

**TOWN OF BETHLEHEM
BOARD OF APPEALS
January 18, 2006**

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

PRESENT: Michael Hodom
Robert Wiggand
Gilbert Brookins
Leonard Micelli
Anthony K. Umina

Michael Moore Attorney to the Board

Mark Platel Building Inspector

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

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is I would like to introduce to you our new Board member, Mr. Anthony Kenny Umina. He was just appointed in January and he will serve out a 5-year term; welcome Kenny. He prefers to be called Kenny.

MR. UMINA: Well I sign everything Anthony K, so that just serves to confuse people but thank you and I'm happy to be here.

CHAIRMAN HODOM: Well we wish you the best. The next order of business this evening is a public hearing for a Use Variance under Article V, Districts, Use and Area requirements, Section 128-26 B, Article XIII, Use & Area Schedules, Section 128-99, Schedule of Uses requested by Robert & Carol Dunn for property at Elm Avenue East, Selkirk, New York. The Applicant wishes to construct a 6-unit dwelling, which is not a permitted use at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a 6-unit apartment building in a Residence "A" District. Under the new zoning only single-family residences are permitted in this zoning district. The Applicant has received a Variance in

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

the past for access for using an easement over the lands of Niagara Mohawk (National Grid) and also received a subdivision approval from the Planning Board. The current parcel of land is 2.486-acres with no structure on it and as stated earlier is located in a Residence "A" District.

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 January 18, 2006 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Robert & Carol Dunn for Use Variance under Article V, Section 128-26 B, Schedules of Uses, 128-99, of the Code of the Town of Bethlehem for construction of a 6-unit dwelling, which is not a permitted use at the premises 18 Elm Avenue East, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the January 11, 2006 issue of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just request that you come up, stand or sit close to the black microphone, it's for recording purposes only. All questions and comments should be directed to the Board. Mrs. Dunn if you would just introduce yourself to us.

MRS. DUNN: Yes, good evening I'm Carol Ann Dunn and my husband was unable to make it tonight. He's got some kind of bug, so that's why I'm here. I did do a book for everybody so they understood where I was coming from and what this project kind of - - when we started it we started it back in 1998 when we purchased the property and we did come into the Town to see if we could subdivide the land. At that time the Zoning was totally different than what it is now. The Zoning has been changed.

CHAIRMAN HODOM: Can I just interrupt you for 1 minute?

MRS. DUNN: Sure.

CHAIRMAN HODOM: In your application you had stated that you were looking for a 4-unit to contain at least 1,600 feet of living space. Now you've changed that since...

MRS. DUNN: I sold the property, this is where the problem came in and I sold the property before the zoning was changed and I do have a builder who wants to buy the

property. In a matter of fact the contract is in here, everything is in this book. The contract where I sold it to this man and after I sold it the zoning got changed and this is why I'm here tonight. He wanted to do a 6-unit; I originally put in for and I made a mistake on that, a matter of fact I think I put the buildings of what they like in my book also, but he does want to do a 6-unit and they're really nice looking buildings and it's over 2 acres and I do have all the maps and what we had done previously here with the Board and the Town.

CHAIRMAN HODOM: Have you modified your application to include a 6-unit?

MRS. DUNN: Yes.

CHAIRMAN HODOM: You have that on file?

MS. GUASTELLA: Yes.

MRS. DUNN: Yes, Karen has it. We've been working on this project quite a while and I don't know what kind of questions you want me - - you want to ask me about the property?

CHAIRMAN HODOM: Why don't you tell us....

MRS. DUNN: Okay.

CHAIRMAN HODOM: You've submitted a very nice package here, but I would like to get it on the record of what you're proposing to do. If you want to bring up some of the past information, that's fine.

MRS. DUNN: Okay. Yeah we started this project back in 1998 and before we purchased we did come into the Town to see what the zoning was and we could do a subdivision with the acreage we had there. We have 6 acres, so we proceeded to do that and once we got those lots subdivided we were going to build on them but there was a moratorium on the water situation and we couldn't do that. So this is why this has gotten postponed, postponed, postponed and eventually I did put the property on the market. I did sell to a builder and he does want to do a 6-unit, he does nice work and a matter of fact some of his houses are down in Ravenna. I've been through them, matter of fact he has one listed down there right now and they're really nice.

The reason we're selling is because there's quite a bit of money that's been invested in just doing the subdivision. My Boutelle bill, who is an engineer was over 17,000 dollars, which we took out of our savings and I also include our taxes in there to where - this is really going to be a hardship if I can't sell this lot and get my money back out of it. Both my husband and myself, I'm 65 and Bob is 75 so this is - this is very important for us to have our money back into our accounts.

CHAIRMAN HODOM: The lot you're proposing to sell is which lot number?

MRS. DUNN: Its number 18. It's the largest one on the map.

CHAIRMAN HODOM: That is the lot that...

MRS. DUNN: Yes.

CHAIRMAN HODOM: You came before this Board back in 2000...

MRS. DUNN: Yes.

CHAIRMAN HODOM: For a Variance to cross for an easement over formally Niagara Mohawk?

MRS. DUNN: This is the lot, the one that's outlined in there.

CHAIRMAN HODOM: Mrs. Dunn back in 2000 we had 2 hearings, one on May 3rd and one on July 19th and in both of those hearings and also the Edward W. Boutelle's revised addendum for a Zoning Variance application.

MRS. DUNN: Right.

CHAIRMAN HODOM: They're all relative to single-family homes at that time. You were granted by this Board a Variance because you didn't have true access to Elm Avenue East.

MRS. DUNN: Right.

CHAIRMAN HODOM: What has changed since you originally came in front of this Board back in 2000 when you were proposing single family homes?

MRS. DUNN: Yeah we were going to do like a 2-unit for my mom and dad to live with us. I was bringing them back home from South Carolina.

CHAIRMAN HODOM: Correct.

MRS. DUNN: And since then my mom's passed away, she passed away last year so we had to change out plans.

CHAIRMAN HODOM: Okay so this has developed within the last year?

MRS. DUNN: Yes it has but thought that we could do a multi-unit in the prior zoning. I always thought that even when we purchased the property I thought the zoning was multi – it could be multi-unit there because I had so much acreage.

CHAIRMAN HODOM: I think you're correct in that regard is that the previous zoning

code allowed after Planning Board approval multi-use...

MRS. DUNN: Right, that's the way I understood it.

CHAIRMAN HODOM: But what I'm asking you is that this Board went under the information that you were going to put in a single-family or no more than a 2-family residence on either one of these lots.

MRS. DUNN: Right.

CHAIRMAN HODOM: In fact the one lot, lot number 26 you were going to have or one of your children was going to build on that lot from the minutes that we have from the hearings.

MRS. DUNN: Okay, all right.

CHAIRMAN HODOM: And I think that probably if it was a single family residence or a maximum of a 2-family might have influenced the Boards decision at that time.

MRS. DUNN: Right.

CHAIRMAN HODOM: And I guess that's why I'm asking the question is how do you come from a maximum of a 2-family up to a 6-unit?

MRS. DUNN: See in my mind I just thought it was a multi-unit lot and when I sold it that's the way I advertised it and I sold it to this contractor that wants to do a 6-unit and at this point my husband and I aren't going to build. So you know, things have changed for us.

CHAIRMAN HODOM: Have you notified Niagara Mohawk or National Grid of – but I should ask it this way, does that change from a 2-family to a 6-unit impact the easement that was given to you by Niagara Mohawk?

MRS. DUNN: That I don't know. I would have to contact them and ask them that.

CHAIRMAN HODOM: I think we would like to know that.

MRS. DUNN: Okay.

ATTORNEY MOORE: Probably the terms of the easement are probably in a deed that you have Mrs. Dunn?

MRS. DUNN: Yes I do have that someplace here. This is what we got from Niagara Mohawk on the easement.

ATTORNEY MOORE: This is just a cover letter that they sent to Mr. Boutelle. There's

a separate document that's referred to in here, maybe you have that.

MRS. DUNN: This is the resolution and findings of the Town. This is actually the easement here and it's stamped on the back.

ATTORNEY MOORE: These are your only copies I guess?

MRS. DUNN: Yes it is, I can get copies for you.

CHAIRMAN HODOM: As I understand you correctly Mrs. Dunn the sale of lot 18 is contingent upon your being able to get a Variance...

MRS. DUNN: A Variance for the builder, yes.

CHAIRMAN HODOM: For the 6-unit.

MRS. DUNN: That was put on my shoulders to do this.

CHAIRMAN HODOM: Have you had an opportunity to contact the neighbors to your property?

MRS. DUNN: Actually I've talked to a couple of them and this builder is – if he puts the 6-unit in the back he's also going to bring the water across the street to the houses on - - to my house where the other side of the street would access to the water so they're kind of looking forward for the builder to come in there and put the water in.

MR. MICELLI: Can you explain that Mrs. Dunn, I don't understand what you mean by the word town water.

MRS. DUNN: Well I don't – Town water, yes, we don't have Town water on my side of the street, across the street they have water so he would bring the water to the other side.

MR. MICELLI: Thank you.

MRS. DUNN: Which I got an estimate on that from someone and it was 12,000 dollars to do that.

CHAIRMAN HODOM: How about sanitary, do you have sanitary on your side of the street?

MRS. DUNN: Yes we do. They have all sewer on that side.

CHAIRMAN HODOM: Where does the - - your proposed contractor proposing to construct the 6-unit building on the parcel?

MRS. DUNN: Towards – in the back.

CHAIRMAN HODOM: Is it similar to what you show here?

MRS. DUNN: Yes, he's going to do it in the back as you can see this is where there's a dip so he would be right in here in this big field. That's all a flat field there.

CHAIRMAN HODOM: Now you haven't installed the proposed...

MRS. DUNN: Driveway, no.

CHAIRMAN HODOM: None of that work has been done?

MRS. DUNN: No, the builder will do that.

CHAIRMAN HODOM: Do you have any information as far as the construction and the architectural features of the proposed 6-unit?

MRS. DUNN: All I have is what he gave me and it is in the book. Let me see if I can find it.

CHAIRMAN HODOM: Is it towards the back.

MRS. DUNN: Yeah it's towards the back and I also have shots of the front but I didn't put that into the book. Yes I did, this is what they would look like.

CHAIRMAN HODOM: Is your builder here with you tonight?

MRS. DUNN: No he's not.

CHAIRMAN HODOM: This is a 4-unit.

MRS. DUNN: Yeah that's a 4-unit the 6-unit is on that side. He had a bunch of plans. Did you find anything in that easement that would...

ATTORNEY MOORE: Restrict you, no.

CHAIRMAN HODOM: Mrs. Dunn, are you proposing to construct another 6-unit on the other parcel?

MRS. DUNN: No.

CHAIRMAN HODOM: What are you proposing to do with that parcel?

MRS. DUNN: Probably sell it in case there's somebody that wants to build a single-family.

CHAIRMAN HODOM: And as we started to talk about have you had an opportunity to speak to the neighbors that adjoin the property?

MRS. DUNN: Well I spoke to Keith, which is – I'm facing the drive-in and Keith is off to the left. I spoke to him; I spoke to the neighbor 2 doors down and then across the street. And I have a list of all my neighbors that are in here.

CHAIRMAN HODOM: Have you spoken to the Weilands?

MRS. DUNN: No I haven't.

CHAIRMAN HODOM: Or the Catellos?

MRS. DUNN: No. I didn't speak to anybody over on Jericho Road, no. Now I do know that down here – part of this lot's been sold and they're going to build on that.

CHAIRMAN HODOM: Okay but these folks are the most impacted by the proposed development of a 6-unit. Of course they were all contacted by the Town. They were all sent notices right?

MS. GUASTELLA: Yes within 200 feet.

MRS. DUNN: It's kind of a mixed neighborhood I mean I have the drive-in across the street from me, the Town building down the street from me and...

CHAIRMAN HODOM: I understand that but just that the majority of this area including your home and the neighbors to the north or northwest are all single-family dwellings.

MRS. DUNN: Well actually...

CHAIRMAN HODOM: You have a little barbershop in here.

MRS. DUNN: Yes there is a barbershop in there. This is actually it used to be creek here, but over here you have Carriage Hill.

CHAIRMAN HODOM: Correct.

MRS. DUNN: And I don't know where that stands at this point, but actually this ravine here separates me from this lot – these lots over here.

CHAIRMAN HODOM: Correct.

MR. PLATEL: Carriage Hill is all proposed single-families.

CHAIRMAN HODOM: Correct.

MRS. DUNN: What did you say Mark?

MR. PLATEL: They're all single-families.

MRS. DUNN: Yes in Carriage Hill.

CHAIRMAN HODOM: Can you obtain for us Mrs. Dunn or maybe have your contractor come with you the next time?

MRS. DUNN: Sure.

CHAIRMAN HODOM: I'd like to have an idea of what he's proposing to do there as far as architectural features and layout on the property.

MRS. DUNN: Yeah I mean he doesn't really want to use any out of the pocket money but he said he would hire somebody to survey it and you know put it on paper if it was necessary.

CHAIRMAN HODOM: Well I will let the other Board members discuss it as well but I would like to see personally what your proposing to do there. You do have a plan but it's just a basic plan of 6-units.

MRS. DUNN: Right.

CHAIRMAN HODOM: It doesn't really show me what - - is it a 2-story building?

MRS. DUNN: Yes.

CHAIRMAN HODOM: Go ahead Len.

MR. MICELLI: Looking at your unit, where is that going to face? I was at your house - would be facing the same way your house is?

MRS. DUNN: It's going to face at an angle.

MR. MICELLI: Facing 9W?

MRS. DUNN: Those lots when you face them towards the corner of Jericho Road and Elm as you turn on there, actually you have a clean shot in there.

MR. MICELLI: I see.

MRS. DUNN: The lots - - and the sun sets in the back, which is really nice.

MR. MICELLI: Okay and my other question is your landscaping is that going to be professionally landscaped all around the building?

MRS. DUNN: Yes it's going to be a real nice unit. He does clean work.

MR. MICELLI: Okay thank you.

MRS. DUNN: You're welcome.

CHAIRMAN HODOM: Mrs. Dunn, was there a specific reason that you've gone from a single or a 2-family proposed building to a 6-unit?

MRS. DUNN: Because I got - - I was able to get more money for the lot selling it the way I sold it and my lifestyle has changed so life does funny things, things change on you sometimes, you know?

CHAIRMAN HODOM: Okay. So to sell it as a 6-unit is substantially beneficial to you?

MRS. DUNN: Right I'm getting more money for it and matter of fact theirs is a market analysis in here on the lots that are sold. Single-family unit versus multi unit plus the fact also this builder was willing to do the water, which was a real big thing for us and I mean that will bring it to my house and the other people – the neighbors on the street so that's a real big thing.

CHAIRMAN HODOM: He's going to do the water and the sewer?

MRS. DUNN: Yes.

CHAIRMAN HODOM: Okay. You're a realtor?

MRS. DUNN: Yes I am.

CHAIRMAN HODOM: And there's still a sign on that parcel for sale?

MRS. DUNN: Yes there is.

CHAIRMAN HODOM: But it has been sold contingent upon the Variance?

MRS. DUNN: Yes, the contract is in your book that you have and being a real estate agent we never take our signs down until it closes. That's why it's still there.

CHAIRMAN HODOM: Okay.

MRS. DUNN: Plus it's good advertising.

CHAIRMAN HODOM: Yes it is.

MRS. DUNN: I don't know I didn't label mine so I don't know where the contract is but

it is in here.

CHAIRMAN HODOM: You mentioned earlier that because of the moratorium you weren't able to bring the water to the property?

MRS. DUNN: Well we couldn't build on it, right. We weren't able to build when we were ready to build and this is back in 2001, I believe it was, 2001 or 2002 we couldn't bring the water to the house. As a matter of fact – I can't remember who the gentleman was because it was before Mark.

MR. PLATEL: Kevin Shea or Bruce Secor.

MRS. DUNN: Yes, Bruce Secor, yes, we went back and forth.

MR. PLATEL: With the water emergency the Town was not extending any water districts.

CHAIRMAN HODOM: Okay.

MR. PLATEL: So if they were outside the district they weren't going to be allowed – they wouldn't be able to extend water to them.

MRS. DUNN: And it was in...

MR. PLATEL: I'm assuming that's what she's talking about.

MRS. DUNN: Yes.

MR. PLATEL: They would not allow them to extend the Town water system.

MRS. DUNN: Right and they wouldn't allow us to put a well on that lot. We had to hook up to the water, that's what we were told.

CHAIRMAN HODOM: Okay, but the water has been brought up to that front of the property now?

MRS. DUNN: Well there is water on the other side of the street. We would have had to bring it over and the Town had a moratorium on it so we couldn't bring the water to the lot to build.

CHAIRMAN HODOM: Okay.

MRS. DUNN: And how long did that moratorium last, it was a couple of years wasn't it?

MR. PLATEL: I believe it's just getting lifted actually.

MRS. DUNN: Yeah so it's been a long time.

MR. PLATEL: I'm not a hundred percent sure on that.

MRS. DUNN: So it kind of stopped us from doing anything with the lots.

CHAIRMAN HODOM: Okay.

MR. PLATEL: That has held up Carriage Hill.

CHAIRMAN HODOM: For the same reason?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Well in your case Mrs. Dunn it's probably beneficial.

MRS. DUNN: Yeah now it is.

CHAIRMAN HODOM: Are there other questions from the Board?

MR. MICELLI: I don't have any.

CHAIRMAN HODOM: Gil, anything?

MR. BROOKINS: No.

CHAIRMAN HODOM: Would any of the other Board members like to see what the proposed building is going to look like?

MR. MICELLI: I'd like to, yes.

CHAIRMAN HODOM: Robert?

MR. WIGGAND: What are we referring to, this here?

MR. MICELLI: The 6-unit.

MR. WIGGAND: You have something on those?

CHAIRMAN HODOM: She does not have it currently.

MR. WIGGAND: Oh I see what you mean.

MR. MICELLI: I'd like to see more detail on it.

MR. WIGGAND: Me too.

CHAIRMAN HODOM: Do you have any idea Mrs. Dunn when you could have that information?

MRS. DUNN: I can have it tomorrow for you if you want.

CHAIRMAN HODOM: Well I'm just trying to set up another – we would adjourn the hearing and then set a new date.

MR. MICELLI: I wanted to ask you Mrs. Dunn are you going to run gas in there?

MRS. DUNN: There's no gas on our street.

MR. MICELLI: So it would be propane probably?

MRS. DUNN: Oil.

MR. MICELLI: Okay.

MRS. DUNN: That's what I have in my house.

CHAIRMAN HODOM: Counsel has just brought up another very important issue Mrs. Dunn because this is a Use Variance under the code in section 128-90 C, for Use Variance's there are various criteria that you must meet for us to consider a Use Variance and perhaps – did you take a look at those previously?

MRS. DUNN: Yeah, that's how I made my book up.

CHAIRMAN HODOM: Okay.

MRS. DUNN: I took each section – you've got little tabs on yours that tell you all those questions that were put on the form there I broke them down into sections.

CHAIRMAN HODOM: Okay so you feel that everything that's in here is responded to in your submittal.

MRS. DUNN: Yes.

CHAIRMAN HODOM: Okay. Would you be able to have that information to us - - we have an opening on February 1st, but I would like to have the information at least 7 to 10 days before that so that we have time to look it over and formulate.

MRS. DUNN: Today's the 18th.

CHAIRMAN HODOM: Right.

MRS. DUNN: How do I get that to you?

CHAIRMAN HODOM: You can bring it right into the Building Department.

MRS. DUNN: To Karen?

CHAIRMAN HODOM: Yes.

MRS. DUNN: Okay.

CHAIRMAN HODOM: And please submit the same number of copies as you did originally.

MRS. DUNN: Eight copies.

CHAIRMAN HODOM: Right.

MR. BROOKINS: Mrs. Dunn?

MRS. DUNN: Yes.

MR. BROOKINS: And this may be in here and I've just not found it.

MRS. DUNN: I know it's pretty big, isn't it?

MR. BROOKINS: You've certainly given us a lot of material to work with but I have not found the original purchase price of the property. I see your listing but is that in here or could you tell us...

MRS. DUNN: The original – the MLS sheet I think it's in here. Well I bought the house with 6 acres and that was back in 1998 and we subdivided the 2 lots. We paid 122, I think, for the house.

MR. BROOKINS: So what would you consider the value at the time?

MRS. DUNN: For the lot?

MR. BROOKINS: For the lot, now if you were to split those two, ballpark?

MRS. DUNN: I don't know maybe 20,000. I mean back in 1998 we've had 50 percent appreciation on houses since 1998. It went up. I think I have the original listing here of the house.

CHAIRMAN HODOM: Mrs. Dunn we're going to give you back the originals.

MRS. DUNN: I will make copies of this.

CHAIRMAN HODOM: Please and the same number of copies for that easement.

MRS. DUNN: Okay.

CHAIRMAN HODOM: Thank you. So you don't have any problem of giving that information to us say within a week's time?

MRS. DUNN: Oh no, I'll get it to you as soon as I can in a couple of days and today's Wednesday so you'll have it by Monday.

On a motion made by Chairman Hodom, seconded by Mr. Micelli and unanimously carried by the Board the hearing was adjourned to February 1, 2006 at 7:30 p.m.

Hearing adjourned 8:00 p.m.

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The next order of business this evening is a public hearing for a Variance under Article VI, Supplementary Regulations, Section 128-52, Off street parking & loading requested by Econo Lodge (Daniel Patel, owner) for property at 15 Frontage Road, Glenmont, New York. The Applicant wishes to put in additional parking for a new 2-story building, which will not meet the parking setback requirements at premises 15 Frontage Road, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing an addition to the existing structure and additional parking as required. The proposed parking area will be located 6-feet from the side yard property line to the parking area. This will be 9-feet shy of the 15-foot setback required from the lot line to the parking area. There are conditions on the site that do not need to be taken under consideration by the board since they are pre-existing conditions and allowed to continue. The current structure is occupied as a Motel and is located in a Rural Light Industrial District.

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, Albany county, Town of Bethlehem will hold a public hearing on Wednesday January 18, 2006 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of The Econo Lodge, Daniel Patel (Owner) for Variance under Article VI, Supplementary Regulations, Section 128-52, Off Street Parking and Loading of the Code of the Town of Bethlehem. The applicant wishes to add additional parking for a new 2-story addition, which will not meet the parking setback requirements at premises 15

Frontage Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the January 11, 2006 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier this evening. We'll hear the applicant's presentation; we'll entertain any questions or comments from the audience. Mr. Patel will you be making the presentation or Mr. Green?

MR. PATEL: Mr. Green will be making the presentation.

CHAIRMAN HODOM: If Mr. Green would just introduce himself to us, give us his address and association with the applicant.

MR. GREEN: Yes, I'm Richard Green, engineer. Business address is 321 Delaware Avenue here in Delmar. The engineer for the project and preparer of the maps and details and forms and so forth submitted. Before I start I would like to make a couple corrections and I guess it's my mistake is this is a 3-story building, not a 2-story building. It's 2-stories of units with a pool on the first floor. That's a 3-story by definition and second of all part of the application that we wish to revise the front elevation of the building so that we can make new architectural modifications to the front façade. The front façade currently is 1950 vintage and we want to bring it up to get street curb appeal. There will be no changes in the height of the building, no changes in the size of the building, no change south just change the windows; put some architectural emphasis along the façade of the building.

CHAIRMAN HODOM: That's what you refer to as phase II on your plan?

MR. GREEN: Yes.

CHAIRMAN HODOM: Do have any information on that?

MR. PLATEL: There's no additional building area then we're not worried about setbacks.

MR. GREEN: But since it is in the 50-foot setback area to do any kind of construction there I believe we need a Variance to do that.

MR. PLATEL: Only if you're tearing it down and re-building totally.

MR. PATEL: No not that.

MR. PLATEL: You're okay.

MR. GREEN: It's very expensive to come here by not guessing. I've been through that route before so I just want to make sure we cross all of our T's.

CHAIRMAN HODOM: On your plan, Mr. Green you do state that it's a 3-story building.

MR. GREEN: Okay the application must have been typed differently.

CHAIRMAN HODOM: Yes the application says 2-story on it. Please proceed.

MR. GREEN: I put together a site plan here...

CHAIRMAN HODOM: Please bring that microphone with you so we will be able to pick it up.

MR. GREEN: Okay. The current motel is a U-shape building, A, B, and C as noted on your plan. The structure back here is a new structure that – the 3-story building which we would like to construct. We will be tying this building into this current 2-story building so that the handicap can get out. All of the buildings are 1-story except this building here. What happened during the design or during the planning of this project the zoning, once again, kicked in and made some changes. One of the changes was that they had a 25-foot setback in the rear for the building, which changed to 50. Another setback was parking was changed to 5 to 15; Mark previously stated this.

We were able to move the building back, drop the number of units down to make it feasible. The parking we could not with the 24-foot roadway, side setbacks, building setbacks, you know we just could not make the 15-foot side setback. We're asking you tonight for permission to go to a 6-foot. The old code was 5 when we started and was working fine, they moved it over, you know we went back and forth; we've had had meetings with the different personnel with the Town and with all the other issues on this tight site this was the best issue to meet parking – full design, we're not cheating on any parking quantity; everybody has their space except this little 1-foot piece of land that's out here in the back and this is all vacant trucking not improved parcels of land and same over here, the diner – it's just non intensive area so that's our project. I've colored in the green for you and the rest it's either blacktopped or buildings.

CHAIRMAN HODOM: Mr. Green or Mr. Patel has there been any attempt to purchase additional property?

MR. PATEL: I did in January 2005. I contacted the corporate office of USF Holland to speak to Kay Sanders. I e-mailed with her I talked to the broker Bill Swartz and he e-mailed her regarding the purchase of the land, but it's a big corporation and they just took off under – Red Star to USF Holland Company and they don't want to get into any purchase or commercial land to sell so that's what happened.

CHAIRMAN HODOM: Did you go through this Bisgrove Realty Associates?

MR. PATEL: No the company is USF Holland, the trucking company and that corporate office I contacted that corporate office. It used to be Red Star – they bankrupt and USF Holland took over in 2004, September and I contact them to buy ½-acre to 1-acre land from them so I can meet my parking. They are not interested to sell.

CHAIRMAN HODOM: Then just clarify for us if you would, who is – because it says here lands now and formally of Bisgrove Reality Associates, who are they? They're on your northwesterly side of the property.

MR. PATEL: Yeah and the whole parcel is with the USF Holland – right now the USF Holland Company and the parcel is I think 20 vehicle land parcel.

CHAIRMAN HODOM: Would you have any objections to providing the e-mails?

MR. PATEL: Yeah I can copy.

CHAIRMAN HODOM: Just for the record. Did they respond to you by e-mail?

MR. PATEL: Yeah.

CHAIRMAN HODOM: Do you have a copy of that?

MR. PATEL: No, I have to get it from Bill Swartz.

CHAIRMAN HODOM: Would you do that for us so we can have it on the record.

MR. PATEL: Yeah sure. Yeah they're a big trucking company and they don't want to....

CHAIRMAN HODOM: Right, they don't want to get involved. But you did make an attempt to purchase additional property on that northwesterly side for parking.

MR. PATEL: Yes.

CHAIRMAN HODOM: Mr. Green?

MR. GREEN: You may add is during the design of this that was something that I brought to Danny's attention. Before we try this application lets try to get the land so we spent several months in communications trying to purchase the land and then when the e-mail came back and said we're not interested. I said the next thing we have to do now is the ZBA, but we did try that and that held us up another 6 or 7 months but I felt it was an honorable way try to solve the land...

CHAIRMAN HODOM: Okay. Are these your only copies?

MR. PATEL: Yes. I can get copies tomorrow.

CHAIRMAN HODOM: If you would please, thank you. On the side of the property it's – I don't know if it's considered a wetland by the Corp or by New York State.

MR. PATEL: Which part?

CHAIRMAN HODOM: That area just adjacent to the property line on the northwesterly side.

MR. PATEL: Out here?

CHAIRMAN HODOM: It's a wet area and then it goes – to the other side of that there's like a driveway that used to go into the trucking...

MR. PATEL: Yes it used to go into trucking.

CHAIRMAN HODOM: Is that part of your property?

MR. PATEL: No.

MR. GREEN: It's just all-vacant land; it's all undeveloped.

MR. PATEL: The history is that driveway also before – I think (inaudible)

CHAIRMAN HODOM: It looks like new fencing there.

MR. PATEL: Yeah.

CHAIRMAN HODOM: Tell us why you need a new 3-story facility to increase your number of rooms.

MR. PATEL: I want to stay with the company - - in the same market with other competitor because the Day's Inn now is a Comfort Inn. They also built a swimming pool, meeting room and fitness facility and I haven't stayed with the competition and if I don't stay with the competition then I probably lose a lot of business to because now people are now going to who has the swimming pool, the family business I'm losing plus when I get the Econo franchise the only way they're going to give me the Econo franchise – I add onto their units, more units. 30-unit is small for them so they say in the future you have to in 3 year I have to add 10, to 15 or 20, whatever you need you can add. So that's why they gave me the Econo franchise. Otherwise if I don't do that they will take my franchise.

CHAIRMAN HODOM: And how long have you had the franchise at this location?

MR. PATEL: 2003, since 2003 June.

CHAIRMAN HODOM: Is there anywhere else on this site where you can provide 9-more feet of green area? I think the code allows that we can make the allowable - - the change in the setback if there are areas on the site where you can take that encroachment and put it someplace else on that site. Is there anyplace on the site where you can do that?

MR. GREEN: Well we've been working on this since 1994, this project with several different owners. I've met with other engineering staff from the Planning Department and so forth and with sewer, water, setbacks, putting all the questions that we have to try to meet. This is the location and the desirable footprint that they said would work the best. All right?

CHAIRMAN HODOM: This is the Planning Board you're referring to?

MR. GREEN: Yes. Mark was there Janine Saatman, who else? I can't remember all the different people. We've met several different times, several times, okay? We've put the building on, we've angled it; we've moved many, many different engineering features around before we even came here. This has been going on for months and then as we're just about done they decided to say oh, by the way we just decided to change the zone on you, or the setbacks I should say. So here we are. We've cut and paste, we cut the number of units down from the preliminary application all before your time and they said this is what we can feasibly put on there. We have to have a certain size width of building for an isle down the center so the rooms meet the criteria of the Econo Lodge people. So there's many different things going into the layout of a motel, not to compound the fact of putting a pool on the first floor, that's another issue. You know, it works very good; we brought together some photographic schemes here put together another associate of mine but to show you different views of what this could possibly look like even with the new front façade what it would look like and I have pictures to show how much different it will now look.

CHAIRMAN HODOM: But in essence to answer the question there is no place on this site where you can substitute that 9-foot of green space?

MR. GREEN: I can't. It is a corner lot to begin with so we're being hacked 50 feet in both sides. We've got so many, you know Town issues from setback issues and then with building issues and parking issues everybody is grabbing for every possible inch and if there was a possible way of doing that Janine would have said, hey here's a better idea. This is the only way that we felt that we could physically engineer this site to keep everybody as happy as possible.

CHAIRMAN HODOM: The 24 feet that you have for an isle way is a requirement by design?

MR. GREEN: Yes it is.

CHAIRMAN HODOM: From the parking space.

MR. GREEN: And what I did do is I put a 3-foot buffer in here. They don't require a buffer but when people are backing up and if you take 24 and rub it right against the side of the building, A) they're in the building, B) where are they putting the snow and where do you put any green space? So you know I could make 6, I could make that 9, but then again I'm going to have another issue of maintenance that's going to present problems down the road so...

CHAIRMAN HODOM: I thought that was a sidewalk.

MR. GREEN: No, no that's not a sidewalk; well it could be a sidewalk. Well I guess it is because I did not put any green items, yes it is a sidewalk then; sidewalk and buffer location.

CHAIRMAN HODOM: Well, it makes sense. Any other questions from the Board?

MR. BROOKINS: What's your timetable on this project?

MR. PATEL: Timetable is as; as soon as I get the building permit it will take about a year to build.

MR. BROOKINS: So you could start this spring potentially?

MR. PATEL: If everything goes well, I'll get the permit in my hand then I can start spring, summer, anywhere I get a permit I can start.

MR. MICELLI: Prior to the trucking company that's there now is that Red Star that owned that same parcel of land?

MR. PATEL: Yeah. That's USF Holland and Red Star both are sister companies, but one goes...

MR. MICELLI: Okay. And when you approached them you told them basically what your intent was?

MR. PATEL: Yes.

MR. MICELLI: And they didn't want anything to do with it basically?

MR. PATEL: They don't want to sell any portion of their property or land.

MR. MICELLI: Okay, thank you.

MR. PATEL: But they don't know what they have actually because they just took over from USF Red Star to USF Holland.

MR. MICELLI: Thanks.

CHAIRMAN HODOM: If the Board were to approve your application will you be looking for a good engineer to design the building for you?

MR. PATEL: Yeah I have Mr. Green.

CHAIRMAN HODOM: Oh, okay. Any other questions from the Board?

MR. MICELLI: No that's it, thank you.

CHAIRMAN HODOM: Any questions from the audience; comments? Anyone desiring to speak in favor of the Applicant? Anyone desiring to speak in opposition? Are you complete with your presentation? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner. Good presentation, thank you.

Hearing closed 8:30 p.m.

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The next order of business was to consider the application of The Four Corners Luncheonette. The application was found to be in order and Chairman Hodom made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by The Four Corners Luncheonette for Variance under Article VI, Supplementary Regulations, Section 128-52 H, Off Street Parking & Loading, Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear Yards for the construction of a 1-story addition, which will not meet the rear yard setback requirement and also will not meet the minimum number of parking spaces required at the premises 2 Grove Street, Delmar, New York, it is hereby ordered that a public hearing on this matter be held February 1, 2006 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of Gary Barkman, 821 Route 9W, Glenmont, New York. The following points were brought up by the Board members: The proposed sign will be re-located to meet the 10-foot setback requirement. The new code requirements on minimum square footage of the total sign area for a freestanding sign only allows for 2-square feet. The new code is currently being looked at and will possibly be modified in the future. The proposed sign is in a commercial area and will not affect the character of the neighborhood. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on February 1, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of Allen Hicks, 125 Jefferson Road, Glenmont, New York. The following points were brought up by the Board members: The lot is oddly configured. The proposed rear yard addition is abutted up against an easement held by National Grid and will never be built on. No one spoke in opposition to the addition. The quality and essential character of the neighborhood will not be adversely affected. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on February 1, 2006.

On a motion made by Mr. Brookins seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the January 4, 2006, meeting was approved as amended.

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

Meeting Adjourned: 9:10 p.m.

Respectfully submitted,

Secretary