

ACPB November 2020 Meeting Minutes - FINAL

NOTE: Due to issues related to Covid-19, the November 19, 2020 meeting of the ACPB was held via Skype. The public was able to call into the meeting to listen, but was not able to make comments during the meeting. There was a designated period of time prior to the meeting for written comments to be submitted.

Present: Dominic Rigosu, Acting Chairperson; Brian Crawford, Travon Jackson, Gerry Engstrom, Enzo Sofia, Ransom Moore, Ex Officio; Sameer Modasra, Ex Officio.

Albany County Public Works Office – Laura Travison, Senior Planner; Lynn Delaney, Secretary; William Anslow, Civil Engineer, Ex-Officio; James Mearkle, Traffic Engineer; Robert Gunther, Stormwater Program Technician.

Guests: Rob Leslie, Director of Economic and Planning Dept., Town of Bethlehem to discuss the TOB Moratorium and Sean Maguire, Planning and Economic Development Dept., Town of Colonie to discuss the Dunbach Ferry Subdivision.

Minutes: Lynn Delaney, Secretary

Call to Order: Dominic Rigosu called the meeting to order at 3:34PM.

Brian Crawford made a motion to move Referral # **04-201103585**, Town of Bethlehem Residential Land Use Moratorium, to the front of the agenda. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #:	<u>04-201103585</u>
Project Name:	Residential Land Use Moratorium
Applicant:	Town of Bethlehem
Project Location:	N/A
Municipality:	Town of Bethlehem
Parcel Size:	0.00
Zoning:	N/A
Tax Map Number:	N/A
Referring Agency:	Town of Bethlehem Town Board

Considerations:	Adoption of a local law entitled "Residential Land Use Moratorium for a 12-month period during preparation of the Comprehensive Plan Update"
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Action Type: Adoption of a Local Law

Juris. Determinant: Adoption of Local Law

Potential Impacts: Residential development in the Town of Bethlehem

Staff Notes: The Town of Bethlehem is embarking on a complete update to their 2005 Comprehensive Plan while developing the new Plan the Town Board is proposing a 12 month moratorium on accepting applications for major residential development. If enacted, the moratorium would prevent the Planning Board from accepting for review, hold a hearing or make any decision upon:

1) Any application for a residential subdivision containing more than four dwelling units and/or that meets the criteria of a major subdivision (e.g. including a new street or road or the extension of municipal facilities), whether that subdivision application was submitted prior to or after the effective date of the Local Law. The law applies to subdivisions as defined in Bethlehem Town Code § 103-8. The statutory and locally-enacted time periods for processing and making decisions and all aspects of subdivision application (including, but not limited to, preliminary and final subdivision plats) are suspended and stayed while this Local Law is in effect;

2) Any application for a site plan containing residential dwelling units or for residential dwelling units within a residential care/nursing home/senior citizen housing facility, whether submitted prior to or after the effective date of the Local Law.

3) Any application to establish a Planned Development District containing residential dwelling units, whether submitted prior to or after the effective date of this Local Law. This law applies to Planned Development Districts as described in Bethlehem Town Code §128-40 and 128-41.

4) Any application for a use variance or the expansion or conversion of a nonconforming use that creates more than 2 additional residential dwelling units, whether said application was submitted prior to or after the effective date of this Local Law.

This Local Law shall NOT apply to:

- a. Site plan for residential dwelling units for which a SEQR Determination of Significance/Negative Declaration Resolution was granted by the Planning Board prior to the effective date of this Local Law;
- b. Subdivisions for which preliminary plat approval was granted by the Planning Board prior to the effective date of this Local Law;
- c. Lot line revision applications;

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- d. Land Division applications;
- e. Special Use Permit applications for accessory apartments;
- f. Minor subdivision applications of four lots or less, provided however that in no instance shall more than four building lots be obtained from any lot or parcel existing on the effective date of this Local Law;
- g. A site plan application for a two-family dwelling;
- h. Subdivisions of land where it can be shown that the purpose of the subdivision is to develop said land for commercial, industrial or other non-residential use;
- i. Any application to amend an approved Building Project within an established Planned Development District, provided that the purpose of said applications is to expand housing, assisted or assistive living, or skilled nursing care opportunities, for senior citizens;
- j. An application (subdivision or site plan) related to a previously approved Planned Development District, where the application is in substantial conformance with the district plan that served as the basis for the zone change to PDD; or
- k. Any request for assistance from the Zoning Board of Appeals to the Planning Board pursuant to Zoning Law 128-89, whether said request was made prior to or after the effective of this Local Law.

On August 24, 2005, the Town Board adopted its first Comprehensive Plan, which provided a vision for the Town up to year 2020. From Fall 2018 through Spring 2019, the Town held a series of seven community forums with resident participation to talk about what the future should hold for the hamlets and the greater Town.

The Town of Bethlehem Demographic and Growth Analysis 1991-2018, dated December 2019, identifies Bethlehem is an aging community. The Town plans to utilize the 12 month moratorium to review all areas of interest and to formulate options for the Town Board.

The Town Board finds that growth and development of residential subdivisions and multifamily developments requiring site plan approvals within the Town of Bethlehem are placing severe pressure on the water supply, sanitary sewer, stormwater management, agricultural lands, open and recreational space, rural character, natural resources, and transportation infrastructure of the Town. The Town's unique character, geography, and hydrology impose distinct limitations on the shape, design and intensity of development that can be reasonably sustained without endangering public health, safety and welfare of its residents. Further, the Town is desirous of expanding its commercial and business tax base to help diversify and stabilize the Town's revenue fund.

This moratorium is intended to enable the Town to focus on crafting and implementing a strategy to ensure that it achieves its planning objectives, while allowing those existing residential development applications that have invested much time and effort to continue review and consideration of approval by their respective Boards. The ACPB received two letters of dissent against this moratorium. One from Christopher Dirr, Senior Vice President of NRP Group. This developer has received grant funds from NYS Homes and

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Community Renewal to construct affordable housing in the Town of Bethlehem. The Capital Region Builders and Remodelers Association also encouraged the ACPB to vote to disapprove the moratorium.

Staff Opinion:

Modify local approval to include:

1. Notification of the application should be sent to all neighboring municipalities, including all required notices pursuant to GML §239-nn.
2. The ACPB supports the Town and its residents in planning for future growth that will have an impact on nearby State and County entities and natural resources, as well as adjacent municipalities.

Rob Leslie, Town of Bethlehem Director of Planning, gave an overview of the proposal. Laura Trivison noted that many of Public Comments that we received questioned why the Albany County Planning Board is allowed input on this project. She stated that the County did not specifically seek out involvement, but it is required by law, GML 239N. This law requires that any City, Town or Village within Albany County when they make or amend a town law or zoning law, that it has to come to the Albany County Planning Board for a vote. This is standard practice to support regional smart growth.

Enzo Sofia clarified some of the specific points of the proposal. He expressed concern for the timing of this project as it related to the pandemic. The financial impact to those involved with potential construction projects in the Town of Bethlehem and the amount of money that has already been spent for projects that can no longer proceed.

Rob Leslie stated that this moratorium will not affect projects that have been already approved and will not stop construction. However applications that have not been approved but are in the process will be paused for the year. Rob stated that there is an appeal process for those who feel this would cause undue hardship for a specific project. Rob also stated that the last comprehensive plan that was adopted in the Town of Bethlehem was in 2005. The Dept. of State says that best practice is to update every 10 years and the current plan has a vision through 2020 so now is the time. Dept of State also recommends that when updating a comprehensive plan it is appropriate to put a Moratorium in place.

Dominic Rigosu asked Rob for some specific information regarding the applicants who are in the process but have not yet been approved and therefore would have to pause for 1 year. He specifically had concerns regarding one project that is relying on some Grant money for funding as they typically have to adhere to a specific timeframe to receive the grant money. Rob again stated that they could file an appeal.

Ransom Moore from the Albany County Comptroller's office, spoke about the trend of people leaving major metropolitan areas and moving upstate and wondered if this moratorium might have the potential to lose some of those buyers.

After some additional discussion, Gerry Engstrom made a motion to accept the staff opinion for Referral **#04-201103585**. The Motion was seconded by Travon Jackson and by a vote of 3 to 2, was approved by the Board.

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Gerry Engstrom made a motion to move Referral # **07-201103588**, Dunsbach Ferry Subdivision to the front of the Agenda. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

Dominic Rigosu recused himself from this Referral and therefore will not be voting.

<u>Case #:</u>	<u>07-201103588</u>
Project Name:	Dunsbach Ferry Subdivision
Applicant:	80 Dunsbach Ferry Rd., LLC
Project Location:	80 Dunsbach Ferry Rd
Municipality:	Town of Colonie
Parcel Size:	9.65 acres
Zoning:	Single Family Residence
Tax Map Number:	9.2-3-1.112
Referring Agency:	Town of Colonie Planning Board
Considerations:	Conservation subdivision review to enable the creation of 11 residential lots and one 3.56 acre lot.
Action Type:	Subdivision Review
Juris. Determinant:	State Road, NYS Designated Agricultural District
Potential Impacts:	I87, NYS Designated Agricultural District

The Board had numerous questions/comments regarding this Referral. After speaking with Sean Maguire, Planning and Economic Development Dept., Town of Colonie, it was determined that more information is needed.

Gerry Engstrom made a motion to delay the decision for Referral #**07-201103588** until the December 17, 2020 meeting. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

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Brian Crawford made a motion to approve the Albany County Planning Board October 15, 2020 meeting minutes. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Brian Crawford made a motion to group 9 of the cases with a Staff recommendation of Defer to Local Consideration and move them to the front of the agenda. The motion was seconded by Travon Jackson and unanimously approved by the Board.

Case #: **01-201103581**

Project Name: **61 & 63 Shaker Road**

Applicant: St. Peter's Health Partners

Project Location: 61 & 63 Shaker Road

Municipality: City of Albany

Parcel Size: 3.79 acres

Zoning: Mixed-Use, Community Highway (MU-CH)

Tax Map Number: 65.08-1-1.2, 65.08-1-1.3

Referring Agency: City of Albany Planning Board

Considerations: Demolition of a 54,110 SF hospital building and pedestrian bridge.

Action Type: **Demolition Review**

Juris. Determinant: County and State Road

Potential Impacts: CR 151 (Albany Shaker Road), US 9

Staff Notes: The property owners are seeking to demolish a 54,110 SF of the east wing of the Samaritan Albany Memorial Hospital and a pedestrian bridge. Total area expected to be disturbed in .74 acres. A SWPPP, and a Demolition and Debris Diversion Plan were submitted with the application. There is no proposed change to egress/ingress.

Staff Opinion: Defer to local consideration.

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1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Case #: **04-201103586**

Project Name: **The Real McCoy -Bellini**

Applicant: Real McCoy LLC

Project Location: 20 Hallwood Rd.

Municipality: Town of Bethlehem

Parcel Size: 0.48 acres

Zoning: Hamlet

Tax Map Number: 85.12-4-6

Referring Agency: Town of Bethlehem Zoning Board of Appeals

Considerations: Area variance to enable a rear setback 27' 10" shorter than minimum required.

Action Type: **Area Variance**

Juris. Determinant: County Property

Potential Impacts: Albany County Rail Trail

Staff Notes: Owner is seeking to build an addition to their commercial property to accommodate a small kitchen for current brewery. Hamlet District required maintaining a rear yard setback of 40 feet to the main structure. The proposed plans show a setback of 12'2" this will be short 27'10".

Staff Opinion: Defer to local consideration.

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1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

1. The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to rear setbacks in the Hamlet zone.

Case #:

07-201103589

Project Name:

Verizon Wireless Facility Shaker Road

Applicant:

Cellco Partnership d/b/a Verizon Wireless

Project Location:

396 Waterviliet Shaker Road

Municipality:

Town of Colonie

Parcel Size:

4.03 acres

Zoning:

Single Family Residence

Tax Map Number:

31.4-5-38

Referring Agency:

Town of Colonie Planning Board

Considerations:

Site plan review to enable the construction of a 79' tall monopine telecommunications facility.

Action Type:

Site Plan Review

Juris. Determinant:

State Road

Potential Impacts:

NY 155 (Waterviliet Shaker Road)

Staff Notes:

The property owner is proposing to construct a 79' tall stealth monopine telecommunications facility. The proposed communications facility will be located in a 57.5' x 44' fenced compound. The tower, as well as base equipment, will be on a 40'x70' concrete pad. The site will be accessed via the existing driveway off Waterviliet - Shaker Rd. that is currently also the driveway

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to an Elks Lodge. This project has already received a special use permit and a Negative Declaration SEQR type. The property is within 500' of an historic site (Goodrich School) and the Town already stipulated approval is contingent on a SHPO review. Compliance with the FAA submission notice requirements for new structures was also mandated in Town review.

Staff Opinion:

Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #:

07-201103590

Project Name:

Lands of Loudon Road Realty

Applicant:

New Loudon Road Realty, LLC

Project Location:

606 & 608 Loudon Road

Municipality:

Town of Colonie

Parcel Size:

8.39 acres

Zoning:

Planned Development District (PDD)

Tax Map Number:

31.3-4-75, 31.3-4-74

Referring Agency:

Town of Colonie Planning Board

Considerations:

Subdivision review to enable one 8.39-acre parcel into two lots: 4.72 acre and a 3.67 acre lot.

Action Type:

Subdivision Review

Juris. Determinant:

State Road

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Potential Impacts: NY 9 (New Loudon Road)

Staff Notes: The subdivision review would allow the 8.39 acre parcel to be divided into two lots. Lot 1 would be 4.72 acres with frontage on New Loudon Road. Lot 2 would be a 3.67 acre rear lot without frontage, which was granted as an Open Development Area by the Town Board. No new roadways or egress/ingress is proposed as part of the subdivision.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #: **07-201103591**

Project Name: **Philips Medical Systems - Canopy and Concrete Pads**

Applicant: Philips Medical Systems MR, Inc.

Project Location: 450 Old Niskayuna Road

Municipality: Town of Colonie

Parcel Size: 27.60 acres

Zoning: Airport Area (ABA)

Tax Map Number: 18.-3-24.2

Referring Agency: Town of Colonie Planning Board

Considerations: Site plan review to enable the construction of a canopy on an existing loading dock and two concrete pads.

Action Type: **Site Plan Review**

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Juris. Determinant: County Road

Potential Impacts:

Staff Notes: The property owner is proposing the addition of a canopy at one of the loading docks and two concrete pads. The canopy will provide protection during seasonal weathers variations and will help protect equipment. The concrete pads will be utilized to support storage containers. There will be no increase in impervious surface since the canopy and concrete pads will be constructed over already paved acres.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #: **07-201103592**

Project Name: **Lands of Bourbon St. Bar and Grill**

Applicant: Bourbon St. Bar and Grill

Project Location: 2209-2213 Central Ave. and 25 Shepard Ave.

Municipality: Town of Colonie

Parcel Size: 0.67 acres

Zoning: Commercial Office Residential (COR)

Tax Map Number: 16.7-9-19, 16.7-9-18, 16.7-9-17, 16.7-9-15

Referring Agency: Town of Colonie Planning Board

Considerations: A subdivision review to enable the merger of four tac parcels into one .67 acre parcel.

Action Type: Subdivision Review

Juris. Determinant: State Road

Potential Impacts: NY5 (Central Ave.)

Staff Notes: The owner seeks to bring business into zoning compliance by merging four tax parcels where their existing restaurant and parking is located. After the merger, there will be one .67 acre lot. The restaurant has existed for fifteen years and there is no proposed change to the parcels or physical property.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #: **08-201103593**

Project Name: Otto Cadillac

Applicant: West Coast Partners LLC

Project Location: 1767 Central Ave.

Municipality: Village of Colonie

Parcel Size: 0.57 acres

Zoning: Commercial A

Tax Map Number: 29.15-1-39

Referring Agency: Village of Colonie

Considerations: Site plan review to enable the demolition of an existing commercial building to be replaced with a paved parking lot.

Action Type: Site Plan Review

Juris. Determinant: State Road

Potential Impacts: NY 5 (Central Ave)

Staff Notes: The property owner is proposing to demolish the existing commercial building on the parcel and replace the area with paved parking for display of new and used vehicles. The existing dwelling will be converted into a sales office. No change to egress / ingress is proposed. Total area expected to be disturbed is .4 acres.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #: **10-201103595**

Project Name: 18 Upper Hillcrest Subdivision and Variance

Applicant: Vision Planning Consultants

Project Location: 18 Upper Hillcrest Ave & Arcadia Ave.

Municipality: Town of Guilderland

Parcel Size: 0.35 acres

Zoning: Residential 10 (R10)

Tax Map Number: 63.08-3-36, 63.08-3-22.1

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: An area variance to enable the subdivision of two lots under minimum lot size criteria.

Action Type: Area Variance and Subdivision Review

Juris. Determinant: State Road

Potential Impacts: US 20 (Western Ave.)

Staff Notes: The two lots have frontage on parallel adjacent streets and the owners are related. The property owner of 126 Arcadia Ave. is proposing to subdivide 7,686 SF from the lot and add 1,625 SF to 18 Upper Hillcrest Ave. and the remaining 6,061 SF will be dedicated for the proposed construction of a new family dwelling on Upper Hillcrest Ave. The reduction of the Arcadia Ave. parcel will be in the rear and therefore not impact the setback from neighbors on Arcadia Drive. The new lot width will be 80.82' with a 15' front yard setback and 20' for each side yard. The new parcel would need relied from front and rear yard setback requirements as well as lot size requirement. The lot requirements in a R10 zone are a lot size minimum of 10,000 SF, a lot width minimum of 80', front setback 35', side setback of 12.5', and a rear setback of 30'.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Case #: 13-201103597

Project Name: Lands of O'Brien and Fuina

Applicant: Barbara O'Brien and May Ann Fuina

Project Location: 79 Scott Rd. & 890 Clarkville South Rd.

Municipality: Town of New Scotland

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Parcel Size: 8.25 acres
Zoning: Residential Forest (RF)
Tax Map Number: 117.-2-18.22, 117.-2-18.23
Referring Agency: Town of New Scotland Planning Board

Considerations: Subdivision review to enable a lot line adjustment between 3 lots

Action Type: **Subdivision Review**

Juris. Determinant: County Road

Potential Impacts: CR 312 (Clarksville South Rd)

Staff Notes: Two property owners are seeking to adjust their property lines to straighten the parcel boundary owned by Fuina, fix the lien in the driveway area, and have parcel lines that better align with existing vegetation.

Staff Opinion: Defer to local consideration.

1. This Board has found that the proposed action will have no significant countywide or intermunicipal impact. Defer to local consideration.

Advisory Note:

Without any questions or comments from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral #'s 01-201103581, 04-201103586, 07-201103589, 07-201103590, 07-201103591, 07-201103592, 08-201103593, 10-201103595, & 13-201103597. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

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Case #: **13-201103599**

Project Name: **Lands of Burke - Borrego Solar**

Applicant: Rejean DeVaux

Project Location: Altamont Road (near Theresa LN. Tax ID 72.-1-65)

Municipality: Town of New Scotland

Parcel Size: 27.20 acres

Zoning: Residential Agriculture

Tax Map Number: 72.-1-65

Referring Agency: Town of New Scotland Zoning Board of Appeals

Considerations: Area variance request to allow a large scale solar project to be sited on a parcel that contains prime soil

Action Type: **Area Variance**

Juris. Determinant: NYS designated Agricultural District and State Road

Potential Impacts: US 156 (Altamont Road), NYS designated Agricultural District and State Road, prime soil

Staff Notes: Borrego solar is seeking an area variance to allow large scale solar project to be sided on this parcel, which contains prime soils. New Scotland Town Law prohibits large scale solar on prime soils. The Natural Heritage Division of DEC noted that the parcel may have some rare or endangered species on its premise but the Permit Division on DEC verified that none is actually on the site that require permitting. The only restriction DEC has on this site is for limiting logging months. Burke PV Engineers completed a SWPPP for the project. In June 2018, The Town of New Scotland Planning Board granted an appeal for a solar project on a prime soil parcel with the explanation that the law prevents construction on top of prime soil but a solar project could exist on a parcel with prime soil as long as the solar arrays themselves weren't on prime soil. The Town Law states: Siting Considerations. It is a goal of the Town to preserve, to the maximum extent practicable,

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- (a) agricultural land with Prime Farmland and Prime Soils; and
- (b) Mature Forests. No Large-Scale Solar project shall be permitted on:

- (a) any site that is Prime Farmland or which contains Prime Soils or

- (b) any site that either (i) contains more than one (1) acre of Mature Forest at the time the application was filed or (ii) was a Mature Forest one (1) year prior to the submission of an application for a Large-Scale Solar Project. The applicant may submit information to demonstrate that the soils on the proposed project site are not Prime Soils or have poor drainage. If the project received an area variance, it would then need to obtain a special use permit and then a site plan review. This parcel is adjacent to a NYS designated Agricultural district.

Staff Opinion:

Disapprove.

1. The request does not fulfill the balancing test for area variances set forth in State Statute.
2. Town Law prohibits construction of solar array projects on parcels with prime soil.

Advisory Note:

1. An agricultural data sheet is not required for an area variance. However, because the issue at hand is prime soils, a survey of surrounding farms and areas may be helpful in determining the appropriateness of this specific area variance.
2. While the property development will require a site plan review, the zoning board should not grant the variances without first consulting NYS DOT on the proposed design layout and curb cut changes.

This vote was postponed from the October 15, 2020 meeting while the Board gathered some additional information.

Without any questions or comments from the Board, Gerry Engstrom made a motion to accept the Staff Opinion for Referral #13-201103599. The motion was seconded by Brian Crawford and unanimously approved by the Board.

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Case #: **04-201103583**

Project Name: **Selkirk Solar LLC/ Frueh Lands - Subdivision Application**

Applicant: Selkirk Solar LLC in addition to Frueh Lands

Project Location: South Albany Road

Municipality: Town of Bethlehem

Parcel Size: 65.50 acres

Zoning: Rural Light Industrial

Tax Map Number: 120.00-4-19

Referring Agency: Town of Bethlehem Planning Board

Considerations: Subdivision review to enable one parcel to be divided into 3 lots. The second lot will contain a proposed 5 MWAC community solar facility.

Action Type: **Subdivision Review**

Juris. Determinant: County Road, NYS Designated Agricultural District

Potential Impacts: CR 53 (South Albany Road)

Staff Notes: The applicant is proposing three new lots that will accommodate the existing uses on site as well as the proposed commercial ground-mounted solar PV system currently also being reviewed. Proposed Lot 1 would be 5.3 acres. Proposed Lot 2 would be 12 acres and proposed Lot 3 would be 48.2 acres. Lots 1 and 2 will be used for the existing agricultural and contractor yard uses. Lot 3 will contain a proposed 5 MWAC community solar farm. There are wetlands and flood zones on Lot 3. Driveway access to Lot 3 already exist.

Staff Opinion: Modify local approval to include.

1. The Town should ensure that the property owner is aware of the regulations for construction activities that disturb land greater than one acre and that any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.

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2. The Town should ensure that the property owner is aware that a highway work permit from the Albany County Department of Public Works is required for work within the county right of way.

Advisory Note:

Brian Crawford made a motion to accept the staff opinion for Referral #04-201103583. The motion was seconded by Enzo Sofia and unanimously approved by the Board.

<u>Case #:</u>	<u>04-201103584</u>
Project Name:	Selkirk Solar LLC - 5MW Solar Facility
Applicant:	Selkirk Solar LLC in addition to Frueh Lands
Project Location:	South Albany Road
Municipality:	Town of Bethlehem
Parcel Size:	65.50 acres
Zoning:	Rural Light Industrial
Tax Map Number:	120.00-4-19
Referring Agency:	Town of Bethlehem Planning Board
Considerations:	Site plan review and special use permit to enable the construction of a commercial 5 MW ground solar PV facility.
Action Type:	Site Plan Review and Special Use Permit
Juris. Determinant:	County Road, NYS Designated Agricultural District
Potential Impacts:	CR 53 (South Albany Road), NYS Designated Agricultural District, wetlands, flood zone

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Staff Notes:

The South Albany Road Solar Farm is a proposed ground mounted solar array project on Lot 3 of the related subdivision also on the agenda for this meeting. The parcel is currently comprised of grass fields, forested area, an existing gravel driveway and a gravel pad area. South Albany Road proposes the construction of a 5 MW AC photovoltaic solar array facility consisting of 18,468 PV panels. The total area of expected physical disturbance is 25 acres. The site can be classified as sloping from the east and west of the parcel towards a creek that runs through the center of the parcel in a north-south direction. A SWPPP was provided with the application as well as decommissioning plan and notes from the developer and town about emergency access and shut off. The curb cut to the county road already exist but will require improvements from the Town.

Staff Opinion:

Modify local approval to include.

1. The Town should ensure that the property owner is aware of the regulations for construction activities that disturb land greater than one acre and that any wetlands disturbance will require notification to and review by the U.S. Army Corps of Engineers for permits under Section 404 of the Clean Water Act.
2. The Town should ensure that the property owner is aware that a highway work permit from the Albany County Department of Public Works is required for work within the county right of way.

Advisory Note:

Gerry Engstrom made a motion to accept the staff opinion for Referral **#04-201103584**. The motion was seconded by Brian Crawford and was unanimously approved by the Board.

Case #:

10-201103594

Project Name:

Fioccuzio Construction 7 Lot Subdivision

Applicant:

Fioccuzio Construction LLC

Project Location:

634 Route 146

Municipality:

Town of Guilderland

Parcel Size:

2.48 acres

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Zoning: Residential Agriculture (RA3)
Tax Map Number: 38.00-1-26.2
Referring Agency: Town of Guilderland Planning Board

Considerations: Subdivision review to enable a subdivision of seven lots

Action Type: **Subdivision Review**

Juris. Determinant: State Road

Potential Impacts: NY 146, NY 158

Staff Notes: The property owner is proposing a residential subdivision that will create seven residential lots that will be served by public water supply and will have individual on-site septic for wastewater. The eastern part of the parcel is adjacent to Black Creek and is in a flood zone.

Staff Opinion: Modify local approval to include:

1. The location of septic should be evaluated by Albany County Department of Health as part of the subdivision of the land.
2. The town should ensure that the property owner is aware of the regulations for construction activities that disturb land greater than one acre. A Stormwater Pollution Prevention Plan (SWPPP) and a Construction Activity Permit GP-0-15-002 will be required before commencing construction.
3. Review by the New York State Department of Transportation for design of highway access, drainage and assessment of road capacity for driveways connecting to NY146.

Advisory Note:

Without any questions or comments from the Board, Gerry Engstrom made a motion to accept the staff opinion for Referral #**10-201103594**. The motion was seconded by Travon Jackson and unanimously approved by the Board.

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Case #: **03-201103582**
Project Name: **Borelli Subdivision with Variances**

Applicant: Bernard and Cathy Borelli
Project Location: 1040 Huntersland Rd.
Municipality: Town of Berne
Parcel Size: 32.40 acres
Zoning: Residential / Agriculture / Forestry (RAF)
Tax Map Number: 112.-1-9.1
Referring Agency: Town of Berne Zoning Board of Appeals

Considerations: An area variance to enable the subdivision of one parcel into two lots where one of the new lots will have less than the minimum required for road frontage and front setback.

Action Type: **Area Variance**

Juris. Determinant: County Road

Potential Impacts: CR 10 (Huntersland Rd)

Staff Notes: The property owner is seeking to subdivide their parcel in order to enable the construction of a new residence. The 32.4 acre parcel would subdivide into two parcels. The owner intends to construct a new residence on a 5.01 acre lot (Lot 2). The owner intends to construct a new access driveway and septic on Lot 2. Lot requirements in a RAF zone are: 5 acres minimum lot size, minimum front setback is 70', minimum side setback is 100'/75', and minimum rear setback in 100', and minimum width of building line and road frontage is 300'. The property owner is asking for frontage to be 155' and the building line to be 116'.

Staff Opinion:

Modify local approval to include:

1. While the property development will require a site plan review, the zoning board should not grant the variances without first consulting Albany County Department of Public Works on the proposed design layout and curb cut changes.
2. A highway work permit will be required by the Albany County Department of Public Works for all work within the right of way of CR 10.
3. The location of wells and septic should be evaluated by Albany County Department of Health as part of the subdivision of the land.

Advisory Note:

1. The Town should consider the precedent setting nature of approving significant area variances from road frontage requirements in order to create lots in a RAF Zone. The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.

Without questions or comments from the Board, Brian Crawford made a motion to accept the staff opinion for Referral **#03-201103582**. The motion was seconded by Gerry Engstrom and unanimously approved by the Board.

Case #:

05-201103587

Project Name:

Coeymans Local Law Amendment to Chapter 80

Applicant:

Coeymans Town Board

Project Location:

N/A

Municipality:

Town of Coeymans

Parcel Size:

0.00

Zoning:

N/A

Tax Map Number:

N/A

Referring Agency:

Town of Coeymans Town Board

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Considerations: Amending various sections of Chapter 80 of Town local law to regulate hazardous and medical waste.

Action Type: **Amendment to Local Law**

Juris. Determinant: Amendment of Local Law

Potential Impacts: Hazardous and medical waste disposal and regulation within the Town.

Staff Notes: The Town Board is considering adoption of a proposed local law entitled "Amendments to Chapter 80 of the Coeymans Town Code", which amended sections include §80-4, §80-5, §80-6(B), §80-7(B), §80-9(B), §80-12. The amendment provides that no amount of hazardous or medical waste shall be processed within the Town of Coeymans, and that no amount of waste shall be considered a fuel source unless approved and permitted by the NYS Department of Environmental Conservation and/or the US Environmental Protection Agency (EPA).

Staff Opinion: Modify local approval to include:

1. A notification of the changes to the local law should be sent to all adjacent municipalities.

Advisory Note:

Without questions or comments from the Board, Gerry Engstrom made a motion to accept the staff opinion for Referral #05-201103587. The motion was seconded by Travon Jackson and unanimously approved by the Board.

Case #: **13-201103598**

Project Name: **Local Law C of 2020**

Applicant: Town of New Scotland

Project Location: N/A

Municipality: Town of New Scotland

Parcel Size: 0.00

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Zoning: N/A
Tax Map Number: N/A
Referring Agency: Town of New Scotland Planning Board

Considerations: Amending local lighting laws to prohibit holiday lighting on vacant buildings.

Action Type: **Adoption of Local Law**

Juris. Determinant: Adoption of Local Law

Potential Impacts:

Staff Notes: The law seeks to ban holiday lights when placed on a vacant, or unoccupied, dwelling (including any accessory buildings (garage, shed, etc.) associated with the dwelling) or residence that is not being used as a residence and/or is unoccupied at the time the holiday lights are turned on. For purposes of Section 190-33, a dwelling is “unoccupied” when no person is residing in, and sleeping at, the dwelling during any 24 hour consecutive period. If the dwelling is unoccupied, the holiday lights cannot be turned on. No temporary holiday lights can be used for a period in excess of eight (8) consecutive weeks.

Staff Opinion: Modify local approval to include:

1. Notification of the application should be sent to all neighboring municipalities, including all required notices pursuant to GML §239-nn.

Advisory Note:

Without any comments or questions from the Board, Brian Crawford made a motion to accept the staff opinion for Referral #**13-201103598.** The motion was seconded by Travon Jackson and unanimously approved by the Board.

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Case #: **10-201103596**

Project Name: **CM Fox Building**

Applicant: Troy Miller

Project Location: 2390 Western Ave.

Municipality: Town of Guilderland

Parcel Size: 1.20 acres

Zoning: Local Business

Tax Map Number: 39.00-3-57.2

Referring Agency: Town of Guilderland Zoning Board of Appeals

Considerations: An area variance and a special use permit to enable the construction of 2 additional stories on an existing building and convert to mixed use commercial with apartments.

Action Type: **Area Variance and Special Use Permit**

Juris. Determinant: State Road

Potential Impacts: US 20 (Western Ave.)

Staff Notes: The property owner is seeking an area variance and special use permit to allow the construction of two additional floors on an existing office building. The owner intends to turn the office building into 9 apartments. There is currently no proposed change to ingress, egress, utility connection, impermeable surfaces or any physical disturbance.

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Staff Opinion:

Modify local approval to include:

1. The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the building height in the LB zone.
2. The Town may want to encourage DOT to address left turns to and from the four-lane undivided roadway.

The Board did have concerns about the proposed height of the building and decided that this should be switched from the original staff opinion to Defer to Local Consideration to Modify local approval (noted above).

Without any further comments or questions from the Board, Gerry Engstrom made a motion to accept the revised staff opinion of Modify Local Approval for Referral #10-201103596. The motion was seconded by Travon Jackson and unanimously approved by the Board.

Case #:

17-201103601

Project Name:

Tobacco Island

Applicant:

Jason Wellington

Project Location:

942 19th St.

Municipality:

City Watervliet

Parcel Size:

2.09 acres

Zoning:

Mixed Use 2 (MU2)

Tax Map Number:

32.15-3-1

Referring Agency:

City pf Watervliet Zoning board of Appeals

Considerations:

Use permit to enable a smoking lounge area in a smoke shop.

Action Type:

Use Variance

Juris. Determinant:

State Road

Potential Impacts:

NY 2 (19th St.)

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Staff Notes: The owner is seeking a permit to run a smoke shop. The shop is in a mixed -is zone where commercial business is allowed. The City denied the request for the lounge part of the business.

Staff Opinion: Disapprove.

1. Before a ZBA can grant a use variance, state law requires that the applicant must demonstrate “unnecessary hardship.” Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a variance. The applicant should include an explanation that justifies the need for a variance with criteria set for in state statute.

Laura Trivison gives an overview. Without any further questions or comments from the Board, Brian Crawford made a motion to accept the Staff Opinion for Referral #17-201103601. The motion was seconded by Travon Jackson and unanimously approved by the Board.

Case #: **14-201103600**

Project Name: **183 Winnie Ave.**

Applicant: Tom Bennett

Project Location: 183 Winnie Ave.

Municipality: Village of Ravenna

Parcel Size: 2.10 acres

Zoning: Residential 2 (R-2)

Tax Map Number: 156.-5-31.1

Referring Agency: Village of Ravenna Planning Board

Considerations: A site plan review to enable the construction of a 1200 SF garage with a two bedroom residence on the second floor.

Action Type: Site Plan Review

Juris. Determinant: State Road, Intermunicipal Boundary

Potential Impacts: 9W, Town of Coeymans' and Village of Ravenna's intermunicipal boundary

Staff Notes: The property owner is seeking to construct an attached 1200 SF garage that will have a two bedroom apartment on the second floor. The proposal includes a new access driveway.

Staff Opinion: Modify local approval to include:

1. Notification of the application should be sent to the Town of Coeymans, including all required notices pursuant to GML §239-nn.

Advisory Note:

1. The Village may want to make approval contingent on receipt of an official drawing or rendering of the proposed site and action prepared by a licensed architect, engineer, or land surveyor.

Without any comments or questions from the Board, Gerry Engstrom made a motion to accept the staff opinion for Referral #14-201103600. The motion was seconded by Brian Crawford and unanimously approved by the Board.

Unfinished Business: A yearly report is due to be submitted to the Legislature. Laura will help with this prior to leaving her position with the County.

New Business: Laura Travison advised the Board that she has resigned from the Senior Planner position for the County to take a position with the South End Improvement District. Her last day will be 11/25/20 and Gopika Muddappa will be filling in part-time until a full time replacement can be found. Gopika worked as the Interim Senior-Planner when Laura was on maternity leave, so she is familiar with the position.

The next meeting of the Albany County Planning Board is December 17, 2020.

Adjourn: Enzo Sofia made a motion to adjourn the meeting at 5:29PM.

A transcription and/or video recording of this meeting will be made available upon receipt of a FOIL request.

