

# TOWN OF BETHLEHEM



*John Clarkson*  
*Town Supervisor*

## Planning Board Minutes

*John Smolinsky*  
*Board Member/Chairman*

Thursday, July 6, 2017  
6:00 PM

### I. Call to Order

A Regular Meeting of the Planning Board of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 6:00 PM.

Attendee Name	Title	Status	Arrived
John Smolinsky	Chairman	Present	
Brian Gyory	Board Member	Present	
Scott Lewendon	Board Member	Present	
Kate Powers	Board Member	Excused	
Michael Moore	Planning/Zoning Board Counsel	Present	
Deborah Kitchen	Assistant to the Planning Board	Present	
Kenneth Kovalchik	Senior Planner	Present	
Robert Leslie	Director of Planning	Excused	
Leslie Lombardo	Senior Planner	Present	
Peter Barber	Acting Attorney - Cellco	Present	6:00 PM

### II. Public Comment on Regular Agenda Items - 10 Minutes

None

### III. Minutes Approval

#### A. Tuesday, June 20, 2017

**RESULT:** ACCEPTED [UNANIMOUS]  
**MOVER:** Scott Lewendon, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon, Kate Powers

### IV. Public Hearings

#### A. Cellco Partnership d/b/a Verizon Wireless – 9 Vista Boulevard, Slingerlands - Special Use Permit / Site Plan Amendment Application - Telecommunication Facility (16-00200003) - Public Hearing 07/06/2017 at 6:00 p.m.

The project was before the Board for a public hearing and possible action on the Special Use Permit and Site Plan Application. Nathan Vander Wal of Nixon Peabody and Rick Anders, Radio Frequency Engineer, were present on behalf of the applicant, Cellco Partnership d/b/a Verizon Wireless, and the property owner, Albany Enterprises LLC, to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik. To date, the project was placed on the following agendas: 04/18/2017, 06/20/2017 and 07/06/2017.

Planning Board Counsel, Michael Moore, recused himself when the project was discussed due to a conflict of interest with Verizon Wireless. Peter Barber, Esq. of Murphy, Burns, Barber & Murphy, LLP, was retained by the Town to assist the Planning Board with the Cellco Partnership d/b/a Verizon Wireless application.

**Public Comment During the Public Hearing**

-none

**Discussion / Information Items:**

- 8' micro cell antenna on roof of existing 28' building at 9 Vista Blvd.
- SEQR issued on 06/20/2017
- Town reviewed the visual impacts, no stealthing proposed
- Town hired Radio Frequency (RF) engineer to confirm that there is a need for the micro cell antenna
- applicant provided a 3 year build out analysis which shows additional micro towers in North Bethlehem and Glenmont
- micro cell towers are tailored toward 5G technology
- all types of usage (scam calls, movies, pictures) is taken into consideration when looking at capacity

**Board Member / Staff Comments:**

- Mr. Gyory ok with the current proposal but concerned about the potential plethora of future antennas
- Mr. Smolinsky wondered if Verizon's projections for buildout had incorporated higher levels of technology
- it was noted that the stealth options are not desirable, as shown
- Mr. Gyory suggested that Verizon reach out to other carriers to see if they are experiencing similar issues so that a co-location application could be submitted rather than individual applications

<b>RESULT:</b>	<b>CLOSED [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

- B.** Anthony DeThomasis - 456/460 Russell Road, North Bethlehem - Westland Park Subdivision Section 4 - 2 Lot Minor Resubdivision (16-01200002) - Public Hearing 07/06/2017 at 6:00 p.m.

The project was before the Board for a public hearing and possible action on the Resubdivision and 2 Lot Minor Sub Applications. The applicant, Anthony DeThomasis of ARL Land Development LLC, and Edward Kleinke of Kleinke Associates, were present to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik. To date, the project was placed on the following agendas: 06/06/2017 and 06/20/2017 and 07/06/2017.

### **Public Comment During the Public Hearing**

#### **Leslie Fisher, 27 Pinewood formerly known as 452 Russell Road**

- attended previous meetings when the project was discussed
- supports the project
- noted that Mr. DeThomasis was good about keeping the neighbors informed
- appreciates the tree line to provide land separation and privacy
- believes the revision to the turnaround was a great idea to ensure that snow would not be pushed on her property

#### **Mr. Burns, 462 Russell Road**

- appreciates the effort Mr. DeThomasis put into sharing information about the project
- appreciates Mr. DeThomas taking his recommendation into consideration with respect to the turnarounds
- supports the project

### **Discussion / Information Items**

- this project involves two properties
  - 1) Westland Park Sub - Section 4 - Resubvision 1; which dates back to 1998
  - 2) DeThomasis 2 Lot Minor Sub at 456 / 460 Russell Road
- a portion of the lands at 14 Eastland Circle, Westland Park Sub, will be conveyed to owner of 456 Russell Road
- trees will be relocated to provide additional screening

### **Board Member / Staff Comments:**

- neighbor outreach is a good idea and always appreciated
- location of turnarounds for dirveways at 456 / 460 Russell Road were revised
- notes 23 and 29 on the original subdivision plat, related to restrictions for driveway access on Russell Road and construction in the paper street known as Midland Avenue, will be amended

**RESULT:** CLOSED [UNANIMOUS]  
**MOVER:** Brian Gyory, Board Member  
**SECONDER:** Scott Lewendon, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon  
**EXCUSED:** Kate Powers

**V. Action Items**

**A. Cellco Partnership d/b/a Verizon Wireless – 9 Vista Boulevard, Slingerlands Special Use Permit / Site Plan Amendment Application - Telecommunication Facility - Possible Action on Special Use Permit (SUP 39) - (16-00200003)**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SPECIAL USE PERMIT - SUP 39**

**CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS  
TELECOMMUNICATION FACILITY (MICRO CELL ANTENNA)  
9 VISTA BLVD, SLINGERLANDS  
(Tax Map Parcel ID No. 74.00-1-29.15)**

**WHEREAS**, an application has been filed with the Planning Board of the Town of Bethlehem, Albany County, New York by Cellco Partnership d/b/a Verizon Wireless, and property owner Albany Enterprises, LLC (collectively, the "Applicant"), for a Special Use Permit under Sections 128-61, 128-68, and 128-69 of the Zoning Law, for the construction and operation of a roof mounted micro cell antenna, 8 feet in height and including wireless transmission equipment at the rear of the building. The Applicant proposes to locate its antennas on the roof of an existing 28 foot tall office building within a 6' x 6' lease area on the roof. The accessory equipment for the antenna will be constructed within a 6' x 11' lease area at the rear of the building. The property is located in a Mixed Economic Development Zoning District on a parcel of land measuring 0.65 acres; and,

**WHEREAS**, the application by Cellco Partnership d/b/a Verizon Wireless is consistent with the Telecommunications Act of 1996 and §128-61.B of Town Zoning Law; and,

**WHEREAS**, Under New York law, a telecommunications facility is not subject to the standards for land use approvals set forth in NYS Town Law. Under the Federal Telecommunications Act of 1996, these facilities are treated as public utilities and must demonstrate the following requirements:

- a. the project is intended to address a gap in service;
- b. the project will satisfy this demonstrated need; and
- c. the project is the least intrusive means of satisfying the gap in service.

As shown below, in considering the performance standards in Zoning Law §128-69(F), and upon reviewing the report dated May 15, 2017 by William P. Johnson, the Town's RF Engineering Consultant, the Planning Board finds that these requirements have been satisfied.

**WHEREAS**, on June 20, 2017, the Planning Board issued a negative declaration for an Unlisted Action under SEQRA.

**WHEREAS**, the Planning Board, acting on said application, duly advertised in the Spotlight and notices sent via mail to adjoining property owners, held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on July 6, 2017 at 6:00 PM; and,

**WHEREAS**, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

**WHEREAS**, all those who desired to be heard had the opportunity to be heard at the above hearing; now therefore,

**BE IT RESOLVED**, that the Planning Board makes the following Findings of Fact and Conclusions of Law in this matter:

#### **FINDINGS OF FACT**

Cellco Partnership d/b/a Verizon Wireless, and property owner Albany Enterprises, LLC are the applicants of property located at 9 Vista Boulevard (Town of Bethlehem) and seek a Special Use Permit under Town of Bethlehem Code Chapter 128, Article VI and Article VII.

1. The property in question is located in a Mixed Economic Development (MED) Zoning District. The proposed 8 foot micro cell antenna is subject to special use permit and site plan approval by the Town Planning Board (in accordance with the Zoning Law §128-61 F).
2. The Planning Board has given specific consideration to the following performance standards as listed in Zoning Law §128-69 F.:

- a. Fire and explosion hazards. The project does not involve the storage of flammable and explosive materials.
  
- b. Radioactivity or electrical disturbance. The operation of a telecommunication facility does not require activities that involve or create radioactive or electrical disturbance. An 'RF Safety FCC Compliance of Proposed Communications Facility' report prepared by Millennium Engineering, P.C., dated March 22, 2016, concluded the project RF exposure levels from the proposed Verizon micro telecommunications antenna installation will be well below the maximum levels as outlined by the FCC in the OET Bulletin 65 Ed. 97-01.
  
- c. Noise. The project involves an inert, unmanned wireless telecommunications facility which will not generate any noise.
  
- d. Vibration. The project will not create vibrations.
  
- e. Glare. A small downward tilted light will be installed over the equipment cabinets located in the rear of the building, which light is only to be used in the event emergency service of the facility is needed during non-daylight hours. Accordingly, the project does not involve any lighting or process that will create a glare that will interfere with traffic safety or the useful enjoyment of adjoining properties.
  
- f. Smoke. The project will not emit smoke.
  
- g. Odors. The project will not emit odorous gases or similar matter.
  
- h. Other forms of air pollution. The project will not create any emissions.
  
- i. Discharge of water. The project will not create any waste.
  
- j. Traffic access. The project will not create any additional traffic to the site, with the exception of Verizon Wireless vehicles on-site for installation of the project and intermittent maintenance/inspection visits of the unmanned facility, and on such occasions these vehicles will utilize the existing access ways currently servicing the site.
  
- k. Parking. The project will not increase the demand for off-street parking or loading spaces at the site. Verizon Wireless will utilize the extensive existing parking and/or loading spaces at the site.

- l. Circulation.* The existing interior circulation system will not be affected by the project, nor will the convenience and safety of vehicular, pedestrian and bicycle movement within the site and in relation to adjacent areas or roads. The project will not result in any appreciable increase in traffic to the site.
- m. Landscaping and screening.* The project does not include the construction of parking or service areas, and Verizon Wireless will utilize the existing parking available at the site. The will not involve any landscaping or screening of parking and service areas at the site.
- n. Character and appearance.* The character and appearance of the project is in general harmony with the surrounding environment and will not adversely affect the general welfare of the inhabitants of the Town. A visual analysis was included in the original application materials, dated January 30, 2017, and subsequent application materials submitted dated May 31, 2017. The Applicant's visual impact assessment includes photo-simulations from multiple locations surrounding the 9 Vista Boulevard site, including Shop Rite parking lot, NYS Route 85 and Garden Bistro parking lot. The photo simulations show there will be little to no visual impacts to surrounding properties and roadways. The rooftop of 9 Vista Blvd includes air handling units that extend about 3-ft to 4-ft above the roofline. The building's front roof line includes a 28-ft high hip roof and rooftop mechanical equipment that will screen the antenna from the Vista Boulevard roundabout and majority of the Slingerlands Bypass (Route 85).
- o. Historic and natural resources.* The project will not impact any historic and natural environmental features on the site or in adjacent areas, to the extent any such features are present.
- p. Sewage treatment and water supply.* The project does not require water supply or sewage treatment services.
- q. Emergency services.* The wireless telecommunications antenna is an inert antenna facility in that it will be mounted on the roof of an existing building at the site. The associated equipment cabinets on the ground next to the building are readily accessible for fire, police and other emergency service protection in the unlikely event that access is required.
- r. Nuisances.* The project is a passive unmanned use which does not generate noise, odors, vibrations, or other objectionable qualities.
- s. Size and scale.* The project involves an unmanned wireless telecommunications facility that, outside of intermittent visits for maintenance and inspection purposes, will not create pedestrian or vehicular traffic at the site.

- t. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof. The project is minimal in size in comparison to the building on which it is located and the surrounding land and buildings.
- u. Stormwater management. Not applicable.
3. A structural analysis report, prepared by Vincent P. Rissler, P.E., RETTEW, dated April 21, 2016, was completed to determine structural capacity of the existing building and structural adequacy of handling the additional loads of the micro cell antenna in accordance with the International Building Code.
4. The project is consistent with the Telecommunication Facilities section of the Town Zoning Law, §128-61 (A), which states the purpose of this section is to accommodate the communication needs of residents and businesses consistent with the applicable federal and state regulations while protecting the health, safety and general welfare of the residents of the Town of Bethlehem.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that permitting the proposed construction and operation of an 8 foot tall micro cell antenna (telecommunications facility) and related equipment will be in compliance with the standards as set forth in Zoning Law §128-61 (Telecommunication Facilities) and §128-69 (Special Use Permit Review and Approval).

Accordingly, the Planning Board hereby grants the Applicant's request for a Special Use Permit with the following conditions in accordance with Zoning Law §128-61 and §128-69:

1. The micro cell antenna shall be located within the 6' x 6' lease area located on the northwest corner of the roof as indicated on the Site Plan (Sheet 1 of 2).
2. The Special Use Permit granted shall be deemed to authorize only the particular uses applied for in the site plan/special use permit application. (*Zoning Law §128-69(R)*).
3. The Special Use Permit shall expire five (5) years from the date of approval unless an application for renewal is made, and approved, prior to the date of expiration, or upon the occurrence of one of the following (whichever shall occur sooner); construction of the proposed micro cell antenna has not commenced within one year and/or has not been completed within two years of the date of approval or the Proposed Facility shall have



ceased operating for more than 12 consecutive months. (*Zoning Law §128-61(F)(3), and §128-69 (R)*)

4. The tower and ancillary facilities shall be removed upon expiration of the special use permit, abandonment or decommissioning by the applicant. (*Zoning Law §128-61(F)(4)*)
5. Subject to the terms of this approval resolution, the proposed micro cell antenna shall be constructed and operated in accordance with all applicable laws of the Town of Bethlehem including but not limited to Zoning Law §128-61, §128-69 and §128-71.

On a motion by Mr. Lewendon, seconded by Mr. Gyory, and a vote of three (3) for, zero (0) against, zero (0) abstained, and one (1) absent, this Resolution was adopted on July 6, 2017.

BY ORDER OF THE PLANNING BOARD  
John Smolinsky, Chairman

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on July 12, 2017.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Scott Lewendon, Board Member
<b>SECONDER:</b>	Brian Gyory, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

- B. Cellco Partnership d/b/a Verizon Wireless – 9 Vista Boulevard, Slingerlands Special Use Permit / Site Plan Amendment Application - Telecommunication Facility - Possible Action on Site Plan Amendment (SPA 179 A5) - (16-00200003)**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SITE PLAN AMENDMENT APPROVAL**

**CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS  
TELECOMMUNICATION FACILITY (MICRO CELL ANTENNA)  
9 VISTA BLVD, SLINGERLANDS**

**CERTIFICATE NO: SPA 179 A5**

**DATE: July 6, 2017**

1. TYPE OF APPROVAL: Site Plan Approval

NAME OF PROPOSAL: Cellco Partnership d/b/a Verizon Wireless; 9 Vista Boulevard Telecommunication Facility (Micro Cell Antenna).

DESCRIPTION OF PROPOSAL: The construction and operation of a roof mounted micro cell antenna, 8 feet in height and including wireless transmission equipment at the rear of the building. The Applicant proposes to locate its antennas on the roof of an existing 28 foot tall office building within a 6' x 6' lease area on the roof. The accessory equipment for the antenna will be constructed within a ground level 6' x 11' lease area at the rear of the building. The property is located in a Mixed Economic Development Zoning District on a parcel of land measuring 0.65 acres; and,

LOCATION OF SITE: 9 Vista Boulevard (Map Parcel No. 74.00-1-29.15)

TITLE OF DRAWINGS:

- A. Site Plan - Special Use Permit/Site Plan Application, Micro Cell Tower at 9 Vista Boulevard, Town of Bethlehem, Albany County, State of New York, Sheet 1 of 2, dated 02/25/2016, and revised through 06/08/2017, prepared by RETTEW Engineering and Surveying, P.C., 97 Main Street, Delhi, NY 13753.
  - B. Elevations- Special Use Permit/Site Plan Application, Micro Cell Tower at 9 Vista Boulevard, Town of Bethlehem, Albany County, State of New York, Sheet 2 of 2, dated 02/25/2016, and revised through 06/08/2017, prepared by RETTEW Engineering and Surveying, P.C., 97 Main Street, Delhi, NY 13753.
2. THIS WILL CERTIFY that the Planning Board, at a Regular meeting held July 6, 2017 granted Site Plan Approval for the development of the site described above, such approval being contingent upon compliance with the CONDITIONS (Item 7) and MODIFICATIONS (Item 8) which follow, and also with,
- A. All standard specifications, requirements, and conditions pertaining to the development of the site as set forth in approvals of detailed plans granted by the Town Board, the Planning Board, Water District of the Town of Bethlehem, the Albany County Department of Health, NYS Building Code, and/or any other governmental authority having jurisdiction thereof; and,
3. Access to the site is provided via Vista Boulevard, an existing Town road.

4. The site of the proposed action is located in a Mixed Economic Development Zoning District, which allows the proposed use subject to Special Use Permit and Site Plan approval by the Planning Board.
5. Prior to the granting of this Site Plan Approval, the Board considered:
  - A. The potential environmental impacts of the proposed site development, declared the proposal an Unlisted Action, conducted an uncoordinated SEQR review of the project and issued a Negative Declaration for compliance with SEQRA on June 20, 2017. The Negative Declaration identified that a monopine tower type would have the least visual impact on the surrounding community.
  - B. The following recommendation from the Albany County Planning Board, dated May 18, 2017, Modify local approval to include:
    1. Defer to local consideration.
6. Any Site Plan submitted subsequent to the receipt of this approval by the Owner shall list the changes made to the plan since the last submittal -- with a corresponding date for each such change.
7. This Approval is granted subject to the following CONDITIONS:
  - A. Prior to the signing of the approved plans by the Planning Board Chairman, the Owner shall prepare or cause to be prepared the following items, and shall provide the following items to the Town for its review and approval as indicated below:
    1. No conditions necessary.
  - B. Prior to the issuance of a Building Permit:
    1. The applicant shall submit to the Building Department final design specifications/plans for the non-penetrating ballasted roof mount (Rohn JRM, or approved equal) as identified on the approved Elevations drawing (Sheet 2 of 2 Detail 3/Z-2) and in the letter dated May 31, 2017 prepared by RETTEW Engineering and Surveying, P.C. to confirm compliance with the 2016 New York State Uniform Building Code.
  - C. The proposed micro cell antenna shall be constructed in accordance with the final designs as shown on the site plans identified in Item 1 above.

8. This Approval has been granted with the following MODIFICATIONS which shall be shown on the plans next submitted to the Planning Board:
  - A. No modifications necessary.
  
9. The site delineated on the Approved Site Plan shall be developed in accordance with:
  - A. The detailed plan for development shown on the Final Approved Site Plan.
  
10. The Chairman of the Planning Board is empowered to endorse the Site Plan with his signature, and such Site Plan shall be known henceforth as the FINAL APPROVED SITE PLAN.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

**Expiration of Approval**

In accordance with §128-70.K of the Town’s Zoning Code, this site plan approval shall be void if construction is not started within one year of the date of Planning Board approval, and completed within two years of the date of such approval. Prior to its expiration, the site plan approval may be renewed by request of the applicant for up to two (2) additional ninety (90) day periods.

**Building Permits Required**

A building permit is required for all work in and to any structure and for any proposal for a change of use or occupancy, new signs, and demolition of existing structures.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

- C. **Westland Park Subdivision, Section 4, Resubdivision 1 & DeThomasis 2 Lot Minor Sub at 456 / 460 Russell Road (16-01200002) - Possible Action to Adopt Park Fee Resolution Requiring Payment of Park Fee In-Lieu-Of Park Land Reservation**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**RESOLUTION**

**RESERVATION OF PUBLIC PARKLAND / FEE IN LIEU OF REQUIREMENT**

**WESTLAND PARK SUBDIVISION - SECTION 4 - RESUBDIVISION 1 - 14 EASTLAND CIRCLE**

**DETHOMASIS COMPANIES 2 LOT MINOR SUBDIVISION - 456 / 460 RUSSELL ROAD**

WHEREAS, the Town of Bethlehem Planning Board has received an application from Anthony DeThomasis, for a subdivision of property located on Russell Road in order to create two total lots from one existing vacant lot and a portion of a lot with an existing single-family residence; and,

WHEREAS, approval of the subdivision would result in two vacant single-family building lots; and,

WHEREAS, Chapter 103 of the Code of the Town of Bethlehem provides the Town Planning Board with the authority to review and approve subdivision applications; and,

WHEREAS, Local Law No. 7 of 2001 adopted by the Town Board on June 13, 2001 and §103-29 of the Town Code of the Town of Bethlehem authorize the Town Planning Board to require the reservation of land for public park, playground, or recreation purposes, or the payment of a fee in lieu of parkland, as a condition of subdivision approval for residential developments requiring such approval; and,

WHEREAS, said Local Law was adopted by the Town Board after careful consideration of the impacts that new housing development is having on the Town's park and recreation facilities, as outlined in a memorandum from the Town Planning Division dated May 15, 2001; and,

WHEREAS, the Planning Board has considered the project site and its potential for accommodating a park site for active recreation use;

NOW, THEREFORE, BE IT RESOLVED,

that the Town Planning Board hereby finds that the proposed DeThomasis Companies two (2) lot minor subdivision presents a proper case for the requirement of public parkland, but that a suitable park of adequate size, which meets the criteria outlined in Local Law No. 7 of 2001 and Chapter 103 of the Code of the Town of Bethlehem, cannot be properly located on the Subdivision parcel; and,

BE IT FURTHER RESOLVED,

that the Planning Board of the Town of Bethlehem hereby requires that a fee be paid in lieu of parkland reservation for the proposed DeThomasis Companies two (2) lot minor subdivision the amount and payment of which shall be made in accordance with Local Law No. 7 of 2001 and Chapter 103 of the Code of the Town of Bethlehem.

On a motion by Mr. Lewendon, seconded by Mr. Gyory, and a vote of three (3) for, zero (0) against, zero (0) abstained, and one (1) absent, this Resolution was adopted on July 6, 2017.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Scott Lewendon, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon  
**EXCUSED:** Kate Powers

**D. Westland Park Subdivision, Section 4, Resubdivision 1 & DeThomasis 2 Lot Minor Sub at 456 / 460 Russell Road (16-0120002) - Possible Action on Conditional Approval of Final Plat - Cert 189 F A1 & Cert 278 CF**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**CONDITIONAL APPROVAL OF FINAL PLAT**

**WESTLAND PARK SUBDIVISION - SECTION 4 - RESUBDIVISION 1 - 14 EASTLAND CIRCLE  
DETHOMASIS COMPANIES 2 LOT MINOR SUBDIVISION - 456 / 460 RUSSELL ROAD**

**CERTIFICATE NO. 189 A1 F  
DATE: JULY 6, 2017  
CERTIFICATE NO. 278**

THIS CERTIFIES THAT:

1. The PLANNING BOARD of the TOWN OF BETHLEHEM, Albany County, New York, at a Board meeting held July 6, 2017 CONDITIONALLY APPROVED the FINAL PLATS titled:
  - A. "Lot Line Adjustment, Sheet 1 of 3, Westland Park Subdivision - Section 4, Resubdivision 1, Portion (Portion 9,063 +/- sq. ft.) of the Lands of Carpenter Palumbo (14 Eastland Circle) (Parcel ID 63.12-4-35) to be Conveyed and Merged With Lands of Baranski (456 Russell Road) (Parcel ID 63.12-4-11.2), Town of Bethlehem, Albany County, State of New York", dated November 4, 2016, last revised April 19, 2017.
  - B. "Minor Subdivision, Sheet 2 of 3, Lands of Baranski (456 Russell Road) (Parcel ID 63.12-4-11.2) To Create A New Lot At 460 Russell Road, Town of Bethlehem, Albany County, State of New York", dated November 4, 2016, last revised June 13, 2017.

- C. "Landscaping and Grading Plan, Sheet 3 of 3, Westland Park Subdivision - Section 4, Resubdivision #1, Town of Bethlehem, Albany County, State of New York", dated April 17, 2017, last revised June 14, 2017.

All drawings made by: NMB Land Surveying, PLLC, 20 Troy Avenue, Wynantskill, NY 12198 and Kleinke Associates, 62 Maher Road, Slingerlands, NY 12159.

2. This Approval was requested by Anthony DeThomasis on October 25, 2016, said request being delivered to the Board by Anthony DeThomasis (DeThomasis Companies) as Agent for the Owners.

3. Approval was granted following a PUBLIC HEARING held July 6, 2017 at which the Plat was displayed and the plan of subdivision described by Anthony DeThomasis.

4. Basic details of the proposed plan of subdivision follow:

- A. LOCATION: 456/460 Russell Road and 14 Eastland Circle, North Bethlehem.

- B. ACCESS: Russell Road, an existing County road.

- C. DISTRICTS IN WHICH LOCATED: Residential A District, Water District No. 1, Bethlehem Sewer District, Guilderland Central School District, North Bethlehem Fire District.

- D. AREA OF PARCEL (ACRES): 0.69 +/- acres.

- E. NUMBER OF LOTS PROPOSED: Two (2) residential building lots.

5. Prior to granting this Approval, the Planning Board--

- A. Determined that no portion of the proposed subdivision was in a New York State Designated Wetland.

- B. In compliance with the State Environmental Quality Review Act (SEQRA)--

1. On June 20, 2017 determined that the proposed subdivision was an Unlisted action;

2. On June 20, 2017 made a Negative Declaration;

- C. Considered the following recommendation from the Albany County Planning Board dated December 20, 2016:
  - 1. A highway work permit is required from the Albany County Department of Public Works for design of highway access, assessment of road capacity, and drainage.
  
- D. Considered the following advisory note from the Albany County Planning Board dated December 20, 2016:
  - 1. It should be noted that the applicant states that drainage will be directed to Russell Road/CR 204, but the topography shows that the house will sit slightly below the road. If grading is changed from what is shown on the map; the applicant should note that drainage will be reviewed by AC DPW Engineering.
  
- E. Considered the Zoning Board of Appeals area variance approval (AV-1611) for a reduction in lot width.
  - 6. The Planning Board decided to consider the Plat submitted a FINAL PLAT due to the following facts--
    - A. The proposed subdivision consists of two lots and constitutes a minor subdivision as defined at §103-08 and §103-13(C) of the Town of Bethlehem Subdivision Regulations.
    - B. Lot 2 will consist of a resubdivision of a portion of a lot (14 Eastland Circle) within the previously approved Westland Park Section 4 Subdivision.
    - C. The subdivision is presently served by public water, sanitary sewer and a County road.
    - D. The plat contains the level of detail required of a final plat as per §103-34 of the Town of Bethlehem Subdivision Regulations.
    - E. There are no significant environmental issues associated with the subdivision and no other significant issues were raised at the Public Hearing held on July 6, 2017.
  - 7. This Approval has been granted for a total of no more than two (2) residential building lots within the Approved Area.



8. This Approval has been granted with the following MODIFICATIONS which shall be shown on the plat of the subdivision prior to stamping of the plans:
  - A. All those modifications as outlined in the hereto attached January 4, 2017 memorandum from T. Ritz to K. Kovalchik.
  - B. Lot Line Adjustment Plan sheet numbering to be revised as Sheet 1 of 3.
  - C. The driveway turnarounds for Lot 1 and Lot 2 shall be revised to face interior to each lot as shown on the site plan provided by the Applicant at the July 6, 2017 Planning Board meeting.
  
9. No construction work, clearing or land disturbance shall be started on the proposed subdivision prior to the approval of the plat in final form (FINAL PLAT) by the Board, unless specific permission for the start of such work has been granted by the Planning Board AND ALSO by any concerned Town departments. Such specific permission may not be granted by the Board prior to the submission of the Final Plat to the Board for approval.
  
10. Prior to granting Final Plat Approval in respect to a Final Plat, the Planning Board must have satisfactory evidence that the CONDITIONS specified below have been satisfied:
  - A. MODIFICATIONS to the submitted plat required by this Approval, as listed in Item 8 above, have been completed.
  
  - B. Arrangements have been completed with the pertinent public utility companies which serve the area in which the proposed subdivision is located for the delivery of electric power and other required utilities to the subdivision, and for the distribution of such power and other services within the subdivision. The arrangements shall include, among other things, provision of the necessary easements by the Owner(s).
  
11. Conditional Approval of this subdivision plat has been granted subject to the following additional conditions:
  - A. Prior to the signing of the approved plans by the Planning Board Chairman, the Owner shall prepare or cause to be prepared the following items, and shall provide the following items to the Town as indicated below:
    - a. All modifications listed in item 8 above shall be provided on the plans.
    - b. A draft copy of the metes and bounds description for 14 Eastland Circle (tax parcel id# 63.12-4-35) showing the conveyance of 0.21 acres to 460 Russell Road.
    - c. A draft copy of the metes and bounds description for 460 Russell Road showing the conveyance and merger of 0.21 acres from 14 Eastland Circle (tax parcel id# 63.12-4-35).

- d. Simultaneously with the filing of the lot line revision and minor subdivision map, a copy of the revised deeds for 14 Eastland Circle shall be filed in the Albany County Clerk's Office and copy of the filing receipts shall be provided to the Town Planning Department.
  - e. Simultaneously with the filing of the lot line revision map, a copy of the deeds for 456 Russell Road and 460 Russell Road shall be filed in the Albany County Clerk's Office and copy of the filing receipts shall be provided to the Town Planning Department.
- B. Prior to the commencement of any site activity or the issuance of a Building Permit, whichever comes first, the limits of the area of disturbance, as shown on Sheet 3- Landscaping and Grading Plan, shall be delineated on the site with orange construction fencing.
- C. This Amendment modifies the original Certificate of Site Plan Approval granted by the Planning Board on October 29, 1999, Certificate No. 189, by amending Item 7.B.h., and amending Plat Note 23, which required that no lot within the subdivision, except lot 466 Russell Road, shall have a driveway on Russell Road. This condition is hereby amended from the approval and plat note to allow a driveway access to Russell Road from Lot 2 of the proposed minor subdivision.
- D. This Amendment modifies Plat Note 29 of the Final Plat of Westland Park Section 4 Subdivision, which states that no construction is permitted within the paper street portions of The Concourse and Elmwood Avenue within the boundaries of the subdivision or the paper street portion of Midland Avenue from Russell Road to the westerly boundary of lands now or formerly of Piccione (shown on proposed minor subdivision map as Lands N/F of Daniel F. and Sandra Willis-Burns). This plat note is hereby amended to allow construction within the paper street portion of Midland Avenue on Lot 2.
- E. In granting this approval the Planning Board acknowledges the existence of a paper street within the subdivision, over which other parties may or may not be able to claim some interest. If a third party at any time should claim an interest in the paper streets, this approval cannot be used as evidence of clear title and ownership to any portion of said paper street. The Planning Board has no jurisdiction to determine such rights. Approval of the plat is not intended and shall not be construed as a determination by the Town on either the potential existence or extent of those rights.
- F. The Owner shall retain an archeologist on call during the site grading phase of construction activity. In the event any cultural artifacts are uncovered during site grading, the contractor shall suspend grading activity in the general vicinity of the artifacts and notify the Owner and archeologist. The parties in turn will notify and consult with the Town and NYS Historic Preservation Office to develop and implement an appropriate mitigation and/or recovery plan.
- G. Prior to the issuance of a Building Permit for home construction on Lot 1 and Lot 2, the Owner(s) or Purchaser(s) of the respective lot shall pay the required fee in lieu of parkland in

accordance with Local Law No. 7 of 2001 and §103-29 of the Town of Bethlehem Subdivision Regulations.

- H. The Owner(s) shall comply with the recommendations of the Albany County Planning Board as outlined in Item 5.C. above.
12. Conditional Approval of this subdivision plat has been granted with the understanding that, in addition to other things, the Owner(s) will--
- A. Provide the Town with easements, as required, for (a) drainage purposes, (b) for sanitary sewerage, (c) for water supply and (d) for such other activities for which the Town may need easements--in the locations shown on the Final Plat, and at such other locations as may be required by the Town. Such easements shall be provided to and accepted by the Town prior to the issuance of Building Permits for the subdivision.
13. The Owner is hereby reminded that in the final design of the subdivision--
- A. Off-street parking shall be provided in accordance with the provisions of the Zoning Ordinance (see §128-56 "Off-street Parking and Loading").
14. The Owner(s) is/are hereby advised that one or more of the following requirements will be included in any Certificate of FINAL PLAT APPROVAL that may be prepared for the subject subdivision--
- A. The development of the proposed subdivision shall be performed in a manner such that soil loss due to wind and water erosion is held to a minimum. Unnecessary removal of healthy trees shall be avoided. The Town shall reserve the right to require additional measures of erosion control during construction of the project should it determine that such measures are necessary for the protection of surface waters or for the abatement of any nuisance caused by soil erosion from the project site.
15. Appropriate insurance coverage as deemed necessary by the Town of Bethlehem or the State of New York shall be obtained prior to the start of any work contemplated by this approval and proof of such coverage in the form of "Certificate of Insurance" shall be filed with the office of the Building Inspector and/or appropriate office of the State of New York. The Town of Bethlehem shall be named an additional assured.
16. Drainage facilities, sanitary sewers and/or water mains needed for this subdivision shall be constructed and/or installed by the Owner(s). Foundation drains, house sewer laterals, and house water services which are required for this subdivision shall be constructed and/or installed either by the Owner(s) or by the Purchaser(s) of a particular lot. All such

construction or installations shall be made to the satisfaction of the Town and in accordance with specifications and/or regulations of the pertinent Town Departments--and of the Albany County Department of Health, where applicable.

17. Any plats of this subdivision submitted to the Board subsequent to the receipt of this approval by the Owner(s) shall list the changes made in the plat since the last submittal--with a corresponding date for each such change.
  
18. This approval of the stated Plat does NOT authorize:
  - A. The filing of the Plat in the Office of the Albany County Clerk, or
  
  - B. The issuance of Building Permits in respect to the proposed building lots shown on such Plat.
  
19. In the preparation of the plat in final form all parcels to be conveyed to the Town and all easements to be granted to the Town shall be shown. The areas relating to such conveyances and/or easements shall be clearly delineated and labeled, and it shall be clearly noted on such plat; (a) that the parcels are to be conveyed to the Town, and/or (b) that the easements are to be granted to the Town, and (c) that the intent of each easement is for drainage, for sewer, for water, for a combination thereof, or for other purposes.
  
20. This approval shall expire January 2, 2018 (180 days from approval) unless the requirements stated in Items 10 and 11 (associated with the stamping of the Final Plat) above, have been completed to the satisfaction of the Board.
  
21. Upon satisfactory completion of the requirements stated in Items 10 and 11 A. above, the Chairman of the Planning Board is empowered to endorse the Final Plat with his signature, thus signifying final approval of the plat.
  
22. Not later than sixty-two days after the Chairman of the Planning Board has endorsed the Final Plat with his signature pursuant to Item 21, above, the Owner shall file a copy of the approved Final Plat in the Office of the Albany County Clerk or final approval shall expire. The Owner shall submit a copy of the filing receipt to the Planning Board.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

**RESULT:** APPROVED AS AMENDED [UNANIMOUS]  
**MOVER:** Scott Lewendon, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon  
**EXCUSED:** Kate Powers

**E. Keystone Builders - 645 Elm Ave., Selkirk -Site Plan - (17-00100007) Possible Action on SEQR Classification and Negative Declaration Resolution and Conditional Site Plan Approval**

The project was before the Board for an update and possible action on SEQR and Site Plan Approval. Steve Bolduc and Robert Bolduc of Keystone Builders, the owner / applicant, and Edward Kleinke, of Kleinke Associates were present to provide information and answer questions. Staff comments were provided by Leslie Lombardo. To date, the project was placed on the following Planning Board Agendas: 06/20/2017 and 07/06/2017.

**Discussion / Information Items:**

- site plan application for 4,640 sf warehouse at 645 Elm Avenue
- the plans were revised in response to Planning Board comments
- the curb cut along Elm was reduced from 80' to 58'
- the entrance will be paved & parking will be added in front of the bldg
- applicant submitted a letter from Smart Environmental Engineering stating there are no wetlands on the site
- change from chainlink fencing to stockade fencing
- trees will be planted in front of the building
- a warehouse is a permitted use in the rural zoning district
- total disturbance will be .3 acres
- required number of parking stalls have been provided

**Board Member / Staff Comments:**

- appreciate the applicant making the requested changes
- no issues with traffic over existing leach field

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION**

**KEYSTONE BUILDERS, INC. - WAREHOUSE BUILDING FOR STORAGE**

**645 ELM AVENUE, SELKIRK**

**SITE PLAN**

WHEREAS, Keystone Builders, Inc. has submitted to the Town of Bethlehem Planning Board an application for a Site Plan to construct a 4,640 square foot warehouse building for storage of materials and equipment presently stored outside at their existing business located at 645 Elm Avenue. The parcel measures 1.79 acres and is located in the Rural (R) zoning district, and;

WHEREAS, the Planning Board has received a short Environmental Assessment Form ("EAF") for the project with Part I completed by the applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, NYCRR 617.6(b) establishes procedures for the review of Unlisted actions where an agency has determined it will not coordinate SEQR review of the action; and,

WHEREAS, the procedures for uncoordinated review of an Unlisted action indicate that an agency may proceed with said review as if it were the only involved agency unless it determines that the action may have a significant impact on the environment; and,

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Engineering Division and Department of Economic Development and Planning;

NOW, THEREFORE, BE IT RESOLVED,

that the Planning Board hereby determines that:

1. approval of the proposed site plan constitutes an Unlisted action which is subject to SEQRA,
2. the proposed action does not involve a federal agency or other agencies,

3. the proposed action is not located in an Agricultural District and, therefore, is not subject to the provisions of the Agricultural and Markets Law
4. a short EAF is adequate for determining the significance of the proposed action, and;

BE IT FURTHER RESOLVED,

that the Planning Board, as provided at 6 NYCRR Part 617.6(b)(4) hereby determines it will not coordinate review of the proposed action and instead shall proceed as if it were the only involved agency; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares it is lead agency with respect to SEQRA review of the proposed action, and;

BE IT FURTHER RESOLVED,

that based upon its review of the project and the EAF, review of the proposal by Town Engineering and Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Planning Board hereby finds that approval of the Site Plan for a 4,640 square foot building for storage of materials and equipment will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The site of the proposed action is located in the Rural (R) zoning district. A contractor's yard use is permitted in this zone district. The storage building will be located on a parcel that measures 1.79 acres.
2. The proposed action involves the construction of a 4,640 square foot building for the purposes of storing equipment and materials related to an existing business on the site. The construction activity will disturb .30 acres and will not impact the existing drainage patterns nor significantly impact existing traffic patterns.
3. The site is served by an existing private well and septic system. The new building will not require any changes to existing provisions for water supply and wastewater treatment.

4. Ingress and egress to the site will be from Elm Avenue. A total of 8 parking spaces are required for the use and the application indicates 10 spaces will be provided.
5. The project did not require referral to the Albany County Planning Board (ACPB) pursuant to General Municipal Law 239.
6. The width of the access driveway has been reduced from 80 feet to 58 feet to better define the driveway area while also accommodating the turning radius and movements of the larger vehicles and trailers that utilize the site.
7. Town Department of Economic Development and Planning review of the project Site Plan and the Town's environmental inventory files did not identify any other environmentally sensitive characteristic of the site or areas requiring further study.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Mr. Gyory seconded by Mr. Lewendon, and by a vote of three (3) for, zero (0) against, zero (0) abstained, and one (1) absent, this RESOLUTION was adopted on July 6, 2017.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

**F. Keystone Builders - 645 Elm Ave., Selkirk- Site Plan (17-00100007) -Possible Action on Conditional Site Plan Approval (SPA 244)**

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SITE PLAN APPROVAL**

**KEYSTONE BUILDERS, INC. - WAREHOUSE BUILDING FOR STORAGE**



**645 ELM AVENUE, SELKIRK**

**CERTIFICATE NO. SPA 244**

**DATE: JULY 6, 2017**

1. TYPE OF APPROVAL: Site Plan Approval

NAME OF PROPOSAL: Keystone Builders, Inc. - warehouse building for storage

DESCRIPTION OF PROPOSAL: Construct a 4,640 square foot storage building for equipment and materials related to the existing contractor's yard business on the site.

LOCATION OF SITE: 645 Elm Avenue, Selkirk, NY

TITLE OF DRAWINGS:

- A. Site Plan drawing titled: "Site Plan, Owner: 645 Elm Avenue LLC, 5 Elm Avenue, Delmar, NY 12054, Town of Bethlehem, County of Albany, State of New York", dated March 2, 2017 and revised June 26, 2017 Sheet 1 of 2
  - B. Elevation drawings titled: "645 Elm Ave Warehouse for Keystone Builders Inc.", dated April 4, 2017
  - C. Landscape drawings titled: "Landscape Planting Plan" 645 Elm Avenue, LLC, Selkirk, Town of Bethlehem, Albany County, New York", dated April 10, 2017 and revised June 27, 2017
2. THIS WILL CERTIFY that the Planning Board, at a regular meeting held July 6, 2017, granted Site Plan Approval for the development of the site described above, such approval being contingent upon compliance with the MODIFICATIONS (Item 7) and CONDITIONS (Item 9) which follow, and also with:
- A. All standard specifications, requirements, and conditions pertaining to the development of the site as set forth in approvals of detailed plans granted by the Planning Board, the Bethlehem Sewer District, Water District of the Town of Bethlehem, the Albany County Planning Board and/or any other governmental authority having jurisdiction thereof.
3. Access to the site is provided from Elm Avenue, a town road.
4. The site is located in a Rural (R) zone district.

5. Prior to the granting of this Site Plan Approval the Board considered:
  - A. The potential environmental impacts of the proposed site development, declared the proposal an Unlisted action, conducted a uncoordinated SEQR review of the project and issued a Negative Declaration for compliance with SEQRA on June 6, 2017.
6. The site is not within the boundaries of Water District of the Town of Bethlehem or the Bethlehem Sewer District. There is an existing private well and septic system on site.
7. Approval of the Site Plan was granted with the following MODIFICATIONS to be shown on the plan set endorsed with the Planning Board's stamp of Approval.
  - A. No modifications
8. Any Site Plan submitted subsequent to the receipt of this approval by the Owner shall list the changes made to the plan since the last revision date of June 26, 2017, with a corresponding date for each such change.
9. This Approval is granted subject to the following CONDITIONS:
  - A. Prior to the signing of the approved plans by the Planning Board Chairman, the Owner shall prepare or cause to be prepared the following items, and shall provide the following items to the Town for its review and approval as indicated below:
    - a. All modifications listed in item 7 above shall be provided on plans.
    - b. The metes and bounds descriptions of the areas of the property where the two lot line changes will be made with adjacent owners; Crisafulli and Weber.
  - B. Prior to the issuance of a Building Permit, the following items shall be provided to the Town:
    - a. Associated with the lot line revision between 645 Elm Avenue and 96 Wildwood Lane (Crisafulli), a copy of the revised deed for 645 Elm Avenue as filed in the Albany County Clerk's Office and copy of the filing receipt shall be provided to the Town Planning Department.
    - b. Associated with the lot line revision between 645 Elm Avenue and 637 Elm Avenue (Weber), a copy of the revised deed for 645 Elm Avenue as filed in the Albany County Clerk's Office and copy of the filing receipt shall be provided to the Town Planning Department.

c. A professional stamp of a licensed architect or engineer on the elevation plan provided.

C. All proposed signs shall comply with §128-59 of the Town Zoning Law.

10. The site delineated on the Approved Site Plan shall be developed in accordance with:

A. The detailed plan for development shown on the Final Approved Site Plan.

11. In rendering its decision to approve this site plan application, the Planning Board has considered the standards of §128-71(E) of the Town Zoning Law, the applicable design standards of §128-34(E) of the Town Zoning Law and the decision criteria contained in Section §128-71(K) of said law.

12. Upon submission of revised Site Plan drawings reflecting those MODIFICATIONS specified in ITEM 7, and upon satisfying those CONDITIONS specified in ITEM 9.A herein, the Chairman of the Planning Board is empowered to endorse the Site Plan with his signature, such Site Plan shall be known henceforth as the FINAL APPROVED SITE PLAN.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

#### **Expiration of Approval**

Site Plan Approval in respect to a particular lot, plot, site or parcel shall expire 180 days following the date of such approval by the Planning Board unless all conditions and requirements established by the Board as a prerequisite to endorsement of the site plan have been satisfied and said site plan has been endorsed by the Planning Board stamp and signature. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

Site plan approval shall be void if construction is not started within one year of endorsement of the site plan as noted above, and completed within two years of said endorsement. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

#### **Building Permits Required**

A building permit is required for all work in and to any structure and for any proposal for a change of use or occupancy, new signs, and demolition of existing structures.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Scott Lewendon, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon  
**EXCUSED:** Kate Powers

**G. Seegal Accessory Apartment - 324 Elm Ave, Delmar - Special Use Permit/Site Plan (17-01400002) - Initial Presentation and Possible Action on SEQR Classification of Action/Negative Declaration Resolution**

The project was before the Board for an initial presentation and possible action on SEQR as well as setting a date for the public hearing. Richard Seegal, the owner / applicant, was present to provide information and answer questions. Staff comments were provided by Leslie Lombardo. To date, the project was placed on the following Planning Board Agendas: 07/06/2017.

**Discussion / Information Items:**

- accessory apartment at 324 Elm Avenue
- applicant seeking approval for existing accessory apartment above existing 2 car garage, attached to the single family home by a covered porch
- 2.8 acre lot located in a residential A zone
- accessory apartments require Special Use Permit if located in a Residential A zone
- primary unit / house is 2,100 sf the existing apartment is 760 sf
- a CO was granted in 1992 for a single family house with addition of attached garage with den bedroom and bath on the second floor; with a condition that there would be no kitchen
- the existing apartment has a kitchen
- access to the property is from Elm Avenue
- the property has two existing driveways / curb cuts, one for each unit
- applicant wishes to legalize the apartment so he can sell the property
- town requires that the owner must live in one of the two units
- the Board can consider adding that there would be a notice to potential buyers that there is an accessory apartment and the owner would be required to live in one of the two units
- the owner of the property would be required to refile the deed to note the fact that there is an accessory apartment on the property
- two parking spaces required for each dwelling unit
- the project meets the conformance standards of the Town code
- a purchase contract could include notice to the purchaser regarding the requirement to live in one of the two units
- applicant would need to provide evidence that the revised deed was filed with the Albany County Clerk
- Mr. Seegal stated that he is working with an attorney and the purchaser will be notified

**Board Member / Staff Comments:**

-Mr. Smolinsky noted that an initiative of the Town's 2005 Comprehensive Plan was to allow housing diversity in Residential A Zoning Districts, such as allowing accessory apartments subject to Planning Board approval

-the reason for requiring an owner to reside in one of the two units is to limit multi-family dwellings in single family zoning areas

-Mr. Lewendon agrees with the proposed conditions

**Next Steps:**

-staff to investigate if 2nd curb cut was approved by the Town

-public hearing to be held on 07/18/2017

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**

**SEQR RESOLUTION  
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION**

**SEEGAL ACCESSORY APARTMENT AT 324 ELM AVENUE, DELMAR  
SPECIAL USE PERMIT/SITE PLAN APPROVAL**

WHEREAS, Richard Seegal, property owner, has submitted to the Town of Bethlehem Planning Board an application for a Special Use Permit/Site Plan approval for an accessory apartment within an existing attached garage to a single-family residence on the property located at 324 Elm Avenue, Delmar, NY. The residence is 2,100 square feet. The accessory apartment is 760 square feet.

WHEREAS, the Planning Board has received a Short Environmental Assessment Form ("EAF") for the project with Part I completed by the applicant, and;

WHEREAS, the State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund, or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine

whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, 6 NYCRR 617.6(b)(1) indicates that when a single agency is involved, that agency will be the lead agency when it proposes to undertake, fund, or approve a Type I or Unlisted Action, and;

WHEREAS, the Planning Board has independently considered both the information provided in the EAF and comments on the application provided by the Town of Bethlehem Department of Economic Development and Planning;

NOW, THEREFORE, BE IT RESOLVED,

that the Planning Board hereby determines that:

1. approval of the proposed site plan constitutes an Unlisted Action which is subject to SEQRA,
2. there are no involved or interested agencies associated with the project,
3. the proposed action is not located in, or within 500 feet of, an Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law,
4. a Short EAF is adequate for determining the significance of the proposed action, and;

BE IT FURTHER RESOLVED,

that the Town of Bethlehem Planning Board hereby determines that coordinated SEQR review of the action is not required or warranted, and pursuant to 6 NYCRR 617.6(b)(4) the Board will not coordinate said SEQR review; and,

BE IT FURTHER RESOLVED,

that the Planning Board hereby declares it is lead agency with respect to SEQR review of the proposed action; and,

BE IT FURTHER RESOLVED,

that based upon its review of the project and the EAF, review of the proposal by Town Planning staff, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Planning Board hereby finds that approval of the Special Use Permit/Site Plan to allow for an accessory apartment constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts and conclusions:

1. The site of the proposed action is located in a Residential "A" Zoning District. An accessory apartment is not a permitted use by right in this zone district. The proposed accessory apartment will be permitted subject to special use permit approval.
2. Floor plan drawings were submitted as part of the application. The architecture of the residence and garage is similar in nature to surrounding single-family residences in the neighborhood; therefore, the proposed accessory apartment within the attached two car garage should not have a negative impact on surrounding land uses.
3. The site is served by existing public water and sanitary sewer services. The addition of the accessory apartment will not place any significant additional demands on these facilities.
4. Access to the site will be from an existing asphalt driveway from Elm Avenue. The existing three garages within the two buildings and the fourth space provided next to the driveway will provide the required four parking spaces for the single-family residence and accessory apartment.
5. The project site consists of 2.8 acres is currently occupied by a single family residence and two car, two story attached garage and asphalt pavement for the driveway. The site is characterized as developed land. There are Federal wetlands on the site at the rear of the property with is undeveloped.
6. Town Department of Economic Development and Planning review of the project Site Plan and the Town's environmental inventory files did not identify any other environmentally sensitive characteristic of the site or areas requiring further study.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by Mr. Gyory, seconded by Mr. Lewendon, and a vote of three (3) for, zero (0) against, zero (0) abstained, and one (1) absent, this Resolution was adopted on July 6, 2017.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

**H. Seegal Accessory Apartment - 324 Elm Ave, Delmar - Special Use Permit / Site Plan (17-01400002) - Possible Action to Set Date of Public Hearing for 07/18/2017 at 6:00 p.m.**

PUBLIC HEARING NOTICE, TOWN OF BETHLEHEM, ALBANY COUNTY, NY. Notice is hereby given that the Planning Board will conduct a Public Hearing as part of its regularly scheduled Board Meeting on **Tuesday, 07/18/2017** at 6:00 p.m., at the Town Offices, 445 Delaware Ave., Delmar, NY regarding a **Site Plan / Special Use Permit Application, submitted by Richard Seegal to establish an Accessory Apartment at 324 Elm Avenue, Delmar.**

Documentation related to the application can be viewed in the Planning Dept. at Town Hall, M-F, 8:30 a.m.- 4:30 p.m. Notice of Public Hearing was mailed to property owners within 200' of the subject property. Said notice will also be published in the **07/12/2017** issue of the Spotlight Newspaper. All interested persons are invited to attend and be heard.

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Scott Lewendon, Board Member  
**SECONDER:** Brian Gyory, Board Member  
**AYES:** John Smolinsky, Brian Gyory, Scott Lewendon  
**EXCUSED:** Kate Powers

**I. Feura Bush Road, 365 - Glenmont Center Square - Possible Action on Site Plan Amendment Approval (SPA 30 A1) for Patio at Romo's Pizza (17-01500007)**

The project was before the Board for an initial presentaiton and possible action on the Site Plan Amendment Application. Anthony Berghela, the owner / applicant, was present to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik on behalf of Rober Leslie. To date, the project was placed on the following Planning Board Agendas: 07/06/2017.

**Discussion / Information Items:**

- applicant seeking approval to construct a 15' x 30' outdoor patio at the existing Glenmont Center Square Plaza in front of Romo's pizza
- patio to include black aluminum fencing, stone pilars and patio block to be installed by SevenZocks
- project is funded by Romo's pizza, not the owner of the plaza
- applicant hopes to improve the appearance of the plaza
- SevenZocks will be maintaining the patio year round
- there are no outdoor patios in Glenmont, most are located in Delmar

**Board Member / Staff Comments:**

- Mr. Smolinsky wondered if there are any barriers to stop cars from overhanging the curb and damaging the landscaping; he recommends shifting the location of the patio & plantings to allow room for overhang
- Mr. Gyory believes it will look better to have a transition from the pavement to the patio
- Mr. Gyory noted that plantings near the parking lot should be tollerant of snow and salt
- project looks good and would be a welcome addition to Glenmont
- the patio would be shifted 1 ft. to connect with the existing concrete walk and allow for an additional 1 feet of grass area adjacent to the parking lot

**PLANNING BOARD  
TOWN OF BETHLEHEM  
ALBANY COUNTY, NEW YORK**



**SITE PLAN AMENDMENT APPROVAL**

**GLENMONT CENTER SQUARE PLAZA AT 365 FEURA BUSH ROAD, GLENMONT  
PATIO AT ROMO'S PIZZA & RESTAURANT**

**CERTIFICATE NO. SPA 30 A1**

**DATE: July 6, 2017**

1. TYPE OF APPROVAL: Site Plan Amendment

NAME OF PROPOSAL: Romo's Pizza and Restaurant Outdoor Patio (15-ft by 30-ft)

DESCRIPTION OF PROPOSAL: The site plan amendment addresses the installation of a 15-ft by 30-ft outdoor patio for Romo's Pizza & Restaurant at Glenmont Center Square. The installation will result in the removal of a landscaping bed and one locust tree.

LOCATION OF SITE: 385 Feura Bush Road

TITLE OF DRAWINGS:

- A. Route 9W Retail Building Site Plan, Bethlehem Center, NY, revised June 9, 2017 (Patio for Romos Pizza) prepared by Gregory J. Seleman, P.C. Architect, Albany, NY (*location of patio is shown on the original approved site plan from 1987*)
  - B. Sheet 1 of 2, Romo's Pizza & Restaurant, 365 Feura Bush Road, Glenmont NY 12077, dated June 2017 - Front Elevation (*showing the proposed front elevation and illustration of landscaping*); prepared by Lupi Design Group Drafting Service, Glenmont, NY 12077
  - C. Sheet 2 of 2, Romo's Pizza & Restaurant, 365 Feura Bush Road, Glenmont NY 12077, dated June 2017 - (*showing the patio layout and landscaping plan*), prepared by Lupi Design Group Drafting Service, Glenmont, NY 12077
  - D. *Images of the stone pavers, brick pillars, and black aluminum rail fence to be used in the patio design are shown on an unnamed sheet, submitted on June 28, 2017*
2. THIS WILL CERTIFY that the Planning Board, at a meeting held July 6, 2017, AMENDED a previous Site Plan Approval by APPROVING an amendment to the approved Site Plan for 385 Feura Bush Road. The AMENDMENT authorizes the installation of an outdoor patio for outdoor seating associated with Romo's Pizza & Restaurant.
  3. Prior to granting this Approval, the Planning Board considered:

- A. The potential environmental impacts of the amendment and determined the change of use to be consistent with a Type II action under SEQRA based on 6NYCRR 617.5 (c)(7), which states: “construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities.” Since there is no expansion greater than 4,000sqft proposed by the application, the action is considered a Type II action.
  - B. The proposed amendment for a change of use is consistent with the Memorandum of Understanding between the Town and Albany County Planning Board, dated October 18, 2007, for non-referral items related to minor site plans for temporary tents. The outdoor patio is consistent with a temporary tent in that both are seasonally used for outdoor seating spaces.
4. This Amendment modifies the original Site Plan Approval granted by the Planning Board on January 5, 1987 and documented in Certificate of Site Plan Approval No. S.P.A. 30.
  5. Approval of this Amendment was granted with the following MODIFICATIONS to be shown on the revised plan set endorsed with the Planning Board’s stamp of approval
    - A. The title blocks of all four sheets identified in Item 1 above should reflect the following:
      - a. Add “Glenmont Center Square Site Plan Amendment”
      - b. Add “Site Plan” to the site plan sheet.
      - c. Add “Patio Elevation” to the patio elevation sheet.
      - d. Add “Patio Layout” to the patio layout sheet.
      - e. Add “Patio Materials” to the patio materials sheet.
      - f. Add 365 Feura Bush Road as the address to all sheets.
      - g. The stone paver patio area shall be shifted 1 ft. to connect with the existing concrete walk and allow for an additional 1 feet of grass area adjacent to the parking lot.
  6. This Approval is granted subject to the following CONDITIONS:
    - A. No conditions required.
  7. All provisions, requirements, and conditions stated in Certificate of Site Plan Approval No. S.P.A. 30 shall remain in full force and effect except as modified by this Amendment.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

**Expiration of Approval**

Site Plan Approval in respect to a particular lot, plot, site or parcel shall expire 180 days following the date of such approval by the Planning Board unless all conditions and requirements established by the Board as a prerequisite to endorsement of the site plan have been satisfied and said site plan has been endorsed by the Planning Board stamp and signature. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

Site plan approval shall be void if construction is not started within one year of endorsement of the site plan as noted above, and completed within two years of said endorsement. Prior to expiration and upon request of the applicant, the site plan approval may be extended by the Planning Board for up to two additional 90 day periods.

### **Building Permits Required**

A building permit is required for all work in and to any structure and for any proposal for a change of use or occupancy, new signs, and demolition of existing structures.

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Scott Lewendon, Board Member
<b>SECONDER:</b>	Brian Gyory, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers

## **VI. Discussion/Information Items**

### **A. Dynamic Energy / Albany Broadcasting Company, Inc. - 509 Wemple Road, Glenmont - Special Use Permit / Site Plan Application - 2.6MW Ground Mounted Solar PV System - Project Update (17-00200001)**

The project was before the Board for an Initial Presentation Scott Starr, VP of Business Development for Dynamic Energy, David Ingalls of Ingalls & Associates and Edward Kleinke of Kleinke Associates, were present on behalf of the applicant, Albany Broadcasting Company, Inc. to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik. To date, the project was placed on the following agendas: 06/06/2017 and 07/06/2017

#### **Discussion / Information Items:**

- 2.6 MW ground mounted solar facility at 509 Wemple Road
- energy produced will be wholly used by the applicant, Albany Broadcasting Company - on and off site
- applicant hired a Landscape Architect to assist with the Landscape Plan
- site is comprised of 3 parcels totaling 37.7 acres
- parcels 1 & 3 will be merged into a single 12.7 acre parcel with access from 509 Wemple Road for the radio towers
- parcel 2, consisting of 25.0 acres, would house the solar facility with access from Weisheit Road

- applicant chose species that would tolerate the wet conditions of the site
- screening would be installed in an S pattern with the larger trees spaced 25' apart
- clusters of trees consist of scrubs as well as small & medium trees, there are larger trees in the rear of the site
- trying to replicate the nature tree line on the east and west side of the site
- a 7' tall fence would be installed
- applicant provided a profile view from the home at 50 Weisheit
- applicant met with several neighbors to discuss the proposed landscape plan
- balance of the chain link fence would be coated with green pvc with privacy slats added to the fence along Weisheit Road
- 13 additional scrub oaks and swamp white oaks would be planted along the westerly property line
- the rear of the property from 495 Wemple would be screened with 6 additional 8-10' spruce trees
- applicant to submit letter of support from neighbors concerning the landscaping & project
- plantings will be on a serpentine line (S) composed of 30' radi, meshed together, 25' on center
- permit required from ACOE

**Board Member / Staff Comments:**

- visual screening along Weisheit (green coated chain link fence with slats)
- concerns about viewshed from traffic headed east
- suggested plantings to enhance density
- landscape architect would stake out the location of the trees
- the applicants effort to address concerns is appreciated

**Next Steps**

- applicant to ensure a RLA would be present when the landscaping is installed
- ACOE to issue a permit
- SEQR Neg Dec
- public hearing and possible approval

**B. River Road, 461 - Air Products - Initial Presentation on Site Plan Amendment for Phase 2 expansion (17-00100008 )**

The project was before the Board for an Initial Presentation. Pat Mitchell, Project Manager and John Kraft, Plant Manager of Air Products and the applicant's attorney, John Privitera, of McNamee, Lochner, Titus & Williams, were present to provide information and answer

questions. Staff comments were provided by Leslie Lombardo on behalf of Robert Leslie. To date, the project was placed on the following Planning Board Agendas: 07/06/2017.

**Discussion / Information Items:**

- phase 2 expansion of the existing industrial facility at 461 River Road, Glenmont that produces nitrogen, oxygen and argon
- phase 1 improvements to facility were approved 05/02/2017
- phase 1 improvements included truck loading facility, parking, traffic circulation, new curb cut to River Road
- phase 2 includes upgrades and new equipment, i.e., holding tanks, production tower, maintenance building, tractor trailer parking, fuel island stations and circulation area for tractor trailer parking
- manufacturer use permitted in the Industrial Zoning District
- ZBA approved a height variance on 02/15/2017 to exceed max height allowed for new structures
- the site has a 180' cold box, 98' nitrogen holding tank, 67' liquifier box, 76' direct contact after cooling vessel
- a variance was granted for the existing 120' cold box in 1974
- variance was also granted for rear yard setback
- applicant trying to keep all of the loading equipment together
- current loading area was relocated because the location was needed for tanks
- on-site circulation has been improved
- NYS DOT is reviewing the application to install another curb cut so the entrance gate can be set back to allow room for a tractor trailers to be staged
- phase 1 (load pad, parking areas, traffic flow and truck scales)
- phase 2 (air separation and liquifier)
- approximately 40% increase production
- series of bioretention areas will be used to treat the stormwater and meet the discharge rate
- outfall on Route 144 will flow toward an existing wetland and then makes its way to the Hudson River
- the SWPPP was amended based on a preconstruction meeting with the Town and the contractor
- the area being cleared will be used as a construction area and can be replanted

**Board Member / Staff Comments:**

- removal of old equipment
- duplication of facilities

- increased capacity impact traffic volume
- need details for the drainage computations/ collection system; concerned about asphalt on 5% slope)
- construction now occurring on the site contains spoiling materials

**Next Steps:**

- applicant to provide traffic study re trip generation (existing & proposed)
- applicant to provide details for drainage computations
- applicant to revise the drawings to show the entire area of disturbance
- ACPB review 07/20/2017
- Selkirk Fire District review (access from side street and fire flow testing)
- SWPPP to be reviewed by TDE (MJ Engineering)

**C. Retreat House Road, 130 - Initial Presentation on Site Plan application for First Student Transportation Services**

The project was before the Board for an Initial Presentation. Jeff Abele of Abele Tractor, Partner of Corning Hill Properties, the property owner / applicant, was present to provide information and answer questions. Staff comments were provided by Kenneth Kovalchik on behalf of Robert Leslie. To date, the project was placed on the following Planning Board Agendas: 07/06/2017.

**Discussion / Information Items:**

- bus company to lease existing building and parking lot at 130 Retreat House Road
- building will be used for maintenance shop, dispatch center and employee break room
- parking for up to 150 buses
- applicant provided schedule for a.m. / p.m. trips
- transportation for the Albany City School District
- applicant provided information about bus usage on Corning Hill Rd and River Rd
- parking lot is constructed with recycled concrete
- applicant to pave the entrance to the site
- existing vegetation to remain
- stalls cannot be striped because the site does not have pavement material
- jersey barriers will define circulation route and provide a location to number the parking stalls
- snow will be managed with a wheel loader and snow would be dumped over the barriers

**Board Member / Staff Comments:**

- only one of the three parcels owned by applicant is shown on the plan

- need information regarding traffic circulation for all three lots
- drawings need more detail
- options besides jersey barriers

**Next Steps:**

- plans to be revised to show all three parcels owned by the applicant
- applicant to provide circulation plan if access were to be shared by the bus service and the owner's heavy equipment company
- drawings to revise drawings to show legend, leach field, paved areas vs non-paved areas, landscaping, location where apron and access are not needed, employee parking area, number of stalls, etc
- applicant to provide photos of existing conditions
- applicant to provide options for materials that could be used instead of jersey barriers
- ACPB review 07/20/2017
- applicant to give tour to Board Member's who are interested in visiting the site

**VII. New Business**

None

**VIII. Adjournment**

**Motion To:** Adjourn - Next meeting 07/18/2017 at 6:00 p.m.

<b>RESULT:</b>	<b>ADOPT [UNANIMOUS]</b>
<b>MOVER:</b>	Brian Gyory, Board Member
<b>SECONDER:</b>	Scott Lewendon, Board Member
<b>AYES:</b>	John Smolinsky, Brian Gyory, Scott Lewendon
<b>EXCUSED:</b>	Kate Powers