



Town of Bethel  
*Planning Board*  
PO Box 300, 3454 Route 55  
White Lake, NY 12786

The Town of Bethel Planning Board held a Work Session on July 6, 2015 at 7 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake, NY. A regular meeting of the Planning Board followed on the same date at 7:30 PM.

In attendance: Daniel Gettel, Chairman, Steve Simpson, Vice Chairman, Michael Cassaro, Susan Brown-Otto, David Biren, Wilfred Hughson, David Slater, Vicky Vassmer-Simpson, Councilwoman, Jacqueline Ricciani, Attorney, Bette Jean Gettel, Code Enforcement Officer, Lillian Hendrickson, Councilwoman.

Excused: Jannetta MacArthur, Recording Secretary

Pledge to the flag

***1) Administrative – Executive Session – Interviews to fill vacancy on Planning Board.***

Daniel Gettel: The first item on the agenda was administrative. We do have a vacancy on the Planning Board for the alternates’ position. Mr. Yakin, sitting in the front row, was our only applicant. At this time I would like to entertain a motion that we request that the Town Board appoint Robert Yakin to the open alternate’s seat on the Planning Board, being a term set to expire on December 31, 2017.

***Motion to request that the Town Board appoint Robert Yakin to the open alternate’s seat on the Planning Board, being a term set to expire on December 31, 2017, by Steven Simpson, second by Susan Brown Otto.***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: I assume everyone got the minutes from the June 1, 2015 Planning Board meeting. Jacy, you had a correction that you would like me to make? I believe the last item should say receive and file, not follow.

Jacqueline Ricciani: There is a typographical error.

Daniel Gettel: I can make that correction. BJ, do you know if Rita has the minutes yet?

Bette Jean Gettel: No.

Daniel Gettel: At this time I would entertain a motion that we approve the minutes from the June 1, 2015 Planning Board meeting with Jacy's correction.

Susan Brown-Otto: I won't be voting, as I didn't get a chance to review them.

Daniel Gettel: Okay.

***Motion to approve the June 1, 2015 Planning Board minutes with Jacy's correction by Michael Cassaro, second by David Slater***

***All in favor – 6***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: Tonight we have two Public Hearings on the agenda. In a moment I will open the meeting up for a Public Hearing for the Country Bum'kin Antique Shop. I will ask the applicant's representative to make a brief presentation to the audience, and then will accept public comment. If anyone in the audience would like to speak at either of the Public Hearings please raise your hand after the applicant's presentation. I will ask you to approach the front of the room, state their name for the record and make your comments. This is a Public Hearing. This is not intended to be a question and answer period, nor is it supposed to be a public debate.

***2) Public Hearing for a Special Use Permit for an Antique Retail Shop located at 1100 State Route 17B, next to Airport Road, known as Bethel Tax Map #: 38-2-3, proposed by Antiques Retail Shops. (Jenny Vielandi, Eric Groper, Atty.)***

Daniel Gettel: BJ let the record show that the return receipts have been received.

Daniel Gettel: At this time I would entertain a motion to open this meeting up for a public hearing for the Country Bum'kin Antique Shop.

***Motion to open the meeting up for a public hearing for the Country Bum'kin Antique Shop by Susan Brown-Otto, second by David Biren***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: Mr. Groper, please.

Eric Groper: My name is Eric Groper. I am an attorney for the landlord, 1100 Route 17B, LLC. We are proposing a request for a Special Use Permit for the site, which is currently occupied as an antique store, by the Country Bum'kin. As a matter of fact, not only have they occupied this location, but another a quarter of a mile down the road. They occupied that as the Country Bum'kin also. They are here before you asking for the Special Use Permit as they have been conducting business at this current location for three years now and they are looking to purchase the property, subject to your, respectfully, giving them the opportunity to get the Special Use Permit. They are here now to answer any question this board may have about their operation.

Daniel Gettel: Would anyone from the public like to comment on this application?

*None*

Daniel Gettel: If no one would like to comment I would entertain a motion at this time that we close this public hearing and go back to our regular meeting.

***Motion to close this public hearing and go back to our regular meeting by Steve Simpson, second by David Slater***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Jacqueline Ricciani: No written comments?

Daniel Gettel: No, no written comments were received. We did send this out to the County and the State for a 239 review. The County came back as it is an existing building and a local determination so there is really nothing that we have to act on for the County.

Eric Groper: Excuse me for interrupting you, but before the Country Bum'kin opened the building was used as a real estate office. Prior to that use it was used as an antique store. I didn't know if the board was aware of that fact.

Daniel Gettel: There was some kind of lapse in there where zoning changed, but the permit didn't go, the new applicant did not have a permit. The County 239 came back as local determination. The State did not respond within the thirty days, so that is a wash with the State. Are there any comments from the board?

Bette Jean Gettel: The State 239 is on the desk.

Daniel Gettel: I thought the State did not respond. Just one second. I take that back.

Jacqueline Ricciani: Is it from the DOT?

Daniel Gettel: Yes, the New York State Department of Transportation responded on June 19<sup>th</sup>. They reviewed the Site Plan for the above referenced location and had the following comments. Nothing shall be placed within the State Right of Way and if any work is being proposed within the State Right of Way a highway work permit must be obtained from this department prior to commencement of work. These are both typical State review comments. You are not doing any improvements to the driveway or placing anything within the State Right of Way at this time. Our only concern at the last meeting was, well, there were two concerns that we raised at the last meeting. One was with, and I don't have an issue with the Antique Shop business or the traffic associated with that, but you did indicate that four times a year there are yard sales. We did ask that someone check with the State to see how they could limit the people from parking on the road, or what we could use to persuade people not to park on the road.

Eric Groper: Traffic cones, I would assume.

Jenny Vielandi: I called the DOT in Monticello and spoke with John Passman. He didn't like the cone idea.

Daniel Gettel: Did he have another suggestion?

Jenny Vielandi: He said that he thought the Town of Bethel no parking signs set up along the grass would be sufficient. He thought that the cones would still allow people to park there and then they might open the door and actually be closer to the traffic.

Daniel Gettel: That kind of goes along with what the State's review was, but the State's review comes out of Binghamton so you have two different departments saying the same thing. Vicky, if you don't mind, are there any Town of Bethel no parking signs?

Vicky Vassmer-Simpson: Yes. We have those red no parking signs. They look like campaign signs.

Bette Jean Gettel: They were used during Woodstock, years ago.

Susan Brown-Otto: They still use them. They put them on Pucky Huddle Road on Woodstock weekend, the third week of August.

Jenny Vielandi: I have five of those. The constables had given me some in May at the yard sale, so if I could get a few more that would probably be good.

Daniel Gettel: I don't think that would be an issue. Clearly the Town has...

Vicky Vassmer-Simpson: Who did you get them from, Chris? I know we have them.

Daniel Gettel: In the past all of Dr. Duggan Road was done so there should be plenty.

Jenny Vielandi: Would that be for the yard sale weekends?

Daniel Gettel: Yes, for the four events a year.

Steve Simpson: Where would they be placed, from the border of the property with the church to the corner at Airport Road?

Jenny Vielandi: Yes.

Susan Brown-Otto: What about in the other direction?

Steve Simpson: From the church, from the parking area to the corner.

Jenny Vielandi: Right where that starts, that is where the property starts so we could do it there and in between and from the end of that to Airport Road.

Steve Simpson: The biggest concern would be that piece, looking at the building on the left hand side of the property that extends closest to Airport Road. I have seen it when there are cars there, broken down. When you make that right turn there is no stopping. You always have a tendency to drift into the white line when there is traffic on the hill. That was always a concern, that that may be an issue.

Jenny Vielandi: Where we set up, there were other comments made by the board whether it was possible for us to have someone there directing traffic. That is where we have our stuff set up, so if we do see someone parking there disregarding the signs we can tell them.

Daniel Gettel: We are looking at, specifically we are trying to concentrate on the Antique Shop itself, but as a side you did mention that you had them, so we are aware of them. I would like to at least try to address that a little bit. I am not opposed to the signs being placed on the side of the road, in the grassy area alongside the side of the road, off the shoulder of the road, as well as you having someone on the busier weekends looking at parking, asking people not to park there, directing them where it would be better to park.

Susan Brown-Otto: Let's say someone is coming along where the flea market begins and how many cars can go in the circular driveway? I think someone said nine.

Jenny Vielandi: Its seven spots and...

Jacqueline Ricciani: It is striped for nine and a handi-cap space.

Jenny Vielandi: Then there is the handi-cap and you can put an additional three so you can fit thirteen to fifteen cars. In is pretty large event the horse-shoe is actually pretty large.

Susan Brown-Otto: So people are coming along and here is the flea market and they see the no parking signs. Is that going to create an issue where right now people miss the horse-shoe to turn in? Where do they park? Do they go to Airport Road? Do they turn around on Ballard Road?

Daniel Gettel: That is a problem with every business. You cannot control that if they miss the turn off.

Steve Simpson: I think might happen and I think what is going to happen is someone is going to pull into the Laughing Ladies, and they are going to see your place on the way out and walk across the street. It is going to happen.

Jenny Vielandi: We are highly discouraging it.

Daniel Gettel: All that we can ask is for you to discourage it.

Jenny Vielandi: We tell them about the store across the street and we tell them to drive across.

Daniel Gettel: And we realize that you guys tend to work together, as far as your advertising goes. I appreciate that.

Jacqueline Ricciani: Are these yard sales held on holiday weekends or at other times?

Jenny Vielandi: No, they are usually the last weekend of every month. The only reason why we did it Memorial Day is that the year before Mysteryland put a damper on my sales. So I used that to bring people into the store.

Jacqueline Ricciani: So, that would be May, June, July, and August? Is that your four?

Jenny Vielandi: It was May, June, July, August, and we do if weather permits have one on Columbus Day weekend. There are so many fewer people then.

Jacqueline Ricciani: Being that the yard sales are not coinciding with holiday weekends does the board maybe want to consider having the no parking signs on holiday weekends also, in addition? Or do you think it is sufficient to have them...

Daniel Gettel: I think that if they are having an outdoor event they should have the no parking signs up.

Susan Brown-Otto: I agree with Jacy. If it happens to be that they are having a flea market and it is not a holiday weekend I think the signs should go up.

Daniel Gettel: That is what I just said I think. I don't think we are disagreeing.

Jenny Vielandi: Are you saying to put the signs out even if I am not having a yard sale on a holiday weekend?

Jacqueline Ricciani: Labor Day weekend.

Jenny Vielandi: We just had, July 4<sup>th</sup> is our biggest of the year and we did not have an issue with parking.

Daniel Gettel: I think it is just additional street litter. I don't think it is necessary. I think that if you have an event on a holiday weekend that the signs should be up, and if you are only doing an event four times a year I think you should use the signs for those four times. If you are having an event outside the building I would think you should use the signs. I am comfortable with that.

Jenny Vielandi: Okay.

Daniel Gettel: I don't know how the board feels, but I do not think we need to make it a condition, we have an agreement. It will be in the minutes that we have an agreement.

Jacqueline Ricciani: Why wouldn't you make it a condition?

Daniel Gettel: We can, I don't know that we have to because we are specifically addressing the use of the Antique Shop.

Jacqueline Ricciani: But it is part of their operation.

Susan Brown-Otto: Yeah, I agree.

Daniel Gettel: Okay. The only other thing we discussed was perhaps not having displays close to the road.

Jenny Vielandi: I did cut back on the amount of Adirondack Chairs that were in the circle. I moved it back.

Daniel Gettel: Are you comfortable with where they are now?

Jenny Vielandi: I am, but I don't know if the board is.

Daniel Gettel: I do not think they are within fifty feet of the road at this time, so what we discussed is no long term displays within fifty feet of the road. I think that addresses it and that could be a condition. That would address our concerns and I think it would give you a good boundary to follow.

David Biren: Keep them where they are now.

Daniel Gettel: For people driving down the street it is not going to be a distraction.

David Biren: Exactly.

Jacqueline Ricciani: Within fifty feet of the centerline of the road?

Daniel Gettel: Yes. I don't think Airport Road is an issue, 17B is the issue.

Jacqueline Ricciani: That is a condition?

Daniel Gettel: Yes. Are there any other board comments?

*None*

Daniel Gettel: If not, I will run through the Short Environmental Assessment Form at this time. We do have a short Environmental Assessment Form for the application. I need to run through Parts 2 and 3 and I usually read Part 2 into the record at this time.

*1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?*

No, the proposed use conforms to zoning.

*2. Will the proposed action result in a change in the use or intensity of use of land?*

No, this is an existing use in an existing building.

*3. Will the proposed action impair the character or quality of the existing community?*

No, this is a commercial use in a commercial area.

*4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?*

No, there are none in the Town of Bethel.

*5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?*

No, this is an existing use. Whether the application is approved or not is not going to impact the level of traffic. It should improve traffic on holiday weekends. There shall be no impact on mass transit, biking, or walkways.

*6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?*

No, there will be no increase in energy usage.

*7. Will the proposed action impact existing:*

*a. public / private water supplies?*

No, there is no new public or private water needs associated with this application.

*b. public / private wastewater treatment utilities?*

No, there are no new public or private sewers associated with this application.

*8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?*

No, this does not involve the use of a historic building or resource.

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)?

No, there shall be no disturbance of wetlands or waterbodies.

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

No, there shall be no site disturbances associated with this application.

11. Will the proposed action create a hazard to environmental resources or human health?

No, there shall be no hazard to human health.

Daniel Gettel: That is the end of Part 2 of the EAF. None of the questions resulted in an answer that was moderate to large so I do not believe there is any need for us to complete Part 3 of this form. If there are no questions or comments from the board I would entertain a motion that we grant this application a negative declaration at this time.

***Motion to grant this application a Negative Declaration by Steve Simpson, second by Susan Brown-Otto***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: Since this is a Special Use Permit I need to look at Sections 345-21 of our zoning code and 345-30 of our zoning code. Section 345-21 of our Zoning Code is the section that addresses the General Commercial and Industrial Standards. I do not believe this section pertains to this application as we are talking about an existing use where the building is not immediately adjacent to a residential use and there is no new lighting. Section 345-30 of the Zoning Code outlines the Special Use Procedures and Paragraphs I & J are the two that I typically read into the record when Special Uses are proposed. These paragraphs read as follows:

*I. The Planning Board, in reviewing the site plan, shall consider its conformity to the Comprehensive Plan and the various other plans, laws and ordinances of the Town. Conservation features, aesthetics, landscaping and impact on surrounding development as well as on the entire Town shall be part of the Planning Board review. Traffic flow, circulation and parking shall be reviewed to ensure the safety of the public and of the users of the facility and to ensure that there is no unreasonable interference with traffic on surrounding streets. The Planning Board shall further consider the following:*

*(1) Building design, lighting, location and signs insofar as suitability for the use intended*

*and impact on and compatibility with the natural and man-made surroundings.*

This is an existing use in an existing building. We are reviewing this application simply because a Special Use Permit was not obtained at the time the business relocated to this site. There are no proposed changes in lighting or signage as part of this application.

*(2) Storm drainage, flooding and erosion and sedimentation control.*

The applicant has not proposed any site disturbances.

*(3) Adequacy of community services and utilities, including police protection, emergency services and the educational system.*

There are adequate community services to accommodate this use. There will be no impact on the educational system.

*(4) Environmental impacts in any form.*

The application was subjected to an environmental review and a negative declaration was granted.

*(5) Impacts on housing availability.*

There will not be an impact on housing availability.

*(6) The potential for nuisance impacts such as noise, odors, vibrations or glare.*

This is a commercial area and there are no anticipated nuisance impacts.

*(7) The adequacy of the trees, shrubs and other landscaping to buffer or soften a use in terms of visual or other impacts on adjoining property owners, Town residents and those visitors on whom the local economy often depends.*

This is a commercial area and the existing landscaping is to be maintained.

*(8) Impacts on nearby property values.*

There are no anticipated negative impacts on nearby property values.

*(9) Traffic impacts (see § 345-22H).*

Section 345-22H addresses driveways that have direct access to NYS Route 17B. It should be noted that this parcel fronts on NYS Route 17B, as well as Airport Road, but the proposal is to continue using the existing, permitted driveway which accesses NYS Route 17B.

*(10) Any other factors which reasonably relate to the health, safety and general welfare of present or future residents of the Town of Bethel.*

There are no known health factors, nor are there any foreseen impacts on safety or the general welfare of the Bethel residents.

*J. The Planning Board, in acting upon the site plan, shall also be approving, approving with modifications or disapproving the special use permit application connected therewith taking into consideration not only the criteria contained above but also the following:*

*(1) Whether the proposed use will result in an overconcentration of such uses in a particular area of the Town or is needed to address a deficiency of such uses. The Board shall, in this regard, consider the suitability of the site proposed for a particular use as compared to the suitability of other sites in the immediate area.*

This is an existing business. There are similar permitted uses in the area, but this is not uncommon for this type of use.

*(2) Whether the proposed use will have a detrimental or positive impact on adjacent properties or the health, safety and welfare of the residents of the Town of Bethel.*

This is an existing business that is seen as an asset to the Town.

*(3) If the proposed use is one judged to present detrimental impacts, whether an approval could be conditioned in such a manner as to eliminate or substantially reduce those impacts.*

There are no anticipated detrimental impacts.

*(4) Whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.*

The application was subjected to an environmental review and a negative declaration was granted. The application may have a positive impact on the economy and job creation, but will not have an impact on housing availability, or open space preservation.

*(5) Whether the granting of an approval will cause an economic burden on community facilities or services, including but not limited to highways, sewage treatment facilities, water supplies and fire-fighting capabilities. The applicant shall be responsible for providing such improvements or additional services as may be required to adequately serve the proposed use, and any approval shall be so conditioned. The Town shall be authorized to demand fees in support of such services where they cannot be directly provided by the applicant. This shall specifically apply, but not be limited to, additional fees to support fire district expenses.*

There are no projected economic burdens on community services.

*(6) Whether the site plan indicates the property will be developed and improved in a way which is consistent with that character which this chapter and the Comprehensive Plan are intended to produce or protect, including appropriate landscaping and attention to aesthetics and natural feature preservation.*

This is an existing commercial use in an existing building located in a commercial district.

Daniel Gettel: That is the end of Section 345-30. Are there any comments from the board? If we were to approve this application tonight, Jacy, I would appreciate it if you would read the conditions if you have them down.

Jacqueline Ricciani: I do. Number 1, if there are any sales events that take place outside of the building such as yard sales the applicant shall put no parking lawn signs along the perimeter of the property, along 17B, from the edge of the property that borders the church to Airport Road. Number 2, there will be no long term displays of items outside of the building within fifty feet of the centerline of NYS Route 17B. Number 3, that all fees be paid.

Daniel Gettel: Are there any comments from the applicant on those? Can you live with those?

Eric Groper: Yes we can.

Daniel Gettel: Are there any comments from the board? If not, I would entertain a motion at this time that we approve this application for a Special Use Permit to operate an antique shop in the existing building located on the site with the previously reference three conditions.

***Motion to grant this application a Special Use Permit to operate an antique shop in the existing building located on the site with the previously reference three conditions by Steve Simpson, second by Susan Brown Otto***

***Michael Cassaro – Yes  
David Biren – Yes  
Daniel Gettel – Yes***

***Susan Brown-Otto – Yes  
Wilfred Hughson – Yes***

***Steven Simpson – Yes  
David Slater – Yes***

***Agreed and carried 7-0.***

Daniel Gettel: Good luck.

**3) Public Hearing for a 2 lot subdivision located at 139 Murphy Road, known as Bethel Tax Map #: 7-1-20.15, proposed by Patricia Reising. (Reising)**

Daniel Gettel: The applicants for Item number three are here. BJ, do you have the return receipts for this application?

Bette Jean Gettel: Negative. They went out, that much I know.

Daniel Gettel: Typically we request that an applicant turn in the receipts for the public hearing at the public hearing.

Zack Reising: That is fine. We have them at home, we forgot them. I can go get them.

Daniel Gettel: When Anthony (Siciliano) brings the plan in to be signed they just have to be turned in before the plan is signed. Item number three on the agenda is also a public hearing, but unlike the first application this is for a subdivision. There is a law on the books that has been interpreted to say that when a subdivision is proposed the Planning Board shall act on the Environmental Assessment Form prior to receiving public comment. It is for that reason that I will ask the applicant to make a brief presentation to the audience, and then I will run through Parts 2 and 3 of the Short Environmental Assessment Form prior to receiving public comment.

Daniel Gettel: BJ, just let the record show that the return receipts for the mailings will be submitted prior to my signing the map. We do know the mailing went out. Mr. Reising, are you willing to give a brief presentation to the number of people in the audience?

Zack Reising: I can do that.

Daniel Gettel: There is a little that I have to do first. At this time I would entertain a motion that we open this meeting up for a public hearing for the Reising Subdivision.

***Motion to open the meeting up for a public hearing for the Reising Subdivision by Steve Simpson, second by Susan Brown-Otto***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: If you don't mind telling the three people in the audience what your proposal is.

Zack Reising: We live on Murphy Road right on the line between Liberty and the Town of Bethel. We are proposing to subdivide my parent's seven acres and create a flag lot with a driveway for my wife and I to build a house on in the back. We selected this spot and we had my engineer do a percolation test and I went over with him how I wanted him to do the site plan. Everything seems to be very nice. My mother loves the idea because then I can take care of her.

It seems to be a pretty good idea at the moment.

Daniel Gettel: As far as zoning goes it conforms to zoning. The lot does meet the Health Department's standards as far as the development. We know they are proposing a buildable lot. That is what is important to this board. It is a flag lot. BJ, do you have any maps for this application and if so would you mind passing them out. Like I said during the public hearing I have to run through the Short Environmental Assessment Form as part of the application. Part 2 reads as follows:

*1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?*

No, the proposed use conforms to zoning.

*2. Will the proposed action result in a change in the use or intensity of use of land?*

Not substantial. The proposal is for the creation of a new buildable parcel, but both the parent and new parcel conform to zoning.

*3. Will the proposed action impair the character or quality of the existing community?*

No, this is a residential use in a residential area.

*4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?*

No, there are none in the Town of Bethel.

*5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?*

Not substantial as this application is for the creation of one new parcel on a Town road that can accommodate that minimal increase in traffic. There shall be no impact on mass transit, biking, or walkways.

*6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?*

No, there will be an increase in energy usage if a home is constructed on the proposed lot, but any new construction must conform to today's energy standards.

*7. Will the proposed action impact existing:*

*a. public / private water supplies?*

No. Public water is not available in the vicinity of the proposed parcel and this proposal is for the creation of a single water source to serve the needs of a single private residence.

*b. public / private wastewater treatment utilities?*

No, there are no public sewer services available in the area and the application is for the installation of a new system to serve the needs of a single private residence.

*8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?*

No, this does not involve the use of a historic building or resource.

*9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)?*

No, there shall be no disturbance of wetlands or waterbodies.

*10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?*

No, there shall be no substantial site disturbances associated with this application.

*11. Will the proposed action create a hazard to environmental resources or human health?*

No, there shall be no hazard to human health.

Daniel Gettel: That is the end of Part 2 of the EAF. None of the questions resulted in an answer that was moderate to large so I do not believe there is any need for us to complete Part 3. At this time I would entertain a motion that we grant this application a Negative Declaration.

***Motion to grant this application a negative declaration by Michael Cassaro, second by David Slater***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: Would anyone in the audience like to comment on this application? Yes, Lillian.

Lillian Hendrickson: I would like to thank him for wanting to take care of his mother.

Daniel Gettel: If there are no other public comments I would entertain a motion that we close this public hearing and go back to our regular meeting

***Motion to close this public hearing and go back to our regular meeting by Steve Simpson, second by Susan Brown-Otto***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: Are there any board comments?

Jacqueline Ricciani: Percolation tests?

Daniel Gettel: We do have the Ward report Jacy.

Jacqueline Ricciani: I do think that you need to reference that you did receive a report from the engineer about the percolation tests.

Daniel Gettel: Okay, I will do that in a minute. I do want to point out that I did look at the zoning and both the parent parcel and the proposed flag lot conform to zoning. The flag lot has to meet the minimum zoning without, let's call it the flag pole portion of the lot, which it does. The surveyor, Mr. Siciliano, did point that out last time. We did receive a report from Ward Engineering dated June 16, 2015. He did a report on the soil conditions for septic system feasibility. Soil percolation and deep test pits were completed on the proposed parcel. Hardpan was found at a depth of 28 inches, and the percolation rates were found to be in the design range of 11 to 15 minutes. This would allow for the installation of a shallow absorption type sewage disposal system, which the Health Department does accept. The applicant does have the option of looking elsewhere on the property for deeper soils, if he chooses, and that is something he may want to look into. For the purpose of our review they have proven that this is a buildable lot. I think it is important for us not to approve unbuildable lots. Are there any other questions?

Susan Brown-Otto: Do we have to be concerned with the driveway?

Daniel Gettel: We discussed that at the last meeting. It is a gentle slope. As far as a minimum pitch is concerned we do not feel two foot contour interval topography is required to put in the driveway. It is a relatively gentle slope so I do not think it is going to be an issue. Your thoughts on the driveway Mr. Reising, you would know it better than we would?

Zack Reising: I need to bring in a certain amount of fill to fill in the dips, but it is already clear. I don't see it being a big problem, I have four wheel drive, her car may have a problem in the wintertime, but that is something we are going to have to deal with.

Daniel Gettel: But even a five percent slope a lot of the times can be a problem if you are not in four wheel drive.

Zack Reising: No, it is quite gentle and once we grade it off with a bulldozer it will be gentler yet.

Daniel Gettel: If there are no other comments from the board I would entertain a motion that we grant this application a Subdivision approval with the conditions being that all fees be paid, including the parkland fee, and prior to my signing the map the applicant has to provide the proof of mailings for the public hearing.

***Motion to grant this application a Subdivision Approval with the conditions being that all fees be paid and the Chairman is not authorized to sign the Subdivision Map until the applicant provides the proof of mailings for the public hearing by David Biren, second by Wilfred Hughson***

***Michael Cassaro – Yes  
David Biren – Yes  
Daniel Gettel – Yes***

***Susan Brown-Otto – Yes  
Wilfred Hughson – Yes***

***Steven Simpson – Yes  
David Slater – Yes***

***Agreed and carried 7-0.***

Zack Reising: To whom do I provide the proof of mailings?

Bette Jean Gettel: To me.

Daniel Gettel: Everything should go through her office. Good luck.

- 4) Proposed applications for cell tower equipment to be added to co-locations on existing towers***
- a) 31 Eagle Drive (Golf Course)***
  - b) George Stephenson Rd (Barber Property)***

Daniel Gettel: Are the cell tower applications being represented tonight?

Bette Jean Gettel: No.

Daniel Gettel: I have no issue running through the cell towers. Both are applications for AT&T microwave dish additions to existing cell towers. Back in April we reviewed an application similar to these two. In a nutshell, there is a new federal law that dictates how municipalities shall handle applications for the colocation of equipment on an existing cell towers. The new

law, adopted in 2012, is known as Section 6409 of the middle class tax relief job creation act, otherwise known as the Spectra Act. This deals with colocations, modifications, and removal of equipment for the purposes of expediting the review processes. Basically, our zoning gives us the right to review the application, but the new law dictates that if we determine the application meets three criteria we can authorize BJ to issue a building permit. These criteria would be; first is the application an eligible facility, second is there proposed to be a substantial change to the existing facility, and third can the structure of the existing tower accommodate the proposed additional equipment. Even though a single application was submitted we were presented with different reports on each tower and I therefore think we should review them as separate applications.

***4a) 31 Eagle Drive (Golf Course)***

Daniel Gettel: The first cell tower is 31 Eagle Drive which is near the former Stevensville Hotel golf course.

Daniel Gettel: This is the colocation of equipment on an existing tower, so the eligible facility question is somewhat obvious. The second question is about a substantial change to the existing facility. The report as submitted indicates that no ground structures will be constructed or enlarged to accommodate this new dish and the proposed dish will be located at an elevation below that of the existing antennas located on the tower. This colocation will not result in a substantial change to the existing facility. Now this is where Jacy and I have a little hiccup. The third is that the report was prepared by a licensed engineer who has indicated where the dish is to be located and our town engineers have accepted that indication in the past to satisfy the structural stability question. But, there is a clause on the plan that says it shall not be constructed until a structural analysis is completed.

Jacqueline Ricciani: What was submitted to us, which is I believe a little bit different than what we have seen in the past, actually states that what was submitted to us is not for construction unless it is accompanied by a passing structural facility analysis prepared by a licensed structural engineer. The structural facility analysis is what we need to be satisfied has been undertaken so that the weight of this additional dish is not going to be a problem.

Daniel Gettel: That is specifically the third criteria we have to follow.

Jacqueline Ricciani: Yes.

Daniel Gettel: What we discussed during the work session is, like I said we make a recommendation to BJ that she process this through her office. If we require that a structural report be submitted BJ can require that before she signs off on the building permit. I think in order to expedite the process, and like I said it is going to be out of our hand in a matter of days any way probably, we could approve this application with the condition being that the structural stability analysis report of the tower be provided and that they also provide the Town with some

indication that they have the permission of the owner to collocate the dish on the existing tower. Are there any comments from the board on that?

*None*

Daniel Gettel: I think it is fair to just ask BJ to do that. I would entertain a motion that we recommend that BJ process the application for the Eagle Drive tower addition through her office as an eligible facility request once a signed and sealed set of plans is submitted, the one I have is not, that the structural stability analysis of the tower report be submitted and that we are provided with some documentation that the owner gives their permission for the collocation of the antenna on this tower.

***Motion that we recommend that BJ process the AT&T application for the Eagle Drive tower addition through her office as an eligible facility request once a signed and sealed set of plans is submitted, that the structural stability analysis of the tower report be submitted, and that we are provided with some documentation that the owner gives their permission for the collocation of the antenna on this tower by Steve Simpson, second by David Slater***

*All in favor – 7*

*Opposed - 0*

*Agreed and carried*

#### ***4b) George Stephenson Rd (Barber Property)***

Daniel Gettel: The second tower is very similar to the first. This is the existing tower on George Stephenson Road, the Barber property in Smallwood. This is also the collocation of equipment on an existing tower, so the eligible facility question is obvious. The report indicates that no ground structures will be constructed or enlarged to accommodate this new dish and the proposed dish will be located at an elevation below that of the existing antennas located on the tower so this collocation will not result in a substantial change to the existing facility. We still have a problem with the third criteria as the report as submitted states that structural stability analysis needs to be completed. I would suggest that we make a motion that BJ process the application for the George Stephenson Road tower addition through her office as an eligible facility request with the two conditions being that a structural stability analysis report is submitted and that we are provided with information indicating that they have the permission of the owner to collocate this dish on the tower.

Susan Brown-Otto: With this one, the Barbers are going to be contacted and...

Daniel Gettel: The Barbers are not here and I really do not want to speak about them since they are not here, but the last time we reviewed an addition to this tower they were not notified. They do not control the tower itself. That is my understanding.

Jacqueline Ricciani: Even the documentation that was submitted for this indicates that the landlord is Crown Castle. So the Barbers probably have a relationship with Crown Castle to put

the tower there, but Crown Castle as the owner of the tower, can allow others to collocate on the tower.

Daniel Gettel: The Barbers do not own the tower itself. That was my understanding from the last meeting.

Jacqueline Ricciani: They would have given permission to have the structure on their property, and I assume they are collecting rent from it, but who else occupies it would be up to the owner of the pole. I think this board and the Building Department needs some kind of documentation to show that the owner of the pole has granted permission to AT&T to collocate on that structure.

Daniel Gettel: The Barbers raised that question the last time they were here as they were not notified of the meeting. It was my understanding that they were not required to be as they do not own the tower.

Jacqueline Ricciani: Whatever agreement they have with Crown Castle gives Crown the ability to allow collocations.

Daniel Gettel: They probably should have been notified last time as they are within five hundred feet of the tower, but not as an owner of the tower.

***Motion that we recommend that BJ process the AT&T application for the George Stephenson Road tower addition through her office as an eligible facility request with the two conditions being that a structural stability analysis report be submitted and that we are provided with information indicating that they have the permission of the owner to collocate this dish on the tower by Michael Cassaro, second by Wilfred Hughson***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

Daniel Gettel: That is it for agenda items. Vicky, is there anything coming up on the Town Board agenda that we should be aware of?

Vicky Vassmer-Simpson: Yes, we have two public hearings Wednesday night. One is a Local Law to amend and supplement the Town Code dealing with junk yards and the accumulation of junk. The other one is a public hearing to amend and supplement the Town Code to regulate property maintenance, public dumping and the storage and removal of rubbish and waste.

Daniel Gettel: I assume that is on the Town website?

Vicky Vassmer-Simpson: Yes, for everyone to read. This will give us a little more teeth.

Jacqueline Ricciani: Doesn't this board have to make a recommendation in regards to a change in zoning?

Daniel Gettel: I do not know if it is required. In the past they have asked for our recommendation.

Jacqueline Ricciani: The rubbish one is not in Section 345 of the code.

Daniel Gettel: Neither is the other one. I believe it is a code addition, but not to our zoning code section. Lillian, since you are here in such a crowded room would you like to make a comment?

Lillian Hendrickson: Only that we need this in Smallwood.

Daniel Gettel: Do I have a motion to adjourn?

***Motion to adjourn by Steve Simpson, second by David Biren***

***All in favor – 7***

***Opposed - 0***

***Agreed and carried***

8:40pm

Respectfully Submitted;

*Daniel E Gettel*

Daniel E Gettel  
Planning Board Chairman