

TOWN OF BETHLEHEM
BOARD OF APPEALS
January 7, 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

Patrick Seely 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. Welcome to 2004, the start of a glorious new year for everyone I hope. The first order of business this evening is a continuation of a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-17 B (15), CC Retail Commercial District requested by Bethlehem Auto Laundry, Inc. for property at 462 Route 9W, Glenmont, New York. The Applicant wishes to receive a lot line revision giving Bethlehem Auto additional land for additional parking and modifications to ingress and egress at the premises of 462 Route 9W, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is a reopening of a previously adjourned public hearing. The Applicant is seeking a modification to an existing Special Exception to change lot lines in egress to the existing Bethlehem Auto Laundry. The Applicant is proposing to provide access to an existing lot to the rear of the existing Bethlehem Auto Laundry by cutting off a piece of land from the front lot and adding it to the rear lot. There will also be a parcel added to the front lot that will be taken from the rear lot that will provide additional parking and change the traffic flow on the Auto Laundry site.

The existing properties are located in a "CC" Retail Commercial District. The front parcel of land is built on and is occupied by Bethlehem Auto Laundry and Auto Sales and the rear parcel is vacant land.

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, November 5, 2003 at 7:45 at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Bethlehem Auto Laundry, Inc. for Special Exception under Article VI, Permitted Uses, Section 128-17 B (15), CC Retail Commercial District of the Code of the Town of Bethlehem for lot line revision giving Bethlehem Auto additional land for additional parking and modification to ingress/egress at premises 462 Route 9W, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the October 29, 2003 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 that we've used in the past; we'll hear the Applicants revised or new 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 of the Applicant. Any questions or comments should be directed to the Board. Mr. Mancini?

MR. MANCINI: Thank you Mr. Chairman. Well in your absence last time, Mr. Chairman, your Acting Chairman worked us over pretty good and asked us I think every question in the book and the only question that I'm going to ask is, Mr. Wiggand do we have any more questions?

MR. WIGGAND: I think we covered it pretty good.

MR. MANCINI: I think we went through it all last time. The most important thing is that Albany County Planning Board has withdrawn their objection. Their comment now is modify the local approval to include review by New York State Department of transportation for design of highway. There is an advisory note that notwithstanding the Albany County Planning Board recommends the potential for a combined access with the adjacent facility be explored. We've already discussed that that's Monroe Muffler, we have no control over them and then additionally that the Albany County Planning Board notes that the Applicants site plan approval application for the first office building should address traffic impacts, storm water management associated with the build out of the site and that's something that would be a Planning Board issue. So the only thing I see here is modify for D.O.T. and unless there are any other questions I guess we - - we're all in.

CHAIRMAN HODOM: That's correct as far as the Board's final review, unless some Board members have some additional questions. I do have an item that I've discussed with counsel regarding our final approval of any ingress or egress from the site and

referencing that to 128-25 (2 a & b). That approval has to come from the Planning Board before any final decision on the ingress and egress of that parcel or both parcels. So, our decision will be conditioned if in fact the Board decides to approve your Variance request – or Special Exception request that any final decision made for ingress and egress would be placed on the Planning Board with final site plan review.

MR. MANCINI: Can we - - can that be conjoined with the application for the approval of our first building in the rear as part of the site plan approval, or would we need to make...

CHAIRMAN HODOM: Again, that would be part of the Planning Board review.

MR. MANCINI: Fine. So in other words it would be conditional if you approved it would be a conditional approval.

CHAIRMAN HODOM: That's correct.

MR. MANCINI: With that particular item?

CHAIRMAN HODOM: Correct.

MR. MANCINI: Fine.

CHAIRMAN HODOM: Okay. So basically we're looking at the site lot changes and the revisions to the front parcel that your client has recommended – requested, and then the separation of the 2-properties.

MR. MANCINI: I guess the only question is and it's a suggestion by our surveyor, we have to have legal access to the property in the rear and that's the reason we designed it in this manner. We would hope that if this Board saw fit that they would recommend and make part of their approval indicating that it was conditional, but with your recommendation to the Planning Board it would be helpful if you so felt that you could recommend it.

CHAIRMAN HODOM: We would discuss that amongst the Board when we make the...

MR. MANCINI: We wish you would consider that - - fine.

CHAIRMAN HODOM: Are there any other questions from the Board.

MR. WIGGAND: I think everything's been covered pretty well.

CHAIRMAN HODOM: You did a very good job Robert.

MR. MANCINI: Thorough.

CHAIRMAN HODOM: Very thorough. Marge, and other questions?

MRS. O'BRIEN: No.

ATTORNEY SEELY: Do you have timing issues on getting things straightened out with the bank? Is that the undertone?

MR. MANCINI: Well we can't really make the application to the bank until we get before the Planning Board.

CHAIRMAN HODOM: Anyone in the audience have any questions or comments? Anyone wishing to speak in favor of the Applicant? Anyone desiring to speak in opposition? Hearing no further questions or comments, we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MR. MANCINI: Thank you.

Hearing closed 7:40 p.m.

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The next order of business this evening is a public hearing for an Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Diane Fortier for property at 7 Reineman Street, Albany, New York. The Applicant wishes to construct an addition, which will exceed the allowable percentage of lot occupancy at the premises of 7 Reineman Street, Albany.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is seeking an area variance for the construction of a single story 436.8-square foot addition to the existing 1,089.99-square foot main structure. The new total main structure will be 1,526.79-square feet, which is 401.79-square feet over the 1,125-square feet allowed by a 7,500-square foot lot. The lot occupancy will be 20.36-percent, which is 5.36-percent over the 15-percent allowable for the main structure and .36-percent over the 20-percent allowable total building area.

The existing structure is located in a single "A" residence Zone and is occupied as a single-family dwelling.

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 public hearing on Wednesday, January 7, 2004, at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on Application of Diane Fortier, 7 Reinemann Street, Albany, New

York 12203 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 an addition, which will exceed the percentage of lot occupancy at the premises 7 Reinemann Street, Albany, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the December 31, 2003 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'll use this evening; we'll hear your 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. Any questions or comments should be directed to the Board. We just ask that stand or sit close to the black microphone; it's for recording purposes only. Ms. Fortier, will you be making the presentation?

MS. FORTIER: Sure.

CHAIRMAN HODOM: Just introduce yourself if you would and give us your address.

MS. FORTIER: Okay. My name is Diane Fortier, 7 Reinemann Street, Albany, New York. I own a single family home and I'm looking to add an addition, which is over the percentage of allowance due to how much lot area I have. The reason for the addition is I have a 2-family with 4-people in it. I have 2-young children and I have 2-small bedrooms, which are like 8 by 13 and 11 by 15, and I was looking to add on another bedroom and a larger living room area, and that's basically it.

CHAIRMAN HODOM: Let me ask you some preliminary questions. Do you currently own this property?

MS. FORTIER: Yes.

CHAIRMAN HODOM: The property is not occupied at this point in time?

MS. FORTIER: Currently because we wanted to do this, we had left the premises because I have 2-young children and I didn't want them around construction so it's not occupied right at this time, but it's my permanent residence.

CHAIRMAN HODOM: The number of the residences on the house is shown as 301.

MS. FORTIER: Okay.

CHAIRMAN HODOM: Was that the old number before the change of the...

MS. FORTIER: The seven came down when they took down the front of the aluminum siding. It was on the aluminum siding.

CHAIRMAN HODOM: Okay. We have some conflicting dimensional data. The site survey that was presented with the application has shown a width of the proposed addition as 27.2-feet and the depth of the proposed addition as 14-feet. The plans that have been presented from...

MR. DISTIN: Oh, can I mention on that?

CHAIRMAN HODOM: Just hold on for a minute please. Prime Concepts, okay shows 26-feet in width, 14-feet in depth and they also have added on a 8 by 5.8-foot addition to that, which I'm assuming is access to the new basement.

MS. FORTIER: Right.

MR. DISTIN: Yeah, I can help you with that. I'm with Prime Concepts.

CHAIRMAN HODOM: And then the plan that was prepared by M. Besse, Architect also shows the width of the addition to be 26-feet, the depth being 14-feet, but there's no area shown for the access to the basement area. Which plan are we to use?

MS. FORTIER: Initially when we started out, we were going to make it that large. It's been scaled down.

CHAIRMAN HODOM: Okay, you were going to make it the 27.2-feet – okay.

MS. FORTIER: Right it's been scaled down to the 26.

CHAIRMAN HODOM: Okay just let me ask you this, which plan are we going to be discussing this evening? Is it the one that's shown as Prime concepts attachment?

MS. FORTIER: Right, they attached it because the entrance to the basement was decided on after the architect had done that and Prime Concepts had made that attachment.

CHAIRMAN HODOM: Okay. Except for some of the other dimensional information and the layout of the existing home, I'm assuming that the architectural features showing on the drawing A1, (1 of 1) prepared by M. Besse Architect, those architectural features are going to remain as shown.

MS. FORTIER: Correct.

CHAIRMAN HODOM: The interior dimensional data will remain as shown. So the changes from drawing A1 to the Prime Concepts attachment is the addition I'm going to say approximately 8-feet in depth, 5.8-feet in width, which is access from the existing home down to the new basement.

MS. FORTIER: Correct.

CHAIRMAN HODOM: All right, lets go from there. That will change somewhat the percentage of the lot occupancy.

MR. PLATEL: Oh yeah, it will change it some.

CHAIRMAN HODOM: It's not going to change it by much, but it will change by some, and Prime Concepts is going to be your contractor?

MS. FORTIER: Yes.

CHAIRMAN HODOM: Maybe you'd like to introduce yourself and your association.

MR. DISTIN: I am Kenneth Distin, I am basically the supervisor; I'm not the actual contractor. I work with Prime Concepts. I'm responsible for getting this project done. I want to ask - - I've kind of been through this. They presented us with the plans originally, she had the plans drawn up before we were involved. They approached us with the plans and proposed for us to do this addition than we took them plans and basically made the adjustments that we needed to do to get the stairs - get in the side. Originally the plans, the stairs were supposed to be some where else, you know that wasn't a good spot. We decided we were going to put them in on the side. We kind of re did the plans and...

CHAIRMAN HODOM: Do you know - - can we have the spelling of your last name to by the way?

MR. DISTIN: D-I-S-T-I-N.

CHAIRMAN HODOM: The plan that was prepared by the architect doesn't show any access except for...

MR. DISTIN: This was the second set, the first set of plans that she had from the architect showed a set of stairs some where right in the middle of the living room. Right now they have existing stairs right here.

CHAIRMAN HODOM: Okay.

MR. DISTIN: And they were hoping sometime down the road that if they did some interior remodeling back here, they could eliminate these stairs. That's what they presented to the architect. The Architect said fine, we'll put those stairs over here. Now, they presented us with that set of plans and we looked at them and said that's not a good place for the stairs when you can do something different. So she went and she had it re-drawn again and then we came up with a plan; this is like a 3-step, 4-step process. We came up with a plan of putting the stairs over here instead within the closet where the stairs go down that way and then down into the stairs into the new addition instead of fighting all the way through to get down into there.

CHAIRMAN HODOM: Okay, so initially the stairs were shown on the...

MR. DISTIN: The first set of prints – this is like a second set.

CHAIRMAN HODOM: Okay, but they were shown in the enlarged living room.

MR. DISTIN: Yeah, they were shown in the enlarged living room. It just wasn't a good -
- it just wasn't a good location for the stairs.

CHAIRMAN HODOM: Okay. Perhaps you can go over some of the architectural features of the home; what you're changing; what you're adding.

MR. DISTIN: Basically, everything stays basically the same. All we're going to do here is we're going to extend the foundation over, you know it's going to be - - the full basement foundation. We're just basically extending it over and then go back in. None of all of this structure is going to change at all; absolutely none of it. All this stuff is all exactly as it is and basically the - - is going to come over here and we're going to just continue this roof line of the existing house down onto that wall right there so that none of this is going to change. It's going to be basically to put a little shed roof there with door coming out this way, then the stairs go down that way and then straight down into the basement.

CHAIRMAN HODOM: But the - - are you going to reside the house, re-roof the house?

MR. DISTIN: This - - the new addition is all going to have a new roof on it. The existing house, the roof was replaced – what, just how many years ago?

MS. FORTIER: Not even five.

MR. MANCHUR: Somewhere around that, about five.

MR. DISTIN: The old part of the house is going to stay the same.

CHAIRMAN HODOM: Okay.

MR. DISTIN: The new addition is all going to have a brand new roof on it. The siding as we said as we're contracted – because we're going to be contracted out to is just the set the new siding is going to come all the way around – all the way around the front, all the way back and then back into the house. It's up the homeowner sometime in the future – Mike's going to finish it, just finish the back side of it afterwards. This is just basically the existing siding is staying on here, but you can't see from the road. He's going to take care of that sometime during the summer.

CHAIRMAN HODOM: Okay, so basically the proposed addition is going to be re-sided, but the balance of the house....

MR. DISTIN: Well this portion of the house will also be resided because that's visible from the front. The front of the house is here so we're basically going to take care of everything from this point all the way around to there.

CHAIRMAN HODOM: Alright, so from the front of the existing garage...

MR. DISTIN: Right.

CHAIRMAN HODOM: I just wanted to see if we have any bearings here; north and south but I guess we don't. We do to, okay. From the face of the existing garage along the west wall all the way down to the new addition, the front of the new addition, the 14-foot side of the new addition and back in to where it ties into the existing home will be resided.

MR. DISTIN: As for my end of it.

CHAIRMAN HODOM: Okay. Do you have a time frame as to when you propose to reside the balance of the house or don't you plan on doing that in the near future.

MS. FORTIER: I really hadn't thought about it, it's been good shape the way it is. I'm thinking of repainting it or if I could afford to replace it.

CHAIRMAN HODOM: So at this point in time it will stay primarily as it is?

MS. FORTIER: Right.

MR. DISTIN: Well as a contractor, what I basically recommended for them to do was - as - - when we purchased all the siding to do what we're doing was for them to purchase the additional siding to make sure they have a good color match to do this. It's not that much siding and it was one of those things they could do in the summer time. We can close out the addition, get the C/O, then in the summer time - - it's basically if he could save a couple dollars by doing the backside himself. You know, I recommended to them that they buy all of the siding at once so that they have the color that will match, it's not something that's going to look like it's hodge-podge.

CHAIRMAN HODOM: It's a good suggestion. Tell us what you're doing with the front porch?

MR. DISTIN: I believe we're just going to put a - - basically it's just going to be a set of wooden steps and hand railing. We were going to put a roof over it.

CHAIRMAN HODOM: Well it does show - - plus you have a light fixture out there. Is that going to be enclosing the entire front entrance or just top portion?

MR. DISTIN: Just the top portion, just to put a couple posts in.

MR. PLATEL: I would have to change that because I thought from when I talked to Karen the other day that that wasn't going to go on; the porch, the cover over the stairs.

CHAIRMAN HODOM: It does show it.

MS. DISTIN: Right, that's what I intended.

CHAIRMAN HODOM: I didn't know how much you were going to cover.

MR. DISTIN: If it's going to be covered, it's not going to be - - the dimensions on the stairs you're probably looking at - - usually we put a 4 by 3 landing so basically what is was there.

CHAIRMAN HODOM: Now you have the 6-foot wide stair, so it's more than 4 by 3.

MR. PLATEL: The problem that we have is I thought that that was removed because of the Front Yard violation that it's going to create - setback, an open porch even though - - as long as it has a roof on it you have to count on it's building area.

MR. DISTIN: You're pushing the setback right to the limit.

CHAIRMAN HODOM: Right now you're right at the limit.

MR. DISTIN: Yeah, so the roof is not going to be feasible now.

MS. FORTIER: Okay.

MR. DISTIN: I think we discussed that months ago.

CHAIRMAN HODOM: Right now it's 6-feet wide by 5-foot deep, but you're probably only going to cover the top 3-foot landing. Is that what you're proposing to do?

MR. DISTIN: Yes.

CHAIRMAN HODOM: What Mark is bringing up is that there's another item that would need a Variance, Front Yard Setback, if you wanted a porch there.

MR. DISTIN: No porch.

MS. FORTIER: Okay. We thought we had plenty of room.

CHAIRMAN HODOM: 25-feet, right?

MR. PLATEL: You need 25-feet, when I saw the revision and I did ask quickly and thought that when you put the stairs in the door around the back side there, you didn't want to do the porch in the front anymore. I thought that's where the conversation I had

at one time.

MS. FORTIER: Okay. Now let me ask you a question because I've had this question from the beginning and I thought I had it clarified with Roger Griffiths. My understanding was it had to be 25-feet from the center of the road in front of our house.

MR. PLATEL: You have 2-choices, 25-feet from centerline of pavement or 25-feet from the property line; whichever gives you the greater front yard. Oh no, excuse me – 50-feet from the centerline of pavement or 25 from the property line, which ever gives you the greater.

MS. FORTIER: Oh, 50 from the center?

MR. PLATEL: Right and I think what he might have told you, you threw me off, usually you can get a guesstimate of where the property line is most of the time if you measure 25-feet from center line. That usually gives you a ballpark figure of where your front yard property line is. So that might have been where the confusion was.

MS. FORTIER: Okay, I get it now.

MR. PLATEL: But it's 50-feet from centerline of pavement.

MR. DISTIN: Is the porch worth that much to open up another can of worms?

CHAIRMAN HODOM: You have a narrow street there. That would....

MR. PLATEL: I mean I could figure it out real quick for you what it'll be. The only problem was that we didn't have it on the application – or on the – I don't know how much of a problem that would create without having the front yard setback on the....

CHAIRMAN HODOM: It really should be re-advertised if there's going to be another variance. That would be my recommendation.

ATTORNEY SEELY: Generally speaking, you better be careful than not in case any of neighbors would have objections. We wouldn't want somebody who thought that, as strange as it may sound, the 5 or 6-foot porch might set somebody off. Stranger things have happened and you're not looking to cause problems with your neighbors who've all kindly signed the letters that you've sent in, but I think for the purpose of notice provision purposes anyways, having advertised it as an area variance in the first instance, legally it doesn't create as big a problem as it might first seem. I would urge caution, however, because you wouldn't want somebody making a mountain out of a molehill. Ultimately it wouldn't create a problem, it's been a little bit since I've looked at the notice issue on this but I would want to be careful about this and I would say that for the minor time problem might cause you and you wanted the porch and wanted the variance I'd think you want to pursue that by getting it re-noticed and getting it onto the next possible meeting according to the agenda.

MR. DISTIN: Is it something that we can deal with as a separate issue as far as dealing with the actual structure and allowing the variance for the square footage so we can proceed with the actual construction and then deal with that as a separate issue and as that comes up, I mean it's not something that would be very difficult to add on down the road, but as opposed to holding the whole project up right now....

ATTORNEY SEELY: As far as we're concerned your application stands as it is.

MS. FORTIER: Right, you would have to do a whole new application.

ATTORNEY SEELY: Well, it would just be a separate – it would be an add on so to speak. It's just a question of making sure that the proper notice is given to your neighbors, that's all. It's a little technicality, how many people actually read those things you never know but they are entitled to get notice that the building department sends out. So you would want to make sure that they were notified, more to the point because you've gone out and talked to your neighbors and you don't want to cause any problems thinking that you've pulled a fast one on them.

MS. FORTIER: And that's it too, I mean if we could just go ahead with this and then for the time being we'll say there's not going to be a covered porch because that doesn't go with the, you know the regulation. And then I will, I mean I have talked to my neighbors and they're all being great and I can explain the whole thing to them and then if I need to do another....

MR. DISTIN: How far away is the actual, I mean what do we have?

ATTORNEY SEELY: 6/10ths of a foot.

MR. DISTIN: 6/10ths so...

ATTORNEY SEELY: 7-inches.

MR. PLATEL: I mean the steps are not a problem. The steps and the landing is not a problem, it's the roof area that gives you the building area. I mean if it was a bigger deck you couldn't but we allow steps, you know your typical entrance to get in and out of the house safely not to be counted as the setback requirement but if it was created as a deck or roofed area, then you have to count it.

MS. FORTIER: Just to let you know I had showed all these neighbors this plan so they do know that there is going to be a covered porch, so I understand the procedure, but just to let you know I don't think I'll have a problem and, you know then I'll just go through the process again. I mean I didn't...

MR. DISTIN: The best thing to do is don't worry about your roof, go through the process and just get the project under way. You guys are being held up; get the whole

thing going and you guys can talk about the roof, discuss the roof – go through that as a separate issue.

ATTORNEY SEELY: I think legally you might be okay about it, but doing this on fly like this I'd want to check one or two things before we did it. I'd be happy to be over ruled by anybody who has a different opinion on that. I don't want to get you in a position where we go to far.

MS. FORTIER: Right, I understand.

CHAIRMAN HODOM: My position would be, as chairman of the Board, that because we advertised it excluding another part of – that you would need another variance, I would feel very uncomfortable making an approval knowing that you were going to have covered porch without notifying the property owners within 200-feet.

MS. FORTIER: Okay.

CHAIRMAN HODOM: That would be my recommendation to the Board as well. You come up with a valid point, you could proceed with your application excluding the covered porch and we could move ahead with that. The other question I was going to ask you and you brought up the issue, is which plan did you actually show your neighbors? Was it the 26-foot wide or the 27-...

MS. FORTIER: No, it was the 26 and we actually showed them the attachment to that Prime Concept had come up with the new entrance to the basement.

MR. PLATEL: I believe that was stated in all the letters Mike.

CHAIRMAN HODOM: Okay.

MR. PLATEL: I believe the letters that were signed states that you showed them that.

MR. MANCHUR: Yeah, I actually got the other letters.

CHAIRMAN HODOM: Why don't you come up and introduce yourself to us so that we can get you on the record.

MR. MANCHUR: Sure, my name is Michael Manchur, M-A-N-C-H-U-R, and I reside with Diane and I went to each of these neighbors within 200-feet actually showed them the actual plan, explained to them what was going on and everybody said no problem. I didn't have the rest of the letters made up were they said just give them the letter they'll sign it. The ones I did have - - cause I didn't know everybody – I thought I had everybody within 200-feet and then you had given me the actual list of people that were actually 200 and so I didn't have those letters typed up yet, but they said no problem.

CHAIRMAN HODOM: Okay.

MRS. O'BRIEN: Mike, one question I have is if they're putting the roof on the porch at another time, is that integral to the building, you know when you're doing the siding of the front, will you be doing that prior to when you get the approval for the...

MR. DISTIN: Basically, what I'm recommending to Michael and Diane is so we can get the project going; jump this one hurdle in the percentage and then if they decided, they can discuss if they definitely want the roof. They can come back immediately and go through the whole process again as far as getting the variance for the setback to put the roof on the front so hopefully by the time we get the structure actually up and we're doing the siding we will have the approval to put the roof over the front porch and it can be all done at once. We're not going to try to come back a year from now and do it, if it's going to happen, it's going to happen right away and it'll be done.

CHAIRMAN HODOM: Also by putting the roof over and I don't know what Mark figured in his calculations. If you go to enclose that – part of that roof, that also increases the percentage of lot occupancy.

MR. PLATEL: By the time I take off the 1.2-feet off the side it's 4-square feet more. So really it's not all that much of a change, you know 4-square feet is not a big deal.

CHAIRMAN HODOM: So your calculations were based on the 27.2-feet?

MR. PLATEL: Originally, yes. So when you take that off, you're basically - - it was 24 ½ -square feet so the roof area over the front entrance would be 30-square feet so you're talking 5 ½- square feet difference.

MRS. O'BRIEN: But the issue is then....

MR. PLATEL: The setback and the front yard.

MRS. O'BRIEN: That would be a separate thing, but at this point we have to consider the percentage over without the roof because the roof was not part of this. Well then when they come back to get approval for the roof, that increase's their percentage of lot occupancy so that would have also be considered in addition to the setback.

MR. PLATEL: Oh yeah, it would be two of them at that time, yes because you would be adding more square footage.

MRS. O'BRIEN: Right.

MR. BROOKINS: What do you anticipate your project completion time from when you break ground?

MR. DISTIN: When we break ground, probably 2 ½- months – 3-months tops, but that's a big "if" with, you know as far as us breaking ground with the weather at this point in

time. You don't know which way it's going to turn, we could break ground in a week, a couple of weeks or it could be a month, a month and a half or 2-months. It's just that time of year; you just can't anticipate what the weather is going to be like.

MR. BROOKINS: Well certainly within that amount of time whatever decision you make, if you choose to come back to us we would certainly be able to turn around that application in that amount of time I would suspect.

CHAIRMAN HODOM: It's really up to you Ms. Fortier. If you want to proceed with this hearing by removing the front porch, going strictly with the 26 by 14 addition plus the stairs to the basement we can do that and then you would come back at a later date for the front porch. Or you can tell us that you want the front porch now and then we would have to re-advertise and then set up another hearing. We could adjourn this hearing and set up another time once the people have been notified. It's your decision to make.

MS. FORTIER: I prefer to proceed.

CHAIRMAN HODOM: Okay, which would mean that the front porch would not have any roof over it at this point in time.

MS. FORTIER: Right, correct.

CHAIRMAN HODOM: And your contractor I guess depending upon the weather you could commence this and complete it within 6-months time?

MR. DISTIN: Definitely.

CHAIRMAN HODOM: Okay. As I remember you're going down 6 or 7-feet for the basement under the new addition. Is that a crawl space?

MR. DISTIN: That's going to be – I believe we discussed 9-foot poured walls and the foundation sticks out of the ground I believe about 2-foot, give or take. So probably going - - we're going to go down about 7-foot. Plus the existing house they have now is really – the basement is not really – I mean the ceiling is right here. They want someplace down there where they can store stuff, you know where you get a little bit more headroom, you know....

CHAIRMAN HODOM: The plan is showing from the finished concrete floor to the underside of the floor joist 6-foot, 7.

MR. DISTIN: They probably – when they drew the plans, I'm sure he matched the existing house – that's probably what the existing house is right now and again these plans were drawn before we came into the picture and we're going into contract with them to do that so that they have a deeper basement, so that they have actual full basement walls so they can walk down there as opposed to...

CHAIRMAN HODOM: So the 6-foot 7 is incorrect?

MS. FORTIER: I thought he changed it.

MR. MANCHUR: It say's determine detail in field.

MS. FORTIER: Oh.

MR. MANCHUR: It's says it on there to determine the detail in the field.

MR. DISTIN: To determine detail in field, that's the existing footing.

CHAIRMAN HODOM: That's just for the existing footing, that's all. He doesn't want you to go down any deeper than 8-inches beyond that existing footing is my understanding of the note.

MR. DISTIN: What we're going to do is we're going to put a haunch wall in there. If need be, you know if Roger requests a cross-section of all that generally I would have all of that for him. I really didn't pay much attention to the fact that they have 6-foot 7 on these walls cause generally when we do an addition, when we build a house, we put in either 8-foot basement walls or 9-foot basement walls. It's not really a consideration for me as a contractor to have a homeowner put in a 6-foot 7 wall cause to me it doesn't make any sense.

CHAIRMAN HODOM: I understand that.

MR. DISTIN: It's not something – I didn't really even catch it on there.

CHAIRMAN HODOM: I understand that, but if this Board is to approve an application then these drawings are part of the application. That's what is approved. I hope you understand that. So if you want to change that then you have to notify us now that you want to make that deeper than 6-foot 7.

MR. DISTIN: Yes, we want to make it deeper.

MS. FORTIER: And I was under the impression when he drew up the new plan, the architect, that we had told him that. Being a - - I don't know how to read architecture so I didn't notice that and I apologize. So whatever it takes we can do – I'll have him draw up new ones with that if that's what you need.

CHAIRMAN HODOM: What are you changing the 6-foot 7 dimension to?

MR. DISTIN: I believed we discussed – I can't – it's been a little while now because we have other contracts – cause I'm a really busy contractor so I believe it was 9-foot walls.

MR. MANCHUR: It was going to be I think about 8 to 9.

MR. DISTIN: I think it was going to be 9-foot walls, which is going to end up – it would be 8-foot – you’re going to end up with a 8-foot 6 finish by the time we pour the floor.

CHAIRMAN HODOM: So from the finished floor to ceiling is 8-foot, 6?

MR. DISTIN: Yeah, by the time you pour the floor on top of the footing.

CHAIRMAN HODOM: You know...

MR. DISTIN: No actually I take that - - I have the contract, I have the copy of the contract. We’re going 8-foot walls, so it’s going to be 7-foot – you’re talking 7-foot, 6, somewhere in that range.

CHAIRMAN HODOM: Ms. Fortier?

MS. FORTIER: Yes.

CHAIRMAN HODOM: I don’t think we as a Board can allow you to make those changes.

MS. FORTIER: Okay.

CHAIRMAN HODOM: Because your architect has a stamped plan and we can’t make any changes that change dimensional data or structural data for this plan without his permission.

MS. FORTIER: Okay.

CHAIRMAN HODOM: You would have to have him provide us a letter or a revised plan if you want to increase that from 6-foot, 7 to 7-foot, 6 or 8-foot – whatever it is. That’s New York State Law. Tell me, what are you currently doing now – where are living now?

MS. FORTIER: I’m living in Albany in a small 2-bedroom apartment. My daughter had moved out, my older daughter went to school and so I just moved into her apartment hopefully on a temporary basis cause we were hoping to have this done already – health and safety reasons.

CHAIRMAN HODOM: There’s a lot of conjecturing on the plans in the plans and what you’ve submitted to date and if it’s not a severe financial burden to you at this point in time, I would like to see everything brought up to date as to what you really want dimension wise. Have on this architectural plan shown the new areaway to the basement, a corrected finished floor and the basement height because we just can’t make these kinds of changes from an architectural plan. New York State Law doesn’t allow that. And that also would give you some additional time to consider what you want to do with that front

porch. I don't want to put an additional hardship on you but I would not feel comfortable in saying that yeah, we can change the 6-foot, 7 to some other dimension without your architect approval.

MR. DISTIN: If it's - - I mean we can, again we can leave it at the 6-foot, 7. If all it takes is for us to get another stamp or prints from the architect, doing all of the approvals, again we can come up with that. You know my biggest concern is getting their project going and as far as the - - you know as far as the percentage of the square footage of the lot, you know what we're dealing with. As far as any of the stuff - the 6-foot, 7, you know the side thing with the stairs and all that kind of stuff. Like I said, we'll probably all have the plans completely redrawn, stamped, no problem, you know re-submitted.

CHAIRMAN HODOM: Yes and that's fine, but it essence that should have been done prior to our meeting here and that's all I'm saying to you. I understand your interest in getting the project started. You probably have it in your schedule, and you want to get going on it. We need accurate documentation of what you're proposing to do when we make a decision. Now, we can proceed with this, we can adjourn the hearing until you get us the updated plans if that's what you want to do, but I don't think we can make a real determination and I'll ask the other Board members to make their own remarks based on the information that we currently have and the changes that you're suggesting. How about the other Board members? How do you feel?

MRS. O'BRIEN: I agree.

MR. WIGGAND: I feel the same way, Mike. We're going to have something more definite on this, especially the ceiling heights in the basement and the front steps there. Is that going to be taken right off the new plan or is that going to be made part of it?

CHAIRMAN HODOM: That would be the determination from the Applicant.

MR. BROOKINS: What we need is one final set of plans that incorporates all of your ideas and your building plans along with the architects ideas.

MR. DISTIN: When Diane went through this and did the application, you know talked to Roger Griffiths and all this kind of stuff we were under the impression that basically the obstacle that we were facing right now - the reason we're here tonight, the reason we're facing you is because of the percentage, the square footage. No one ever told us that there any other issues that were going to be involved as far as the prints we submitted, the second set of prints, the sketch with the little stuff on the side and everything and it was never brought back to us and we were never told that that was not admissible and that was not acceptable because we've had plenty of time. She could have went back to the architect, she could have had all this stuff all re-drawn again and been back here to present all of this. We were under the impression that we were only coming here to face one obstacle and that was the percentage of the square footage and that was it.

CHAIRMAN HODOM: Well the burden of providing substantial and correct

documentation to this Board is by the Applicant. You provided us detail that you just copied from this plan. You could have called the architect as well to have him update his plan and submit it to us. You could have talked to the architect about the 6-foot, 7 dimension and had it re-submitted to us before the hearing night, that wasn't done either.

MS. FORTIER: I thought what I had was substantial, I see your point. You know there is two - - he's trying to get his work done and I am incurring a lot of cost but I understand what you're saying to.

CHAIRMAN HODOM: Our determination is based on the documentation that is presented to us and that's how we operate. That is what the statute says; it's pretty simple.

MRS. O'BRIEN: I mean if our approval says based on the documentation provided, you would be limited to exactly what's here you couldn't change it all, which is not to your advantage. I mean if you want to have the porch over the front, if you want to have the basement the correct size, you know when we say no, it's based on what's here that's what you've got and nothing more.

CHAIRMAN HODOM: If - - how do want to proceed, do you want to request an adjournment until you can have the updated information to us?

MS. FORTIER: Well we can't proceed until then, right?

CHAIRMAN HODOM: Well if you leave it at 6-foot, 7....

MR. DISTIN: If we leave everything as per what's on it, basically if you leave everything as what is exactly as per what's on these prints then if you're happy with that, then we can continue. If you're not happy with what's on there, the 6-foot, 7 - the stuff like that then basically you need to adjourn so that you can have the plans redrawn and then come back again.

MS. FORTIER: Right, okay but we would be including the.....

ATTORNEY SEELY: You could use this as the opportunity at this time to add that front porch that we're talking about so we take care of both at the same time and you would add those steps on the side.

MS. FORTIER: Yeah, that's what I'm talking about, right. If we have to do it....

MR. DISTIN: Sounds good.

MS. FORTIER: Do you have any idea how long it would take your architect to make those changes or...

MS. FORTIER: Within a week.

ATTORNEY SEELY: One of things that we do on a regular part of our meeting is there are applications that come in so towards the end of the meeting we try to figure out when we can put somebody on the schedule next and so if you had a sense that your architect could have something drawn up that quickly I don't recall – I think we've got one matter on for the 21st. It would be likely that you could be fit on in 2-weeks assuming the drawings could be produced. So we'd be talking about much less of a delay if those drawings that you're talking about could be a 2-week delay versus a month.

MS. FORTIER: Right.

ATTORNEY SEELY: And if you're living someplace else, that extra 2-weeks probably makes a big difference and I know it makes a big difference to your contractor.

MRS. O'BRIEN: If we schedule for then, does she have enough time for the front porch as well?

CHAIRMAN HODOM: Well I think if the front porch is going to continue it does not give enough time for a notification. When do you have to notify...

MS. GUASTELLA: I could get it on by January 14th, which is next Wednesday.

ATTORNEY SEELY: Get it into the Spotlight for next Wednesday?

MS. GUASTELLA: If I do it tomorrow based on her decision, I could re-advertise. The deadline is on Friday.

CHAIRMAN HODOM: So we have the 21st.

MRS. O'BRIEN: What would she have to do in order for you to get it into the Spotlight?

CHAIRMAN HODOM: She'd have to tell us now that she would like to proceed with that front porch so that we would have to re-advertise.

ATTORNEY SEELY: What we could do is we could re-advertise it. We could re-advertise it for the 21st and if it turns out that the drawings are not available at that point, it could be adjourned. You would not need to re-notice it at that point and having already noticed the first time. Anyone who had comment that wanted to appear at the public hearing would be here to be informed of the adjournment and that would work out okay. So assuming that you were in the position you thought to have your architect produce the drawings, then we could take care of the front porch and the drawing issue at the same time. So to the extent that you are thinking that you really wanted that front porch anyways then you're not losing too much other than perhaps starting when you break ground for the rest of the project.

MR. BROOKINS: And then you'd have everything together, you don't want to build this more than once. If it takes an extra week to plan it, you get it done.

MR. PLATEL: It would be a 2-week difference if you can get them in.

CHAIRMAN HODOM: Resituate the entrance to the side? It's something you might want to talk to your architect about.

MR. WIGGAND: You have a driveway coming up there Mike from the garage. You've got to be careful of that.

CHAIRMAN HODOM: And then you've got side yard over on the other side.

MR. BROOKINS: Which falls away pretty abruptly. Is there any re-enforcing there at that elevation change or is that just...

MR. DISTIN: That's existing, it's been there...

MS. FORTIER: Since I've owned the house since 1986. We do want to – the neighbors are going to work together to do something. I'm not familiar with the terminology of those blocks.

MR. DISTIN: It's a retaining wall?

MS. FORTIER: Not really a retaining wall because that would just be like - - their yard is some much lower than ours - - but a step down with those blocks that way blocks – because they have a very large yard and they're willing to work with us. So we're going to do something together.

CHAIRMAN HODOM: Once you're excavating for that foundation at least the top of your slope is going to be fairly close to that retaining wall. If you follow code as far as excavation wise anyway and the deeper you go the farther out you have to go at the top of the slope so that's another consideration as well.

MR. WIGGAND: Is there any kind of a problem there for drainage?

MR. DISTIN: As far as?

MR. WIGGAND: As far as the basement.

MR. DISTIN: As far as the basement, well what we're proposing is - - they don't have any problems as far as water in the basement right now – is to make sure that we have drain - - obviously you have to put drain tile around the foundation and going to put a sump in...

MR. WIGGAND: That was my question, where's the drain to it, a sump pump above the ground?

MR. DISTIN: We're hoping there's going to be drain tile already around the house. If there's not, we were either going to run it to daylight or we were going to go through the sump pump and into the storm sewer.

MR. WIGGAND: Is there presently a sump pump in that basement?

MR. DISTIN: No, there is no water problem in there now.

MR. WIGGAND: No water problem at all?

MR. DISTIN: No, it's in sand and it's up on a hill.

CHAIRMAN HODOM: If you run it to daylight, you're going to run it onto somebody's property and you're not going to be allowed to do that.

MR. DISTIN: The pump in and then hoping that things are okay.

MR. PLATEL: You'll be asked to go to the storm drain.

CHAIRMAN HODOM: To do what?

MR. PLATEL: They'll be asked to go to the storm drain; they can't daylight it. They would have to go into a drywall before they did that.

CHAIRMAN HODOM: Okay.

MR. DISTIN: Basically where we're at then is we're just going to set them up with a pump and a drain tile and everything and hopefully I don't see that there is - - there's not a problem there now and there shouldn't be a problem with the new addition.

CHAIRMAN HODOM: I wouldn't think so because it sets so much higher than the adjoining property's.

MR. DISTIN: If there is the drain tile will already be in place, the sump that is already going to be in there, you know they can go from there as far as getting what they need to do to get to the storm sewer. On the other side of the road is a storm sewer there.

CHAIRMAN HODOM: There may not be one; there may not be a storm sewer either.

MR. DISTIN: Then we would end up with a dry wall there, but again it sits on a hill, you know they don't have a problem with that.

CHAIRMAN HODOM: Yeah, I mean compared to the adjoining property on the right, it's probably 6 or 7-feet higher.

MR. DISTIN: I believe the basement floor is probably higher than the adjacent lot.

Everything is sand there so it basically percolates right through.

CHAIRMAN HODOM: Runs right down that way. You tell us what you want to do Ms. Fortier, do you want us to adjourn the hearing with out the front porch and then we don't have to re-advertise we just need the updated documentation? Do you want us to adjourn the hearing with the front porch, which will add another variance to your request and then everybody has to be re-notified? You give us some direction.

MR. DISTIN: Said of course you could do it within the 2-weeks then that would be the way to go. You would get everything that you want.

MS. FORTIER: Okay, so lets adjourn we'll keep the porch on.

ATTORNEY SEELY: Add the porch to the current application?

MS. FORTIER: Yes.

ATTORNEY SEELY: Okay.

CHAIRMAN HODOM: I would then ask you to have your architect show a detail of that porch, a side view not only the front view.

MS. FORTIER: Okay.

CHAIRMAN HODOM: Just to show us how far it's coming out from the house because that will impact the percentage of lot occupancy as well. Also give us accurate dimensions on the outside access to the basement.

MS. FORTIER: Okay.

CHAIRMAN HODOM: These were determined by scaling the drawings and you really shouldn't be scaling the drawings.

MS. FORTIER: Okay.

CHAIRMAN HODOM: Anything else from the Board you can think of?

ATTORNEY SEELY: Karen, do you need anything updated on the paperwork that's been submitted to you to account for this?

MS. GUASTELLA: I'll check through the folder, but I'm going to need all the updates to get the information to the Board members by next Friday.

ATTORNEY SEELY: Okay.

MS. GUASTELLA: Would that be possible?

MS. FORTIER: Yeah, he's trying to call now. I'll call him first thing in the morning and I can let you know either way what he says but he's really good.

CHAIRMAN HODOM: It shouldn't take much, I mean...

MS. FORTIER: No, I couldn't believe how quick I got them back and he was like, no problem.

CHAIRMAN HODOM: Again, we just don't have the authority to change these documents. Bob, can you think of anything else?

MS. FORTIER: And I wish I had known I would have it all taken care of.

MR. WIGGAND: I think they've covered all of what I need to know for tonight, but we do want a more complete set of what you're going to do. You have 2-different drawings here.

MS. FORTIER: Right.

MR. WIGGAND: I don't mean that I'm confused, but this is still part of our submission with this one here and now it's all been changed. Whatever you submit, have your architect design here – if he's going to add or take away here other than what he shows, please make sure it's on here. If you're going to go for that porch roof make sure it's on here along with the construction of what's going to be underneath that porch to hold it up. Right now it doesn't show anything.

MS. FORTIER: Oh, okay.

MR. WIGGAND: There's got to be some kind of a foundation, this is attached to the house as a permanent fixture to the house so make sure he shows the foundation underneath it down 4-foot below the frost line.

CHAIRMAN HODOM: Got all these notes down of what we need?

MR. DISTIN: We got it.

MR. WIGGAND: No matter how nice the ground is, I understand sand ground, but...

MR. DISTIN: We always make sure everything we do is always right there on the up and up, I mean I understand that unfortunately I didn't go through these prints with a fine tooth comb and I needed to.

MR. WIGGAND: Well before you come back to this Board again make sure that you have some of these things all through you if you're the man in charge.

MR. DISTIN: It'll be done.

MR. WIGGAND: Okay, otherwise we've got to send you back.

MR. DISTIN: I understand, believe me.

CHAIRMAN HODOM: Based on your request Ms. Fortier, we're going to adjourn this hearing until 7:45 p.m. on January 21st providing we have all the documentation.

ATTORNEY SEELLY: You might want to in terms of how long that's going to take...

CHAIRMAN HODOM: To reschedule it you mean?

ATTORNEY SEELY: That's all, otherwise they might be sitting here another 15-minutes that they don't need to be here for. My guess would be that Galaxy is going to take a half an hour anyways for what it's worth.

CHAIRMAN HODOM: Okay. If the other Board members concur counsel is suggesting that we switch the two, change Galaxy Communications to 7:45 and Diane Fortier to 7:30, that being the case I'll entertain a motion to hear Galaxy Communications at 7:45 instead of 7:30.

On a motion made by Mr. Wiggand, seconded by Mr. Brookins and unanimously carried by the Board, Galaxy Communications hearing time was changed to 7:45 p.m. on January 21, 2004.

On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand and unanimously carried by the Board, Diane Fortier's continuation of a public hearing has been set for 7:30 p.m. on January 21, 2004.

CHAIRMAN HODOM: If there's a problem just notify Karen. We'll still keep a schedule for the 21st; we can always adjourn it again.

MS. FORTIER: Okay.

MR. DISTIN: Excuse me I have one question, do you need these – all these - - actually get back...

MS. FORTIER: Well yeah, because we're going to need copies of all of them.

CHAIRMAN HODOM: We would like the updated drawings and information at least a week ahead of time. That gives us an opportunity to review them and formulate any questions and if there are some problems we can follow up on the problems as well. If your architect's is out of town or something like that we can work around that, we can adjourn it again or whatever. Thank you.

MS. FORTIER: Thank you, have a nice evening.

Hearing adjourned 8:35 p.m.

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The next order of business was to consider the proposed resolution of Grace Gidley, 21 Maple Avenue, Slingerlands, New York.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York a Variance under Article X, Highway Frontage and Access, Section 128-42, Distance between Flag Lots requested by Grace Gidley for property at McCormack Road, Slingerlands, New York. The Applicant wishes to construct a driveway and install utilities for a building lot; and

WHEREAS, the Board of Appeals, 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 premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on November 3, 2003; 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 Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is seeking to provide access to an existing vacant flag lot. The lot in question directly adjoins another existing flag lot that has an existing single-family dwelling located on it with access off McCormack, a town street. The two lots share a common property line where they access the town street; therefore, there is no distance between the lots. The town code requires that there must be a 50 feet between two flag lots. At one time the section of this lot where the proposed access is sought was a paper street that the applicant has acquired.

The access way was the subject of litigation between the Applicant as plaintiff and the Town and several of the adjoining landowners as defendants. The action sought to quiet title to the paper street and resulted in a settlement, as between the parties to the litigation, whereby the Applicant was granted by quitclaim deed an exclusive fee interest in the 28-foot wide strip that is the subject of the application. The Applicant seeks approval to access the remainder of the flag lot from McCormack Road over the 28-foot wide portion of the paper street granted to her during the litigation.

The lot to which access is sought is vacant land located in an "A" Residence Zone. The Applicant wants to sell this property to allow the construction of one single family home on it. This lot is approximately 210 feet wide and 160 feet deep. The one single family home would be proposed to be located in the middle of the lot with a 12-foot wide driveway.

Several owners of adjoining lots spoke in opposition to the application because of concerns over reported water problems in the neighborhood. Several owners reported that standing water on their properties occurs regularly and that the local fire department has pumped out at least one basement on several occasions due to poor drainage in the neighborhood. The drainage problems have been recurring for many years. The neighbors are concerned that approving the application will lead to the construction of one more home that will exacerbate the water drainage problems. The owner of the adjoining parcel also expressed concern that traffic safety would be compromised by clustering two driveways at a turn in the road. She noted that she also owns additional land-locked parcels for which she, too, could provide access over her lot, which has road

frontage, thus further compounding the traffic issue she identified.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires the variance sought. The Board notes that the water problems reported in the neighborhood address an issue beyond the scope of the Board's authority and have been brought to the attention of the town-engineering department.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety, and welfare of the neighborhood and community and concludes that permitting the proposed project, which is more than a minimal request, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners and that the benefit could not be achieved by some other means.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed addition, subject to the following conditions:

1. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application,
2. That only one single-family home be constructed on the property, and
3. The town-engineering department review and approve the planned construction to ensure water drainage from the property is handled appropriately.

January 7, 2004

Michael C. Hodom
Chairman
Board of Appeals

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

YES	NO	ABSENT	ABSTAINING
Michael Hodom Robert J. Wiggand Richard Lewis Gilbert Brookins Marjory O'Brien	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on January 8, 2004.)

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On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the December 17, 2003, meeting were approved.

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

Meeting Adjourned: 8:40 p.m.

Respectfully submitted,

Secretary