

Town of Bethlehem  
2155 Main Street  
Zoning Board of Adjustment  
Public Hearing  
Tuesday September 27, 2016  
6:00 pm  
Minutes

APPROVED  
10/25/16

Present: Lon Weston Chairman, Patrick Doughty, Amy Delventhal, Alan Jackson and Mike Culver

Lon Weston opens the meeting at 6:00 pm.

The board reads over the minutes from September 13, 2016. Patrick Doughty has some changes. Amy motions to accept the minutes with changes and Alan seconds. Motion carries 4-1 recuse from Mike Culver

Lon Weston explains to the public that if this meeting goes on past 9pm it is going to be continued.

Amy Delventhal reads the public notice for AHEAD SPECIAL EXECPTION

Amy Delventhal and Patrick Doughty go over the checklist with help from Nickolas Fiore engineer for AHEAD.

There was discussion on all applicable state approvals and permits. The AOT from DES (Alteration of Terrain) was talked about becoming a condition. Nicholas Fiore said the AOT permit is going to wait on the Site Plan Review approval from the Planning board.

Patrick doughty says he feels that the checklist is incomplete due to the AOT permits not being done. The application says "all permits". Alan Jackson asks what should come first. Lon Weston said the checklist is not required; it is just here for the boards and the applicant's convenience. Amy Delventhal ads that the zoning board does not have the right to make conditions. Karen McGinley Attorney for AHEAD would like to know if this list is the same as the planning board. Debra Bayley clerk told her that is was not. She has been practicing law in New Hampshire for 33 years and some of the items on the checklist should be at Planning board level. It is a followed condition that will be addressed at the Planning Board level.

Mike Culver says we are allowed conditions; we do not have ordinances or laws stating so.

This is a planning board matter the Zoning Board cannot make this a condition stated Karen McGinley attorney for AHEAD. Amy Delventhal adds in, yes ordinances need revamping. The SE needs to be approved before they can even get the AOT permits.

Patrick Doughty says yes indeed the list needs to be trimmed. There is discussion about emails between Lon Weston and NHMA regarding notice of decision for frontage.

Lon Weston made a motion to share this information with the public from NHMA. Mike Culver seconded. Motion carries 5-0

*.I would like to address a couple of the issues raised in the motion. The ZBA did not issue AHEAD a permit to "do" anything; all the equitable waiver does is declaring that the 100' frontage is a lawful dimension. The planning board will have to determine during site plan approval whether the frontage complies with any frontage requirements for multifamily housing.*

*I would also like to address the assertions that the 100' frontage does not comply with state road frontage requirements and that an Alteration of Terrain permit is required. The ZBA cannot waive any state requirements. If the lot does not comply with state frontage requirements, AHEAD will have to obtain the necessary permits from the state. As for the ALT permit, the planning board will deal with that during site plan review.*

Lon Weston was not sure if the board can deny the application from the checklist.

Patrick Doughty wants to know why we even hear the application. Lon Weston answers "to familiarize the board with the project". Amy Delventhal asks if Deb could set up a brainstorming session for the board to go over the checklist in the near future.

Amy Delventhal motions to accept the application as complete. Patrick Doughty seconds Lon Weston asks for discussion, there is none. Motion carries 5-0

Checklist is complete for the AHEAD SE.

Lon Weston lets the public know about a REQUEST FOR AN APPEAL REHEARING FOR THE EQUITABLE WAIVER.

Lon Weston asks for AHEAD to talk about the project.

Mike Claffin with AHEAD told of how Bethlehem has water and sewer available for this plat of land 44 acres. It is in harmony and out of site, residents can walk to downtown. It will consist of 14 / 2 bedroom and 14/ 3 bedroom units. This will include two handicapped units. It will be Modular in design with the National Green Silver Standard, with a100kw solar array.

Income per family will be between \$30 and \$50 thousand. In 2014 Bethlehem was at a15% poverty level. According to the NH finance authority.

Mike Claffin from AHEAD told how he had a discussion with James Schneider before the meeting regarding moving the project over 50' feet. We are committed to do this for the abutter said Mike Claffin.

Nick Fiore went over the site plan from Gardner Kellogg maps. He explains that there are 7 buildings with 2 handicapped units. It will be built on a crawl space. Alan Jackson asks the criteria for who can live there. Mike Claffin answers that it is between \$30 and \$50 thousand per family. Karen McGinley states that they are committed to this amount.

Lon Weston opens the hearing up to public comments

Len Reed spoke up to ask how all 57 people are notified from the Maplewood condo association. Debra Bayley clerk for the zoning board explains that the abutter notice goes to condo association.

Karen Neuringer talks about water already in her basement, can the AHEAD project be responsible for more water damage from the project going forward. This is a preexisting problem and you can't make AHEAD be responsible for this issue said Lon Weston. Karen McGinley Attorney for AHEAD assures that with all the catch basins the water will not run off the property. This will be a question for the planning board.

Traffic study was discussed with the applicate and the study was done in June of 2016, and is part of the original application.

Rita Farrell explained that the entrance to the project is directly across from the Maplewood condos. She felt this to become a dangerous intersection.

Karen Neuringer explained how her brother was trying to sell his property and was rejected by the Zoning Board due to wetlands back in the 70's. Lon Weston explained every case is unique.

Lon Weston restricts public input at 8:32 pm

Amy Delventhal reads the criteria For AHEAD Special EXCEPTION.

**Criteria 1:** *The specific site is an appropriate location for the proposed use, structure, or change to a structure, in relation to surrounding properties.* Patrick Doughty explains that the condos at Maplewood are the harmony, multi family with Special Exception. No further discussion. Amy Delventhal motions to accept Criteria 1. Patrick Doughty seconds motion carries 5-0

**Criteria 2:** *The proposed use, structure, or change to a structure, will be compatible with adjoining land uses and with the character of the surrounding neighborhood.* No discussion. Mike Culver motions to accept criteria 2. Amy Delventhal seconds Motion carries 5-0

**Criteria 3:** *The proposed use, structure, or change to a structure, will not generate substantial amounts of noise, odor, or create substantial increase in traffic.* The 100kw solar array is at 58 decibels. It is 557' from James Street and 2000' from 302. Patrick Doughty believes that the traffic study was independent. Alan Jackson is satisfied with the 58 decibels. Patrick Doughty makes a motion to accept criteria 3. Alan Jackson seconds it with no further discussion motion carries 5-0

**Criteria 4:** *The proposed use, structure, changes to a structure, will not create any other nuisance or hazard.* There is no discussion. Amy Delventhal motions to accept criteria 4. Alan Jackson seconds. Motion carries 5-0

**Criteria 5:** *The proposed use, structure, or change to a structure, will be in harmony with surrounding properties and consistent with the spirit and intent of this ordinance.* There will be 28 units and 4 buildings. It will be called Lloyds Hill Limited Partnership. Patrick Doughty does not believe that the project is in harmony with the surrounding properties. He would also like to find the determination of the impact study of surrounding properties. No further discussion. Amy Delventhal motions to accept criteria 5. Mike Culver seconds. 3-2 motion carries with 2 abstained Patrick Doughty and Alan Jackson.

Amy Delventhal makes a motion to accept the SPECIAL EXCEPTION FOR AHEAD. Mike Culver seconds motion carries 3-2 with 2 abstained Patrick Doughty and Alan Jackson.

AHEAD SPECIAL EXCEPTION APPROVED

Lon Weston explains that the public has 30 days for an appeal. Once the Zoning Board receives the appeal the board has 20 days to determine if they want to hear the appeal. If the board votes to hear the appeal the abutters have 30 days to submit an application for an appeal with all abutters notified, newspaper notices and all fees paid.

Lon Weston explained that before the meeting the Neuringers and the Epsteins (abutters) withdraw their appeal. They will re-appeal at a later date.

Patrick Doughty makes a motion to accept the withdrawal of appeal from the abutters. Amy Delventhal seconds motion carries 5-0

Patrick Doughty wants to know why Lon Weston determined that he needed to contact an attorney without a board vote. NHMA is available. Jay Whitelaw costs the town, and without a board vote it should not be done. Jay Whitelaw is not our personal lawyer. Patrick Doughty would like to have a board vote on all inquires with Jae Whitelaw.

Mike Culver wants the board to streamline the process, with a designated form to be completed at the meeting.

Amy Delventhal motions to adjourn. Patrick Doughty seconds motion carries 5-0

Adjourned 9:45

Respectfully submitted

Debra Bayley

ZBA/Planning Clerk