

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
July 6, 2005**

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  
Marjory O'Brien  
Leonard Micelli

Keith Silliman Attorney to the Board

Mark Platel Building Inspector

ABSENT: Gilbert Brookins  
Michael Moore

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. Our first order of business this evening is a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-49, Total Building Area, Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings & Article XVI, Front Yards, Section 128-66, Required Depths requested by Theresa & David Harvey for property at 2 Alden Court, Delmar, New York. The Applicant wishes to construct a front porch addition, which will exceed the percentage of lot occupancy and encroach into the front yard setback requirement at the premises 2 Alden Court, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to add 114.88-square feet to the existing 1,482-square foot main structure creating a total building area of 1,596.88-square feet. This is 461.53-square feet over the 1,135.35-square feet that are allowed by a lot consisting of 7,569-square feet. The lot occupancy will be 21.09-percent, which is 5.09 over the 15-percent allowed for the main structure and 1.09 over the 20-percent allowed for the total lot occupancy. The front yard setback, which is now 18-feet will be reduced to 16.5-feet, which is 8.5-feet shy of the 25-foot front yard setback

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required. The existing side yard setback of 5.5-feet is a pre-existing and non-conforming condition.

The existing structure is occupied as a single-family dwelling and is located in a “A” Residence 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 July 6, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Theresa & David Harvey for Variance under Article XVI, Front Yards, Section 128-66, Required Depths of the Code of the Town of Bethlehem for construction of a front porch addition, which will encroach into the front yard setback at the premises of 2 Alden Court, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 29, 2005 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 official notice didn't include the percentage of lot occupancy that was picked up at a later date but the notice was issued through the Town paper and we will acknowledge that as part of tonight's hearing as well. 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. Mrs. Harvey if you would just introduce yourself, give us your address, tell us what you want to do and why you want to do it and how you want to do it.

MRS. HARVEY: I'm Theresa Harvey and I live at 2 Alden Court and we've lived there almost 6-years and we are – our family has grown substantially since we moved in so we're adding a bedroom on the second floor and we would like to expand our front porch just so the kids have a safer space to be in because they're leaping off the existing stoop that's there now and to be more neighborly because our neighbors have porches. It would look, I think a lot better than what's there. We didn't know about all this percentage stuff before hand because we haven't built anything on since we moved in or anything. It was all existing.

CHAIRMAN HODOM: The existing structure is a pre-existing non-conforming...

MR. PLATEL: Yeah the front yard is pre-existing at 18-feet and there's a side yard of

5.5-feet but they're not going to be building in that area. It's just off the front porch.

CHAIRMAN HODOM: And as I look at the information even the percentage of lot occupancy...

MR. PLATEL: Is already over.

CHAIRMAN HODOM: Is excessive to today's codes.

MR. PLATEL: Yes it is.

CHAIRMAN HODOM: Okay thank you Mark. Had you had an opportunity to speak to your neighbors?

MRS. HARVEY: Yes I have a few different letters – I mean all of our neighbors are really supportive so 2 of them wrote personal letters and then actually tonight I walked around and got signatures from another - everyone in the surrounding – has been supportive.

CHAIRMAN HODOM: Very good.

MRS. HARVEY: And our neighbor next door built a similar porch a couple of years ago which is really nice and we're jealous so.

CHAIRMAN HODOM: That being the Hodge's?

MRS. HARVEY: The Hodge's yeah.

CHAIRMAN HODOM: Well we were somewhat redigent in allowing them to build that porch, but they were such nice people we changed our mind.

MRS. HARVEY: Yeah we really – I mean the neighborhoods really close like the kids all play together so it's nice to have that space for them.

CHAIRMAN HODOM: Can you tell us how long have you lived at the residence?

MRS. HARVEY: It will be 6-years in October.

CHAIRMAN HODOM: The existing masonry porch that's currently being used that is also being replaced, is it going to be removed?

MRS. HARVEY: Yeah the wood structure the top – I don't know what you call it but the posts – that's going to be saved, but they're going to take out the concrete to make the entire structure wood and clapboards to match the house and roofing to match the existing.

CHAIRMAN HODOM: And you're going to as far as what your drawing shows make an effort to match the existing roofing and the siding and other amenities as close as possible to the existing home.

MRS. HARVEY: Absolutely.

CHAIRMAN HODOM: Do you have a schedule of – well apparently you've already started on some of the other work on the house.

MRS. HARVEY: We're waiting for the weather to cooperate. There's a dumpster in my driveway but they haven't really started because they're waiting for nice days because we're adding a shed dormer in the back but the weather has been very unpredictable so we haven't quite started that yet but we were hoping to do the projects in conjunction, you know one after the other.

CHAIRMAN HODOM: So do you have an approximate starting date and a completion date?

MRS. HARVEY: The next sunny day.

CHAIRMAN HODOM: Is this something that would be done within this year?

MRS. HARVEY: Oh yeah, we're hoping by the end of the summer to be kind of...

CHAIRMAN HODOM: And you have neighbors on each side of your property so you're not able to go out and purchase additional property to make your lot any bigger.

MRS. HARVEY: No, I wish.

CHAIRMAN HODOM: Any other questions from the Board.

MR. WIGGAND: Yeah I have a question. I think I discussed this with you when I was there today. That existing porch, you know where the railings are, the existing ones and the decking there is that going to be removed in order to build...

MRS. HARVEY: Yes.

MR. WIGGAND: I mean completely removed?

MRS. HARVEY: Yeah they're going to support the roof and that center section, which I liked. It's original to the house.

MR. WIGGAND: And temporary supports while you do that.

MRS. HARVEY: Right and then they're going to make it all wood.

MR. WIGGAND: So that concrete – I think it's a concrete deck in there.

MRS. HARVEY: Yeah it's kind of crumbling a little on the side anyway. It's kind of old.

MR. WIGGAND: Yes I noticed that.

MRS. HARVEY: It's kind of old so they're just going to get rid of that.

MR. WIGGAND: That was part of the reason why I wanted to ask the question.

MRS. HARVEY: Yeah.

MR. WIGGAND: But you're not – you understand nothing can be enlarged over what you're showing here.

MRS. HARVEY: No we're not going to do that because we're going to use the existing posts so we're just going exactly level.

MR. WIGGAND: But you're also going to take out those steps to the right?

MRS. HARVEY: Yes.

MR. WIGGAND: And put new steps in. I think you mentioned some wood steps or something.

MRS. HARVEY: Yes.

MR. WIGGAND: The neighbor as you look at your home to the left as you're looking at the front of your house.

MRS. HARVEY: Okay.

MR. WIGGAND: That porch would seem to be almost lining up with the one that you're talking about here.

MRS. HARVEY: Yeah it's about the same.

MR. WIGGAND: I sighted it off and it's almost is perfect in line with it or very close to it. That's a good thing.

MRS. HARVEY: And I know our neighbors across the street are thinking of putting a porch on to so we're setting a trend.

MR. WIGGAND: I guess you've answered my questions for now, thank you.

CHAIRMAN HODOM: There's just one question I have on the plan and I'm not sure if you will be able to answer it. It's on the elevation B where he says vinyl clad on the 4-by-4 column.

MRS. HARVEY: We're not doing vinyl.

CHAIRMAN HODOM: Okay.

MRS. HARVEY: That was an initial thing by the architect and when I discussed it with the contractor and even the look of the house I want it all wood. We're not doing vinyl.

CHAIRMAN HODOM: Okay so you are going with the wood clad alternate?

MRS. HARVEY: Yes.

CHAIRMAN HODOM: Okay.

MRS. HARVEY: All the balusters and everything will be wood.

CHAIRMAN HODOM: Good.

MR. IPEC: Hi there, how is everybody doing?

CHAIRMAN HODOM: Just super thanks and how are you this evening?

MR. IPEC: Just peachy. It's not raining so I don't feel like a duck.

MR. PLATEL: For your information Mike you're inquiring about the existing house right now it's at 19.58-percent lot occupancy for the main structure.

CHAIRMAN HODOM: Okay.

MR. WIGGAND: So 21.9 is not...

MR. PLATEL: Well it's 19.58 existing.

CHAIRMAN HODOM: It's a fairly small lot and that happens a lot in the older part of Town. You're pretty much limited in what you can do and as we mentioned earlier the existing structure when you purchased was already in excess of the lot occupancy of 15-percent, 20-total so that's something that we would consider very heavily. Any other questions from the Board? Any questions or comments from the audience? Anyone wishing to speak in favor of the Applicant? This is your opportunity it's not raining so...

MR. IPEC: I'm just the contractor doing the job so....

CHAIRMAN HODOM: You certainly can speak in favor of the applicant if you'd like.

MR. IPEC: Basically what it is it's same as the next door's basically – the setbacks are the same as the next door. It's not going to be any farther out than what the next door porches are on either one.

CHAIRMAN HODOM: Can we have a name?

MR. IPEC: I'm sorry, I'm Hadi Ipec and president of Z Ipec & Sons.

CHAIRMAN HODOM: Okay.

MR. IPEC: A construction company and we'll be doing the work on this project.

CHAIRMAN HODOM: Are you out of Albany?

MR. IPEC: Yes.

CHAIRMAN HODOM: An address?

MR. IPEC: 324 Torquay Blvd., Albany New York 12203.

CHAIRMAN HODOM: And you're doing the work on this addition?

MR. IPEC: Yes.

CHAIRMAN HODOM: Okay. Do you have a construction schedule that you're trying to maintain as far as starting date and completion date?

MR. IPEC: We're trying to basically – we're going to do the roof itself but because of the weather this past week we really haven't been able to open it, but as far as the front porch we could open it at any time and as far as doing it probably no more than a week it should take from start to finish.

CHAIRMAN HODOM: Okay. You do furnish rain gear for your workers and so forth?

MR. IPEC: No we can't afford that, that's not part of the package.

CHAIRMAN HODOM: Anything else, anybody else have anything?

MRS. HARVEY: I don't know if I said it before – I mean I think those of you that visited the house know that we have 6-kids so the porch would be a nice area for them to play on and a little safer than what we have.

MRS. O'BRIEN: Separate them a little bit.

MRS. HARVEY: Yeah maybe that would be a good place for me to go.

ATTORNEY SILLIMAN: Who did you purchase from?

MRS. HARVEY: Who?

ATTORNEY SILLIMAN: Yeah the name? The Langfellners?

MRS. HARVEY: That sounds familiar.

MR. PLATEL: Langfellner lived across the street.

ATTORNEY SILLIMAN: Across the street?

MR. PLATEL: Joe did, yeah.

ATTORNEY SILLIMAN: Okay.

CHAIRMAN HODOM: 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.

Hearing closed 7:45 p.m.

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The next order of business was to consider the application of Malka Evan, 22 Devonshire Drive, Slingerlands, New York. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Malka Evan for Variance under Article IX, Accessory Uses, Section 128-36, Private Garages in Residence Districts for construction of a detached garage addition with an existing 3-car attached garage at premises 22 Devonshire Drive, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held July 20, 2005 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Cumberland Farms (Applicant), The Big Main Truck Stop (Owner), 68 Route 9W, Glenmont, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Cumberland Farms for a modification to a previously granted Special Exception under Article VI, Permitted Uses, Section 128-18 C (3), (6), (11), "C" Commercial District for the demolition of an existing building and construction of a convenience store with an attached restaurant, and gas station at the premises 68 Route 9W, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held August 3, 2005 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of David Roberts, 42 Teasdale Drive, Slingerlands, New York 12159. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by David Roberts for Variance under Article IX, Accessory Uses, Section 128-36, Private Garages in Residence Districts for the construction of an attached 4-car garage for new home construction at premises 42 Teasdale Drive, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held July 20, 2005 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Rebecca Smiley, 185 Krumkill Road, Slingerlands, New York. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Rebecca Smiley for Variance under Article XVI, Front Yards, Section 128-67, Fences & Walls for construction of a 6-foot solid fence, which exceeds the height requirement at premises 185 Krumkill Road, Slingerlands, it is hereby ordered that a public hearing on this matter be held July 20, 2005 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Joseph Rappazzo, 126 Smultz Road, Glenmont, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Joseph Rappazzo for re-opening of a public hearing for Variance under Article X, Highway Frontage & Access, Section 128-39, Residential Lot to abut Accepted Highway or Street & Article X, Highway Frontage & access, Section 128-41, Driveway Placement on Residential Lots for a 1-lot subdivision of a parcel, which will not meet the 28-foot road frontage access required for an existing residence and the driveway will not meet the abutment requirements to the highway at premises 126 Smultz Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held August 3, 2005 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of Theresa & David Harvey for Variance under Article XII, Percent of Lot Occupancy, Section 128-49, Total building area & Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwelling & Article XVI, Front Yards, Section 128-66, Front Yards, for construction of a front porch addition, which will exceed the allowable percentage of lot occupancy, and encroach into the front yard setback requirement at the premises 2 Alden Court, Delmar, New York. The following points were brought up by the Board members: The existing lot is small and non-conforming to today's standards. The existing dwelling is already over the lot occupancy. The request is reasonable and will not alter the character of the neighborhood. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, 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 July 20, 2005.

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On a motion made by Mr. Micelli, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the June 15, meeting were approved as amended.

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

Meeting Adjourned: 8:05 p.m.

Respectfully submitted,

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Secretary