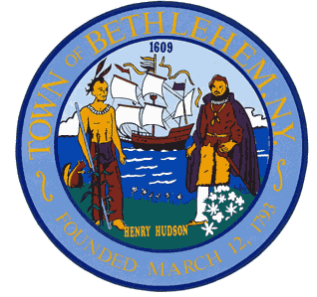


TOWN OF BETHLEHEM



John Clarkson
Town Supervisor

Planning Board Minutes

John Smolinsky
Board Member/Chairman

Thursday, November 9, 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	Excused	
Margaret Sherman	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	Present	
Leslie Lombardo	Senior Planner	Present	

II. Public Comment on Regular Agenda Items - 10 Minutes

None associated with the discussion items found in Item VI.

III. Minutes Approval

A. Tuesday, October 03, 2017

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

B. Tuesday, October 17, 2017

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

IV. Public Hearings

A. Nathan and Joy Farrell - Accessory Apartment - 110 Dumbarton Drive, Delmar - Special Use Permit / Site Plan Application - Date of Public Hearing, Thursday, 11/09/2017, at 6:00 p.m. (17-01400004)

The project was before the Board for an update and possible action on the Special Use Permit / Site Plan application. David Bernacki of Capital District Construction & Decks, the applicant, and the homeowner, Joy Farrell, were present to provide information and answer questions. Staff comments were provided by Robert Leslie on behalf of Kenneth Kovalchik. To date, the project was placed on the following agendas: 10/17/2017, 11/09/2017

Discussion / Information Items:

- applicant seeking approval for an accessory apartment above a newly constructed two car garage addition at 110 Dumbarton Drive
 - building permit has already been issued for construction of the garage
 - installation of kitchen in accessory apartment triggers need for a Special Use Permit
 - existing two car / side load garage will be converted to living space for the existing home
 - proposed apartment complies with the provisions found in Section 128-73 of the Zoning Law
- <https://ecode360.com/print/BE1011?guid=8995565>
- homeowner required to reside in one of the two dwelling units

Public Hearing / Comments:

Board Member / Staff Comments:

-

Next Steps:

- applicant to meet conditions of approval

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

V. Action Items

- A. Nathan and Joy Farrell - Accessory Apartment - 110 Dumbarton Drive, Delmar - Special Use Permit / Site Plan Application - Possible Action on Special Use Permit - SUP 44 (17-01400004)**

**PLANNING BOARD
TOWN OF BETHLEHEM**

ALBANY COUNTY, NEW YORK

SPECIAL USE PERMIT RESOLUTION - SUP 44

NATHAN AND JOY FARRELL

ACCESSORY APARTMENT AT 110 DUMBARTON DRIVE, DELMAR

WHEREAS, an application has been filed with the Planning Board of the Town of Bethlehem, Albany County, New York by Capital District Contractors and Decks, agent for Nathan and Joy Farrell (owners), for a Special Use Permit under Sections 128-68 and 128-69, of the Zoning Law, for a proposed +/- 980 square feet accessory apartment within an existing +/- 2,699 square feet single-family dwelling. The property is located at 110 Dumbarton Drive, Town of Bethlehem, New York; and,

WHEREAS, the Planning Board, acting on said application, duly advertised in the Spotlight Newspaper, held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on November 9, 2017 at 6:00 p.m.; 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, notices having been provided as required by law, 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

Nathan and Joy Farrell are the owners of the property located at 110 Dumbarton Drive, Delmar (Town of Bethlehem) and seek a Special Use Permit under Town of Bethlehem Code Chapter 128, Article VII for an accessory apartment.

1. The site of the proposed action is located in the Core Residential (CR) zoning district. A special use permit is required for accessory apartments in the CR zone district.
2. Zoning Law §128-73 of the Town Zoning Law outlines accessory apartment performance standards to be considered by the Planning Board. The performance standards applicable to the proposed accessory apartment include:

- *§128-73 (B)(1) The apartment shall be clearly subordinate to the single-family dwelling unit.*

The accessory apartment has a smaller amount of square feet as compared to the single-family dwelling. The entrance to the accessory apartment is proposed on the south side of the residence, which does not directly face Dumbarton Drive.

- *§128-73 (B)(2) The number of bedrooms in the apartment shall not be more than two.*

The floor plan indicates two bedrooms are proposed.

- *§128-73 (B)(3) The floor area of the apartment shall be greater than 400 square feet.*

The floor area of the accessory apartment is +/- 980 square feet.

- *§128-73 (B)(4) The floor area devoted to the apartment shall be less than 40% of the entire floor area of the single-family dwelling or 1,000 square feet, whichever is less.*

The total square footage of the single-family portion of the residence, once the addition is completed, will be +/- 4,575 square feet. Based on the floor plan for the accessory apartment the square footage is +/- 980 square feet, which equates to 21.4% of the entire floor area of the single-family dwelling.

- *§128-73 (B)(5) The apartment and single-family dwelling shall have a safe and proper means of entrance, clearly marked for the purpose of fire safety and mail service.*

Access to the accessory apartment is proposed via one exterior entry on the south side of the residence and via one interior entry from the 2nd floor of the single-family dwelling. Exterior access to the single-family dwelling is provided via two service doors. Interior access to the single-family residence will be provided from the garage.

- *§128-73 (B)(6) If the water supply is from a private source, the Applicant shall certify that the water supply is potable and of adequate flow.*

This provision does not apply considering the water supply is from a public source.

- *§128-73 (B)(7) The applicant shall certify the sewage disposal is adequate for the two units. Failure to correct promptly any resulting sewage system problem shall result in revocation of the special use permit.*

The site is served by a public sanitary sewer system.

- *§128-73 (B)(8) No special use permit shall be granted in any case where the County Department of Health has determined that the water or sewage system serving the dwelling or dwellings in question is for any reason not capable of handling the additional demand that would be imposed upon it in the event the special permit were issued thereunder.*

This provision does not apply considering the site is served by a public sanitary sewer system.

- *§128-73 (B)(9) Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practicable. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall a stairway or fire escape be located on any wall fronting on a street.*

The floor plans for the proposed addition indicate that the access to the accessory apartment located on the 2nd floor will be provided via an interior stairwell.

- *§128-73 (B)(10) The owner(s) of the single-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises.*

The addition of the garage and interior finished storage area is currently in the process of being built. If the Planning Board approves the accessory apartment the Applicant will apply for an additional building permit to complete the interior improvements for the accessory apartment. In the project narrative provided by the Applicant it states the owners will reside in the single-family portion of the residence.

- *§128-73 (B)(11) Any apartment within a single family dwelling that is in existence at the time of the adoption of this subsection shall be subject to the provisions outlined above.*

This provision does not apply considering the accessory apartment is not existing.

- *§128-73(B)(12) Upon issuance of a special use permit, the owner shall refile the deed to the property in the County Clerk's Office incorporating the following notice in said deed: "The single-family residence on the property includes an accessory apartment approved by the Town of Bethlehem Planning Board subject to the provisions of §128-73 of the Town Code, which among other things requires that one of the dwelling units on the premises shall be occupied by the lot owner."*

The owners indicate they will live in the single-family portion of the dwelling.

3. By adding an accessory apartment the Applicant will be required to provide four parking spaces.

There is an adequate parking on site to accommodate 4 parking spaces.

4. Pursuant to the State Environmental Quality Review Act, the Planning Board at its meeting of October 17, 2017 considered the potential environmental impact of the proposed project and issued a Negative Declaration, finding that the project would not have a significant impact on the environment.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board has taken into consideration the public health, safety and general welfare of the Town and the comfort and convenience of the public in general and the surrounding properties in particular and concludes that permitting the proposed accessory apartment will be in compliance with the standards as set forth in §128-69 and §128-73 of the Town Zoning Law.

Accordingly, the Planning Board hereby grants the Applicants' request for a Special Use Permit subject to the following conditions:

- a. The following notice shall be incorporated in the deed for 110 Dumbarton Drive, Delmar; "The single family residence on the property includes an 'accessory apartment' approved by the Town of Bethlehem Planning Board and subject to the provisions of section 128-73 of the Town Code, which among other things requires that one of the dwelling units on the premises shall be occupied by the lot owner."
- b. The Applicant shall incorporate into the deed the notice listed in item (a) above and file such deed with the Albany County Clerk's Office. A copy of the filed deed shall be provided to the Planning Board, along with proof of filing.
- c. Approval of the Special Use Permit for the accessory apartment does not authorize the use of the apartment as a short term rental unit as defined in the Bed and Breakfast definition found in Town Zoning Law 128-22 and provisions in Zoning Law 128-45 Bed-and-Breakfasts.

On a motion by Mr. Lewendon, seconded by Ms. Sherman and a vote of three (3) for, zero (0) against, zero (0) abstained and two (2) absent, this Resolution was adopted on November 9, 2017.

BY ORDER OF THE PLANNING BOARD

John Smolinsky, Chairman

The foregoing Resolution was filed with the Clerk of the Town of Bethlehem, Albany County, New York, on November 15, 2017.

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

B. Nathan and Joy Farrell - Accessory Apartment - 110 Dumbarton Drive, Delmar - Special Use Permit / Site Plan Application - Possible Action on Site Plan Approval - SPA 251 (17-01400004)

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

SITE PLAN APPROVAL

**NATHAN AND JOY FARRELL
ACCESSORY APARTMENT AT 110 DUMBARTON DRIVE, DELMAR**

CERTIFICATE NO. SPA 251

DATE: NOVEMBER 9, 2017

1. TYPE OF APPROVAL: Site Plan Approval
NAME OF PROPOSAL: Nathan and Joy Farrell - Accessory Apartment
DESCRIPTION OF PROPOSAL: Allow a +/- 980 square feet accessory apartment within an existing +/- 2,699 square feet single-family dwelling.
LOCATION OF SITE: 110 Dumbarton Drive, Delmar
TITLE OF DRAWINGS:
 - A. Site Plan Titled: Map of Special Use Permit/Site Plan, Accessory Apartment, 110 Dumbarton Drive and 110A Dumbarton Drive, Town of Bethlehem, Albany County, NY, Per the Map Prepared by Paul E. Hite, Licensed Land Surveyor, 230 Delaware Avenue, Delmar, NY 12054 dated October 6, 2017, Sheet 1 of 2.
 - B. Exterior Renderings Titled: Farrell Residence, 110 Dumbarton Drive, drawn by Al Packard Drafting Services, 2107 Concord Street, Malta, NY 12020, dated June 8, 2017, Sheet 2 of 2.
2. THIS WILL CERTIFY that the Planning Board, at a regular meeting held November 9, 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 Albany County Department of Health and/or any other governmental authority having jurisdiction thereof.
3. Access to the site is provided via one existing driveway from Dumbarton Drive, a Town Road.
4. The site is located in a Core Residential (CR) 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 October 17, 2017.
6. The site is within the boundaries of Water District No. 1 of the Town of Bethlehem and the Bethlehem Sewer District.
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. Provide a shade tree (3" - 3 ½ " caliper) between the driveway and property line. Show the utility lines (sanitary sewer and water) on the plan to confirm the tree would not conflict with underground utilities.
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 plans dated October 6, 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. The Owner shall address all modifications as listed in item #7.

- b. The following notice shall be incorporated in the deed for 110 Dumbarton Drive, Delmar, NY; “The single family residence on the property includes an ‘accessory apartment’ approved by the Town of Bethlehem Planning Board and subject to the provisions of section 128-73 of the Town Code, which among other things requires that one of the dwelling units on the premises shall be occupied by the lot owner.”
 - c. The Applicant shall incorporate into the deed the notice listed in item (b) above and file such deed with the Albany County Clerk’s Office. A copy of the filed deed shall be provided to the Planning Board, along with proof of filing.
- B. The accessory apartment is subject to all requirements of the New York State Building Code and requires a Certificate of Occupancy.
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 performance standards of §128-69(F), the applicable performance standards of §128-73(B) 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

NOTE: 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.

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

VI. Discussion/Information Items

A. Valerie S. Andres - Agricultural Use (Livestock / Chickens) - 180 Adams Street, Delmar - Site Plan Application - Initial Presentation (17-00100011)

The project was before the Board for an Initial Presentation. The applicant, Valerie Andres, was present to provide information and answer questions. Staff comments were provided by Robert Leslie on behalf of Kenneth Kovalchik. To date, the project was placed on the following agendas: 11/09/2017

B. Windsor Development - Hamlet 2 - 1319 New Scotland Road, Slingerlands - Site Plan Amendment Application - Addition of 29 Parking Spaces - Initial Presentation (17-01400003)

The project was before the Board for an Initial Presentation. David Ingalls of Ingalls & Associates, and David Sussman of Windsor Development, the applicant, were present to provide information and answer questions. Staff comments were provided by Leslie Lombardo. To date, the project was placed on the following agendas: 11/09/2017

VII. New Business

A. Open Space Implementation Plan

Mr. Leslie reported that the public meetings have been concluded and staff is looking to return to the Town Board with an Open Space Implementation Plan using the conservation criteria.

B. Delaware Complete Streets Study

Mr. Leslie reported that the public meetings have been concluded and staff is looking to finalize the Delaware Complete Streets Study and return to the Town Board with it at the end of December.

C. Next Planning Board meeting will be held on Monday, 11/20/2017

Mr. Smolinsky noted that the date of the Planning Board meeting was adjusted because the Town Board changed their meeting date from Wednesday, 11/22/2017 to Tuesday, 11/21/2017 due to the Thanksgiving holiday.

VIII. Adjournment

Motion To: Adjourn - Next Meeting - Monday - 11/20/2017 at 6:00 p.m.

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