

**TOWN OF BETHLEHEM
BOARD OF APPEALS
February 4, 2004**

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York was held on the above date at the Town Offices, 445 Delaware Avenue, Delmar, New York. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom
Robert Wiggand
Gilbert Brookins
Marjory O'Brien
Leonard Micelli

Michael Moore Attorney to the Board

Mark Platel Building Inspector

Chairman Hodom called the meeting to order at 7:30 p.m.

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a public hearing for an Area Variance under Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Maria Candido for property at 21 Frederick Place, Delmar, New York. The Applicant wishes to construct a roof over an existing deck, which will exceed the allowable percentage of lot occupancy at the premises of 21 Frederick Place, Delmar, New York.

CHAIRMAN HODOM: Mr. Platel, would you give us the reason for the hearing, please?

MR. PLATEL: Yes, Mr. Chairman. The Applicant proposes to construct a 240-square foot roof addition over an existing deck, which when combined with the existing 1,557.45-square foot main structure creates a total structure of 1,797.45-square feet. The new total square footage will exceed the total main structure allowed by 128.69-square feet. The lot occupancy will be at 16.16-percent, which is 1.16 over the 15-percent allowable under Article XII.

The property is located in an "AA" Residential Zone and is occupied as a Single-Family Dwelling.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you please read the official call of the meeting?

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town on Bethlehem, Albany County, New York will hold a public hearing on, Wednesday February 4, 2004, at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Maria Candido for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for construction of a roof over an existing deck, which will exceed the allowable percentage of lot occupancy at premises 21 Frederick Place, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the January 28, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition. Anyone desiring to speak will be allowed to do so, we just request that you stand or sit close to the black microphone; it's for recording purposes only. Any questions or comments should be direct to the Board. Will you be making your presentation or is it Mr. Wallace?

MR. WALLACE: I didn't know we had to make a presentation.

CHAIRMAN HODOM: You should tell the Board what you propose to do and why you want to do it and how you want to do it.

MR. WALLACE: She can tell you why she wants to do it. I can tell you – well I'm going to build the roof for her.

CHAIRMAN HODOM: Okay.

MR. WALLACE: I've been a family friend for like 30-years and....

CHAIRMAN HODOM: Why don't you – it's very informal, just tell us what you want to do, why you want to do it and how you want to do it.

MRS. CANDIDO: I just love to sit outside and there's sun on the deck all day long. It's just to hot to sit out there and, you know and the doctors tells me it's not good to sit out in the sun like that. I'm in the house all winter, so I love to get out in the summer and if I had a protection I would be able to do that.

CHAIRMAN HODOM: Okay. How long have you lived there?

MRS. CANDIDO: 24-years.

CHAIRMAN HODOM: Do you currently lease the premises?

MRS. CANDIDO: Lease it?

CHAIRMAN HODOM: Yes.

MRS. CANDIDO: No.

CHAIRMAN HODOM: Do you own it?

MRS. CANDIDO: I own – well it's a – what do they call it again?

MR. WALLACE: Living Trust.

MRS. CANDIDO: Living trust.

MR. WALLACE: I think she had a paper from her daughter about that.

MRS. CANDIDO: I do. I had a letter from my daughter.

CHAIRMAN HODOM: Is that your daughter?

MRS. CANDIDO: Yes.

CHAIRMAN HODOM: Okay.

MRS. CANDIDO: Yes, it's June. She's my daughter.

CHAIRMAN HODOM: She currently is the owner of the property through a trust.

MRS. CANDIDO: Trust, yes.

CHAIRMAN HODOM: Okay. And she's granted you permission – are you her mom?

MRS. CANDIDO: Yes.

CHAIRMAN HODOM: She's granted you permission to construct a roof over the existing deck.

MRS. CANDIDO: Yes.

CHAIRMAN HODOM: And Mr. Wallace perhaps you can tell us how you propose to do this and what you're going to use for construction materials.

MR. WALLACE: Well I don't have a list with me and I thought it was on the drawings.

CHAIRMAN HODOM: You don't have a plan with you?

MR. WALLACE: No. I don't know if I have an extra one or not. I think we got seven originally. We're, like using 2 by 8's for the roof rafters and 1/2-inch plywood for the roof, and putting on ice shield and drip-edge and architect shingles to match the color of the roof. We already have the holes dug for the sono-tubes, which I did way back when before the frost set in. I dug them 4-feet down. We're going to do a pour as soon as we get our go-ahead, and the supports are going to be 6 by 6's. We're going to finish everything off in vinyl and aluminum and that's about all I can say about it. It's not a big deal.

CHAIRMAN HODOM: Okay. Why don't you give us your name and your association with the Applicant.

MR. WALLACE: Ron Wallace, and I used to work for her husband and Maria I don't know how long ago. I started with them like 30-years ago and worked for him for like 20 and 25-years and he has since died and they're out of the siding business and I've moved on, but we're still friends and she wants me to build it for her.

CHAIRMAN HODOM: Can you tell us why you're going 2-feet beyond the existing deck with the roof structure?

MR. WALLACE: To get the sono-tubes in, because the deck doesn't have a good enough support system to put the 6 by 6's on.

CHAIRMAN HODOM: Okay. You have a 12-inch diameter sono-tube?

MR. WALLACE: Right.

CHAIRMAN HODOM: And you're going out beyond the existing deck 2-feet?

MR. WALLACE: Well it's not 2-feet. We got it as close as we could to the existing deck because we had a 2-man auger, okay and you can only get so close to the deck without - - you've got to stay about a foot or a foot and a half away. We got as close to edge of the deck as we could get.

CHAIRMAN HODOM: How many holes have you augured in the past?

MR. WALLACE: Two. In the past?

CHAIRMAN HODOM: Yes.

MR. WALLACE: A lot. I don't know how many.

CHAIRMAN HODOM: And you can't get any closer than 2-feet from the deck with an auger.

MR. WALLACE: No, not with a 2-man auger – no way. A gas auger; now we got as close as we could.

CHAIRMAN HODOM: Well...

MR. WALLACE: I'd have liked to been able to put it on top of the supports, but they – whoever did the deck way back when didn't use the right – wedging – I think Mark told me 2 by 8 or something that had to be...

MR. PLATEL: Double 2 by 8 for the beam.

MR. WALLACE: Right and didn't they have to have 6 by 6's?

MR. PLATEL: Or at least 4 by 4's or around 7-foot on center for pier supports, yes.

MR. WALLACE: Right, which they didn't have enough support to put the 6 by - - I would have liked to have done that, put the 6 by 6's on top of the deck.

CHAIRMAN HODOM: No, I understand that, but you have 4 by 4's there now for the deck and I've installed a lot of sono-tube foundations and gotten them a lot closer than 2-feet from the existing deck.

MR. WALLACE: With a 2-man auger?

CHAIRMAN HODOM: Well, then perhaps you don't have to use a 2-man auger. You just hand dig it. And what we're trying to do here Mr. Wallace, is try to give you the possibility of constructing the roof over the deck, but in the minimum size and that's what the State allows. These are all mandated requirements that the Zoning Board Of Appeals must follow are to provide a minimum size of the proposed addition to meet the needs. I understand that you're using a 2-man auger; makes it a lot easier but you could hand-dig it a lot closer to the deck. Could you not?

MR. WALLACE: Yeah, sure, yes maybe I should have.

CHAIRMAN HODOM: And that would be picking up roughly – if you could get it right up to the deck, it would probably save you about 40-square feet.

MR. WALLACE: Yeah, I don't know if it's 2-foot either.

CHAIRMAN HODOM: Well it's 2-foot to the center is what your drawings show.

MR. WALLACE: Well I probably told the guy who drew the plans that it was about 2-foot out. I didn't know it had to be exact on that. I'm saying it might be 18....

CHAIRMAN HODOM: Well I'm going by the plan that was prepared here.

MR. WALLACE: Right, okay.

CHAIRMAN HODOM: I don't see any name on it other than Ron Tozer, Custom Builders.

MR. WALLACE: Right, it shows it 2-foot out. I see that now. Okay and it is close to that, I'm saying it's not, you know but I didn't know it had to be that exact. He might - - like say it might be 18-inches, you know what I'm saying? But I got as close as I could to the existing deck.

CHAIRMAN HODOM: Okay. The shingles, the siding you're proposing to match the existing as close as possible?

MR. WALLACE: Yeah, the soffet and the ceiling material will match exactly cause we just did the soffet and fascia a couple of years ago. So that will be an exact match and as far as the shingles, the shingles are I think original. They're original shingles?

MRS. CANDIDO: They're about 15-years old.

MR. WALLACE: 15-years so we're going to get as close – they have color changes quite often, but we're going to get as close as we can.

CHAIRMAN HODOM: As close as you can, you can't match them exactly.

MR. WALLACE: Yeah, right. It wouldn't match because even if it's the same color wouldn't match.

CHAIRMAN HODOM: Miss Candido perhaps you can describe the interior of the house for us a little bit, especially on this rear wall as to what room you're exiting from the residence onto the deck.

MRS. CANDIDO: Onto the deck I have a sliding glass door off my kitchen/eating area.

CHAIRMAN HODOM: So the roof would be over the part of the house where the kitchen is located?

MRS. CANDIDO: Yes.

CHAIRMAN HODOM: And what is the other sliding door?

MRS. CANDIDO: The other sliding door is a bedroom, but there'll be no roof over that. I'm going to leave that open.

CHAIRMAN HODOM: Right.

MR. BROOKINS: Have you considered screening this in or otherwise enclosing it either now or in the future?

MRS. CANDIDO: No.

MR. BROOKINS: Okay.

MRS. O'BRIEN: It looks similar to your neighbors there that they've screened in.

MRS. CANDIDO: They're enclosed, that one is enclosed right. It's very similar to that and a matter of fact it might even be the same size like, because she doesn't have a roof. The – what do they call that? The addition doesn't go all the way either, part of the deck is open.

MRS. O'BRIEN: Is there a reason why you're leaving that area uncovered?

MRS. CANDIDO: Just incase someone wants a little sun. That's the only reason.

MRS. O'BRIEN: Had you thought at any point of doing something like an awning rather than a roof?

MRS. CANDIDO: I haven't really thought about that, no.

CHAIRMAN HODOM: Mr. Wallace you had mention that the holes are already there for the footings?

MR. WALLACE: Two, yes.

CHAIRMAN HODOM: Okay. Had you started construction and then found out that you were over the....

MR. WALLACE: No, no not at all.

CHAIRMAN HODOM: Okay.

MR. WALLACE: Maria said right from the beginning; we have to get a permit. All's I did is I figured this was a - - I thought it was an easy type of deal, I really did. We've been doing siding and stuff for a lot of year and never had any problems getting permits building anything, okay until now. And I figured it was just a – we would go - - I thought it would be done by now, you know I really thought this thing would be months ago, but no, I went there and I figured well I'm going to get the holes in while it's warm and then when I get the permit, we do it. And then we ran into the Variance and stuff, which I had no idea about.

CHAIRMAN HODOM: So that's why that plywood is out there, it's covering the holes?

MR. WALLACE: The only thing I did change was the stairs on the deck. Okay, that was changed because they had circular stairs before, so they were changed.

CHAIRMAN HODOM: That's fine.

MR. WALLACE: I just figured I'd get the holes drilled before the frost came, because I knew she wanted for spring. She likes to read; she likes to sit there.

MR. WIGGAND: So you're saying that you're not going to develop this into a family room or anything like that?

MRS. CANDIDO: No.

MR. WIGGAND: Because it kind of threw me just a little bit with the size of this or the extension from the deck and that question has already been answered. I guess you wanted to stay away from it so you could drill your holes. You only had 2-holes to drill.

MR. WALLACE: That's all, right.

MR. WIGGAND: Actually that could have been - - see we're going by the size of that roof. The size area, the extension of this is why you're here.

MR. WALLACE: Well, no I was told we were allowed a 10 by 10 - is what we were allowed there.

MR. WIGGAND: Yes, right but because of that extra distance you got here to. I think...

MR. WALLACE: And the width, the width is 20-foot wide.

MR. PLATEL: Well just the overall size of it. There's no sidelines or rear yard problems, it's strictly for the size of the building area.

MR. WIGGAND: So is your intent to have this all-open just like we see it here?

MR. WALLACE: Exactly, right.

MRS. CANDIDO: Just like a porch.

MR. WIGGAND: It's not going to turn into a room, an enclosed room?

MR. WALLACE: No, she's going to put some wicker furniture out there and maybe lay down a rug or something for whatever, you know she likes to be out there at night and stuff and days after work.

MR. WIGGAND: It's with our experience; you know sometimes we've seen things that have happened afterwards. Down the road all of a sudden, things completely change.

MR. WALLACE: Sure, right.

MR. WIGGAND: So some of these - - in our findings you'll have some of these things listed here. If you're going to do something else with it you'll have to come back to us.

MR. WALLACE: Right.

MRS. CANDIDO: That's not going to happen.

MR. WIGGAND: I'd thought I'd make it known to you so that's why whatever sizes you tell us is what it has to be.

MR. WALLACE: Right.

MR. WIGGAND: You can't all of a sudden expand it out or if you're going to do something you'll have to come back here.

MRS. CANDIDO: I'm all by self; I don't need any more room.

MR. WIGGAND: Well it's a strong structure you're building here with what you show so there's nothing wrong with that. I was a little concerned like our Chairman was about this distance between the existing deck and the outside. What purpose would there be for that roof to hang that far?

MR. WALLACE: Yeah, other than having to rip apart the old deck to get...

MR. WIGGAND: It's not really doing anything except maybe giving you a little more cover from the sun.

MR. WALLACE: Yeah, sure.

MR. WIGGAND: Okay, I guess I understand what you're trying to do.

MR. WALLACE: It might keep a little more rain off the deck to, which I hadn't planned on that but I'm saying...

MR. WIGGAND: You're right, that's a plus for that being out a little further away from the deck. That is a plus, yes. So you're not going to put any electric out there or you're not going to do anything with that at all?

MR. WALLACE: No, she has some electric there already on the wall.

MR. WIGGAND: Okay. Are you going to have any ceiling fans or anything at all like

that? Probably something like that you might be putting up there, who knows.

MRS. CANDIDO: I don't think so.

MR. WIGGAND: I don't think there would be a need for it you have no sidewalls.

MR. WALLACE: No, right.

MRS. CANDIDO: Right.

MR. WIGGAND: It wouldn't be effective. So what we're looking at here is what you're going to do.

MR. WALLACE: Right, exactly.

MR. WIGGAND: You're not going to expand in anyway?

MR. WALLACE: No, I'm not.

MR. WIGGAND: I just wanted to get that on the record, on that machine there.

MR. WALLACE: Fine, okay.

MR. WIGGAND: Thank you.

CHAIRMAN HODOM: Mr. Wallace are there existing footings for the existing deck at the same locations that you're showing your footings?

MR. WALLACE: No, well I don't know where the existing footings are. It's all skirted; well it's latticed in. So I don't know where the footings are on the existing deck.

CHAIRMAN HODOM: Okay so you don't know if these line up with the existing footings or not?

MR. WALLACE: I don't know that, no.

CHAIRMAN HODOM: Okay. What kind of time frame were you looking at if the Board were to approve the application as far as time of construction and completion date?

MR. WALLACE: It's dependent on the weather naturally. I would say 2 ½-weeks I would imagine.

CHAIRMAN HODOM: Is this something you would do this year or wait till springtime?

MR. WALLACE: Oh yeah, I'm going to start Friday if able – well it's supposed to snow Friday and rain and everything else, I might start Monday. I will start Monday if we're

allowed to go ahead. We've been waiting for quite a long time here to get it done.

MR. BROOKINS: Have you spoken with any of your neighbors?

MRS. CANDIDO: Regards to what?

MR. BROOKINS: About – with respect to your plans here.

MRS. CANDIDO: Yes.

MR. BROOKINS: And did they have any concerns, did they speak in support, did they – can you tell us anything about those conversations?

MRS. CANDIDO: Just that I told them what I was doing and they were – said that would be great, you know what I mean? You know, get rid of the sun and that's about it, I mean they had nothing against it or anything like that.

MR. BROOKINS: Because they were all advised or at least those within 200-feet were advised of your hearing so they would have an opportunity to either come and speak in support of it or ask questions, but I'm not sure if we have anybody at this point.

MRS. CANDIDO: I don't see anyone.

MR. BROOKINS: Just curious, thank you.

CHAIRMAN HODOM: Any other questions from the Board? Any questions or comments from the audience? Yes sir?

MR. MADDEN: Just a general question.

CHAIRMAN HODOM: Could you just introduce yourself for us and give us your address?

MR. MADDEN: Yes, my name is John Madden and I live at 26 Penn Lane in Glenmont. The questions are just who is this gentleman at the end of the table here and position and this lady's name and position here.

CHAIRMAN HODOM: Mark Platel, he's the representative from the Building Department and Karen Guastella, who is the secretary to the Board.

MR. MADDEN: Okay thanks.

CHAIRMAN HODOM: Could I ask you why you're asking the question?

MR. MADDEN: Sure. I'm taking a course in Planning Law over at SUNY and we have to attend a Zoning Board of Appeals or a Planning Board, so that's why.

CHAIRMAN HODOM: Welcome to our meeting.

MR. MADDEN: Thank you. I hope it goes earlier than the last Planning Board Meeting I went to.

CHAIRMAN HODOM: We can make it longer if you'd like.

MR. MADDEN: Midnight was fine.

CHAIRMAN HODOM: Planning Board is very diligent in their duties to the Town. Is there anyone wishing to speak in favor of the applicant? Is there anyone desiring to speak in opposition? Hearing no further questions or comments, we'll declare the hearing closed and we'll notify you in timely manner. Thank you very much.

MRS. CANDIDO: Thank you.

Hearing closed 7:50 p.m.

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The next order of business this evening is a continuation of a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District requested by US Mart, Inc. (the applicant), Amna Enterprises (Owner) for property at 414 Route 9W, Glenmont, New York. The applicant wishes to alter an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises 414 Route 9W, Glenmont, New York.

CHAIRMAN HODOM: Mr. Platel, please give us the reason for the hearing.

MR. PLATEL: Yes, Mr. Chairman. This is a re-opening of a previously adjourned Public Hearing. The applicant is seeking a Modification to a previously granted Special Exception under Article VI, Permitted Uses, CC Retail Commercial District, Section 128-17 C (3), Gasoline Station.

The applicant is proposing to renovate the existing 2-bay service area of the building and turn it into a retail sales area. Under the existing Special Exception the applicant is confined to the sale of individually packaged items and other listed items for an "Other Motor Fuel Station" as stated in Article I, 128-1, Definitions and Usage.

The existing structure is located in a CC Retail Commercial District and is occupied as an Other Motor Fuel Station.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, please read the official call of the hearing.

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 continuation of a public hearing on Wednesday, February 4, 2004, at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of US Mart (Applicant), Amna Enterprises, Inc. (Owner), for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District of the Code of the Town of Bethlehem for an alteration to an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises 414 Route 9W, Glenmont, New York 12077. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the January 28, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the procedure that we used earlier; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the applicant and anyone desiring to speak in opposition. All questions should be directed to the Board.

MR. WICKMAN: I should like to speak in favor of the Applicant as a resident of the Town.

CHAIRMAN HODOM: Well you have an opportunity to do that a little later, okay? Who is representing the applicant this evening? Is it Mustafa, Mr. Wickman?

MR. WICKMAN: Oh, well I'm not an attorney; I'm a professional engineer.

MR. KAHYA: Yeah, he can speak for me.

MR. WICKMAN: And I speak as a citizen and as their expert consultant.

CHAIRMAN HODOM: Tom, if you just introduce yourself to us again and just for the record tell us what changes you've made and tell us what...

MR. WICKMAN: Oh, I don't recall – I submitted the changes a couple of months ago as requested by Mr. Shea and yourself.

CHAIRMAN HODOM: Well we need to get this on the record; you don't have any plans with you that you brought?

MR. WICKMAN: No, you have the plans and the - - I understood you had them. Oh, they're there I guess. They've been updated in accordance with what you and Mr. Shea wanted.

CHAIRMAN HODOM: Why don't you have a seat Mr. Wickman. Did you prepare the drawings?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Okay, sheets 1 of 4 through 4 of 4?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: And sheet 1 of 4, the latest date was October 23, 2003?

MR. WICKMAN: No, there was one later than that or subsequent to that. I thought you had them – as I understood you had them. You do have them, right?

CHAIRMAN HODOM: The latest date that I have from a Thomas J. Wickman, P.E. on sheet 1 of 4 is revised October 23, 2003, is that correct?

MR. WICKMAN: Well that's a correct revision date, but there was subsequent revisions.

CHAIRMAN HODOM: On sheet 1 of 4?

MR. BROOKINS: And 2 of 4 is...

CHAIRMAN HODOM: Let's stay at 1 of 4, all right.

MR. WICKMAN: I don't recall.

CHAIRMAN HODOM: I'm telling you then, Mr. Wickman the latest drawing that we have, sheet 1 of 4 is revised October 23, 2003.

MR. WICKMAN: Is that what you have there?

CHAIRMAN HODOM: Sheet 2 of 4.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: The latest date we have is November 24, 2003, is that correct?

MR. WICKMAN: That's more like it, yes. The first sheet I didn't make any particular change.

CHAIRMAN HODOM: Sheet 3 of 4, the latest date that we have as revised is November 21, 2003, is that correct?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: I want to make sure that we're working the latest information.

MR. WICKMAN: Yes, yes.

CHAIRMAN HODOM: And sheet 4 of 4, the latest date is October 25, 2003.

MR. WICKMAN: Yeah, there were no revisions to that as I recall.

CHAIRMAN HODOM: Is that a correct date?

MR. WICKMAN: Yeah.

CHAIRMAN HODOM: Thank you. I'd like to clarify the correct name of the applicant, which is - - is it US Mart, Incorporated or USA Mart, Incorporated?

MR. KAHYA: US Mart.

CHAIRMAN HODOM: US Mart.

MRS. O'BRIEN: All your signs say USA?

MR. KAHYA: Yeah there is signs showing USA.

CHAIRMAN HODOM: Mustafa, introduce yourself to us so we get in on the record and your association with the applicant.

MR. KAHYA: What?

CHAIRMAN HODOM: What is your name and what's you're association with the applicant?

MR. KAHYA: Partner to corporation and my name Mustafa Kayha.

CHAIRMAN HODOM: Okay. So the true name as stated in this certificate of incorporation is US Mart Incorporated?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. What did you find out about the...

MR. PLATEL: Facilities?

CHAIRMAN HODOM: Yes.

MR. PLATEL: One facility is acceptable, they do not need two they only need one handicap accessible bathroom.

CHAIRMAN HODOM: Okay. Yalcin is not going to be here this evening?

MR. KAHYA: He give me permission to come here.

CHAIRMAN HODOM: He gave you permission before and I just wanted to verify that, but what I also need is a - - and you're Yalcin's partner Mustafa?

MR. KAHYA: Yeah.

CHAIRMAN HODOM: And I'm going to need this in writing from both you and Yalcin is authorizing Mr. Wickman to be your representative regarding his letter of November 26, 2003 and any attachments to that letter.

MR. KAHYA: Okay, I will.

CHAIRMAN HODOM: This evening for the record you do authorize Mr. Wickman to speak for you...

MR. KAHYA: Yes.

CHAIRMAN HODOM: Or US Mart in this application request?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. Thomas Wickman, you prepared the letter of November 26, 2003?

MR. WICKMAN: Yes, it's my signature on it.

CHAIRMAN HODOM: Okay. And I'm assuming in the preparation of this letter you reviewed...

MR. WICKMAN: I attached copy of the old minutes in 1969 or whatever it was.

CHAIRMAN HODOM: Well we don't have any attachments to your letter that incorporated the previous resolutions, but we'll get to that. You refer to them...

MR. WICKMAN: They were attached, and my letter's on top and they were in the back.

CHAIRMAN HODOM: I have your letter here, which is the original letter received by the Town of January 7, 2004 and they're not attached.

MR. WICKMAN: Well I answered those.

CHAIRMAN HODOM: Yes you did.

MR. WICKMAN: One by one.

CHAIRMAN HODOM: But they weren't attached.

MR. WICKMAN: I particularly – I went to the trouble of getting copies made.

CHAIRMAN HODOM: Okay. That's fine; we're going to go over it anyway.

MR. WICKMAN: All right.

CHAIRMAN HODOM: The lease you referred to the resolution of May 23, 1969. You don't make any reference to the resolution of September 8, 1988. Did you review those?

MR. WICKMAN: Yes, but there were 2-resolutions and I didn't mention the date, I see that.

CHAIRMAN HODOM: Well your responses in this letter of November 26th only respond to the items listed in the 1969 resolution.

MR. WICKMAN: 69', right.

CHAIRMAN HODOM: Okay. Why don't we go over that. Do you have a have a copy of that letter with you?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Item number one is self explanatory, you do attach the letter from Encon, which reiterates their previous statement that the lease for the referenced spill that the environmental conditions of the site has been closed.

MR. WICKMAN: Right.

CHAIRMAN HODOM: Okay. At the previous hearing or perhaps it was the first hearing; Mr. Ozbay had stated that he also had correspondence from New York State Department of Health or Albany County Department of Health regarding the interior of the building. He was going to provide us with that information. Do you have any of that information?

MR. WICKMAN: I don't have any. Who's Mr. Ozbay?

MR. KAHYA: It's Yalcin.

MR. WICKMAN: Oh, the owner?

MR. KAHYA: Yes.

CHAIRMAN HODOM: This is the May 23, 1969 resolution that your letter primarily refers to. Under the conclusions of Law, I think there items A through O that you responded to.

MR. WICKMAN: Oh, yes.

CHAIRMAN HODOM: Okay. Your letter of November 26th; your item number 2 says no food will be prepared on site.

MR. WICKMAN: Right.

CHAIRMAN HODOM: That's correct?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Mustafa that's correct?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. Number 3, all food sold will be brought in already and sold for consumption off premises. Is that correct?

MR. KAHYA: Yes, correct.

MRS. O'BRIEN: Can I ask a question?

CHAIRMAN HODOM: Sure.

MRS. O'BRIEN: What about coffee?

MR. WICKMAN: I don't consider coffee food, but it's like water in a water fountain.

CHAIRMAN HODOM: What was the question?

MR. WICKMAN: Coffee.

MRS. O'BRIEN: If he's selling coffee...

MR. WICKMAN: They sell coffee now.

CHAIRMAN HODOM: They have coffee on their list of items to sell.

MR. WICKMAN: They do sell it now, so if it's food it's prepared on the site as much as any other place.

MRS. O'BRIEN: But you're going to be making the coffee and you're going to be...

MR. WICKMAN: It's a machine that makes it as you know.

MRS. O'BRIEN: Well it doesn't come already made and it comes with sugar and milk to put into the coffee....

MR. WICKMAN: Yes.

MRS. O'BRIEN: And people will be making their coffee and drinking it on the premises in many cases.

MR. WICKMAN: But it comes out of like a thermos thing and so no two coffee's would be intermingled or mixed.

CHAIRMAN HODOM: The point is then that you will be preparing coffee on site.

MR. WICKMAN: Yeah, they sell coffee across the street all over the place.

CHAIRMAN HODOM: Well let's just stay with what you folks want to do, okay? Don't be worried about what anybody else is doing.

MR. WICKMAN: Well we have to look at that junk shop across...

CHAIRMAN HODOM: Don't be worrying about what anyone else is doing Mr. Wickman, just worry about what US Mart wants to do.

MR. WICKMAN: What are you a judge here?

CHAIRMAN HODOM: In essence yes we are, it's a quasi-judicial Board and that's what we're mandated through the State of New York.

MR. WICKMAN: Yeah, okay.

CHAIRMAN HODOM: Item Number 5 has been clarified that the single bathroom that you currently, unisex bathroom is acceptable.

MR. WICKMAN: Good.

MR. PLATEL: 1-bathroom is allowed and I would have to look at it to make sure that's - - you know ANSI Standards are acceptable.

CHAIRMAN HODOM: It still has to meet the...

MR. WICKMAN: I would like to make a point; it's a lavatory not a bathroom. We don't have any facility for anybody to take a bath.

CHAIRMAN HODOM: I stand corrected.

MR. WICKMAN: Unless you soak your head in the toilet.

CHAIRMAN HODOM: If there's a difference in termination then...

MR. WICKMAN: Exactly, I've been aggravated with that term for years.

CHAIRMAN HODOM: I stand corrected.

MR. WICKMAN: It's a general misconception that these things are all called bathrooms. I've had that problem and aggravation...

CHAIRMAN HODOM: All right, we'll refer to it as a toilet how's that?

MR. WICKMAN: Thank you Michael.

CHAIRMAN HODOM: But 1-facility is acceptable as long as it meets the requirements of the new New York State Building Code.

MR. WICKMAN: Well I must admit I thought that would be a bone of contention and we'd have to go into what I mentioned here.

CHAIRMAN HODOM: On page 2 of your letter Mr. Wickman – and I'd guess I'd like you to elaborate a little further on your 1st paragraph of that 2nd page, perhaps the last sentence where you state “ A fair and reasonable interpretation will nullify the need for changes to a 35-year old structure simply for bureaucratic reasons.” What was your meaning there?

MR. WICKMAN: I meant that in the past I've run into people – into Boards where they insist on impractical and illegal practices just to emphasize their authority, misuse their authority. And in this case I must admit I didn't expect - - you're more agreeable than I anticipated, let's put it that way.

CHAIRMAN HODOM: As of this point in time you find this Board fair and reasonable?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: All right, thank you.

MR. WICKMAN: I was very surprised, honestly.

MR. BROOKINS: If you're disappointed we can change.

MR. WICKMAN: That's what I'm trying to avoid. You could change, but it wouldn't - -

I don't think it would - - to stand up.

CHAIRMAN HODOM: Let's go on...

MR. WICKMAN: You have a new attorney here?

CHAIRMAN HODOM: Yes we do, his name is Michael Moore.

MR. WICKMAN: Oh, Mr. Moore, I thought that was the attorney.

CHAIRMAN HODOM: Well he's the assistant attorney. Okay we're looking at your response and clarifications to the resolution that was issued back in 1969.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Item A, construction will be in accordance with the plans, the approved plans. We've already enumerated the 4-drawings and the latest dates.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Item B, you agree that no flags, pennants, barriers or any other advertising devices will be displayed at any time with the exception of 1-American flag.

MR. WICKMAN: I didn't think you would object to that.

CHAIRMAN HODOM: No, you can have two up there if you'd like. Do you also agree because you don't mention this in your narrative here, that the later part of paragraph B where it says that the use of loudspeakers or other similar devices for the broadcasting of any sound will not be used. Do you agree with that?

MR. WICKMAN: Oh, yes.

CHAIRMAN HODOM: You will comply with this?

MR. WICKMAN: Oh yes, I must have over looked that.

CHAIRMAN HODOM: You don't list it here that's why I asked.

MR. WICKMAN: Yeah I agree I did not list that. Oh, I say all other provisions of item B are agreed to. I considered that part of it.

CHAIRMAN HODOM: Okay. Paragraph C, you concur that no A-frame signs will be displayed.

MR. WICKMAN: Right.

CHAIRMAN HODOM: I'm assuming that unless you object Mustafa, that everything that Mr. Wickman says in his letter, you concur with?

MR. KAHYA: (Nods in agreement)

CHAIRMAN HODOM: The paragraph D you agree that there will be no sales of tires.

MR. WICKMAN: That's right.

CHAIRMAN HODOM: Okay. Paragraph E, you're asking for an amendment of this provision as detailed on the list and we'll get to that soon.

MR. WICKMAN: Yeah, originally – apparently the ad said that no packaged food will be sold in the old resolution.

CHAIRMAN HODOM: Well they limit it to vending machines dispensing candy, non-alcoholic beverages and cigarettes, but you're requesting a change in that. Paragraph's F and G will not be applicable as the facility will no longer repair, store or service vehicles. Do you agree with that?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Okay.

MR. WICKMAN: They're trying to eliminate the facilities from doing any repairs.

CHAIRMAN HODOM: Paragraph H...

MR. WICKMAN: That's just the toilet I guess.

CHAIRMAN HODOM: The County Health Department has currently approved the existing sanitary facilities?

MR. WICKMAN: That's a presumption on my part because the toilet is in use for the public.

CHAIRMAN HODOM: Okay. I thought maybe you had something that was recent where they had come in and made an inspection, but that's not the case?

MR. WICKMAN: No.

CHAIRMAN HODOM: Okay.

MR. WICKMAN: I use it myself so I have to say it's all right; it's not like an outhouse.

CHAIRMAN HODOM: You agree with paragraph I, that waste materials will be

properly and appropriately and disposed of off site and that no incineration will take place on site.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Paragraph J, the planting of shrubs or flowers are indicated on the site plan...

MR. WICKMAN: Yes.

CHAIRMAN HODOM: And that it's primarily on the Route 9W side and the little section along on the north elevation there?

MR. WICKMAN: Yeah, a little bit on the corner.

CHAIRMAN HODOM: And they will be maintained in the appropriate manner?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Do you have a plan other than what you submitted, which doesn't indicate any plantings of what you're proposing to plant at those locations?

MR. WICKMAN: No, I don't have a plan now, no.

CHAIRMAN HODOM: Would they be something in the neighborhood of yews or something – I guess my question is that nothing that you would plant at these locations would be high enough to interfere with any site line....

MR. WICKMAN: No, they'll be low ground cover.

CHAIRMAN HODOM: So nothing that would be planted would interfere with any site line along 9W or Feura Bush Road?

MR. WICKMAN: No. Inexpensive stuff.

CHAIRMAN HODOM: Well a lot of inexpensive stuff grow to be 10-feet tall.

MR. WICKMAN: No, I meant yews.

CHAIRMAN HODOM: Smaller, okay.

MR. WICKMAN: Yeah.

CHAIRMAN HODOM: Something that would be no taller than 3-foot high?

MR. WICKMAN: Oh, certainly not.

CHAIRMAN HODOM: So the maximum height will be 3-feet?

MR. WICKMAN: Yes. They'll probably die before they get that big.

CHAIRMAN HODOM: Paragraph K, apparently the fence is in place and is in good condition. Paragraph L, access and egress notations are shown on the site plan. In the existing paragraph L of the resolution passed back in 1969, there was a requirement and I'll read it to you, the applicant will construct a "Do Not Enter" and a "Wrong Way" sign as proposed in the testimony and as indicated on their plot plan at the southerly entrance off Route 9W and the applicant will do all in his power to enforce this safety factor. There are not signs currently installed on that site.

MR. WICKMAN: No, and Mr. Shea mentioned this at our meeting and said that all we needed was access not to be changed. Egress access would not be...

CHAIRMAN HODOM: There's nothing there currently that directs traffic into the site or exiting the site and I was down there yesterday and there was traffic exiting on the southerly side of the southerly entrance to the property.

MR. WICKMAN: Oh.

CHAIRMAN HODOM: So I think it's going to be imperative and the Board will make that determination that the signs be erected, constructed that way – an entrance sign and a no entry sign along with directional arrows on the pavement which shows the flow of traffic. In my opinion you're probably going to get a little bit more traffic because of the convenience store and you're going to have parking on that southerly line...

MR. WICKMAN: The people coming north are turning right in, but the people going south should go up – around the other way.

CHAIRMAN HODOM: Well the way it's defined here is that the entrance to this property is the curb cut, which is most southerly to the site. And the most northerly exit to the site is on 9W, and the other exit from the site is on Glenmont Road or Feura Bush Road whatever road is.

MR. WIGGAND: Glenmont Road.

CHAIRMAN HODOM: So in some way – you don't have any objections to installing these signs as required by the resolution?

MR WICKMAN: No.

CHAIRMAN HODOM: And you don't have any objections to putting any directional arrows on the pavement to help the flow of traffic?

MR. KAHYA: We put direction on pavement.

MR. WICKMAN: Yeah, they'll do it no problem.

CHAIRMAN HODOM: Paragraph M, you are correct the building is in place. Paragraph N the 11:00 p.m. is agreed upon as the closing time without prejudice to the possible application at a later date, if you want to come in at another time and request it. There is in the later resolution, which we'll get to, a time frame which is specific as to opening and closing and the 11:00 p.m. is the closing time.

MR. KAHYA: Yeah, Okay.

CHAIRMAN HODOM: Here in your request and in the first resolution there is no opening time. I think the other one says 6 or 6:30 or 7, so we'll make a determination on that when we get to that item, okay? Your letter, Mr. Wickman your letter of...

MR. WICKMAN: November 26th, wasn't it?

CHAIRMAN HODOM: November 26th, references only the resolution of 1969.

MR. WICKMAN: Yeah.

ATTORNEY MOORE: Mr. Chairman, just a point of clarification, going back to your item L that you just talked about, there's a notation on sheet one that says New York State D.O.T review required for I assume the ingress and egress that's put on there by Mr. Wickman?

MR. WICKMAN: Yes, that's what Mr. Shea told me.

ATTORNEY MOORE: Right, also there's a no there. That was my confusion.

CHAIRMAN HODOM: We can certainly make that a condition. The ingress and egresses are not changing; the curb cuts are not changing. Is that correct?

MR. WICKMAN: That's right.

ATTORNEY MOORE: So a D.O.T review is probably not required.

CHAIRMAN HODOM: It's probably not required, but I do think we need some directional flow both with the signage and arrows.

MR. WICKMAN: Oh, I think it's a good idea.

CHAIRMAN HODOM: Let me go back to the 1969 resolution item E, which is referencing what you would like to be selling on the premises and attached to Mr. Wickman's letter was a list of – was a list dated September 8, 2003 prepared by Yalcin

Ozbay and lists, I'm assuming all the products you want to sell from this premises. Is that correct?

MR. KAHYA: Correct.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: So this is the total list of items that you folks want to be included in this Board's determination.

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay.

MR. WICKMAN: Depending on what new products come on the market similar to this. This is a classification of items that would be sold and, you know if there's a new kind of potato chip out right now....

CHAIRMAN HODOM: We're not going to quibble about potato chips.

MR. WICKMAN: I mean that's just characteristic of what could happen.

CHAIRMAN HODOM: That's true. Why don't we look at...

MR. KAHYA: Like lotto, if we get the permit to buy the lotto. I get permit; I get permission from lotto.

CHAIRMAN HODOM: You have the permit now?

MR. KAHYA: They approved but they didn't put the machine in yet, but they approve it though.

CHAIRMAN HODOM: Okay, well it's on your list so if you get the permit and the Board decides that's allowable, that's fine. While we have the list out, the first item that you list is grocery. Now, what items do you include as grocery?

MR. KAHYA: That's like canned food, cat food....

CHAIRMAN HODOM: You've got pet food down there.

MR. KAHYA: Calling grocery – it's included grocery, you know cat food, pet food some canned food like little vegetable oil, like napkin stuff – called grocery items and you won't be able to get the store penalty that's like beer and lotto, they ask you to keep some grocery before they get the lotto.

MRS. O'BRIEN: But they're all packaged grocery products?

MR. KAHYA: All packaged yes, all packaged.

MR. WICKMAN: Yeah, absolutely everything.

MRS. O'BRIEN: No fruits or vegetables?

MR. KAHYA: No.

MR. WICKMAN: Sandwiches even are prepackaged when they come in.

CHAIRMAN HODOM: Everything is packaged, right?

MR. KAHYA: Yes. Factory package, not that my hands make you know they come with the package.

CHAIRMAN HODOM: You're not looking to have a grocery store?

MR. KAHYA: No.

CHAIRMAN HODOM: You're looking to have a convenience store.

MR. KAHYA: Convenience store, yes.

MR. WICKMAN: As Mr. Shea characterized it as like a Hess Mart; Hess convenience mart. He said that a couple of times to me.

MR. KAHYA: They don't call us like food store; they call us like candy and snacks – that's what I'm selling – doesn't call the food, called snack store; grocery like, you know you feel hungry, you open a little package of candy and you eat it. It's not food though; it's called candy or snacks.

MRS. O'BRIEN: Would you also include aspirin, Tylenol, toiletries, things like that?

MR. KAHYA: Yes. It's on the single package not like drug store; little single package, two in the pack.

CHAIRMAN HODOM: Anybody have any other questions on groceries, I mean it just seems to be...

MR. MICELLI: Do you have a beer license? Will you be serving beer?

MR. KAHYA: No, right now I can't apply – beer license because I don't have enough items that - - you have enough store, enough cooler and that's a lot of stuff I don't have.

MR. MICELLI: And my other concern was when someone purchases a wrapped

sandwich and they want to put mustard or mayonnaise on it – so they just buy that sandwich package and they just leave?

MR. KAHYA: No, I don't have a sandwich package even to sell, just candies and snacks.

MR. MICELLI: It's just all snacks, okay.

MR. KAHYA: I don't have anything prepared short to date, my whole items are like 6,7, 8-months a year – all called snacks under candy.

MRS. O'BRIEN: You are going to have coffee though that people can put together and take out?

MR. KAHYA: Yes.

MR. WICKMAN: I was thinking about that quite a bit, whether coffee's a food or a...

CHAIRMAN HODOM: It's on the list whether it's a food or a drink; it doesn't make any difference.

MR. WICKMAN: I know, I did mention that everything would be packaged; all food would be brought in already packaged.

MRS. O'BRIEN: Well, you know you're also saying it's similar to the Hess mart and other kinds of mini-marts and I'm thinking of the kinds of food that you see available in these other markets and if he's getting permission for this we want to be sure that we understand what he's selling. Some of the things that you find at some of these other mini-marts are things like, you know a slurpie machine.

MR. WICKMAN: What's that?

MR. KAHYA: Yeah I know what you mean.

MR. MICELLI: Slush-puppy.

MR. BROOKINS: Flavored ice.

MR. KAHYA: I'm not going to have that.

MRS. O'BRIEN: They also have, you know like they'll have some hard rolls that are already buttered and wrapped and....

MR. KAHYA: No, they get like hot finish or cold finish topping; they get top. I'm not going to have – I mean like in other words, snacks, candy, cigarettes stuff.

MRS. O'BRIEN: Not a machine that's got hotdogs cooking in it?

MR. KAHYA: No, no.

MRS. O'BRIEN: I mean these are things that you find in all of these mini-marts, so just want to be sure you're not going to...

MR. WICKMAN: Oh, I didn't know that.

MRS. O'BRIEN: I go there frequently, all around the state.

MR. BROOKINS: Do you have a beer license in your other stores, any of your other stores?

MR. KAHYA: My partner has, not me. He has a store in Clifton Park, Ballston Spa, South Glen Falls.

CHAIRMAN HODOM: You're partners, are you not? Are you partners in all the establishments?

MR. KAHYA: No, I'm only partner on this station.

CHAIRMAN HODOM: Okay. So and then the next item you have is snack, but then you have several what I refer to is snacks listed below that. Are there any other kinds of snacks that you're proposing that you don't already list here?

MR. KAHYA: Like they got little cereal bar.

CHAIRMAN HODOM: Like what?

MR. KAHYA: Cereal bar.

CHAIRMAN HODOM: Cereal bar?

MR. KAHYA: Yes and they got package – factory made though not you know hand made it like special candy for breakfast.

CHAIRMAN HODOM: Okay.

MR. KAHYA: Like that, that's called snacks. Like...

MR. MICELLI: Granola bars, something quick on the run type of nutrition.

MR. WIGGAND: Is this going to be a Hess Mart? I see that you've got the name Hess on this, that's got me very confused.

MR. WICKMAN: No, Mr. Shea suggested I put that similar to a Hess Mart.

MR. WIGGAND: It doesn't day similar. It says conversion to a Hess Mart.

MR. BROOKINS: Type.

MR. WIGGAND: Oh type convenience store. Is that what you're saying?

MR. WICKMAN: Yeah, a Hess mart type. And that's like puberty some scotch type whiskey is made out of rum.

MR. WIGGAND: Because Hess's name has been mentioned here on a few of these pages.

MR. KAHYA: Most of the Hess Mart, they don't have food to, new Hess not the old ones. They don't have food before unless they were the new ones.

MR. WIGGAND: So it's not going to be a Hess Mart?

MR. KAHYA: No.

MR. WIGGAND: Fine. Food now we understand is eaten off the premises out of the store?

MR. KAHYA: Yes.

MR. WIGGAND: You're not setting up tables or chairs or things, well all of a sudden I don't go there and see a couple of tables around there?

MR. WICKMAN: No Stewarts or anything like that. He doesn't have a seat himself.

MR. KAHYA: Yes, that's what I was going to say.

MR. WIGGAND: So they won't be sitting down and eating and what they take out of these machines or whatever, and coffee that's going out?

MR. KAHYA: All to go sir. All items are to go.

MR. WIGGAND: And the storage room, what is your plan for that storage room. I asked that at the last meeting, this time you've located the storage room for me and you've also located the bathroom. Now I want to know what the storage room is going to be used for. It's got 1-entrance to it out into the public.

MR. KAHYA: What I use that storage for, my extra stuff like cleaning stuff and sometimes you buy a....

MR. WIGGAND: Are you going to be storing foods in there to furnish this...

MR. KAHYA: No, no food in there.

MR. WIGGAND: Because that could bring another problem into it.

MR. KAHYA: No food, just I want to use it for my extra stuff.

MR. WIGGAND: Okay.

MR. WICKMAN: Yeah, cigarettes in there.

MR. KAHYA: I get extra cigarettes, I get extra like my...

MR. MICELLI: Okay, cases of Snapple, juices, all the soda and stuff.

MR. KAHYA: Yeah, whatever you buy you buy at a deal, like they push you to buy more – companies. They limit you're - - like 40-cases you're going to buy. I won't be able to put all 40-cases in my cooler that's why I'm going to keep it in storage.

MR. WIGGAND: And the bath facility or bathroom facility; it's not a bathroom.

MR. WICKMAN: Lavatory.

MR. WIGGAND: Lavatory, that's a nicer word for it; it's a kinder word. This is only going to be a key operated type of thing or is it going to be an unlocked door all of the time.

MR. KAHYA: Unlocked door, yes.

MR. WIGGAND: Unlocked. So how is that going to be controlled?

MR. KAHYA: I go out; I check once and a while, you know a few times I check. I know if customer complain, I go clean up.

MR. WIGGAND: That's what you have there now, is it not? Isn't that presently there?

MR. KAHYA: Yes.

MR. WIGGAND: Is there any changes that are going to be made with that room?

MR. KAHYA: No.

MR. WICKMAN: He could convert it to a key operated – I think that would be preferable.

CHAIRMAN HODOM: Well lets get one answer. When he says no and you're saying something different.

MR. WICKMAN: No, he says as of now it's not key operated.

CHAIRMAN HODOM: Well that's what we're dealing with, today Tom.

MR. WIGGAND: It's a question I think I would like to have answered. Is it going to be open to the public without any controls on it?

MR. KAHYA: It's open to public, the most time my customer use it. Once in while people going through the road and they stop. That's for bathroom, but...

MR. WIGGAND: Because it's on the traffic side – Glenmont Road is right along side of it there.

MR. KAHYA: 99-percent use the toilet and I don't want to keep the key to the people and...

MR. WIGGAND: Well we just want to have these things on the record here that why we're asking these questions.

MR. KAHYA: But if that things against the rule, I can lock door I mean if something wrong with it.

MR. WIGGAND: I know how the Mobile station on the other side, they have a key with a great big long 2 by 4 hanging off of it.

MR. KAHYA: Sir, let me tell you something. Mobile gas station across to me, that people gets the snack right for you understand. They don't even give them water if they are not customer. I know a lot of people, the y won't go there – the water can; asking me to water because they don't let them get water.

MR. WIGGAND: Well that's how they run their business, we're concerned with yours right now.

MR. KAHYA: Yes.

MR. WIGGAND: Now I also have something that's dated October 29, 2003. Nobody signed this, who made this out?

MR. KAHYA: Oh, that's....

MR. WIGGAND: There's no signature on it and we have no idea who wrote it.

MR. KAHYA: We write down at the gas station.

MR. WIGGAND: There's no names on it or anything, just thank you, US Mart, Inc.

MR. KAHYA: I don't know who - -

MR. WIGGAND: Mike, you say that?

CHAIRMAN HODOM: Yes I have.

MR. WIGGAND: I just thought I'd bring that question up. It's nice to have somebody sign it if they're going to submit it to us.

MR. KAHYA: My friend write down for me.

MR. WIGGAND: Well that's just one of my questions.

CHAIRMAN HODOM: What's your friends name?

MR. KAHYA: He's working with me right now (Harkya).

CHAIRMAN HODOM: Pardon?

MR. KAHYA: He speak better English than me, that's why I let him write down the letter, you know I told him in Turkish and he write down in English.

MR. WIGGAND: So this letter here to this Board received by us October 29th, this is from you?

MR. KAHYA: Yes, from me.

MR. PLATEL: But your friend wrote it.

MR. KAHYA: Yes.

MR. WIGGAND: Okay, the friend wrote it. So this is approved by you what's on here?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Is that your signature Mustafa?

MR. KAHYA: No, that's my partner's signature.

CHAIRMAN HODOM: He's looking at a different letter?

MR. KAHYA: That's different letter, yeah that's different letter.

MR. WIGGAND: Well I'm looking at something here and I don't know where it came from.

CHAIRMAN HODOM: We're dealing with the latest information.

MR. WIGGAND: Now there are no tables going to be inside for serving food or for people sitting down?

MR. KAHYA: No.

MR. WIGGAND: I'm sure that's on the record here. Okay, Hess Mart has no part in this?

MR. KAHYA: No.

MR. WIGGAND: Okay, now I understand that better. All your gasoline services is handled out of that proposed office space, that's all the storage for that – are you going to be selling oils out of here, out of this building?

MR. KAHYA: Quart of oil, yes.

CHAIRMAN HODOM: They have it on the list Bob.

MR. WIGGAND: They have it on the list, I saw that but I don't see it here. Now that's not going to be part of this area?

MR. KAHYA: Oh no, no.

MR. WIGGAND: All of a sudden if I walked in there, there's not going to be a rack of oils or anything?

MR. KAHYA: No.

MR. WICKMAN: And the customer has to put it in himself.

MR. WIGGAND: Well see that brings me back to the storage room here, there's no door coming in from that area there for storage. If you're going to store you oils back here, the door opens right into the eating area.

MR. WICKMAN: They're not supposedly eating there.

MR. PLATEL: It's a food area.

MR. WIGGAND: A food area, not eating area I take that back. That's was a couple of questions I had for you and I'd like to have somebody endorse this if you're submitting it before the Board.

MR. KAHYA: You want me to sign, I mean - -

MR. WIGGAND: Well the chairman has to ask for this.

CHAIRMAN HODOM: Let me see the letter.

MR. WIGGAND: If they're going to submit that, it's got some detail on it.

CHAIRMAN HODOM: My feeling Bob is that we don't need a signature on this because everything we have to date is a later date than this and as far as I'm concerned this letter isn't part of the proposal anymore.

MR. WIGGAND: Okay, that cover's it.

CHAIRMAN HODOM: Would you agree with that?

MR. KAHYA: Yes sir.

CHAIRMAN HODOM: But you raise a good point Bob as far as the auto oils that are listed on your list of items that you sold. Elaborate for us what is included in the auto oils that you plan on selling?

MR. KAHYA: Engine oil, transmission oil, dry gas...

MR. WICKMAN: Antifreeze.

MR. KAHYA: Antifreeze and the windshield washer.

MR. WICKMAN: It's all in bottles or cans, but none of it is to be opened on the premises. It's going to be taken out.

MR. WIGGAND: See that's why I was concerned on that storage room. They're walking through an area where there's going to be vending machines and food in here. And if they're going to be storing oils in here...

CHAIRMAN HODOM: It's all controlled by the governing authority that controls that and they have to comply with that whatever regulations they are.

MR. WICKMAN: It's not bulk oil like the old days where you take it out in a container.

MRS. O'BRIEN: You won't be recycling oil there?

MR. KAHYA: No.

MRS. O'BRIEN: Accepting oil for recycling?

MR. WIGGAND: But I was on the Board when this original building approved many years ago. I was here and we heard lots of things at that time to.

CHAIRMAN HODOM: You have beer listed on your list if you get a permit, but in a previous memorandum to the Board that was received on August 1, 2003 you listed beer wine coolers, etc.

MR. KAHYA: You know wine coolers, things there any place any homemade you go, they get rid of the light alcohol, wine – go with the beer, like made in coolers. You don't need a special permit for it.

CHAIRMAN HODOM: But you're including that...

MR. KAHYA: Yes sir, you can sell with the beer, like that's sold as beer you know you don't need the state liquor license, nothing for it. See it's light and soft drink, cooler than wine but very soft drink.

CHAIRMAN HODOM: But you have in here etc. along with the beer and wine coolers, etc. Are you asking to sell anything with alcohol in it beyond those two?

MR. KAHYA: No, no I can't. It's against the law, I can't. If I try to do it, they cancel my license. I can only sell items of wine, which is like light wine – come from the beer companies. One's made by Coors beer.

CHAIRMAN HODOM: Okay.

MR. PLATEL: Are you asking more like Mike's Hard Lemonade or something like that – being more specific in that manner?

CHAIRMAN HODOM: Yes, ext. just catches me off-guard as to a liquor store. You're primarily beer and low alcohol wine coolers?

MR. KAHYA: Yes.

MR. WICKMAN: Well he hasn't got the beer permit.

CHAIRMAN HODOM: Well if he gets it.

MRS. O'BRIEN: Do those wine drinks require that you not sell them to underage persons?

MR. KAHYA: Oh no, I don't sell it.

MRS. O'BRIEN: What does the law require on that?

MR. KAHYA: 21.

MRS. O'BRIEN: For the wine coolers that you're going to be selling?

MR. KAHYA: Yeah, 21 – all 21.

MRS. O'BRIEN: But you don't need a permit to sell them?

MR. KAHYA: No, I need a permit.

MR. WICKMAN: Yes he does.

MR. KAHYA: I need a permit for beer, even just 1-beer or 1-wine I have to have permit for it.

MRS. O'BRIEN: But you were just saying that you don't need the permit for these wines. It's not an alcohol permit.

MR. KAHYA: No, it's not like other kinds of wines like whiskey or other drink and I said no I can't sell it.

MRS. O'BRIEN: So these coolers are included with the beer license?

MR. KAYHA: Yes.

CHAIRMAN HODOM: Referring back to the 1969 resolution, on page two just to clarify that in paragraph 8 of that resolution it says that the traffic on the north bound will enter a 1-way driveway at the southerly most portion of the service station and exit either on a driveway near the northerly portion of the station or onto Feura Bush, which is really Glenmont Road and that's what we'd like to see.

MR. WICKMAN: Right, fine.

CHAIRMAN HODOM: And then looking at paragraph 13, petitioner planned a 16-hour day, which would commence either at 6:00 a.m., 6:30, or 7:00 a.m., what time would you be opening the – what are you requesting as an opening time?

MR. KAHYA: 6.

CHAIRMAN HODOM: 6:00 a.m.?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. So we're looking at 6:00 a.m. opening, 11:00 p.m. closing?

MR. KAHYA: Yes.

CHAIRMAN HODOM: 7-days a week?

MR. KAHYA: Yes 7-days a week, right.

MR. MICELLI: I wanted to ask you in the event being so that those of every high burglary type crime areas, do you have a – set up an alarm system in case...

MR. KAHYA: I will, I don't have right now but I will.

MR. MICELLI: You will do something?

MR. KAHYA: Yes.

MR. MICELLI: I think for your own safety – okay. Is that like with a button underneath the counter?

MR. KAHYA: Yes.

MR. MICELLI: Okay.

MR. KAHYA: You know that alarm on the video systems – I want to get a better one; cost me like 4 or 5,000-dollars. Now I have to raise my money for the little store and call the people. But I was expecting to get this permit for like almost 6, 7-months, you know I am trying to get permit for store.

CHAIRMAN HODOM: Let me refer to if I may to the 1988 resolution. On page 2 under the findings of fact, which does say that the facility would operate from 6:00 a.m. to 11:00 p.m., 7-days a week. And the applicant employs one 1-employee per shift, is that correct? Is that going to remain the same?

MR. KAHYA: Yes.

CHAIRMAN HODOM: 1-employee per shift?

MR. KAHYA: Yes.

CHAIRMAN HODOM: And how do your shifts run?

MR. KAHYA: 6 to 2; 2 to 11.

CHAIRMAN HODOM: Okay, so basically you'll have 2-employees throughout that opening time.

MR. KAHYA: I open in the morning and again my friend close afternoon.

CHAIRMAN HODOM: Okay.

MR. WICKMAN: He's just one as you understand.

CHAIRMAN HODOM: Yes, one per shift. That's what it says and that's what you're going to comply with.

MR. WICKMAN: I meant he – think of him as an employee.

CHAIRMAN HODOM: On page 3 of the 1988 resolutions, item 2, again that list the various items that were allowed to be sold and we're now changing that item 2 to the list that we've discussed previously.

MR. WICKMAN: What do they mean by delicatessen items, sliced meat and stuff?

CHAIRMAN HODOM: Probably sandwiches, but you're not going to have any sandwiches.

MR. KAHYA: No.

CHAIRMAN HODOM: Paragraph 3 on page 3, which says that there shall be no vending machines or ice machines outside the building and there shall be no display of items for sale outside the building. You're going to comply with that request?

MR. KAHYA: Yes sir.

CHAIRMAN HODOM: Okay.

MRS. O'BRIEN: You're going to remove the ice machine that's currently there?

MR. KAHYA: Yes.

MR. WICKMAN: Oh, I didn't know that.

CHAIRMAN HODOM: Item 4, that no food products shall be consumed by the public on the premises and that no person is to be allowed to loiter on the premises at any time. Are you going to comply with that requirement?

MR. KAHYA: Yes.

MR. WICKMAN: Well I sometimes spend some time there but...

CHAIRMAN HODOM: Yeah, you loiter all over the place. So let me just make this statement for you and you can agree or disagree that US Mart, Inc. agrees that all previous conditions and safeguards stated in the May 23, 1969 and September 8, 1988 resolutions, not modified by this application will remain in effect.

MR. WICKMAN: Yeah.

CHAIRMAN HODOM: You agree with that?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. Lets take a look at your drawings if we may. On sheet 1 of 4, up in the upper right hand corner right underneath your notations, which says sheet 1 of 4. It says the changes proposed if implemented, will upgrade the use. Is there a question of whether they're going to be implemented or not.

MR. WICKMAN: Well we have to - - well that's up to you, I meant that to mean provided we get the approval it will be upgraded to a lesser objectionable use.

CHAIRMAN HODOM: My interpretation of that statement, if implemented means it gives you...

MR. WICKMAN: Latitude not to do it.

CHAIRMAN HODOM: That's correct. That was not your intent there?

MR. WICKMAN: No.

CHAIRMAN HODOM: Okay, so if we were to cross out "if implemented" and just leave it the changed proposed will upgrade the use of this corner...

MR. WICKMAN: Yeah, that would be fine but I meant to allow the Board some latitude rather than denying it.

CHAIRMAN HODOM: Well we always have that latitude.

MR. WICKMAN: I know, but I wanted to infer it in my notes.

CHAIRMAN HODOM: Okay. So you have no objection, Mustafa you have no objection if we just disregard that term "if implemented"...

MR. WICKMAN: Yeah, he intends to implement it.

CHAIRMAN HODOM: Thank you. Are you making any changes in the site lighting?

MR. KAHYA: No sir.

MR. WICKMAN: Not that I know of.

CHAIRMAN HODOM: Any changes on the building lighting, exterior?

MR. KAHYA: No.

CHAIRMAN HODOM: We've already discussed the plantings will be low in height as not to impede the line of site for traffic flow, do you concur with that?

MR. KAHYA: Yes.

CHAIRMAN HODOM: You have a note over on the northerly side of the drawing, which says new curbing. What are proposing to do there?

MR. WICKMAN: It's all been built by whoever improved that...

MRS. O'BRIEN: The whole corner was...

MR. WICKMAN: The whole corner was re-built.

CHAIRMAN HODOM: Okay so that's not something that you're going to do?

MR. WICKMAN: No, we didn't do it.

CHAIRMAN HODOM: Okay.

MR. WIGGAND: Well that's all there now, that curbing.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Is there any changes in the signage other than what we talked about as far as ingress and egress going to occur?

MR. WICKMAN: No.

MR. KAHYA: No.

CHAIRMAN HODOM: And let me just show what I'm referring to as directional arrows on the site and see if you...

MR. WICKMAN: Oh, that's nice.

CHAIRMAN HODOM: You would not have any objection to doing that, correct?

MR. WICKMAN: Yeah, those are nice arrows.

CHAIRMAN HODOM: Thank you.

MR. WICKMAN: You drew them? If you ever need a job let me know.

CHAIRMAN HODOM: I will, I'll do that tomorrow. Page 2 of 4, in the previous drawings that we had the building was shown as 45-feet wide by 26-feet deep. This drawing shows the building at 44-feet wide, 28-feet deep. Are these drawings correct?

MR. WICKMAN: The latest drawings are correct because I made it from the original construction plans and the first drawing was made with what's his name? Kenny the contractor and he held the other end – I just held the dead end of the tape and he called off the dimensions so I took his word for granted – so I had the wrong dimensions.

CHAIRMAN HODOM: The 44-feet wide by the 28-feet deep shown on 2 of 4, dated November 24, 2003 are correct?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Okay. There is an existing door on the southerly elevation of the building that's not shown on this plan. Is that door going to remain or is that going to be taken out?

MR. KAHYA: No, it's going to be same.

MR. WICKMAN: That passage door?

CHAIRMAN HODOM: Yes, on the side.

MR. KAYHA: Outside exit door.

MR. WICKMAN: Oh, yeah I don't show that side do I?

CHAIRMAN HODOM: You show it in plan.

MR. WICKMAN: Oh yeah okay.

CHAIRMAN HODOM: Are the 2-windows that are shown on that southerly elevation are they existing or are they going to be new.

MR. KAHYA: New.

CHAIRMAN HODOM: The windows are new?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Do you have any sizes of those windows?

MR. KAHYA: No.

CHAIRMAN HODOM: Will they be similar to the new windows being shown on the front elevation, same kind of construction?

MR. WICKMAN: Yeah.

CHAIRMAN HODOM: 4-feet by 5-feet. The 1-window that you show on the front is 4-feet wide by 5-feet high.

MR. KAHYA: Yes sir. It's going to be about something like that.

CHAIRMAN HODOM: Okay. And just let me reiterate for you that all the work shown on these drawings ultimately must comply with the new New York State Building Code, so if this Board agrees to grant your Variance, you then must go to the Building Department and prepare a set of documents that are acceptable to them that will meet all of the new codes in effect to date; it's understood?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. The proposed office space, which is roughly 16-feet wide by 18-feet deep, what are you going to use that for? An office?

MR. KAHYA: Office and storage, my extra stuff.

CHAIRMAN HODOM: So it is office/storage?

MR. WICKMAN: He's got to have a place to sit down.

CHAIRMAN HODOM: What are you going to store in there?

MR. KAHYA: My extra stuff like extra drinks or extra cigarettes, extra cleaning stuff.

CHAIRMAN HODOM: So you're going to store...

MR. KAHYA: Like I want to put my how you say...

MR. WICKMAN: Well it's where the people pay for their gas.

CHAIRMAN HODOM: You're going to have the people still pay for the gas there or are they going inside the convenience?

MR. KAHYA: No, no its got to be in convenience.

CHAIRMAN HODOM: That's what I thought.

MR. PLATEL: Mike, I'm sorry to interrupt I have to leave.

CHAIRMAN HODOM: Okay, hope everything's okay. You're going to need, just so you're aware of it, a much better set of documents when you go to the building department because you're going to have to show electrical, you're going to have to show ventilation; what each room is going to be used for; just for code compliance; just so that you're aware of it.

MR. WICKMAN: There's no new electrical work.

CHAIRMAN HODOM: I don't know, but you're going to have to show the locations of the fixtures and so forth. We're really letting you get away with a little bit here because of the documents. These will not be adequate for the Building Department. The concrete ramp, is that going to be completely redone or part of it is existing that's going to remain and you're just going to add to the ramp to the south?

MR. WICKMAN: Yeah, probably cut and add another ramp.

MR. KAHYA: We gotta make level; even.

CHAIRMAN HODOM: You're going to need handicap access ramps. So the ramp that you show in front of the existing door is going to be cut in and done because it's not existing now.

MR. KAHYA: Yes.

MR. WICKMAN: It does exist now, doesn't it.

MR. KAYHA: When we put the convenience store – needed extra ramp.

CHAIRMAN HODOM: But there is no ramp at the existing door either right now.

MR. KAHYA: Yeah, we will put that.

MR. WICKMAN: Oh, I thought there...

MR. BROOKINS: It comes out the corner, not off the front.

MRS. O'BRIEN: Well there is – showing it here, but you're also going to have it at the end of the walk as it is now?

MR. KAHYA: Yes.

MRS. O'BRIEN: But the walk will be extended out a bit, in other words the whole walk will be re-done?

MR. KAHYA: Yes.

MR. BROOKINS: While we were on that page 2 Mike, I had a question about this but the picture just resolved it. That door in the office area shows as an in-swing, but it's actually out on the pictures.

CHAIRMAN HODOM: The exterior door?

MR. BROOKINS: I didn't think an in-swing would be appropriate but it opens out.

MRS. O'BRIEN: Your pictures also show that, you know cars sometimes come up to the front where the existing overhead doors are and park there, which once you extend your concrete walk, put it all the way across and bring it out a little bit, that could prove a hazard to cars trying to get to the gas pumps.

MR. KAHYA: No, it doesn't...

MR. WICKMAN: Well that's my car that was there in the picture – I got out to take the pictures.

MRS. O'BRIEN: I mean you've got designated parking spaces, I would think it would be appropriate to put something that says no-parking here, because if they're going to park there you're going to have...

MR. KAHYA: I'm not going to let them park in front of building, no. I will have them parked all sides. At the gas station, most of customer, when they're pumping gas they let car that parked there, you know walk in.

MRS. O'BRIEN: But when people come in to just get cigarettes or coffee, they're going to come right up to the front there and park right there.

MR. KAHYA: No, they gonna park on the side. I will put the sign at the front; no parking please.

MR. BROOKINS: Even stripe that and that will communicate that; the pavement.

CHAIRMAN HODOM: On sheet 4 of 4, just a clarification the 4 by 8 window that you show, I think you meant to show a 4 by 5 window.

MR. WICKMAN: Could be, yes.

CHAIRMAN HODOM: The existing brickwork will be matched as closely as possible with the proposed new brick?

MR. WICKMAN: Yes.

MRS. O'BRIEN: Like you mentioned before, page 2 of 4 shows the 2-windows on the south side there, page 3 of 4 shows the door...

CHAIRMAN HODOM: But no windows?

MRS. O'BRIEN: But no windows and they're saying windows but no door. Which is it?

CHAIRMAN HODOM: Well I think that they're going to have 2 new windows and the existing door remains.

MR. KAHYA: Yes.

MRS. O'BRIEN: The door will remain?

MR. WICKMAN: Right.

MRS. O'BRIEN: Okay so that's got to shown on the...

CHAIRMAN HODOM: Right, on sheet 2 of 4. Thank you for completing the updated environmental assessment form. Is there anything else or any other changes that your proposing to do that are not shown on these documents at this point in time?

MR. WICKMAN: Not to my knowledge.

MR. KAHYA: Landscaping I will do, you know it's gotta be looked more better on landscaping. It's gotta be much better than the way it was now.

CHAIRMAN HODOM: And basically the - - are you landscaping more areas than what you show on sheet 1 of 4?

MR. KAHYA: No, same area.

CHAIRMAN HODOM: Same area.

MR. KAHYA: It needed more flowers and stuff.

MR. WICKMAN: That was the way Mr. Shea told me.

MR. KAHYA: Plus when they put a new electric pole they mess up the whole lawn, my landscaping and all that.

CHAIRMAN HODOM: Is Kenny still going to do the work for you?

MR. KAHYA: Yes, he is. Well he told me, if he doesn't change his mind, I don't know.

MR. WICKMAN: He spent the winter in Saranac or someplace.

MR. KAHYA: Yes, he lives up north.

CHAIRMAN HODOM: If the Board does approve your application, what kind of time are you looking to have to complete the work. I realize you have to go in front of the Building Department and so forth for approval, but what is your anticipated starting and completion date?

MR. KAHYA: Well I probably – I am gonna start at the end of the month if I'm done with all permits, but I want to get rid of it by spring.

MR. BROOKINS: How long do you anticipate you'll be closed down for?

MR. KAHYA: Well I'm not gonna close, no.

MR. BROOKINS: So you'll be able to continue operating the gas business while under...

MR. KAHYA: Yes. When I move my counter from the – where it's now and the new signs, maybe for a couple hour. I have not called the company and set up my - - it takes 2; 3-hours probably it won't take much. They will use extended cable, you know. I am trying to put the store because to my customer, you know. I have a lot of customers, they all asking for more stuff like drinks. Right now I don't have anything for - - I need a bigger cooler for Bud Lite, Snapple, more drinks you know, but I don't have place to put. I get 1-Coke and 1-Pepsi cooler which is most of people don't like it, you know acid and sugar in the Coke and the Pepsi. And the other customer asking for beer and other customer asking for lotto; they pushing me to, you know make store. They have to make a couple stops because of me, you know they are stopping for lotto to play, they come and cigars from me, but I am selling the state minimum.

CHAIRMAN HODOM: Any other questions from the Board.

MR. WIGGAND: I'm all set Mike.

CHAIRMAN HODOM: Any questions or comments from the audience?

MR. MADDEN: John Madden, 26 Penn Lane, Glenmont. I buy my gas at his facility and I support his application for getting additional stuff. I do have a question for you sir on the traffic flow going in and out. I completely support the exit only at the northerly curb cut off of 9W. Based upon the arrows you've drawn on the diagram I understand you to mean that it would be an entrance only on the southerly curb cut on 9W and an exit only on the Glenmont, is that correct?

CHAIRMAN HODOM: That's correct, that's what the previous resolution had stated.

MR. MADDEN: Okay now what that is going to do is then it's going to cause any vehicles which are on Glenmont road are now going to have to go into the intersection with 9W, turn left on 9W and then drive south on 9W in order to get to the southerly curb

cut to come in. I'd like you to reconsider the, you know the prohibition of entering and exit off of the curb cut on Glenmont Road, which of course if you do that then you're going to have to also allow exit off of the southerly curb cut on 9W as well. The reason I support the prohibition on entry into the curb cut on the north end because if you allow people to do that they wind up backing into the intersection, in which you know you don't want to have whereas an entrance on the southerly curb cut allows more vehicles to queue and not block the intersection.

CHAIRMAN HODOM: That's correct. Thank you.

MR. MADDEN: You're welcome.

MR. WICKMAN: I agree with his analysis in my professional opinion.

CHAIRMAN HODOM: Which is?

MR. WICKMAN: Entrance and exit off Glenmont Road.

CHAIRMAN HODOM: Okay. Is that what you're proposing to change?

MR. WICKMAN: If somebody wants to go into the gas station from Glenmont Road, if he doesn't have an entrance on the Glenmont Road side, he'd have to go through the intersection, come around and it would just confuse traffic – crowd up the traffic flow.

CHAIRMAN HODOM: How does the flow work currently there.

MR. KAHYA: The same thing. It should be entrance and exit on the Glenmont side. On Route 9W, you can make one side enter, the other side exit but Glenmont Road I want to get exit and enter.

MR. WICKMAN: And he could in fact put in separate curb cuts in.

MR. BROOKINS: That's a relatively wide opening on the Glenmont side anyhow.

MR. KAHYA: We got plenty, you know enough space there to make enter and exit.

MR. WIGGAND: Yeah, that's been used for years, that Glenmont Road Side but it was restricted in the beginning and heads were turned onto it a little bit. Like I said I sat on the Board at the time and I kind of felt we made a little mistake on that where the Glenmont Road exiting would have to come out onto 9W and turn across traffic to get in there. Nothing was changed on what he's reading, but I think you're right on that Mike.

MR. WICKMAN: By in large I think drivers would ignore any prohibitions.

MR. WIGGAND: They have been for a number of years because of the hazards of coming out on that busy, busy road of 9W, which is a lot busier than it was when that

initial program was set up. So I have to agree with you that would be bad to have people come out there and back in. That's a good point he brought up.

MR. WICKMAN: It is indeed.

MR. WIGGAND: They haven't been following it and nobody has said anything including me because I was part of that resolution at that time.

CHAIRMAN HODOM: So you are now proposing to modify paragraph 8 on page 2 of the 1969 resolution. Is that correct?

MR. WICKMAN: Paragraph 8?

CHAIRMAN HODOM: Yes.

MR. WICKMAN: We're going back to 69' right? Yes, that's right.

CHAIRMAN HODOM: As far as the...

MR. WICKMAN: Traffic flow.

CHAIRMAN HODOM: On to Glenmont Road?

MR. WICKMAN: Yes.

CHAIRMAN HODOM: Any other changes that you want to make?

MR. MADDEN: You'd also have to modify the southerly curb cut on 9W because once the vehicles get into the station to pump gas, you would have to back them out at that point unless you allow access out the southerly curb cut.

CHAIRMAN HODOM: Well they can go out on the northerly exit, the northerly portion of the site.

MR. MADDEN: Well think of how the gas pump are sir, I mean if you pull in from Glenmont Road to the gas pumps for you to exit at the northerly curb cut you'd have to then pull south depending upon which gas pump your on, you'd have to pull south, turn around come back up through the other gas pump and then go out the northerly whereas if you pulled in from the north on either of the gas pumps you can exit on the southerly curb cut. It's wide enough for a vehicle in and a vehicle out. That's the way it's being done now and has done for the last 12-years that I've lived there.

MR. KAHYA: And I never seen accident to.

CHAIRMAN HODOM: I think the Board will have to take a look at that. Maybe what we will have to do is send it to the Planning Board for site plan review. I know it hasn't

been following the resolution of the past but now we're looking to make changes considerably on the site so me might have to send you to the Planning Board for site plan review.

M.R KAHYA: You know why we can do – by the traffic light, you know on the north side on Route 9W, we can put exit only because of traffic you know by the light. Other fact by the Glenmont side we can put enter and exit that way.

CHAIRMAN HODOM: Well that's what he suggested.

MR. KAHYA: But at the light...

CHAIRMAN HODOM: But that's why I say I think because of the previous Boards determination – and we'll discuss amongst ourselves when we have a discussion on your hearing, but I think I would recommend that because of the excessive changes that it goes to site plan review on the Planning Board and they're more adaptive of those types of changes. Anything else? Anyone wishing to speak in favor of the Applicant other than those who have already spoken?

MR. KAHYA: Did you want to say something? He owns.

MR. AKTAR: I own that property so I already give permission that they can...

CHAIRMAN HODOM: Are you Mr. Aktar?

MR. AKTAR: Yes sir. I'm just here that if you need any question or I could answer.

CHAIRMAN HODOM: Well hopefully what we've gone through in the past separating the property owner and the lessee and the representatives, I think we've got that under control now. Anyone wishing to speak in opposition to the applicant? Hearing no further questions or comment, we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much, I'm glad we finally got it done.

MR. KAHYA: Thank you.

Hearing closed 9:25 p.m.

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The next order of business was to consider the application of C.V.S., 256 Delaware Avenue, Delmar, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by CVS for Variance under Article VI, Permitted Uses, Section 128-17 (D), Accessory Business Signs for the construction of an electronic message board sign which will exceed the allowable square footage at the premises 256 Delaware Avenue, Delmar, New York, it is hereby ordered that a public hearing on this matter be held February 18, 2004 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Wiggand seconded the motion and it was unanimously carried by the Board.

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The next order of business was a discussion of the previous public hearing held in the matter of Diane Fortier, 7 Reinemann Street, Albany, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwelling for construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 7 Reinemann Street, Albany, New York. The following points were brought up by the Board members: The lot size is small. The proposed addition is considered minimal and the applicant demonstrated a need for the additional space. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on February 18, 2004.

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The meeting was adjourned on a motion made by Mr. Wiggand, seconded by Mrs. O'Brien and unanimously carried by the Board.

Meeting Adjourned: 9:55 p.m.

Respectfully submitted,

Secretary

