A meeting of the Town of Bethlehem Planning Board was convened in public session in the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY at 6:00 p.m. Attendance was recorded as follows:

<table>
<thead>
<tr>
<th>Board Members Present</th>
<th>Board Members Absent</th>
<th>Counsel Present</th>
<th>Town Staff Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>George Leveille</td>
<td></td>
<td>Keith Silliman</td>
<td>Michael Morelli</td>
</tr>
<tr>
<td>Nicholas Behuniak</td>
<td></td>
<td></td>
<td>Jeffrey Lipnicky</td>
</tr>
<tr>
<td>Thomas Coffey</td>
<td></td>
<td></td>
<td>Robert Leslie</td>
</tr>
<tr>
<td>Christine Motta</td>
<td></td>
<td></td>
<td>Deborah Kitchen</td>
</tr>
<tr>
<td>Kate Powers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stephen Rice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>John Smolinsky</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Others Present</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chris Boyea</td>
<td>Britney Lomio</td>
<td>Michael Bashant</td>
<td>Pat Barrington</td>
</tr>
<tr>
<td>Steve Bolduc</td>
<td>Gisella Cruz</td>
<td>Francis Bossolni</td>
<td>Peter Gillis</td>
</tr>
<tr>
<td>Cathy Woods</td>
<td>Sarah Bashant</td>
<td>Thomas Paonessa, Jr.</td>
<td>Michael Wieszchowski</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Greg Fry</td>
</tr>
</tbody>
</table>

Chairman Leveille called the meeting to order at 6:00 p.m. and noted the presence of a quorum.

There were no public comments and the comment period was closed.

**Public Comment on Regular Agenda Items**

Chairman Leveille noted that the project was before the Board to discuss next steps regarding the left turn lane. He then referred to Mr. Leslie’s memo to the Planning Board, dated October 27, 2011, and asked him to introduce the project. Mr. Leslie stated that the project was last before the Board at the October 18, 2011 meeting. A site plan amendment was granted by the Board in February 2011. A condition of that approval required the applicant to complete a revised Traffic Impact Study to examine the existing travel conditions and determine if the installation of a west bound left turn lane along Delaware Avenue is warranted.

A 2006 traffic study, conducted by Creighton Manning Engineers, concluded that a left turn lane would not be warranted until certain criteria had been met. A decision was made by the Board to require the applicant to provide an irrevocable letter of credit in the amount of $250,000 to ensure that the left turn lane would be constructed, when needed. The letter of credit is scheduled to expire on January 21, 2012. A 2011 traffic study, conducted by Laberge Group, concluded that the left turn lane is not warranted at this time.

Subsequently, the Town retained the services of Clough Harbor & Associates (CHA) to review the findings of the Laberge study and CHA has concurred. A resolution has been drafted which documents the history of the project and activity associated with the requirement for a left turn lane. It also acknowledges that a left turn lane is not warranted based on conclusions found within the 2011 Traffic Impact Study (TIS).
Peter Gillies of WCGS Architects, and Pat Barrington, Director of Facilities of the Capital District YMCA were present on behalf of the applicant to provide information and answer questions. Mr. Gillies agreed with Mr. Leslie’s summary.

Mr. Smolinsky noted that membership alone, does not appear to be a good measure for evaluating the number of vehicles that enter and exit the facility. He suggested that the YMCA think of way to survey its members to see how many vehicles might be used with the hope of matching those figures with the traffic counts. Mr. Barrington was amenable to this suggestion.

Chairman Leveille asked the Board Members if they had any other comments or questions related to the left turn lane. Hearing none he called for a motion to approve the Resolution. He noted that the Resolution includes a condition that the issue can be revisited if any safety or operational issues arise.

Upon motion by Mr. Smolinsky, seconded by Mr. Coffey, the Members voted to approve the Resolution entitled Delaware Avenue Westbound Left Turn Lane at YMCA Driveway.

Mr. Leslie stated that the applicant had also requested and agreed to a 90 day time extension to push back the start date for construction. The maximum number of days allowed under the code is 180 days. If the Board grants a 90 day extension, the applicant would be expected to commence construction on or before May 15, 2012.

Chairman Leveille asked the Board Members if they had any questions. Hearing none, he called for a motion to grant a time extension.

Upon motion by Mr. Behuniak, seconded by Mr. Smolinsky, and unanimously approved by all Members present, a 90 day extension was granted for Site Plan (SPA 106 A-4), from February 15, 2012 to May 15, 2012.

**Delmar Holdings LLC (Site Plan), Delaware Avenue, Delmar**

Chairman Leveille referred to Mr. Morelli’s memo to the Planning Board, dated October 27, 2011, and asked him to introduce the project. Mr. Morelli stated that the project was granted site plan approval on September 15, 2009 for adaptive reuse of the existing gas station / repair garage to operate a gas station / convenient store. A condition of approval included renovations to the existing building as well as the replacement of an existing pylon sign with a monument sign and installation of landscaping at the corner of the lot that is closest to the Elm Avenue intersection. The applicant is seeking approval to amend the previously approved site plan to construct a 662 sq. ft. addition for use by a future tenant. The project last appeared before the Planning Board on September 6, 2011.

Chris Boyea of Bohler Engineering and Steve Bolduc, of Keystone Builders, were present on behalf of the applicant, Farshid Hessari of Delmar Holdings LLC, to provide information and answer questions. Mr. Boyea stated that the applicant is before the Board to address the comments that were generated by the Board at the last meeting. Mr. Boyea presented the revised elevations for comparison with the elevations that were approved in September 2009. He noted that the renovations include a small addition, decorative lighting, new canopy that would include a small sign with the Valero logo if permitted under the Town Code, new fueling tanks/system, ADA compliant sidewalks and parking, trash enclosure behind the facility, and new state of the art equipment in the car wash. The ingress/egress on Delaware Avenue, closest to the intersection, was closed. The parking area was reconfigured to improve circulation. The plan has been revised to incorporate an outdoor seating area at the east end of the building. It was noted that 12 seats are allowed for patrons indoors.

Ms. Powers asked if the car wash upgrades would be environmentally friendly. Mr. Boyea stated that the upgrades would be similar to home renovations because the new equipment is designed to conserve natural resources and reduce impacts to the environment. Concerns related to car wash run-off were addressed in the Drainage and Utility Plan. It was noted that no physical expansion of the footprint is required in order to reestablish the car wash.
Chairman Leveille asked the Board Members if they had any comments or questions. Hearing none, he called for a motion to consider the draft SEQR Resolution – Negative Declaration and the Site Plan Approval document.

Upon motion of Mr. Smolinsky, seconded by Mr. Behuniak, the members voted to approve the SEQR Resolution, as amended.

Upon motion by Mr. Rice, seconded by Mr. Behuniak, the members voted to approve the Site Plan (SPA 157 A-1) which supersedes the previously approved Site Plan (SPA 157).

The Grove Subdivision - Paonessa - Bower Ave, Grove Pl, between Pine St, Norfolk St, No. Bethlehem
Chairman Leveille referred to Mr. Lipnicky’s memo to the Board, dated October 26, 2011. It was noted that the project was originally presented to the Planning Board at the September 5, 2000 meeting. Subsequent revisions to the project required that variances be obtained from the Zoning Board of Appeals (ZBA). At present, the applicant may need to seek an additional variance to allow for the creation of two new lots from an existing lot in order to meet the zoning requirements. The Building Division is looking into whether this can be handled administratively or whether it must go back to the ZBA. The project was last presented to the Planning Board on June 17, 2003.

Mr. Lipnicky stated that the project is located in North Bethlehem – in an older section of Town. The applicant, Thomas Paonessa, is seeking approval to subdivide the property into 13 lots which includes ten (10) new lots. Four (4) residential lots would be located in the Town of Guilderland and nine (9) residential lots would be located in the Town of Bethlehem. Both Towns have agreed to use the existing Tax Map as the assured boundary line between the Towns - because the exact location of the Town boundary line is unknown. As currently proposed, the Town boundary runs thru two (2) of the lots, which means that each lot is subject to the zoning requirements for both Towns. Each of the lots that are bisected by the Town boundary line would be merged into one lot of record – with one deed – describing the respective lot. Assessment would remain split between the two Towns and utilities (water & sewer) would be provided by the assessing Township. Approval of the overall project would be conditioned upon approval by the other municipality.

The project is located in a portion of the Three Hill Terrace Subdivision (THTS) which dates back to the early 1900’s. The deeds for the lots in a portion of the (THTS) do not include in the description, the bed of the paper streets. In addition, paper streets are not included in any of the deed descriptions which make up the Grove Subdivision. The applicant is proposing to incorporate portions of the paper streets, into seven (7) of the proposed lots and convey portions of the remaining paper streets to the Town. The applicant was asked to provide a letter outlining the rational and legal basis for their claim of ownership of the paper streets. The parcels on both sides of the paper street on Norfolk St. and Grove Pl. are owned by the applicant. The applicant has provided a Title Insurance Policy, which insures title to the paper streets that cover parcels 1-9. Mr. Lipnicky stated, however, that title insurance does not prove ownership - it simply acknowledges acceptance of risk by the insurer.

For portions of the project, where Mr. Paonessa does not own the parcels on both sides of the paper street, no title insurance is provided. The applicant’s claim of ownership is premised on the theory that an adjoining owner owns to the center line of the paper street. If this is true, then the problem is that there are other owners involved. The applicant would need to show that these other owners are willing to convey ownership of their half of the street to the Town. Without the concurrence of the other owner(s), Mr. Paonessa would need to show how he intends to construct the street, install utilities and dedicate them to the Town. Ms. Motta suggested looking into whether naming the Town as a beneficiary on the title insurance policy would provide sufficient protection to the Town on the issue of ownership of the paper streets.

Mr. Smolinsky noted that the Albany County Planning Board had recommended that the project be referred to the Thruway Authority for assessment of impacts to Thruway lands regarding drainage and grading. The NYS Thruway is located immediately west of the proposed subdivision. Mr. Smolinsky stated that he would like to see more recent communication between the developer and the NYS Thruway Authority which supports Mr. Paonessa’s claim that there are no undesirable sound levels and that a noise barrier would be unnecessary. He noted that the previous communication dates back to 2006 and he is not sure that the
additional lots were included in the study. With regard to noise impacts, measurements would be taken on
site and prepared by Creighton Manning Engineers following the previously approved methodology from a
study that was done for the Millwood Estates project.

With regard to wetland impacts, the Town Designated Engineer, Clough Harbor & Associates, has
recommended that the stormwater management plan be redesigned to avoid impacts. The plans will need to
show the flow direction of pipes for the stormwater pond and the impacts to wetlands and properties
downstream of the project. With regard to SEQR review, it was determined by staff from each Township that
it would be more efficient for each Board to conduct an independent SEQR review – and forego a coordinated
review.

Mr. Bossolini from Ingalls & Associates spoke on behalf of the applicant. He noted that the proposed project
is located within a Residence A Zoning District. The area of the subdivision is approximately 8.00 acres.
Existing residences are present to the south and east. The NYS Office of Parks Recreation and Historic
Preservation indicated that there would be no adverse impacts. Wetland issues have been resolved. The
developer is working on the paper street issue and would be willing to list the Town as the beneficiary on the
title insurance. It is anticipated that a “buyer beware” clause would be included in the deeds. The new homes
would be located so they are not in the beds of the former paper streets. The applicant looked at the location
for a sound barrier wall but did not believe it was cost effective or needed because there are no undesirable
sound levels. The applicant is working to provide supporting documentation. The project is also being
reviewed by the Town of Guilderland.

Mr. Smolinsky requested that the Board be provided with a complete / updated application. He would also
like to know when the previously granted variances are scheduled to expire. Mr. Behuniak asked for
clarification as to what the potential implications and ramifications might be if the paper streets become an
issue. Mr. Leveille stated that eminent domain might be an option to provide clear title.

Mr. Lipnicky indicated that a number of the outstanding issues should be resolved before the Board sets the
date of the Public hearing and sends a formal notice to the Town of Guilderland. He noted that lots 12 & 13
are facing issues related to zoning requirements. Concerns raised about the paper streets must be addressed.
The applicant must respond to the SWPPP comments and address the issues related to noise from the
Thruway. He noted that conditional approval of the project would typically be conditioned upon the applicant
obtaining the required permits from the NY Dept. of Environmental Conservation and Army Corps of
Engineer.

Chairman Leveille asked the Board Members if they had any other comments or questions. Hearing none, he
called for a motion to table the application.

Upon motion of Mr. Behuniak, seconded by Mr. Rice, and approved by all Members present, further
discussion related to the project was tabled.

MEETING MINUTES
Upon motion by Mr. Smolinsky, seconded by Mr. Coffey, the Members voted to approve the minutes of the
October 18, 2011 meeting.

MEETING ADJOURNED
The meeting was adjourned at 7:06 p.m.

Respectfully submitted,
Deborah Kitchen