

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
May 19, 2004**

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:        Robert Wiggand  
                  Marjory O'Brien  
                  Gilbert Brookins  
                  Leonard Micelli

                  Michael Moore                    Attorney to the Board

                  Mark Platel                        Building Inspector

ABSENT:        Michael Hodom

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

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This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a public hearing for a Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District requested by David Chainyk for property at 19 Elm Place, Albany, New York. The Applicant wishes to construct a 2-family dwelling, which is not a permitted use in an "A" residential district.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 2-family dwelling in a Residence "A" District. In a residence "A" District a duplex or 2-family residence is not listed as a permitted use or as a permitted use after site plan approval or as a Special Exception. The lot that the proposed duplex is to be constructed upon is at this time a vacant parcel of land.

ACTING CHAIRMAN WIGGAND: Thank you, Mark. Ms. Guastella, would you please read the official call of the meeting?

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town on Bethlehem, Albany County, New York will hold a public hearing on, Wednesday May 19, 2004 at 7:30 p.m., at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of David Chainyk for a Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District of the Code of the Town of Bethlehem to construct a 2-family dwelling, which is not a permitted use in an "A" Residence Zone at the premises of 19 Elm Place, Albany, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 5, 2004 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.

ACTING CHAIRMAN WIGGAND: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition of the Applicant. All question or comments will be directed to the Board. 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. Please introduce yourself.

MR. CHAINYK: Yes, my name is David Chainyk. I'm here to get Elm Place lot number 19 so I can build a 2-family on it. Reason being, I've been trying to sell it as a 1-family and I haven't had much action on it because nobody wants to live in – there's 5-duplex's there now. Three I own and two Mr. Catalfamo owns. So Mr. Catalfamo would like to build the same thing he built across the street on lot number 19, which would make - - and 3 and 3, 3 are mine and 3 are his, so that's my problem.

ACTING CHAIRMAN WIGGAND: I visited the site myself today and is this the vacant lot at the end of street?

MR. CHAINYK: It's a dead end road.

ACTING CHAIRMAN WIGGAND: There's a dead end road and it's close to the wooded area.

MR. CHAINYK: Right, next to the brick house – the brick duplexes.

ACTING CHAIRMAN WIGGAND: So you understand why you're here and what the purpose of the hearing is. This type of construction on that street quite a while back was changed to an "A" zone. Am I saying this right Mark?

MR. PLATEL: What they did was in 1984 they took duplexes out of Residence "A" Districts.

ACTING CHAIRMAN WIGGAND: Out of that residence "A" district?

MR. PLATEL: Correct.

ACTING CHAIRMAN WIGGAND: So that's why you're here. Now was it your father for many years that built those places.

MR. CHAINYK: Yeah, him and myself.

ACTING CHAIRMAN WIGGAND: Is that right?

MR. CHAINYK: Yeah we - - 40-years we were building.

ACTING CHAIRMAN WIGGAND: There's quite a few of them there. How many do you have there?

MR. CHAINYK: Well I have three there now but, you know in the Town of North Bethlehem. We also have some in Guilderland to. We built a lot of brick houses there.

ACTING CHAIRMAN WIGGAND: So you want to build a – this is the last one you want to build, do you own that land beyond that...

MR. CHAINYK: No.

ACTING CHAIRMAN WIGGAND: Those woods?

MR. CHAINYK: Mosell owns that, right.

ACTING CHAIRMAN WIGGAND: So it's just this one piece of property on...

MR. CHAINYK: Correct. There was 6-lots approved there and at the time that one wasn't approved because we had – that was back with septic system was in. We didn't have sewer – town sewer back in 76'. So the first one - - that was a septic system in there. So - - Board of health approval and all that and it didn't have the square footage to put a septic system in there. That's one reason why that was never made in to a 2-family lot because of the square footage. It's a little smaller, but because of you know the septic system. And then we got town sewer and we put the sewer in that street, now they're on sewer.

ACTING CHAIRMAN WIGGAND: Is that something also you planned on building this year if it was approved by this Board?

MR. CHAIYNK: Correct. If I can get the okay, we can start it right away.

ACTING CHAIRMAN WIGGAND: Do any Board members have anything to ask?

ATTORNEY MOORE: I want to follow up on something that you had asked Mark. The zoning change in 84' is the reason why the other duplexes were there? They were built

lawfully – is that prior to 84'?

MR. PLATEL: Some of them were prior to 84' I believe. Also there was one other one that was granted a use variance and we did bring that folder up with us. The only question I have is when were the lots subdivided, the one that we're talking about right now?

MR. CHAINYK: Mark – is it Mark, right?

MR. PLATEL: Yes.

MR. CHAINYK: Something tells me it was - - the first one we did in 1976, that was the first building we built so I'm saying that that subdivision was all done. Paul did that – Paul Hite did that subdivision all at one time. In other words we didn't do one and then add on two or three. It was done as six lots. Five 2-family lots, which is approved and that one single family because it wasn't big enough for square footage to put a 2-family on because we didn't have sewer, we had only, you know septic system. So I'm going to say 76' Mark.

MR. PLATEL: Back in 76'?

MR. CHAINYK: Yeah, I could be wrong on that but I know we did the first duplex in 76'. That I do know.

MR. CATALFAMO: When was the last one to be built?

MR. CHAINYK: 96', the last one was done in 96'. That's when we put the road – we extended a highway and put this water, sewer and drainage pipe in there for the other – it would be 4-lots, alright, 1,2,3,4, right. And that's when we did the last one – 96', you know one way or the other.

MRS. O'BRIEN: You were given approval to build 18 and 22 in 2002?

MR. CHAINYK: Yes.

MRS. O'BRIEN: So you've - - those two have been constructed since 2002?

MR. CATALFAMO: We were granted an extension of time on those because it expired in 96'.

MRS. O'BRIEN: So how many are there all together?

MR. CATALFAMO: There's 5-duplexes there, David owns three and I own two.

MRS. O'BRIEN: Three brick and then the two...

MR. CATALFAMO: Right and at the very end the vacant lot.

MRS. O'BRIEN: Okay.

MR. CATALFAMO: I gave Karen pictures of the block and I don't know if you visited the site.

ACTING CHAIRMAN WIGGAND: I'm sorry would you give us your name for the record?

MR. CATALFAMO: David Catalfamo.

MRS. O'BRIEN: When were the sewers put in?

MR. CHAINYK: I really don't know when. I know it wasn't in for the first building, I know that so it wasn't in, in 76'. So I don't remember when the Town got sewer there, I just – I couldn't tell you that. I don't know when the sewer came in. It came in Jean Lane because I live on Jean Lane, which is on the other side of Elm Place and I don't remember what year that was.

MRS. O'BRIEN: Well when did you get the planning board approval for the subdivision.

MR. CHAINYK: The original subdivision?

MRS. O'BRIEN: Yes.

MR. CHAINYK: I really don't know that – I couldn't remember. I don't know that.

MRS. O'BRIEN: 1979 you got the preliminary approval for the subdivision – final approval 1982. Was it in before 82'?

MR. CHAIYNK: Yeah because that street was extended. That would have been the second - - Elm Place came in and went up the hill like that. There was like a little turn around there and then Paul Hite designed the road going in so that's probably what was 82' was that extension of the street. The other duplex was there before that. I don't remember when but I'm going to say 76'.

MRS. O'BRIEN: If the sewers were there why did you not ask for approval for number 19 to also be a 2-family at the time you came to us in 2002 for 18 and 22?

MR. CHAIYNK: God only knows. Maybe, you know money wise we couldn't afford it at the time. You know my father and I – we did it as we got money; we built one. That's why we didn't build them all at one time. It was definitely a money reason.

ACTING CHAIRMAN WIGGAND: Now is this building that you would like to build here now, is this more of a duplicate of what you have already have built?

MR. CATALFAMO: It will be exactly as 18 and 22 Elm.

ACTING CHAIRMAN WIGGAND: So it's pretty much of what you designed here.

MR. CHAINYK: Yeah, so it will be three and three. There will be 3- brick ones like mine and then the other three will look like his design.

MR. CATALFAMO: My two are directly across from the vacant lot.

ACTING CHAIRMAN WIGGAND: And if this was approved by this Board, is it something your planning on building this year?

MR. CATALFAMO: Right away, I have the blueprints ready to go – stamped.

ACTING CHAIRMAN WIGGAND: I think I asked you that before, but I wanted to make sure it was on the record.

MR. CATALFAMO: I'll file for an application right away. I have bank approval on it already.

ACTING CHAIRMAN WIGGAND: And these engineer drawings that you submitted to us - - no changes are going to be made?

MR. CATALFAMO: No.

ACTING CHAIRMAN WIGGAND: Because once they're submitted to us, that's what you're going to build.

MR. CATALFAMO: Any other questions from the Board members?

MRS. O'BRIEN: I just wanted to go over – you have presented a letter that lists your reasons for why the Use Variance should be granted. We've discussed Use Variances here a lot lately and you have indicated that and we have a letter from the real estate agent saying that they have had difficulty selling it as a single-family lot. It's as you say not a unique situation because all the other buildings there except when you get down to the end of the block are 2-family. All of the 4-criteria that are required by Town Law seem to be covered there.

MR. BROOKINS: You submitted several letters from realtors. You've been attempting to sell this as a vacant parcel...

MR. CHAIYNK: As a building lot for a single family, correct.

MR. BROOKINS: And they've attested that they haven't had any - - I'm not sure whether some or any or no interest at all – any even offers?

MR. CHAIYNK: Well I've shown it 3 or 4 times to people and they say the same thing, nobody wants to live in with duplexes. No, I haven't got an offer, not really no.

MR. CATALFAMO: And my contract with him is contingent upon approval of the 2-family.

MR. BROOKINS: Several of these mentioned that they've been attempting to do this for several years.

MR. CHAIYNK: Well I've been trying to sell it – yeah ever since my dad passed away actually, which he passed away in 2000. So, you know it was turned over to me and I've been trying to get rid of it and I'm tired of paying the taxes on it basically.

ACTING CHAIRMAN WIGGAND: Any thing else from the Board members? Anything at all? Do you have anything more to add?

MR. CHAINYK: No, not really.

ACTING CHAIRMAN WIGGAND: Is there anyone wishing to speak in favor of this request? Is there anyone wishing to speak in opposition to it? Hearing none, we'll declare the hearing closed and we'll let you know in a timely fashion. Thank you.

MR. CHAIYNK: Thanks a lot.

Hearing closed 7:45 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-55, Accessory Buildings requested by Bonnie Goldsmith and Terrence Rooney for property at 13 Glendale Avenue, Delmar, New York. The Applicant wishes to construct a storage shed, which will exceed the allowable lot occupancy for accessory structures at premises 13 Glendale Avenue, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a 4.5-foot by 14-foot, 63-square foot storage shed onto the existing 397.31-square foot detached garage creating a total accessory structure of 460.31 square feet. This is 60.31 square feet over the 400-square feet allowable. The lot occupancy for accessory structures will be 5.75-percent, which is .75 over the 5-percent allowable for accessory structures.

The existing structures are located on a Residence "A" District and the main structure is currently occupied as a single-family dwelling.

ACTING CHAIRMAN WIGGAND: 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 of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday May 19, 2004 at 7:45 p.m. at Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Bonnie Goldsmith and Terrence Rooney for Variance under Article XII, Percent of Lot Occupancy, Section 128-55, Accessory Buildings of the Code of the Town of Bethlehem for construction of a storage shed, which will exceed the allowable percentage of lot occupancy for accessory structures at premises 13 Glendale Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 5, 2004 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.

ACTING CHAIRMAN WIGGAND: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions of comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition. All comments and questions should be directed to the Board. Anyone wishing to speak will be allowed to do so, we just request that you come up and stand or sit next to the black microphone. It's for recording purposes only. Who will be making the presentation?

MR. ROONEY: I will.

ACTING CHAIRMAN WIGGAND: Identify yourself please.

MR. ROONEY: I'm Terrence Rooney. I live at 13 Glendale Avenue, Delmar.

ACTING CHAIRMAN WIGGAND: And would you tell us what you want to do and how you want to do it?

MR. ROONEY: Our family would like to build a small storage shed of 63-square feet to store garden tools, peat moss, fertilizer, a lawn mower, plant care products, etc. We currently have no storage shed. We applied for a building permit for the storage shed but it was denied because in our "A" Residence Zone, the accessory structure may only occupy 5-percent of the building lot and our garage already occupies, as Mark said, almost 1200-square feet, which leaves us short by 60-square feet to have a storage shed.

Many of our neighbors have storage sheds. I walked around the neighborhood and I counted 7 storage sheds. Our storage shed would be in harmony with the orderly development of the district and would conform to the location size and character of the

street. In the older section of Town where we live lot sizes are smaller and I feel it's a hardship in some cases to have the limitation of 5-percent for accessory structures because in some cases if you have a garage you can't have a storage shed. Therefore I'm asking the Planning Board of Appeals for a Variance from the rule of 60-square feet I think.

ACTING CHAIRMAN WIGGAND: It's about 60-square feet if you go whole width – almost the whole width of the back of that building. Now is that building that it's going next to, is that owned by you?

MR. ROONEY: Yes.

ACTING CHAIRMAN WIGGAND: What is that used for?

MR. ROONEY: That's, well my wife has a lot of fabrics in there. We have a canoe in there...

MRS. GOLDSMITH: Bicycles.

MR. ROONEY: A lot of bicycles.

ACTING CHAIRMAN WIGGAND: So it's all for personal family use, it's not...

MRS. GOLDSMITH: Camping.

MR. ROONEY: Camping supplies.

ACTING CHAIRMAN WIGGAND: There is no business being run out of that garage?

MR. ROONEY: No business.

ACTING CHAIRMAN WIGGAND: It's going to have a sloped roof?

MR. ROONEY: Right.

ACTING CHAIRMAN WIGGAND: What I saw on the plan there, that's what you're going to build?

MR. ROONEY: Yes, it's a shed roof, but I'll have the decorative rafter sales just the way the garage has and painted the same way and trimmed the same way.

ACTING CHAIRMAN WIGGAND: It appears that you're going to be putting a foundation under it? That is what this shows.

MR. ROONEY: Well 2-people have suggested Alaskan slab to make it compatible with the building – with the garage. I was thinking of piers, but...

ACTING CHAIRMAN WIGGAND: Are you going to attach it to the existing garage?

MR. ROONEY: I would like to.

ACTING CHAIRMAN WIGGAND: I'm sure Mark from our building department would certainly require a frost proof foundation under that.

MR. ROONEY: Right.

ACTING CHAIRMAN WIGGAND: Because if it's attached to that building, if it's just sitting on Alaskan slab it could raise with the frost. I think that would be up to Mark to take care of that with you. Is there anything from the Board members?

MR. MICELLI: I have a question. I was at the property today and when you look in from your back porch at the side of the garage are you going to center that or is it coming off the corner over to the left?

MR. ROONEY: We just have a reveal like a 1-foot reveal on each side.

MRS. GOLDSMITH: Centered.

MR. ROONEY: Right, centered right.

MR. MICELLI: And do you plan on putting in electricity in there?

MR. ROONEY: No.

MR. MICELLI: Just strictly storage.

MR. ROONEY: Strictly storage.

MR. MICELLI: Thank you.

MR. BROOKINS: You mentioned that you had perused your neighborhood and found 7-sheds. In the process of going through your neighborhood, have you discussed this with any of your neighbors?

MR. ROONEY: I talked to every neighbor, just about every neighbor who received the letter and the people who are - - approved of the idea. I didn't have any negative feedback at all.

MR. MICELLI: Is there going to be any windows on it?

MR. ROONEY: No, no windows. Just a kind of a shed door; barn style.

MR. MICELLI: Like what you have on your garage.

MR. ROONEY: The same.

MR. MICELLI: Okay.

MRS. O'BRIEN: Are you planning to construct this yourself?

MR. ROONEY: Yes I am with the help of a carpenter and a roofer.

MRS. O'BRIEN: Could you just show me on the pictures here where this will be attached and...

MR. ROONEY: It would be right there.

MRS. O'BRIEN: And this is the section facing your house?

MR. ROONEY: Yes.

MRS. O'BRIEN: Okay, so that this would be Maple Avenue over here?

MR. ROONEY: Right, correct.

MRS. O'BRIEN: Okay.

MR. ROONEY: I would come off this...

MRS. O'BRIEN: And this is – the garage is...

MR. ROONEY: Right. You'd see it sticking out here at 4 ½-feet probably to about the end of that fence with a sloped roof.

MR. BROOKINS: How long have you owned the property?

MR. ROONEY: 1993.

MR. BROOKINS: And when did you put this - - was this there or is this here?

MR. ROONEY: No, there was no garage. We put that up in 1996.

ACTING CHAIRMAN WIGGAND: So that's a relatively new building there.

MRS. O'BRIEN: You said you have a number of bicycles in the garage. How many are there in your family?

MRS. GOLDSMITH: Four.

MR. ROONEY: Four.

MRS. GOLDSMITH: But we just got each child a new bike for their birthday so now we have too many bikes.

MRS. O'BRIEN: Well they can only ride one at a time.

MRS. GOLDSMITH: I know we have to get rid of two of them.

MR. BROOKINS: Have you considered rather than just adding on doing some...

MRS. GOLDSMITH: Oh, getting rid of some bicycles?

MR. BROOKINS: Creative downsizing.

MR. ROONEY: Some of the garden things I think have an odor so I thought when you have peat moss and damp things and you're storing them in the same place as your personal possessions and your tax records and...

MRS. O'BRIEN: Do you use the garage as a garage for cars?

MR. ROONEY: No we haven't. It's the size for it but we haven't had a car in there.

MRS. O'BRIEN: And it's got additional storage space upstairs?

MR. ROONEY: Yeah.

MRS. O'BRIEN: It looks like it would fit more than 4-bikes.

MRS. GOLDSMITH: Well I also have a sewing machine up there to.

MR. ROONEY: And I have some sculpture equipment - - a sculpting stand, I have a hobby. So I have a sculpting stand and some clay and some modeling clay.

MR. BROOKINS: Could you use the term studio to describe this building?

MR. ROONEY: You could. No, upstairs you could - sure. There's no water or no sewer, but it's a...

MR. BROOKINS: There is heat?

MR. ROONEY: There's heat, yeah.

MRS. O'BRIEN: And electricity?

MR. ROONEY: And electricity. I mean it's a very nice place for sketching or painting or, you know if you don't mind going in to the house and getting your water. That's just the upstairs. That's why there are 2-skylights. It's a 1/2- - I think it's called a story and a half garage.

MRS. O'BRIEN: It's not heated so you don't use it....

MR. ROONEY: The downstairs isn't heated but the upstairs is heated.

ACTING CHAIRMAN WIGGAND: Mrs. Goldsmith would you please identify yourself.

MRS. GOLDSMITH: Oh, my name is Bonnie Goldsmith.

ACTING CHAIRMAN WIGGAND: Thank you. You have some pictures that were submitted here. I see you have skylights in that garage.

MR. ROONEY: Yeah, north facing.

ACTING CHAIRMAN WIGGAND: Is there anything further that you would like to add?

MR. ROONEY: No, none at all.

ACTING CHAIRMAN WIGGAND: Okay. Is there anyone wishing to speak in favor of this application. Yes, please step forward by the black microphone and give us your name.

MR. HINSDALE: My name is Donald Hinsdale, H-I-N-S-D-A-L-E. I live at 14 Glendale Avenue, I'm diagonally across the street from Mr. Rooney and given the small square footage that he's talking about which would put him slightly over the total allowed for the - all the buildings on the lot I believe. Given the small square footage of his proposal I have no objection to it. I probably see it as much as - - would see it as much as most of the neighbors and say, you know - - walk on the street quite a bit and I'm out in the yard.

ACTING CHAIRMAN WIGGAND: So you're directly across the street from where this building exists?

MR. HINSDALE: Diagonally across the street. He lives - - he and I both live on the corner of Glendale and Maple Avenue and he's on the southwest corner and I'm on the northeast corner.

ACTING CHAIRMAN WIGGAND: I see.

MR. HINSDALE: And - formally I lived at 25 Glendale and I went to a Board of

Appeals hearing when my neighbor on Winding Road proposed an addition and they had to get a Variance from the Town and it turned out that it was a great big addition on the back of the house, you know if I had known what it - - how big it was then, you know maybe I would have objected because I didn't realize it would be that big, but that was approved and it seemed to be much larger than what I thought they really needed and also number 11 Glendale Avenue, they built a great big addition there that approximately doubled the size of the house and they didn't seem to need a variance for that, which I don't understand. Here number 11 Glendale, they built this great big addition on the back and I think there's a deck on the back...

ACTING CHAIRMAN WIGGAND: Well I'm sure they needed a building permit to do that.

MR. HINSDALE: Yes, I'm sure they did but I don't think they needed a variance from the Town.

ACTING CHAIRMAN WIGGAND: A Variance wouldn't come to play if they had enough property to build it on.

MR. HINSDALE: Okay.

MR. PLATEL: There are different requirements, for a main structure you can build up to 15-percent, accessory's are 5 so for a single family house it's 15-percent.

MR. HINSDALE: But given the size of what they built, what Mr. Rooney and Mrs. Goldsmith are talking about is tiny compared to what they had approved so I see no reason to object to it.

ACTING CHAIRMAN WIGGAND: Thank you. Anyone else wishing to speak in favor of the Applicant?

MRS. O'BRIEN: Can I ask one more question?

ACTING CHAIRMAN WIGGAND: Sure you can.

MRS. O'BRIEN: Have you considered changing the size of the shed in any way to reduce the amount of the Variance?

MR. ROONEY: Well I would but it's fairly small. A Home Depot shed is - well usually they're 10 by 10 and that's 100-square feet and I'm asking for a shed of 63-square feet so it's fairly small. It's about as wide as the table there I suppose and probably not much longer. It's about 2-feet longer.

ACTING CHAIRMAN WIGGAND: It would be about as wide as this table, maybe about 4-feet longer. Is there anyone else wishing to speak in favor of the applicant? Anyone wishing to speak against the project? Any more comments from Board

members?

MR. BROOKINS: I'm not sure if you're aware, we do have one letter from one of your neighbors who has voiced a concern and an opposition to this. I don't know if you're familiar with a letter from - - just to make you aware - from Elizabeth Vines at 9 I guess and she wrote to express her opposition.

MR. ROONEY: I talked to her husband and he said he didn't have a concern. He said well Lisa is concerned about - I can't remember why, she I guess she was upset when the addition went up to her house. They're 2-houses away from us and an addition went up next to her and I guess she didn't like the noise and she thought it obstruct her view. Although that was perfectly a - I know there was a building permit for that extension and Jeff, her husband mentioned it to me. I didn't realize she was that concerned, but he said Lisa has some concerns about the trees and she might not be able to see the panorama as well as she - - it's not very close.

MRS. GOLDSMITH: Well there are no trees that are going to be obstructed by a small shed.

MR. ROONEY: Well she complained a lot when their addition went up because the people next to us because of noise.

MRS. GOLDSMITH: But it was a long, it went on for many months. We didn't mind it at all, but apparently she really minded it.

MR. ROONEY: It went on for about 6-months.

MR. BROOKINS: This is going to be part of the record and I'm not going to read it into the record but if you would like to take a look at it just so you know what will ultimately be in the record.

MRS. O'BRIEN: How long do you expect this will take you to construct, Mr. Rooney?

MR. ROONEY: Well I think 2 ½-months.

MRS. O'BRIEN: And you plan to start as soon as possible.

ACTING CHAIRMAN WIGGAND: Do you have any more questions Gil? I see you're going through some papers there.

MR. BROOKINS: This does not appear to be attached in these drawings, but you are thinking you're going to attach it?

MR. ROONEY: Well that was suggested because some of the - - some of the building inspectors mentioned that if it was not attached it might be inviting some birds and debris and it would be harder to clean. And that was why the...

MR. BROOKINS: Foundation issues?

MR. ROONEY: Yeah.

MR. BROOKINS: Do we have to correct these or make a notation on these?

ACTING CHAIRMAN WIGGAND: You mean on the construction plans?

MR. BROOKINS: Yeah.

MRS. O'BRIEN: Well they'd still have to be approved by the building department.

MR. PLATEL: Well no, I think what Gil's driving at is should they mark on there that they're going to attach it to the garage and initial it now so that it's part of the record, that's the way it's going to be done.

MR. BROOKINS: Because you're asking for a Variance based on the documents that you're presenting.

MR. ROONEY: Right.

MR. BROOKINS: And if what you present is a free standing shed, but you really intend to have it as an attached shed, we would probably need to have that in the record so the record agrees with your intention.

MR. ROONEY: That would be - - I mean I think it would be a better situation. The reason for drawing it like that was I wanted to person who drew it on the cad machine to make it independent and I was planning to ask the Building Inspectors when the process got moving along if it could be attached and if it couldn't it could still be - - have the frost wall and be offset by a few inches. It would function I think in the freeze/thaw conditions...

MR. BROOKINS: We really don't care which way you go as long as what we act on is what your intention is.

MR. ROONEY: If it's possible to revise it as attached, I'd like to. Can we do that?

MR. PLATEL: It could be attached to it, it just would have to build it with a slab like you have for the garage, but they just need it on the record how exactly you want to do it.

MRS. ROONEY: Can I talk to Terry alone for a second? Is that okay – just for like a minute.

ACTING CHAIRMAN WIGGAND: Sure you can, go ahead. Have we got a final answer to this?

MR. ROONEY: Yeah, I'd like to revise it as attached.

ACTING CHAIRMAN WIGGAND: An attached building, okay. And that requires and of course your concrete pier system that you have to put underneath it. The Building department will require that.

MR. PLATEL: Actually what it'll be Bob, is I believe the garage itself is just on Alaskan slab so it'll match what he has.

ACTING CHAIRMAN WIGGAND: Oh really?

MR. PLATEL: I believe that's what you wanted to do is match what you have on the garage.

ACTING CHAIRMAN WIGGAND: Well he's showing concrete piers here.

MR. PLATEL: That's if it was going to be free standing, but if he attaches it to it he's going to match what the garage is.

ACTING CHAIRMAN WIGGAND: So then if you wanted to you could set it on Alaskan slab as the garage is. I didn't realize that, I thought the garage was quite a large building.

MR. ROONEY: It's got some pretty big haunches. It's a pretty deep slab.

ACTING CHAIRMAN WIGGAND: Okay. When was that building built?

MR. ROONEY: 95' I'd say.

MRS. GOLDSMITH: And he built it with a carpenter friend so he did a good job, so he'd do a nice job on the other one to.

ACTING CHAIRMAN WIGGAND: Well it's still sitting there, did it move at all through any of the winters?

MR. ROONEY: No.

ACTING CHAIRMAN WIGGAND: Well you must have done a good job. Does anyone else wish to speak in favor of the Applicant? Anyone wish to speak against the project? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner. Thank you.

MR. ROONEY: Thank you.

Hearing closed 8:10 p.m.

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The next order of business this evening is a public hearing for an Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Barbara and Alan Via for property at 5 Mayfair Drive, Slingerlands, New York. The Applicant wishes to construct and addition, which will exceed the allowable percentage of lot occupancy at the premises 5 Mayfair Drive, Slingerlands, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct 2 separate additions to the existing structure totaling 480.16-square feet. The new additions along with the existing structure will create a total main structure of 2,711.96-square feet. This is 170.96-square feet over the 2,541-square feet that is allowed. The lot occupancy will be 16.18-percent, which is 1.18 over the 15-percent allowable.

The existing structure is located in a Residence "AA" District and is currently occupied as a single-family dwelling.

ACTING CHAIRMAN WIGGAND: 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 of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday May 19, 2004 at 8:00 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Barbara and Alan Via for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for construction of an addition, which will exceed the allowable percentage of lot occupancy at the premises 5 Mayfair Drive, Slingerlands, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 5, 2004 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.

ACTING CHAIRMAN WIGGAND: 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. All comments and questions should be directed to the Board. Anyone wishing to speak will be allowed to do so, we just ask that you come up and stand as close as you can to the black microphone. It's for recording purposes only. Who will be making the presentation?

MR. VIA: Alan Via.

ACTING CHAIRMAN WIGGAND: Please identify yourself.

MR. VIA: I'm Alan Via and this is my wife Barbara.

ACTING CHAIRMAN WIGGAND: Okay. Tell us what you want to do and how you want to do it.

MR. VIA: Thanks a lot. I'm going to read from the proposal, the explanation and reason for approval. We lived over on Brookview on the other side of Town for 24-years and raised our family there. And as we got a little older we wanted to go to a 1-family home.

MRS. VIA: 1-story.

MR. VIA: 1-story home. Found a beautiful neighborhood with really nice neighbors. One of the reasons we made the offer on this house early this year was with the idea it was actually 1 ½-rooms too small. It had no family room so there's really no place – if you want to play music or have friends over or have a book discussion group or have the television, to really get away. It has a very, very small living room and the bedroom is smaller than our bedroom at our other house so the bedroom furniture is very crowded in our master bedroom.

We check with our realtor before we made the offer on the home and were mistakenly informed that the addition that we were proposing would be within the 15-percent of the lot occupancy. After talking to contractors and our engineer, we went down to the building department to fill out our application and we discovered that a Variance was going to be necessary so we were really – kind of put things on the back burner, really surprised us.

The original owner of the house, although the house is 2200-square feet, it's effective living area is quite a bit smaller than that. She built it as a handicap access home. The doorways are – the doors themselves are quite wide, much wider than normal. So not only do the doorways take up a lot of your living space to be able to put furniture. When you open the door on the opposite side, it sort of doubles this very wide opening. All of the hallways are built quite a bit larger. She built two good size bathrooms that additionally take extra space. And although it's convenient to have a laundry room on the first floor that being on the first floor instead of a basement where we had it in our other house takes a lot of the additional square feet that could have been attributable to living space. Although the square feet might appear to be considerable if you look at the square feet size, the actuality is that it feels much smaller inside in addition to the bedroom – master bedroom being small and having no family room.

Unfortunately we spent a lot of time and a lot of money with the engineer and the contractors before we discovered we needed a variance and I want to thank Karen and Mark for having walked us through the process. We were hoping to actually have broken ground already and our contractor is Bill Blake and he's supposed to start on or about

June 15<sup>th</sup> subject to our proposal being approved. It's our intention to construct the addition to the home in a style that would be compatible with our existing home and enhance the home in the neighborhood. A couple of members of the Board stopped by today and saw sort of a work in progress. We're landscaping the entire - - we have landscaped the entire front of the house and are waiting to do the back of the house when the addition is done.

When we discovered that we would need a Variance, Barbara and I wrote up – sort of a petition that we went out that evening and circulated and basically any neighbor that was within 200-feet, but was home, signed it and the comments we got were universally universal, great it'll look really nice. So I'm thinking that it would be approved by the neighborhood.

ACTING CHAIRMAN WIGGAND: I visited your site along with Lennie and we came over there today and looked at it and you came out and showed us the whole thing in detail, a lot of detail, very good.

MRS. VIA: That's Alan.

ACTING CHAIRMAN WIGGAND: And one of the questions I asked you then and I'll ask you again. Your addition here to your kitchen area and laundry area here, that addition that's shown here is not any part of that interior. That's just something else your building there, isn't it?

MR. VIA: Yes the back of the house goes straight across and they're going to come straight and build - - Dick Green the engineer designed the roof so it will be – it will flow right out from the back of the home.

ACTING CHAIRMAN WIGGAND: Okay. So the roof is going to be a new roof onto the addition...

MR. VIA: And backed up onto the roof and they'll probably have to redo parts of that so that it flows smoothly.

ACTING CHAIRMAN WIGGAND: As I asked you today, your plan shows 18 by 16 and this addition to your back area there – that is going to be used for a family room?

MR. VIA: Poured concrete foundation, hard wood floors. It'll have scissor trusses with a vaulted ceiling. It's going to have a small 0-clearance fire place right in the center, nice windows, French doors – it'll be a good looking addition to the back of the home.

ACTING CHAIRMAN WIGGAND: And where's your entrance going to be to the plan you've got here?

MR. VIA: To the family room?

ACTING CHAIRMAN WIGGAND: Well you've got a laundry directly behind you. Where's your entrance going to be in this area to get from the room to....

MR. VIA: The doorway...

ACTING CHAIRMAN WIGGAND: It doesn't show it on here, I'm sure it shows it on this plan here somewhere.

MR. VIA: The door is right here. So this is the wall and the kitchen – we're going to take – make that into a half wall for visibility so you would just walk into this corridor here and come right down into – this is the doorway in the back that's going to go up right into the family room.

ACTING CHAIRMAN WIGGAND: It's going to enter directly then right off where that laundry room is. And you're going to make an entrance in that room.

MR. VIA: Yes. Along – well actually there's – it's already a hallway right there that goes to a back door outside. That door is going to be removed, framed out and it'll just be an open walk right into the family room.

ACTING CHAIRMAN WIGGAND: I'm sure your detailed plans show that.

MR. VIA: Yes sir they do.

ACTING CHAIRMAN WIGGAND: I did look at them before but I wanted to get that on the record.

MR. VIA: Dick Green spent about an hour talking about how he wanted it.

ACTING CHAIRMAN WIGGAND: This other addition, this 8-foot by 24 towards the back of the home, that is strictly for our additional room and your master bedroom and your laundry – your bath area...

MR. VIA: Closet.

ACTING CHAIRMAN WIGGAND: And closet.

MR. VIA: We're going to push it out 8-feet to give us some room for the bed and the furniture and we're going to rearrange and existing walk in closet to change it's orientation so that the room will be a little deeper and it'll have a little alcove for a chair to sit in and a television and a place with a lamp.

ACTING CHAIRMAN WIGGAND: Well you're not a long way over as far as your square footage; it's 1.18 over as far as your 15-percent. Am I saying that right?

MR. PLATEL: They're 16.18 I believe, so they're 1.18 over the 15.

ACTING CHAIRMAN WIGGAND: 1.8 over. He's got all those figures in his mind that's why we have him sitting down there. Now I asked you today and just to be on the record I would like to ask you again, is there any consideration that could be given to anything smaller. I can see the bedroom area but this 18 by 16, is that anything you can make any smaller to fall within this at all?

MR. VIA: Well – boy I spent a lot of time casing this out and with tapes and when I thought about some of the furniture that right now – the home has 3 very, very small 9 by 10 bedrooms and we've got large chairs and bookcases stored in different rooms right now. And when I start thinking about family room furniture, the living room is so much smaller than our other house and moving those – actually if cost would allow it I would have probably have liked to build a larger family room to accommodate our furniture. Part of the room is going to be taken up with – Barbara's always wanted a fire place so that fireplace wall is going to take up space even as a zero clearance because you can't put something right in front of it. It'll be adequate but no more than that, the family room.

ACTING CHAIRMAN WIGGAND: So you have measured the interior and this is what it's going to be in order for your wife to get what she wants in that room.

MR. VIA: I had the stakes out there and the tape measures and kind of think okay, where are we going to put things.

ACTING CHAIRMAN WIGGAND: You more or less told me that today but I wanted to put it on the record. I thank you. Any other questions from the Board members?

MRS. O'BRIEN: Just one thing here on the drawings, there's a difference in the arrangement of the bathroom off the master bedroom here than what's on the – you're not changing anything in the bathroom?

MR. VIA: No these would be...

MRS. VIA: That's a closet behind the bathroom.

MRS. O'BRIEN: No, I'm talking about here the, you know they're showing the tub over here where as this drawing shows the tub over here.

MRS. VIA: There's a shower stall and a tub, maybe that...

MR. VIA: This is proper.

MRS. O'BRIEN: This is the way – this is not the way your house is now?

MR. VIA: Let me just take a quick look here.

MRS. O'BRIEN: I mean it's just reversed.

MR. VIA: Yes, this is – Dick Green came with his engineer, architect and they put all those things...

MRS. O'BRIEN: Well where was this from?

MR. VIA: That was a plot plan that came from the realtor when we bought the house.

MRS. O'BRIEN: So your bathroom isn't like – it's just that, you know again we're going to be...

MR. VIA: We're not touching the bathroom at all.

MRS. O'BRIEN: Okay. I mean if you can see it – that here and that are reversed. Okay so this is incorrect?

MRS. VIA: Right.

MRS. O'BRIEN: Okay.

MR. VIA: But our – as I mentioned our addition won't have anything to do with any of the...

MRS. O'BRIEN: Well that was a concern is whether that's something that's going to be done or not.

MR. VIA: Dick's is right.

MRS. O'BRIEN: Okay.

MR. VIA: Yeah, this could have been a very early plot plan that as the home was built about 7-years ago that maybe the contractor and the previous owner made some changes as it was being built.

ACTING CHAIRMAN WIGGAND: But this formal plan as you have submitted here is what's going to be and you've checked that yourself so there are no other changes to make here.

MR. VIA: If there's any changes – there might be a change instead of a door on the closet it'll have a panel door...

ACTING CHAIRMAN WIGGAND: That's not a major change.

MR. VIA: Interior cosmetics are the only thing that will be changing on that.

ACTING CHAIRMAN WIGGAND: Is there anyone else wishing to speak in favor?

MR. WALSH: And I came – next-door neighbor.

ACTING CHAIRMAN WIGGAND: Would you come here by the mic please and give us your name?

MR. WALSH: I don't want to make a speech. My name is William C. Walsh, I live right next door to this property. As noted I was in favor along with others and I didn't come to make a speech tonight rather to learn how this appeal functions for a neighbor and wish them good luck in their encounter.

ACTING CHAIRMAN WIGGAND: So you're in favor of them doing this addition?

MR. WALSH: Definitely, very much so.

ACTING CHAIRMAN WIGGAND: Anyone else wishing to speak in favor? Anyone wishing to speak against? Any more questions from the Board. Hearing no further questions we'll declare the hearing closed and notify you in a timely manner. Thank you. You did a good job.

MR. VIA: Thank you.

Hearing closed 8:30 p.m.

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The next order of business was to consider the application of Susan Griffin Burnett. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Susan Griffin Burnett for Variance under Article XVI, Front Yards, Section 128-71, Accessory buildings for an existing storage shed, which encroaches into the Front Yard setback requirement at premises 1740 New Scotland Road, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held June 2, 2004 at 8:00 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.

The next order of business was to consider the application of Independent Wireless One. 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 Independent Wireless One for Special exception under Article VI, Permitted Uses, Section 128-12 B (1), Public Utility, and Chapter 113-3 (b) and 113-4 A (1), Alternative Tower Sites to install 6 PCS antenna and related call processing equipment to an existing tower at the premises Old Quarry Road, Selkirk, New York, it is hereby ordered that a public hearing on this matter be held Wednesday June 16, 2004 at 7:30 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 to reschedule a public hearing for Stewarts Shops Corporation, 33 Frontage Road, Glenmont, New York. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Stewarts Shops Corporation for a Special Exception under Article VI, Permitted Uses, Section 128-20 C (3), Light Industrial District to remove existing canopy, islands and pumps and replace with larger canopy, concrete pad and 4-fuel dispensers at premises 33 Frontage Road, Glenmont, New York, it is hereby ordered that a public hearing be rescheduled on this matter be held Wednesday June 16, 2004 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to reschedule a public hearing for Stewarts Shops Corporation, 309 Delaware Avenue, Delmar, New York. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Stewarts Shops Corporation for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), "CC" Retail commercial District to remove existing canopy, dispensers and underground gasoline storage tank and replace with new canopy, 2-fuel dispensers and 2-new storage tanks at

premises 309 Delaware Avenue, Delmar, New York, it is hereby ordered that a public hearing be rescheduled on this matter be held Wednesday June 16, 2004 at 8:00 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 proposed Negative Declaration of Independent Wireless One, 81 Jolley Road, Glenmont, New York.

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

STATE ENVIRONMENTAL QUALITY REVIEW ACT  
DETERMINATION OF ENVIRONMENTAL NON-SIGNIFICANCE  
(NEGATIVE DECLARATION)

WHEREAS, the Zoning Board of Appeals for the Town of Bethlehem held a public hearing on May 5, 2004 to take testimony and comments on the application of Independent Wireless One ("Applicant"), for a special permit following site plan review of a modification to previously granted special permits under Article VI, Permitted Uses, Section 128-12B(1) Public Utility and Chapter 13, Telecommunication Towers, 113-4 A (1), Alternative Tower Sites, to co-locate additional antennas on an existing communication tower at premises 81 Jolley Road, Glenmont, New York, and to install related equipment supporting the antennae (hereafter, "the project"); and

WHEREAS, the Board reviewed the testimony and documents presented at the public hearing, including a review of the environmental impacts that may arise as a result of the project; and

WHEREAS, the Board has determined that the project will not have a significant adverse impact on the environment; and

WHEREAS, by Resolutions dated November 20, 1966 and December 18, 1996, the Board granted approval to CELLCO Partnership, d/b/a Bell Atlantic NYNEX Mobile, Inc., to construct the existing wireless communication tower; and

WHEREAS, by Resolution dated April 16, 2003, the Board granted approval to AT&T Wireless PCS, LLC (“AT&T”) to co-locate additional wireless communication antennae on the existing tower (the “AT&T approval”); and

WHEREAS, in connection with the AT&T approval, the Board, acting as lead agency pursuant to the State Environmental Quality Review Act (SEQRA), also adopted a Resolution for a SEQRA negative declaration, with attachment, dated April 16, 2003 (the “April 2003 Negative Declaration”);

NOW THEREFORE, BE IT RESOLVED THAT:

The project is an unlisted action pursuant to SEQRA .

The Board shall act as the SEQRA “lead agency” for the project and conduct an uncoordinated environmental impact review.

For reasons set forth in the Board’s April 2003 Negative Declaration, which is hereby incorporated by reference, the Board adopts a Negative Declaration pursuant to SEQRA for the project.

May 19, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

On a motion made by Mr. Brookins, Seconded by Mrs. O’Brien and unanimously carried by the Board, the Negative Declaration was adopted by the Board.

The next order of business was to consider the proposed resolution of Independent Wireless One.

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

## RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (the Board) seeking a Special Permit following site plan review of a modification to a previously granted special permit under Article VI, Permitted Uses, Section 128-12 B (1), Public Utility, and Chapter 113-3 B, 113-4 A (1), Alternative Tower Sites, requested by Independent Wireless One (IWO or Applicant) for property at 81 Jolley Road, Glenmont, New York. The Applicant wishes to install 6 PCS antennas to an existing tower and related call processing equipment on the existing tower site at this property; and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 5, 2004; and,

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

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

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

## FINDINGS OF FACT

The Applicant is proposing to install 6 antennae on the existing 180-foot tall telecommunications tower and install a 9-foot by 12-foot concrete pad to support the associated equipment shelters. The property is located in an A residential zone and the current use of the leased property is for a public utility.

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

IWO is a federally licensed wireless communications carrier. Pursuant to its federal license it is obligated to build out a system to provide adequate service coverage. IWO has determined that the Glenmont area of the Town of Bethlehem does not have adequate coverage currently. The antennae proposed to be installed on the existing tower will provide enhanced emergency and non-emergency Sprint PCS wireless communication service to the Glenmont area.

Construction of the existing tower was approved by this Board by Resolution dated November 20, 1996, which Resolution was amended by this Board on December 18, 1996.

Additional antennae on the existing tower by another carrier (AT&T) were approved by this Board by Resolution dated April 16, 2003.

The Applicant submitted the following in support of its application:

1. A complete application;
2. A letter of authorization from the tower owner consenting to the proposed shared use;
3. A diagram and specifications for the equipment and shelter to be installed on the site;
4. A certified Structural Analysis Report and Structural Opinion Letter regarding the existing tower;
5. A copy of the lease agreements between the tower owner and the property owner;
6. A site plan;
7. A Short Environmental Assessment Form (EAF);
8. Photographic simulations of the proposed IWO equipment;
9. Radio Frequency Propagation plots; and
10. IWO's FCC license.

There will be one equipment cabinet about the size of a small refrigerator approximately 3-feet in width, 3 and one-half feet front to back and about 6 feet in height.

IWO's facility will consist of six (6) pipe-mounted panel antennas and one GPS antenna (attached to the legs of the existing Tower), together with the related ground equipment and utility services (power and telco). The panel antennas are approximately 70.3 inches in height 8.7 inches in width and 2.7 inches in depth. All panel antennas will be placed at a height of 140 feet, and attached to the tower in the same fashion as the current wireless providers now operating at this site.

IWO's equipment will be in operation twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. The proposed-facility, however, is unmanned and will only require maintenance visits approximately once a month. The

facility is improved with an existing access drive, and an existing parking area is available for such maintenance visits.

IWO will install printed material with its telephone contact numbers on the gate to the facility.

The Albany County Planning Board (AACPB@) recommended that this Board notify the New York State Thruway Authority, the Rensselaer County Planning Board and all municipalities in the effective service area of the proposed facility of this application in order to facilitate intermunicipal coordination and potential co-locations of future telecommunications facilities.

No one spoke in opposition to the project at the Applicant's project at the public hearing.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires a special permit in order to install the proposed antennae. This Board has considered the materials submitted by the Applicant and finds that the modifications to the existing approved facilities are insignificant. Accordingly, the Board grants the Applicant's request for a special permit to install the proposed antennae, subject to the following conditions:

The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, including but not limited to restoring the road way and surrounding areas to the condition they were in prior to installation of the antennae and that the maximum number of antennae to be installed by Applicant will be six; and,

The Applicant shall complete construction of the proposed antennae within one year of the date of this resolution.

May 19, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on May 20, 2004.)

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On a motion made by Mrs. O'Brien, seconded by Mr. Micelli, and unanimously carried by the Board, the minutes of the May 5, 2004, meeting were approved.

The meeting was adjourned on a motion made by Mr. Micelli, seconded by Mrs. O'Brien and unanimously carried by the Board.

Meeting Adjourned: 8:45 p.m.

Respectfully submitted,

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Secretary