

**TOWN OF BETHLEHEM
BOARD OF APPEALS
June 2, 2004**

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

PRESENT: Michael Hodom
Robert Wiggand
Marjory O'Brien
Gilbert Brookins
Leonard Micelli

Keith Silliman Acting Attorney to the Board

Mark Platel Building Inspector

ABSENT: Michael Moore Attorney to the Board

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 a public hearing for a modification of a previously granted Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District requested by New Visions of Albany for property at 334 Krumkill Road, Slingerlands, New York. The Applicant wishes to construct an attached pavilion at the premises 334 Krumkill Road, Slingerlands, 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 construct a 1,582.64-square foot pavilion attached to the existing structure over an out door eating area. The original structure was granted for a Use Variance in October of 1993 and a modification to that Variance was granted for an addition in June of 1997. All area requirements for this structure, which is located in an "A" Residence District, will be in compliance.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you please read the

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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 June 2, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of New Visions of Albany for a modification of a previously granted Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District of the Code of the Town of Bethlehem for construction of an attached pavilion at the premises of 334 Krumkill Road, Slingerlands, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 26, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; 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 wishing to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any comments or statements made should be addressed to the issue this evening. And if you are going to be making the presentation just introduce yourself to us and your association with the applicant and then tell us what you want to do and why you want to do it.

MR. MCKENZIE: Very good. First off thank you very much for the opportunity to present and the accommodations to present in front of you tonight. My name is Andrew McKenzie, I'm the executive director at New Visions formally known as the Albany Association for retarded citizens and as noted we're at 334 Krumkill Road in Slingerlands, New York. We wish to construct a – really an open-air pavilion style roof over an existing patio. A drawing of which is to the left to me and I believe another drawing or rendering is in front of each of the Board members. The use of the pavilion is for our consumers who received services from our facility so that they may have an area of protected space for activities such as dining, leisure and other activities associated with the work that we do.

The idea of the pavilion was motivated by the need for a source of shade in another wise open outside area of our campus. It will provide not only shade for many people who either need to be sun blocked when they're outdoors or who other wise may be sensitive to the sun and also so that people can use the open area during damp weather or - - other than more ideal weather. The grounds will be professionally landscaped and everything will be built in accordance with the overall aesthetics of the facility. So the appearance of the pavilion will be so that it blends in to the existing structure. Although it sits I believe 10-feet from the structure itself, it will be connected by a canopy so that people can exit from the point of egress of the building to the pavilion without being exposed to the elements.

The idea is to provide an outdoor protected space to provide an additional space for dining, leisure or structured activities as I noted and to enhance the beauty of our building and grounds and to allow for additional use outdoors for otherwise inclement or sunny weather. So that's a general overview if I might answer any questions.

CHAIRMAN HODOM: Thank you Andy. You don't mind me calling you Andy do you?

MR. MCKENZIE: No, not at all. My mother would be very proud.

CHAIRMAN HODOM: In looking at your architectural plans and the conversations with you and your staff, maybe you can make some clarifications for us and thank you for the revised site plan locating the pavilion on the site. It made it a lot easier for me and for the other members of the Board to familiarize themselves with your facility and the location of the pavilion. The drawing G -1R prepared by Barton & Loguidice shows the landscaping that was proposed around the pavilion being deleted. Could you explain that to us, what's happening there?

MR. MCKENZIE: Yeah of course. The existing landscaping, which was the original landscaping there didn't seem to be conducive to what we're intending to do so what we wanted to do is eliminate the existing landscaping and put in new landscaping that would be more conducive to the whole environment that we're trying to create. So it was just that is was so that the landscape would better match what we were doing with the pavilion.

CHAIRMAN HODOM: Do you currently have a new proposed landscaping plan?

MR. MCKENZIE: If I might our director of building and grounds, Richard Anamier who you have met previously to share some specifics with you.

CHAIRMAN HODOM: Richard if you just introduce yourself to us and your association with the Applicant.

MR. ANAMIER: Hi, my name is Richard Anamier. I'm director of building and grounds for New Visions. What we have for the landscaping plan and the reason that it was it was crossed out on your plan – we're basically going to use the same plan, but for bidding purposes we elected not to put it into the contract so there will be a number of lilac trees, there will be a least 4-lilacs in the area. There will be at least 12-bayberries, 18-black sprays, 9-rododendrums and 12-pjm's.

CHAIRMAN HODOM: Everything that was listed in the original planting schedule...

MR. ANAMIER: Is going to be in there plus a little bit more.

CHAIRMAN HODOM: And the reason that it was deleted from these plans is because you're going out to bid separate on your own?

MR. ANAMIER: For the landscaping yes.

CHAIRMAN HODOM: The plan that I referred to previously also has shown that the existing pavers are to be removed?

MR. ANAMIER: Correct.

CHAIRMAN HODOM: In my conversation with you folks was that the entire area was going to have a new concrete slab?

MR. ANAMIER: Correct. Underneath the pavilion we'll have a new concrete slab.

CHAIRMAN HODOM: But around the pavilion it's still going to be pavers?

MR. ANAMIER: Will be pavers and we also have a fundraiser where we were selling bricks. Something like the walkway over at the Corning Preserve. People have been donating quite a few bricks and they're going to be integrated into the pavers.

CHAIRMAN HODOM: Okay. So the plans in reference to the concrete slab at the pavilion and the concrete pavers around the perimeter of the pavilion are correct?

MR. ANAMIER: Yes.

CHAIRMAN HODOM: I misunderstood what we had discussed yesterday. I thought the entire area was going to be concrete slab on grade.

MR. ANAMIER: No.

CHAIRMAN HODOM: It is not, okay. Do you know what the height is from grade to the ridge of the new pavilion?

MR. MCKENZIE: I'm going to ask Mike Maguire from Bast Hatfield for that.

MR. MAGUIRE: I believe it shows it's 11-feet or 12-feet to the face of the on core of the truss. So if you look at these...

CHAIRMAN HODOM: Mike please come up here if you would and introduce yourself to us and your association with the applicant and who you represent.

MR. MAGUIRE: Hi. I'm Michael Maguire with Bast Hatfield and I'm the contractor with New Visions for this project. As far as the question, the height of trusses I believe it shows us it's 12-foot to the bottom core of truss and these truss's are 20-feet, 4 on 12 so I would say no more than 14, 15-feet to the peak.

CHAIRMAN HODOM: Okay. It scaled 16 and I guess my real question is, is that is the

ridge of the pavilion going to be lower than the eave height of the existing buildings?

MR. MAGUIRE: Yeah it should be.

MR. MCKENZIE: I believe it is. I haven't measured that.

CHAIRMAN HODOM: I've scaled the plan and I couldn't find any dimensions from grade to the ridge. Scaling it, it scales 16-feet. It appears by the plan that the pavilion ridge will be less in height than the existing buildings and I think that's an important fact so that it doesn't overwhelm the other structures. If your not sure of that this evening, the Board would like clarification to that effect that the pavilion height will be less than the surrounding buildings.

MR. MCKENZIE: We can actually check back with Barton & Loguidice, the engineers who designed this but it was deliberately intended to be our plan that it not exceed the height of the regular building for purposes of blending. But in response to your request, we'll certainly confirm that.

CHAIRMAN HODOM: The – and I actually think this is an excellent location for the pavilion. The question I have is that have you folks spoken with any of the resident's of the development, which would be primarily south of you? They're the only one's that are probably are going to be able to see it and I don't know if it's your policy or procedure to talk to the residents around the facility, but being a good neighbor I would assume that you do that.

MR. MCKENZIE: Actually the only conversation that I've had to date has been with the neighbor across the street on the other side who received notice from the town and was interested in the nature of the project. That was Mr. Googas who lives on Krumkill Road, but we have not at this time spoken with any of the neighbors on the south side of the building with the exception who – actually our discussion had nothing to do with the pavilion project so – but there's not a reason why we wouldn't do that. We just wanted to make sure that we have the basis for moving forward and we'd be happy to do that.

CHAIRMAN HODOM: In regards to that would you have any objection to perhaps planting some additional trees, more mature trees on the south side of your pavilion to somewhat buffer the view to that development?

MR. MCENZIE: In just imagining Mr. Hodom what you're referring to in principle, no objection. Anybody who would feel that their sightline was somehow improved by that – no objection what so ever.

CHAIRMAN HODOM: You do have some mature trees there.

MR. MCKENZIE: Right.

CHAIRMAN HODOM: You have a red maple and some pines and there's a small

corridor – and certainly now because the trees are in bloom, but in the wintertime because they are deciduous trees they're going to lose their leaves and it becomes more apparent. If there's no objection I think the Board would recommend that you plant some additional, more mature trees on that south border.

MR. MCKENZIE: We would have no objection.

CHAIRMAN HODOM: Okay. I know in your narrative to the Board the explanation and reason for the proposal there was some comments made about classroom space. Are you currently short of classroom space?

MR. MCKENZIE: No, in fact it wasn't so much meant to be classroom space as it was probably a better term as I suggested in my opening remarks would be just activity space. Another place where people could go and do the kinds of activities that they do indoors but take advantage of the outdoors, which in fact happens to some extent now but is limited by sun and weather. But no, we're not a point yet where we are looking - - this was not an attempt to create more classroom space, nor would the office of mental retardation developmental disabilities who is our governing body and certification body recognize that as making up the square footage requirements for the number of people we have per capita. So no, it's not meant to be classroom space just additional pleasant space that people can use as an alternate.

CHAIRMAN HODOM: Had you considered using any alternative facilities like a temporary tent awning or something of that nature rather than a permanent structure?

MR. MCKENZIE: We actually when the project first started to be conceived we actually talked about building and seeking approval to build a gazebo style on the other side of the fencing and the service road on the south side of the building and it kind of evolved and developed at this point that the reason why a permanent structure was preferred is because of the need for a shaded area all year round. I mean even in January and February when you have some – you have our famous January thaw and some of the more pleasant days where the sun is out bright. Many of our people are photo sensitive to sunlight and we are required to be - - literally bathed in sun block in order to go outside and be under the sun. So to have a permanent structure that would allow shade all year round although obviously more limited in the colder months in terms of it's usage, it seems to be a big advantage to us and for the purposes of our intended use then have a temporary tent kind of structure. Also, you know just as a matter of note the wind conditions that sometimes exists on the property make it kind of prohibitive to use any kind of temporary structure like that, you know on those few occasions where one may have been up - - they take a beating. We're in a wind corridor of sorts I guess is the fairest way to describe it and we've had some rough times with trying to put up the temporary tent structures for shade.

CHAIRMAN HODOM: Okay. Do any of your sister facilities have an open style pavilion?

MR. MCKENZIE: The ones – the facilities that I’m familiar with right in our immediate capitol area do not that I’m aware of and I couldn’t tell you why. Is anybody familiar with any of the - - our sister facilities? I’m not familiar with any one personally.

CHAIRMAN HODOM: How about outside the capitol area?

MR. MCKENZIE: I just wouldn’t know. I’ve never – I’ve attended, in fact I’ve visited many many facilities and to be frank I’m not familiar with any that have this kind of style pavilion, no.

MRS. SHEEHAN: Chairman Hodom could I say something?

CHAIRMAN HODOM: Sure just introduce yourself to us and your association.

MRS. SHEEHAN: Hi I’m Margie Sheehan, I do public relations and communications for New Visions and actually I wrote the narrative and I’d like to just make a comment to this because when I used the term classroom space, more what I was speaking about and I should have made it more clear, but more what I was speaking about was the fact that with our population part of what we’re doing with them is to make sure that they have a well rounded experience with us. Part of that is going outdoors and doing outdoor activity’s, not so much that we’re crowded inside and need outside space but more that because we’re trying to take advantage of the outdoors so that they can have a well rounded experience. We need a protected space for them to be able to do that. It’s kind of on the cutting edge of what we’re trying to do with our population, really give them a full experience, you know in a day and part of that includes going outdoors. Being able to do art projects outside, nature things, you know nature projects. We talked about maybe setting up some nature trails; things like that because we have such a beautiful ground outside but the lack of shade was a real problem. So instead of it being used as classroom because we’re crowded it was more just because you know we wanted them to have that experience.

CHAIRMAN HODOM: Thank you.

MRS. SHEEHAN: You’re welcome.

MR. MCKENZIE: And I suspect that even though there are no other sister facilities that we’re familiar that have a structure like this, they may be very jealous if we’re permitted to build this.

CHAIRMAN HODOM: Other members have any questions?

MR. WIGGAND: The only thing that I was going to ask is there any cooking going to be allowed under this canopy? I didn’t ask anyone earlier in the day when I was up there.

MR. MCKENZIE: And as a matter of fact as you notice there are - - just adjacent to this proposed structure is our cafeteria and inside that cafeteria there’s a full scale kitchen so

any cooking that would be done would be done indoors only. There wouldn't be any cooking outdoors.

MR. WIGGAND: Or there wouldn't be carrying out food to this area?

MR. MCKENZIE: People who in fact...

MR. WIGGAND: It wouldn't make any difference really; I was just interested.

MR. MCKENZIE: Well in fact one of the intended uses is for a dining area so that during the nicer weather people might take their lunch that's procured inside and walk outside with it.

MR. WIGGAND: I wanted to get what you just said on the record.

MR. MCKENZIE: Thank you.

MR. WIGGAND: Thank you.

MRS. O'BRIEN: Is this an area that's used by staff for lunch as well?

MR. MCKENZIE: Many of our – many of the people that we serve are very involved people with disabilities and our staff being the nature of who they are and dedication and commitment they literally dine with our consumer group and then if there are staff who are on break they also I'm sure would take full advantage of it and I should mention that this is a patio now that's there as some of the Board members who visited us saw. It's pavers now; it is there and the reason we selected this area was because when we built the building back a decade or so ago now we never dreamed but were very pleasantly surprised to learn that this would become a very highly used, highly desired area for people in the nicer weather. So people use it now, the staff uses it now for breaks, consumers dine there, staff dines there. Putting a cover over it, a roof over it I'm sure will only enhance those opportunities.

MR. MICELLI: Andy I visited the site earlier today and there was just some things I forgot to ask you. Is there going to be morning, afternoon and evening I mean the hours that is going to be...

MR. MCKENZIE: Oh that's an excellent question. The operating hours of the facility are 8:30 to 4:00 so programs where we actually have our individuals being served. There attendance is between 8:30 and 3:00. Most people we start to at the park facility by 3:00. Staff day is 8:30 to 4:00, there are occasionally evening meetings on very scale but the only people really in the building in the evening are the cleaning crew by in large.

MR. MICELLI: And basically it'll just used for the children and staff and there won't be special fundraisers or any special events going on?

MR. MCKENZIE: Not by design or necessarily routine matter of course. But, you know we do in fact have events at the facility occasionally in the evening or even occasionally – very occasionally on a weekend and we imagine that this could be used during those times but as a matter of routine course, no. The building and I think the neighbors will attest to this, the building remains relatively quiet on evenings and on weekends.

MR. MICELLI: Thank you.

CHAIRMAN HODOM: Just to carry that a step further, when you do have those outside functions for your contributors and staff and so forth, how often would you have those throughout the year?

MR. MCKENZIE: Well in fact we have an annual – what we call our annual picnic, which is usually in September – usually early to mid September and that's a pretty major event there. We are, again permitted to build and establish this, we are planning to have kind of a end of the project reception there but other than that there are no necessarily routine planned activities that happen there. And that's not to suggest and I don't want to suggest that there couldn't be or wouldn't be more than one or two a year, but in fact there are no plans for routine use in that way.

CHAIRMAN HODOM: When you do have your functions and I don't know if you've had any on the outside of the structure previously or not, do you use any kind of bands or items of that nature?

MR. MCKENZIE: Our annual picnic, which is really an annual event that's for our consumers; it's a workday for our staff, but we invite our membership, those who are, generally speaking the parents, the kids and friends of people with disabilities. I would estimate that we probably have 400-people that attend that day and that typically includes a D.J. for our consumers who many of whom enjoy music and dancing. This year at the September one that we're planning we're actually going to have – this is just a small matter of some interest perhaps – we're actually going to have a band performing that is comprised of persons with developmental disabilities. This is a band that is fairly well established, they're all individuals with developmental disabilities and we've asked them to come and play this year. This is usually between the hours of 12:00 and 2:00, so it's 2-hours of music. To date our neighbors have not seemed to have objected, they're certainly invited to also attend the picnic. Many of them choose not to because it's during working hours and so on, but so far we haven't had any objection to it. We've been doing it since we've been there for the last 10 or 12-years.

CHAIRMAN HODOM: But it's not your intent now or in the foreseeable future to have something that would – an event of this nature that would go beyond say 6:00 p.m.?

MR. MCKENZIE: Oh heavens no. I don't think our own membership would tolerate it.

CHAIRMAN HODOM: Are you currently under contract to have this work this work performed?

MR. MCKENZIE: I don't believe we've even executed a contract yet much to Mr. Maguire's chagrin I'm sure but we do have contracts that are being reviewed as we speak. No we're not under contract as we speak.

CHAIRMAN HODOM: They're all contingent upon receiving a Variance?

MR. MCKENZIE: Absolutely.

CHAIRMAN HODOM: What time frame if the Board were to approve your application, what time are you looking at to commence and complete construction?

MR. MCKENZIE: If in fact we were able to acquire the approval to proceed we'd like to get Bast Hatfield to put a shovel in the ground just as soon as possible and if that matches up with their schedule, which we're – we don't know, we were hoping to start something, you know in July or August if that were permissible.

CHAIRMAN HODOM: Mike would you like to respond to that?

MR. MAGUIRE: Yeah, I'm not familiar with the Zoning Board. I don't know if it's approved or granted how long to get a building permit but we are able to start this if things go well in the month of June. And I can imagine based on, you know submittal the submittal process I would say if things go well 2-months, 2 ½-months.

CHAIRMAN HODOM: For completion?

MR. MAGUIRE: Yeah.

MR. MCKENZIE: We'd be delighted if Bast Hatfield would put the shovel in the ground in June.

CHAIRMAN HODOM: Are there any other questions from the Board? Are there any questions or comments from the audience? Yes Ma'am?

MRS. BROWNELL: I live....

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

MRS. BROWNELL: My name's Betty Brownell, and I live at 28 Staffords Crossing to the west of your facility. I have a question as to where exactly it's being located on the building.

MR. MCKENZIE: Oh sure. Do you want to step over to the sheet?

CHAIRMAN HODOM: You might want to use this as well.

MR. MCKENZIE: Absolutely thank you. This is Krumkill Road on this side and this is the back end of our building so Staffords Crossing is over in here.

MRS. BROWNELL: Right.

MR. MCKENZIE: Okay so as you're looking at the back side of our building you may notice that we currently have a patio and some umbrella tables; tables that actually have umbrella's. That patio – that's the patio that we would put this roof over and a picture of that roof is right over here.

CHAIRMAN HODOM: Excuse me just a minute.

MR. MCKENZIE: Oh of course.

CHAIRMAN HODOM: For the benefit of the rest of the people that are here, why don't we tack that up on bulletin board and you can describe that so everyone can see.

MRS. BROWNELL: I'm going to have to get over there.

CHAIRMAN HODOM: You may go up there, sure.

MR. MCKENZIE: Although this is kind of a small rendering for those of you perhaps across the room, the bottom half of the rendering is Krumkill Road and this would be Blessing Road on this side. The back half is where our neighbors live on Staffords Crossing and as they look over the ravine and actually separates the neighborhood from our property they would be looking at the back end of our building and right about center on that building is where our cafeteria lies and there's a patio of pavers that currently exist there and anybody looking across the ravine at the back end of our building probably would notice umbrella tables and outdoor seating as such. And what we're intending to do and the rendering is right there, that actually – that view point is kind of looking not quite directly from the back – looking at the back of the building but at kind of a 45-degree angle towards the back of the building is what you see right there. And we're intending to put a simple of structure as you see there over the patio. And again we're going to confirm that it rests lower than the rise of the building – the rest of the building. And that's pretty much it.

MRS. BROWNELL: Could you explain something for me.

MR. MCKENZIE: Sure.

MRS. BROWNELL: And even as much I don't review things to well.

MR. MCKENZIE: Of course.

MRS. BROWNELL: When I look at this and I'm back here.

MR. MCKENZIE: Right.

MRS. BROWNELL: When I look at this and I'm back here where is the part where you have all your refuge? Is that right over here?

MR. MCKENZIE: Yes. You're looking at this very well.

MRS. BROWNELL: Okay well I see these three here, does this mean this is enclosed?

MR. MCKENZIE: That's all the building.

MR. ANAMIER: Right see this is wing of the building, yeah because you're looking at this as if you're in a helicopter right now.

MRS. BROWNELL: So this is actually – this patio is actually within – within...

MR. ANAMIER: Yes, within the wings.

MRS. BROWNELL: Within the wings.

MR. ANAMIER: These two wings, that's right.

MR. MCKENZIE: There's the tennis court and the basketball court.

MRS. BROWNELL: Okay. I didn't even realize you had volley ball in there.

CHAIRMAN HODOM: I would just ask you to take your time when you speak so we can get you on the record as to who's speaking. Thank you.

MR. MCKENZIE: The rendering is really as if you're looking at it from the helicopter. You're looking down at it as far as this draft goes and the question was is the patio kind of recessed between wings of the building that jet out and the answer to that is yes. The patio and the enclosure would be more or less tucked back in between a set of the wings. It would be visible as you can see, I mean you're going to see a roof but it would look very much like that.

MRS. BROWNELL: I don't understand the part about the shrubbery then. If you were putting shrubbery on the south side, what difference does it make – where would you be putting the shrubbery?

MR. MCKENZIE: I believe the reference was...

MS. SHEEHAN: Right in here.

MRS. BROWNELL: Right in here.

MS. SHEEHAN: This area here is where the pavilion will be. This whole entire area here will be landscaping.

MR. MCKENZIE: I think the chairman though is suggesting that there is additional trees and I think that would be on this side.

MRS. BROWNELL: On here?

MR. MCKENZIE: Yeah.

CHAIRMAN HODOM: That was a suggestion that the Board would make to further the view from your development to that facility. There's a very small window there and especially this time of year you don't see the site very well, but in the wintertime because of the loss of the leaves and so you would have a better view. And they have agreed to plant some additional mature trees to, again buffer that view.

MRS. BROWNELL: Would that be evergreen trees that you're putting in or...

MR. MCKENZIE: I'm not much of a horticulturist; that I'm not.

CHAIRMAN HODOM: We would ask them to submit to the Board and to the Town Building Department a landscaping plan for review and final acceptance and the Town would accept it or reject it or make modifications to it.

MRS. BROWNELL: The reason I question why if it evergreen or deciduous is because if you had deciduous you would have the same problem. The problem would not be - - would not help much at all.

CHAIRMAN HODOM: Currently they have some deciduous there but they also have some pines that are fairly mature and I think that's what the Town would ask that plant additional evergreens so that you would have a true buffer, and actually it's a living fence.

MRS. BROWNELL: And I think my only other concern is if there would be any major noise and it sounds like there wouldn't be. It sounds like...

MR. MCKENZIE: Nothing more than what we already have.

MRS. BROWNELL: Yeah and we - - I've been home on occasion when you've had your parties. They've had a wonderful time and I don't think anybody can object to them. The only objection would be if you had something at night it could be disruptive.

MR. MCKENZIE: Understood. And if there were something at night it wouldn't be a concert or a live band or anything like that. The facilities are used very sparingly in the evening. It's mostly a daytime operation, but I certainly appreciate what you're saying.

MRS. BROWNELL: Thank you.

CHAIRMAN HODOM: Thank you very much. Yes sir? Please introduce yourself to us please.

MR. CRUZ: My name is Richard Cruz; I also live at 28 Staffords Crossing. Just one question, are you going to bring any kind of a temporary sound system out there at lunchtime when you have people eating out?

MR. MCKENZIE: No nothing more than you experience now. We're not - - this truly is meant and I mean the slight of pen when I say this, this truly is meant to provide shade for another wise completely un-shaded campus and it's a real issue for many of our people who are in fact photo sensitive or sun sensitive and this is something we've been talking for a very long time in terms of how to solve the problem of exposure to the sun. And as I mentioned earlier we talked about a gazebo and we've tried the temporary tents - not necessarily over the patio but we've had other little stations on the campus where we've tried some temporary tents and as our building and grounds director will testify to they just take a beating in the wind. So nothing different should - - nothing should change in the quality of sound, but really in the quality of experience of the neighborhood as a result of this roof.

CHAIRMAN HODOM: Anyone else have any questions or comments. Is anyone wishing to speak in favor of the applicant? Now's your opportunity. Dot?

MRS. BROWN: I think it's great.

CHAIRMAN HODOM: Put you're name on record if you would for us Dorothy.

MRS. BROWN: Dorothy Brown.

CHAIRMAN HODOM: And your address.

MRS. BROWN: 3 Herber Avenue, Delmar.

CHAIRMAN HODOM: And your association with the applicant if any.

MRS. BROWN: Yes I'm on the Board over there and my brother was there for many years and they were wonderful to him so I think anything they have is great.

CHAIRMAN HODOM: Thank you. Anyone else? Now is your opportunity. Is there anyone in opposition? Are there any further questions from the Board? Hearing no further questions or comments we'll declare the hearing and we'll notify you in a timely manner. Thank you very much.

MR. MCKENZIE: Thank you very much.

Hearing closed 8:06 p.m.

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The next order of business this evening is a public hearing for an Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Nick and Mary Perillo for property at 12 Sheffield Drive, Delmar, New York. The Applicant wishes to construct a 3-season room, which will exceed the allowable percentage of lot occupancy at the premises 12 Sheffield Drive, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 13-foot by 17.5-foot, 227.5-square foot addition to the existing 1,776.63-square foot main structure giving a total main structure of 2,004.13-square feet. This is 216.94-square feet over the 1,787.19-square feet that are allowed. The lot occupancy will be 16.82-percent, which is 1.82 over the 15-percent that is allowed.

The existing structure is occupied as a single-family dwelling and is located in an "AA" Residence 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 of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday June 2, 2004 at 7:45 p.m at the Town Offices, 445 Delaware Avenue, Delmar, New York. to take action on application of Nick and Mary Perillo for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem to construct a 3-season room, which will exceed the allowable percentage of lot occupancy at premises 12 Sheffield Drive, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 26, 2004 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. Mr. Perillo will you be making the presentation or your contractor? If you just introduce yourself and your association with the Applicant and who you work for.

MR. FUNICELLO: I'm Mark Funicello and I'm employee of Patio Enclosures and I represent Nick and Mary in this endeavor. I pretty much will go over the four considerations that you gave to me. You can interrupt me at any time or when I'm

through you can ask me any questions as you see fit.

With respect to section A, size and character and harmony as was previously discussed the lot size is approximately 11,914-square feet and the 15-percent allowance by my calculation would be 1787.1. The existing structure and I may be slightly off on these numbers but the existing structure is at 1752 so it leaves approximately 35.1-square feet of building for an addition, which would really not get you more than a dog house in terms of what we're able to do size wise. So pretty much anything that we would be considering would be going over that 15-percent limit and the question is how much over should we go and how should we approach this. We, and if you look at the photo and it shows the projection and you see the checkered area which is the deck, we are not building it on the complete deck structure. We're cutting it back to a portion of that deck, but we're trying to build it in character with the rest of the house and to keep it looking as good as possible.

With section B, in terms of traffic and normal traffic and pedestrian traffic it's really non-affected. There's really no issue with that as far as I can understand. Section C, the nature and height of the walls. Nature and extended landscaping, we don't want to discourage - - I mean everything that we do every, you know magazine article that's written they pretty much will say that these 3-season rooms do add to the value of neighborhoods and they do help in terms of re-sale value and they help in adding to the tax base of the community. We're very, very sensitive to trying to build something that doesn't stick out like a sore thumb and, I mean it's our livelihood. We're trying to make a living doing this and we're doing well and we done very - - you know quite a few places, quite a few rooms in the Bethlehem area.

Section D, the public convenience and the welfare will be substantially served and appropriate use of neighborhood property will not be substantially or permanently injured. We're really not to - - way of looking at this doing anything to the neighboring properties and point of fact we received an area variance for something very similar on the same street for Coach Sodergren. I don't know if it was last year or 2-years ago for roughly the same size variance change. We're looking at I guess 1.8-percent above and just based on if you wanted to look at the photo of the back of the full shot of the back of the house from straight on where you can see the full awning that's there, in essence where the patio door to the house is we obviously have to include that in this building so if you go just to the left of that it makes no sense to attach at the end of that family room to start the project. And the only other consideration that you could have said that we could have done, we probably could have built a very small room in between the door and the window, but it just doesn't seem to look right in my minds eye and furthermore it's not in character with the rest of the size of rooms in the house. So the next thought that I had was the only other practical way to do it would to be at least to go back to where the room jets out and then connect the two at that point and that's what we decided to do. That's pretty much it.

CHAIRMAN HODOM: Mr. Perillo just let me ask you a few questions if I may. You do have an awning there currently.

MR. PERILLO: Correct.

CHAIRMAN HODOM: Which I understand comes out to pretty much where that projection is as you're looking at the rear of the house to the left.

MR. PERRILLO: Correct.

CHAIRMAN HODOM: Tell me why or tell the Board why that's not satisfactory.

MR. PERRILLO: We would like to have the additional space for the pure pleasure of being able to use as much as the deck that we currently have. We use the deck and our house is southern exposure and it's pretty hot back there and that's why we have the awning and then of course you have the mosquito's and the bugs to deal with and we really love the idea of having it enclosed and maximizing the use of the square footage area as much as we can for convenience and use just as we currently use the deck.

CHAIRMAN HODOM: This is a 3-season room?

MR. PERILLO: Correct.

CHAIRMAN HODOM: What utilities do you intend to bring into this room if the Board were to allow to build it?

MR. PERILLO: Are you asking like heating?

CHAIRMAN HODOM: Whatever utilities you plan on bringing there. Are you going to heat it?

MR. PERILLO: No.

CHAIRMAN HODOM: Are you going to have electricity out there?

MR. PERILLO: We will have electricity. There's currently electricity in that corner next to the sliding doors.

CHAIRMAN HODOM: Any plumbing?

MR. PERILLO: No.

CHAIRMAN HODOM: Okay. So it's not your intent currently and it won't be your intent in the future to use this room for additional living space for guests, mother in laws, father in laws?

MR. PERILLO: No.

CHAIRMAN HODOM: Okay. It's strictly going to be used for a 3-season room?

MR. PERILLO: Yes, yes to really enjoy the summer and the fall and sunny winter days I'm sure it's going to be warm to sit out there.

CHAIRMAN HODOM: Are you going to have a floor over the deck?

MR. PERILLO: Yes, where the patio will be.

CHAIRMAN HODOM: Where the patio enclosure is?

MR. PERILLO: Yes.

CHAIRMAN HODOM: And what type of floor is that going to be?

MR. PERILLO: We're thinking either Armstrong linoleum, they have a linoleum that will - - design for patio's or we considered tile but I'm concerned about the tile might buckle. I don't know if tile would hold up.

CHAIRMAN HODOM: The sub straight of the floor - is that something that you folks are going to do? Is that applied with that?

MR. FUNICELLO: What we typically would do is that we have a product that's called Advantac, it's a 3/4-inch tongue and groove plywood base product that's specifically designed for sub floor usage. We would put a sub floor down over the deck and then whatever he ends doing; carpeting, tile, whatever, it would come afterwards.

CHAIRMAN HODOM: Okay. If you would just describe the back of your property and how it relates to your neighbors and the Niagra Mohawk right of way. Could you do that for me?

MR. PERILLO: Yes. Immediately behind my house is the NYMO property so it's all woods, okay? There's - - on the other side of the NYMO easement there are houses but you can't even see them because all of the trees are mature. There's tall pines, even in the winter time you cannot see across because of the pines. So you cannot see any houses from sitting on my deck looking straight behind. Between my - - sitting on the deck to my left are my neighbors and you - - I currently have a Japanese maple and a - do we have a picture, yeah okay. If I may approach, right over on this side this is - - I have a - - there's a Japanese maple here and that's a clump maple and in the summertime like right now when it's in full bloom they cannot see my deck and I can't see their deck. It's pretty well covered with all the foliage over here. And on the other side - here's a better picture of the trees right here so when these are all in full bloom you cannot see the deck. And then my other neighbors, which would be looking over here, they're lower and they maybe see maybe this much of my deck right now. So it's pretty private - environment when sitting on the deck itself.

CHAIRMAN HODOM: From your rear property line to the NYMO right of way do they abut? Does your property line abut with their right of way or is there developmental space behind that?

MR. PERILLO: I don't know if I know the answer to that.

CHAIRMAN HODOM: Okay.

MR. PERILLO: When you say developmental space you mean could there ever be?

CHAIRMAN HODOM: Yes.

MR. PERILLO: Oh no, definitely not developmental space.

ATTORNEY SILLIMAN: You mean between the house and the NYMO land?

CHAIRMAN HODOM: No, between his rear property line and then the Niagra Mohawk right of way. I was looking for that dimension and I wasn't able to come up with it to determine whether or not that is developable land.

MR. PERILLO: No it is not. There - - I don't know if - immediately behind there, there's pretty area of trees and then there's the actual NYMO easement. There's a path that goes up and then there's the power lines and then there's more trees and then the neighbors - the house is on the other side. It is not...

CHAIRMAN HODOM: It didn't appear to be but I couldn't find any dimensions as to where you're located in reference to the NYMO right of way.

MR. PERILLO: Yeah my understanding is it abuts right on it. That's the NYMO property.

CHAIRMAN HODOM: Did you or your wife have an opportunity to speak with your neighbors regarding your proposed addition?

MR. PERILLO: Yes. All are in favor - I don't know if - I mean I could call them right now and they'd say we have no issues. In fact our neighbors on the other side across the street are aware of what we're intending to build and at one point we were considering putting on addition of a similar size or I think a little bit smaller for a kitchen and our neighbor's Sue and Dennis Dimuria actually took our plans and implemented that last year but we decided to keep that for more of a 3-season room so our neighbors all around us are very well aware of our intent.

CHAIRMAN HODOM: Let me - - go ahead Gil.

MR. BROOKINS: How many are there in your family?

MR. PERILLO: Four.

MR. BROOKINS: Okay. Your children's ages are?

MR. PERILLO: 8-months and an 8-year old.

MR. BROOKINS: Thank you.

CHAIRMAN HODOM: Mark just referring to your documents that you submitted with the application on page 1 of 5, you had listed here the New York State Building 2002 edition. Is that the latest available addition?

MR. FUNICELLO: It is – I don't know Mark you probably know better than me. I think it is.

MR. PLATEL: That's what we're using now, yes.

CHAIRMAN HODOM: Is that what it is? Okay. Is it your normal procedure or Patio Enclosure's incorporated procedure and policy not to have their professional engineer that certify the plans to make a site visit to the property?

MR. FUNICELLO: It would be certainly impractical if not impossible when you talk about a company that has 40-branches across the nation and we're based out of Cleveland Ohio. It's hard enough for the engineers to just stay on top of doing what they're doing now. If they were to try have to make site visits – well we do inspect it, we have installation supervisors that also do site visits and relay the information back to the engineers, but I don't think it will come to be that an engineer from Cleveland will be able - - when you consider that our little branch will sell and probably install 300-rooms this year. If you took 40 and just say they all did 300, it doesn't take, you know much to think - - it would be very nearly impossible for the engineers to make site visits to do this for us.

CHAIRMAN HODOM: Are you saying that Karl Rinas is in Cleveland?

MR. FUNICELLO: He's in Cleveland.

CHAIRMAN HODOM: But he has a New York State license?

MR. FUNICELLO: Correct.

CHAIRMAN HODOM: In your last comment your general engineering notes it say's registered professional stamping this drawing cannot be responsible for soil bearing analysis or analysis of existing structures or proposed work preformed or coordinated by the owner. Tell me what he's stamping on these drawings if he's not responsible for anything?

MR. FUNICELLO: Well I think as I'm hearing and again I was frankly surprised that it says that but what I'm assuming that they're trying to say is that whatever existing structure is there, we're assuming that it was built with a permit and done to code. When our installation people go out and look at a deck, what they do is they look it over with a fine tooth comb and they start looking and see technically all the areas that have weakness and even a well built deck from us usually we'll have a fair amount of building departments tell us that we overkill it and point of fact where many of the building departments – it's frustrating to us on the sales end of it because what you'll sometimes find that there will be building departments that will let us build on the existing site and yet we'll say that it's not good enough. We won't cantilever a deck even 6-inches beyond where we would support it. So I can't speak exactly to that because I honestly didn't read it and I wasn't familiar that it said that but in my experience in 9-years at Patio Enclosures that we've gone above and beyond what typically is required of us when we build and the reason that we have done that is because we are the only company – sounds like an advertisement here, the only company in the country that manufactures a product and then directly installs it. Everyone else that would be in this business would be someone who would, you know sell to a franchise or a dealer and the responsibility is not direct, with us it's direct and the liability is direct.

ATTORNEY SILLIMAN: I would read that note that they're certifying the work that they are undertaking in the structure but if the owner is doing additional work or coordinating additional work with whatever you're doing, you're not certified by it. That's how I would take that.

MR. FUNICELLO: And I'm only saying that I didn't read that and I apologize for not reading it but it met - - the question never came before and it's a good question.

CHAIRMAN HODOM: But you had made some design applications to this facility as far as your pier foundations.

MR. FUNICELLO: Yes.

CHAIRMAN HODOM: You've made some assumptions that the soil bearing pressures 3000 psi, which isn't extraordinarily high, I mean most soils unless it's a swamp will carry a 3000 psi. It just caught my eye that and you might want to review it yourself Mr. Perillo as to what the actual stamp means and the building department is certainly going to make sure that whatever submitted on these plans are going to be stamped and approved by a professional engineer and they're going to stand behind it.

MR. FUNICELLO: Yeah I totally agree. I think sometimes when things are written, the spirit of what's written sometimes may come out differently then it's actually written but in my experience in this business it seems that what most companies that are doing good work are concerning themselves with is the potential for unfair lawsuits and sometimes your going to have disclaimers and if you were to read a contract – sometimes I wonder

why people would actually sign anything because there are disclaimers, prior existing conditions. Simple things like what if we go to attach to his house and it's infested with termites. It's a pre-existing issue that we wouldn't necessarily know of until we got there, and I'm not trying to make excuses for it because as I said I haven't read it. But in my experience with this company we've got every reason to be proud of the work that we've done and continue to do and I think there is a very good reason why we're probably conservatively 5 to 10-times busier than the next nearest competitor doing this.

CHAIRMAN HODOM: And I don't question that, but I do question the statement that's made on these drawings. And to my way of thinking is that other than your structure the professional engineer who submitting this drawing, who is stamping the drawing, submitting it for the Town of Bethlehem Building Department approval doesn't even insure that the soil bearing pressure is what it's designed for. And I think that's incorrect, he has to take responsibility at least for the soil bearing pressure. He's designed the footing for that, would you not agree?

MR. FUNICELLO: I don't know that it doesn't say that so I don't know. I mean I did not, as I said I did not read it. It seems to make sense what you're saying.

CHAIRMAN HODOM: Well I won't belabor the issue. It says that specifically that he takes no responsibility for soil bearing pressure.

MR. FUNICELLO: Okay.

CHAIRMAN HODOM: Time frame if the Board were to approve this application from commencement to completion would be?

MR. FUNICELLO: We would have a approximant start date and it's approximant because it has to do with manufacturing. Between 6 to 8-weeks and approximately 7 to 8-working days possible for completion.

MRS. O'BRIEN: Mr. Perillo how long have you lived at this location?

MR. PERILLO: 8-years.

MR. FUNICELLO: May I – can I ask Mark a question, is what you saw in that is that different than what you would normally have seen there, because we've been submitting it like this for a while and I don't - - and this never came up so...

MR. PLATEL: I think it came up one other time where we were looking for something, but I don't know if it was with your company or another company where we actually called the engineer. I don't know if it was with you guys or not.

MR. FUNICELLO: Okay.

MR. WIGGAND: Well Mark how far do you go with the existing deck as far as the

engineering of the structure and what will you replace for the homeowner? I was there today and there was no one at your home, I did ring your doorbell. I walked around and there was a fence there and I stood behind the fence and looked it over and that deck seems to be in a little need of some help.

MR. FUNICELLO: Yes it does. And a lot of times frankly it would be easier for us to get rid of the deck.

MR. WIGGAND: Even the bearing timber is starting to lean over. I didn't see any of this on this other picture that I saw here that it....

MR. FUNICELLO: The whole bearing beam is going to be replaced.

MR. WIGGAND: I could see under – I was standing over on this end over here and looking over the fence and I didn't know if there was an animal in there or something who might all of a sudden go after me, but I could see under here and this bearing beam...

MR. FUNICELLO: It's going to be completely replaced.

MR. WIGGAND: Okay. Anything that's not structurally sound...

MR. FUNICELLO: We won't build on it until it's right, but it doesn't say that we're - - it doesn't say that we're taking responsibility even though – if you were to ask me in my honest opinion if we were to get sued for this we'd be liable because we're taking the responsibility by making it better.

MR. WIGGAND: I'm looking at these heavy doors and everything else that are going to be put on there.

MR. FUNICELLO: They're actually not heavy; 3-season type product.

MR. WIGGAND: Okay. Have there been inspections for the foundation piers that you show on this drawing? Are they there?

MR. FUNICELLO: We're going to put all new supports.

MR. WIGGAND: All new, okay that's what I wanted to get on the record. And you're going to finish the interior of this yourself? Is that what I understand?

MR. PERILLO: Yes, I'm actually going to - - all of the deck boards are going to come up and will be gone. I mean there's only like I think a couple feet of...

MR. WIGGAND: And this work will probably be done before they start their work?

MR. PERILLO: Yeah, we'll replace them.

MR. MICELLI: Is there any reason why you wouldn't want to like put natural gas in it and have it like a heating source to sit in there in the wintertime or you just don't want to bother with it?

MR. PERILLO: No, I just don't want to bother with it.

MR. FUNICELLO: If I may I could also add that the product that he is purchasing wouldn't perform well under those situations. It has no thermal break anywhere so it would be highly inadvisable to try to put a heating system in a wall situation. First of all there's no wall and then make it further there's no thermal breaks so anything that's going to transfer through there.

CHAIRMAN HODOM: Mark just to follow up on that question that Bob asked, from your – and this on sheet 3 of 5, your required pier schedule, it appears that piers number 1 and piers number 6 which are existing are going to remain so you're not replacing all of the piers.

MR. FUNICELLO: Can I just see it?

CHAIRMAN HODOM: Pier number 1 which is here and pier number 6 which is here, existing verifies, existing verifies so I'm assuming they're staying.

MR. FUNICELLO: That may be correct.

CHAIRMAN HODOM: Okay. All the other ones seem to be new. I thought you were going to until Mr. Perillo said he's removing all of the existing joists.

MR. FUNICELLO: Not the joist, the deck boards.

MR. PERILLO: The deck boards.

CHAIRMAN HODOM: Okay. Because what you're doing now is you're basically – you've got a structural system there with joist at 8-inches on center. That's what you're doing. That's what you're saying anyway. Add new 2 by 8 joist to make 8-inches on center typical. Is that correct?

MR. FUNICELLO: Okay.

CHAIRMAN HODOM: You just seem uncertain.

MR. FUNICELLO: You know you're correct on that assessment but when you break it down, our particular operation, I'm the one that designed and sold the product. I rely on the expertise of others to build - - do the engineering behind it. You wouldn't want me and Nick wouldn't want me involved in the building of his room it would be a nightmare. But in terms of either what goes in there I'm so confident in the other people that are

behind the scenes doing the other things that I frankly and I've been to Variance's before - - meetings before and a lot of these things, while good questions have never come up to me before. I'll tell you what the next time I run to a variance meeting I'm going to know these things. I have been to I would say 20-variance meetings and these are the toughest questions that I've been hit with. They're good questions.

CHAIRMAN HODOM: You'll find that the Town of Bethlehem Zoning Board of Appeals is probably the best in the State. But let me carry that a step further because if what is shown on these plans and the Board approves the application the intention is that anything shown on these plans will be incorporated into the structure. So if you're unsure of what is supposed to be in here...

MR. FUNICELLO: I am unsure but that doesn't mean that the people that are building it are unsure.

CHAIRMAN HODOM: Okay. So you don't need any further time to review the drawings to make any corrections or changes because if we approve it we're going to expect it to be 8-inches on center.

MR. FUNICELLO: If we wrote 8-inches on center and that surprises me that it says that because it's usually 16-on center. If it says 8-inches on center and you approve it we're going to do it that way.

CHAIRMAN HODOM: Okay as long as you understand that and it says it in 2-different locations.

MR. FUNICELLO: I do, and I'll get yelled at but it won't matter.

MRS. O'BRIEN: You're confident that the people who are installing this will be following the drawings, not just what they usually do?

MR. FUNICELLO: Oh absolutely, well there's no way for them to get around it because you're going to inspect it. That's part of the reason for getting the building permit I mean you're going to check the piers before they're dug, I mean not before they're dug but before they're poured.

MRS. O'BRIEN: Are you keeping a part of the deck?

MR. PERILLO: Yes the current...

MRS. O'BRIEN: But you're saying that you're going to replace all of the flooring.

MR. PERILLO: The top boards.

MRS. O'BRIEN: The decking?

MR. PERILLO: Yeah, we're putting new floorboards down.

MRS. O'BRIEN: So the new structural will cover part of it and there will be new decking all around it?

MR. PERILLO: Correct. I believe it's from the back of my house I believe it'll probably be 4-feet and then I believe there's probably 2-feet on the side.

CHAIRMAN HODOM: To answer your question Marge, there's basically 3-feet from the outside face of the new addition and then on the other side is approximately 2-feet.

MR. PERILLO: Yes and the floorboards will be replaced.

MRS. O'BRIEN: And the railings and stuff will all be replaced?

MR. PERILLO: Yes and I'm actually looking at the vinyl, putting in the vinyl railings because that way it'll be white and it'll match the trim of my house, which will match with the 3-season room itself.

CHAIRMAN HODOM: It's a darn good spec if they build it that way.

MR. FUNICELLO: If it says 8-inch on center, it'll be 8-inch on center but it surprised me hear it. Did it surprise you to see it?

CHAIRMAN HODOM: That's what it says. Any other...

MRS. O'BRIEN: You can't change the price either.

CHAIRMAN HODOM: Mr. Perillo will see to that.

MR. FUNICELLO: He's loaded he doesn't care.

MR. PERILLO: I'll get my ruler out and make sure it's 8-inches.

CHAIRMAN HODOM: Any other questions from the Board? Any more presentation that you would like to make?

MR. FUNICELLO: I don't think so I just want to go home, my tail is between my legs.

CHAIRMAN HODOM: Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner.

MR. FUNICELLO: Thank you.

CHAIRMAN HODOM: Thank you very much.

Hearing closed 8:40 p.m.

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The next order of business was to consider the application of Harold Denkers, 201 Bender Lane, Glenmont, New York 12077. 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 Harold Denkers for Variance under Article XVI, Front Yards, Section 128-71, Accessory Structures for the construction of a detached garage, which will encroach into the front yard setback requirement at premises 201 Bender Lane, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held July 7, 2004 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 to re-schedule a public hearing for CVS Pharmacy, 256 Delaware Avenue, Delmar, New York 12054. 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 CVS Pharmacy for Variance under Article VI, Permitted Uses, Section 128-17 (D), Accessory Business Signs for construction of an electronic message board, which will exceed the allowable square footage at premises 256 Delaware Avenue, Delmar, New York, it is hereby ordered that a public hearing on this matter be held July 21, 2004 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. Wiggand seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider rescheduling a public hearing for Galaxy Communications, Old Quarry Road, Selkirk, New York. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Galaxy Communications to reschedule a public hearing for Special Exception under Chapter 113-3, 113-9 (f) to allow construction, operation and maintenance of a FM Radio Broadcasting Facility including a +/- 300-foot tower at premises Old Quarry Road, Selkirk, New York 12158, it is hereby ordered that a public hearing on this matter be held July 7, 2004 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 David Chainyk, for Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District to construct a 2-family dwelling, which is not a permitted use in an "A" Residence Zone at premises 19 Elm Place, Albany, New York. The following points were brought up by the Board members: This is the last lot owned by the family and there has been a problem selling it as a single family lot. The proposed 2-family duplex would fit in with the surrounding area and have consistency to what currently exists. 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 Use Variance, for presentation at the next Board meeting on June 16, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Bonnie Goldsmith and Terrence Rooney for Variance under Article XII, Percent of Lot Occupancy, Section 128-55, Accessory Buildings. The following points were brought up by the Board members: The size of the proposed shed is minimal and the overage is minor. The lot is small, only 8,000-square feet. 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 June 16, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Alan and Barbara Via for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings to construct an addition, which will exceed the allowable percentage of lot occupancy at premises 5 Mayfair Drive, Slingerlands, New York. The following points were brought up by the Board members: The proposed addition is a reasonable request and will not effect the character of the neighborhood. The potential overage is minimal. The plans were well made and thought out. On a motion made by Mrs. O'Brien, 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 June 16, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Nick and Mary Perillo for variance under article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for construction of a 3-season room, which will exceed the allowable percentage of lot occupancy at premises 12 Sheffield Drive, Delmar, New York. The following points were brought up by the Board members: The proposed 3-season room will not effect the quality and character of the neighborhood. The overage is a minimal request. On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, 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 June 16, 2004.

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On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the minutes of the May 19, 2004, meeting were approved as amended.

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

Meeting Adjourned: 9:30 p.m.

Respectfully submitted,

Secretary