

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
March 19, 2008**

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, Board of Appeals Chairman  
Michael Moore, Board of Appeals Counsel  
David DeCancio, Board of Appeals Member  
Lennie Micelli, Board of Appeals Member  
Kenneth Umina, Board of Appeals Member  
Matthew Watson, Board of Appeals Member  
  
Mark Platel, Assistant Building Inspector

AGENDA: David & Susan Conrad  
Daryn Bendinotti  
Alteri's Restaurant  
George Ten Eyck  
United Development Group  
Cattrina & Anthony Gallo

PRESENT: David & Susan Conrad  
Daryn Bedinotti  
Rich Ott  
S. Messina

Chairman Hodom called the meeting to order at 7:00pm.

**PUBLIC HEARINGS**

**David and Susan Conrad**

The Board received an application for a variance under Article V, District Use & Area Requirements, Section 128-29 (C ) (3), % of lot occupancy (accessory structure).

Mr. Platel said the applicant is proposing to combine a five thousand eight hundred seven point sixteen (5,807.16) square foot parcel of land with an existing thirty (30) foot by twenty-four (24) foot seven hundred twenty (720) square foot barn to their existing property. The combined parcels will create a total lot area of twelve thousand three hundred seventy-four point eighty two (12,374.82) square feet and the lot occupancy for accessory structures will be five point eight two percent (5.82%), which exceeds the five percent (5%) allowed by point eight two percent (.82%).

The existing lot and structures are located in a Residence C Zoning District and the main structure is occupied as a single-family dwelling.

A motion to indent the public hearing notice was offered Mr. Micelli, seconded by Mr. Umina and approved by all Board members present.

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, March 19, 2008, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of David and Susan Conrad for a Variance under

Article V, district use & Area Requirements, Section 128-29 © (3), % of lot occupancy of the Code of the Town of Bethlehem for the purchase of barn and land from adjoining neighbor at 5 Pictuay Rd, Selkirk, NY.

Mr. Conrad, 1524B Rt. 9W, Selkirk. He said he wanted to purchase the barn from Mrs. Jordan so he can get his vehicles off of Rt. 9W. The state widened the road and the lanes and now when they plow, the snow comes in and covers his vehicles. He can't put a garage onto his house because of the leach fields. He has an above ground leach system that prevents an attached garage. It was in front of the house but when the road was widened the state put in the above ground system. It would also give Mr. Conrad additional storage. He said the house is built on a slab. He doesn't have any other place for storage. Chairman Hodom asked about the shed to the north that the Conrad's currently use. Mr. Conrad said the shed was on the state's property. It has been there since he purchased the house and he maintains it. He also maintains the barn for Mrs. Jordan. Chairman Hodom said by his calculations, if the Conrad's purchased an additional one point twenty-two (1.22) feet more along the eighty-two point three (82.3) foot property line they wouldn't need a variance. Mr. Conrad did not realize it was that close. Neither did Mrs. Jordan. Chairman Hodom thought it would help the Conrad's in the future if the additional footage could be negotiated. If they wanted to do future expansion, they wouldn't already have a variance. Mrs. Jordan said there had been a chicken coop attached to the barn but it has been removed. Mr. Platel said his calculations did not agree with the Chairman's. He estimated the Conrad's needed more square footage to be in compliance than the Chairman calculated.

Mr. Watson suggested the Board consider the application as submitted and then talk about the calculations later. Mrs. Jordan said she wanted to make sure that the additional square footage they wanted to add to the Conrad's didn't make her lot too small. She has two (2) houses on her parcel, one house she lives in and the other she rents. She didn't have a problem with the additional one point twenty-two (1.22) feet if it didn't compromise her lot.

Mr. Conrad said he had letters from his neighbors and they didn't have a problem with the variance request. Mrs. Jordan said she was in favor of the variance. She is the owner of the property on the corner of Pictuay Road and Old Ravena Rd. She wants to sell the barn and the property to the Conrad's.

The public hearing was declared closed at 7:14.

### **Daryn Bendinotti**

The Board received an application for a variance under Article XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements.

Mr. Platel said the applicant is proposing to construct a six (6) foot by thirty-two point two five (32.25) foot open porch to the front of the existing main structure that will encroach into the front yard and front yard corner lot setback requirements. The proposed front yards will be eighteen point nine six (18.96) feet and seventeen point six (17.6) feet, which are six point zero four (6.04) feet and seven point four (7.4) feet shy of the twenty-five (25) feet required setbacks.

The existing structure is located in a Core Residential Zoning District and the main structure is occupied a single-family dwelling.

A motion to indent the public hearing notice was offered by Mr. Watson, seconded by Mr. Micelli and approved by all Board members present.

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, March 19, 2008, at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Daryn Bendinotti for a Variance under Article XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements of the Code of the Town of Bethlehem for construction of a front porch at 36 Brookman Avenue, Delmar, NY.

Ms. Bendinotti, 36 Brookman Avenue, said she wanted to put a porch on the front of her house. She has existing concrete steps and some bushes. She would like to remove both and put on the porch. Chairman Hodom asked Mr. Platel if the house was preexisting, non-conforming house. Mr. Platel said the home was compliant under the old code but with the change in the zoning district in 2005, it was not. Ms. Bendinotti said she has lived in the home for four (4) years. She has spoken to her neighbors about the porch and no one had any opposition to the porch. They knew they could come and speak if they wanted. She wanted the porch for aesthetic purposes and just because she has always wanted a front porch for her enjoyment. She said that the porch she wanted would mirror a neighbor's porch across the street. Chairman Hodom asked the applicant's time frame for construction. Mr. Ott, the contractor, said the porch would only project six (6) inches further than the existing cement stairs. The existing shrubs would be removed. Mr. Ott said the project would take about two (2) weeks from start to finish. It would be an open porch and would match as closely as possible the existing structure in architectural features.

The hearing was declared closed at 7:22.

## **DISCUSSIONS**

### **Alteri's Restaurant**

The Board received an application for a variance under Article VI, Supplementary Regulations, Section 128-59, Signs, C-4, no moving signs and G-1 maximum total area of sign.

The Board had requested, at the Public Hearing and January 16, 2008, that Mr. Quinn submit financial information substantiating his claim that the removal of the banners had financially hurt his business. To date, nothing had been submitted to the Board and he has not responded to Mr. Moore's letter of February 21, 2008.

Chairman Hodom recommended denial of the application based on the decision of the applicant not to supply the requested information for financial verification. He said the applicant could relocate the existing wall sign to the north part of the structure.

Mr. Umina did not think his initial request was substantial and probably would have approved it without the financial verification. He thought it was reasonable to assume that he has lost business.

Mr. Micelli said he had wanted to see the records to see where his loss was compared to Chili's and Applebees. He was concerned with allowing the banners and then seeing banners up and down Rt. 9W off everyone's building.

Mr. Platel said one (1) banner would put Mr. Quinn over the allowable square footage for signs and he doesn't want to put in any permanent signs. Banners are not permitted.

Mr. Decancio said approving a variance without receiving the documentation requested would set a bad precedent. He is looking for two (2) variances; the sign area and the moving sign variance. When Mr. Quinn was at the public hearing, the Board had tried to come up with some alternatives for his signage and he was not responsive and unwilling to make any changes. Mr. Decancio said he drives down Rt. 9W everyday and there are many businesses that have changeable signs. They were following the Code and it would not be fair to those businesses.

Mr. Watson said he agreed with the Chairman's recommendation because the documentation requested had not been supplied and Mr. Quinn has not shown any interest in pursuing.

A motion to deny the variance request by Mr. Quinn was offered by Mr. Watson, seconded by Mr. Decancio and approved by all Board members present.

## **RESOLUTIONS**

### **George Ten Eyck**

The Board had received an application for a variance under Article V, District Use & Area Requirements, Section 128-40 Planned Development District, Lot & Bulk Requirements.

The Board reviewed draft resolution AV-0805 prepared by the Zoning Board attorney.

A motion to approve the Resolution as amended was offered by Mr. Umina, seconded by Mr. Micelli and approved by all Board members present.

### **United Development Group**

The Board had received an application for a variance under Article V, Section 128-33 D (footprint size), Article XIII, Section 100 (density, maximum height, minimum rear yard).

The Board reviewed draft resolution AV-0804 prepared by the Zoning Board attorney.

A motion to approve the Resolution as drafted was offered by Mr. DeCancio, seconded by Mr. Micelli and approved by all Board members present.

### **OTHER**

#### **Catterina and Anthony Gallo – Old Route 9W**

The Board had received an application for a use variance under Article XIII, Section 128-99, Schedule of Uses. The applicant's attorney, on March 19, 2008, had sent a letter requesting a ninety (90) day extension of time to produce the documentation requested by the Board at the September 19, 2007 Public Hearing.

The Board agreed to the ninety (90) day extension and directed Mr. Moore to prepare a letter to the applicant and his attorney with a date certain for the materials to be submitted for the Board's consideration.

A motion to adjourn was offered by Mr. Micelli, seconded by Mr. DeCancio and approved by all Board members present.

The meeting adjourned at 7:50 PM.