board not to unnecessarily delay the project and to work expeditiously  
62 towards the successful completion of the project.

63

64 There were no other public comments.

65

### 66 **Trinity Manor Phase 5 Subdivision, Reutter Drive, Selkirk**

67

68 The application concerns a proposed 22 lot conservation subdivision located at the end of Reutter Drive in  
69 Selkirk on a 17.33 acre parcel of land owned by Rosewood Home Builders LLC. The project is proposed  
70 as a zero lot line development consisting of 22 total duplex units. Each unit would sit on its own lot, with  
71 lot sizes ranging in size from 4,520 sq. ft. to 7,981 sq. ft. Approximately 12.31 acres of the project parcel  
72 (or 71% of site area) would remain in open space controlled by a homeowners association. A public  
73 hearing was held on May 4, 2010. The project is before the Board for possible action on Preliminary Plat  
74 Approval.

75

76 Mr. Lipnicky stated that a different parcel, located nearby, did require preservation of land for wetland  
77 mitigation. He also stated that a traffic study was not conducted because the level of service for the area

78 would not be impacted by traffic generation for 22 homes. Chairman Leveille noted that there was a  
79 contemplation of the extension of this road when the original Trinity Manor Subdivision was approved.  
80 The roads were designed for extension and the Engineering Division has reviewed the extension to make  
81 sure it meets the requirements.

82  
83 The project does not meet the typical area, yard and bulk requirements of the zoning district, however,  
84 regulations for conservation subdivision allow for variations in setbacks as well as type of residential uses  
85 that are permitted. Most of the remaining lands in the project area will be deed restricted as forever wild  
86 in accordance with the regulations of a conservation subdivision. There will be deed restrictions on the  
87 property enforceable by the Town and a third party. Before the project receives final plat approval the  
88 applicant will need to determine if the remaining lands will be taken over by a third party conservation  
89 group or homeowner's association. There will be no wetland disturbance on the area that will be  
90 developed. A fee in lieu of parkland set aside will be due to the Town at the time of building permit  
91 application.

92  
93 Town staff has reviewed the Preliminary Plat drawings as well as several reports including a Water  
94 Supply Engineering Report, Sanitary Sewer Service Report, Stormwater Management System Report,  
95 Operations & Maintenance Manual, and Storm Water Pollution Prevention Plan. The applicant has  
96 addressed environmental issues including a Cultural Resource Survey, Noise Evaluation Assessment and  
97 a Rare and Endangered Species Review. A more detailed Blasting Plan will be provided at the time of  
98 final design submission.

99  
100 Chairman Leveille called for a motion to consider the recommendation on Parkland Resolution and  
101 Preliminary Plat Approval.

102  
103 Upon motion by Mr. Smolinsky, seconded by Mr. Rice, and unanimously approved by all Members  
104 present, the Parkland Resolution was approved.

105  
106 Upon motion by Mr. Smolinsky, seconded by Mr. Coffey and unanimously approved by all Members  
107 present, Preliminary Plat Approval (PPA 244) was approved.

108  
109 **Millwood Estates Amendment to Phasing Plan, (RDA Associates), Russell Road, North Bethlehem**

110  
111 The applicant, Tony Califano of RDA Associates, was present to provide information and answer  
112 questions. The project was approved in September 2008 when stormwater regulations were just starting.  
113 The applicant is seeking approval to amend the Phasing Plan. The requirement for a phasing plan on this  
114 project came out of the storm water management review and was not initiated by Planning. Generally,  
115 the Town has not required phasing plans for projects this small. The proposed phasing plan is different  
116 from what was originally approved. Amendments to the Phasing Plan require Planning Board approval.  
117 An application to amend the Phasing Plan was submitted in May 2010.

118  
119 Staff has no objection to eliminating the current Phasing Plan and replacing it with a two-phased plan  
120 showing Phase 1 as construction of roads and utilities and Phase 2 as construction of lots. This would be  
121 accompanied by a condition that says the developer can build on any lot he wants, but no more than 5  
122 acres may be disturbed at one time. The project encompasses 13 acres, with 24 lots. The grading plan  
123 shows the amount of disturbance per lot so the developer will be able to make sure they remain in  
124 compliance.

125  
126  
127 The applicant is also seeking approval to amend the planting plan by replacing the locust trees with pear  
128 trees. Trees must be installed prior to issuance of a certificate of occupancy (CO) for each lot. There is an  
129 exception in the event that the CO is applied for during non-planting season. The developer must plant in

130 accordance with the approved tree planting plan, including minimum size and species. Amendments to  
131 the Planting Plan require an Amendment.

132  
133 Staff has no objection to replacing the locust trees with pear trees and will include language in #5 of the  
134 Approval document which reads as follows: This amendment will also include a modification to the  
135 locust trees as approved by the Department of Economic Development and Planning.

136  
137 Chairman Leveille called for a motion to consider the recommendation on SEQR Negative Declaration,  
138 and Amendment to the Phasing Plan including tree selection.

139  
140 Upon motion by Mr. Rice, seconded by Mr. Behuniak, and unanimously approved by all Members  
141 present, the SEQR Negative Declaration was approved.

142  
143 Upon motion by Mr. Smolinsky, seconded by Mr. Coffey and unanimously approved by all Members  
144 present, an amendment to the Phasing Plan was approved.

145

146 **Yasemin Fuels, 414 Route 9W, Glenmont**

147

148 The application concerns the conversion of an existing gas station, located at the southeast corner of US  
149 Route 9W and Glenmont Road, into a convenience store with gasoline sales. The proposal would convert  
150 the structure's existing two vehicle repair bays into retail space.

151

152 The last time the project appeared before the Planning Board there was a discussion related to a free  
153 standing sign on the property. The applicant agreed to replace the existing sign with a low-level pylon  
154 sign. The Zoning Law at §128-59.K. requires that if an existing non-conforming sign is removed, the  
155 new sign must conform to all sign requirements. Zoning Law §128-59.D.(1) requires that freestanding  
156 signs be set back a minimum 10 ft. from the property line. The new sign is proposed in the same location  
157 as the previous sign – approximately, one to two feet from the property line. Consequently, as per the  
158 zoning language, the applicant will need to provide the 10' setback or obtain a variance.

159

160 A condition of Site Plan approval would require the applicant to apply for a sign variance from the  
161 Zoning Board of Appeals (ZBA) prior to receiving a certificate of occupancy. The new sign would  
162 replace the existing sign at the corner, and would be an improvement over the existing sign. Staff was  
163 directed to send a memo to the ZBA stating that the Planning Board would be in favor of the ZBA  
164 approving the variance.

165

166 Chairman Leveille called for a motion to consider the recommendation for Site Plan Approval.

167

168 Upon motion by Mr. Smolinsky, seconded by Mr. Coffey and unanimously approved by all Members  
169 present, Site Plan Approval (SPA 160) was approved in accordance with conditions set for in the approval  
170 document.

171

172 **King's Chapel, 440 Route 9W, Glenmont**

173

174 The applicant is seeking site plan approval to construct a 1,380 sq. ft. addition (30' x46') onto the south  
175 side of the existing church building. The new addition would be used for two (2) classrooms and a 656 sq.  
176 ft. community room. The proposed project last appeared before the Planning Board on May 4, 2010. The  
177 Board classified the project as a Type II action pursuant to Section 617.5 (7) of SEQR (construction or  
178 expansion of a non-residential structure or facility involving less than 4,000 sq. ft. of gross floor area).  
179 Type II actions have been determined not to have a significant impact on the environment and are  
180 therefore precluded from environmental review. The project was referred to the Albany County Planning

181 Board (ACPB) pursuant to General Municipal Law 239 and it was determined that “the proposed action  
182 will have no significant countywide or intermunicipal impact.”

183  
184 Chairman Leveille called for a motion to consider the recommendation for Site Plan Approval.

185  
186 Upon motion by Mr. Smolinsky, seconded by Mr. Behuniak and unanimously approved by all Members  
187 present, Site Plan Approval (SPA 161) was approved.

188  
189 **35 Hamilton Lane (Malm Realty), Glenmont**

190  
191 The applicant is seeking approval to construct a 20,000 square foot pre-fabricated, metal, multi-tenant  
192 warehouse building. The project was last before the board on April 4, 2010. The proposed plan calls for  
193 porous pavement to be installed in accordance with the NYSDEC Stormwater Management Design  
194 Manual for green infrastructure. Porous pavement will help to reduce water run-off and allow water to  
195 seep into the pavement and travel to an on-site retention pond. This stormwater management practice has  
196 not been utilized in the Town of Bethlehem before. The site plan approval document includes conditions  
197 associated with the final review and approval of the SWPPP by the Town Engineering Division.

198  
199 The applicant had previously stated that porous pavement would be installed in the parking areas around  
200 the building; however, the revised plan shows that typical asphalt pavement will be installed within 10  
201 feet of the building pad where the parking area is located. Typical asphalt pavement will also be installed  
202 above all utility laterals and culverts, and at the entrance and exit driveways to the site. The revised  
203 stormwater plan was modified to show the use of porous pavement located around the traffic circulation  
204 areas on site.

205  
206 Mr. Smolinsky stated that he would like to the applicant to work with staff to improve the proposed  
207 landscaping at the entrance to the site. Sanford Sheber was present on behalf of the applicant to provide  
208 information and answer questions. Mr. Sheber stated that the applicant would be willing to entertain the  
209 idea of improving landscaping at the entrance recognizing it is an industrial area. Mr. Leslie noted that  
210 options would be limited because of the Town right-of-way. Staff will help to develop a landscaping plan  
211 for the entrance and this will be added as a condition of approval.

212  
213 Chairman Leveille called for a motion to consider the recommendation for Site Plan Approval.

214  
215 Upon motion by Mr. Rice, seconded by Mr. Behuniak and unanimously approved by all Members  
216 present, Site Plan Approval (SPA 159) was approved.

217  
218 **48-50 Hudson Avenue Amendment 3, Delmar, NY**

219  
220 The applicant is proposing changes to a previously approved site plan including modifications to the  
221 building façade, pedestrian circulation and landscaping. The proposed changes require a site plan  
222 amendment since the constructed buildings differ from the approved site plan, which was granted in  
223 December 2008. Amendment 2 of the plan allowed the front façade porches of both buildings to be  
224 moved towards the site driveway. Anthony DeThomasis and Rich DeThomasis of ARL Land  
225 Development LLC were present to provide information and answer questions related to the proposed  
226 Amendment 3.

227  
228 The applicant indicated that he did not pay close attention to the design details when the original façade  
229 plan was submitted for approval in 2008. It was never his intention to install window accents. He also  
230 stated that he had ordered modular brick and received over sized queen brick, which impacted the layout  
231 of the soldier course. He is seeking approval to amend the façade plan.

232  
233 It was noted that the building at 48 Hudson is still under construction. The approved building elevations  
234 illustrate a lintel and keystone over each window of all four building facades. During construction a  
235 keystone was installed above each window along the south (front) and west (left side) façade. The  
236 applicant included a lintel and keystone hood above the windows along the east (right side) façade, while  
237 the north (rear) façade received no window detail treatment.  
238

239 The building at 50 Hudson was constructed and has obtained a temporary certificate of occupancy. At  
240 present, all three units are rented to tenants. The approved building elevations illustrate a lintel and  
241 keystone over each window of all four building facades. During construction the keystone and lintel detail  
242 were not installed above each window along the north (rear), south (front), and east (right side) façade of  
243 the building. The applicant included a lintel and keystone hood above the windows along the west (left  
244 side) façade.  
245

246 The site is located in the Delaware Avenue Hamlet Enhancement Study area and the study provides  
247 guidelines for window details within the Hamlet study area. Staff is recommending that a decorative  
248 lintel and keystone hood be installed on all windows at 48 & 50 Hudson Avenue. The approved lintel and  
249 keystone hood is a significant window design detail which adds character to the brick façade, provides  
250 architectural relief to the windows, and is consistent with the characteristics of hamlet building.  
251

252 It should be noted that the applicant would need to add additional molding on the façade of the garage to  
253 accommodate for the different brick size.  
254

255 The applicant is also seeking approval to amend the landscaping plan.  
256

257 The planting of four arborvitae shrubs along the rear of 48 Hudson for screening purposes has not been  
258 done because the deer have been destroying the other arborvitae shrubs planted on site. The applicant is  
259 proposing to replace the arborvitae shrubs with a 6-foot high wood-stockade fence to maintain the  
260 screening. An additional Norway spruce tree is proposed along the eastern property line to maintain the  
261 screening.  
262

263 The planting of four arborvitae shrubs along the west side of the parking area, rear of 50 Hudson, for  
264 screening purposes was completed but the shrubs were eaten by deer. The applicant is proposing to  
265 replace the four arborvitae shrubs with an additional two Norway spruce trees to maintain the screening.  
266 The approved landscape plan along the northeastern side of the building includes the planting of three  
267 spirea shrubs. In lieu of planting the spirea shrubs, the applicant proposes to place a stone paver patio for  
268 use by the tenants of the building's rear unit.  
269

270 Staff is recommending that the proposed patio and replacement of arborvitae shrubs with Norway spruce  
271 trees and stockade fence be approved by the Planning Board. The proposed landscape treatments will  
272 maintain the original screening purpose to screen the parking area from neighboring properties.  
273

274 The applicant is seeking approval to make changes to the sidewalk, handicap ramp, and patio:  
275

276 The original site plan approval includes a sidewalk along the west side of 48 Hudson to provide a  
277 pedestrian connection from the parking area to the building and existing sidewalk along Hudson Avenue.  
278 The approval also includes a handicap ramp along the west side of the building to meet the NYS Building  
279 Code requirements for handicap accessibility. The applicant proposes to remove the rear half of the  
280 sidewalk, and extend the handicap ramp in order to make room for a patio at the rear of the building. The  
281 proposed handicap ramp design will meet NYS Building Code requirements. Six spirea shrubs are  
282 proposed to fill the location of the removed sidewalk.  
283

284 Mr. Leslie expressed concern that removal of the sidewalk to accommodate a patio will force pedestrians  
285 to walk along the driveway in order to access the commercial space at the front of the building.  
286 Pedestrians would not comfortably walk along the handicap ramp (as proposed by the applicant) from the  
287 parking lot to access the commercial space. The proposed amendment results in an awkward and  
288 unconventional travel path for pedestrians. He would not recommend approving the amendments as  
289 proposed.

291 Mr. Smolinsky stated that he would like to see some continuity on the fronts of the buildings facing  
292 Hudson Avenue. The buildings were presented as identical buildings when the site plan was approved.  
293

294 Upon motion by Mr. Behuniak, seconded by Ms. Motta and unanimously approved by all Members  
295 present, further discussion related to the proposed amendments was tabled. Board Members will work  
296 with staff to coordinate a site visit. The applicant will temporarily install a few lintel and keystone hoods  
297 along the building facades to assist the Members in making a determination on the window detail, as well  
298 as the other proposed amendments. The applicant will also provide a sample of materials that could be  
299 used to cover the keystones.  
300

### 301 **Minutes**

302  
303 Minutes from the May 4, 2010 and May 18, 2010 meetings will be considered at a future meeting.  
304

### 305 **Discussion**

306  
307 Members and staff were present to discuss Zoning Law (§128-61) related to Telecommunication  
308 Facilities and Planning Board review of proposed telecommunication facilities (cell towers). Chairman  
309 Leveille directed the Members to an informational memo from Robert Leslie dated May 27, 2010 which  
310 includes advice provided by the Town's consultant, Ronald Graiff, who has been retained to advise the  
311 Planning Board and Zoning Board of Appeals with respect to telecommunication facilities.  
312

313 Chairman Leveille noted that the Board has received two applications for installation of  
314 telecommunication facilities. Both are within ½ of a mile of one another and are located in the vicinity of  
315 Elm Avenue and Van Dyke Road. The Zoning Board of Appeals has requested a coordinated review with  
316 the Planning Board with regard to the application of ESCO Tower. The Board's responsibility is to look  
317 at the cumulative impact of applications for this type of use in the area.  
318

319 The consultant has indicated that there is no material difference in the service capabilities of either  
320 location because they are so close. The Board will need to review the applications for which the co-  
321 location requirements of our code would point the Town towards approving one pole for construction in  
322 order to meet the needs of telecommunications service in that area. Co-location is a priority of the code to  
323 minimize proliferation.  
324

325 At this time neither applicant (ESCO Tower or Independent Towers) has submitted a complete  
326 application. The Board would need to make a determination if both towers are comparable with regard to  
327 service capability and if only one tower is needed to meet the service requirements of all of the carriers.  
328 The Board would then need to conduct a SEQR review to consider the impacts and determine the  
329 appropriate location. Other locations have been considered and will be noted in the application.  
330

331 At present ATT and Verizon show a need greater than 90 feet. The ESCO tower is proposed at 120 feet,  
332 expandable to 150 feet. The Independent Tower is proposed at 90 feet, expandable to 120 feet. It is  
333 believed that the towers would provide coverage within a two-mile radius. Topography may play a role  
334 in tower height/coverage area. The Members indicated that they intend to take the visual impacts into  
335 consideration. Mr. Smolinsky stated that he would like to see photos taken from both schools. He would

336 also like to see a plan that shows a 300 foot radius around the tower, in which occupied buildings are  
337 prohibited. The applicant's are aware of each other's application.

338  
339 Mr. Behuniak inquired if there was an opportunity for inter-municipal cooperation in terms of a singular  
340 tower. Chairman Leveille stated that there might be a practical reason for inter-municipal cooperation.  
341 Mr. Behuniak would encourage communication with neighboring municipalities.

342  
343 An application is forthcoming from Independent Towers. Once it is received, the Zoning Board will  
344 initiate a coordinated SEQR Review and the Planning Board would assume Lead Agency. Mr. Leslie  
345 referred to SEQR Law – Section 617 C-12.

346  
347 Chairman Leveille encouraged the Members to visit the proposed sites and educate themselves about cell  
348 towers. The Members will need to consider the potential for multiple applications, coordinated SEQR  
349 review, cumulative impacts of more than one installation, and co-location priority in the Town's code.  
350 Chairman Leveille also noted that the Town must try to find the economic value in rural land so that rural  
351 land will not be developed. This concept is embedded in the comprehensive plan and needs to be  
352 considered. The FCC will regulate radio frequency emissions and will not be part of the review.

353  
354 **Meeting Schedule**

355  
356 06/15/2010 - Town Hall - 6:00 p.m. - Regular Meeting & Public Hearing for Hauerwas Subdivision  
357 07/01/2010 - Town Hall - 6:00 p.m. - Regular Meeting

358  
359 Respectfully submitted,  
360 Deborah Kitchen