

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
February 15, 2006**

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  
                      Leonard Micelli  
                      Anthony K. Umina

                      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. We have no public hearings scheduled this evening. We do, however have some new applications to schedule.

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The next order of business was to consider the application of Stewarts Shops Corporation, 33 Frontage Road, Glenmont, New York. The application was found to be in order and Chairman Hodom made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Stewarts Shops Corporation for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear Yards for the placement of a storage freezer and construction of an addition, which will encroach into the rear yard setback at premises 33 Frontage Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held March 1, 2006 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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**For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.**

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The next order of business was to consider the application of Thomas & Laura Paonessa,. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Thomas & Laura Paonessa for Variance's under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot Width & Minimum Front Yards for the construction of a single-family dwelling, which will not meet the minimum lot width and minimum front yards at the premises proposed lot number 2 Grove Place, Albany, New York 12203, it is hereby ordered that a public hearing on this matter be held March 15, 2006 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. Brookins seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Thomas & Laura Paonessa,. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Thomas & Laura Paonessa for Variance's under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot depth & Minimum lot area for the reconfiguration of an existing lot, which will no longer meet the minimum lot depth and minimum lot area at 25 Pine Street, Albany, New York 12203, it is hereby ordered that a public hearing on this matter be held March 15, 2006 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to consider the application of Thomas & Laura Paonessa,. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Thomas & Laura Paonessa for Variance's under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot Depth, Lot Area & Minimum Front Yards for the construction of a single-family dwelling, which will not meet the minimum lot depth, area and minimum front yards at the premises proposed lot number 1 Grove Place, Albany, New York 12203, it is hereby ordered that a public hearing on this matter be held March 15, 2006 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to consider the proposed resolution of The Econo Lodge, Daniel Patel (Owner).

The following proposed resolution was presented by Attorney Moore for the Board's consideration.

#### RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking a variance under Article VI, Supplementary Regulations, Section 128-52, Off-Street Parking and Loading, requested by Econo-Lodge (Daniel Patel, Owner) ("Applicant") for property located at 15 Frontage Road, Glenmont, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property

within 200 feet of the property in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on January 18, 2006; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

#### FINDINGS OF FACT

The Applicant is proposing a 3-story addition to the existing structure on the property and additional parking as required by the Zoning Law. The proposed parking area accompanying the new addition will be located 6-feet from the side yard property line. This will be 9-feet shy of the required 15-foot setback. The current structure is occupied as a Motel and is located in a Rural Light Industrial District.

The Applicant is refurbishing and modernizing the existing motel structure on the property, and constructing a new 3-story building with a swimming pool and guest rooms. Architectural enhancements to the front façade will also be made. The existing building has setback violations in the front yard. These are pre-existing non-conforming conditions and not at issue on this application.

These proposed improvements are needed in order for the Applicant to retain his franchise agreement with Econo Lodge.

The prior Town Zoning Law required a 5-foot side yard setback.

Applicant has attempted to avoid the need for the requested variance. Applicant's offer to purchase additional property from the adjoining owner was not accepted. Applicant and his engineer have also considered alternative layouts for the buildings on the site. Given the configuration of the Applicant's corner lot and the other applicable setback restrictions, no alternative site layouts are available.

Other than the Applicant and his engineer, no one spoke at the public hearing. The Board has received no written comments from members of the public regarding the requested variance.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed side yard setback variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the January 18, 2006 hearing;
2. Applicant shall comply with the recommendations of the Albany County Planning Board dated January 19, 2006 (Case No. 04-01/06-001);
3. The Applicant shall submit the project to the Town Building Department and Planning Board for any necessary approvals or permits;
4. Applicant's project shall be completed within the time specified by section 128-89 (P) of the Town Zoning Law.

February 15, 2006

Michael Hodom  
Chairman  
Board of Appeals

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Mr. Brookins made a motion that the Resolution be adopted, Mr. Wiggand seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert J. Wiggand			
Gilbert Brookins			
Leonard Micelli			
Anthony K Umnia			

(Resolution filed with the Clerk of the Town of Bethlehem on February 16, 2006.)

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On a motion made by Mr. Brookins, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the February 1, meeting were approved as amended.

The meeting was adjourned on a motion made by Chairman Hodom, seconded by Mr. Wiggand and unanimously carried by the Board.

Meeting Adjourned: 7:50 p.m.

Respectfully submitted,

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Secretary