

**TOWN OF BETHLEHEM
BOARD OF APPEALS
May 18, 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 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 continuation of a public hearing for a Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths requested by Kelly Santore for property at 165 Wemple Road, Glenmont, New York 12077. The Applicant wishes to construct an attached garage addition, which will encroach into the front yard setback requirement at premises 165 Wemple Road.

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

MR. PLATEL: Yes, Mr. Chairman. This is the continuation of a previous public hearing. The Applicant is proposing to construct a 22-foot by 22-foot, 484-square foot garage addition to the existing main structure that will create a front yard setback of 33.8-feet. This is 1.2-feet shy of the 35-feet that is required.

The existing structure is located in an "AA" Residence District and is occupied as a Single Family Dwelling.

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

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

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 May 4, 2005 at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Kelly Santore for Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem for the construction of an attached garage, which will encroach into the Front Yard setback requirement at premise 165 Wemple Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 27, 2005 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. 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. All questions and comments should be directed to the Board and maintain to the issue at hand this evening. Mr. & Mrs. Santore?

MRS. SANTORE: Thank you Mr. Chairman. I'd like to address the concerns that were brought to the Boards attention at the last meeting. I believe his name is Mr. Fratture. I didn't know his name prior to the last meeting because in almost 4-years that we lived there he has never as much spoke to us nor has even waived to say hello and he lives about 20-feet away. It is obvious that we are going through an extensive renovation project and there was debris in our driveway for several weeks. My husband is doing quite a bit of the work himself, he's been working into the wee hours of the morning. The price for a dumpster is around 400-dollars for 7-days so if you don't time it right you end up having to either pay for another dumpster or pay a per day charge.

This is going to continue, the mess was picked up. We had a dumpster there so the cabinets and all that were removed from the driveway. The rusted old mower that Mr. Fratture referred to was also on the side of our house on our property next to our garage. Last fall my husband told me that the mower was broken and he needed to get a new one so he went out and bought it. He was only able to use it once or twice last season. I don't know how many people have a big enough shed to fit 2-rider mowers. Last month I told my husband to get rid of the old mower and he said that all it needed was a new belt and was giving it to a friend of ours. He must have forgotten that he told me last fall that he couldn't fix so now I know he just wanted a new mower. The mower is now gone. After the last meeting I called our friends and told them they had to come get the mower because someone was complaining about it. We inconvenienced friends of our on Mother's Day for the sake of someone that we don't even know.

They referred to a rusted old bike that is lying on the ground between our houses. That happens to be a 200-dollar racing bike that belongs to my daughter. My son borrowed her bike and tried to make it look like my husband took it out of the garage because he needed the room to work and he found out that he took it and there is a standoff going on regarding who was going to put it away. They both won because my husband finally put it away after the last meeting. The weather has only been nice for the past 3 to 4-weeks so the bike couldn't have been there for very long anyway.

The car he referred to is a 1986 Monte Carlo SS, my husband's first car. He refuses to part with it. It's been parked in our garage for the past 3-years. We pulled it out to make room in the garage for my husband to work, cut wood, sheetrock, etc. We plan on putting it back in the garage when the new one is built. It is a car that is in great working condition and it needs a catalytic converter and some bodywork, that's it. The tires go flat from it just sitting there. My husband does put air in the tires all the time, but he's been extremely busy lately and that is not on his top priority list. We are going to do the work on it and let my son have it when he turns 16. In the short amount of time that we've lived in that house we've put vinyl siding on it, replaced some of the windows, painted the shutters, resealed the driveway, put new garage doors on, landscaped, removed 3-large pine trees and cleared out overgrown brush that was between both of our homes. We take care of our property and the pictures that Mr. Fratture took do not reflect the past 3-years, they reflect the past 3-months at best.

He's stated that his property value would significantly decrease if we were to put a garage on the front of our house. As I understand it the property values of the homes in the Town of Bethlehem have had a steady increase over the past several years and the trend does not appear to be changing. Mr. Fratture must not understand that one of the formulas that the bank or real estate brokers utilizes in determining the value of someone's house is by comparing it to other homes in the same Town that are comparable. They would not use our house as a comp because there is not comparison to the two. He lives in a raised ranch located on a main road with a detached garage. We own a 4-bedroom, 2 ½-bath, colonial with an attached garage on a corner lot.

I understand his concerns regarding looking over and seeing a garage, but unfortunately we were not able to put the garage on the Bryn Mawr side. The setback is too great and we would need a Variance of approximately 8 to 10-feet and we were advised that this Board would most likely not grant that many feet. I also would like to clear up any concerns the Board may have regarding our home office. It is just that, an office in our home to put a desk so that we can do paperwork, pay bills, review homework, etc. We're not planning on running a business out of our home like selling cars out of our driveway. We do not conduct any business in our home; we both work outside of the home. We would just like a place to put all of the paperwork, bills and junk that come to the house that always seem to end up in the kitchen.

CHAIRMAN HODOM: Thank you very much. At the close of the previous hearing we requested that you provide us a copy of the deed, which you have. Is this a complete deed? There were no other attachments or addendums to it?

MRS. SANTORE: No.

CHAIRMAN HODOM: So as I read the deed as presented, there are no conditions or restrictions of record affecting the premises.

MRS. SANTORE: That's correct.

CHAIRMAN HODOM: Is that your understanding?

MRS. SANTORE: Yes.

CHAIRMAN HODOM: Counsel is going to recommend perhaps looking at one other location and it's not this Board's position to enforce any deed restrictions, I mean that's a civil action. If somebody has any concerns and you don't meet the restrictions if there are any, that's not handled by this Board but it was brought up and we thought we'd ask for the information and it doesn't appear to be anything showing in your deed.

ATTORNEY MOORE: Mr. and Mrs. Santore there's a reference you'll see I guess in one of the first paragraphs of the deed to a map of gra-bil estates that I think is probably the subdivision that was filed at the time this subdivision that you live in was created and was referred at the last meeting. I think I'll recommend to the Board and it'll be up to them if whether they want to do it that you check that map, which is on file in the county clerks office and there's a reference number there you'll see in the last line of that paragraph map 42, 30 drawer, 163?

MRS. SANTORE: I actually have pulled that map because I thought it was a survey and I brought it into Karen and wasn't a survey so that was submitted to the Town because I went to the Albany County clerks office and pulled it, but it was that tax map.

MRS. O'BRIEN: That's what it was referring...

MRS. SANTORE: That's what it referred to.

ATTORNEY MOORE: And do we have a copy somewhere?

MS. GUASTELLA: I gave a bunch of stuff back to you Kelly.

MRS. SANTORE: Yeah I know.

ATTORNEY MOORE: I was just thinking it was possible that there may be a notation on the subdivision map as to the deed restriction or the property restriction that Mr. Wiggand was referring to. What the Chairman has handed me is a portion of the map I referred to a few moments ago, which does contain the preparers general notes. Those general notes make no reference to any setback restrictions related to garages or driveways but I know that this is a portion of that map. Whether there's anything else on

the full map I couldn't say because we don't have it, but there's nothing on this map, this document that there's a portion of that map that would indicate if there's any restrictions on the garage of their driveway.

CHAIRMAN HODOM: Thank you.

MRS. SANTORE: That is the only thing that is on file in the county clerks office.

CHAIRMAN HODOM: Just these 2-sheets?

MRS. SANTORE: That's correct.

CHAIRMAN HODOM: We just make a suggestion that you do a thorough investigation because if we were to grant your Variance and there some deed restrictions you may still have a legal obligation to meet those deed restrictions if somebody should take a civil action against you.

MRS. SANTORE: We did have a title search done and we have copies of the complete title search at home. There is nothing referenced in there regarding any deed setbacks of any type – any deed restrictions, I'm sorry.

ATTORNEY MOORE: The title search may not and I'm not trying to belabor this, may not show that because the title search typically just looks for restrictions or impairments that literally affect the title or something like that. It wouldn't affect your title to the property, it would only affect if it exists, certain uses of the property. So it wouldn't necessarily appear on the title.

MRS. SANTORE: How else would I research if there is...

ATTORNEY MOORE: If it's not in the deed and it's not anywhere on that subdivision map that's alluded to here that we have a copy of then it's not enforceable. It's got to be in writing somewhere and on file in a public office like the county clerks office in order to be enforceable.

MRS. SANTORE: Okay so is it the Boards understanding that there is not a deed restriction in my deed for this?

ATTORNEY MOORE: Well there's nothing in your deed and there's nothing on that portion of the map that you've provided us, that's correct.

MRS. SANTORE: Okay.

CHAIRMAN HODOM: That we've determined anyway from the information that we have.

MRS. SANTORE: Great.

CHAIRMAN HODOM: But again we don't enforce deed restrictions. We deal strictly with the Town's zoning.

MRS. SANTORE: Okay.

CHAIRMAN HODOM: Any again I would make a suggestion that you perhaps consider using a shorter depth garage say 20-feet or 20 ½-feet, which would negate any requirement for a Variance, but again that's certainly up to you. I measured my Ford Explorer today and it's only 16-feet long and it's only 6-feet wide. I don't know what a Durango is or what your van is but it would certainly fit into a 20-foot deep garage. Any other questions from the Board.

MR. MICELLI: No I don't have any.

MR. WIGGAND: The only thing I was wondering is this garage that you want to put a garage in the front is what the whole thing is about here.

MRS. SANTORE: Yes.

MR. WIGGAND: You're not going to build any other garages or structures on the side then on Bryn Mawr Drive? There's not going to be another garage back there?

MRS. SANTORE: Well the reason why we're not building on Bryn Mawr is because we don't have enough room to put a garage on the Bryn Mawr side. We'd be asking for approximately 10-feet Variance to put a garage.

MR. WIGGAND: So it's your intent to put the garage on the front of your existing house?

MRS. SANTORE: Correct.

MR. WIGGAND: Right where it's shown on this diagram?

MRS. SANTORE: Yes.

MR. WIGGAND: I was concerned about that property on the back, right now there's a grass area between Bryn Mawr Drive and that area that appears to be some kind of parking area on your side property line.

MRS. SANTORE: A parking area?

MR. WIGGAND: Well not a parking area but a - - is some kind of area there that has no use to it?

MRS. SANTORE: On our property?

MR. WIGGAND: Yes.

MRS. SANTORE: No, grass and trees...

CHAIRMAN HODOM: I think that might be the next one Bob.

MR. WIGGAND: Oh, maybe I'm on another one. Oh that's yours, okay I'm sorry.

MRS. SANTORE: Someday we may want to put an addition on the Bryn Mawr side but most likely wouldn't be a garage.

MR. WIGGAND: I'm sorry I didn't mean to put something else into it.

MRS. SANTORE: It's okay.

CHAIRMAN HODOM: Marge or Gil, anything?

MR. BROOKINS: No.

CHAIRMAN HODOM: Counsel?

ATTORNEY MOORE: No.

CHAIRMAN HODOM: Are there any questions or comments from the audience? Yes ma'am, just come up here if you would and introduce yourself and your address.

MRS. FRATTURE: I'm Joan Fratture and I live next-door and wife of Fred and ever since I found out that, you know what was going to be taking place I've gone to my picture window, you know everyday and my front door looking out and saying am I going to be happy looking at her garage and no I'm not. It's taking away some comfort level, we're not even going to be able to see across the street as I drive down Beacon Road to take a left on the property - - you're not even going to be able to see our house. It's just taking some safety level away and I just feel that I'm going to be living in somebody's back yard.

CHAIRMAN HODOM: Mrs. Fratture you do understand that if the garage was built 20-feet there would be no Variance required and they could go ahead and build that garage within the Town Code as it currently exists.

MRS. FRATTURE: (nods in agreement) I won't be happy about it.

CHAIRMAN HODOM: Okay. Just so that you're aware of it.

MR. FRATTURE: And also...

CHAIRMAN HODOM: Just introduce yourself again Mr. Fratture.

MR. FRATTURE: Fred Fratture, 169 Wemple Road. It was stated in the last meeting – I didn't write it down, but I listened and it was stated that Mrs. Santore does all her work at home. I believe it would be in the minutes and everything. Now tonight she doesn't do anything at home, but we're going to - - where we are on Wemple Road it going to be next door to a 1-family house with business's offices and a garage for storage for property management in Albany and I just don't think it's the right place for it. And like I said I don't want to look out my house at a garage.

CHAIRMAN HODOM: Thank you very much. Anyone else, any comment's?

MR. SANTORE: I can make reference to that. I work for a commercial property management company. I do not work for a company that - - I do not do my property management stuff from my home. It's a separate company whose headquarters is at 100 State and in Rotterdam.

CHAIRMAN HODOM: I think the question at the last hearing was raised by myself and the main concern that this Board has is that if there is a business being operated out of a residential property that employs additional employees, has delivery trucks coming in every day - that's our concern. If a home has a home office and just the residents of that home work in that office in our mind that that's acceptable.

MRS. SANTORE: Thank you because that is exactly what it is. We own our own business's but they're not business's that we are going to have customers. We're not selling anything from our home. I have papers and papers that I bring home; we both work outside of the home. We also happen to own businesses, but we don't own businesses where we meet with anyone in our home. It's never used for that; it's used as a storage place for my papers – for my paperwork. I want to be able to sit at my desk and read the newspaper without listening to the kids screaming. I want to review homework; it's a home office. We're not trying to do business out of our house. I thought I made that clear, but I'll state it again. We are not running businesses out of our home.

CHAIRMAN HODOM: And I'll carry it a step further, again it's not the obligation of this Board to monitor home businesses. The monitoring of those kind of activities is done through the Building Department through their daily activities. And if in fact someone and is specifically saying that you're operating a business with employees with daily deliveries and so forth they will determine that issue the necessary citations if they're required to do so. Are there anyone else wishing to speak in opposition? Is there anyone wishing to speak in favor of 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. 7:50 p.m.

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The next order of business this evening is a public hearing for Variance under Article XVI, Front Yards, Section 126-66, Required Depths & Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths, and I'll just mention at this point the advertisement in the Spotlight only lists one of the Variance requirements and we are clarifying that this evening. There are 2-Variance requirements. Requested by Eric & Jessica Farbent for property at 48 Douglas Road, Delmar, New York. The Applicant wishes to construct an addition, which will encroach into the Front Yard setback requirement at premises 48 Douglas Road, 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 2-story addition to the existing structure that will create a front yard set back of 33.55-feet and front/side yard setback of 17.83-feet. This will be an encroachment of 1.45-feet into the 35-foot front yard setback and 2.17-feet into the 20-foot front/side yard setback requirement.

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, Albany county, Town of Bethlehem will hold a public hearing on Wednesday May 18, 2005 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Eric & Jessica Farbent for Variance under Article XVI, Front Yards, Section 128-66, Required Depths & Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem. The Applicant wishes to construct an addition, which will encroach into the front yard setback requirement at premises 48 Douglas Road, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 11, 2005 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. We'll hear the Applicants presentation and entertain any questions or comments from the audience, hear anyone who wishes to speak in favor or in opposition to the Applicant. Mr. Farbent or Mrs. Farbent if you would just introduce yourself to us and tell us what you want to do and why you want to do it and how you want to do it.

MR. FARBENT: My name is Eric Farbent; this is my wife Jessica Farbent. We've done many property improvements to our house over the last 3-years that we've owned it and one of the things when we moved in was that we – that we had in mind was to add a garage to the house whereas the garage didn't exist. It was previously converted into a mudroom entrance/laundry room type area with a small shed in the rear. After living in the house for a couple of years there was a few problems that we wanted to solve so we came up with this addition.

The first problem was not having a garage at all. Our driveway was relatively small in front of the house. I've got a work truck that I'm currently parking on the grass in order for us to maneuver our cars around. There's a wooden ramp on the side of the house that was utilized by the previous owner I believe who was in a wheelchair and it's extremely steep and I'm not sure - - I'm very sure it's not up to code. It's extremely steep; we slip on it every time we walk – every time it's snowing or raining. Our children have a hard time getting their bikes up and down it. It's very unsafe so we wanted to try to fix that problem.

As far as the master bedroom above the garage we felt that our bedroom and the main cape house was relatively small and it only has one very small closet and we wanted to be on the same living level – living space as our children who are upstairs in our dormered portion of the house. Overall the exterior of our house at the side portion on Palmer Road, the previous owner when they did that garage conversion did not vinyl side that portion of the house with the plans of them putting on some type of an addition. I think she wanted a living room and a dining room so we have the problem of a portion of our house not containing the similar vinyl siding as the front of the house and then the remainder of it.

Another problem that we had with our house is our entrance that we use off the street – off of our driveway the set of stairs that they placed in front of the door are very awkward to maneuver through into the house and there's no rain protection. There's no overhanging roof, you're basically out in the elements if you're standing on our front staircase. And one thing that I was just reminded of tonight was our beautiful 20-year old basketball court that's on the side of the house – I had no idea – it's so deteriorated that I call it the helicopter pad. It's essentially there and I'm not sure why but essentially in order to fix all these problems we kind of wanted to tie it all in to one project and that's how we came up with our 2-car garage, with a master bedroom suite above and a wrap around porch that the architect suggested and a study area that we might use as a dining room. That was as a result of if we're going to build up we would have had that area as a dead space so it was kind of like you might call a bonus room. It's noted as a study on the plans. It wasn't part of our intention but it's kind of a bonus room.

CHAIRMAN HODOM: A home office type of room?

MRS. FARBENT: No, we have an eat-in kitchen – no home office. We don't want to work at home. We have an eat-in kitchen and we have some children so we want to make that a dining room. The architect's computer it popped it out as a study, but that would be

a dining room.

CHAIRMAN HODOM: Okay.

MRS. FARBENT: No home office again for the record.

CHAIRMAN HODOM: Have you had an opportunity to discuss this plan with your neighbors?

MR. FARBENT: Yes I went around campaigning and just speaking to everybody so I would be able to answer that question, yes we spoke to the neighbors and they were supportive and they all understood we have no garage. It's kind of a – I believe I'm the only house on the street without a garage at this point so it would be hard for someone to take issue with that.

CHAIRMAN HODOM: And the size of your current family?

MRS. FARBENT: Four.

CHAIRMAN HODOM: Other than – 2-children?

MRS. FARBENT: 2-children, yes.

MR. FARBENT: They're 3-years old and 8-years old.

CHAIRMAN HODOM: Had you considered perhaps rather than having a – and what I'm trying to get at here is perhaps eliminating one of the setbacks, which would be off the Douglas Road face. Perhaps and I believe it's the northwesterly corner of that porch...

MR. FARBENT: That must be – I must have encroached because the corner lot is circular, it's rounded like a radius. The corner of my porch must have encroached. I wasn't aware of that until this evening but I think it would be an important part of our plan would be to keep that in. I don't know how I would – I would have to pull that back and then I wouldn't be enclosing my front entrance there.

CHAIRMAN HODOM: Well I'm just wondering if you might consider making a portion of that on a diagonal, like a 45-degree rather than a right angle there. And I think in doing that that would eliminate and Mark would have to check that out, eliminate that setback deficiency off of Douglas Road. I mean the plan itself if you look at your plan prepared by your architect on the far left you have 36.03-feet from the face of the existing residence to the property line and then you come down roughly 40-feet and you have 35.07-feet, which is almost a foot less. And then at the corner of your new porch your back up to 35-feet, 6-inches. Something there is not conducive to the dimensions anyway because now you gain depth and you should be less in depth there. I don't know how he arrived at his calculations he does say that he got the information from the latest survey,

but it doesn't appear to be correct. In Marks calculations I think you came up with what? 33.55?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Okay, which is 1.5-feet roughly shy of the 35-foot required?

MR. PLATEL: Yes.

CHAIRMAN HODOM: So all I'm suggesting is perhaps making that corner a diagonal to pick of the 1.5-feet or 1.45-feet to eliminate the one Variance.

MR. FARBENT: To stay out of the front yard?

CHAIRMAN HODOM: To stay out of – off of Douglas Road.

MR. FARBENT: Okay.

MRS. O'BRIEN: I mean that seems like for that small portion where it curves around on the corner there a, you know a significant difference. Do you know what the actual setback to the house is currently, not the proposed but the actual?

MS. GUASTELLA: We gave you the original survey tonight Marge.

MRS. O'BRIEN: This?

MS. GUASTELLA: No.

CHAIRMAN HODOM: It's very difficult to read.

MR. PLATEL: The original that I got was – well more legible I think than the copies that I made.

MR. FARBENT: Did you want to see the original for now?

MR. PLATEL: Yeah.

CHAIRMAN HODOM: Any lighter?

MR. PLATEL: It's difficult.

CHAIRMAN HODOM: But do you see what I'm saying there Mark is the 35-foot 6 doesn't make any sense.

MRS. O'BRIEN: It doesn't, no, but the amount that it would be short here doesn't appear to be the 1 ½-foot that we're saying it is if the existing house is.

CHAIRMAN HODOM: Well by my calculations if everything was in a straight line it would be about a ½-foot short if that property line continued straight across, but it doesn't it's on a radius so you're losing additional dimension because of the radius and I think Mark – I don't know if he had the Engineering Department work it out or did it by interpolation. I don't think the 1.5-feet is too far off the mark because of the radius. I'm only making a suggestion about that diagonal.

MR. FARBENT: I'm not to familiar with the construction as far as building something in that shape. You'd be - - essentially we're talking about like making a diagonal across this front porch?

CHAIRMAN HODOM: Right, to gain that 1.5-feet.

MR. FARBENT: It seems like that could work.

CHAIRMAN HODOM: Would that be something you would consider doing to eliminate one of the Variance's?

MR. FARBENT: I believe so; I mean does it jeopardize our project?

CHAIRMAN HODOM: Construction wise I don't see any problem with it but it's...

ATTORNEY MOORE: You can talk to your builder and let the Board know.

MR. FARBENT: Sure.

MR. BROOKINS: You'd have to do something with that roof.

MR. FARBENT: Right.

MR. BROOKINS: Probably hip it or something.

MR. FARBENT: Yeah, that's what I'm thinking.

MR. WIGGAND: I don't think that would be a problem. I'm just thinking on how it's going to look more than anything with a hip on the roof there.

MR. FARBENT: I think it's going to change because I think it's a low-sloped roof so maybe it's not such an issue.

CHAIRMAN HODOM: It is lower than the main house. It's almost like a shed roof.

MR. FARBENT: My gut reaction is that it seems like it's – it might make that – it might not be something I would want to do. It seems like it would be awkward to try to block off an angle of this and try to make it hexagon or something like that. It does seem like

that might be awkward as far as construction.

CHAIRMAN HODOM: Okay, let's continue on.

MR. FARBENT: Yeah, I'd rather not give up the shape of the porch unless it's going to jeopardize the receipt of the – I'm not sure how that would affect this proceeding. If that would be cause for rejection I wouldn't want to jeopardize that but I'd like to stick with it if I could.

CHAIRMAN HODOM: Okay. How long have you lived in the home?

MR. FARBENT: It was 4-years this April.

MRS. FARBENT: Just about 4-years.

CHAIRMAN HODOM: And perhaps you can describe some of the architectural features of the siding, roofing; windows. Do you plan on matching the existing home siding wise and...

MR. FARBENT: Yes. We re-roofed the house last year so we would be matching the shingle onto the section. The house was vinyl sided sometime either in the late 80's or 90's by the previous owner and we would match the siding and windows we would do – at some point we're going to be upgrading the windows on the entire house and we'll be putting just normal standard type windows into the house. We want to make it look as attractive and fit in to the neighborhood as possible.

CHAIRMAN HODOM: What is your proposed construction plans if the Board approved the application as to start of construction and completion of construction?

MR. FARBENT: Our plan in the best case scenario we wanted to start as soon as possible probably in June or July if possible and hopefully it will be done by Christmas, hopefully start and finish it this year.

CHAIRMAN HODOM: Do you think you would be able to have the roofing done by then?

MR. FARBENT: I'll try to find some qualified partners.

CHAIRMAN HODOM: Any other questions from the Board?

MR. MICELLI: I'd like to ask you a question Eric, we were at the home today and should this be granted what is your proposal with the existing driveway in front of the house now? Will that be turned over to?

MR. FARBENT: I was planning on removing that also.

MR. MICELLI: Okay.

MR. FARBENT: Removing the front driveway and creating a walk-around type of pathway.

MR. MICELLI: Like pavers or something?

MRS. FARBENT: Yes.

MR. MICELLI: Okay.

MR. FARBENT: I basically re-did sod and grass in the front yard and the back yard and my final part would be the side yard; get rid of the driveway as it exists. Get the new driveway off of Palmer and get rid of that basketball court.

MR. MICELLI: Okay, thank you.

MR. BROOKINS: I'm glad you solved the mystery of what that was.

MRS. FARBENT: We've been trying to for a couple of years now.

MR. FARBENT: The ironic part was we got to speak to the previous owner and he says his sons really didn't enjoy basketball.

CHAIRMAN HODOM: Mark let me ask you a question about that previous suggestion. If the corner was made on a diagonal and the roof came out like it's shown on the plan, a total shed roof, are we just looking at the footprint of the porch? I know it would add some square footage to...

MR. PLATEL: In looking at the whole because it's a covered porch so on a covered porch what I'm going to do is take it where the foundation is.

CHAIRMAN HODOM: Right.

MR. PLATEL: Okay sometimes when we deal with just overhangs over houses, existing houses, if it's 3-feet you would count 1 1/2-feet of it, but on a porch like this I'm going to right to the foundation.

CHAIRMAN HODOM: Okay.

MR. FARBENT: Which I think in this case we were planning on using piers for that front porch area if that were setback at all we might gain some space.

MR. PLATEL: Is the decking right underneath it also, deck, piers?

MR. FARBENT: Yes.

MR. PLATEL: Because when I looked at it earlier...

MR. FARBENT: Yeah we weren't planning on pouring a foundation at that location.

MR. PLATEL: See but it shows a foundation.

CHAIRMAN HODOM: It looks like it shows a foundation under the porch on the right side elevation.

MR. FARBENT: Okay.

CHAIRMAN HODOM: That is what it looks like.

MR. FARBENT: But looking at the A-3, I believe he's just setting piers somehow at the corner.

MR. PLATEL: Okay but the deck will be right – but I would also go right to the deck so you're going to have the piers on the outside and you'll have the deck so I'm going to go right to that point. It's mostly for overhangs and stairs and things like that.

MRS. O'BRIEN: You are showing a 24-foot deep garage, is there a reason why you need a garage – I mean it certainly shows space around the cars.

MR. FARBENT: Yeah, the issue would have been with the bedroom above it that would have made this study kind of a useless space. It would have been – right now it's a 9-foot 10-inch room as shown on A-3. It basically would have shrunk that down to just over 7-foot wide and you know I have a pick up truck with a ladder rack on it. It's a pretty sizable work truck that I wanted to get off the street so I just wanted as much room in the garage as I could and I think the 24-foot is somewhat standard type garage just to have space to get around in it with the 2-vehicles. We did propose trying to shrink it and I couldn't move it back into the – I couldn't move it further away from Palmer because I have a kitchen window from the back. We did look at other possibilities.

CHAIRMAN HODOM: Any other questions? Any other questions or comments from the audience? Anyone desiring to speak in favor of the Applicant? Anyone desiring to speak in opposition? Hearing no further questions or comments – go ahead Mark.

MR. PLATEL: I made an error on the side yard there. I had it at 17.83, it's actually 17. So it's 17.83 at the front corner but when you follow it down the side yard that corner actually goes back to 17-feet in the back. I was so fixed on the front corner I forgot to look at the back. So it's actually going to be 17-feet instead of 17.83-feet.

CHAIRMAN HODOM: I had that circled to; I wonder why I didn't raise it. So it's 10 more inches.

MR. PLATEL: Yeah I was fixed on that front corner when we got into that so it's – yes it's 10-more inches.

CHAIRMAN HODOM: Okay. 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.

MR. FARBENT: Thank you very much.

Hearing closed 8:15 p.m.

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The next order of business this evening is a public hearing for Variance under Article XVI, Front yards, Section 128-68, Corner Lot Required Depths requested by Colleen & John Barbuto for property at 22 Haddington Lane, Delmar, New York. The Applicant wishes to place a storage shed, which will encroach into the Front Yard setback requirement at premises 22 Haddington Lane, 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 install a 96-square foot accessory building that will create a front/side yard setback of 5-feet. This will encroach into the required 20-foot setback by 15-feet.

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, Albany county, Town of Bethlehem will hold a public hearing on Wednesday May 18, 2005 at 8:00 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Colleen and John Barbuto for Variance under article XVI, Front yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem for the placement of a storage shed, which will encroach into the Front Yard Setback requirement at premises 22 Haddington Lane, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 11, 2005 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 entertain any comments from the audience. If you would just introduce yourself to us, tell us what you want to do and why

you want to do it and how you want to do it.

MRS. BARBUTO: Okay. I'm Colleen and we actually are asking for something different from what we originally requested and for those of you who went to our house yesterday or today you probably would have been a little bit confused by where we set up the blocks for the proposed shed. We had originally requested a Variance because we wanted to put the shed on the side of the crossway, which would be not within the code for feet back and so we requested that and I'm not sure how we weren't considering the easement on that side but then when – I think I had spoken to you Mark and then went out and looked at it.

My husband came home from work and we realized that with the easement consideration that that would be an additional Variance and that we would want to go back into that easement. And if we didn't go back into that easement that we would need to push the shed further into the yard because there's a tall very attractive blue spruce pine tree that would have - - we be sort of hitting into the roots if we stayed within the easement requirements. And in addition to that we also – we did speak to the neighbors, the neighbor that's directly across from where that would be positioned. They weren't opposing it but they said that it would affect their view and that they would like us to put up tall bushes behind it so considering that and the fact that it was going to be further in the yard than we wanted we're looking at putting it on the other side which originally we weren't going to do because of the easement in the back, but on the inside which borders our neighbors to the left. It would only be 1-Variance to go back into the easement there so we wouldn't be going out into the road and back, which is what we would actually need on the road side if that makes sense.

CHAIRMAN HODOM: On The Crossway or on the Haddington Lane?

MR. BARBUTO: On The Crossway we'd need 2-Variance's basically, the easement at the back portion of the property and then Variance into the 45-foot setback to the center of the road, so we'd need to move 15-feet into The Crossway and 10-feet back into the easement at least.

MR. PLATEL: The easement itself – you can't get a Variance for the easement. If you want to put anything into an easement you actually have to get permission from the Town Board.

CHAIRMAN HODOM: Town Board.

MR. PLATEL: The Town Board, okay that's totally different. You don't Variance's for the easements.

ATTORNEY MOORE: What kind of easement is it?

MR. PLATEL: Just a drainage easement I believe.

MRS. BARBUTO: I think on our tax bill or whatever there is a shed on it because they had a shed I guess a couple of years ago on that property that I don't know if it was approved or whatever but a tree fell on it so they removed it, but it was actually back in the corner where we're now asking to put it. So were they not allowed to do that?

MR. PLATEL: It had probably got put up without it, illegal possibly.

MR. BARBUTO: We have a neighbor as well who has got a shed pushed all the way to the back of his yard, which again would put it...

MRS. BARBUTO: Well that's probably been there for...

CHAIRMAN HODOM: But being the honest people that you are you're coming in front of this Board.

MR. BARBUTO: Right, and now we're finding out that we can't – this is not the venue for the easement. Okay now that we moved to the other side of the yard what we're asking for is to move 10-feet at least into that easement of the back portion of the property.

MRS. BARBUTO: And it's a 20-foot easement, which is like totally, you know if it was 20-feet in it would be like in the middle of our yard, which is not very big and we have 2-kids and we're putting up a swing set.

MR. WIGGAND: Well who owns that property?

CHAIRMAN HODOM: The Town I would imagine.

MR. PLATEL: No you own the property, but the Town has the easement, okay and stipulated in your deed and all these things will tell you that there is an easement there that you're not allowed to place things on or leave things on. It is your property to own and use but structures are not allowed in easements. It will be written right in the subdivision regulations.

MRS. BARBUTO: There's no flexibility on that?

MR. PLATEL: You can write a letter; you can - - I can send it to the Engineering Department and they would send their recommendations to the Town Board, whether they would accept something being there or not. Then the Town Board would have to look at it and vote on it.

MR. BARBUTO: This is not the Town Board?

MR. PLATEL: No this is the Zoning Board of Appeals.

CHAIRMAN HODOM: No, we're just one step above the Town Board, but that would

be the procedure to follow if in fact you wanted to encroach into the easement. Mark is correct is that we can't give you a Variance for a Town easement.

MR. PLATEL: Unless it doesn't meet the 2-foot side and rear yard requirements.

CHAIRMAN HODOM: Right.

MR. BARBUTO: Okay so there's side – so between the homes we have to have 2-feet?

CHAIRMAN HODOM: Yes.

MR. BARBUTO: Okay.

MR. PLATEL: Can I see exactly where you want to put it? I don't have a survey in front of me.

CHAIRMAN HODOM: But that was my first question was that you have it laid out in patio block where you want to locate the shed?

MRS. BARBUTO: That's right.

CHAIRMAN HODOM: Okay, you don't want it up by The Crossway?

MR. BARBUTO: No we changed - - we looked at how many restrictions there were on The Crossway so we decided let's just not, you know after we applied we met with and spoke with a few people and realized this is just going to be unacceptable to get in.

MR. MICELLI: So that's out where the blocks were today.

MR. BARBUTO: Yeah.

MR. MICELLI: And the people with the patio furniture right behind you, were those the people who wanted you to put up like say arborvitaes or something like that?

MRS. MARBUTO: Yeah, they said that they weren't unnecessarily opposed to it but they'd like to see some nice bushes behind it.

MR. BARBUTO: If it was on The Crossway.

MR. WIGGAND: So where you had it marked on your property there that's where you're going to put the shed.

MR. BARBUTO: That's where we decided to put it, yeah.

MR. WIGGAND: And this is the shed that you're selecting?

MR. BARBUTO: The 8 by 12, yes.

MRS. BARBUTO: The cottage.

MR. WIGGAND: And is that going to have a - - supported by the ground or...

MR. BARBUTO: We're going to pour 4-inches.

MR. WIGGAND: Okay.

CHAIRMAN HODOM: Is that area where you have the shed located by the block now, that's in the 20-foot easement area?

MR. BARBUTO: It's 10-foot/10-feet into the rear easement.

CHAIRMAN HODOM: Okay.

MRS. BARBUTO: As we understand it from - - the property line we believe is the fence and actually someone from the Town came over because I was kind of confused about that. I can't remember his name, she might remember it right.

CHAIRMAN HODOM: Karen?

MRS. BARBUTO: Do you remember the man that you sent me to speak with I think down stairs in Building when I came and was kind of confused about my property lines and the easement and you had suggested that I go down and speak with somebody in the building.

MS. GUASTELLA: The assessor's office?

MRS. BARBUTO: It was in the assessor's office, right. So he did come over and he wasn't sure either but it looked like that would be...

MR. BARBUTO: And I guess our question is the 20-foot easement, is it 10-feet into the people behind us and us or is it 20-feet on both sides of that line?

MR. PLATEL: You have actually 20 on yours.

MR. BARBUTO: 20-feet from that fence in the backyard?

MR. PLATEL: The fence might not even be on the easement. It depends if they had it surveyed and put it on the property.

MR. BARBUTO: Right, okay.

MR. PLATEL: So you can't always go by fences.

MRS. BARBUTO: There's a telephone pole so I didn't know if it was because the telephone pole....

MR. BARBUTO: Yeah we thought that was the reason for the easement.

MR. PLATEL: The telephone pole might be in the middle right on the property line. It also could be part of it but 20-foot easement – normally your electrical easements would only be 10-feet.

CHAIRMAN HODOM: Where you located the swing set and the slide is that also in the 20-foot easement area?

MR. BARBUTO: Yes, but that's not a permanent – I'm not going to keep that.

CHAIRMAN HODOM: No, no but I was trying to correlate where you had those because I was going to suggest moving the shed to the inside of those...

MR. BARBUTO: Right.

CHAIRMAN HODOM: Behind the deck and then it wouldn't have been a problem, but if that's in the easement area...

MR. BARBUTO: Yeah, we had looked at that spot to and it all encroaches in that section and otherwise we're stuck with a shed dead center in our yard. The yard is very small.

MR. MICELLI: Is that where your sitting area was right behind there probably, right?

MR. BARBUTO: Yeah, it would just eliminate the yard.

MR. MICELLI: Kind of where the swing set is basically right now.

CHAIRMAN HODOM: What do you have under your deck? Don't you have a raised deck there?

MR. BARBUTO: Yeah, but it's only about 5-feet tall...

CHAIRMAN HODOM: Off the grade is it?

MR. BARBUTO: Yeah, so it's just a - - we have a lot and just the lawn equipment and those types of things that our garage is full of.

MR. MICELLI: Everything that underneath the deck now would go in the shed obviously.

MR. BARBUTO: Right.

MRS. BARBUTO: And then some.

MR. BARBUTO: And everthing that's in the garage.

CHAIRMAN HODOM: I would then recommend if in fact you want to locate it in the easement area that you...

MR. BARBUTO: Okay.

CHAIRMAN HODOM: Write a letter to the Town – work it out with Mark or Karen. Perhaps they should withdraw their application at this time until you have an answer from the Town and then proceed from there.

MR. BARBUTO: Okay do we have to come back here once we deal with them, because we don't have to appeal at that point.

CHAIRMAN HODOM: Depending upon where you want to locate it within that easement if they grant you that as long as it's within the required setbacks...

MR. BARBUTO: Right.

CHAIRMAN HODOM: By the Code then you would not have to come back.

MR. BARBUTO: Okay.

CHAIRMAN HODOM: Would you agree with that?

ATTORNEY MOORE: Yes.

CHAIRMAN HODOM: Okay. They're fairly pretty quick probably 2 or 3-years.

MR. PLATEL: From the back corner it has the easement so when you made it into the fence that would be 65-feet. The fence would be the property line basically right of the back corner of your foundation. So you might want to check and measure that to see maybe that that fence might even be, you know 5-feet on to theirs.

MR. BARBUTO: Oh on to theirs, okay.

MR. PLATEL: So when you measure the 20-feet off of that or it might be the other way to.

MRS. BARBUTO: So is it from here to the easement?

MR. BARBUTO: From the corner of our house.

CHAIRMAN HODOM: Mr. or Mrs. Barbuto would you like to withdraw the application this evening?

MR. BARBUTO: Yeah we'll withdraw.

CHAIRMAN HODOM: Okay.

MRS. BARBUTO: Do we get our 50-dollars back.

MS. GUASTELLA: Yes you do.

CHAIRMAN HODOM: Okay we'll consider it withdrawn. Thank you very much and good luck.

MR. BARBUTO: Thanks.

Hearing withdrawn 8:30 p.m.

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The next order of business was to consider the application of Joseph Rappazo. 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 Joseph Rappazzo for Variance under Article X, Highway frontage & Access, Section 128-39, Residential Lot to abut Accepted Highway or Street for a 1-lot subdivision of a parcel, which will not meet the 28-foot road frontage access required for an existing residence at premises 126 Smultz Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held June 1, 2005 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 the application of Ayoub & Sheryl Dounane. 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 Ayoub & Sheryl Dounane, it is hereby ordered that a public hearing on this matter be held for Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths for the construction of a front porch addition, which will encroach into the front yard setback requirement at premise 1 Evelyn Drive, it is hereby ordered that a public hearing on this matter be held June 1, 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.

Mr. Brookins 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 Norman & Mary Cohen. The following points were brought up by the Board members: The proposed addition will be able to accommodate the applicants health issues. There is an existing side yard encroachment with the dwelling making it non-conforming. The proposed addition will not affect the characteristics of the neighborhood. No one spoke in opposition for the requested Variance. 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 1, 2005.

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The next order of business was a discussion of the previous public hearing held in the matter of Timothy Beebe & David Marshall. The following points were brought up by the Board members: The Applicant's proposed addition will be placed on the property with the least amount of impact on the surrounding neighbors. There were several letters written on the Applicants behalf stating that they had no objection to the project. The proposed garage will not affect the essential quality of the neighborhood. On a motion made by Mr. Wiggand, 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 June 1, 2005

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The next order of business was a discussion of the previous public hearing held in the matter of Kelly Santore, 165 Wemple Road, Glenmont, New York. The following points were brought up by the Board members against the proposal: The proposed addition will be placed in front of the existing garage, 22-feet closer to Wemple Road. Site line may be impaired by drivers coming off of Bryn Mawr Drive. There were neighbors who had concerns about project and voiced their opposition. The following points were brought up by the Board members in favor of the proposal: The Applicants originally wanted to construct the proposed garage on the Bryn Mawr Drive, however the variance they would have asked for would have been between 8 and 10-feet. The applicants moved the proposed garage addition to the front of the house to create less of a Variance, approximately 1 ½-feet. On a motion made by Mrs. O'Brien, seconded by Mr. Micelli, to deny the Variance by a vote 3 to 2, the Board directed Attorney Moore to prepare a proposed resolution denying the Variance, for presentation at the next Board meeting on June 1, 2005.

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The next order of business was a discussion of the previous public hearing held in the matter of Eric & Jessica Farbent, 48 Douglas Road, Delmar, New York. The following points were brought up by the Board members: Currently the Applicants do not have a garage. The Proposed addition would create more living space. The existing house is modest and the addition would be favorable for the Applicants. On a motion made by Mr. 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 1, 2005.

The next order of business was to consider the proposed resolution of The Nathaniel Adams Blanchard American Legion Post.

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, (“the Board”) New York for a modification to a previously granted Special Exception under Article VI, Permitted Uses, Section 128-12B(2), Residence “A” District, requested by Nathaniel Adams Blanchard American Legion Post (“Applicant”) for property at 16 West Poplar Drive, Delmar, 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 April 20, 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 makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to construct a 768-square foot (24-feet by 32-feet) garage at the rear of the property. The American Legion Post is operating under a Special Exception and this proposal requires a modification to the existing Special Exception. The Boy Scouts of America, Troop 58, which is sponsored by the Post, will be using the proposed garage for storage. The property is located in an "A" Residence District and is operated as a private club.

Applicant's property has been the subject of three prior Resolutions of the Board:

- by Resolution dated May 17, 1968, Applicant was granted a Special Exception to expand the size of its private club facilities;
- by Resolution dated July 10, 1969, the 1968 Resolution was modified; and
- by Resolution dated June 6, 2001, Applicant was granted a Use Variance to allow the Elsmere Fire District to construct a temporary storage facility for fire equipment on the property, to be converted to a pavilion for the Applicant's use upon termination of the Fire District's use.

Applicant is the sponsor of Boy Scout Troop 58, and has been for over 60 years. The Troop proposes to construct a garage on the property for storage of the Troop's camping equipment. The garage will be used for storage only. The Troop presently has no convenient place to store this equipment.

The Applicant has given the Troop permission to construct and use the garage structure on its property. Applicant will be the owner of the garage.

The garage will be constructed by volunteer labor, with donated equipment and materials.

The proposed garage would be closer to the Troop's meeting place at the Elsmere Elementary School.

Any electrical service to the garage would be for purposes of lighting only.

No fuels or flammable liquids would be stored inside the building. Propane tanks used for camping fuel would be stored in a locked cabinet on the outside of the garage.

A limited number of trees on the property would be removed to construct the garage. The garage would still be screened from nearby residences by remaining trees.

A representative of the Applicant testified that legal and insurance issues between the Applicant and the Troop related to construction and use of the garage have been resolved.

There will be no signage on the outside of the garage.

The Troop has contacted neighboring property owners about the project. No one appeared at the public hearing in opposition to the project, and no written statements opposing the project were received by the Board. The Elsmere Fire District provided a written statement in support of the project.

The Albany County Planning Board deferred to local consideration on the project.

CONCLUSIONS OF LAW

The Applicant requires the requested modification of the Special Exceptions previously granted by the Board in order to allow construction of the garage on its property.

Pursuant to Title 6, N.Y.R.R.R. § 617.5(c)(7), the Applicant's project is a "Type II" action under the State Environmental Quality Review Act.

The garage is of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts.

The location and size of the garage, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout and its relation to streets giving access to it are such that traffic to and from the use and the assembly of persons in

connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

The location and height of the garage, and the nature and extent of landscaping on the property are such that the garage will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

The public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured.

The application for a modification to the Special Exception is granted, subject to the following conditions:

1. The Board makes and continues the same Findings of Fact and Conclusions of Law as found in its prior Resolutions of May 17, 1968, July 10, 1969 and June 6, 2001, and further adopts and incorporates the entire transcript and testimony from the prior proceedings related to the property, as a complete part of the record of these proceedings.
2. In the construction and operation of the garage, the Applicant and the Troop shall strictly comply with all provisions of § 128-24 of the Town Zoning Law, entitled "Performance standards applicable to special exceptions."
3. Construction and operation of the garage shall be in strict conformance with the plans, maps, testimony and other evidence presented at the public hearing.
4. Construction of the garage shall be completed within two (2) years of the date of this Resolution.

May 18, 2005

Michael C. Hodom
Chairman
Board of Appeals

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Mr. Wiggand 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	None	None	None
Robert J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on May 19, 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 May 4, 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: 9:20 p.m.

Respectfully submitted,

Secretary