

**BETHLEHEM PLANNING BOARD**  
**PUBLIC HEARING MINUTES**  
**BETHLEHEM TOWN HALL MEETING ROOM**

**September 25, 2013**

Present: Andrea Bryant, Sandy Laleme, Pat Doughty, Dave Wiley, Harold Friedman, Alecia Loveless, Peter Roy, Mike Bruno, and Kevin Roy

Excused: Don Lavoie

Absent: Neil Brody and Jeanne Robillard

Andrea called meeting to order at 6:07

The Board reviewed the minutes from 8/25/2013. Andrea requests some minor changes on the first page. A discussion began regarding the Drag Strip letter on page 2. Andrea would like to amend the motion regarding the letter to Doug Ingerson to match what was written in the actual letter that she wrote, which stated, "Douglas Ingerson should apply to the Bethlehem Planning Board for Site Plan Review." Pat motions to accept the minutes as amended thus far, and without changing the motion. Harold and Mike agree the motion should stay as it is. Sandy states the board can amend the motion if they chose. Pat thinks its fine the way it is. Harold feels the board should go forward and leave the motion as it is. Mike brings up that the wrong RSA is quoted, should read RSA 674:53, IV. Pat changes his motion to accept the minutes as amended with the correct RSA, 674:53,IV, and not RSA 674:53:II. Pat, Dave, Peter, and Sandy vote in favor. Andrea is opposed.

The Board hears from Ron McCullough regarding a taxi business he would like to start. Sandy wonders why this is a matter for the Planning Board and motions for a waiver of Site Plan Review. Peter seconds. Andrea consults the zoning ordinance for permitted use. Pat questioned whether or not Rambling Woods has any restrictions. Mr. McCullough had already talked with Jeff at Rambling Woods Association and got the OK. All in favor, motion passes.

Bethlehem resident Jim Baker approached the board with 2 concerns. The first regards the condition of his neighbor's property. Mr. Baker has met with the town building inspector a number of times and feels frustrated because the building inspector has gotten nowhere, and feels the Select Board has been negligent in their responsibility regarding enforcement of the Zoning Ordinances. Sandy announces to the Board that currently the town is without a building inspector and offers that once the position has been filled the Select Board will be sure to make the new building inspector aware of his concerns.

Mr. Baker's second issue pertains to the Northern Pass and wonders what sort of thought the Planning Board has given to getting involved with the project. Sandy informs Mr. Baker that it is not within the Board's jurisdiction as it falls under the Department of Energy at the federal level. Pat informs Mr. Baker that the Planning Board cannot form an opinion on a matter that does not have an application. Andrea goes on to explain this further and somewhat satisfies Mr. Baker.

Pat opens discussion regarding the letter to Doug Ingerson and the Drag Strip by questioning the Planning Board's authority to send such a letter. Pat contacted Attorney Paul Sanderson at LGC to get his opinion on the matter. Paul informed Pat that Planning Boards cannot go out seeking work, or requesting people to come before them for anything. Planning Boards can only act on applications that are presented to them. In light of that Pat feels the Board did not act within its jurisdiction. Andrea points out that there are conflicting attorney opinions and points out that Jae Whitelaw, the Planning Board attorney specifically said the board should ask Doug Ingerson to come before them for Site Plan Review. Sandy interjects that Pat came to her after talking with Paul Sanderson with the feeling that this should have been a Select Board issue, and not a Planning Board concern. In turn Sandy contacted Paul Sanderson to ask what the Select Board had to do with this. Paul's response:

"A planning board has no jurisdiction over a land use matter until you have an application before the board. See RSA 676:4, I. Thus, a planning board has no ability to contact a landowner and request a site review to be filed. If the owner of the land undertakes some changes, and the enforcement authority (usually the board of selectmen) feels a local review was required, that becomes a land use enforcement matter for the selectmen under RSA 676:15-17. Usually a decision on enforcement results after a discussion with the town attorney."

Sandy informs the Board that she has given the Select Board a heads up that this may or may not be an enforcement matter. Sandy feels a discussion should take place regarding whether or not the letter should have been written, and reminds the board they have contacted 3 different attorneys and have gotten 3 different answers. Should the Planning Board have referred it to the Select Board for enforcement? Andrea states they looked at all the laws based on public concerns. Sandy questions whether it should have been sent to the Select Board for enforcement and not have sent the letter? Or do we leave it stand the way it is? With the additional information Sandy feels it should have been referred to the Select Board for enforcement, and not have solicited Mr. Ingerson for an application. Pat feels that all along the Planning Board should have referred Mary Lou Krambeer, or anyone else who had a concern like this to the Select Board. Sandy feels the Board had the best of intentions, but the Board's jurisdiction may not be what they thought it was. Peter offers that what has already been done is done. The letter suggests he comes in, and if he doesn't come to the Planning Board and proceeds with the project then the Board refers to the Select Board. Dave doesn't think the Board acted arbitrarily, and feels we should leave it alone. Sandy offers that the Select Board can only enforce it if they feel it's an enforceable violation. The Select Board may feel that this isn't in violation. Andrea hopes the Select Board would involve the Planning Board. Sandy feels the Select Board would do the same as the Planning Board, call their lawyer.

Mary Lou Krambeer approaches the board and wants to go on the record that Pat is "quite bias," and goes on to express her dissatisfaction with the Planning Board. She reminds the Board that they sent her to LGC and North Country Counsel for advice, which she got, and that information clearly states, "The typical course of action is usually for the planning board to send a letter informing the landowner

that site plan review is required. In most cases the landowner was not aware that site plan review is required for a change of use. If development continues or begins without site plan approval, the next step would be for the planning board to hand the case over to the select board for enforcement.” Pat reminds Mary Lou that there is no application and therefore the board cannot act. Sandy states nothing can happen tonight. The Board has to wait for a response from Doug Ingerson. Mike feels Pat was acting on the town’s best interest and wonders if the board can talk about Mr. Ingerson without something in front of them. Pat reminds the Board that they can only act within the Board’s jurisdiction. Mary Lou states the drag strip project has been going on for 4 years now, and has been a concern for people since the beginning. She feels the Planning Board should have an ear to the ground and know what’s going on in town. Currently she feels that is not what’s happening and would like to Board to change that. Sandy feels the conversation has gone on long enough and offers support to both Mary Lou and Pat. She’d like to see the Board move on and let it play out. Mary Lou feels the process is very important and has great respect for the amount of hours the Board puts in, but feels the Board has to have a process that makes sense. Too much back and forth gives the impression that the board does not have a process and leaves questions regarding their practice.

The board moves on to discuss gravel pit inspections. Franz Szakmary is not in compliance. Sandy motions to send a cease and desist order to Franz Szakmary. Peter seconds. All Board members were in favor, motion carries. John Seely’s inspection went well and his gravel pits are in great shape. In the matter of Chris Crowe the Board wishes to move forward with their request for a reclamation plan. Dave motions to have Chris Crowe come in with reclamation plan as requested. Sandy seconds. All in favor, motion carries.

7:20 Sandy motions to adjourn. Pat seconds. All in favor

Respectfully Submitted,

Dawn Ferringo  
Planning and Zoning Clerk