



845-583-4350 Ext 15

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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 August 3, 2015 at 7:00 PM at the Dr. Duggan Community Center, 3460 State Route 55, White Lake. 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, David Slater, Robert Yakin, Alternate, Bette Jean Gettel, Code Enforcement Officer, Jacqueline Ricianni, Attorney, Jannetta MacArthur, Recording Secretary, Daniel Sturm, Supervisor, Vicky Vassmer-Simpson, liaison, Bernie Cohen, and Lillian Hendrickson, Town Board members.

Absent: Wilfred Hughson

Seated: Robert Yakin - Alternate

Pledge to the flag.

Daniel Gettel: I assume everyone has had a chance to review the minutes from our July 6th Planning Board meeting. If there are no comments I would entertain a motion that we approve those minutes.

Motion to approve the July 6, 2015 Planning Board minutes by Steve Simpson, second by Susan Brown Otto

All in favor – 7

Opposed – 0

Agreed and carried

Daniel Gettel: We are going to jump around a little bit because I think the first thing we need to address is the date of our next meeting. We are going to move on to Item 3b.

3b) Change of September Meeting

Daniel Gettel: Our September meeting was advertised to be on September 7, 2015, which is Labor Day. It was suggested that we push the date back one week to September 14th, but then we would be in direct conflict with Rosh Hashanah. The Planning Board is proposing tonight that we push the meeting back one-day, to September 8th, same time. We believe the building is available. The Town Board would meet the following day, and the election primary would be two days after that.

Motion to cancel the September 7th meeting and reschedule the meeting to September 8th by David Slater, second by Susan Brown Otto

All in favor – 7

Opposed – 0

Agreed and carried

Daniel Gettel: BJ, would you check the availability of the room?

Bette Jean Gettel: Yes.

1) Renewal of an extension for the New Sunflower.

Daniel Gettel: The New Sunflower, which we know as Redwood Estates, last appeared before the board May 4, 2015. At that time we extended their approval to August 3, 2015. We were contacted by their attorney, Jay Zeiger, who informed us that neither he nor his engineer would be available to attend tonight's meeting. I did suggest that we keep the application on the agenda, and extend the approval for no more than 30 days. I would suggest you consider extending the approval again until next month with the understanding that the extended approval is set to expire on September 8, 2015, with the same conditions as the last extension. The conditions were as follows:

- 1) Combine the three tax lots (parcels 40-1-6, a portion of 40-1-7 and 40-1-9) that we were led to understand would be combined into a single ownership and tax lot to support the construction of the fourteen units Redwood Estates Condominium Project, or provide the Planning Board Attorney with acceptable documentation demonstrating that would not be required.*

Daniel Gettel: It is my understanding that they were able to purchase parcel 40-1-9 back from the County. BJ, I believe you signed off on a lot line improvement, which takes care of part of it, so they are working on combining the three lots into one parcel.

- 2) Provide the Planning Board and the Planning Board Attorney with documentation indicating who the Applicant, Condominium Sponsor and Owner of the combined parcel project will be and under what name the project is to be known as.*

Daniel Gettel: Jacy, you have received some documentation on that, but I don't know if we have the specific documentation that addresses who the owner is.

Jacqueline Ricciani: Well we did get the declaration and the name is Sunflower Condominium, and the sponsor is the New Sunflower LLC, which is also the property owner. We have gotten that, so the declaration has been submitted.

Daniel Gettel: Can I assume you are going to do another resolution extending this for 30 days? If so can you provide Jay Zeiger with a copy to make sure we are all on the same page by the next meeting?

Jacqueline Ricciani: The resolution for tonight? Sure.

- 3) *Provide a Site Plan Map to the Planning Board indicating what structures and/or amenities have been constructed to date.*

Daniel Gettel: We have not received that. They do need to do that.

- 4) *Provide the Planning Board with a timetable for completing the various other conditions of approval that have been included in the past resolutions either approving the applications, or extending the deadlines of the past approvals.*

Daniel Gettel: That had been included in the past resolutions, either approving the application or extending the deadlines of the past approval. BJ, I think it is fair to say that all fourteen units are probably standing today.

Bette Jean Gettel: Correct.

Daniel Gettel: But there are no amenities put in, the community building is not in, and the pool is not in.

Bette Jean Gettel: Correct.

Daniel Gettel: None of the common area and none of the landscaping. We are going to want a timetable on when they will be completing that. Are there any comments from the board on those?

None

Motion to approve this application for an extension of the Special Use Permit with Site Plan approval with the previously referenced four conditions set to expire on September 8, 2015 by Steve Simpson, second by Mike Cassaro

All in favor – 7

Opposed – 0

Agreed and carried

- 2) ***Application for a Special Use Permit for a Summer Camp to be located at 300 Segar Rosenberg Road, known as Bethel Tax Map #: 17-1-27.2, proposed by Camp Mayin Tohar. (Wasson)***

Daniel Gettel: As with the last application we were informed by their Attorney, Jay Zeiger, that neither he nor his engineer would be available to attend tonight's meeting, so they are not represented, I do not believe. Camp Mayin Tohar last appeared on our agenda on June 1st, 2015. At that time we determined that they had made some substantive changes to the Site Plan and that a second public hearing was warranted. We offered to give them a public hearing at our August meeting, but they did not formally accept it and we did not vote on it. As with the last one I suggested that this item also remain on the agenda so we could vote on granting them a public hearing. That is one of the reasons that I wanted to set the date for the September meeting so we could vote on a public hearing. Jacy, I believe you would

agree they have a complete application at this time and they are subject to a second public hearing?

Jacqueline Ricciani: They do need the second public hearing since they made the significant changes to their site plan.

Daniel Gettel: BJ, I believe we have determined they are located within 500 feet of the County Road, so they do need a 239.

Bette Jean Gettel: A 239, yes.

Daniel Gettel: You have enough information to get that in the mail I believe. Would you be so kind to do that?

Bette Jean Gettel: Yes.

Daniel Gettel: Any there comments from the board?

None

Motion to grant this application a public hearing for September 8th, set to begin at 7:30 pm, by Susan Brown Otto, second by Steve Simpson

All in favor – 7

Opposed – 0

Agreed and carried

Daniel Gettel: Let's hope the building is available because we are now having a public hearing.

3a) Town Board request for comments on Boymelgreen septic waiver

Daniel Gettel: Ms. Cassidy, do you want me to take it, or do you want to make a comment to the board? How would you like to handle it.

Elizabeth Cassidy: If you would like to start, that is fine. Our engineer, Tim Gottlieb is here should the board have any questions.

Daniel Gettel: Okay. Clearly we have lived with this project for a great number of years. The longer we review this project the more my mind keeps going back to the saying "In war, truth is the first casualty". This project has taken on a life of its own. At this time we are only being asked to give our comment on whether or not the Town Board should grant this application a septic waiver. I would suggest that the board limit their comments to the question before us, the septic waiver. For the record, Section 257-62, Paragraph G of our code is the section that discusses alternate septic system designs for subdivisions. This paragraph specifically states that:

The number of shallow absorption trench systems and other alternative systems designed in accordance with Appendix 75-A of Part 75 of Title 10 of the New York Codes, Rules and Regulations, as amended, in the aggregate, shall be limited as follows:

- (1) Any minor subdivision shall have no more than two such systems; and*
(2) No more than 50% of the total lots of a major subdivision shall be constructed with such systems.

Daniel Gettel: In my mind regardless of whether we previously classified this application as a major or minor subdivision, the Town code states that only two of the proposed systems may be what our code considers to be of a shallow absorption or alternate design. This project has four. Lots one and two have shallow absorption type systems and Lots three and four are mound type systems. Mr. Gottlieb, correct me if I am wrong, I believe that is the way they are.

Tim Gottlieb: Yes, one and two are shallow, three and four are mounds.

Daniel Gettel: Are there comments from the board on this application?

Susan Brown Otto: With regard to?

Daniel Gettel: The septic waiver, whether we should advise the Town Board to grant the septic waiver.

Susan Brown Otto: I'll start things off. I spent quite a bit of time this past weekend going back through to various minutes regarding this project. Going back to October 14th of last year, that is when the application came back after a hiatus. I spent a lot of time looking at the engineering reports, and also the comments that came through from the public hearing, and engineering reports with regard to that. The property is located in an area where there are a lot of other properties nearby. It is also very close by to an extremely important resource for the Town of Bethel from a recreational standpoint, which has environmental issues of its own, specifically, White Lake. I am aware, even though I am not an engineer, I am aware from personal experience the importance of well designed septic systems, neighbors, just issues with different aspects of it. My husband is a builder. He is a master licensed plumber, and speaking with him about different things on the project, some of these septic issues. The proposed Boymelgreen project, I have prepared some written comments with regard to this as well, and would like to share them with you. The proposed Boymelgreen project is a very involved subdivision that has been before the Planning Board for the past several years. In anticipation of granting the septic system waiver, I spent as I mentioned before, several hours the past few days reviewing the minutes of the Planning Board, and reading numerous engineer reports. The proposed Boymelgreen subdivision is located very close to numerous other homeowners, as well as White Lake. It is an extremely important natural and recreational resource for the Town of Bethel. In my opinion, we, the Planning Board, must make sure we are doing everything that is legal and reasonable to protect the property rights of the numerous neighbors and the environmental health of White Lake, while balancing the rights of the applicant. After much review, studies and consideration, I am of the opinion that the Planning Board should not grant the applicant a waiver and recommend that the Town Board not to grant the applicant a waiver.

Daniel Gettel: Thank you Susan. I have had the opportunity to discuss this waiver individually with the majority of the Planning Board members. Although I do not intend to speak for any individual member of this board I think my comments tonight reflect the general consensus of the board as a whole. I have also had the opportunity to discuss this application with both of the engineers that the Planning Board has as its disposal, as well as with Dan Sturm, the Town Supervisor, who I know was instrumental in getting this section of code implemented back in 2010. From an engineering standpoint I understand

that the applicants are proposing what they feel are the best sewage disposal systems available to meet the needs of the development. But, we are not a board of engineers. We are a board of laypeople entrusted with regulating the zoning of the Town of Bethel. My concern is what is the driving force behind the need for the waiver? Has the applicant proposed the installation of alternate design systems based strictly on the site soils, the size of the proposed homes, the projected flow based upon the intended use, or is it a combination of all three? Whether anyone will admit it or not the need for any section of zoning code is driven by a real life event or circumstance. My mind keeps going back to what is the intent of this section of the code. I believe, and I have been told I may be wrong, that this section of code was implemented to address developers that propose projects where the site soils cannot accommodate the proposed use. A number of years ago we were asked to approve a project that had as many as twenty homes on very small lots. The site soils were poor and the developer proposed a single alternate design sewage disposal system on each lot. We eventually approved a drastically scaled back version of that project, which ultimately failed, but the fact of the matter is that that site may not have been suitable for the size of the proposed project. What we took away from that project was the realization that not all sites are acceptable for all sizes of uses. That brings me back to this application for a waiver. We have an applicant that has proposed four large homes on four equally large lots. Is the driving force behind getting the waiver the site soils or the fact that the site soils cannot accommodate the scale of the proposed project? From a layman's viewpoint my gut tells me that the site soils cannot accommodate the projected sewer flows from the large-scale homes, not simply that the site soils cannot accommodate a residence. I believe that if the developer were proposing the construction of four homes of a scale similar in size to those of surrounding homes that he would also be able to find four suitable sites within the bounds of his twenty nine acre parcel to install four conventional sewage disposal systems. In my opinion, and it is just a layman's opinion, the driving force behind the need for the installation of alternate sewage disposal systems is primarily the size of the proposed homes, not simply the site soils. I believe that Zoning Section 257-62, paragraph G was included in the current zoning as a vehicle to allow the Planning Board to control the development of parcels that might not be suited for the proposed development. In this case we are only talking about four lots, but each lot contains a home of a scale and bedroom count that the site soils may not be able to accommodate. In my opinion the waiver option was not included in the original regulation to address self-created hardships. It is for this reason that I would recommend that the Town Board not grant the requested septic waiver. Does the board have any other comments?

David Slater: Dan, I agree with you. I think, as you look at this, they created the hardship, and want us to allow them to work around it. I think you said it very well, and I agree with you. The hardship was created by the size of the house, therefore granting the waiver, twenty nine acres is a lot of land for normal houses.

Daniel Gettel: I believe that goes outside of the intent of the granting of the waiver. Mike, you were going to say something?

Mike Cassaro: Aside from the engineering comments from the septic problem there, the sizes of the homes, looking at the subdivision itself, I think it takes away from the character of the neighborhood and homes that are there. It is quite large. That is my only comment, it is not involving the septic, but that has been one thing that has been on my mind.

Daniel Gettel: I think it does involve the septic.

Steve Simpson: I just want to say I agree with everyone's comments, the issue is, in my opinion, it is the size of those structures. You can lay a bit on the community character, like Mike says, the hardship based on the sewer systems. I learned a lot, and I saw a lot more information with the extended comment period that we left open and extended for quite a while, all parties agreed. That was significant. It gave me a little bit more time to absorb the impact that these structures can have in this area. It is not directly associated to the septic, but indirectly it is. I am uncomfortable with that. If the buildings were equal in size to the surrounding community I would be a little bit more willing to go with it. The way it is set up now I am concerned with the system situation there now. There is a lot of erosion there now caused by some of the homes that exist. To increase that possibility going down the road in the future, it is not my idea of a good idea to do.

Daniel Gettel: BJ, we also feel that moving forward perhaps someone should take a good look at the Beechwood's homes and what their existing problems really are. Just a side note, Steve and I did have that discussion.

Bette Jean Gettel: No problem.

Daniel Gettel: David, do you have anything to say?

David Biren: What you had written is what we had discussed as a board. If you have a self created problem, and for us to remedy it for you, and you have homes that are relatively large. If you go down and conform to what the area has in home size, I'm sure you will be able to have a regular type of septic system. We wouldn't have an issue. I have to agree.

Elizabeth Cassidy: Can our engineer address this?

Daniel Gettel: One second. Robert, I know this is the first night you are sitting here. I really don't expect any comment from you, but I just want the record show this is the first night you are sitting here.

Robert Yakin: Right. I am not that familiar with the project yet.

Daniel Gettel: Jacy, do you want to go, or do you want Liz or Mr. Gottlieb to go?

Jacqueline Ricciani: I have no comment.

Tim Gottlieb: What I am getting at is that you are thinking that the design of the septic system is based on the house size, but it is based on soils only. No matter what size house, you would still need a mound system on three and four, and a shallow system on one and two. It doesn't matter if it is a two bedroom house. It could be a twelve-bedroom house and it still would have to have that type of system. The shallow systems, according to the Health Department, are conventional, not alternative as they are based on your code. The soils are determining the septic system types, not the houses.

Daniel Gettel: I believe, and again I am going on my gut, that you would take a twenty eight acre parcel, twenty nine acre parcel, you would be able to find acceptable percolation for smaller houses.

Tim Gottlieb: We did test pits on the whole lot. It is all the same for the rest of the houses too.

Daniel Gettel: What is the reasoning behind there being different sewers on lots number one and two,

and three and four.

Tim Gottlieb: Different percolations. On one and two we got percolation at 24 (inches), and on three and four we didn't, we got percolation at 12 (inches). That determines the type of system.

David Biren: How many tests pits did you do on each site?

Tim Gottlieb: We did test pits throughout the whole site.

David Biren: How many did you do on each lot?

Tim Gottlieb: On each lot we did three percolation tests, and three is what we are required to do. Even if you have a good percolation at twenty four (inches) in the middle of the septic system, but bad percolations on the other side, you can't use the good percolation to design the system. You have to have three good percolation tests to design the system. They all have to be the same depth. You can't have one at twelve (inches), one at twenty-four (inches) and say oh we can put in a mound. That doesn't work. They all have to be consistent. The house size has nothing to do with the type of system.

Daniel Gettel: It does have to do with the proposed size of the system.

Tim Gottlieb: The size of the system, yes. If it were a four-bedroom house, it would be a slightly smaller. The applicant chose to do that, this at our recommendation. If there is a failure, it is clean water, not septic water.

Daniel Gettel: Anything from the board?

Susan Brown Otto: This was an issue that came up in one of the engineer reports about a maintenance contract?

Tim Gottlieb: Yes. These systems have to have a maintenance contract. That is required.

Susan Brown Otto: Are we going to see a copy of the maintenance contract?

Daniel Gettel: That is something that is further down the road.

Tim Gottlieb: It gets inspected at least twice a year to make sure it is working. Most of the time, the systems are inspected more than twice the year. We have a number of systems in Sullivan County.

Susan Brown Otto: In that maintenance contract, is there standard verbiage for that? Does that include punitive damage to adjacent landowners?

Tim Gottlieb: No, it is just a maintenance contract.

Daniel Gettel: Ultimately it is in the Town Board's hands. We are just giving a recommendation based on our review of the documents. I am uncomfortable with it, and I do believe the driving force behind it is the size of the houses, not necessarily the sites. I get the idea that the sites dictate the type of system, but I do feel if smaller houses were proposed....

Tim Gottlieb: It would be the same type of systems.

Daniel Gettel: I find that very hard to believe, in my layman's judgment.

Tim Gottlieb: You do percolation tests and you get results that determine the type of system. It's not the size of the house that determines the system.

Daniel Gettel: Are we ready for a motion.

Jacqueline Ricciani: I don't think a motion is necessarily required. If you want to make a motion, you can.

Daniel Gettel: I believe the Town Board is looking for a letter from us on whether or not we recommend that we grant the waiver. Are you looking for comment, or recommendation, Mr. Sturm?

Daniel Sturm: In any manner you prefer.

Jacqueline Ricciani: Do you want your comments to include a motion or a recommendation?

Elizabeth Cassidy: I just want to add for the record, a similar waiver application was made before you several years ago.

Daniel Gettel: We never received it. It never came to the Planning Board.

Elizabeth Cassidy: There was a letter of comments from the engineer, at this go around also. I don't know if you have gotten the comments to the Town Board from McGoey, Houser (and Edsall) saying that that the project did meet...

Daniel Gettel: I am aware of Michael's (Weeks) comments.

Elizabeth Cassidy: This waiver was granted before. The only slight change was the one house was slightly enlarged, but nothing substantial at all. These are the same septic systems proposed all the way through.

Jacqueline Ricciani: I think that whatever is communicated to the Town Board from this Board needs to include a summary of the comments that the various board members.

Daniel Gettel: We can take that from the minutes.

Jacqueline Ricciani: I don't know if the minutes will be ready in time.

Daniel Gettel: They will be ready in time.

Jacqueline Ricciani: Okay. The minutes can just be sent.

Motion to recommend Bette Jean Gettel send a letter to the Town Board indicating that the Planning Board does not recommend the Town Board grant the septic waiver by David Biren, second by Steve Simpson.

All in favor – 6

Opposed – 0

Abstained - 1

Agreed and carried

Daniel Gettel: Vicky, is there anything from the Town Board that we need to know about?

Vicky Vassmer- Simpson: The Town Board meeting is next Wednesday. I don't have an agenda yet. I would like to welcome Bob Yakin to the Planning Board.

Motion to adjourn by David Slater, second by David Biren

All in favor – 7

Opposed – 0

Agreed and carried

Respectively submitted,

Jannetta MacArthur

Recording Secretary

8:03 pm