

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
January 16, 2008**

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  
Michael Moore, Board of Appeals Counsel  
David DeCancio, Board of Appeals Member  
Lennie Micelli, Board of Appeals Member  
Kenneth Umina, Board of Appeals Member  
Matthew Watson, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: Jessica Brand  
Alteri's Restaurant  
Mary Willmott  
George Ten Eyck

Chairman Hodom called the meeting to order at 7:00pm.

**PUBLIC HEARINGS**

**Jessica Brand**

The Board received an application for a Variance under Article XIII, Use & Area Schedules, Section 128-100, Schedule of Area Yard and Bulk Requirements.

Mr. Platel said the applicant was proposing to construct a seven hundred twenty-nine point two three (729.23) square foot addition to the rear and side of the existing main structure, which will encroach into the required rear and side property setback lines. The side yard setback would be eight point nine (8.9) feet or one point one (1.1) feet shy of the ten (10) foot required and the rear yard setback would be ten point three nine (10.39) or fourteen point six one (14.61) feet shy of the twenty-five (25) feet required.

The existing rear yard setback of sixteen point three nine (16.39) feet is a pre-existing nonconforming setback. The existing main structure is occupied as a single-family dwelling and is located in a Residential "A" Zoning District.

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, January 16, 2008, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Jessica Brand for a Variance under Article XIII, Use and Area Schedules, 128-100, Schedule of Area, yard & Bulk Requirements of the Code of the Town of Bethlehem for construction of a home and garage addition, at premises 2 South Helderberg Parkway, Slingerlands, New York.

Alex and Jessica Brand presented. Ms. Brand said that their rear lot line neighbor, Mr. Evo Garcia, had come this evening because his home would be the one impacted by the addition. She said they have been in the house for about five (5) years. They now have two (2) children and were outgrowing the home. There is currently no direct entrance into the house from the garage. The home was built in 1937 and has an attached one (1) car garage but you must walk outside of the garage and enter the home from the kitchen door. She said the kitchen

was quite small and they wanted to enlarge the kitchen to accommodate an eat-in area to make it a family kitchen. They also wanted a mudroom off the garage. The existing home doesn't have an area to take off boots and coats. She said that the Garcia's property on New Scotland Road is a large lot with a spacious backyard. The proposed addition would come within ten (10) feet of their property. The existing house is twenty-five (25) feet from that property line. She didn't think their addition would impede the living area of the Garcia's because they have a very large backyard. The Brands also want to build a two (2) car garage. They want to be able to frame the garage space, to accommodate another bedroom on the top of the garage in the future. She said many of the homes on the street had put on the same type of addition they were proposing. The houses are fairly small. She said the Cunningham home, diagonal from their home, had put on a similar addition about ten (10) years ago. Ms. Brand said their house was situated on the lot so the majority of the property is to the side of the house. She said that if they were to expand to the side of the house, it would take away from their yard space that holds the swing set. They would like to keep as much green space as possible. By expanding the kitchen out the rear, they could utilize the existing plumbing lines.

Chairman Hodom wanted to know who had prepared the submitted plans. Ms. Brand said they had done it themselves. They had not wanted to go to the expense of architectural drawings if they weren't granted the variance. She said the contractor they wanted to use was Dan Legacy. He had done a bathroom addition for them. They liked his work because the character of the home had been mirrored in the design. The same would be done on the proposed addition.

Chairman Hodom said there were a few discrepancies between the site plan prepared by a professional and the dimensions shown on the floor plan they had submitted. They were quite substantial. Ms. Brand said they had used the survey that was prepared in 1985. Mr. Brand had gone to the side yard with the neighbors and done some measurements from the existing garage and where the proposed garage would be built. They had used dimensions given to them by the contractor. He didn't think that they would need a side variance.

Chairman Hodom said they would need a side yard setback variance and a rear yard setback with the plans as submitted. Chairman Hodom asked if they were willing to reduce the width of the proposed garage by one point one (1.1) feet, therefore eliminating the need for a side yard variance. Ms. Brand assumed the reduced width would still allow them the two (2) car garage. Chairman Hodom said the plans show a twenty-five (25) foot wide proposed garage. To maintain the ten (10) foot side yard setback, the garage would need to be twenty-three point nine (23.9) feet wide. Twenty-four feet would be standard size. Ms. Brand said they would be willing to do that.

Chairman Hodom asked how the support letters were obtained. Ms. Brand said they had gone to their neighbors with a summary of the proposal and a few of them came to the house to look at the property. She felt that the only neighbor it would impact was Mr. Garcia and he was present to answer any questions from the Board. She said they had two (2) cars which were both parked outside in good weather when their children's toys took over the garage space. In the winter they tried to park one (1) car in the garage.

Chairman Hodom asked where their current laundry room was located. Ms. Brand said they didn't have a laundry room or mud room, a half finished basement held their machines. Mr. Brand said there was a very small closet at the front of the home. That is the only closet for coats or outdoor gear. The creation of a mud room would allow them to hang gear as well as having a place to come in and take off shoes and boots.

Chairman Hodom asked if they had looked at ending the proposed garage at the back side of the current shed. Thereby not further encroaching into the rear yard setback. That would give them a kitchen area of fourteen (14) feet six (6) inches by eighteen (18) foot which is a substantial size kitchen. Ms. Brand asked if they would still have space for a mudroom. Chairman Hodom said he had sketched it out on his plan. If the shed area were to become part of the garage, it would give them a six (6) foot depth where the shed currently is located to be used for the mud room and the laundry room as it extends into the garage. He thought it would be adequate space. If they did that it would reduce the amount of variance needed. The new structure would not encroach into the setback anymore than the shed does now. He said if they wanted to bring the front of the garage closer to the street they could. Mr. Brand said they wanted to maintain the character of the house. With regards to moving the garage forward, the current garage begins about two (2) feet from a window into their dining room. They didn't want to bring the garage too far forward to cut off light entering the room. The bathroom addition they had put over the sunroom is setback just as the garage is setback. Mr. Brand thought by not moving the garage

forward and not blocking the light coming into the dining room, they could maintain the symmetry of the house. Chairman Hodom said they did have a window on the front of the house that allowed light into the dining room. Ms. Brand said it would be nicer to have two (2) windows. She wanted to preserve how the house looked from the street. She agreed with her husband that the house would look out of balance with the garage pulled forward. She said that it is a small house but one of the aspects of the house they like is the amount of light that comes in. They wanted to preserve the light.

Mr. Umina asked Mr. Platel what the setback on the side of the house would be if the application was approved as submitted. Mr. Platel said it would be eight point nine (8.9) feet and the rear would be ten point three nine (10.39).

Mr. DeCancio asked Mr. Garcia if he had a problem with the application as submitted. Mr. Garcia said he did not.

Ms. Brand said if the variances were approved they would get completed architectural drawings done. Mr. Brand said they would want the rear of the kitchen expansion to align with the rear of the garage/mud room expansion. As far as they could push the kitchen back, they would want the line of the garage the same.

Chairman Hodom said he thought the rear of the proposed garage and kitchen should be on the same plain as the existing shed. He said the proposed plan has an additional six and one half feet (6.5) beyond the depth of the shed. The mud room and laundry room would be twelve (12) feet deep. Mr. Brand said that in drawing the proposal, he wasn't trying to determine the exact dimensions of those rooms. His intention was to create a depth that was enough to accommodate those rooms and to preserve a garage depth that would be enough for a car length and possibly his trash cans. He said the kitchen size was determined by talking with their contractor who knew that they wanted an eat-in kitchen. He said their current kitchen was cramped and they wanted to make sure that issue was solved.

Chairman Hodom said if the depth of the addition was kept the same as the shed, it would give the Brands a kitchen that was fourteen point five (14.5) feet wide by eighteen (18) feet deep. Ms. Brand said they wanted to keep the size of the kitchen in line with the size of the house. If their variances were approved and they would then go to their contractor and find out how much space they really needed.

Chairman Hodom asked the Brands if they wanted to take some more time to look at the suggestions given to them by the Board.

Mr. DeCancio said that the plans he had in front of him, suggested that the applicants were proposing an addition the same depth as the shed. Mr. Brand said their proposal was to extend the whole rear of the home to depth of six (6) feet beyond the shed. He thought his calculations were accurate. He said they just wanted to build a bigger kitchen and a mudroom. If the Board determined the amount of space they were asking for was excessive and unnecessary and the addition could be accomplished with less space, they were open to that. They wanted to make the space esthetically pleasing. If the Board did determine that it didn't make much of difference whether the applicants encroached on the rear setback fourteen (14) or fifteen (15) feet, then they would get more formal drawings done. They had asked for the amount of variance as the biggest they would build but it was a possibility the addition would be smaller.

Chairman Hodom said that based on the new Code, the pre-existing non-conforming rear yard setback was already encroaching into the twenty-five (25) feet setback. He thought the encroachment should be no more than the existing pre-existing non-conforming rear yard setback. Using the dimensions the Brand's had proposed, they would have a kitchen fourteen (14) feet six (6) inches by twenty-four (24) feet. Chairman Hodom asked the Brands to take a second look at their plans with more accurate dimensions. Ms. Brand said maybe they needed to go to an architect and get more refined plans. Chairman Hodom said they would still need a rear yard setback variance. Mr. Brand said they would be willing to live with a smaller kitchen, limiting the expansion by a few feet to keep it in line with the existing shed. He wanted to make sure the smaller space would still accommodate the length of a car and the mud room.

Mr. Watson asked if the kitchen needed to be large enough to accommodate a table and chairs. Ms. Brand said yes they wanted to have an eat-in kitchen.

Chairman Hodom suggested that the hearing be adjourned to February 20, 2008 to allow the applicant more time to decide what they want to do. The Brands agreed.

Mr. Garcia, New Scotland Avenue, said he did not have any objection with the application as submitted.

A motion to adjourn the Brand Public Hearing until February 20, 2008 at 7:00PM was offered by Chairman Hodom, seconded by Mr. Micelli and approved by all Board members present.

### **Alteri's Restaurant**

The Board received an application for a Variance under Article VI, Supplementary Regulation, Section 128-59, Signs, C-4, no moving signs and G-1 maximum total area of sign.

Mr. Platel said the applicant was proposing to install two (2) banners on the existing pylon sign that will exceed the allowable number of and size of freestanding signs in a Commercial Zoning District. In a General Commercial Zoning District you are allowed one (1) freestanding sign not to exceed forty (40) square feet. The additional two (2) banner type signs will exceed the one (1) sign allowed by two (2) signs. The total square footage of the three (3) signs will be seventy-two (72) square feet, which will exceed the forty (40) square feet allowed by thirty-two (32) square feet. Under Exempt signs, decorative banners that do not contain any words, labels, figures or descriptions are exempt from the sign requirements. These banners do contain words so they are not exempt and not permitted signs.

Currently this matter is also in front of the Town Justice System on the action of the Building Inspector who issued an appearance ticket to the owner for not removing the banners. This ticket was issued after a violation notice was issued and prior to that violation notice the owner was asked to remove the banners.

The existing structure is currently occupied as a restaurant and is located in a General Commercial Zoning District.

Chairman Hodom made a few corrections to the November 2, 2007 letter from Mr. Platel to the applicant.

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, January 16, 2008, at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Alteri's Restaurant for Variances under Article VI, Supplementary Regulations, Section 128-59, Signs, C-4, and G-1 of the Code of the Town of Bethlehem for banner signs, at 312 Route 9W, Glenmont, New York.

Mr. Harvey Quinn, owner of Alteri's, presented. He said that banners have been used at the restaurant for over twenty (20) years. The expansion on Route 9W had a major effect on the smaller businesses including his. They had a loss of business. He said they lost 90% of their lunch business when Chili's opened up. To get the business back, they created a lunch buffet. That brought a good part of the business back. What got the people into the restaurant was the banner. Mr. Quinn said that Gil Boucher, the Building Inspector, ordered him take down the banner. When he took down the banner, he lost a lot of the lunch business again. He said that it was a financial problem losing that business. He said there were not enough people going to Glenmont to support all the restaurants including the national chains. He said that they weren't doing the business they wanted to do. He said even restaurants in Delmar have been affected. He was requesting a variance for a banner. He hoped to recover some of his business so he would be able to stay open.

Chairman Hodom asked Mr. Quinn if he had read the new Zoning Law, specifically the areas pertaining to signage. Mr. Quinn said that he read the areas that were highlighted in the violations. Chairman Hodom said that Alteri's was allowed a wall sign. There is an existing wall sign. Chairman Hodom asked him why he couldn't move the banner sign to the wall that is totally free of any signage. Mr. Quinn said when cars pull into spaces on the site, they block the area where the sign would be located. He thought the wall sign was useless; people don't

see it. The banner under the Alteri's sign was more noticeable. He said that the building was not high.

Chairman Hodom said Alteri's currently had two (2) signs in the second story window. There was also a portable sign at the roadway. The existing signage complied with the Zoning Law. He said the Zoning Law would allow a wall sign; there was a formula used to determine the allowable size. Mr. Platel said the measurement of the front of the building was used to determine the size. Chairman Hodom agreed that the existing wall sign was blocked by cars parking in the front. He thought the wall of the building on the side could be utilized for a large sign. Mr. Quinn thought that the handicapped parking would block that area. Mr. Quinn said he was willing to permanently get rid of the wall sign he had in order to have a one (1) banner sign.

Chairman asked if Mr. Quinn to submit financial documentation supporting his claim that he has lost business since the banner came down. Mr. Quinn said he could submit that information.

Chairman Hodom asked Mr. Quinn if thought placing a wall sign on the second floor would catch people's attention. Mr. Quinn said a person would need to turn their head as they drove by to see a wall sign.

Mr. Umina asked if the applicant wanted one (1) or two (2) banners because in his application he asked for two (2). Mr. Quinn said he was willing to modify the application to request one (1) banner.

Mr. DeCancio said that based on the picture submitted by the applicant, the lower of the two (2) banners was covered by parked cars. Mr. Quinn said the banner was placed to take pictures and is usually placed higher on the pylon. Mr. Watson asked him if he thought about eliminating parking in the front of the restaurant. He said no. Mr. Platel said those spaces were required under the Zoning Law for a restaurant.

Mr. Micelli asked Mr. Quinn if he knew the percentage of his dinner business that had been lost, since he had estimated 90% of his lunch business had been lost. Mr. Quinn thought he had lost about 35% to 40%. Mr. Micelli thought that the opening of Applebee's and Chili's contributed to the loss. Mr. Quinn said when Applebee's first opened, their business went down but then picked up again after six (6) to eight (8) months. He said when Chili's opened, it completely ruined their lunch business and even their dinner business went down. He said that the only thing that helped to get some of the lunch business back was the lunch buffet. The banner helped. Mr. Micelli suggested changing the existing wall sign information to advertise the lunch buffet and the Sunday special and then move it to the brick wall. Mr. Quinn thought the cars would still block the sign.

Mr. Watson asked the hours of operation. Mr. Quinn said they were from 11:30AM to 9:30 or 10:00PM each night.

Chairman Hodom asked Mr. Platel if the signs in the second floor window were included in the signage calculation. Mr. Platel said a certain amount was allowed in a window, those signs were not included in the total signage. Chairman Hodom asked Mr. Quinn how the banner signs were fastened to the posts, did they swing. Mr. Quinn said they moved if there was a high wind. They do not sway or flap around under normal circumstances. They are tied with straps to the poles. Mr. Quinn said he would agree to remove the one (1) wall sign, but not the white roadway sign. Mr. Platel said a business was allowed one (1) sandwich board sign between the building and the street right-of-way.

Mr. Watson said under the allowed sign size, Mr. Quinn could increase the size of the hard freestanding sign Alteri's. Mr. Umina asked how large the banner signs were. Mr. Platel said they were two point five (2.5) feet by eight (8) feet. Mr. Micelli asked Mr. Quinn if he could fit all the information he wanted on an expanded Alteri's sign. Mr. Quinn said it would be expensive and he wanted the ability to change out the information on different banners, if he was allowed to put one (1) banner up.

Mr. Quinn said that the Alteri's restaurant had been in that location for about forty (40) years. He purchased the restaurant in 2001.

Mr. DeCancio asked if Mr. Quinn was willing to try the banner on the wall for a few weeks to see how the signage would work on the wall. He thought the cars would only block the sign during the lunch period. Mr. Quinn said the lunch special runs from 11:30AM to 2:00PM.

Chairman Hodom said unless the car was an SUV or a van, he did not think a wall sign would be blocked by cars. Mr. Quinn said the brick wall was only six (6) to eight (8) inches higher than the wall holding the existing sign. He thought it would be blocked by cars.

Mr. Umina asked Mr. Platel how much out of compliance the signage would be if they approved a variance for one (1) banner. Mr. Platel said that banners were not allowed and the additional square footage would put Mr. Quinn twelve (12) square feet over the allowable signage.

Mr. Micelli said as he understood it, if the Board were to approve one banner, Mr. Quinn was willing to remove the existing wall sign but he would keep the sandwich Board sign. Chairman Hodom said that the sandwich sign is currently in the right-of-way and should not be included in this application because it might need to be moved.

Mr. Platel suggested that instead of a banner sign, the applicant might want to look at a solid sign instead of the banner sign. Therefore the variance would only be for additional square footage, instead of allowing a banner sign. Mr. Quinn said he would look at that possibility. His concern was the cost of having numerous signs made versus the cost of double sided banners. He wanted the ability to advertise different specials and would need a sign for each one.

The applicant agreed to an extension of the time frame for the Board to make their decision. The decision would be rendered sixty-two (62) days from the date the applicant provides the Board with financial information showing a decline in lunch and dinner business since the removal of the two (2) banner signs.

Chairman Hodom declared the hearing closed at 8:07.

### **Mary Willmott**

The Board received an application for a Variance under Article V, Districts, Use & Area Requirements, Section 128-32 (C-1) Accessory Uses.

Mr. Platel said the applicant was proposing to construct a six hundred seventy-two (672) square foot garage that would be located in the front yard. An accessory structure in this district is not allowed to be located in the front yard. The front yard is defined in the Zoning Law as follows: "A space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot."

The existing structure is occupied as a single-family dwelling and is located in a Rural Riverfront Zoning District.

A motion to indent the public hearing notice was offered by Mr. Umina, seconded by Mr. Watson 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, January 16, 2008, at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Mary Willmott for a Variance under Article V, Districts, Use & Area Requirements, Section 128-32 (C-1) Accessory uses of the Code of the Town of Bethlehem for construction of a detached garage, at 111 Simmons Rd., Glenmont, New York.

Ms. Willmott said the property was not actually on Simmons Road, they had a right-of-way through the Law's property. The Law's property is higher than her house. Water comes down from that high point to their home which means there is a lot of flooding and it's very muddy. They want to build a garage. They have already put in a perimeter drain but it isn't working very well because there is still flooding in their basement. They thought if they put the garage at right angles to the house and placed cobble stones in front of the house, a grid could be placed over the perimeter drain and it would improve the drainage. The access would be improved because right now its very muddy. She isn't living there yet. She thought the logical place for the garage would be where it is proposed. She thought of the area the Town considered the front yard, as her back yard and the portion that fronts the river as her front yard. She is really bordered by three (3) neighbors and the river, no street. She was

told by the building department to come in with plans and then they were denied the permit because the garage was supposedly in the front yard. She said that they were willing to listen to the Board if they had a better idea. She said they would be moving into the property in February. She said that right now the basement window wells fill with water.

Chairman Hodom asked the applicant to confirm that there were currently three (3) garages on the property. Ms. Willmott said that the detached garage was not stable and would be demolished. She had wanted to put up a greenhouse on the slab of that garage. She said the existing two (2) car garage that is attached to the house had structural issues. It would need a lot of work to make it sound. Chairman Hodom asked if the purpose of the garage was for storage in the loft area. Ms. Willmott said the storage was a bonus. She had thought if the roof was to be pitched to match the house, why not put down a floor and use the space for storage. The basement is wet and that area would be dry. She said the ability to have a garage was the most important. She said they would eventually like to turn the attached garage space into a living room and rebuild the breezeway. That area would have the view of the river. The existing house has two (2) small bedrooms downstairs, one (1) bathroom a small living room and a combined dining room and kitchen. She said the ceiling heights were not quite eight (8) feet. Upstairs were two (2) bedrooms and a bathroom that was once an attic.

Chairman Hodom asked if they were going to demolish the one(1) car garage, why couldn't they locate the proposed garage in that same vicinity but not in the front yard. Ms. Willmott said she thought the existing garage was in the front yard. Mr. Platel said it was in the front yard but if it was moved back ten (10) feet it would be out of the front yard. Ms. Willmott said that she had never been told by the building department that the garage would be in the front yard until she had come back with the plans. If the one (1) car garage was taken down and a two(2) car garage was put in it's place, back far enough to be out of the front yard, it would not be near the entrance to the property. A long drive would then need to be paved, it would be a trudge to the house and the front of the house would still need work to take care of the drainage. She preferred to cluster the buildings into a neater compound.

Chairman Hodom said that the proposed garage was thirty-five (35) feet from the house and the location of the one (1) car garage was fifty (50) feet from the house. He said that they could move the proposed garage the same thirty-five (35) feet from the house and not in the front yard and be in compliance. He said that the alternative was to relocate the underground propane tank and then the garage could be placed in that area. Ms. Willmott said there was a considerable dip as you enter the property and in front of the house the water comes down the driveway to the house. She said the flooding of the house area was the main reason they wanted to place the garage where proposed. They have been told it would help the flooding situation. Because the water would be carrying less silt with it into the perimeter drain if there was more paving. The drains could then do their job. She said that every time the ground work is increased, it becomes expensive. She feels that the area would end up looking like a parking lot if the new garage was place in the area where the other garage was now because she could not afford to use cobble stone, she would need to blacktop instead of using the nice cobblestones.

Mr. Willmott said where the single car garage is located is in the middle of usable garden, it's a pretty area. He thought a two (2) garage in the area would create an eye-sore. The proposed location was closer to the entrance to the property, less paving was needed so it would be less of an expense and more convenient for the applicants.

The applicant had purchased the property in August of 2006. She hadn't thought of putting in a garage until recently. Ms. Willmott only saw pretty river front when they purchased the property.

Mr. Umina asked who maintained their access point to the site. The Laws, who own the property, maintain the right-of-way. Ms. Law said it's not in good condition now because there has been a lot of traffic with the contractors that have been coming and going. Ms. Willmott hoped that type of traffic would end soon. Ms. Law said on a regular basis, there was more traffic on the river than on the road. They have lived there for sixty (60) years.

Ms. Willmott said the loft area of the garage would only be used for storage. She thought it was good use of the space because the basement area is damp. There isn't any attic for storage, that's their bedroom. She wanted the garage finished in the same manner as the house; roof pitch, siding and color. Other than electricity, there

wouldn't be any mechanical systems in the garage. No part of it would be rented.

Margaret Law, a neighbor, requested that the one (1) car garage be demolished. The applicant was proposing to demolish the garage. Mr. Law asked the size of the garage. The proposed garage would be thirty-five (35) feet from the house and the dimensions were twenty-eight (28) feet wide by twenty-four (24) feet deep and two (2) stories high. No marine or fuel oil would be stored in the garage.

Charles Buchanan, lives on the property north of the Willmott's. He said the only people that would see the Willmott's house would be themselves because it's not visible from the road side. He said that the point of origin for all the properties has not been located. He had hoped that Charles Hite, LLS would be present. His concern was that the property line between the two (2) properties be verified.

Chairman Hodom said that the survey submitted by the applicant showed all four (4) corners located with metal pins. He said that unless Mr. Buchanan had documentation that would differ from the certified plan from Charles Hite, the Board needed to go by the plan submitted. Mr. Law said the point of origin was missing. Mr. Buchanan, who had also used Mr. Hite for his survey, said that Mr. Hite's estimate on the size of his property was ten (10) acres +/- and the Town listed the size at twelve acres (12) acres +/- . Chairman Hodom said the stamped signed survey dated September 6, 2007 that the applicant had submitted was the document the Board needed to use to make their decision. The point of origin was shown on the survey.

Mr. Buchanan said that where the Willmott's wanted to place the garage was the best spot aesthetically. He didn't think it should be moved to a spot that would block the view. Mrs. Law said she did not have a problem with the garage location as proposed, neither did Sherry Holly, 71 Simmons Rd.

Chairman Hodom asked if the existing two (2) car garage attached to the house could be used instead of constructing a detached garage. Mr. Willmott said it would need to be rebuilt. The remainder of the house had already been rebuilt with the breezeway the next to be addressed. As stated before, they would like to put a living room in the area of the two (2) car garage.

There were no further comments from the Board or the audience.

Chairman Hodom declared the hearing closed at 8:48PM.

### **George TenEyck**

The received an application for a Variance under Article V, District Use & Area Requirements, Section 128-40 Planned Development District, Lot & Bulk Requirements.

A motion to set the Public Hearing date for February 20,2008 at 7:15PM was offered by Chairman Hodom, seconded by Mr. Micelli and approved by all Board members present.

A motion to approve the minutes of January 2, 2008 as drafted was offered by Mr. Umina, seconded by Mr. Micelli and with a vote of three (3) for and two (2) abstentions the motion was approved.

A motion to adjourn was offered by Chairman Hodom, seconded by Mr. DeCancio and approved by all Board members present.

The meeting adjourned at 8:52 PM.