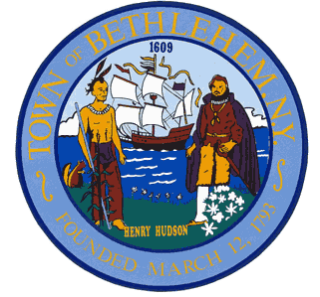


TOWN OF BETHLEHEM

David VanLuven
Town Supervisor

Zoning Board of Appeals Minutes



David Devaprasad
Chair

Wednesday, March 16, 2022
6:00 PM

I. Call to Order

The Meeting will be held in the Town Hall Auditorium and will be broadcast live through the Town Website/Meeting Portal.

A Regular Meeting of the Zoning Board of Appeals of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY 12054. The Meeting was called to order at 6:00 PM.

Attendee Name	Title	Status	Arrived
Dave Devaprasad	Chairman	Excused	
Jane Barnes	Board Member	Present	
Thomas Coffey	Board Member	Present	
Donna Giliberto	Board Member	Present	
Jeremy Martelle	Board Member	Present	
Mark Sweeney	Planning/Zoning Board Counsel	Present	
Craig Yaiser	Assistant Building Inspector	Present	
Kathleen Reid	Assistant to the Zoning Board of Appeals	Present	

II. Public Hearings

Members of the public may view and listen to the meeting live by visiting the [Town's meeting portal](#). Additionally, the public may submit comments to the Board in advance of the meeting. Public comments must be submitted via email to zoningboardofappeals@townofbethlehem.org by 3 PM the day of the meeting in order for the comment to be read aloud by a Board Member during the public hearing and recorded into the minutes.

- A.** Public Hearing for an Application submitted by Isabelle Lesko for an Area Variance located at 23 Thorndale Road, Delmar for construction of a fence that does not meet Town Zoning Code requirements under Article VI, Section 128-47 B (3). (21-01000004)

Craig Yaiser, Assistant Building Inspector, advised the following: The applicant is proposing to install a six feet high fence in their front yard opposite side yard. The proposed fence will be located in their front yard opposite side yard and will be set on the property line. This will be 15' short of the fifteen foot required setback. The lot is located in a Core Residential District and is currently a single family dwelling.

A Motion to indent the Public Hearing notice into the minutes was offered by Mr. Martelle, Seconded by Ms. Barnes.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a Public Hearing on Wednesday, March 16, 2022 at 6:00 PM at Town Hall, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by Isabelle Lesko for an Area Variance located at 23 Thorndale Road, Delmar. The Applicant is proposing to erect a fence that does not meet the requirements of the Town's Zoning Code under Article VI, Section 128-47, B. Fences or freestanding walls (3) minimum setback of 15' from the determined front yard property line.

Isabelle Lesko presented on her own behalf. She testified that she would like to erect a 6' white vinyl fence to the back and side yards for privacy and safety concerns for her children being the house is located on a corner lot without any privacy or protection from motorist. They would like to fence in as much of the backyard as possible as to not lose most of the lawn area for recreation and for use of garden. There will be a 4' New England style fence along the front yard that will be in character of the neighborhood. She expressed that the fence would not cause any negative or physical impact with no environmental concerns. The view from the intersection remains clear for pedestrians and motorists. She amended the original plan from 15' of the setback to 11' from the required setback.

Ms. Lesko reached out to neighbors who had no opposition to the proposed.

There was no one present to speak in favor or in opposition.

The application is not required to be reviewed by the Albany County Planning Board.

The Board will take action under the "Discussion Phase" of the meeting.

A Motion to close the Public hearing was offered as follows.

RESULT:	CLOSED [UNANIMOUS]
MOVER:	Jeremy Martelle, Board Member
SECONDER:	Donna Giliberto, Board Member
AYES:	Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED:	Dave Devaprasad

B. Public Hearing - Port of Albany-Marmen Welcon Tower Manufacturing Plant-River Road(98.00-2-10.23)

for variance(s) requested for development of wind tower manufacturing facility that does not meet Town Zoning Code requirements under Article XIII, Section 128-100,Bldg height & front yard setback; Article V, Section 128-53(A) bordering streams; Article VI, Section 128-56 (K) off street parking and loading.

Craig Yaiser, Assistant Building Inspector advised the following: The applicant is proposing to develop vacant land into a manufacturing facility of off-shore wind towers. The proposed structure will be setback 25' from their front yard which is 75' short of the 100' minimum requirement. In addition the entire property is within a 100 year flood zone and per town code no building may be permitted within the 100 year flood plain of the Normans Kill Creek. Also, the proposal will need 4 variances for total building height. Total building heights for Building A is 100' which is 40' over the allowed 60', Building B has a total height of 72' which is 12' over the allowed 60', Building C has a total height of 83' which is 23' over the allowed 60' and Building D has a total height of 93' which is 33' over the allowed 60'.

Lastly the applicant is proposing 8.2% of landscaped islands this will be short 1.8% of the required 10%. The lot is located in the Heavy Industrial District and is currently vacant land.

A Motion to indent the Public Hearing notice into the minutes was offered by Mr. Martelle, Seconded by Mr. Coffey.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a Public Hearing on Wednesday, March 16, 2022 at 6:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by Richard Hendrick on behalf of the Albany Port District Commission variance(s) required for proposed industrial development located on River Road (98.00-2-10.23/98.01-2-1.0), Glenmont, New York. The proposed project does not meet the Town Zoning Code requirements under Article XIII, Section 128-100, height of building, Article XIII, Section 128-100, minimum required front yard setback, Article VI, Section 128-53, lots bordering streams (A), Article VI, Section 128-56, off street parking.

Mark Sweeney, counsel to the Zoning Board gave an overview of the project and procedures to follow. He noted that the Planning Board acting as Lead Agency voted to adopt the FSEIS at the March 15, 2022 Planning Board Meeting. This will allow other agency's such as the Board of Appeals to conduct their review of the project.

Adam Frosino of McFarland Johnson provided detail description of the project and a power point presentation.

Steve Boisvert from McFarland Johnson, Rich Hendrick, and Patrick Jordan from the Port of Albany were also present to answer question from the Board.

Adam Frosino gave an overview of the project as provided on a power point presentation.

The Port of Albany will be the owner Marmen-Welcon, Quebec, Canada + Welcon Denmark, as operator. The proposed will be the only off shore wind manufacturing company in the United States which will serve the entire east coast. There will be 626,000 square feet of new manufacturing space throughout five separate buildings with tower production occurring within 4 buildings, (buildings A-D) located on the Port Expansion property in the Town of Bethlehem. Building 5 located at 700 Smith Blvd within the existing Port District in the City of Albany and will be the receiving and staging facility receiving raw material (truck, rail, vessel) and transported by Marmen-Welcon on internal Port roads along Normanskill Road to the production site. Rail access to 700 Smith Blvd in City of Albany, with no rail access to the Town of Bethlehem site. Access to the facility via the River Road driveway and enter through a secure gate. The Normanskill Bridge is for Marmen-Welcon truck deliveries only. There will be a parking area with 360 spaces (including spaces at the National Grid property. Transition pieces and staging areas were modified to relocate behind the vegetated for the SEQR process. Total investment is \$450 Million affording 550 new job creation. The site should be fully operational in 2024.

The following answers were provided to the Board:

- Time line for project
- No plans for other facilities at this time
- The Applicant is committed to maintain buffer for life time of project (50 years)
- Buffer on the land side to be barricaded with a fence for potential impact that would occur
- Vegetation to remain along the Hudson River
- Buffer ranges from 50-70' in width made up of mature trees & scrub brush
- Buffer will be approximately 3-4 acres
- Arborist to annually maintain buffer to ensure it will remain for the entire life of the project
- Intent is to hire locally with a Job fair to be held in mid-2023 - Marmen hiring 2023-2026
- Employees will work in three shifts
- There will be complete fire access surrounding buildings
- Sea level projection - project will be efficiently above flood plain (explained in detail)
- Closest resident is located at 23 River Road
- Heights of buildings and crane height
- There will be no noise impact to neighbors during construction
- Any outside activity is blocked by the buildings

Mr. Frosino noted a letter of No Adverse Impact was received from the Stockridge Munsee Tribe which was the sensory receptor to the south.

Mr. Boisvert noted a letter of no effect received (SHPO) in 2019 that addressed the visual impacts on the project.

Mr. Yaiser advised that plus or minus 4.38 % of the building is in the front yard setback

The following updated FSEIS to reflect the proposed development:

- A visual Impact Assessment was performed
- Traffic Impact Study findings
- Air Impact Analysis shows no impact to the surrounding community
- Drainage report
- Noise Impact

The presentation can be viewed on the meeting video available at the Towns Meeting web portal.

Mr. Martelle noted that the Albany County Planning Board responded to a referral from the Town of Bethlehem Planning Board for this project therefore submission to the County is not required by this Board.

The Applicant will have to fill out the Local Waterfront Revitalization form as it is located in the LWRP District. Robert Leslie, LWRP Coordinator, will review the application to confirm the project adheres to all the necessary requirements of the district.

The application will go back to the Planning Board for site plan review.

There was no one present to speak in favor or in opposition to the project.

RESULT: CLOSED [UNANIMOUS]
MOVER: Jeremy Martelle, Board Member
SECONDER: Jane Barnes, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

III. Applications - Review and Possible Public Hearing Scheduling

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY AJ SIGN COMPANY FOR AN AREA VARIANCE LOCATED AT 250 ROUTE 9W, GLENMONT FOR SIGNAGE THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENT UNDER ARTICLE VI, SECTION 128-59 J (1)(A) (22-01000007).**

The Board voted to accept the application and set the public hearing for

April 6, 2022 at 6:00 PM as follows:

RESULT: ACCEPTED [UNANIMOUS]
Next: 4/6/2022 6:00 PM
MOVER: Jeremy Martelle, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY AJ SIGN COMPANY FOR AN AREA VARIANCE LOCATED AT 11 MORIAH ROAD, SUITE 101, GLENMONT FOR SIGNAGE THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENT UNDER ARTICLE VI, SECTION 128-59 J (2). (22-01000008)**

The Board voted to accept the application and set the public hearing for

April 6, 2022 at 6:00 PM as follows:

RESULT: ACCEPTED [UNANIMOUS]
Next: 4/6/2022 6:00 PM
MOVER: Jeremy Martelle, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY AJ SIGN COMPANY FOR AN AREA VARIANCE LOCATED AT 11 MORIAH ROAD, SUITE 102, GLENMONT FOR SIGNAGE THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENT UNDER ARTICLE VI, SECTION 128-59 J (2). (22-01000006)**

The Board voted to accept the application and set the public hearing for

April 6, 2022 at 6:00 PM as follows:

RESULT: ACCEPTED [UNANIMOUS]
Next: 4/6/2022 6:00 PM
MOVER: Jeremy Martelle, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY AJ SIGN COMPANY FOR AN AREA VARIANCE LOCATED AT 5 ELM AVENUE, DELMAR, FOR SIGNAGE THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENT UNDER ARTICLE VI, SECTION 128-59 D (1), (6). (22-01000005)**

The Board voted to accept the application and set the public hearing for April 6, 2022 at 6:00 PM as follows:

RESULT: ACCEPTED [UNANIMOUS]
Next: 4/6/2022 6:00 PM
MOVER: Jeremy Martelle, Board Member
SECONDER: Thomas Coffey, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY AJ SIGN COMPANY FOR AN AREA VARIANCE LOCATED AT 9 MORIAH ROAD, GLENMONT FOR SIGNAGE THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENT UNDER ARTICLE VI, SECTION 128-59 J (2)(01-000009)**

The Board voted to accept the application and set the public hearing for April 6, 2022 at 6:00 PM as follows:

RESULT: ACCEPTED [UNANIMOUS]
Next: 4/6/2022 6:00 PM
MOVER: Jeremy Martelle, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

IV. Discussion/Possible Action

- **ISABELLE LESKO-23 THORNDALE ROAD**

The Board voted to APPROVE the variance request 4-0 as follows:

Mr. Martelle-

- Previous similar variances have been approved
- Not a detriment to nearby properties
- Will fit in with the surrounding area
- No other feasible options without losing considerable amount of green space
- No adverse physical or environmental effects
- Self-created mitigated by all other reasons

Mr. Coffey-

- Necessary for safety concerns and privacy for family
- Aesthetically pleasing
- Similar variances previously approved

Ms. Giliberto-

- For all reasons previously stated
- Compromised with height of fence back and side

Ms. Barnes-

- For all reasons previously stated

Counsel will draft a resolution to be voted on at the April 6, 2022 Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jeremy Martelle, Board Member
SECONDER:	Donna Giliberto, Board Member
AYES:	Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED:	Dave Devaprasad

- **PORT OF ALBANY-MARMEN WELCON TOWER MANUFACTURING PLANT-RIVER ROAD(98.00-2-10.23)**

The Board voted to APPROVE the Area Variance(s) as follows:

1. Variance for the Flood Plain

Mr. Martelle-

Not a change in character to the area;
within the 100 year flood plain;
the State agencies review of multiple locations finding this location the best;
cannot be achieved by any other feasible means;
project substantiality is the same compared to surrounding area;
overall no adverse or significant impact on area due to maintenance schedule and project ;
not self-created - great opportunity for the community and area it is going to serve.

Ms. Giliberto-

Excellent research done on impact of flood plain and an overall great project for the Town.

Ms. Barnes-

For all reasons previously stated.

The evidence proves due diligence was done in researching the flood plain issue.

2. Variance for Front yard Set Back

Mr. Martelle-

Unique district;
not an undesirable change to neighborhood;

cannot be achieved by any other feasible means due to constraints on site,
not substantial;
no adverse or environmental effects on neighborhood;
impact on the neighborhood - letter(s) - of no effect submitted.

Ms. Barnes-

For all reasons previously stated.

Ms. Giliberto-

For all reasons previously stated.

Mr. Coffey-

For all reasons previously stated.

Excited for the magnitude of the project in this area.

3. Variance for Parking/Landscaping Area

Mr. Martelle-

Not a detriment to character of neighborhood;
no adverse environmental effects;
not a substantial request;
cannot be achieved by any other means.

Ms. Giliberto-

For all reasons previously stated.

Visual impact not an issue;
similar buildings with heights and means;
not substantial;
preserving green space.

Mr. Coffey-

For all reasons previously stated.

Ms. Barnes-

For all reasons previously stated.

Not a significant variance request.

4. Variance for height of variances Bldg A, B, C and D

Mr. Martelle-

Not an undesirable change to neighborhood (industrial area);
closest residence is 600' from the location;
benefit cannot be achieved by any other means;
facilities are designed to meet the criteria;
not substantial looking at surrounding industrial area;
no adverse physical or environmental effects.

Ms. Barnes-

For all reasons previously stated.

Ms. Giliberto-

For all reasons previously stated.

Applicant revised height to minimize impact.

Mr. Coffey-

Large project fit into small area;

building height fits in with neighborhood;

buffer helps with height.

Mr. Sweeney provided the following guidance to conduct SEQR aspects of the project. Planning Board Adopted its finding and shared with this Board the Supplemental FEIS. At This time it would be appropriate for this Board to consider a Negative Declaration and rely on the finding of the Planning Board who acted as Lead Agency, which will be incorporated in to the SEQR Resolution.

Mr. Martelle made a Motion to rely on the Negative Declaration based on the Planning Board SEQR findings, Seconded by Ms. Barnes and approved by all Present.

Counsel will draft Resolution for Approval of the Area Variance(s) and SEQR review.

RESULT:	APPROVED [UNANIMOUS]
SECONDER:	Donna Giliberto, Board Member
AYES:	Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED:	Dave Devaprasad

V. Minutes Approval

A. Wednesday, March 02, 2022

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Jeremy Martelle, Board Member
SECONDER:	Thomas Coffey, Board Member
AYES:	Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED:	Dave Devaprasad

VI. Adjournment

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jeremy Martelle, Board Member
SECONDER:	Thomas Coffey, Board Member
AYES:	Jane Barnes, Thomas Coffey, Donna Giliberto, Jeremy Martelle
EXCUSED:	Dave Devaprasad

The Meeting was Adjourned at 7:45 PM

Next Regular Meeting April 6, 2022 at 6:00 PM