

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
May 16, 2007**

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, Counsel to the Board  
Gil Brookins, Board of Appeals Member  
Lenny Micelli, Board of Appeals Member  
Mark Hennessey, Board of Appeals Member

Mark Platel, Assistant Building Inspector

Michael Uccellini  
Tim Haskins

AGENDA: United Development Group  
Patricia Cross/ Kurt Kavoukian  
John Newkirk  
Daniel Mehlman  
Brian and Julie Decker  
JKC Realty LLC

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

**Public Hearing**

**United Development Group**

The first item on the agenda was a public hearing for a Variance under Article V, Section 128-33 D (1), footprint, Article XIII, Section 128-100, Schedule of Area, Yard & Bulk Requirements and Article VI, Section 128-56, off street parking, requested by United Development Group for property located on Glenmont Road, behind St. Matthew's Cemetery. The applicant proposes to construct an apartment complex for seniors.

Mr. Platel said the applicant is proposing to construct a one hundred fifty (150) unit apartment complex that will exceed the seventy-five (75) units allowed by seventy-five (75) units. The number of units allowed in this district is eight (8) units per acre of developable land that is serviced by municipal water and sewer. As set forth in the Schedule of Off-street parking, one point one (1.1) spaces are required for dwelling units. For this project a total of one hundred sixty-five (165) spaces are required, the applicant is proposing one hundred forty-one (141) open parking spaces along with thirty (30) rental garages. It is the building inspector's determination that the rental garages are not available off-street parking and can not be included in the total number of proposed spaces. This leaves the applicant twenty-four (24) spaces shy of the one hundred sixty-five (165) required. Maximum height requirement for main structures is thirty-five (35) feet, the applicant is proposing one (1) three (3) story building with a height of thirty-eight (38) feet, which will exceed the allowable height by three (3) feet, and three (3) four (4) story buildings with a proposed height of forty-eight (48) feet that will exceed the allowable height by thirteen (13) feet. The allowable footprint of any building located in this district cannot exceed five thousand (5,000) square feet. Each of the four (4) proposed buildings are estimated to be thirteen thousand seven hundred fifty (13,750) square feet and will exceed the five thousand (5,000) square feet allowed

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by approximately eight thousand seven hundred fifty (8,750) square feet. The property is currently vacant land and located in a Hamlet zoning district.

A motion to indent the notice of the Public Hearing was offered by Mr. Micelli, seconded by Mr. Hennessey 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, May 16, 2007, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of United Group for Variances under Article V, Section 128-33D, footprint; Article VI, Section 128-56, Article XIII, Section 100, Density & Max Height; Article VI, Section 128-56, off street parking, of the Zoning Law of the Town of Bethlehem for construction of an apartment complex for seniors, on a tax parcel 97.00-2-1.21 (behind St. Mathew's Cemetery) on Glenmont Rd., Glenmont, New York.

Mr. Uccellini, president of United Group of Companies, presented for the applicant. The United Group is a real estate development, management and finance company. They currently manage and own over four thousand (4,000) units of housing. Twelve hundred (1,200) units are senior housing. Six (6) of the developments are in the Capital Region. The demographics of the Town of Bethlehem suggests a need for senior housing with about fifty-eight hundred (5,800) residents over sixty (60) years old with income levels of thirty-five thousand (35,000) and over. Glenwood Village would be an alternative senior housing development. Currently there are no age restricted, market rate, non-income restricted, independent living alternatives for seniors in the Town of Bethlehem. Bethlehem Senior Services has confirmed the need for this type of housing.

The one hundred fifty (150) unit Glenwood Village would be developed on fourteen point seven two (14.72) acres. It will be age restricted and targeted to the moderate income senior. The buildings would have one (1), two (2) or three (3) bedrooms that will range in size from six hundred fifty (650) square feet to fourteen hundred (1,400) square feet. All the apartments will have either balconies or patios, washers and dryers and nine (9) foot ceilings. It will be maintenance free with twenty-four (24) hour emergency service.

The four (4) story buildings will be to the rear of the site and the one (1) three (3) story building would be closer to Glenmont Road. Mr. Uccellini said that they had one hundred seventy-one (171) parking spaces listed on the site that conflicted with the number Mr. Platel had mentioned. Eight (8) of those spaces were handicapped and the thirty (30) spaces in the garages were in addition to that number. That would make a total of two hundred thirty-one (231) spaces. Mr. Uccellini said that in their experience with senior housing, the number of parking spaces needed is usually .75 per unit. They feel that there will be ample parking. Chairman Hodom said that if they considered their proposal a senior citizen housing development, to be in compliance with Code 128-65, they would need 1.5 spaces per unit. Mr. Uccellini said that the off-street parking table calls for 1.1 spaces per unit for Senior Housing.

The site has over four (4) acres of wetlands,. There is also an archeological site that has been identified and will be avoided. They clustered the buildings to reduce the impact on the wetlands. The impact on the wetlands is .45 acres and they will be restoring those 2 for 1 in the efforts of mitigation. The proposed green space on the site would be 71%.

The site will have an eight thousand (8,000) square foot club house building that will be the hub of the community. Some features include an indoor lap pool, surround sound media center, a great room, cyber café, a salon and other additional amenities. United Group has a signature SUN Program that will be held in this club house. The program consists of a life style program that includes learning programs, speaker series, trips to a variety of venues, fitness programs and prescreening of home health care aids. The average age of the residents is projected to be about seventy-three (73) / seventy-four (74) years old.

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They are requesting three (3) variances: density; the hamlet district allows eight (8) units per acre and they are looking for fifteen point nine (15.9) units per acre; building footprint; a larger than five thousand (5,000) square foot footprint could be allowed in the Hamlet Zone if the façade of the larger buildings are articulated to appear as multiple buildings, which they felt they had done and the last variance needed was the height of buildings; because of the wetlands on the site and the need for at least one hundred fifty (150) units, they needed to go vertical. To minimize the impact, the taller structures were placed in the back of the site. The cemetery in the front is at a higher elevation and will block the height of the buildings. The parcel to the left of the site is zoned MED which allows for four (4) story buildings. They did not think they needed a parking variance.

Mr. Uccellini said for the project to be financially viable, they needed one hundred fifty (150) units. They felt the project was in line with the Town's Comprehensive Plan as follows: it develops an under utilized parcel of land, addresses the need for senior housing, provides a housing alternative, will not have an effect on the school system and it's in a location that is desirable for senior housing. This type of housing development typically produces only one (1) vehicle per unit in the peak p.m. traffic hours.

Mr. Uccellini felt that there was a critical need for senior housing in the Town. The applicant did not feel that the variance requests would change the character of the neighborhood or be a detriment to the neighboring properties, he did not think the variances were substantial and he did not think the proposed variances would have a negative environmental impact on the neighborhood. He said the area variances were not self-created and the need for the variances could not be accomplished in any other way. They had tried many different designs and felt this was the best one. He thought that the project would be an asset to the community. Mr Uccellini said their project in Colonie has been well received by the seniors and the Town.

Mr. Haskins said a main question was why the company had chosen this parcel, considering the wetlands on the site. They choose it for the location and that helps to mitigate the other physical issues of the site. The Town's Comprehensive Plan talks of senior housing being located near services, such as shopping and mass transportation. This site is in close proximity to those amenities. These are important to seniors that want to age in place. The reason that the applicant wants one hundred and fifty (150) units is to keep the units within the development affordable. The apartments are spacious with nice amenities. The cost of the project must be off set by the rents and the number of apartments in the complex will directly affect the price of the rents.

Mr. Haskins said that they had first met with the Development Planning Committee about eighteen (18) months ago. That was before they had delineated the wetlands. They have also met with the fire district.

Chairman Hodom asked for a copy of the February 21, 2007 letter from Mr. Morelli that was mentioned in their application. Mr. Haskins said that they had originally applied for a Planned Development District so that the complex could be restricted to seniors. Subsequent to that, the Planning Department decided that with the senior housing section of the Zoning Code, the project could restrict to seniors without applying for a Planned Development District. They withdrew the PDD application and resubmitted for a site plan for senior housing.

Chairman Hodom asked if they had explored other areas of the Town that would allow the height of the buildings without the necessity of variances. Mr. Haskins said they had looked but this parcel best suited the requirements of the product they wanted to build. Even though the adjoining parcel is zoned MED and would allow taller structures, it has more wetlands and would be more difficult to develop. They did not think it was developable for their proposed use.

Chairman Hodom asked the applicant to submit documentation that would show where the breakpoints to separate the buildings were located and the depths of the buildings. It was established that the footprints of the buildings submitted would not change but the internal configuration of the buildings had not been finalized.

Mr. Micelli asked if the only outlets for the property were located on Glenmont Road. Mr. Haskins confirmed and said it had been discussed with Planning to allow one (1) way traffic through the site, widening an existing

driveway.

The applicant stated that they needed the one hundred fifty (150) units to make the project financially feasible. Chairman Hodom asked Mr. Uccellini to submit financial data substantiating that claim. Chairman Hodom said that once they had that information they may hire a consultant, at the applicant's expense, to review that information. The applicant did not object.

Mr. Haskins said that the height of the three story buildings was thirty-eight (38) feet. Chairman Hodom asked how soon the applicant knew there was a problem with wetlands on the property. Mr. Haskins said that they knew the parcel had wetlands but did not know the extent until the delineation was completed. Some developers had walked away but they felt the location compensated for the additional cost of mitigating the wetlands. Chairman Hodom asked if mitigation proposals to NYSDEC had included the filling in of some wetlands to give more space to develop. Mr. Haskins said the wetlands were federal and fell under the jurisdiction of the Army Corp of Engineers. The General permit process of the ACOE allows the applicant to impact certain levels of wetlands under the Nationwide General Permit. There are conditions that must be met under that permit. The applicant's approach was to avoid the wetlands whenever possible. When impacting the wetlands, the applicant must agree with the ACOE to do a mitigation of some sort. The mitigation that would be done on this site was a two (2) for one (1) mitigation; for every one tenth (1/10) of an acre that is disturbed, two tenths (2/10) of an acre must be restored. He said the benefit to the wetlands is the restoration of the areas that have been filled or dumped on over the years. They will be required to monitor these restored wetlands for a period of ten (10) years to make sure they flourish.

They had done a Phase II-A Archeological study and found an area that could potentially have significance. They had decided to submit an avoidance plan with a buffer area. They would not be disturbing that area.

Mr. Hennessey asked the number of jobs that would be created. Mr. Haskins answered that six (6) fulltime positions and many more during the construction phase. Mr. Hennessey asked if the company did the financing and the building of the project. Mr. Haskins said that they did finance, build and manage their portfolio of the developments. These would be a straight apartment rental with a yearly lease. Mr. Hennessey asked if they knew the increase of revenues to the Town based on assessed value. Mr. Uccellini said he would provide that information. He said they had discussed a PILOT with the last supervisor but not the Town Board. He said it was an open issue they could pursue with the IDA. Chairman Hodom said their contract was contingent on receiving a PILOT. Mr. Uccellini said they had the option of not purchasing the land if they did not get the PILOT. He said they would not purchase the land if they could not develop it into senior housing but would proceed if they were not successful with a PILOT.

Mr. Uccellini said the project in Colonie was called Hearthstone Village and was located on Route 155. It is a one hundred forty-four (144) unit project on fourteen (14) acres. The first building was opened in July 2006 and the next two (2) in November 2006. Mr. Brookins asked if an analysis had been done to determine need for senior housing in the Town of Bethlehem. Mr. Uccellini responded yes; the demand is high and they also determined that about 80% of the residents would come from within the Town. Mr. Haskins told the Board that the Hearthstone Village project was visually very different from the proposed Glenwood Village. They were different products.

Mr. Uccellini said that if the variances weren't granted, they would not build. They would not be able to do their model project with only seventy-five (75) units. Chairman Hodom asked him to provide a detailed narrative as to why they could not build a seventy-five (75) unit facility and make it viable.

Mr. Micelli asked if there would be bus service for the residents. Mr. Uccellini said that both Hannaford and Price Chopper came to their facilities and took the residents shopping.

Mr. Platel said that he confirmed that the site plan now shows a sufficient number of parking spaces and the

parking variance was no longer needed.

Norbert Luft, 18 Weiser Street, Glenmont asked if the traffic impact had been studied. Mr. Uccellini said they had used the Institute of Traffic Analysis numbers. Chairman Hodom told the audience that the project, if successful with their variance requests, would go before the Planning Board for site plan approval and that issue would be addressed by that Board.

Charlene Dekis, Old Glenmont Road, wanted to know where the buildings were located on the site. She wanted to know what her view would be. She thought the building closest to the Glenmont Road would block her view. She said it's where she and her children sled and she walks with her scout troop and people snowmobile. She wanted the space left as is.

Nathan Pelow, owner of the adjacent parcel, was concerned that access to his parcel would be cut off if they place the building where they are proposing. Mr. Pelow did not own the driveway area that he used to get onto his property. He was also concerned that water from their property would come onto his property. Chairman Hodom said that drainage would be looked at during the site plan review.

Jean Hogland, Clarksville, said she felt there was a need for senior housing in the Town. Some of her friends want to stay in the area and presently there wasn't any housing for them.

Chairman Hodom adjourned the application to a date uncertain upon receipt of the information that had been requested of the applicant. The hearing would be rescheduled and re-noticed.

### **Patti Cross/ Kurt Kavoukian**

An application has been submitted for a Variance under Article XIII, Section 128-100, Schedule of Area, Yard & Bulk Requirements, side yard setback requested by Patti Cross and Kurt Kavoukian for property located at 40 Royal Blvd., Delmar.

A motion to schedule the Public Hearing for the above mentioned application at 7:00pm on June 6, 2007 was offered by Mr. Micelli, seconded by Mr. Hennessey and approved by all Board members present.

### **John Newkirk**

An application has been submitted for a Variance under Article V, Section 128-28 C (3), percentage of lot occupancy requested by John Newkirk for property located at 5 Wiggand Dr., Glenmont.

A motion to schedule the Public Hearing for the above mentioned application at 7:15pm on June 6, 2007 was offered by Mr. Hennessey, seconded by Mr. Brookins and approved by all Board members present.

### **Daniel Mehlmen**

The Board decided to postpone the discussion of Mr. Mehlman's variance request until the June 6, 2007 meeting because Mr. Platel had different calculations for the Board to consider.

### **Brian and Julie Decker**

The next item on the agenda was the discussion of the variance application of Brian and Julie Decker.

Chairman Hodom stated that the variance requested by the Decker's would not change the neighborhood, was not substantial, was not self-created and would not have a large impact on the environment. He was in favor of granting the variance.

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Mr. Hennessey and Mr. Micelli were both in favor of granting the variance.

Mr. Brookins said it was a small lot and they had done a reasonable job of fitting a house on the lot. He was in favor of the variance.

A motion to approve the variance application as submitted was offered by Mr. Brookins, seconded by Mr. Micelli and with a vote of four (4) for, zero (0) against and one (1) absent, the variance was granted.

### **JKC Realty LLC**

The Board reviewed the draft Resolution for JKC Realty as prepared by the Zoning Board Counsel.

A motion to approve the draft as amended was offered by Mr. Brookins, seconded by Mr. Micelli and with a vote of four (4) for, zero (0) against and one (1) absent, the Resolution was approved.

The Board reviewed the draft minutes of May 2, 2007.

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

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

The meeting adjourned at 8:35 PM.