

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
June 21, 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  
                      Gilbert Brookins  
                      Leonard Micelli  
                      Anthony K. Umina  
                      Mark Hennessey

                          Michael Moore                   Attorney to the Board

                          Mark Platel                     Building Inspector

Chairman Hodom called the meeting to order at 7:00.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. Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side yards requested by Suzanne Furlong for property at 99 Adams Place, Delmar, New York. The Applicant wishes to demolish a 1-car detached garage and replace with a 2-car detached garage, which will encroach into the side yard setback requirements 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 demolish an existing garage and construct a new 576-square foot garage that will have a side yard setback of 3.2-feet. This is 1.8-feet shy of the 5-foot that is required.

The existing property is located in a core residential district and the main use of the property is as a single-family dwelling.

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 of Bethlehem, Albany County, New York will hold a public hearing on, Wednesday June 21, 2006 at 7:00 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Suzanne Furlong for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yards of the Code of the Town of Bethlehem for the demolition of a 1-car detached garage and reconstruction of a 2-car detached garage, which will encroach into the side yard setback requirement at the premises 99 Adams Place, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 14, 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. 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 ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any comments should be directed to the Board and to the issue this evening. Miss Furlong if you would just introduce yourself to us and give us your address and tell us what you want to do and how you want to do it and why you want to do it.

MS. FURLONG: Sure. My name is Suzanne Furlong and I live at 99 Adams Place in Delmar. I have a very small 1-car garage and want to demolish it and put up a 2-car garage to house 2 of my 3-cars. Because I have a swimming pool in my back yard I want to keep the side wall of the garage where it is now because moving it over will bring it too close to the pool.

CHAIRMAN HODOM: Okay. How long have you lived at the premises?

MS. FURLONG: 42-years.

CHAIRMAN HODOM: 42-years, wow.

MS. FURLONG: My whole life.

CHAIRMAN HODOM: Have you looked at any alternatives? You're only off by approximately 20-inches and the alternatives I would be thinking of is moving it to the west 20-inches. I realize your neighbor's garage is right on the property line or perhaps it's a 24-foot wide garage and whether that could be reduced in width at all. Maybe Mr. Houghton would like to address those issues, introduce yourself to us Bruce.

MR. HOUGHTON: My name is Bruce Houghton; I live at 12 Apple Blossom Lane in Voorheesville, New York and I've been working with Suzanne to develop the plan for the garage. I think one of the problems with that particular situation is that the pool not shown on the drawing obviously is raised up considerably from the lower level behind and along side of the garage so if we brought that over it would be difficult to get a machine down in there at a later date if we needed to rebuild part of that pool or pour concrete and that kind of thing. As it is we'll have just about 8-feet of area to get between the garage as the site is situated there now on the plan. So that was the one reason that if you wanted to keep it over where the existing sidewall is.

CHAIRMAN HODOM: How many vehicles do you have in the family?

MS. FURLONG: Three.

CHAIRMAN HODOM: And how many are there in the family?

MS. FURLONG: One.

MR. HOUGHTON: If I might add though the one vehicle that she has is kind of a classic car now, it was her fathers that she wants to retain and that would probably take up one of the spaces in the garage.

MR. HENNESSEY: We always ask what kind of a car is it?

MS. FURLONG: It's an old Chrysler New Yorker.

CHAIRMAN HODOM: Is that the one that was outside next to the F-150?

MS. FURLONG: Yes. The F-150 is a winter car.

CHAIRMAN HODOM: And the third one you had at work apparently.

MS. FURLONG: Yes.

CHAIRMAN HODOM: What about reducing the width of the garage say to 22-feet instead of 24-feet, is that a possibility or is there something that prevents you from doing that?

MR. BOUGHTON: Well it's a possibility, both of those vehicles are large full size vehicles and that's why I think that she wanted to go with the standard width versus cutting it down to the 20 or 19-feet. The fact that we're really not encroaching more on the side line, just – yeah we're building on the existing foundation line now, that would be coming out but we would be building on that line. Then since it was there we felt that we could squeeze that 24-feet in there and still have access to get down into the back if you needed to later on. That's a consideration that you can...

MS. FURLONG: I would prefer not to but I would consider it.

CHAIRMAN HODOM: I realize that you're moving the proposed new garage forward.

MS. FURLONG: Correct.

CHAIRMAN HODOM: And the alignment seems to be fairly close, the back part of the garage wall seems to be fairly close in proximity to the existing back wall of the garage but also I recognize that by the 24-foot garage you pretty much have to hold your slope at the pool so it you would not be constructing into that toe or into the slope. In my way of thinking it may be beneficial to lessen the width of the garage so you're not encumbering that toe of the slope. If you're going to have any kind of problem it will start developing at the toe. The architectural features of the proposed garage are what?

MS. FURLONG: As far as siding and...

CHAIRMAN HODOM: Yes.

MS. FURLONG: White siding and black shingles like exactly what's on the house.

CHAIRMAN HODOM: Okay so you're trying to match the house and...

MS. FURLONG: Yes.

CHAIRMAN HODOM: The architectural features.

MS. FURLONG: Last year I did some repair work on my chimney and we matched the siding exactly over there so I know I can still get – you know I think it's Owens Corning shingles is what is on the house so I don't imagine that would be a problem matching that.

CHAIRMAN HODOM: I know we have a letter from your adjoining neighbor.

MS. FURLONG: Yes.

CHAIRMAN HODOM: Whose garage is right on the property line.

MS. FURLONG: Yes.

CHAIRMAN HODOM: Have you had an opportunity to talk to your other neighbors?

MS. FURLONG: Yes, I spoke to Jack and Maureen Power's who live at 101 Adams Place. They have absolutely no issue. I spoke to Father Roman who lives at 96 – I think he's the first house on Adams Street and then I don't know Eric and Kathy's last name - - the Hardiman's at 104 and their comment was I can't see your garage so it doesn't matter

what you do.

CHAIRMAN HODOM: Mark let me ask you a question and I think we discussed this at our last hearing to, if they demolish any part of that existing garage then all the requirements of the new zoning come into play, correct?

MR. PLATEL: No they would have to demolish the whole garage. They could demolish part of it, renovate and rebuild, put an addition on as long as that addition doesn't fall within the setback requirements.

CHAIRMAN HODOM: I was going to say if they use that easterly side wall, left that intact and then expanded it further west and to the south....

MR. PLATEL: Any expansion into the setbacks still requires a Variance.

CHAIRMAN HODOM: Okay.

MR. PLATEL: Because if I remember they are making the garage deeper than it is now.

CHAIRMAN HODOM: Yes, about 6-feet.

MS. FURLONG: Because we had actually asked that question months ago when I first started this process that that was an option to leave that wall up, but Karen didn't seem to think it was a good idea.

CHAIRMAN HODOM: Time frame if the Board were to approve your application, what is your construction time frame?

MS. FURLONG: Approximately 6-weeks, starting pretty much immediately.

CHAIRMAN HODOM: Are you currently under contract with anybody to do it?

MS. FURLONG: My cousin is going to help me to do it so we don't have a contract.

CHAIRMAN HODOM: Is that Furlong and Furlong?

MS. FURLONG: Yeah it is. Don't hold that against me though.

CHAIRMAN HODOM: Any other questions from the Board?

MR. MICELLI: Just a quick one, are you going to have electricity in the garage?

MS. FURLONG: There's electricity currently, so yes.

MR. MICELLI: Okay, thank you.

MR. HENNESSEY: I looked at the layout basically of what the new garage is going to look like versus what your neighbors current one looks like, just space wise and it looks like it's – I mean a little bit bigger but not that much bigger than what your neighbor already has, right?

MS. FURLONG: I believe his is actually deeper.

MR. HENNESSEY: Oh, okay.

MS. FURLONG: It goes back about another 10-feet.

MR. HENNESSEY: Okay so this would be similar.

MS. FURLONG: Comparable, yes.

CHAIRMAN HODOM: Width wise I think it's comparable.

MS. FURLONG: Yes.

CHAIRMAN HODOM: Gil, anything?

MR. BROOKINS: No.

CHAIRMAN HODOM: Mr. Furlong did you have anything that you would like to add to this discussion this evening?

MR. FURLONG: I think everything is fine.

CHAIRMAN HODOM: Mr. Houghton is there anything else you would like to add?

MR. HOUGHTON: I think we covered everything.

CHAIRMAN HODOM: Suzanne are you all set?

MS. FURLONG: Yes.

CHAIRMAN HODOM: Just come up here and introduce your self to us and give us your address.

MR. FURLONG: My name is Patrick Furlong and I live at 25 Walnut Lane in Slingerlands. I'm curious if there's an existing structure why she has to go through this process.

CHAIRMAN HODOM: I'll turn that over to Mark.

MR. PLATEL: Once she tears that structure down it no longer exists, okay so....

MR. FURLONG: So it falls on the new...

MR. PLATEL: Right if it was demolished by fire, something like that would be okay but if you're going in willingly, taking it down yourself you lose the grandfather clause.

MR. FURLONG: Even though it's being replaced to a more attractive and more beautiful building?

MR. PLATEL: Yes.

MR. FURLONG: Thank you.

MR. PLATEL: Your welcome.

CHAIRMAN HODOM: Of course that's not saying that the Furlong and Furlong Midnight riders couldn't get out there one night.

MR. PLATEL: Even if the garage were to be destroyed by fire or a tree falls on it or a natural disaster you couldn't make it any bigger, like they couldn't encroach into the setback anymore so it would have to be built exactly the same. If she wanted to make it bigger it would have to come to the Board.

CHAIRMAN HODOM: Is there anyone wishing to speak in favor of the applicant who hasn't already done so? Is there anyone wishing to speak in opposition to the applicant? 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 7:15 p.m.

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The next order of business this evening is a public hearing for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Maximum Lot Coverage for property at 65 Iroquois Trail, Slingerlands, New York requested by Eliot Rich & Marla Eglowstein Rich. The Applicant wishes to construct an addition, which will exceed the allowable lot coverage and encroach into the front yard setback requirement at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing 2-additions to the existing main structure totaling 1,012.5-square feet creating a building area of 2,543.46-square feet. This is 485.66-square feet over the 2,056.8-square feet allowed. The lot occupancy will be 24.72-percent, which is 4.72-percent over the 20-percent that is allowed. The front yard setback will be 21-feet, which is 14-feet shy of the 35-feet that is

required.

The existing main structure is occupied as a single-family dwelling and is located in a Residence "A" 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 June 21, 2006 at 7:15 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Eliot Rich and Marla Eglowstein Rich for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Maximum Lot Coverage, & Minimum Front Yards of the Code of the Town of Bethlehem for the construction of an addition, which will exceed the allowable lot coverage and encroach into the front yard setback requirement at premises 65 Iroquois Trail, Slingerlands, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 14, 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 your presentation and answer any questions or comments from the audience. If you would just introduce yourself to us, give us your address; tell us what you want to do and why you want to do it.

MRS. RICH: Okay my name is Marla Eglowstein Rich, my husband Eliot Rich – actually he's here by proxy because he's out of the country at the moment. He's in Norway so he sends his regrets that he can't be here to assist in describing what we're trying to do. We live at 65 Iroquois Trail where we've been for just about 10-years. We have learned in the last 2-years that I have multiple sclerosis that's created a lot of difficulty with my climbing stairs and walking in general but within my home the biggest problem I have is stair climbing. So at the advice of my physician and to make things a lot easier for us we have considered putting on an addition to our main floor. This will include a master bedroom as you can see in our plans. It will include a little bit of space for storage and for laundry so that I won't have to go upstairs to do the laundry – to be able to do on the main floor.

We're going to open out our kitchen and our dining room a little bit, which is extending into the front and this will make it possible for the eventuality over the next several years that I could require a wheelchair. As it stands now it would be very awkward and I can speak from experience because I had foot surgery a few years ago and trying to maneuver around the kitchen with a wheelchair was very difficult so we're going to open up some more space, both in the dining room and the kitchen so that's it's possible because statistics tell us that when you have MS, quite a number of people will require wheelchair accessibility within 15 to 20-years of when they're diagnosed and my

husband and I feel that it's likely that we're going to be staying for a long time so we would really like to keep the house we have, we like the neighborhood, the kids are happy there. I have children who will be at home at least 8 to 10-more years so we feel that this is an important addition to our home and I brought with me a note from my husband that I'm speaking on his behalf. I brought a note from my neighbor Wendy Terk who lives at 63 Iroquois who've I spoken with stating that her and her husband have no objection to our proceeding with this plan. They're the one's that live the closest to the area of our property that would be affected and I've also spoken with our neighbors on the other side at 67 Iroquois, the Soroda's, Allen and Susan informally, they had just moved in but they're aware of our situation that we are considering putting in an addition and they felt that that was not a problem for them. I haven't discussed it with the people who live across the street from us because I don't know them.

And also I got a note from my doctor that briefly mentions that I have difficulty, it's known that I have difficulty with stairs and that he recommends that it will be safe and easier for me to function and stay in my house if I'm able to create the addition that we would like to have. Would you like me to pass these around?

CHAIRMAN HODOM: Please. Are these your only copies?

MRS. RICH: Yes they are.

CHAIRMAN HODOM: We can make copies and get them back to you. You mentioned that you have children in the family, what is the size of the family?

MRS. RICH: I have 3-children; I have a son who is going into his senior year of high school, a daughter who is going into 8<sup>th</sup> grade and a daughter who is going into 3<sup>rd</sup> grade.

CHAIRMAN HODOM: And your proposed time frame should the Board approve the application is...

MRS. RICH: We're not certain yet, my husband will be away for another 6-weeks and we're probably not going to pick back up on these plans until he comes back home. I do have the architect, but I don't have any other personnel contacts just yet, but we're hoping that as soon as he gets back we're going to get all of that in motion. So I would think if we have time to do this in the fall we will and if not we certainly will get it done in the spring.

CHAIRMAN HODOM: The room sizes that you showed on your plan are predicated pretty much if you have to start using a wheelchair.

MRS. RICH: That's right.

CHAIRMAN HODOM: Because the room sizes are somewhat larger than normal.

MRS. RICH: They might be, yes and they are larger than what we have at present to our

upstairs rooms but it's going to be necessary if we have to maneuver a wheel chair. And I should add that I progressed with disability within less than a year at the time I was diagnosed so I'm very concerned that I need to be prepared for that kind of eventuality.

CHAIRMAN HODOM: Are you currently using a wheelchair to become mobile?

MRS. RICH: No I'm not I use a cane and mainly outside the house. The short distance that I have to walk within the house I don't require a cane at this point but I'm concerned that things may change because before I got into the proper treatment it was moving along.

CHAIRMAN HODOM: And how long have you lived at the premises?

MRS. RICH: 10-years, next month it will be 10-years.

CHAIRMAN HODOM: The architectural features that you're proposing for the various additions will match the architectural features of the existing home as closely as possible?

MRS. RICH: Yes. The front features will - - may look a little bit different because we want to get a ramp, we want to make the front more accessible. Right now there's 2-steps plus the step up onto the door sill and even that's a little difficult for me to manage especially because we have no railing or anything like that so we're going to change that a little bit but other than that I think it's going to look very similar to what we have now.

CHAIRMAN HODOM: The ramp off of the deck on the rear of the property, that's going to be added as well? I don't think that's existing currently is it?

MRS. RICH: No, no again the deck is - - pretty high steps and at least on some part of the deck we're going to make it ramped.

CHAIRMAN HODOM: Any other questions from the Board?

MR. MICELLI: I don't have any.

MR. UMINA: I have no questions. I visited the site and I looked at it and what was presented is adequate to me.

CHAIRMAN HODOM: Gil?

MR. BROOKINS: I was out there today as well and you mentioned I guess it's the Terk's that live to the - as you're looking at the house...

MRS. RICH: To the right.

MR. BROOKINS: They have a deck on the back.

MRS. RICH: They do, I think both of my neighbors have decks.

MR. BROOKINS: So it's not going to....

MRS. RICH: It's kind of a Tudor style house.

MR. BROOKINS: Yes.

MRS. RICH: And they have trees planted along the property line and actually we're not going to have a window facing their yard. They are aware of that.

MR. BROOKINS: In the master bedroom.

MRS. RICH: Yes. Not that Mrs. Terk cares if I look in her back yard, but – she told me and I said I don't need to look in your back yard.

MR. BROOKINS: It doesn't show on here, is that a power line that runs through the back.

MRS. RICH: Yes. The power lines in the back yard are not part of my property they belong to the right of way for National Grid.

MR. BROOKINS: So there's nothing that's going to...

MRS. RICH: My property ends where – if you've seen that there's mowed lawn and there's wild growth, that's where my property ends so it's not part of my property.

MR. BROOKINS: But the point is that your back neighbors are way on the other side of....

MRS. RICH: There's a ravine, we don't have – I mean I can't hear what goes on in their back yard so I'm hoping they wouldn't be disturbed by this. I didn't discuss this with them because I thought they were too far away.

MR. BROOKINS: That's all I have, thank you.

MRS. RICH: Thank you.

CHAIRMAN HODOM: Anyone else? Is there anything else you would like to add Mrs. Rich?

MRS. RICH: No thank you.

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 7:30 p.m.

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The next order of business was to consider the application of Peter & Kristen Zilgme. 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 Peter & Kristen Zilgme, Variance under Article XIII, use & Area Schedules, Section 128-100A, Minimum Front Yards for an alteration of an existing porch that will become living space at premises 10 Groesbeck Place, Delmar, New York, it is hereby ordered that a public hearing on this matter be held July 5, 2006 at 7:15 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 Thomas & Joanne Coffey for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yards for the construction of an attached carport addition, which will encroach into the side yard setback requirement at premises 47 Clifton Way, Slingerlands, New York. The following points were brought up by the Board members: The proposed attached garage addition will not effect the essential character of the neighborhood. The Applicants neighbor spoke in favor of the addition and has something very similar to the proposed. The proposed garage could not be located anywhere else on the property due to a slope issue in the back. On a motion made by Mr. Brookins, seconded by Mr. Hennessey, 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 5, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of Suzanne Furlong, for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yards for the demolition of a 1-car detached garage and reconstruction of a 2-car detached garage, which will encroach into the side yard setback requirement at premises 99 Adams Place, Delmar, New York. The following points were brought up by the Board members: There is an existing pool in the back yard, which inhibits the garage to be moved over. The applicant has 3-vehicles and would like to house 2 in the garage. The neighbor most affected by the application is in support of the garage. On a motion made by Mr. Brookins, seconded by Mr. Micelli, 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 5, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of Eliot & Marla Eglowstein Rich for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Maximum Lot Coverage & Minimum Front Yards for the construction of an addition, which will exceed the allowable lot coverage and encroach into the front yard setback requirement at premises 65 Iroquois Trail, Slingerlands, New York. The following points were brought up by the Board members: The Applicant has developed health related issues making it difficult to climb stairs. The proposed addition would help alleviate those problems. There were 3-letters of support that were submitted on behalf of the applicant. On a motion made by Mr. Brookins, seconded by Mr. Micelli, 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 5, 2006.

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The next order of business was to consider the proposed resolution of Betty Nolan.

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

RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a variance under Article XIII, Use and Area Schedules, Section 128-100, Minimum Front Yards, and Article VI, Supplementary Regulations, Section 128-54, Signs, requested by Betty Nolan (“Applicant”), for property at 1250 Route 9W, Selkirk, New York; and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on June 7, 2006; and

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

Applicant is proposing alterations to her convenience store and gasoline station facility located at 1250 Route 9W, Selkirk, in the Rural Hamlet zoning district. The property is at the intersection of Maple Avenue (Route 396) and Route 9W. Applicant is proposing to construct a canopy on the building at the property that will not meet the required minimum front yard setback of 30 feet. The canopy will result in three measured encroachments into this setback of 13.5 feet (to Route 9W), 16.4 feet (to Maple Avenue) and 23 feet (to the property line at the intersection).

Applicant is also proposing a new freestanding sign that will require two variances. The freestanding sign measures 30.375 square feet. When combined with the 20 square-foot "SUBWAY" sign on the building, the total signage is 50.375 feet, which is 10.4 square feet over the 40 square feet allowed. In addition, the proposed sign will be set back 2.5 feet from the front property line, which is 7.5 feet shy of the 10 feet required.

By Resolution dated August 17, 2005, this Board granted the Applicant a use variance to allow the operation of gasoline filling station on the property, subject to the review of the Town Building and Planning Departments. The alterations that are the subject of the present application have been recommended by the Town Planning Department.

Other than the Applicant's representatives and the Applicant's tenant, no one spoke at the public hearing.

By Recommendation dated May 18, 2006 (Case No. 04-05/06-015), the Albany County Planning Board recommended a modification of the local approval to include: 1) review by the New York Department of Environmental Conservation for potential jurisdiction under bulk petroleum storage regulations; and 2) review by the New York

Department of Transportation for design of highway access and assessment of road capacity.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed front yard setback and sign variances will be GRANTED.

The Board has determined that the requested variances will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than variances.

The requested variances will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variances are the minimum necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances has not been created by the Applicant.

The requested front yard setback and signage variances are GRANTED, on the following conditions:

1. The project will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the June 7, 2006 hearing;
2. The project shall be completed within the time required by Section 128-89 (P) of the Town Code; and

3. Applicants shall comply with the Recommendations of the Albany County Planning Board.

June 21, 2006

Michael Hodom  
Chairman  
Zoning Board of Appeals

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Chairman Hodom made a motion that the Resolution be adopted, Mr. Micelli seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom Gilbert Brookins Leonard Micelli Anthony K. Umina Mark Hennessey	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on June 22, 2006.)

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The next order of business was to consider the proposed resolution of Nicholas & Cherise Vitillo.

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

#### RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a variance under Article XIII, Use and Area Schedules, Section 128-100, Minimum Highway Frontage, requested by Nicholas and Cherise Vitello (“Applicants”), Nicholas Vitello, Sr.

and Tri-Village Trucking and Services, LLC (“Owner”), for property at 207 Maple Avenue, Selkirk, New York; and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on September 21, 2005, November 2, 2005, April 5, 2006 and May 3, 2006; and

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

#### FINDINGS OF FACT

The Owner’s property is a landlocked parcel of approximately 11.03 acres located off Route 396 (Maple Avenue) in the hamlet of Selkirk. The property is accessible by a permanent easement for ingress and egress from Maple Avenue over the lands of adjoining owners. The property has no “highway frontage,” as that term is defined in Chapter 128 of the Town Code.

The property is located in a Rural zoning district. The Applicants are presently operating a trucking business out of an existing structure on the property.

With the Owner's permission, Applicants propose to construct a modular, single-family residential structure on the property for their residence.

This proposal requires a variance from the Board, as it does not meet the "Minimum Highway Frontage" requirement (75 feet) of Section 128-100. An easement does not satisfy this highway frontage requirement.

Both the trucking business and the proposed residential structure are uses permitted by right in the Rural district.

At the initial public hearings, neighbors adjoining the property testified and expressed concern over the extent and nature of use of the easement, and of the alleged adverse impacts of the trucking business on their properties.

The public hearing was closed following the November 2, 2005 hearing. On March 1, 2006, the Board voted to reopen the public hearing when it was learned that the property was listed for sale.

At the reopened public hearings, the Owner testified that he intends to sell the property to the Applicants.

#### CONCLUSIONS OF LAW

The trucking business on the property is a use permitted by right, and this Board has no jurisdiction to regulate its operation.

On the advice of counsel, issues concerning the extent and nature of use of the easement by the Owner and the Applicants are also beyond this Board's jurisdiction. These are legal matters to be resolved among the owners of the easement and the owners of the land over which the easement runs.

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the proposed highway frontage variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicants' needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicants.

The requested variance is GRANTED, on the following conditions:

1. The Applicants' project will be completed in accordance with the plans, specifications, testimony and exhibits given at the September 21, 2005, November 2, 2005, April 5, 2006 and May 3, 2006 hearings;
2. The Board recommends that the Owner transfer title to the property to the Applicants;
3. The Board recommends that the Town Planning Department review and approve site plans for the layout of the proposed residential structure;
4. The Board recommends that, if the trucking business is to continue on the property, that the Town Planning Department also consider whether controls may be necessary related to hours of operation, dust and noise, in order to alleviate the concerns expressed to the Board by the adjoining landowners; and

5. The project shall be completed within the time specified by Section 128-89 (P) of the Town Code.

June 21, 2006

Michael Hodom  
Chairman  
Zoning Board of Appeals

- - -

Mr. Umina made a motion that the Resolution be adopted, Mr. Micelli seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom Gilbert Brookins Leonard Micelli Anthony K. Umina Mark Hennessey	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on June 22, 2006.)

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On a motion made by Mr. Brookins, seconded by Mr. Hennessey, and unanimously carried by the Board, the minutes of the June 7, 2006, meeting were approved as amended

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

Meeting Adjourned: 8:10 p.m.

Respectfully submitted,

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Secretary