

**TOWN OF BETHLEHEM
BOARD OF APPEALS
February 7, 2007**

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, Board of Appeals Chairman
Gilbert Brookins Board of Appeals Member
Anthony K. Umina, Board of Appeals Member
Mark Hennessey, Board of Appeals Member
Leonard Micelli, Board of Appeals Member
Michael Moore, Attorney to the Board

Mark Platel, Assistant Building Inspector
Karen Guastella, Assistant building Inspector

Jim Reeks – Capital Communications
Ed Gilligan – Capital Communications
Joe VanDeloo – Nathaniel Adams Blanchard Post
Ms. Hernandez
Scott Film – Scott Film Realty
Mr. Sipperly - Sipperly and Associates
Mr. Bercharlie
Bill Blake

AGENDA

Capital Communications Credit Union – Public Hearing
Nathaniel Adams Blanchard Post - Resolution

The Chairman called the meeting to order at 7:00PM.

Capital Communications Credit Union

The first order of business was the Public Hearing for a Variance under Article XIII, Section 128-100, Schedule of Area, Lot and Bulk Requirements, setbacks, requested by Capital Communications on a parcel of land located at 384 Bender Lane, Glenmont. The applicant proposes to construct a bank branch that would not comply with the front, side and rear yard minimum setbacks for the General Commercial Zoning District.

Ms. Guastella, Assistant Building Inspector, stated that the applicant's proposal included demolishing an existing residence and construction of a bank. The bank would not meet the front, rear and side yard setback requirements and the parking lot will not meet the minimum setback from the side property line. The proposed structure would be set back

forty point five (40.5) feet from the rear yard, which is nine point five (9.5) feet short of the fifty (50) feet required. The proposed structure would have a side yard of thirty-one point eight (31.8) feet which is eight point two (8.2) feet short of the forty (40) feet required and the proposed front yard setback would be thirty-five (35) feet which is sixty-five (65) feet short of the one hundred (100) feet required. Parking lots in this district are required to be fifteen (15) feet from the side property line and in this case the proposed setback for the parking lot is twelve point five (12.5) feet which is two point five (2.5) feet short of the fifteen (15) feet required. The existing structure is located in a general commercial zoning district and is occupied as a single family home.

A motion to indent the public hearing notice was offered by Mr. Umina, seconded by Mr. Micelli and approved by all Board members present.

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, February 7, 2007, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Capital Communications for a Variance under Article XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements, minimum front, side and rear yard setbacks, of the Code of the Town of Bethlehem for construction of a branch bank of the Capital Communications Federal Credit Union, at 384 Bender Lane, Glenmont, New York.

Mr. Reeks, presented for the applicant. He showed the Board a picture of prototype of a bank branch. He said they were seeking the variances on the parcel because the building footprint that would be allowed on the parcel would be very small could not accommodate the bank. Mr. Sipperly said that though the original variance request did not include a variance request for minimum lot size, they were not sure if they would need that and wanted to add it to this application. Chairman Hodom said he had spoken with the building department about the minimum lot size and lot depth and was informed that this parcel was a pre-existing, non-conforming site and variances would not be required for those items.

Mr. Sipperly, engineer for the project, stated that the proposed site is rectangular in shape and currently owned by Mr. Bercharlie. He owns an adjoining parcel but that is not for sale or available to the applicant for development. Mr. Sipperly showed a map with the portion of the site that could be developed without a variance. The applicant proposes to construct a one (1) story branch bank that is two thousand nine hundred fifty (2,950) sq ft. The structure would have one (1) ingress/egress point and an additional ingress point for the drive thru window. The drive thru area would have two (2) windows and one (1) ATM station; this area would be located at the rear of the building. There is a slope to the rear of the parcel and the safe setback line was shown on the plans. They positioned the structure to be far enough away from the safe setback line so slope stability was not an issue. That was one of the main reasons the applicant had positioned the structure closer to the front of the parcel. The proposed thirty-five (35) foot setback was to the canopy

area of the building with the main structure setback an additional ten (10) feet. The setback variance requested for the side was because an area at the corner of the drive thru. The parking lot was laid out parallel to the building and the drive aisles and the variance was required for a portion of the front of the parking lot. The applicant had explored the commercial hamlet district of the Town and their applicable setbacks. If the parcel was located in that zone, they would comply with all the setbacks. The proposed building would occupy 10% of the site, the paving would be an additional 45% and the remaining part of the site would be lawn and landscaped area. Water and sewer are both located on the north side of Bender Lane. The sewer line they would access is located in the ravine behind the property. Mr. Sipperly stated that the storm water on the site would be collected, detained and brought to an existing water course that is located in the bottom of the ravine.

When asked, Mr. Sipperly stated that the adjoining parcel owned by Mr. Bercharlie is a separate deed and tax parcel. Mr. Bercharlie was not interested in selling only a portion of the adjoining parcel; it was to be sold as one piece. The parcel to the other side was under contract to another individual and therefore could not be sold in pieces. The parcel that the applicant was interested in purchasing was contingent on obtaining the necessary variances from this Board and site plan approval from the Planning Board. Once they had the final approvals, their construction time table was approximately one hundred twenty (120) days.

The applicant had chosen this site because of its visibility and access onto Bender Lane. The company wanted a stand alone building to accommodate drive thru windows which are important in the banking industry. The existing structure on the parcel could not be used for their needs. The applicant did not think they would generate more traffic in the area, they hoped to capture the traffic that currently passes the site on a daily basis.

Mr. Brookins asked about membership to the credit union. Mr. Reeks stated that the membership was open to anyone. The credit union is a member owned bank. They currently had branches in East Greenbush and on Wolf Road in Albany. Their business hours would be Monday thru Saturday from nine (9) to five (5) or six (6).

Mr. Hennessey asked why they should give four (4) variances to this parcel.

Mr. Reeks stated that the lot has hardships. The proposed location of the building had been positioned forward because of a slope in the rear of the parcel. A geotechnical engineer had established a safe setback line and the proposed building was in front of that line. During the recent rezoning of the Town, this parcel had been zoned general commercial. The Town was now considering changing the zoning for this parcel and others in the area of similar size to commercial hamlet that had smaller setback requirements. They did not want to wait for that rezoning as it would push their construction back an additional year. If the parcel were zoned commercial hamlet, they would meet all the setbacks, not requiring any variances.

Mr. Scott Film, Scott Film Realty, said he was in favor of the project. He represented the owners of the adjacent parcels on Route 9W. Those owners were interested in an easement across the parcel in question and into the proposed parking lot so they could use the access points on Bender Lane. Mr. Sipperly pointed out that the corner parcel already had access to Bender Lane and the applicant would be hesitant to grant an easement, not knowing the future use of those parcels. They knew the approximate traffic generation of their proposed use but not the other parcels. He suggested that the two (2) parcels fronting Route 9W work together on the question of access between those parcels.

Mr. Bercharlie stated that he wanted to relocate because of the traffic and lights from Bethlehem Town Center. He was in favor of granting the variances. He thought there was an easement from his parcel to the adjoining parcel. Mr. Reeks said the easement was on the adjoining parcel, not on the parcel the applicant was interested in developing.

Mr. Bill Blake, property owner of adjacent parcel on Route 9W, agreed with the statements made by Mr. Film and was in favor of the project. Ms. Hernandez, property owner adjacent to Mr. Blake's, was in favor of the project but concerned with access to her property. Mr. Reeks pointed out that her parcel currently has a driveway onto Route 9W.

There being no further comment, Chairman Hodom declared the hearing closed at 8:03.

Nathaniel Adams Blanchard Post

Two (2) of the Board members, Mr. Brookins and Mr. Umina recused themselves from the application.

A motion to approve the variance under Article VI, Supplementary Regulations, Signs was offered by Mr. Micelli, seconded by Mr. Hennessey and with a vote of three (3) for, two (2) recused and zero (0) absent, the motion passed.

Counsel was directed to prepare a Resolution to reflect the vote.

The Board reviewed the draft minutes of January 17, 2007.

A motion to approve the minutes as amended was offered by Mr. Micelli, seconded by Mr. Hennessey and approved by all Board members present.

A motion to adjourn was offered by Mr. Hennessey, seconded by Mr. Micelli and approved by all Board members present.

The meeting adjourned at 8:30.