

TOWN BOARD  
JULY 27, 2005

A regular meeting of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 5:30 p.m.

PRESENT: Theresa Egan, Supervisor  
Daniel Plummer, Councilman  
George Lenhardt, Councilman  
Thomas Marcelle, Councilman  
Tim Gordon, Councilman  
Colleen A. Hummel, Deputy Town Clerk  
James T. Potter, Esq., Town Attorney

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Supervisor Egan said before starting, many people know that a good friend passed away last week. She said Joe Cannizaro was a life-long resident of Bethlehem, a Bethlehem Central graduate and SUNY Albany Law graduate. She said he served our community as a Public Defender and Law Clerk and was a member of the Albany County Legislature most recently since 2000 and a Justice of the Supreme Court. As someone put it, while we will miss him dearly, God will be happy to have him. She asked for a moment of silence for Legislator Joseph Cannizaro. She thanked everyone.

The Supervisor said in moving on with the agenda, this is the time for public comment on any item on the agenda. She said as everyone came in, there was a Memorandum, which addresses the last item on the agenda. She requested that any comment on that item be held until the end. Mr. Leveille will outline what the issue is, the Board will be able to ask any questions they may have and the public will then be asked if they have any comments.

Mrs. Marie Capone commented there was a moment of silence observed for the Judge but the flag was not lowered.

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Mr. Albert Penk asked in regard to update of the proposed Zoning Law, if that was on the agenda. Supervisor Egan said the item was on there. Mr. Penk asked if he could give a written comment now since it was on the agenda. The Supervisor said written comment can be provided. Mr. Penk asked if he could read it. Supervisor Egan asked that he hold that until the item is reached.

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The first item on the agenda was to approve the Town Board Minutes of June 22, 2005 and July 13, 2005.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the Town Board minutes of June 22, 2005 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The motion was made by Mr. Plummer and seconded by Mr. Gordon to approve the Town Board minutes of July 13, 2005 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The Supervisor said she emailed the Board Members a request from the Town Planner to approve the Town Board minutes of July 20, 2005 Special Meeting in order to provide the minutes to Saratoga Associates to be used as part of the SEQR findings.

The motion was made by Mr. Plummer and seconded by Mr. Gordon to approve the minutes of the Special Town Board meeting held July 20, 2005 as submitted. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The next item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for approval of appointment of seasonal personnel.

The motion was made by Mr. Lenhardt and seconded by Mr. Plummer to approve the appointment of seasonal personnel.

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The following item was a request from Highway Superintendent, Gregg Sagendorph, for approval to go to bid for biodegradable paper bags. Could advertise August 3, 2005 and open bids on August 16, 2004 at 3:00 p.m.

The following resolution was offered by Mr. Lenhardt and seconded by Mr. Plummer:

WHEREAS, the Town desires to advertise for bids for the purchase of biodegradable paper bags, pursuant to law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk advertise for such bids in THE SPOTLIGHT issue on the 3<sup>rd</sup> day of August, 2005 and that bids be received up to 3:00 p.m. on the 16th day of August, 2005 at which time the bids will be publicly opened and read.

The resolution was adopted by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The next item was to acknowledge receipt of Conditional Approval of Final Plat for the Carlomagno Subdivision from the Planning Board for information purposes.

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Acknowledge receipt of Conditional Approval of Final Plat for the Feeney-Castronuovo Subdivision from the Planning Board for information purposes.

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The next item was to consider request for resolution from Mohawk & Hudson River Humane Society regarding National Homeless Animals' Day. Supervisor Egan asked if anyone had any comments on this item.

The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to approve the following Resolution regarding National Homeless Animals' Day.

RESOLUTION  
NATIONAL HOMELESS ANIMALS' DAY  
AUGUST 20, 2005

Whereas, the overpopulation of our nation's most popular animals, dogs and cats, results in the killing of million of dogs, cats, kittens and

Whereas, puppies each year in shelters across the United States, and the only reason for taking these healthy, adoptable innocent animals' lives is due to the fact that there are too many cats and dogs born as there are families willing to adopt them, and

Whereas, the taking of the innocent victims' lives forever leaves its mark on The caring shelter personnel who must perform the mass killing of cats and dogs each day to make room for the new arrivals, and

Whereas, the dog and cat overpopulation crisis can readily be solved, first by having dogs and cats spayed and neutered before their first litter and secondly by adopting a dog or cat from your local animal shelter, and

Whereas, the irresponsible dog and cat owners who do not have their pets spayed or neutered are the ones accountable to the taxpayers in this country, for the millions of dollars spent each year on killing unwanted animals they are responsible for bringing into this world, and

Whereas, humans domesticated dogs and cats, they depend on us, therefore, it is our obligation to provide responsible, humane care for them throughout their life, and

NOW, THEREFORE, I, Theresa Egan, Supervisor of the Town of Bethlehem, Proclaim August 20, 2005 as National Homeless Animals' Day.

FURTHER, I call upon all dog and cat owners to accept responsibility for the care of their dogs and cats, including having them Spayed or Neutered to prevent the birth of animals destined to be homeless, unwanted and killed.

s/s Theresa L. Egan

Signed this 27<sup>th</sup> day of July 2005.

The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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The next item was an update regarding the proposed Zoning Law and Subdivision Rules and Regulations. Supervisor Egan said there was a handout provided. She said they will deal with the issues and noted the Memorandum addresses all of the issues that came out of the public hearing meetings, comments received and questions from the Town Board. We have a description of what the issue is, how the current code treats it, what the proposed draft (current pending) treats it, along with the recommendation for final direction from the Board. She said the purpose of this meeting is to get the final direction from the Board, give it to Mr. Leveille and it will go to the consultants to prepare the final draft documents for Friday.

Supervisor Egan said the items will be taken one at a time, questions from the Board and then if there are any comments, they will take them from the audience. Mr. Leveille thanked Supervisor Egan and noted he is joined by Keith Silliman, Counsel to the Planning Board, James Potter, Town Attorney and Mark Platel of the Building Department. He said the first issue had to do with the inconsistency of the proposed rural light industrial zoning to the comp plan recommendation regarding the uses permitted in rural districts with the exception of major subdivision. He said that is a correct comment and they would recommend changing the proposed permitted uses in the Rural Light Industrial district to conform to those permitted in a rural district except for major subdivisions.

Supervisor Egan asked if there were any questions from the Board. Councilman Marcelle asked if any uses were being retracted or just expanding uses. Mr. Leveille said they are expanding uses, noting there are 6 or 7 uses that were permitted in the rural that were not permitted in the draft for rural light industrial.

The Supervisor asked if there were any questions or comments from the audience on this issue. There were none and the Board directed the change be made.

Mr. Leveille said the next issue had to do with a design guideline. He said design guidelines are included throughout the code and designed for the Planning Board for guidance in helping to establish appropriate development projects. He said there is one guideline in particular to encourage the integration of new subdivisions within the existing neighborhood, which may not be appropriate in non-residential districts. He said in looking at that they would also recommend that it would be appropriate to delete that from the design guidelines in the rural and rural light industrial design guideline sections of those district codes.

Supervisor Egan asked if there were any questions from the Board. She asked for comments from anyone else. Mr. King said one thing that he finds about this design regulation is that it precludes innovation in design. Mr. Leveille said a design guideline is not a regulation. He said the Planning Board is compelled to look and to consider design guidelines but they are all things that provide for discretion and some degree of flexibility to allow a project to proceed. The Supervisor asked if the Board was okay to give final direction. Mr. Leveille said the issue is to simply remove and encourage integration of new subdivisions within existing neighborhoods from the rural and rural light industrial districts.

Mr. Leveille said the definition of family in the existing code is one paragraph and the new code has a much more complex and detailed definition and deferred this to Town Attorney Potter. Mr. Potter said the elaborate definition is really a recognition of court cases that have come out in probably the last 10 or 15 years. He said in the past you would design family as simply a unit of people related by blood. He said the courts have said there are a number of non-traditional families that live and reside together that do not meet the definition so you cannot simply define a family in that way. He said another way of approaching it would be defining it by the number of people but they have heard at the Town Board meetings that some families consist of 16 children or/and larger family units. So, as a consequence, Mr. Potter said in order to preserve the idea of the single family zone being, in fact, for what we consider as a single family there is a need for a much more elaborate definition and it includes a definition that somewhat excludes what not intended. He said it does not include fraternities and that is why there is a much more elaborate definition in recognition of how the court cases have gone over the last 10 to 20 years.

Mr. Leveille said it would be their recommendation to go with the definition as proposed in the proposed code. Supervisor Egan asked if there were any questions by Board Members. There were none. She asked if there were any comments. No one spoke. She asked if the Board was okay with this. The Board concurred.

Mr. Leveille said the next issue relates to another design guideline that is carried over into rural districts and this was encouraging sidewalks and reflecting the practicality of requiring sidewalks in areas that generally do not have large populations. He said they feel it is also appropriate to delete this design guideline from the rural and rural light industrial sections. Supervisor Egan asked if the Board had any questions. There were none. She asked if anyone had any comments. Mr. King said this is a definition with respect to rural areas. He said he has reviewed the 128-28 of which is about core residential. He said the guideline is thrown out as a general goal as if that is a universal good. He said he would defer to his comments with respect to the rural industrial zone, also to the core residential zone. There are clearly properties in the core residential neighborhoods, Mr. King said, that sidewalks would probably be deemed inappropriate based on dwelling density, traffic, traffic speed, pedestrian use. He said clearly Adams Place, Adams Street that is something appropriate. He said other areas can be deemed appropriate but he does think there should be some non-arbitrary standards and he thought Saratoga Associates should be able to help with that noting that is really a responsibility of the planning consultant.

Mrs. Capone asked when the sidewalk was going to be finished on Delaware Avenue from Verstandig's to the gas station. She said high school is opening and there are more children going to school and they have to cross the street. Supervisor Egan said this was not subject of this discussion. Mrs. Capone said she was sorry.

Supervisor Egan asked if there were any questions on this. The Board agreed.

Mr. Leveille said the next issue had to do with the absence of cemetery as a permitted use. In the current code, cemeteries are permitted by special exception by the Zoning Board of Appeals, according to Mr. Leveille. He said in the proposed code they are not permitted upon discussion with counsel on this, it requires a lot more examination before the code is definitive in whether or not cemeteries should be permitted. He said one of the issues is the expansion of existing cemeteries, which seems to be a more likely event than a new cemetery. He said they would like to defer this to the next update and do some more homework and come back with a better recommendation as to what is appropriate. Supervisor Egan said they certainly exist in Town. Councilman Lenhardt asked that since deferral is being requested, does that mean the wording will be removed in the new code. Mr. Leveille said they would recommend leaving it as proposed, which would mean it, is not permitted. He said they have not had a lot of inquiries about cemeteries that I am aware of and he thinks within a reasonable period of time he can look forward to some recommendations. Councilman Lenhardt said potentially one of the recommendations would be to remove that wording. Mr. Leveille said that was correct.

Councilman Marcelle asked if the Town was required under any set of circumstances that had cemeteries permitted. Town Attorney Potter said not that he knows of.

Supervisor Egan said she thought everyone was comfortable at this point in as much as there are several existing ones that will certainly provide access to cemeteries. She said she thought they will have enough time to finish looking at how the State interplays with the Town's role in permitting these.

Councilman Plummer asked what the downside would be to leaving it the way it is right now. Mr. Leveille said he did know. He did not know if there was a downside to making it a use required by special permit. He said that could very well be appropriate. He said they think at this point, they need to reconsider the issue and not jump to any conclusions. He said that certainly is an option. Councilman Plummer thought is made more sense than to outright not permit them. He said they may find out and conclude that the best way is the way it is right now by special exception. Mr. Leveille said that was certainly an option. He said it would be which districts, all districts, noting there is a lot to considering it. He said if an issue came up, he thinks they can respond relatively quickly. He anticipated within 6 months or so, they would have a pretty solid recommendation one way or another.

Councilman Gordon said there has been a move in certain communities recently to initiate or create cemeteries with the purpose of creating an ever wild areas and people want to do that as they depart this world. He said they buy plots with the idea the land is left open and used more than your average cemetery. He said it is being done in other communities and there may be an interest here.

Mr. Leveille said again, clearly that is part of the complexity is how it fits into open space protection and those kinds of issues.

Supervisor Egan asked if there was a consensus to leave this as a not permitted use for the present time and then revisit it. The Board agreed. She asked if there were any comments. There were none.

Mr. Leveille said the next issue had to do with the definition of excavation. He said the definition by itself is not intended nor can be used as a regulatory

device, but the definition itself would suggest the tiling of soil for a garden might constitute a regulated activity. In the current code there is no language, according to Mr. Leveille, regarding this and in the new code the subsection on grading, erosion, sediment control is quite detailed and provides regulations with regard to land disturbance. He said it also provides quite a few exemptions from the regulation. He said basically if you look at the exemptions listed in the grading subsection, currently indicate that household gardening is one of the many activities that are exempt from regulation. He said based on that he would recommend that there be no changes to this section. He said there are at least 21, he believed, exemptions to this regulation to account for things like ordinary household gardening. Supervisor Egan asked for questions from the Board. Councilman Marcelle said pools and walls, asking if that would be an explanation if you are digging a hole for a pool. Mr. Leveille asked Mr. Platel for an excavation for a pool. He said the thresholds are 200 cubic yards per acre, which means 50 cubic yards of dirt would have to be excavated on a quarter acre lot. He said he is not sure how many cubic yards are in a pool. He said it may be included, saying it might be appropriate to include that as an exception. Councilman Marcelle said he thinks this needs to be looked at. Mr. Platel said he believed that would not be the threshold. Mr. Leveille said the question are if the exceptions are broad enough that one would assume things like ordinary household improvements like that would be exempt. He said he did not know the answer to that. Supervisor Egan noted it did not hurt to put pool in. Councilman Marcelle said he thought pool is something that everyone should consider. He said there are regulations for the permitting for the building of pools. Supervisor Egan said the building permit regulations are there anyway but to avoid any confusion with the excavation, she did not think anyone was trying to preclude pools. Mr. Leveille said it was a good suggestion.

Supervisor Egan asked if there was any comment from the Board. There were none. She asked for comments on this section. Ms. Linda Jasinski said she disagrees because the definition of excavation whether it is used as a definition by contractors or a definition out of the dictionary, requires digging and removing dirt. In the zoning, she believes because she did not have it with her, it is the disturbance of dirt and she thinks there is a big difference in that. Mr. King said he thinks this is a good example and it happens a lot which is you have to be very specific in particular about regulations and it is really an art to write statutes. He said obviously, he knows Mr. Leveille and his department generally has been doing a very good job. He said sometimes you have to be very careful to make sure you get exactly what you mean with what you say.

Mr. Leveille said the definition is intended to provide clarification of what the action is. He said the regulation governs one of the regulations that are to be regulated and which are not. He said that is why not all the regulations are included in the definitions. He said maybe the Town Attorney or Mr. Silliman would like to comment on the distinction. He said clearly the activities that are ordinary household items are exempt from regulation even if they constitute excavation. He said those are not being regulated.

The Supervisor said Mr. Jasinski had a comment. Mr. Jasinski asked if the microphones could be used by everyone so they could hear. Supervisor Egan thanked Mr. Jasinski and asked if there were any other comments. She asked if the Board was okay with no changes. The Board agreed.

Mr. Leveille said the next issue was the definition of private garage. He said this led to a lot of different things. He said the current code provides for the definition of a building used for storage of not more than 3 privately owned vehicles, not trucks. He said it prohibits any business being operated in a private garage. He said in the existing code there is also a provision for commercial garages, which 40 or 50 years ago a garage was a place that you went to get your car fixed. He said there is a definition for a commercial garage being a business operated for the repair on vehicles out of a garage as distinguished from a private garage.

Mr. Leveille said in the proposed code they have used the same definition and so they recommend to revise the definition to remove the prohibition of trucks and add a new definition for a private garage, non-residential, to allow for on-site storage of non-passenger vehicles and equipment used for personal use. So, he said for example where you have a residential district where there are large lots in somewhat rural areas, certainly areas of Selkirk come to mind, and many individuals own equipment, backhoes, other types of things, all terrain vehicles. He said they wanted to provide a garage that could be used for the storage of these items and use of those for personal use. He said they are recommending not only the change to the private garage to eliminate the prohibition of trucks but they are also recommending a new private garage for non-residential activities to be permitted.

Supervisor Egan asked if there were any questions from the Board. Supervisor Egan noted this was Councilman Plummer's concern for the trucks in the garage. She said someone can now have a truck with a commercial plate in your garage. She asked if there were any comments. Mr. King said this is obviously a step in the right direction. He said he spoke with a number of people who are contractors in Town who live at their homes and have trucks. He said, however, in core residential areas people do own boats, people do have trailers, etc. and he would hope that as a Town and that the Town Board does not see that the storage of vehicles or other equipment located in a private garage not visible to anybody on the street matters. He said he does not think it does and he does not know why there has to be a private garage non-residential zoning for that just say you can put whatever you want in your garage as long as it is not explosive, not hazardous, etc.

Supervisor Egan asked if there were any other comments. Mr. Al Penk said he has a pole barn and previously he was light industrial which had no restrictions for what he was doing. He asked since he will be classed Residential A and he has a mobile home in the barn is that going to be classed as a truck. He further stated he also has 2 or 3 other vehicles he stores in this area. He said on his property he has a 2 car garage at his home, a 2 car garage on an additional house and a pole barn that he keeps about 4 vehicles in. He asked if this means he cannot do this any more on his property. Mr. Leveille said any use in effect from the date of adoption of the ordinance would be a pre-existing non-conforming use that would continue to be permitted. So, first and foremost, Mr. Leveille said the change in regulation that may adversely affect the use of a premise is grand fathered under the code as a non-conforming use.

The definition that they are talking about, according to Mr. Leveille, is to provide for precisely those types of facilities to store non-passenger vehicles. He said the current code only talks about passenger vehicles. He said in trying to improve it, to provide for accessory buildings that could be used to store non-passenger vehicles. He said it is a segway into the next issue, which is the commercial vehicles, and even though he thinks they are related, and he thinks it's important that he just describe this in the context of that. He said in the current code it is really silent about commercial vehicles other than the prohibition of trucks would certainly suggest you are not allowed to have a commercial vehicle in a garage, however, he does not believe the current code deals with whether it is parked in the driveway versus the garage. He said clearly as this issue is looked at, it's very complex, and he said this is an area they are going to recommend that they remove the prohibition of the commercial vehicles from parking overnight until they have more time to carefully understand how this impacts the neighborhoods, the different residential and non-residential districts. He said they need to provide for not only what is inside the garage but should there also be a regulation for what is outside the garage and how it is addressed. He said there is a lot more work to go into this particular section. He said this is an area that the comp plan gave a lot of direction.

Councilman Plummer asked on the point of the example of the mobile home, would that be addressed as this is reviewed further. Mr. Leveille said he would interpret what has been proposed is that they do not address mobile homes. He said they would be permitted as long as they are not in violation of some other

regulation with regard to set back or things of that nature. He asked Mr. Platel whether there was a regulation at this time. Mr. Platel said there is nothing in the current code.

Councilman Lenhardt said he thought it was good that they are hearing examples like this. He said it gives an opportunity to think of things that might be overlooked. Supervisor Egan said they have been doing that for a number of weeks.

Mr. George Waldenmaier asked about the residential and non-residential garage. He said he assumed the one next to his house was just a garage. Mr. Leveille said the intent of the old code was that a commercial garage was a place where someone ran a business, an automotive business. He said that meant a private garage was anything else. He said if you had a private garage, you were only permitted to park 3 passenger vehicles in it. He said they have established a private garage, which is conceived to be a residential garage, a private residence garage. He said they want to provide for accessory buildings that are not necessarily for cars so that folks have a place to store farm equipment, other types of motor vehicles that are not passenger vehicles, it is allowed as a permitted use. He said that is why that language was included. He again noted he thought more work has to go into this issue.

Councilman Marcelle asked about what was meant by permitted use. He asked if it was a permitted use in certain zones. Mr. Leveille said it would be permitted as an accessory building in virtually any zone. He said it is an accessory structure that they have defined so someone clearly knows what is being talked about.

Supervisor Egan asked Mr. Penk if he had something else on this issue. Mr. Penk said they are talking non-conforming and grandfathered in. He said at the last meeting he believed the Board told him that there was no grandfathering in allowed in the zoning changes. He asked if they were saying that it is going to be grandfathered. Supervisor Egan said that was never said. Mr. Penk asked if they are saying it will be grandfathered in and if it is, where is it going to be addressed on this issue. Supervisor Egan said she wanted to be clear. She said the grandfathering provisions are in general. Town Attorney Potter said it is also a matter of State law. He said they cannot zone it out. Mr. Penk said he was glad to hear that. He asked where it is going to appear. Mr. Leveille said it is section reference.

Mr. Penk said his question at the last meeting was on property that was forever wild. He said he was told it was written down that it was always going to be and that it was more or less come into play and then cemeteries are not outlined any place on our great plan. Supervisor Egan asked Mr. Penk to stay with 1 issue. Mr. Penk said it is an issue. Supervisor Egan said she did not want to be skipping around to everything else. She said the issue of the forever wild area, is talking about apples and oranges. She said it is a different situation and is not a grandfathered issue. Mr. Penk said not when it is zoned R for rural and they can do anything under your program. He said it says they can do anything on that property and all we need is for somebody to come in and question that and it is not written any place that it is a zoned area as such.

Town Attorney Potter said in regard to the forever-wild area it is a deed restriction. So, he said, if there is a deed restriction that says that a property will remain forever wild, then anyone when the deed was written who was intended to benefit from that forever wild status has the right to enforce that. He said if that was written for the benefit of the next-door neighbor and the person owning the forever-wild property wants to change the use, then irrespective of the zoning law, the adjoining neighbor can go in to court and seek to enforce that restriction. Supervisor Egan said that is totally different from the grandfathering provision. Mr. Penk said if it is a deed restriction and looked at the agreement from the 1700s and see what that is, it is strictly forever wild property. He said it has nothing to do with the deed at all. Supervisor Egan said this was getting far afield of where they are and it is an issue that can be taken up some other time.

Mr. Leveille said there is a section in the code called non-conforming uses and non-conforming lots. He said it clearly addresses the issue of any use that is made non-conforming by adoption of the chapter and may continue in its form and has certain regulations and they are related to that. He said there is definitely grandfathering in the code. Supervisor Egan said they would reiterate it is State Law anyway.

Mr. King said he wanted to thank the department for moving in this direction and proceeded to give a couple examples. He said he also feels, politically, there is an issue here. Mr. King addressed the issue of the parking of trucks at residences. He said he thinks the design issue should be balanced.

Supervisor Egan asked if there were any other comments. There were none. She asked if the Board agreed with the recommendations regarding the private garage and non-residential use. The Board agreed. She said the commercial vehicle issues will be deferred. The Board agreed.

Mr. Leveille said the next issue is the prohibition of tractor-trailer operations and towing services as home occupations. He said the current code is silent on that. He said the proposed code indicates that the tractor-trailer and towing operations are not permitted as home occupations. He said trucking businesses, however, including towing without vehicle storage is permitted by site plan review in the rural and rural light industrial and heavy industrial districts. He said this means that it could be a business office run out of the residential property and said therefore there is no need to permit these uses as home occupations, since they are permitted as business uses and they are not appropriately permitted in residential districts. He said he did not think they wanted to run towing and trucking operation businesses out of residential districts. He said the current code indicates these are permitted business uses in rural, rural light industrial and heavy industrial districts and so they feel they do not have to be permitted as home occupations. Supervisor Egan asked if there were questions from the Board or comments.

Mr. King said he agreed with Mr. Leveille that a trucking operation or towing operation is appropriate for residential. He said, however, he gave one example of a truck over 12,000 pounds or the example of a plumber or tractor-trailer driver who comes home with the truck and he feels that they should be allowed to park the truck.

Ms. Jasinski asked if the trucking businesses in the rural, rural light industrial and heavy industrial were by right. Mr. Leveille said they are permitted by site plan review. Ms. Jasinski said the only thing she sees missing is the owner-operator tractor-trailer guy who owns the tractor and goes and picks up a trailer and then takes it wherever he needs to and comes back and parks his tractor part of the rig. Mr. Leveille said that is permitted. Ms. Jasinski asked if that was in the residential areas. Mr. Leveille said it is permitted everywhere under the current zoning. Ms. Jasinski asked about the new code. Mr. Leveille said under the proposed and existing code that is permitted. He said that is the subject they are going to try and address. Supervisor Egan said that is subject to what is being deferred too, noting they will be looking at that over the next couple months.

The Supervisor asked if there were any other comments on this. Mr. Mead said he seems to have a little problem with that. He said these guys that tow and then wintertime is the time they do a lot of towing, a lot of those guys are just on call. He said they go out and get the truck, pick up a car or something, take it to the garage but then they go back to their house. Mr. Leveille said that is permitted. Mr. Mead said it didn't act like it was permitted. Mr. Leveille said towing businesses are permitted in the rural areas. Mr. Mead said he lives in the village. Mr. Leveille said he can park the vehicle but he cannot run the business from his house. Supervisor Egan said at this point, it is the same issue they will be looking at over the next couple months.

Supervisor Egan asked if there were any other questions on this issue. There were none. She asked the Board if they were okay with this issue. The Board agreed they were.

Mr. Leveille said the next issue has to do with the prohibition of boarding houses. He said the current code does permit boarding houses and the proposed code does not. He said after reviewing this issue, they do not think there is any need for single room occupancy housing. He said there are other forms of short-term housing permitted, including bed and breakfast, inns and other types of things that might be appropriate. He said they recommend the prohibition of boarding houses for single room occupancy facilities.

Supervisor Egan asked if the Board had any questions. Councilman Marcelle said under the boarding house suppose there was someone trying to establish a battered women's shelter somewhere in Town, asking if this shelter would be deemed a boarding house. Mr. Leveille said it probably relates to the definition of family because it could very well be that folks who are in a facility would qualify. Councilman Marcelle said it clearly would not be under any definition of family. Town Attorney Potter said it might be under the fair housing act. He said they would have to take a look at that. Councilman Marcelle said his only concern is that there are some things and this in particular, there is a big problem with battered women that we ignore. He said the issue of where they are housed and once you need permits and stuff, everything becomes a matter of public record. He said he would like the Town Board – suggesting to Mr. Leveille that not at this time but later – consider how something like a battered women's shelter. He said he thinks this is a unique type of a problem. He said he would defer to Town Attorney Potter because he does not know how the Fair Housing Law defines it. He said he just wants consideration given to this type of situation. Town Attorney Potter said the Fair Housing Act covers various things like race, handicap and things like that. He said battered women may not fall within that definition but he would have to look at it. Councilman Marcelle raised it as a concern and he views it as a use that would substantially enhance and be a benefit to the Town residents.

Mr. Leveille said State government would be exempt from this regulation and can put them in. Councilman Marcelle said a lot of times they are private facilities. He said it is not pressing but he raises it because of some experiences and he views it as a benefit.

Mr. Waldenmaier asked what the definition was of a boarding house. He said what about a person who has a home and rents out a couple rooms. Mr. Leveille said there is no definition in the code because they are not permitting it. He asked Mr. Flanigan about under the existing code. Mr. Flanigan said under the current code, a person is permitted 3 people living in the home. Mr. Leveille asked when it becomes a boarding house. Mr. Flanigan after 3 people then it would become a boarding house. Mr. Waldenmaier asked if that is being kept. Mr. Leveille said they are recommending no boarding houses. He said Councilman Marcelle has asked that that be looked at in more detail going down the road.

Mr. King said he wanted to applaud Councilman Marcelle for bringing that point up. He said he has been a mediator with mediation matters in the City of Albany and has mediated domestic violence situations. He said domestic violence is not a phenomenon restricted to poor people; it is definitely middle and upper class too. He said it is an issue of power and abuse and it is a much more complicated issue than many feminists would like to make it. He said Equinox House in Albany provides a real benefit and many of these boarding houses are privately run. He said it is definitely needs to be looked at.

Mr. King said with respect to the boarding house, the Town is an aging population and there are many people who are retired who may need a little extra income. He said he thinks a blanket prohibition of boarding houses may not be the wisest thing but certainly a restriction on the number of people you can board is. He said the discussion of multiple cars in driveways or too much traffic is a concern. He said he thinks this definitely needs a little more thought and work.

Supervisor Egan asked if there were any other comments. Mr. Leveille clarified that they permit accessory apartments in the new code. He said these were not permitted in the prior code.

Mr. Jasinski said he wanted to call attention to Mr. Leveille the fact that a little thought should be given to it because sometimes you have temporary employment by people. He said back in the 60s, a great many people would come up from the south to put the pools in and they would only do this in the summer. He said there are lots of older houses in the rural section of Town that might find that they might want to accept 3, 4 or 5 workers that are construction workers during the summer time but not offer the houses in the wintertime. He said this would give monetary value to some of the older people.

Ms. Jasinski said she does not have her dictionary to know what the definition is but she has always thought of it as something longer term than a bed and breakfast, which may be a weekend or week stay, but something shorter term than renting an apartment. She said there are a lot of railroad workers that come through and they are on their runs and they do not know when they are coming back and need a place to stay over a night. She said she thinks there are a couple boarding houses that have done that.

Ms. Gold said with respect to the boarding houses, while she thinks all the arguments are valid, her objection would be that she thinks a lot of the residents that moved here to become homeowners certainly cannot control who the neighbors are but she thought at least in the case of her family she came because she wanted to be in a community where your children are safe. She said certainly other homeowners around your home are going to have a certain degree of respect for their property and yours. She said she thinks you loose that when people are coming in and out who are not connected with the community, not homeowners and not necessarily have the same respect for people and property. She said she certainly could understand these concerns. She said she wondered if they are allowed, whether there would be a way to have some sort of registration system so that at least there would be some way to keep tabs on who was living in the boarding houses. She said she did not know if that would eliminate what she sees as a problem or not. She said it might be a reasonable compromise.

Mr. Waldenmaier said he worked on the railroad for 25 years and couple times when he could not work in Selkirk, he would have to go up to Syracuse or down toward Croton, he looked for boarding houses to stay at. He said many railroad workers do this. He said they cannot afford to stay in a motel in some of these locations. He said they will look in the newspaper and stay there on the weekend, maybe one or two days layover and then go back. He said it is in the light industrial right now so he thinks it should be kept there. Councilman Plummer asked Mr. Waldenmaier if he knew this to be the case now. Mr. Waldenmaier said there are people who do this. He said these are people who own homes, they are not drifters. He said these people live in Buffalo or Syracuse and have a home there. Councilman Plummer asked if it was his experience that there are people in Town now who do this. Mr. Waldenmaier said in Selkirk and in Ravena too.

Councilman Plummer asked Mr. Waldenmaier in regard to this if 3 is doable. He asked if this is what he thinks. Mr. Waldenmaier said it is mostly 1 or 2 in a house. Councilman Plummer asked if this should be deferred. Mr. Leveille said it is up to the Board because he did not know what the need was. Mr. Waldenmaier said if you work for the airlines, they stay at the different hotels but the railroad workers they are not like that a lot of them. Councilman Plummer asked that it be deferred and look at it. Supervisor Egan said she thought one of the things is to identify there is a need and then decide what the appropriate zone is for it. She said it may be the areas closest to the railroad yards.

Councilman Lenhardt noted the recommendation speaks of forms of short-term housing permitted in the new code, asking what was being referred to. Mr. Leveille said bed and breakfasts, accessory apartments that are now specifically

provided for in the code. Mr. Lenhardt said he thought this is dealing with semantics regarding what it is called. Mr. Leveille said an inn typically has a restaurant and entertains the public for meals and other types of facilities. He said a bed and breakfast is clearly a residence that serves breakfast and has rooms. Councilman Lenhardt asked about an accessory apartment.

Councilman Marcelle said he understands that right now if he has a house, at least he can have 2 boarders without violating the zoning code. Mr. Leveille said that was correct. Mr. Marcelle said it is when the boarders become more numerous that it becomes a boarding house. He said so smaller kind of the Mom and Pop operations are permitted. Mr. Leveille said this was correct, well they're not regulated. Mr. Marcelle said what the new code proposes is that boarding houses would not be permitted. He asked what areas are zoned for boarding houses currently. Mr. Platel said it is commercial and industrial but he would have to double check on that. Mr. Leveille said the commercial would equate to Route 9W north of Glenmont Road, probably the Delaware Plaza area.

Councilman Marcelle said he was thinking South Bethlehem and the rail yards. He asked how that was zoned. Supervisor Egan said that is a different area. Mr. Leveille said there is the hamlet but they also have rural light industrial in a large area there, heavy industrial and some rural. Mr. Marcelle said his sense is that with the short term, certainly 2 people in a house is going to meet most folks who supplement their income. He asked if there were boarding houses in town now. Mr. Leveille said to the best of his knowledge there is one. Mrs. Kitchen said from personal experience that her husband moved down from the Adirondacks and his first place was on Cherry Avenue with a gentleman who had 2 rooms rented out. She said it was good for short term. Supervisor Egan said that is permitted. Mr. Leveille said given the prohibition of things that are not specifically permitted would they have to permit that action, he did not know if that actually is permitted in the code. He said it is silent on having transient guests. He said that is a legal issue.

Mr. Leveille suggested they be practical noting people are renting out rooms and they are not causing problems which is probably what is going on. The practical reality is that there is no need to regulate it. Supervisor Egan said if they do not know about it, there is no charge. Mr. Leveille noted there are probably a lot of things that go on that are not permitted. Town Attorney Potter said and in a sense, there may be the definition of family at play here. He said to the extent that the husband and a communal kitchen facility that they have been living together within the definition of family. Mr. Leveille said this is not a big issue.

Mrs. Penk said she worked many years with the State Police and a lot of the men that got promoted that were from other areas, did not want to uproot their families and only had a couple years before the mandatory retirement age of 57 who stayed in boarding house situations. She said they would arrive on Monday night and stay until Thursday night and returned to their homes. She said she thought it should be permitted.

Supervisor Egan thanked Mrs. Penk. Councilman Gordon said there is probably much more boarding going on than anyone might be aware of. He said this would probably be a good thing to defer. Mr. Leveille agreed. Mrs. Powers said there is a category that she has not mentioned that she knows goes on here. She said that is in the trades there are people who do welding and her daughter knows a number of the people and they come up and stay. She said they are traveling welders and she said some of them are certified to be certain kind of welding that many people are not. She said there is a need for them in a particular job when it is there. She said the people are here. Councilman Plummer said they are not pretending that they are not here. He said they are agreeing to find out what the need is and go from there. Supervisor Egan asked if everyone was okay with that. The Board agreed.

Mr. Leveille said the next item had to do with the definition of conservancy. He said this is a definition, not a regulation. He said the definition appears to allow the establishment of conference centers and outdoor recreation facilities that have

the same oversight of those uses as standalone uses require. He said there is certainly nothing in the current code. He said in the proposed code, conservancies that are defined as establishments for the purpose of protecting, preserving and managing existing natural resources and valuable historical and cultural areas, indicating they might include defuse recreation facilities and may incorporate among other things, an educational training or conference center. He said from the staff's point of view, the purpose of the conservancy is clearly defined. He said it is for natural resource, environmental, cultural, historic protection and management and other related uses incidental to that purpose. He said staff recommends removing reference to conference center as this is probably the wrong type of reference to be included and substitute meeting facilities but believe the remaining definition should not be amended. Supervisor Egan asked if there were any questions from the Board. There were none. She then asked for comments.

Mr. George Waldenmaier asked if conservancy may incorporate an education, training or conference center but it was mentioned to remove that. He said the next part of the sentence says with or without sleeping and eating accommodations. He asked if they were saying it is basically a motel or something else that people can sleep and eat a week or 2 at a kind. He said in the last discussion, you cannot have a boarding house but I can have a sleeping area here and I don't have the controls. Mr. Leveille said it is a valid question, noting again the purpose of the conservancy is that it be really natural resource, environmental, cultural and historic preservation. He said they need to be guided that this is not some sort of guise for a commercial housing or hospitality facility. He said this must be a conservancy where it has incidental uses that might include overnight accommodations or public use of the facilities like a Rensselaerville Institute. He said that is the framework. He said they are comfortable that there are very few of these out there but would certainly like to encourage them as they seem to address issues that are important to our community in terms of open space, environmental protection and things of that nature. He said his experience seemed to be that they are very complimentary wherever they are located and not a negative influence. He said they seem to be open to the adjoining neighborhoods for public access. He said from their point of view if the conservancy wanted to locate virtually anywhere in Town, they should entertain that.

Town Attorney Potter asked Mr. Leveille if that is a permitted use in each of the zones. Mr. Leveille said he believed it was in all the zones. Mr. Potter said if it were especially permitted use, that would give a degree of regulation. Mr. Leveille said it would, noting it certainly is a possibility.

Supervisor Egan asked if there were any comments. Mr. George Leveille said he would like to see some controls from the Board, maybe a special permit. Councilman Marcelle said he thinks this is a good idea, noting a review of the situation is important to be done. Mr. Leveille asked if the recommendation would be to convert this to a use that is permitted by special permit use in all districts. Mr. Leveille said he wondered if in some districts, like the riverfront rural where there is 5 acre zoning it seems like an appropriate place where you could have a campus for things of this nature. He said he certainly can see in residential neighborhoods and things like that that it is appropriate. Councilman Marcelle said he was not trying to handcuff anyone with that suggestion. Mr. Leveille said they have been trying to address the special permit issue and there could be certain circumstances in populated areas where a facility like this might create impacts. He said it might be appropriate to have a special permit requirement in residential districts. Supervisor Egan suggested that a special permit in any residential districts be required and have it by site plan in the other districts.

Councilman Lenhardt noted this will have some regulations. Mr. Leveille said that was correct. He said there is site plan and orientation of where things are on the property ordinarily negate most of the negative impacts unless there is noise or dust or things that are inappropriate. He said the parking is certainly an area where there would be concern when events are going on. Supervisor Egan asked if that was a compromise. The Board agreed.

Mr. Leveille said the next issue had to do with amateur radio communication tower regulations. He said the current code is silent on this. He said in the new code, detailed regulations are provided for the citing of amateur radio communications towers with a 95-foot height limit. He said they also established a fall zone of 1.25 the height of the towers so on a 95 foot tower, you would need a fall zone that was 1.25 the distance of that from any structure. He said this is safety issue and noted there are requirements for how applications are processed. He said staff believes a safety consideration of a 1.25 fall zone is appropriate to safeguard residents from tower failure. He said even though it is acknowledged that he thought these towers are generally designed to fail in the middle, certainly an improper structural at the base could enable it to fall over. He said they also recommend that the application require it to be simplified to reduce the cost to the applicant. He said the staff also recommends that provisions be added for 15-foot roof topmasts not only for amateur radio but for television antennas which are still used. He said that should be added to the section on satellite dishes. He said there has been discussion of this from the legal ramifications possibility of FCC regulations. Counsel Silliman said ham radio provides a public service and at the same time, there are safety concerns. He said if there is no regulation, it is possible that a ham could be prohibited from putting in a tower under general regulations. He said this is actually to try and provide some certainly to a ham.

Supervisor Egan asked if there were any questions from the Board. Councilman Gordon asked where the 1.25 distance came from Mr. Leveille said it was arbitrary and the idea was to provide for adequate room in a high storm if the thing fell that it would not project further than 25 percent of its length beyond. He said it has come out of other codes.

Councilman Gordon said he has just begun to review some other codes from other communities. He said the FCC has guidelines but they have not stated specific distances for tower height or the horizontal distance. He said ultimately it has been decided by lawsuits in a lot of places.

Mr. Leveille said their thinking was if you are building a 95-foot tower, you can probably afford to build a 110 foot tower rather than take the risk that that 15 feet means somebody gets hit on the head with it when it falls. He said that is the balance. He said he understands the argument that it buckles in the middle when they fall but what about the 1 that does not. He said in simplifying the zoning regulations, the building permit applications have plenty of detail associated with that independent of zoning. He said there is no reason to double up with more complex zoning requirements.

Supervisor Egan said there clearly are some cases where these towers failed from the base. She said her thought is that she did not want to be sitting at the Board and have one fail from the base and someone lose their life because of this tower coming down. She said it probably will not happen but it is possible. She said she thinks the process is being backed off on to make it easier on the process end of things and the fee end of things. She said this is more of a safety situation. She asked if there were any other comments.

Mr. King said when he was reading over the zoning code, he felt this was very well written section and wanted to compliment the Town. He said this is what zoning should be about, protecting your neighbors and it is something that is important. He said there could be failure at the bottom of the base and it may break immediately. He said this is just a good idea and make it as efficient as possible. He said there does have to be good engineering standards applied without specifying them because they will change over time. He said the Building Department or Planning Board or whoever handles this, take care of that at the time. Supervisor Egan thanked Mr. King.

The Supervisor asked if the Board was okay with the staff recommendations. The Board agreed.

Mr. Leveille said the next item includes suggestion for a regular review schedule for the comp plan and land use laws be included in the zoning law. He said there is nothing in the existing code and nothing proposed in the new code. He said the staff's view is that the requirement for review remains with the Town Board and therefore, does not belong in the zoning law.

Supervisor Egan asked if there were any questions. Councilman Lenhardt said he feels review will proceed as issues are presented or maybe instead of routine, scheduled dates. Mr. King asked if the review is going to be scheduled, commenting that the Town Board should be able to schedule their own agenda. He asked if the Town Board Members can bring this up. Supervisor Egan said any Councilman can request anything they want, absolutely.

Mr. Leveille said the next item had to do with review of the specific resident notification requirements regarding special use permit, and site plan review. The existing code, according to Mr. Leveille, references the need to notify residents who live within 200 feet with regard to a public hearing on a proposed subdivision. He said the proposed zoning law and subdivision regs provide broad authority for the Planning Board to require public notice but does not provide specific language regarding neighbor notification. He said they looked to the Department of State for leadership and they recommend that Planning Boards adopt strong public notification policies but they do not recommend that specific neighbor notification requirements be included in the code. He said they have consulted with counsel and recommend the strong message to the Planning Board needs to be neighbor notification. He said they have added putting signs on property that is subject to public hearings or zone changes. He said they feel there may be legal missteps that can occur if you required in the code and someone does not get notified which can set back the process and delay approvals. He said as a matter of policy, they would expect the Planning Board would be very proactive in notifying residents of activity. He said they do not recommend a change in this.

Supervisor Egan asked if the Board had any questions. There were none. Mr. King related an experience from where he lives in the Town of Coxsackie. He said he is a very strong proponent of resident notification. He said in New York State this can be quite onerous. He said he certainly feels that first class mail is the appropriate way to notify residents. Town Attorney Potter asked Mr. Leveille if it was being left up to the Planning Board discretion on a case-by-case basis for notification on a particular project. Mr. Leveille said that was correct with strong language indicating the need to be proactive in notification of impacted and affected residents.

Councilman Lenhardt said the Board has passed policies in the past regarding dumping permits to notify the adjacent landowners and notified there were probably other instances. Mr. Leveille said he thought the pro-active step of having signs installed that there will be public hearings and so forth will allow those who do not read the paper but happen to live near the property to see if something is occurring. Supervisor Egan asked if there were any other comments or questions. Mr. King noted to keep in mind that there are many landowners who do not live on the property and that setting a sign may not be adequate and that there are procedures regarding eminent domain that are currently in State statute which will address that by requiring to go to the Town Clerk or records management office that probably will result in notification. He said he understands there is a need to make things economic but on the other hand he wanted the Board to realize that not all property owners live next to the location and should be notified of any proposals.

Councilman Plummer noted he was okay with it as it is. Supervisor Egan asked if everyone else was okay with the recommendation. The Board concurred.

Mr. Leveille said the next part has to do with the specific public notice requirements for the development and planning committee. He said obviously it is not in the current code and this has just been created this past year. He said the proposed subdivision regulations permit an applicant to process sketch plan review through the Town's development planning committee rather than the Planning

Board so the applicant has the option/alternative of saying they would like to have with the staff and the development planning committee as an alternative to the Planning Board at the sketch plan level. He said that is what is provided for in the code. He said the code does not provide for any public notice requirements for those meetings. Mr. Leveille said the staff recommendation is that the schedule and the public notice requirements for the Town entities again is established by the Town Board, done at the annual Organizational Meeting, and the committee will have regularly scheduled meetings. He said they recommend that this section remain as drafted. He said they would recommend that the Town Board through the organizational meeting of the Town would establish the meeting schedule and publish that for the entire year.

Supervisor Egan asked if anyone had any questions. Councilman Plummer said it sounds fine, asking if it is consistent with the Planning Board. He asked if the code dictated when the Planning Board meets. Supervisor Egan said it does not. Mr. King said he was a little confused that the Town Board believes there is no reason for very specific requirements for neighbor notification with respect to special use which is definitely going to have a very large affect on immediate neighbors whereas more of a general use of basically a subdivision does require public notice. Supervisor Egan said they had moved on from that issue, noting to keep moving forward. Mr. Leveille said the Planning Board is encouraged to notify all types of actions that impact residents.

Ms. Jasinski said the Planning Board is required, she believed, to have a public notice of its meetings. Mr. Leveille said that was correct. Ms. Jasinski said whereas this committee may not. Supervisor Egan said it will have the exact same requirements that the Planning Board, Zoning Board of Appeals and the Town Board actually does and those are set at the organizational meeting in January and then the same notice will be put on the board, on the website, the Planning Board, ZBA and Town Board do now. Ms. Jasinski said she believes there is a law that actually requires the Planning Board to have a public notice. She did not think it is the Town Board. Supervisor Egan said it is only if there is a public hearing.

Ms. Jasinski noted they may want to check into the open meetings law, not being sure of how it works with committees but there are rules about what has to be open and what the public needs to know is going on.

Mr. Leveille said that was a good point, noting the open meetings law does not relate to the development planning committee because it is not officers per se, however, we are treating it as if it is fully subject to FOIL and open meetings law.

Mr. Leveille said the next issue has to do with removal of mobile signs prohibition. He said mobile signs are not addressed in the current code and are not prohibited in the proposed zoning law. He said the reason is that signs attached to motor vehicles cannot be regulated as signs as they fall under motor vehicle law. He said you cannot use the zoning law to regulate motor vehicles. The staff thus recommends no changes to the section, according to Mr. Leveille, as well as, they would like to continue to research the topic. He said obviously there was some concern in recent weeks about a mobile sign that appeared on New Scotland Road and Mahar Road and they are powerless under the sign ordinance to address that. He said they are not permitted to regulate motor vehicles and the sign on the side of a motor vehicle is a motor vehicle.

Supervisor Egan asked if the Board had any questions. Councilman Lenhardt said it seemed pretty clear. She asked for comments. Mr. King said he just hoped that the signs on motor vehicles are not being regulated because he would miss the Egan RV.

Mr. Leveille said the next item had to do with the prohibition of expansion of existing non-conforming use. He said our current ordinance allows for up to a 25 percent expansion of a pre-existing non-conforming use. He said the proposed code allows for no expansion of a non-conforming use. He said the staff recommendation here is that in establishing permitted uses for individual districts, the zoning law establishes that there are appropriate uses for a district as defined in

the law. He said if a use is not permitted, it would seem counter intuitive that it should be allowed to expand. He said they recommend that pre-existing non-conforming uses continue and be permitted to continue subject to the legal rights that those uses have. However, he said they would not recommend that they enable a non-conforming use to expand.

Supervisor Egan asked if there were any questions from the Board. She asked if there were any comments. Mr. King said he would agree with Mr. Leveille about the idea of expanding non-conforming use in the sense that if it's a bad thing why are we allowing it to expand. He said where he finds a real problem and he does not like the zoning code is that, as mentioned at an earlier meeting, about the whole idea of non-conforming use. He said he believes that if there is an existing use these were buildings that were built before the neighboring house, they should be allowed to continue.

Mr. Leveille said he believed the nursery on Feura Bush road is permitted in the hamlet district. He said with respect to Verstandig's property since it was mentioned, again the comp plan is a goal of encouraging diverse housing. He said one person spoke of diverse housing in the core district. In consultation with the property owner, Mr. Leveille said they could all achieve this goal from the comp plan and zoning ordinance. He said certainly with the consent of the property owner that this would be zoned for multi-family.

Mr. King mentioned that he spoke with Mr. Verstandig and he said it would be great to have the flexibility in how he sells the property. He said he would prefer a low impact commercial designation which may allow building multi-family but not necessarily to pigeon hole his location and the proposed zoning has modified Meyers Funeral Home into a rural hamlet and solve their problems of not being able to obtain commercial loans in a commercial business because it is residential land. He said these are very specific problems that affect very specific numbers of people in Town.

Ms. Jasinski said for the non-conforming uses she sees a lot of this hurting the family businesses and the small businesses. She said there is a fine line where they run and they may need to expand a little bit while they are still looking for a place that they can move to because they want to expand a lot at some point. She said she is not sure the Board should not allow some type of expansion.

Supervisor Egan asked if there was any other comments. There were none. She asked the Board what they wished to do. The Board said they were okay with this.

Mr. Leveille said the next issue had to do with the definition of historic sites, buildings and districts and this relates to design standards that are included in a number of the districts. He said the current code is silent about this and the proposed code there is a definition of historic sites, building or district that considers adjacent historic sites and it is included in many of the design guidelines for many of the zoning districts. He said staff would recommend amending the definition to include a site, building or district included on the National or State Register or where through the application by the owner the property is deemed eligible or nominated for consideration on the National or State Register. He said they are looking for the owner to have initiated an application for historic designation, not a third party. Again, Mr. Leveille said, it is a design guideline not a regulation. Supervisor Egan said this is in response to an owner being concerned somebody else would nominate his or her property and this avoids it. She said it is owner initiated. Councilman Marcelle asked if that was only owner initiated. Mr. Leveille said this was correct.

Councilman Marcelle said his question is if there is some site that is being subject to the Planning Board and then during that process an application is submitted to have my property put on the National or State Register; will that interrupt that process and change the process. He said in other words, can he throw a monkey wrench into somebody's project by trying in the middle of the process getting his land designated as historical? Town Attorney Potter said he thought the

short answer was yes. Mr. Potter said under SEQR you are required to consider historic structures and he thinks also required in the visual impact analysis to consider projects that are eligible for listing on the National or State Registers. He said if an adjacent property owner wanted to throw a monkey wrench into it for that reason, the Planning Board would have to consider that in its visual impact analysis and its overall SEQR analysis. Mr. Leveille said as a design guideline that's all the Planning Board is responsible for doing is considering, among other things, this as a criteria for establishing the approved site plan. He said it is not a regulation, it's simply something that has to do with design. He said they were thinking about it the other way and the fact that they did not want a third party uninvolved, unrelated to impose some sort of requirement or block. He said SEQR provides a lot more teeth to that sort of issue. Councilman Marcelle said this is a narrowing.

Mr. Leveille said this, again, is consistent with the notion of willing landowners and not having people dictate to others what should and should not happen on their land. Mr. King said this is a great improvement and step in the right direction. He said his concern and it has been submitted in writing to the Board, is that if one person wants to choose to designate his land or a predecessor wants to designate his land as a historic site, obviously, the successor owner purchases the deed as restricted, however what of the neighboring person. He said there is something in the comp plan that notes we should only build structures that mimic the historic structure in design neighboring the site. He said if it is on the same site and the person wants to designate his land as a historic structure, that is okay. He said it is highly obnoxious for a neighbor to have to be restricted in the way he or she wants to build a house or any accessory structure or anything like that.

Supervisor Egan asked if there were any other comments on this. There were none. She then asked if the Board was okay with the staff recommendations. The Board said this was okay.

Mr. Leveille said the next issue had to do with the period of time that an unregistered vehicle could be parked on a property. He said in the current code, one unregistered vehicle can be visible on a property without any time limitation. He said in the proposed code, it says the same thing. He said one unregistered vehicle can be visible on a property without any time limitation and noted staff recommendation to clarify is no time limitation imposed for the one unregistered vehicle that is permitted to be visible on any lot. Mr. Leveille said he clarified the definition of junk yard does establish the storage of 2 or more motor vehicles no longer in condition for legal use for more than 1 week in a residential district and for more than 3 weeks in a non-residential district shall constitute a junk yard and be regulated under the Town's junk yard ordinance. He said there really is no issue.

Supervisor Egan asked if there were any questions from the Board. Mr. Waldenmaier asked if a tarp can be put over the vehicle. He said he heard of another area and that is what they told the gentleman to do. Mr. Leveille asked what the issue with a tarp is. Mr. Platel asked if basically he was referring to 2 unregistered vehicles and have them in a garage. Mr. Waldenmaier said if he had 2 unregistered vehicles sitting outside you can see there is no license plate but if he put a custom made cover or tarp or car covers over it, in theory you cannot see if it is registered or not. He said he is trying to be open about it. Mr. Platel said if he cannot see it, he will not be able to stop and question it but the neighbors may call. Mr. Leveille said tarp production is not a permitted home occupation.

Mr. Frueh said out on the back roads, there are always people who fix their own cars and have vehicles for parts. He said that is their own cars. He said he has heard about not being able to work on your own car in your own yard, it had to be in a garage. He said this is ridiculous since many people in the country work on their own car in the driveway or on the lawn or field. Mr. Leveille said he did not know if it was in the old one but it is not in the new one. He said he thinks the issue is visibility. He said visibility gives you the flexibility to retain those vehicle and just try to put them in areas that are out of site. Mention was made that one gentleman almost had a heart attack because the cars were back in the woods and

said you could not see them so the gentleman figures the man complaining must have been trespassing on the property.

Supervisor Egan asked if there were any more comments on this item. Mr. King said he does not believe that the issue for regulation is not whether a car is registered or not but he could see many situations where a vehicle could be parked without plates. He said he does understand the junk ordinance to prevent junk cars. He said he believed that Mr. Leveille and his staff took that definition from the State statute but it's not actually written the way it is. He said it says either in a condition no longer intended to be used or in condition for legal use. He said there is another definition which he thought more appropriate one and urged the Town Board to consider that one which is that either the vehicle is either has no value or has only salvage value. He thinks that gets to the point of what is being discussed is not having eyesores in residential areas and still permits people some flexibility whether it be like other situations mentioned. Mr. King said there are also legal issues. Supervisor Egan said this did clear up the other question.

The Supervisor asked if there were any other questions. The Board agreed to go with the staff recommendations.

Mr. Leveille said the next issue had to do with inconsistencies that were identified in the SEQR review process for Planned Development District projects going through subdivision and site plan review. He said the attorney has been working on this one. He said there is nothing in the current code that address this but there is a Memorandum of Understanding or agreement between the Planning Board and Town Board that tries to address SEQR and the SEQR review. He deferred to Counsel Silliman regarding this to explain where this is. Mr. Silliman said there is an MOU between the Planning Board and Town Board dating back to 1991. He said since that time there have been at least 2 rounds of amendments to safeguard not only the regulations but a few items of case law developed regarding the authority of Town Boards and what can be delegated and what should not be delegated and in particular with regard to PDDs. He said what they are proposing to do is simplify the process and do away with MOU or MOA. The Town Board would have principle authority, according to Mr. Silliman, over PDDs. He said the Town Board would act as lead agency under SEQR. He said the Planning Board would still have a role, noting the PDD would be referred to it for comment, consistency with the comp plan. He said the Planning Board would be an involved agency under SEQR with regard to what studies should be done under the Town Board's jurisdiction and be responsible for implementing SEQR. He said they are still putting the finishing touches on this but they believe what is being proposed is consistent with their intent going into the process which was to update the zoning code and make it simpler and more understandable.

Mr. Leveille added that he thought it was important to recognize that because of SEQR and the new SEQR requirements, there is a requirement for more involvement on the part of the Town Board in the actual processing of the zone change. He said that means the Town Board will be working with the same staff the Planning Board would work with to arrive at its determination under the prior MOA but now working directly with the Town Board to arrive at those similar recommendations.

Supervisor Egan asked if the Board had any questions. There were none. Questions were requested from the audience. Mr. Penk asked what the PDD was. He asked what the MOU and MOA was. Supervisor Egan said it is a Memorandum of Understanding and Memorandum of Agreement. Mr. Penk thanked the Board.

The Supervisor asked if the Board was okay with Counsel Silliman's recommendations. Mr. Leveille said he thought Town Attorney Potter was also in agreement with this. Mr. Potter said he believes it is something that has to be done.

Mr. Leveille said the next issue had to do with the 6-foot fence height limitation. He said the current code provides that fences may be no greater than 4 feet with no more than 4 feet being solid. He said there is no maximum height for

non-solid fences. He said the proposed code indicated that no fence, solid or otherwise, may exceed 6 feet in height with no more than 4 feet being solid from the ground up. He said staff recommends amending this section to permit non-solid fences, which will be defined, of up to 8 feet in height if used as part of an agricultural use. He said this responds to concerns about deer and crops and things like that affecting rural practices and they would recommend that, although not wanting to see solid fences of 8 feet height, but certainly a fence that was non-solid, chain link, things of that nature would be appropriate and apparently 8 foot is the magic number that has an ability to try to curtail deer. He said they also recommend limiting fences in front yards to maximum height of 4 feet.

Councilman Lenhardt asked if Mr. Leveille new how many non-conforming uses would be created with that 4-foot height in the front yard. Mr. Platel said right now the requirement for solid fencing is 4 feet. Mr. Leveille said they would not be permitting the 2 feet above. Councilman Lenhardt said this is limiting fencing to a maximum of 4 feet and does not indicate solid or otherwise. Supervisor Egan said this pertains to the front yard. Councilman Lenhardt said that was the part he was talking about. Mr. Platel said he does not see many above 4 foot in the front yard. Mr. Lenhardt said he is talking of the recommendation of the front yard only. Mr. Leveille said the staff is saying that they do not believe there will be a lot of non-conformance caused by this.

Supervisor Egan asked if there were other questions from the Board. There were none. She asked for questions from the audience. Ms. Jasinski said she believes the zoning currently stands rural not zoned has no fence restrictions whatsoever at this point. The Supervisor thanked Ms. Jasinski. Mr. King also said he shared Councilman Lenhardt's concern. He said he can think of a property on Adams Place, he thinks, by Adams Street and Hawthorne and that may well be the side but it is a solid fence with a solid lattice work on the top portion of that fence. He said he thinks it is 6 feet in height. Supervisor Egan said they will address that.

Mr. Platel said it was from the zoning board. Mr. King asked what that meant. Mr. Platel said it was a zoning board approval. Mr. King said there are going to be non-conforming issues here, agreeing with Councilman Lenhardt. Mr. King said the second thing is that he is gratified by Mr. Leveille who has modified that for 8 feet. He said he is not using any agricultural use in Bethlehem but he does in Coxsackie and he does have deer problems. He said he still asks the questions of what the rationale is behind not allowing fences higher than 4 feet in height. He said he thought there should be some rationale of why these things exist and why it cannot be built closer than 10 feet a building with a wall. He said if these things are merely reasons for preferred design of the pretty police then he thinks maybe that's not necessarily appropriate and people should have an idea of why people put fences up in the first place. He said generally it is to keep people out or keep people or things in but basically one other application is pools. He said he knows that is not the issue of the front yard but there are regulations that require a fence to be built around a pool but specifically for liability.

Mr. Leveille asked if there was anything to be added on that. Mr. Platel said the fencing with the set back he did not believe are supposed to be in there. He said the requirements once contained for set back from the property line. Mr. Leveille said he was not talking about that, he was talking about 10 feet from a window on an adjacent window. Mr. Platel said the zoning, itself, takes care of that, the setback requirements on housing. He said the residential zoning would take care of that. Mr. King said when it is mentioned that it will take care of that, it means it is going to be obligated that they cannot put fencing that close.

Mr. Leveille said the question relates to tennis court fences and backstops, recreation. Mr. Platel said at one time there was no height requirement for fencing. He said this changed maybe 5 or 6 years ago and it was changed to 6 feet along with the requirement regarding barbed wire. Mr. Leveille said how do they permit 12-foot fence around a tennis court. Supervisor Egan said she did not think they addressed that. She asked Building Inspector Platel if a person has to come to the building department to put a tennis court in. Mr. Platel said they do not. Mr. Leveille said it is a legitimate issue. Councilman Lenhardt asked how tall the

fences at the Town Park are. Mr. Leveille said they have to be 12 feet. Town Attorney Potter asked if there could be an exception in the definition of fence that it does not include fences for tennis courts. Mr. Leveille said then you have backstops and foul lines. Councilman Marcelle asked if there was anything that prevented the Planning Board from exercising common sense when someone asks for a variance. He said if someone wanted to put up a tennis court and went to the Board, would there be any rational reason. Town Attorney Potter said you may need a variance. Mr. Leveille said there might be a need for a definition of the enclosure around an athletic facility as being something different than a fence. He said he thinks that would be the answer.

Councilman Marcelle said he thinks everyone could construct hypotheticals that somehow create an exception that we want created. He said part of the process is that when these difficulties are encountered, the authority is there to amend the law. He said not that they should not for the run of the day exceptions but some of these more far reaching type of contingent events can always be addressed at a later date. Town Attorney Potter said the law can be amended at any time.

Councilman Plummer said this is very obvious and clear that the Board does not want the tennis courts to not have the fences. He suggested that it be amended as the Counsel recommended and take care of that now. Mr. Leveille said he thinks this can be defined by fences used as enclosures. He again, suggested, that if this is an unregulated activity, building a tennis court that might have a 12-foot fence, should it be something that requires some type of review. He said one thing leads to another.

Councilman Lenhardt said he could remember in recent years a situation and he does not remember the exact location but there was someone who wanted to put up a tennis court and it was close to someone's property line. He said they went to the Zoning Board of Appeals and there was an issue with it being constructed so close to a neighbor. He said he did not remember the results. He said it is a fact of life that somebody has to get involved in these situations. He said he does not know if they pick on tennis courts what the next one that is going to pop up that has been forgotten about. Mention was made of basketball courts on the road. Town Attorney Potter asked Building Inspector Platel if tennis courts are treated as accessory uses under the existing code and will it be under the new law. Mr. Platel said it would be accessory use. Mr. Leveille said there is also impervious soils that could contribute to drainage issues.

Supervisor Egan said at this point, she thinks they should go with the recommendations set forth and put this on the deferral list to look at to consider all the other things that interplay with it. Councilman Lenhardt said he concurs with that because he does not want to see too many things come up that would put the Board in the position where they have to prolong the zoning process. Supervisor Egan said she thought the core issue was resolved and then there are some other examples that have to be looked at. Supervisor Egan asked the Board if they were okay with this one. The Board said they were.

Mr. Leveille said the next issue has to do with an overlay or zoning district appropriate for agricultural uses in predominantly developed residential districts in Town. He said nothing is in the current code and nothing proposed in the new code. He said he thinks for many in attendance, they were very active in the whole comp plan process. He said the rural zoning districts that were created really were oriented toward the rural, less developed, parts of the community. He said they did not consider near-in farms that are adjacent to residential districts. He said in the last couple weeks some excellent conversations occurred between property owners, staff, other parties knowledgeable in this area about opportunities that could exist for creation of an appropriate overlay district or zoning district that reflects rural uses that are in basically residential neighborhoods. He said they have to recommend at this time that this be deferred and commit energies to examining the issue and presenting some options that could be incorporated into the code to appropriately address this issue which is a win-win-win in a lot of different ways for those people who operate the lands but also for that strong part of the

community that is interested in preserving farms and open spaces. He said he thinks, unfortunately, it is something that arrived very late in the process.

Supervisor Egan asked if the Board had any questions. Councilman Lenhardt said he concurs since he was part of some of the conversations. Councilman Marcelle said there has been all sorts of programs that showed the overlays and he thought it was wonderful and he is glad to hear this is something to be considered. He said he was in support of this. Mr. Leveille noted there is a real opportunity here and unfortunately he wished it had evolved several months ago or during the comp plan process. The Supervisor asked if there were any comments.

Mr. King said he thinks this is great and to correct Mr. Leveille, he said he did bring this up very early on in the comp plan process because the Cornell Cooperative Extension works very hard in preserving open space and the recognition that often times open space may be very well be 1 acre in a residential area where people may be growing flowers. He said this can be done on one acre. He said you cannot make a living doing it but you certainly can make some money doing it. He thinks this is wonderful and noted the Town has to start focusing not on arbitrary zoning designations but on the way property is being used. He said general agricultural use of a property in Town is going to require the use of manure and if you use liquid manure, that really stinks. He said it is very inappropriate for residential use. He said there also needs to be noise regulations. He said that thought process is going to take some time to develop it but he thinks it is great because it will help to preserve open space in Town and allow property owners to use their property in the way they see fit.

Supervisor Egan asked the Board if they were okay with this. The Board agreed.

Mr. Leveille said the next issue has to do with the Draft Generic Environmental Impact Statement. He said the concern was that it did not adequately address the economic impacts of a plan and zoning amendments. He said some discussion of infrastructure extensions was warranted and the zoning does not address the housing diversity goals as outlined in the DGEIS. He said obviously this is not a code issue and noted again with the benefit of Counsel Silliman who is a expert with environmental impact law, the evolution of economic impacts according to the interpretation and understanding of the requirements as presented is sufficient for this being a generic plan that simply attempts to map out a future course for the Town. He said infrastructure impacts will be considered as part of the SEQR review for any subsequent development project with appropriate consideration by the Planning Board for sizing of infrastructure for future development.

Mr. Leveille said the proposed law provides opportunities for housing diversity through the Planned Development District, conservation subdivision and incentive zoning regulations that are provided. He said these are the responses to the issues. Mr. Silliman said the comp plan in and of itself is very much an environmental impact statement. He said in Section 8 of the comp plan that sets out the environmental impact analysis has a cross reference chart that goes back to the entire plan and graphs it into the very specific SEQR requirements. He said for purposes of the generic environmental impact statement, to support this type of effort what the consultants have done, in his experience, is sufficient.

Supervisor Egan thanked both Mr. Leveille and Counsel Silliman and asked if there were any questions. There were none. She then asked for comments. Mr. King said he agreed that the comp plan is being represented in the proposed zoning code. He said there is a whole section about providing incentive zoning for affordable housing which is certainly consistent with the way the comp plan is currently written. He said his comments were that when housing is built, you have to consider its impact. He said he spoke with Mr. Leveille about this and there is always a study done whenever a development goes in regarding with the tax, employment, traffic impacts, etc. He said we do not take into account the marginal impact of single homes built at a time. He said this becomes a factor and we do not look at sidewalks at all and he would suggest that sidewalks be built consistent with

pedestrian use and traffic, speed and distance between houses. He said then there is a need for a real feel for this. He said he compliments the Town department that developed LUMAC because LUMAC is much better at this in terms of talking about quantitative analysis.

Supervisor Egan thanked Mr. King. Mr. Kleinke noted he had a question as much as he had a comment and it really has to do with achieving the goals as stated in the comp plan that relates to economic development and the encouragement of non-residential growth and development in the community and making a more equitable tax base balancing the tax base. He said his question relates to is it fair to say that achieving those goals, is it not the intent of the Town or the comp plan, is to achieve the goals through the extension of infrastructure which he takes to mean municipal sewer, municipal water, perhaps even roads at public expense. Counsel Silliman does set out a blue print to the future dealing with economic development, with growth and with improving the tax base. He said the comp plan does not have to achieve all of those things over night and does not have to achieve all of those things through the zoning code. He said there are tier recommendations in the back of the comp plan making recommendations to the Town saying that you need to think about these things – transportation corridors, tax base. He thinks there is some recommendations in there that are very specifically about moving to the next step of infrastructure analysis. He said they do not have answers to all those questions but the comp plan is not designed to answer all those questions. He said it is to highlight them and give the Town a plan for the new code.

Mr. Kleinke asked as a follow-up in what format or mode or even when will that be addressed. Mr. Leveille said through the comp plan goals he thinks if you look at the Town map there is a significant increase in the amount of lands that are being zoned for economic development/commercial purposes from the previous zoning law. He said the one thing they do not know is when the markets arrive and where. He said they could project that the whole Town is going to get built out and there will be 40,000 new housing units because the zoning map says that's what we are planning for or the Town can respond when a project emerges and say the Vista Technology Center rolls in and look at the impacts in terms of the municipal infrastructure to serve the project, the fiscal and economic impacts of the project because it is now resided in a district that was zoned to encourage that use. He said if you look at the thousands of acres that are zoned for mixed economic development throughout the entire Town, from the river on 144 all the way to Slingerlands and North Bethlehem, the Town cannot possibly consider all the potential impacts of all that land being developed now. He said the appropriate time to do that is at the time that the projects advance, market comes into the picture and then the Town has to sit down, evaluate and make decisions as to how the Town will grow, what are the economic costs and benefits and then act accordingly to extend infrastructure.

Mr. Kleinke said he was not sure that either answer is similar. He said there are 2 different answers and he is not sure that either one answers his question. He said perhaps his question is more hypothetical but he thinks it is still important that if the Town is going to encourage economic development, there should be some sense of public expense is going to be involved and encouraging it. He said he guesses what he is hearing, asking to correct him if he is wrong, is that no, it won't. He said it will be on a project specific basis where the developer of the project would assume the responsibility for extending sewer, extending water, building roads and all the other things that are necessary to make that happen. He said really what they are doing is providing a field of opportunity via zoning, via zoning districts for that to happen. He said he guesses his question is – is that a correct train of thought with respect to providing for economic development in the Town of Bethlehem. Mr. Leveille said he thinks a lot of this is true at the level of the comprehensive plan. He said a clear goal to establish opportunities for commercial development, diversification of the tax base. He said the reality is that this is not an economic development plan. He said he thinks that as the Town moves forward with the zoning in place, they can then begin to present recommendations to the Town Board on how to fulfill this. He said clearly their effort now is to get the comp plan and the zoning established and then turn their energies to economic development strategies to encourage and foster these opportunities where we will

weight the costs and benefits and what the appropriate level of public investment would be. He said he thinks he is somewhat agreeing with Mr. Kleinke.

Supervisor Egan asked if there were any other comments on this one. She asked if the Board was okay with the suggestion. The Board agreed.

Mr. Leveille said the next issue has to do with the supplemental buffering requirements between rural and residential districts. He said they began to look at opportunities where they have competing districts that are inherently different adjacent to each other and provided for setbacks and additional setbacks. He said the current code is silent on this, really left the discretion to the Planning Board. He said under this they provided for an additional 100-foot buffered setback between projects in rural, rural light industrial, heavy industrial and general commercial districts when they are adjacent to a residential district. He said the idea is to use it as an appropriate tool to separate uses that are distinct considering, however, the maximum non-residential non-agricultural building that can be built in a rural district is 4,000 square feet compared to the fact that in an industrial district you could be a million square foot building. He said it seems there should be some sense of buffering in the type of buffering that should be required and they would recommend that the supplemental buffer between rural and residential districts be reduced to 50 feet, which is identical to the required buffer between a residential district and a non-residential district. He said again, scale of what could be built compared to what could be built in a heavy industrial says that this is a much more prudent and appropriate.

Mr. Leveille said this segways into the next topic and he said a suggestion was made and he thought it was a good one that design guidelines for buffer areas be considered. He said the current code provides for 5-foot separation and heavy industrial and anything else. He said the code establishes broad standards for planning of a buffer area but they are very broad. He said again would recommend that simply establishing setbacks does not necessarily create the buffer you want to achieve but it certainly is a first step. He said he would consider also that consideration be given in terms of an opportunity to establish some more specific guidelines as to how buffering can be achieved in an economical and efficient way as a subsequent action to this adoption.

Supervisor Egan asked Mr. Leveille about the 50 foot, if this was in addition to the setbacks that are already there. Mr. Leveille said this was correct. He said there are setbacks required in the area lot regulations and they are saying if you have this kind of adjacency, they were saying 100-foot buffer. He said the practical reality is that a 50 foot would be much more appropriate between a rural and a residential district.

Supervisor Egan asked if there were any questions. She asked if anyone else had any questions. Mr. King said he wanted to compliment the Town of Bethlehem Planning Department because this is really a future improvement over the current zoning and what was previously proposed. He said this is one of the great areas that can be talked about what zoning should be for not about design elements but rather about providing people to be able to enjoy their properties. He said he thought the way that the Planning Department did this with a 100 foot on the industrial yet also recognizing that part of the expense should be shared by the residential developer. He said he thinks the 50 feet is excellent.

Supervisor Egan asked if the Board was okay with the direction on the supplemental buffering. The Board agreed with both the supplemental buffering and the development of design guidelines for the buffer areas. She said the type of buffering will be deferred and it will be looked as things move forward.

Mr. Leveille said the next item has to do with flag lot requirements and the suggestion that the requirements are inconsistent with the comp plan intent to create flexibility in rural areas. He said the current code says flag lots much we separated by at least 50 feet. He said there is no minimum length for the flag pole which his the driveway. He said flag lots in the proposed code says that flag lots must be separated by 100 feet with a minimum pole length of 200 feet and a

maximum pole length of 500 feet. He said in terms of the staff analysis on this, there has been a history of problems caused by this. He said it included neighborly disputes and alike. He said the increase in separation was designed specifically to alleviate some of the circumstances that have caused the conflict. He said given the large amount of undeveloped land in the rural districts of Town, it would seem that 100 foot separation of flag poles will not materially curtail flexibility of a design in the rural areas. So, 100 foot when you are talking about hundreds and hundreds of acres of undeveloped land, to him will not materially affect flexibility, however, they do recommend that they amend this regulation to indicate that there should be no maximum pole length. He said there are properties that if a person decides to build a 500 or 700-foot driveway, so be it. He said they have the wherewithal to do it.

Supervisor Egan asked if there were any questions. Mr. Kleinke said he has questions the neighbor disputes that have been a result of having side-by-side driveways or what is the nature of the concerns of the conflicts that have occurred. Mr. Platel said there have been some that are side-by-side that actually wind up being shared driveways and it becomes a maintenance issue along with neighbors putting fences down the middle of them. He said the other issues are setback when you have a house in back of another house. Mr. Kleinke said those are not driveway issues but citing of the residence structure. He asked if there are 2 driveways separated by 10 feet, have they created disputes. Mr. Platel said he did not think there were any that are separated.

Mr. Kleinke said he thought there was one in Hamagrael. Mr. Platel not that he knows. Mr. Kleinke said he would like to request the Board that this be put on the deferred discussion list. He thinks it is a design issue and it needs to be revisited. He said he thinks it is an important issue particular with respect to the rural district and he does think it is part of the comp plan to create the setback of residences along the rural roads in Town and it is a goal they would like to achieve. He thinks it is a good goal and he would respectfully ask that it be added to the list of future discussions. Supervisor Egan asked going with this as a goal, was that being accomplished by requiring the minimum pole length of 200 feet and allowing it to go back as far as they want to go back. Mr. Kleinke said he thought the question is separation of driveways by 100 feet as opposed to allowing them to be side-by-side. Supervisor Egan said again, how does that somehow defeat what the provision of the comp plan is. She said she is not understanding what the concern is. Mr. Kleinke said he thinks and he tried to explain a little bit and not successfully the other night is that you have a driveway and then 100 feet and then another driveway, you are almost creating a by-default lot that's at least 100 feet by 200 feet in depth and he thinks that is disengaging it from the remainder of a farm or an overall larger property and it becomes, he thinks, more vulnerable to development close to the road, a frontage type residential lot that's really what they are trying not to have along the rural roads.

Councilman Plummer asked what would happen if it was the existing 50 foot and what the reaction would be to that. Mr. Kleinke said he did not think it should be 50 foot either. He thinks it should be allowed side-by-side. He said the driveways do not have to be shared. He said there is 28 feet required for the width of the flagpole. He said within the 28 feet they have to put at least a 10 foot or 12 foot driveway so there is space on each side of the driveway and they put 2 side-by-side and they have a lot of space that can occur between the 2 driveways by themselves. He thinks that is more appropriate and lends itself to a safer condition along the highway rather than a driveway every 50 or 100 feet that this would encourage. Town Attorney Potter said if there was no space limitation between the 2 could you not have an endless series of flag lots and endless series of driveways all opening up into a larger area and asked if that creates a safety issue with multiple curb cuts off a rural road. Mr. Kleinke said he thinks they talked about not having any more than 2 flag lots. He said there was some discussion of it but he thought if you look at the design, it is a design issue. He thinks it needs to be looked at in design terms and then the appropriate requirements put forth based on that. He said he does not think if there are 2 flags and you got 2 lots separated out you are not going to get 3 or 4 flags doing this spider type thing.

Supervisor Egan suggested that the proposal meets some of the concerns of the comp plan. She said she did not think there was any harm in going with the staff recommendation now with the thought that as this moves forward look to see if it should be better designed and look at it then. Mr. Leveille said he thinks there are a lot of issues related to design here and the genesis of the problems he has been familiarized with has to do with design issues. He said he thinks this would be a good thing to develop better clarity and standards for. He said he would concur with Mr. Kleinke's suggest that this be deferred. Supervisor Egan asked if he wanted to defer totally or do as proposed and look at it. Mr. Leveille said they wanted to leave it in and be protective of it.

Councilman Lenhardt said he is confused and asked if they are going to leave in the separation of 100 feet but eliminate the length. Mr. Leveille said that was correct, no minimum or maximum length.

Supervisor Egan asked if the Board was okay with this. The Board agreed to go forward with the recommendation.

Mr. Leveille said the next issue has to do with land division. He said he thinks they feel they finally have their arms properly around this one. He said the goal is to enable lands in agricultural use to be split by land division up to 4 times in a 10-year period. He said in the current code it is permitted to be split one time and actually it probably is not in the code but there is a Town law that permits the splitting of property because it has been defined out of subdivision regulations that if it's less than so many, you can do it. He said basically you are allowed one split from a parcel. He said in the proposed code they have provided for the administrative splitting in the subdivision regulations of up to 4 lots every 10 years for parcels that are not located adjacent to public water or sewer or up to 1 lot every 10 years for parcels that are located adjacent to public water or sewer. He said staff recommendation in consistency with the intent of the comp plan was that any parcel that was an agricultural use whether or not it is adjacent to public water or sewer should be entitled to apply for the 4 lot divisions within any 10 year period. He said he thinks that gets to the intent which was for the large lands, especially the agricultural lands, being able to be split for family members or quick cash liquidation. He said they tried using zoning districts and that didn't quite work, public water did not quite fit and he thinks now they have it covered to where the target for this benefit is identified as agricultural use.

Supervisor Egan asked if there were any questions. Councilman Lenhardt added that that satisfies somewhat the concern of the previous issue where they missed the rural farming area. Mr. Leveille said it came out of that that section was missed. The Supervisor asked if there were any questions.

Ms. Jasinski asked if there was going to be a land division paperwork regulations or whatever, noting she still has not been able to find them on the internet. Mr. Leveille said they are in the subdivision regs and is called review of land division.

Supervisor Egan asked if the Board was okay with the staff recommendation. The Board said they were in agreement.

Mr. Leveille said the next item was posted signs are not specifically permitted. He said they recommend that the posted signs be added to the list of exempt signs. Supervisor Egan asked for questions from the Board. She asked if there were any comments. There were none.

Mr. Leveille said the next issue had to do with the prohibition of weddings at bed and breakfasts. He said the bed and breakfasts are not in the current code. He said the proposed code prohibits the use of bed and breakfasts for commercial operations and that would include public restaurant, weddings, concerts, conference centers, etc. He said a bed and breakfast is an approved home occupation and is typically located in a residential district because it is a home. He said by design it is a residence not a commercial establishment. He said the code provides for other facilities that are more appropriate for commercial operation of weddings,

restaurant, etc. and more typical of a commercial not residential district. He said staff recommends that this section be adopted as drafted.

Supervisor Egan asked if the Board had any questions. She then asked if anyone had any questions. Mr. King said he would agree with the Department's view of this with one, perhaps, clarification or tightening up on the regulation which is bed and breakfast because they are a home occupation are also homes and he would hope that a person who runs a bed and breakfast could have the weddings of their family. Otherwise, he would agree with the recommendation.

Ms. Jasinski said she would disagree, especially in the rural areas where the bed and breakfast may be out on a larger parcel of land with the country setting that everybody is looking for, you do not necessarily have to have a restaurant in your bed and breakfast but you could rent out the tent near the creek and have the caterer come in and hold the wedding there. She said she knows the Apple Inn up in Altamont is one that does that and there are numerous other ones that because of the setting they do this. She said it is not a backyard in Town, it is more of a rural setting.

Mr. Leveille said there is another case of practicality here. He said where the facility can be used periodically for event like this and they do not cause significant disturbance, the issue here is whether or not they permit a commercial operation in a residential district. He said he thinks that is the root issue and they would certainly advocate no. He said a bed and breakfast is different from a commercial establishment designed to hold parties and alike.

Councilman Marcelle said if the bed and breakfast was in a commercial district or a rural district, those type of activities would be permitted. Mr. Leveille said it would not be a home occupation because a home occupation is only in a residential district. Mr. Marcelle said he suspects there could be a residence in a rural district. Mr. Leveille said yes that a residence is permitted. Mr. Marcelle said you could run a bed and breakfast in a rural area. Mr. Leveille said that was correct. Mr. Marcelle said his question then is, if he lived out in a rural zone and could I have a tent out there. Mr. Leveille said again his sense is the distinction is it a commercial operation or is it a home occupation that every once in a while gets used for a wedding. He said he thinks there is a practicality test there that if someone is running a commercial business in a home occupation, it is not a home occupation. If they are doing periodic things, commercially in a home occupation, his guess is that it will be under the radar and it is not going to cause a problem. He said the thinks there is a practicality test.

Supervisor Egan asked if there were any further questions. She asked the Board if they wanted to go with staff recommendation on this. The Board agreed.

Mr. Leveille said the next issue had to do with excavation thresholds relative to mining and mineral extraction and the question was why should the threshold be more restrictive than what New York State DEC requires. Mr. Leveille said not currently addressed in the code, there has been the establishment of a specific standard for the review of special use permit for mining and mineral extraction. He said the section does establish thresholds for regulation. He said upon review of this, they would recommend the threshold for regulation be consistent with the grading, erosion, sediment provisions which is the 200 cubic yards per acre is the threshold for regulated activity. He said, as well as, the thresholds established by New York State DEC for similar regulatory oversight and he believed that is 750 cubic yards per year. He said they would recommend those amendments to the section on excavation.

Supervisor Egan asked if the Board had any questions. There were none. She asked if the audience had any questions. She asked if the Board was okay with staff recommendations on this. The Board agreed.

Mr. Leveille said the next item was the maximum height of a non-agriculture use accessory structure in rural and rural light industrial districts. He said again not covered in the existing code. He said the proposed code provides for

maximum height of 25 feet but no event in excess of the height of the principal structure. He said they reviewed this issue and recommend that the maximum height be established at 25 feet irrespective of the height of the principal structure. He said it creates flexibility in rural areas.

Supervisor Egan said again this is just rural and rural light industrial. Mr. Leveille confirmed it was. She asked for any questions from the Board. There were none. She then asked if there were questions from the audience. Mr. Frueh said in other words if he wants to build a garage as part of his business, 25 feet higher for his excavators and his dump truck. Mr. Leveille said it would be an accessory use to residential structure. Mr. Platel said the current code says it would conform to the height requirements and the zoning district. He said it would be the height of a commercial use, not an accessory use in residential zone. Mr. Leveille said the accessory use is accessory to a residential use. He said when it goes to a business use, you go to the chart and there are height requirements for buildings in industrial and rural light industrial zones. He said the permitted business would have appropriate height requirements for his business.

Mr. Leveille said the accessory building's use is to a home. Mr. Platel said depending upon the zone, it will be either 45 or ...

Supervisor Egan asked if there were any other questions. Mr. Waldenmaier said he thought there was something in rural and rural light industrial. The Supervisor said the intent is clearly to have it the same.

Mr. King said when he wrote he mentioned certain sections of the code, however it should be all of the sections. He said he thinks consideration should be given to the function of the building/structure in regard to the height of the structure.

Mr. Leveille said the next issue had to do with the prohibition of access to a non-residential use or district across a property designated for residential use. He said not covered in the existing code and has been an issue in more of the developed areas where commercial frontage is on one end and a commercial property extends through a residential street. He said the supplemental regulations in the proposed code prohibit access across residential property and land zoned for non-residential use. He said staff recommends that the language be added that this prohibition only exists when access is available to the non-residentially zoned land from a public highway on which it fronts.

Supervisor Egan asked if there were any questions from the Board. There were none. She then asked if anyone else had any question. There were none. She asked of the Board was okay with the staff recommendation. The Board agreed.

Mr. Leveille said the next issue has to do with some concern about the statement that precedes the grading, erosion and sediment control regulations and that the use of the statement was inconsistent with the treatment of other parts of the code. He said not relevant to the existing code. He said the background was that the proposed grading, erosion and sediment control regulation include a statement of purpose that provides guidance as to the purpose and intent of the section. He said the inclusion of statement of purpose is an appropriate tool to provide clarity of intent to the Planning Board and others using the law. He said similar statements are included in the district section and for many other sections of the proposed law including conservation subdivision, land division and others.

Mr. Leveille said staff recommends that the retention of the statement in this section, however, it recommends that a consistent title be used for all similar statements regarding the purpose or intent of the law being proposed.

Supervisor Egan said this is really to bring everything into consistency. Mr. Leveille agreed and said clearly this is the only place where it says statement. He said other places say statement of purpose, purpose and there is some inconsistency in how similar proceeding sections are titled. He said they would like to clear that up.

Supervisor Egan asked if there were any questions from the Board. There were none. She asked if anyone else had any question. There were none. She asked if this was okay. The Board agreed.

Mr. Leveille said it was pointed out at the public hearing that there is no regulations regarding residential lighting. He agreed with that other than site plan level type but not those that are necessarily mounted on individual buildings. He said there is very little guidance that they provide with regard to this. He said he thinks this is an area that he thinks it warrants additional research, examination and perhaps refinement in the future but not with this version of the code.

Supervisor Egan asked if the Board had any questions. There were none. She asked if anyone had any question or comment. There were none. She asked if the Board agreed with the staff recommendation. The Board agreed and she noted it will be placed on the deferred list.

Mr. Leveille said the next issue was the unique characteristic of each use requiring special use permit being identified in the code. He said the uses are identified in the existing code but no characteristics are provided. He said the proposed code provides 21 performance standards for Planning Board consideration, as well as, standards for 5 specific uses required as special use permit. He said the proposed code provides significantly expanded standards and procedural requirements for processing a special use permit. He said counsel advised that the relevant sections of the code greatly exceed the minimum requirements. He said they, therefore, recommend adoption as drafted.

Supervisor Egan asked if the Board had any questions. There were none. She asked if anyone had any question or comment. There were none. She asked the Board if they were okay with the recommendation. The Board agreed they were okay with these.

Mr. Leveille said the next issue was that too few uses require special use permit in rural districts. He said there are approximately 35 uses in today's code that require a special exception through the Zoning Board of Appeals. He said in the proposed draft, there are approximately 26 uses requiring special use permit through the Planning Board. He said they have carefully reviewed the schedule of uses to identify those uses that are most likely to create the impacts that might affect residents and neighbors in various zoning districts. He said they believe that the proposed level of uses requiring special use permit is reasonable and appropriate based on the uses that have been defined.

Supervisor Egan asked if there were any questions or comments. She asked the Board if they were okay with the recommendation. The Board agreed.

Supervisor Egan asked Mr. Leveille if there was anything else. Mr. Leveille said that was the end. The Supervisor asked if there was anything else from the Board's perspective that there may be concerns of something being missed. There were none. She asked if there were any further comments.

Mr. Jasinski asked about a question he believed Mr. Plummer asked relating to information about the super majority vote or one more than the majority in a vote. Councilman Plummer said he did not remember it. Mr. Jasinski asked if this pertained to anything that the Board wants to change on the zoning. He asked if it was going to be required that the Town Board have one more vote than the majority to change some of this. The Board asked what section Mr. Jasinski was referring to. Supervisor Egan said they wanted to see what version he had. Mr. Leveille said this was the rejection of the site plan. Mr. Jasinski said if the Planning Board agrees, the Board does not have to have a super majority. He said if the Planning Board disagrees and the Town Board wants to change something, they need a super majority. He said this means that you need 4 people. Mr. Jasinski thanked the Board and noted he called it to the Board's attention.

Supervisor Egan asked if there were any other comments. Mr. King said he had sent an email but was not sure the Board received it. He called to the Board's attention a requirement for parking areas to meet the minimum for an intended use. He said the point is that parking areas cost money to maintain and landowners do not build parking areas unless they intend to use it. He said he does not believe that landowners should have to come into the Planning Board if the need for a driveway or a driveway extension in order to put an extra car, receive guests or park a trailer or store an RV with or without the Town Supervisor's name emblazoned on the side.

Mr. King said zoning for core residential calls for screening for accessory structure and he asked why. He asked if accessory structures are necessarily unattractive and how high should be screening be. He said the Town is concerned about affordable housing and noted shouldn't there be an attempt to keep unnecessary homeowners costs to a minimum. He reiterated his comments about buildings designed to emulate historic structures being required to be built next to historic structures and noted he already mentioned this. He thanked the Board.

Supervisor Egan thanked Mr. King. Mr. Waldenmaier asked when the final draft will be available. Supervisor Egan said hopefully on Friday. Mr. Leveille said the goal will be to complete the final draft on Friday and either Friday or Monday have it published. Mr. Waldenmaier thanked Mr. Leveille.

Ms. Jasinski said windmills were brought up and solar panels. She asked if this was covered in the zoning or are residents able to put windmills up, especially in the rural area where there is wind and the area to put it on. She asked if there was going to be something that will cover that. Supervisor Egan said the staff is consulting. Mr. Leveille said not specifically. Town Attorney Potter commented he thought it would be an accessory use and subject to the height limitations on accessory uses. He said if it is not high enough for a windmill, the opportunity would be there to apply for an area variance which is a reduced standard from a use variance. He said that is how it is currently handled. He said inasmuch as they have had no application for windmills that he understands, if there is a sudden rush in that, certainly the Board can revisit it.

Ms. Jasinski also asked where the basketball courts are that are on the Town roads and the other roads regulated currently. Supervisor Egan noted it is not specific. She said there is a section that says you may not erect anything of any permanent nature, noting she is not quoting verbatim but something of that, in the Town right-of-way. Supervisor Egan said it is under obstructions of Town rights-of-way, Section 100-41. Ms. Jasinski asked about the rollaway basketball courts. Supervisor Egan said this is not an issue that is new. She said the problem is there are several that have been erected, some portable and some not so portable. She said they tried to take steps but noted it is not an easy issue. She said one step taken was to mention in the Bethlehem report that they are not allowed, are not supposed to be there and if the snow plow hits it, the Town will not pay for it. She said that was the first step and noted they are discussing the best way to do this. Ms. Jasinski said she just wanted to know where they were regulated. She thanked the Board.

Mrs. Marie Capone noted on the Traffic Safety Committee these were discussed and it was noted they were not allowed on the shoulder of the road because the school bus has a problem with them. Supervisor Egan said it is just like one of the things like fences are not to be erected in the Town right-of-way. She said they are working through the enforcement of that situation.

Ms. Jasinski said part of what she is hearing is that we may have a law against it but if nobody tells us about it and we do not know about it, it is okay. She said somehow that does not seem right. She said if there is a law it should be followed or it should not be there. Supervisor Egan said if there is a law, it should be enforced. She cannot speak to the "x" amount of years that came before this. Ms. Jasinski said even part of what is being put forth in the zoning, mention has been made that if it is under the radar, no one knows about it. Supervisor Egan said there were 2 instances of that and they are issues being looked at over the next

several months. She said it is a point well taken and they are trying to work through these things.

Mr. Waldenmaier asked if the Town issues a newspaper or something that goes to every homeowner. Supervisor Egan said the Bethlehem Report is published 3 times a year and that is where they are trying to deal with the snowplowing and the basketball hoop issue last year. She said she will be revisiting it again this year, she is sure.

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Supervisor Egan said in the newspaper this date, Bethlehem was a recipient of the LWRP Grant. She said it was put in but she has not received any official paper work on it. She said she thinks the amount is \$40,000. She said this was good news.

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Supervisor Egan said for clarity, based on the directions, staff will make the changes with the consultant on Friday and Monday the latest, they will have the draft final forms of the comp plan, zoning ordinance and subdivision regs available. She said the next meeting is a regular Town Board meeting on August 10<sup>th</sup> at which time they will be adopting the findings and adopting the DEIS. She said the meeting after will be August 24<sup>th</sup> at which time the actual adoption resolutions will be available and hopefully voting.

Mr. Jasinski asked on the \$42,000 if the Town will have to produce an additional \$42,000. Supervisor Egan said it is \$40,000 that the Town has received and there is a matching component. She said she does not know what the component is. Mr. Jasinski asked what that will be used for. Supervisor Egan said it will be used for drafting the local waterfront revitalization plan. Mr. Jasinski said there will be a bid for somebody to do that. Supervisor Egan said that was correct.

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Councilman Marcelle said because he remembered something about the super majority and to put Mr. Jasinski's mind at ease, anytime you have super majority requirements engrafted in legislation, it is only illusory. He said for the reason that if 3 members of the Town Board could simply amend the zoning law to eliminate the super majority requirement so, to put Mr. Jasinski's mind at ease, anytime 3 members agree and do not feel like they need a super majority. He said the 3 members could amend the zoning law and because it is not in an organic document, it is mostly illusory. He said he could understand the issue.

Mr. King had a question for Councilman Marcelle. He said his understanding from looking at General Municipal Law is that the Supervisor has a veto and that when Town Boards are constructed with 5 members, one being the Supervisor, generally would mean that all 4 Town Board Members to override a Supervisor's veto, asking if this was correct. Supervisor Egan said she did not know about that. Town Attorney Potter asked Mr. King to show him that because he was not aware of this. Councilman Lenhardt said he had read that and the Supervisor has an equal vote.

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The motion was made by Mr. Plummer and seconded by Mr. Gordon to adjourn the regular Town Board meeting at 8:25 p.m. The motion was passed by the following vote:

Ayes: Ms. Egan, Mr. Plummer, Mr. Lenhardt, Mr. Marcelle, Mr. Gordon.

Noes: None.

Absent: None.

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Deputy Town Clerk