

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
March 2, 2005**

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

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

Michael Moore Attorney to the Board

Mark Platel Building Inspector

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

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Good evening. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. We have no public hearings this evening. We have a new application from John and Joanne Whipple.

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The next order of business was to consider the application of John and Joanne Whipple. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by John & Joanne Whipple for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for the construction of a 3-season room, which exceeds the allowable percentage of lot occupancy at premises 12 Venture Terrace, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held March 16, 2005 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of Mr. William Cohen and Ms. Myra Nathan for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for the construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 94 Longmeadow Drive, Delmar, New York. The following points were brought up by the Board members: The proposed addition is a reasonable size and in the rear of the house. The overage is high due to a small non-conforming lot. This would not affect the character of the neighborhood. No one spoke in opposition to the applicant. 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 March 16, 2005.

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The next order of business was a discussion of the previous public hearing held in the matter of Cingular Wireless for Special Exception under Article VI, Permitted Uses, Section 128-20 C (1), Public Utility & Chapter 113-4 A (1), Alternative Tower Sites to collocate 6-panel antennas and related call processing equipment to an existing tower at premises 39 Hannay Lane, Glenmont, New York. The following points were brought up by the Board members: The Board will make a decision on March 16 when revised corrected documentation is presented.

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The next order of business was to consider the proposed resolution of Bob Hughes, 2 Knights Way, Albany, New York.

Attorney Moore presented the following proposed resolution 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") by Bob Hughes ("the Applicant"), for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50,

proposed Single Family Dwellings, and Article XVII, Side Yards, Section 128-73, Required Widths, of the Code of the Town of Bethlehem, for construction of a sunroom addition on premises located at 2 Knights Way, Albany, New York (“the Property”); and

WHEREAS, the Board of Appeals, 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 February 2, 2005; 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 Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

#### FINDINGS OF FACT

The Applicant is proposing to construct a 16-foot by 22-foot, 352-square foot 3-season sunroom addition to the existing 1,595.89-square foot main structure. The total building area will be 1,947.89-square feet, which is 213.01-square feet over the 1,734.88-square feet allowed by an 11,565.87-square foot lot. The lot occupancy will be 16.84-percent, which is 1.84 over the 15-percent allowed. The side yard setback at the existing foundation adjacent to where the sunroom would be placed (to remain exposed) is 4.76-feet; this is 3.24-feet shy of the 8-foot side yard setback required.

The existing structure is located in an “A” Residence Zone and is occupied as a single-family Dwelling.

The existing foundation was constructed by the Applicant without a permit, to a size of 16-feet by 32-feet. By Resolution of the Board dated October 6, 2004, Applicant was denied a request for variances for a larger, all season addition on the property, which

would have covered the entire foundation.

At the public hearings on the prior application, Applicant submitted written statements from several neighbors expressing no opposition to the larger proposed addition. Other than the Applicant and his representative, no one spoke regarding the project at the February 2, 2005 public hearing.

As the existing foundation was constructed without a permit it was difficult for the Town Building Department to verify whether it had been properly constructed.

The Applicant's lot is irregularly shaped, with one of the rear corners abutting the building line.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires two variances to construct the proposed 3-season sunroom addition; an area variance for the proposed addition and a setback variance for the portion of the existing foundation that will remain exposed. After reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents and reports submitted by the Applicant, on this application and the prior application, the Board determines that the proposed 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 minimal, and are the minimum variances that are necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The requested variances are granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the February 2, 2005 hearing;
2. There shall be no heating system constructed in the approved addition, which shall be a 3-season room only.
3. There shall be no construction over the portion of the existing foundation, which will remain exposed after construction of the approved addition.
4. Prior to any construction, Applicant shall cooperate with the Town Building Inspector to expose the footings on the existing foundation, so as to permit an inspection and approval of the foundation's construction.
5. The project shall be completed within two (2) years of the date of this Resolution

March 2, 2005

Michael Hodom  
Chairman  
Board of Appeals

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Mrs. O'Brien made a motion that the Resolution be adopted as amended, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on March 3, 2005.)

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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 February 16, 2005, meeting were approved as amended.

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

Meeting Adjourned: 8:20 p.m.

Respectfully submitted,

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Secretary