

**TOWN OF BETHLEHEM
BOARD OF APPEALS
November 3, 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: Michael Hodom
Marjory O'Brien
Gilbert Brookins
Leonard Micelli

Michael Moore Attorney to the Board

Mark Platel Building Inspector

ABSENT: Robert Wiggand

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 Use Variance under Article VI, Permitted Uses, Section 128-23, Rural Districts Unzoned requested by Betty Lawrence and Betty Nolan, I believe Betty Nolan is the current true name for property at 1250 Route 9W, Selkirk, New York. The Applicant wishes to construct a canopy with 3-fuel pumps for retail sale including 2-10,000 underground storage tanks.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to install a 32-foot by 48-foot canopy with three fuel-pumping stations in order to operate a motor fuel filling station. This is not a permitted use listed in the Town Code in a Rural Not Zoned District. The existing structure is operated as a convenience market.

For the Boards information, at one time the zoning stated that all operations such as this would require a Special Exception in any part of the Town. That requirement was repealed and deleted sometime in the 1980's. After that time this would have been a permitted use as the Code was being interpreted in the RNZ Districts of the Town. Since August 7, 2003 due to a Zoning change this use was not one of the listed permitted uses or a permitted use by Special Exception.

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

CHAIRMAN HODOM: 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 November 3, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Betty Lawrence for a Use Variance under Article VI, Permitted Uses, Section 128-23, Rural Districts Unzoned of the Code of the Town of Bethlehem for construction of a canopy with 3-fuel pumps for retail sale including 2-10,000 gallon underground storage tanks at the premises 1250 Route 9W, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the October 27, 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.

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. Mr. Caponera just introduce yourself to us and your association with the Applicant.

MR. CAPONERA: Thank you very much Mr. Chairman. As the Board or some of the members on the Board may know my name is Victor Caponera. I am an attorney with offices at 3 Atrium Drive, Albany, New York 12205 and I have the honor tonight of appearing before this Board representing the owner of the property Betty Lawrence who is with us in person, she's sitting right behind me and she's the woman that looks like she's about 25-years old and I asked her just before we started how can a woman who looks your age have owned a property this long and her husband said that I made her day. So at least I've got that working for me, which is nice.

Betty Lawrence a.k.a. Betty J. Nolan has owned the property since August 25th of 1979 and to the best of my calculations that's a quarter century. And back then I can assure the Board that while I was practicing law my head of hair was large and bushy and it isn't any longer. That deed was recorded in the County Clerks office and subsequent to the purchase of the property Miss Lawrence constructed or had constructed on that site a building, which measures approximately 50 by 60 and it's 3,000 plus or minus square foot structure and prior to the construction of that building this was a vacant parcel of land. And if you look at the site plan that's on the pegboard, you'll see that it's a rather large parcel. In fact to the best of my knowledge there's 2-tax parcels to the right where you see the existing building and the proposed canopy and pumps is 1-parcel and to the

left where you see the vacant parcel is another parcel. I will note for the Boards edification that this application is for the entire parcel. I'm talking about the entire property were looking at.

A lot of the property in the area that is outlined by this squiggly line to the best of my knowledge and Mr. Hennesy of Hennesy Engineering can confirm this is wet lands, is that Correct?

MR. HENNESY: Yes.

MR. CAPONERA: And it can't be developed. So this area here is - - a majority of that is non-developable so we have a very large parcel and Bill how big is this parcel in total?

MR. HENNESY: 4-acres.

CHAIRMAN HODOM: Mr. Hennesy will you just introduce yourself to us so we can get you on the record?

MR. HENNESY: This parcel is...

MR. CAPONERA: Bill will you give your name and address and social security number

MR. HENNESY: My name is William Hennesy; I'm with Hennesy Engineering; we're out of Voorheesville and this parcel is approximately 2-acres. This piece is essentially three quarters of an acre and this approximately 1.25-acres and the convenience store and it's - - in similar uses it's septic system have always been on this front parcel. This other parcel has never been developed, yet there was a gravel area here that was constructed in the 1980's at the initial development.

MR. CAPONERA: From the - - looking at the site plan you can see the developed parcel and this paved area and the portion that's gravel. As Bill said the property's about 2-acres and as we all know it's about 5-miles south of the intersection of 9W and Route 32 and the entire portion of this property lies in what this Town calls Section 128-23 of the Bethlehem Zoning Code, which is un-zoned.

Years ago when the property was built it was utilized as and for a Bonfare and those of us who are over 40-years old remember that Bonfare was a fairly successful convenient type food-mart that was in operation in this area and they leased this property from my client, Betty Nolan for a number of years, but unfortunately that Bonfare type operation fell on hard times. They discontinued their lease and another entity took it from my client and leased it for a short period of time. They to couldn't manage to pay the freight; couldn't make enough money on the property from the building on the property to exist and they left. Low and behold a lease was entered into with one Patel, Inc. and for the Boards edification I have copies that I'd like to hand out, which are copies of the lease agreement between Betty J. Nolan and Patel, Inc. The principal of that corporation is with us tonight also and I'll introduce him in a moment. This lease is a document that

whereby the landlord agreed to lease the property in which includes the building. The term is a 5-year period commencing October 1, 2002 and terminating September 30, 2007. In the lease there is also an option to purchase so long as the tenant remains the lessee for a minimum period of 10-years. So I'll hand you this and if there's left over I'll take them.

CHAIRMAN HODOM: Mr. Caponera if you'd clarify, Betty J. Lawrence and Betty J. Nolan are one in the same?

MR. CAPONERA: That's correct.

CHAIRMAN HODOM: Okay. The current name is Betty J. Nolan?

MR. CAPONERA: Correct.

CHAIRMAN HODOM: Thank you.

MR. CAPONERA: Under Section 128-23 and titled Rural District Not Zoned, we all know that retail stores are allowed and are allowable uses together with the plethora of other uses and I'm not going to articulate to the Board, it's in the section of the law. And prior to 2003 as your most emanate Building Code personal just said, under section 128-23 B (32) the Bethlehem Zoning Code permitted accessory uses, but the Town Board in their infinite wisdom decided that that was going to be eliminated in 2003 and in fact it was. So what happened is the new Zoning Code came out and when the new Zoning Code came out in 10/20/03 what was missing from section 128-23 were the accessory uses and it's my humble opinion that prior to that time we could have asked this Board for consideration of this project under a Special Exception rather than a Use Variance, but it is my understanding that now that the Zoning Code has been changed approximately a year ago, this proposed use does not – or this zone does not allow accessory uses in this zone so even though this building has been in existence since about 1980 and even though they could have applied for the proposed canopy and gas sales under a Special Exception they – from what I understand can no longer do that at this point because of this.

Now certainly my client has owned this property for a good length of time, nearly a quarter of a century and it's my opinion that this situation that occurred was certainly not due to her doing anything wrong or anything different and therefore I basically state to the Board that this is not a self created hardship that we've had. As I said this parcel has been used exclusively for a retail establishment namely the convenient mart and the hardship in my humble opinion was partially created by the 2003 amendment of section 128-23 precluding the proposed accessory uses. And this certainly does apply to a substantial portion of the area, in fact I'm told in discussing with Mr. Hennessy that just beyond the property line the zone changes and what is it just beyond the property line?

MR. HENNESSY: I believe it's general commercial; it might even be within the property line.

MR. PLATEL: I believe it's "CC" retail commercial.

MR. CAPONERA: And to the best of my knowledge in discussing this with his eminence today if you were to come to this board in that zone, which is just next door as Stewarts has and did you wouldn't need a Special Use or you wouldn't need a Variance and as I understand it; I've been to the property; I've walked it; I've driven down the road a few hundred feet and low and behold what there, a Stewarts convenient mart and what's with the Stewarts convenient mart, gasoline sales. You're going to hear testimony tonight in the 4-hours that I have allotted myself to do this that gas stations are to convenient marts as peanut butter is to jelly. There has been a metamorphosis over the years from the Bonfare's that existed strictly on their own as this did and then through a metamorphosis that occurs, change in economic climate, change in peoples habits, changing of the guard, call it what you will, we are imploring to this Board that this accessory use is necessary for the existence of this particular use on the property, which is the use of the convenient store, which is the primary use on the property, that's our position.

We also state to this Board that the surrounding property is commercial in nature, we know that. I've told the Board about the Stewarts and I've also would note that there was a gas station directly across the street some years ago on property that is not owned by my client but owned by a gentleman who I believe is here tonight that housed a Hess retail sales establishment and that's no longer there. There is also a position that we're taking that in view of the property, in view of the surrounding uses of the property, which are commercial in nature and of course I'm sure everyone of this Board has taken a trip down memory lane and driven by this property and studied and as I'm sure your Chairman has instructed all members of the Board that it is a commercial area and it's our position that the addition of 3-fuel pumps would not alter the essential character of the neighborhood.

Facilities for the retail sale of fuel would include a proposal to put 2-10,000 gallon tanks along the Route 9W side as is shown in the site plan that's in front of you and it's the same plan that you're looking at that's up on the peg board except Mr. Hennessy has put a little color to this one. Under New York State Department of Environmental Conservation requirements there are safeguards with these systems that required the new double wall tanks for secondary containment, overspill containment and leak monitoring system. What I mean by that is these are double wall tanks and in between the tanks there is a product that if there is the slightest leak it detects it, a monitor rings out and it advises you of that. Likewise any of the piping that goes from the tank to the pump is also doubled walled with the latest monitoring devices that meets or exceeds all of the US Codes and requirements in the United States, visa via these type of stations and of course you also have to have the canopy because there is a fire suppression system that needed to be put on these tanks, I'm sorry, on these gas pumps and that's where the fire suppression systems go so if God forbid there's any issue it immediately takes care of it by way of taking the fire suppression and spreading it out.

The application that I put in, in my rider sheet talks about the fiberglass sump that's

bonded to the tank following the manufactures instructions contains a submersible pump products and the most sensitive electronic leak detection systems available. The multi product dispensers MPD's are included for retail fuel sales and a canopy is a proposed 32 by 48 and the minimum clearance is 14.6, 14-feet, 6-inches, which is minimally required I believe under our code, is that correct Mr. Hennessy?

MR. HENNESSY: Under the canopy, yes for vehicles and trucks.

MR. CAPONERA: Well the business hours of operation are limited also as is stated in my application basically it's going to be located right directly in front of where the glass is on the building so the operator of the facility can see where the pumps are, can see where the customers are, can see where the cars will come in and it's going to basically be open the same hours that the existing facility is, which is namely Monday through Friday, 6:00 a.m. to 11:00 p.m., Saturday 6 to 11, Sunday 7 to 10. So it is not proposed to be a 24-hour operation.

Regarding traffic, the existing curb cuts were established in 1979 during the original development and we believe that the proposal at hand and Mr. Hennessy has had conversation with Mr. Mark Kennedy who is a gentleman that works for DOT, anyone that deals in this business knows his and in discussions with Mr. Kennedy he had some fairly deep discussions with Mr. Hennessy and I'd like you to address the Board and talk to the Board about what changes would propose to occur with this project were the Board to consider granting this that would be favorable to the existing conditions.

MR. HENNESSY: Currently the property is accessed from Route 9W from a permitted entrance here, permitted entrance here and a 1-way exit here into the intersection. This is very close to the intersection and the last permitted entrance is from a curb cut here on Maple Avenue. The curbs are adjacent to the shoulder of each road, Maple and Route 9W. These areas shown here are paved on the DOT right of way. This is the DOT right of way, here's our property line right here. We are proposing to move this entrance away from the intersection to align with our path of travel and we are proposing to eliminate this entrance on 9W and use this existing entrance here.

I spoke with Mr. Kennedy; he was amenable to these proposed entrances. At the time I had to modify the entrance here to fit some of their specifications, but we would have to move this entrance a little bit down here to align with the path of travel. These entrances are a bit smaller on our proposal than the existing entrances are. That's providing a little bit more site control and by providing these entrances as we're showing here, we can eliminate the need for asphalt area here and thus provide some landscaping. We've shown some landscaping on our property just showing some trees to indicate our desire to put coniferous plants here, I was going with some hemlocks. I have a landscape architect ready to go on our landscape plan. We want to formalize our entrances before we go to that extent. Mr. Kennedy is amenable to landscaping these areas as long as they don't - - as long as they don't impede on site distances. We also have to be aware of snow, snow storage because this is 9W. The vehicles - the plows will not be going 55-miles an hour here because we have a signalized intersection, but we do need storage area

here.

The existing exists in this location and then they have the shoulder of the road right next to the path of travel.

MR. CAPONERA: Can you tell the Board; I may not have been listening, about how far the current pavement is on the property.

MR. HENNESSY: Well currently the edge of pavement of the roadway is approximately 30-feet from the property line. The existing curb is approximately 12-feet from that edge of pavement and this area here in the curbing is actually – I didn't go past the curb but this is actually green here currently; it's just grass, its just grass down to about here. These curves are set very deep; this is how the Department wanted it back in 80' when they constructed it as I have come to find out. Currently the green – this is a green area here; this is again in the right of way. Right now in this area here this is paved. The curbing exists here so this is paved so in our proposal we're going to make that green space thus we're actually increasing the green space on the property with this proposal. This is currently paved, it goes to this line here and then it's gravel here after. We are proposing to pave it, you know we can keep it gravel; we can improve the gravel, which would improve the storm water recharge capability's, but that's further down the road, you know really almost at the discretion of the Planning Board and the Zoning Board.

Along this property line we are modifying slightly the line to actually add a little space along here. We'll put some trees in here, there's an existing stockade fence. Making these perimeter improvements will certainly enhance the aesthetics of this property.

CHAIRMAN HODOM: Mr. Hennessy, just clarify for us if you would your definition of green space?

MR. HENNESSY: My definition of green space is...

CHAIRMAN HODOM: My question relates to some problems we've had in the past, you're not referring to that green space as green painted asphalt?

MR. HENNESSY: No I'm not.

CHAIRMAN HODOM: It's topsoil, seedings, shrubs, trees?

MR. HENNESSY: Yes vegetation.

CHAIRMAN HODOM: Okay, thank you.

MR. HENNESSY: In this area on DOT's right of way it's grassed, whether or not that has topsoil or not – I don't know it might just be built up; silt and sand over the years from what they've done to the roadway, but no it would be vegetation.

MR. CAPONERA: Can you talk to the Board about your discussions – well, first of all I'd like you address yourself to the Board about the proposed location of the pump islands, their direction and to ensure that there is proper stacking of vehicles if there would be an issue that you will talk to the Board about whether or not there would ever be an issue of potential car stacking; getting into the roadways.

MR. HENNESSY: This proposed canopy location took a long time to align and to provide the best traffic maneuvering here. We wanted to be able to allow vehicles to come in and just go to the store and not have to go to the pump islands so we actually have 24-foot wide, 2-way traffic here allowing vehicles to come in and park here or to - - even to have 2-way traffic going to rear of the property. We're proposing a 1-way lane on this side so that vehicles coming out of the canopy are actually directed back to 9W and not necessarily directed to the smaller roadway of Maple Avenue. The - by providing 3-dispensers, which we believed is what's necessary here and what's appropriate. It also allows a little bit more room of cueing of vehicles if it does exist. We've had sites where we've had much less travel area and maneuvering area for our vehicles, but by providing the 2-way lanes and providing the 1-way lane here we certainly have adequate room for our vehicles. By providing 2-way traffic along the building here we're providing more room for the vehicles in maneuvering on the property. Storing the tanks here, it's on concrete these are below ground tanks allowing us to travel on that surface.

MR. CAPONERA: How about the ingress/egress, which is on Route 9W and closest to the intersection. Talk to the Board about discussions you may have had with Mr. Kennedy about what he looks at and may look for.

MR. HENNESSY: One of the possibilities is that we may want to utilize a 1-way out here. That's one of the things we've been considering because currently it is a 1-way out. It might benefit the site to have the 2-way here, but we can still deal with this as a 1-way out since it's so close to the intersection. It might be more appropriate to do that. Currently this 1-way exit from the site is very close to the intersection and not the safest egress from the property. By moving it way from the intersection it will help that much more to avoid any potential conflicts with oncoming traffic.

MR. CAPONERA: Do you have an opinion based upon reasonable engineering expertise as to whether or not this layout, this re-configuration of the egress/ingress's is better than the existing egress/ingress?

MR. HENNESSY: Yes this layout is definitely better than the existing egress/ingress particularly by moving these entrances further away from the actual intersection and a majority of the traffic and by eliminating one of the entrances in the center of the property here, spreading out these entrances a little bit more providing more site distances for these vehicles turning in and out of the property.

MR. CAPONERA: Thank you very much. Now can you also talk to the Board about sewer and what's...

CHAIRMAN HODOM: Mr. Caponera before you get into that can I ask Mr. Hennessy here...

MR. CAPONERA: By all means.

CHAIRMAN HODOM: Mr. Hennessy has there been any traffic studies performed based on your proposed gas station?

MR. HENNESSY: No there has been not; no not at this time; not based on this use, no.

CHAIRMAN HODOM: Do you expect that there would be more traffic volume on this property on this property based on the gasoline pumps being installed?

MR. HENNESSY: Yes, but we looked at it with one of my traffic consultants and we didn't think it was a significant increase and did not address that by doing the study.

CHAIRMAN HODOM: Do you have something in writing that your traffic consultant prepared for you?

MR. HENNESSY: Not at this time but I can get it, yes.

MR. CAPONERA: We'd be happy to provide it to you.

CHAIRMAN HODOM: Would you do that?

MR. CAPONERA: Absolutely. Mr. Hennessy I don't know if you're familiar with this but certainly I am. This gasoline proposal, it's not an end user, in other words people aren't going to travel to this site just for that purpose and therefore when you do the traffic studies and I'm involved with many of them with other stations that I do through out the area. Are you familiar with that in your discussions with your traffic people?

MR. HENNESSY: Yes, because they felt that a lot of these and a majority of the customers will be customers for the store also. We would have to look up obviously the specific counts and the literature on that but given that this is not just the sole use as a gas station that's more in our opinion the accessory use. The customers are anticipated to be also customers of the store.

CHAIRMAN HODOM: You're also eliminating several parking spaces, existing parking spaces on the easterly part of the site and replacing that with green space.

MR. HENNESSY: Yes, currently there are 6-parking spaces. I don't believe - - they weren't painted so I don't think they were actually delineated but there are currently 6 that park perpendicular - no parallel to Maple, I'm sorry, parallel to Maple. We can eliminate those and any of the head-light problems that are associated with it because we can use that as our travel area that helps the maneuvering capabilities of the site therefore

we are proposing to have parking in the rear even though the unzoned didn't have specific, I used the commercial suggestions of 250-square feet per parking space for the building. We can eliminate those if you want in the back, we don't need those if you don't want them.

CHAIRMAN HODOM: Bill, the question was by eliminating those will you still maintain sufficient parking for the retail store?

MR. HENNESSY: Yes, absolutely. We added more than that, if there were 6 here, we're adding 9 in the back and then we still have 5 in the front and one of them will become a designated handicap accessible space.

CHAIRMAN HODOM: For the retail store is it 250 per square foot?

MR. PLATEL: That's correct.

CHAIRMAN HODOM: And that would require how many spaces?

MR. PLATEL: 12.

CHAIRMAN HODOM: And how many spaces do we end up with, with your revised site plan Mr. Hennessy?

MR. HENNESSY: I have 14.

CHAIRMAN HODOM: 14, okay.

MR. HENNESSY: I think it required 14, Mark – it was the 12?

MR. PLATEL: 12 is required.

MR. HENNESSY: Okay.

MR. CAPONERA: We would also propose banked parking if this Board is interested in that proposal, it's there; it's banked. If it's needed it can always be converted to such. I've used that in many other projects that I've done not only with this type of a project but other types, but regardless that's – we have more than enough parking, is that correct?

MR. HENNESSY: Yes, yes.

MR. CAPONERA: As part of the Code?

MR. HENNESSY: Yes.

MR. CAPONERA: Can you talk to the Board about the existing sewer and whether or not this proposal will add anything to that?

MR. HENNESSY: Our estimates show that this will not have an increase or a significant increase. The initial septic system was built in 1980 for the original construction of the store in and or around 1986 it was replaced by a sand filter system which is a much more efficient system and there have been no reports that we are aware of, the property owner or the tenant of any deficiencies in that system. The numbers I've looked at basically were 400-gallons per day for the rest room in this and we have a unisex handicap accessible restroom in this facility.

CHAIRMAN HODOM: Have you had any conversations with Albany County Department of Health?

MR. HENNESSY: No not at this time, not yet. We will talk to them and get, you know we don't - - we were looking for the design plans on that system. We didn't have them so we're going to have to go to them and get those plans and to confirm some of the numbers.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: Okay Bill, thank you. Stay close because you're going to be coming up again. Now, also for the Boards edification there will be no new employees plan so as a result as you just heard from Mr. Hennessy we're going to have no new connections to the existing sand filter system and we feel that none are needed. However potentially if this Board were ever to consider this application with the increase in taxes, maybe the sewers would be extended through to here, I don't know. That's off the record.

CHAIRMAN HODOM: Well the owner can always pay to have the sewers extend there on their own.

MR. CAPONERA: You're absolutely right. I'm sure that she'd be happy to - I don't know how close the sewers are quite frankly.

MR. HENNESSY: Right across the road.

MR. CAPONERA: Across the road?

MR. PLATEL: I know they go down to....

MR. HENNESSY: Trinity Place.

MR. CAPONERA: Continuing on, obviously we have no new proposed connections to the sewer because there are no sewers there, but you never know. I mean something like this could spur something like that on. We feel that given the existing facility, which has been there for a quarter century that no potential sources of noise or proposed which would significantly effect the near by sensitive receptors. Parking as we said along the one side where there is a rental home is eliminated and now to talk about the industry

changes. I talked a few minutes ago about how the industry's changes have come about and the existing convenient food mart desperately needs accessory gas sales to compliment and complete the existing operation. As some of the Board may know, as all of the Board members may know and Mr. Chairman the property has been going a metamorphosis in it's own right. The current tenant has put a substantial amount of money into this property, in fact I was told that it is the 100,000-dollar range to upgrade this property, which when he took it over was not in very pristine condition and anyone who has been to the site recently including myself can attest to the fact that it certainly has come a ways from where it was a few years ago. At this time I'd like this young lady to please step forward and I'd like you to for the record state your name.

MS. IGLER: My name's Lisa Iglar.

MR. CAPONERA: And tell us or tell the Board what you are and what you do.

MS. IGLER: I'm employed by Polsinello Fuels and we are a retail gasoline distributor located in Rensselaer and I run the liquid products division and I've been....

CHAIRMAN HODOM: Excuse me, could you spell your last name for us?

MS. IGLER: I-G-L-E-R.

CHAIRMAN HODOM: Thank you.

MS. IGLER: I've been employed by them for 20-years and we've seen the whole industry change. We've seen your typical gas stations become a thing of the past and turn to the convenience store industry and the reason being that competition's fierce and you need multiple profit centers in order to survive in today's market place. So gasoline can be in stores, you see a lot food service that's the next trend or we're already there in most markets. Stewarts 20-years ago had Stewarts Shops, they've gone on to the gasoline bandwagon as well as Amerada Hess who used to just have a little kiosk operation. They've gone to the big Hess stores because this is what they need to survive in today's market.

MR. CAPONERA: Are you telling me that 2.15-cents a gallon is not profit enough?

MS. IGLER: There's not a lot of profit in it. The refiners are making the money, not anybody else.

MR. CAPONERA: So could you tell the Board in your 20-years in the business you've seen this morphine, we'll say to go from the strictly convenient mart to the use of the accessory, i.e. the gasoline sales to compliment the convenient mart operation?

MS. IGLER: It's been our – it's our knowledge in the industry that a convenient store today cannot survive on just convenient store sales.

MR. CAPONERA: What do you base that on?

MS. IGLER: Statistical numbers. A 3,000-square foot store should be doing 2,500-dollars a day in store without lottery sales. I know that those sales are nowhere near that and they're not because they don't have the draw of gasoline to get the people into the store. Everybody drives; every household has a minimum of 2-vehicles. If anyone has teenage children, everybody's kid has a car today to, so everybody is a motorist. We all have cars and we all shop at convenience stores because we're working 10/12-hour days, we want something quick and this is where we're going to go. We want 1-stop shopping; we don't want to go to 4 different places. That's why you need gasoline for convenience stores to survive.

CHAIRMAN HODOM: Ms. Igler let me ask you a question, does the industry have any data written data that you could provide to the Board which would substantiate what you're telling us here this evening?

MS. IGLER: I'm sure I have some kind of numbers somewhere.

CHAIRMAN HODOM: That would be very helpful if that can be provided. Just to clarify your earlier statement, which I would agree is that most of the smaller gas stations that were operational have gone to the convenient store. It really hasn't been the other way around, would you agree with that?

MS. IGLER: I would agree with that. They would either build the store or get out of the business.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: Thank you very much. Would you mind stepping forward?

MRS. NOLAN: Sure.

MR. CAPONERA: And would you please state your name for the record.

MRS. NOLAN: I'm Betty Nolan, owner of the property.

MR. CAPONERA: You are not 30-years old, is that correct.

MRS. NOLAN: No, I wish I were but I'm not.

MR. CAPONERA: You've heard me talking to the Board and I represented myself to be your attorney, is that correct?

MRS. NOLAN: That's right.

MR. CAPONERA: And you are in agreement with my comments that you own the

property and that you've owned it since...

MRS. NOLAN: 1979.

MR. CAPONERA: All right. And could you tell the Board what kinds of investment you have in this property and I'm talking about a combination of the purchase price, the value of building, this building, the upkeep, essentially what are your numbers?

MRS. NOLAN: We bought the property; my late husband and myself in 79' for 33,000-thousand, we put around between 10 and 20-thousand in fill and excavating and around another 80-thousand in building - the building. So we have - a little over 80-thousand, so somewhere between 140/150-thousand investment in it.

MR. CAPONERA: And that's the money you've invested in this property?

MRS. NOLAN: Right.

MR. CAPONERA: Is that correct?

MRS. CAPONERA: Right.

MR. CAPONERA: And if I'm not mistaken I'm holding in my hand a tax bill that's issued by the Town of Bethlehem Receiver of Taxes and assessments and would you agree with me that this is a tax bill for your property at 1250 Route 9W?

MRS. NOLAN: Right.

MR. CAPONERA: Could you please tell the Board what that property is assessed for, the piece where the...

MRS. NOLAN: The front piece where the store is located is assessed for 168,700-dollars.

MR. CAPONERA: And you just testified to the Board that you have a range of about 145,000-thousand that you've got in there?

MRS. NOLAN: That's right.

MR. CAPONERA: So that was 1979?

MRS. NOLAN: Right.

MR. CAPONERA: And now we're in about 25-years...

MRS. NOLAN: Later, right.

MR. CAPONERA: Okay thank you. Now, you also heard me give testimony but talk to the Board about your renting of the property to various entities.

MRS. NOLAN: Right.

MR. CAPONERA: Is it a fact that you rented it to the Bonfare for a period of years?

MRS. NOLAN: Yes I did.

MR. CAPONERA: Did there come time when they could no longer pay the rent?

MRS. NOLAN: That's right.

MR. CAPONERA: And did you gracefully ask them to leave or did they - - I just want to know what happened, they left?

MRS. NOLAN: They left, they just couldn't make it anymore; they went bankrupt.

MR. CAPONERA: Okay. And did there come a time when you had a secondary tenant take title or take occupancy of the property?

MRS. NOLAN: Yes, it was one of their employees who took over for - - Bonfare was there approximately 15-years and then one of their employees took it over for another 8-years and he ran it fairly successful for a while but then he went belly-up also.

MR. CAPONERA: And they moved out?

MRS. NOLAN: And he moved out.

MR. CAPONERA: And all along you're paying the taxes on the property?

MRS. NOLAN: Right.

MR. CAPONERA: And you're just trying to make a go of it, is that correct?

MRS. NOLAN: Correct.

MR. CAPONERA: And trying to make a reasonable return on your investment?

MRS. NOLAN: Exactly.

MR. CAPONERA: And there came a time when you entered into this lease that I handed out to the Board a couple of years ago, is that correct?

MRS. NOLAN: Right.

MR. CAPONERA: And that was with the corporation known as...

MRS. NOLAN: Patel, Inc.

MR. CAPONERA: Patel, Inc. and is the gentleman been leasing the property from you since that time?

MRS. NOLAN: Yes.

MR. CAPONERA: And there's an option in there to where if he leases it. I think in the lease it says for 10-years he has the option to buy it.

MRS. NOLAN: That's right.

MR. CAPONERA: Now since Patel, Inc. has taken the property you heard me talk a moment ago about how there's been a substantial investment of monies into the property, were you aware of that?

MRS. NOLAN: Yes, Amin has done a very good job.

MR. CAPONERA: Will you tell this Board what kind of monies have been invested in the property by this young man that's sitting behind you.

MRS. NOLAN: Yes, he's put a new heating system in. He's done the whole inside over, he's put new floor in, air-conditioning – I don't know what else..

MR. DAWOODANI: The ceiling, everything.

MRS. NOLAN: The ceiling.

MR. DAWOODANI: Bathroom.

MRS. NOLAN: Bathroom.

MR. DAWOODANI: Cooler.

MRS. NOLAN: Cooler, he has a large walk in cooler on one whole side and across half the back.

MR. DAWOODANI: Subway to.

MRS. NOLAN: Yes a Subway is going in, in another week hopefully. He has done a lot of work in there.

MR. CAPONERA: So it would behoove you to continue the tenancy with this young man and enable him to continue to pay the rent on the property, is that correct?

MRS. NOLAN: Yes.

MR. CAPONERA: Okay, thank you very much.

CHAIRMAN HODOM: Just before you sit down Mrs. Nolan if you could, my understanding is that you purchased a property in 1979?

MRS. NOLAN: That's right.

CHAIRMAN HODOM: And had you ever come in front of this Board previously?

MRS. NOLAN: I don't recall, no.

CHAIRMAN HODOM: Are you familiar with the company CFM, Enterprises?

MRS. NOLAN: Yes that's who I leased the property to years ago. That was the first tenant.

MR. CAPONERA: That's the Bonfare.

MRS. NOLAN: That was the Bonfare.

CHAIRMAN HODOM: That was Bonfare?

MRS. NOLAN: Right.

CHAIRMAN HODOM: Okay.

MRS. NOLAN: It was a convenient food mart who then changed their name to Bonfare.

CHAIRMAN HODOM: Okay. But you were not aware that they came in front of the Zoning Board of Appeals back in 1980 requesting primarily the same equipment that they're asking for?

MRS. NOLAN: Yeah, I don't recall it until I went through papers after Mr. Caponera mentioned it to me today and I went through some old papers that I had marked as trash and I did find a copy of that, which I totally was unaware of that I had. I don't recall.

CHAIRMAN HODOM: At that time they were also looking for 2-10,000-gallon underground storage tanks, 1-gas island with 3-duel dispenser units which I think you're looking for and that application on August 27, 1980 was denied by the Zoning Board of Appeals.

MRS. NOLAN: That's what I understand.

CHAIRMAN HODOM: But that was Bonfare?

MRS. NOLAN: Right.

CHAIRMAN HODOM: You've owned the property since 1979 and other than this application, which you had either forgotten about or weren't aware of...

MRS. NOLAN: Right.

CHAIRMAN HODOM: You've made no other applications to the Town's Zoning Board of Appeals or Planning Board to request the gasoline operation?

MRS. NOLAN: No.

CHAIRMAN HODOM: And the primary reason that you're asking for it this evening in your own words?

MRS. NOLAN: To increase business at the property, it needs increase of business to -- for Mr. Ali to keep his business going to, you know help me out so I have income that I mean if he doesn't make it there then he's gone and it's going to hurt me.

MR. CAPONERA: You're back to where you were...

MRS. NOLAN: I'm back to square one.

MR. CAPONERA: When Bonfare went broke and the subsequent tenant went broke, is that correct?

MRS. NOLAN: That's right.

CHAIRMAN HODOM: Has the property produced income for you on an annual basis?

MRS. NOLAN: Yes, since he's been there it's been doing good and since he's taken over, I mean, you know it seems to, you know he's been gradually building up business. It's taken him a while, but I mean it's doing better but it needs more. I mean we need -- we need gas down there, we really do because all we have there is Stewarts and I don't know how many people are familiar with Stewarts but they don't have a good gas.

MR. CAPONERA: Were you losing money when the other tenants had to default and leave?

MRS. NOLAN: Yes.

MR. CAPONERA: And you weren't making any income for the property, were you?

MRS. NOLAN: No, not for a while I mean I was getting bad checks from him and you

know I had to kind of chase after him for a while and it was hurting.

MR. CAPONERA: And you were trying to use the property for any use that was allowable in that zone, is that correct?

MRS. NOLAN: Yes.

MR. CAPONERA: You would have rented it to me if I had asked you?

MRS. NOLAN: I would have.

MR. CAPONERA: Even the Chairman of the Board could have rented it from you, is that correct?

MRS. NOLAN: Yeah, I mean as long as it was for a good purpose I mean I would...

MR. CAPONERA: Allowable.

MRS. NOLAN: Allowable purpose, right.

MR. CAPONERA: Anything allowable within itself?

MRS. NOLAN: That's right.

MR. CAPONERA: Thank you.

CHAIRMAN HODOM: Mrs. Nolan do you have, and can you provide some competent financial data to the Board say for the past 5-years showing your financial status of the property? I mean if you're having loses that should be easy to show us and based on a Use Variance that's one of the requirements that you must show is competent financial data for the requested change.

MRS. NOLAN: Okay, as far as the income from the property?

CHAIRMAN HODOM: Yes.

MRS. NOLAN: Okay.

MR. CAPONERA: Absolutely, you don't have a problem with that do you?

MRS. NOLAN: No.

MR. CAPONERA: Okay good.

CHAIRMAN HODOM: Good, thank you.

MR. CAPONERA: We feel that the evidence that's come before this Board shows certainly uniqueness to the property. We believe that if you go to the property and look at the surrounding area we can show that there would be no adverse on the surrounding neighborhood given the existing commercial uses in the neighborhood and around there given the fact that there's a Stewarts convenient mart and gas sales within a few hundred feet of the site albeit in a different zone but not withstanding the fact that it's dangerously close to this property.

Given the fact that there's a - - some sort of an automotive or truck repair facility directly across the street, it's got a sign saying authorized New York State automotive repair facility. Given the fact that the property across the street used to house a Hess gasoline station, I know it's not there any longer and we also believe that based upon the information that was supplied by Mr. Hennessy, from an engineering perspective that the proposal would clearly not have any adverse on the environment. We feel that this is clearly not a self created hardship given the fact that my client has owned it for 25-years and given testimony to this Board that I feel is credible relative to her hardship and we certainly will provide the information as required by Mr. Chairman to substantiate the financial aspects of hardship.

Based upon all of the information that we've submitted we humbly believe that the Board should look favorably upon our application and we'd be happy to answer questions that the Board might have.

CHAIRMAN HODOM: Any further questions from the Board?

MRS. O'BRIEN: Yes. Mr. Caponera you noted that the property where the Stewarts is, is almost adjoining it and that that's commercially zoned?

MR. CAPONERA: It's a zone that I'm told is different than this zone, is that correct?

MR. PLATEL: I'm sorry I was looking at something else; I didn't hear the question.

MRS. O'BRIEN: The other property where the Stewarts is that's right near them is commercially zoned?

MR. PLATEL: Yes I believe it's "CC" Retail Commercial.

MRS. O'BRIEN: Has there been consideration of asking the Town Board to re-zone this area since it is a commercial operation? I mean how is the zoning there - I mean that is a rather commercial area of Town all along 9W there...

MR. CAPONERA: I wouldn't - - as soon as someone asks the question about asking to re-zone, the only thing that pops in my mind is 2-words, spot zoning and your counsel can give you advise on that but I'm a little fear full of doing that.

MRS. O'BRIEN: Well my concern is that that's what we have now it's that, you know

you've got this Rural Unzoned and then Commercial across the street and next to it and everything else. I'd like to see, you know the zoning along there just how this fits in...

MR. PLATEL: Well the zoning along this parcel I believe going down both Maple and then Bridge Street on the other side and up to Becker School is Unzoned, RNZ, starting just after this property going south it changed to "CC" Commercial.

MRS. O'BRIEN: And what about across the street, is that Rural Unzoned?

MR. PLATEL: Yes.

MRS. O'BRIEN: As far as Bridge Street?

MR. PLATEL: Yes, all 4-sides of this corner are Rural Not Zoned.

MRS. O'BRIEN: But it's not inconceivable to think that extending the commercial up to Maple Avenue would be logical and not spot zoning, I mean it's extending it to a logical...

MR. PLATEL: Yeah, it would be logical. There's also a Town moratorium going on now where they're looking at other things at this time to.

MRS. O'BRIEN: It's hard to believe that this is a Rural Unzoned...

MR. PLATEL: Correct, it's all basically commercial there, yes.

MRS. O'BRIEN: Right, all up and down the road. One other question, your map shows on the entrance and exit off 9W it shows several semi's going through there. Are you planning to sell diesel fuel at all?

MR. CAPONERA: No I don't believe so...

MR. DAWOODANI: Yes.

MR. CAPONERA: We are?

MR. DAWOODANI: Yes.

MR. CAPONERA: I thought you were showing the truck traffic visa via the delivery trucks because you normally have to show a template on that.

MR. HENNESSY: Showing the vehicle on there is requested by DOT but it depicts the ability of the trucks to get in and out of the site...

MRS. O'BRIEN: But not to get to the gas pumps and out?

MR. HENNESSY: I'm sorry?

MRS. O'BRIEN: But not to get to the gas pumps and out.

MR. HENNESSY: No, they would not go there to get diesel. They would get from a satellite pump in the back is where they could purchase diesel.

MRS. O'BRIEN: So you're also proposing another pump in the back?

MR. HENNESSY: The pump would be in back and the diesel is stored in one of the 10,000-gallon tanks, yes.

MRS. O'BRIEN: So only one of the tanks would be for the...

MR. HENNESSY: One tank...

MRS. O'BRIEN: One tank would be diesel fuel and one tank would be for the front pumps?

MR. HENNESSY: A compartment in one of the tanks is for diesel and another compartment is for super and the other tank is for regular unleaded and the super and the regular unleaded actually blend to provide plus. So the storage of the diesel would be in one of the 10,000-gallon tanks, yes.

MRS. O'BRIEN: Well that's a substantial change from just adding gas pumps to help the customer who comes to the convenient store. If you're proposing to put diesel fuel dispensers there, where else is diesel fuel available in the area?

MR. HENNESSY: That I could not answer off the top of my head.

MRS. O'BRIEN: I mean you're very close to the entrance to the thruway there.

MR. HENNESSY: Yeah, as I've learned over the years – well over the past year I've gone here many years myself, a big customer base here are trucks coming in and out of there and diesel sales...

MRS. O'BRIEN: Clearly at this point not the gas?

MR. HENNESSY: I'm sorry?

MRS. O'BRIEN: Clearly at this point not for gas?

MR. HENNESSY: Yes exactly. The same could be held true for the cars, they don't go there for gas now either so...

MR. CAPONERA: I believe if the Board were concerned about that and felt that that

may not fit into this proposal that the consideration could be made by the client relative to that. Do you understand what I'm saying?

MR. HENNESSY: Sure.

MR. CAPONERA: I understand where you're coming from.

MRS. O'BRIEN: Well it brings up a couple of other things to, you're removing some of the convenience parking that a convenience usually has and putting it way around the back, way off site really and expecting that people who need to use that parking are going to walk up past where these big semi's are fueling to get around to the front of the convenient store.

MR. CAPONERA: That's a good point. I mean it may be something that may not – or may be factored out of the equation if you know what I'm saying. And the other thing is one of the things that I've noticed is when you put the MPD's there the cars typically when they're fueling up will from that fuel station walk in to the convenient mart to pay their gas and get what ever they need.

MRS. O'BRIEN: And leave the truck parked in the middle of the road.

MR. CAPONERA: I'm talking about the cars that are under the – you're talking about the possibility of putting a diesel dispenser in that location that I did not mention to the Board, quite frankly I didn't even think about it but if the Board is concerned about that, and it has a right to be it may be just completely eliminated from the proposal.

MRS. O'BRIEN: Would that allow for additional convenience parking, I mean the parking back here fills the need of how many spaces you have to have.

MR. CAPONERA: Right.

MRS. O'BRIEN: But certainly is not where it's needed for the purpose of the store.

MR. CAPONERA: Do you understand Bill what we're talking about?

MR. HENNESSY: Sure.

MR. CAPONERA: If the diesel dispenser were eliminated and you could slide that parking closer to the building I think Mrs. O'Brien is talking about the convenience of allowing the people that don't want to - - they're not going to want to walk from behind the building if you know what I'm saying.

MR. HENNESSY: We could pursue - we could investigate some options back there and do some realignment if need be. The loss of the parking here was really to accommodate the required maneuverability of the site here for traffic from Selkirk so we...

MRS. O'BRIEN: And you would also have to have, you know as you show here that DOT said that you're going to need to access for the trucks in and out which means you really can't put any parking over here and again it doesn't leave you many options where people wouldn't have to - - when you're saying the trucks are coming in and out and they will be, they'll continue to whether they're fueling there or not and to move the customer parking behind the store is going to I would think present some kind of a hazard.

MR. HENNESSY: And I believe that that could actually be the case depending on how many, you know trucks are coming in and out of there. Showing the truck path here was showing how - that we could adequately fuel, you know fill up our tanks.

MRS. O'BRIEN: But again regardless of whether they're fueling, they're just coming in as they do now they would still have to use that pathway.

CHAIRMAN HODOM: Mr. Hennessy along 9W are both those egress and ingress accesses to the property both on the northerly and the southerly side of 9W? That one there is that both ingress/egress?

MR. HENNESSY: That's 2-way's, yes 2-way traffic, yes. The proposed at this time we were proposing 2-way. We are currently, you know considering making this a 1-way because we're still kind of somewhat close to the intersection and that's - at this point probably wouldn't be a problem to make this just a 1-way out. It would eliminate the possibility of cars turning in and just visiting the convenience store parking here if they had to come in here to turn left in from 9W or come in from 9W this way and they'd have to drive all the way through this way to come around to the front.

CHAIRMAN HODOM: Are you familiar with the canopy over the gas?

MR. HENNESSY: Yes.

CHAIRMAN HODOM: Gas service area. Can you describe that for us and what kind of lighting is there?

MR. HENNESSY: The proposed lighting is for surface mounted fixtures underneath the canopy. I can address that a little bit better here. The proposed canopy is 32 by 48, it's comprised of a plastic material, it will be blue and red coloring. Underneath - below the surface we will have 300-watt fixtures that will be pointed down and they can be modified to have different levels of cut off if necessary to cover just the canopy if it's needed.

CHAIRMAN HODOM: Are they recessed or surface mounted?

MR. HENNESSY: Surface mounted.

CHAIRMAN HODOM: Is it a possibility to have them recessed?

MR. HENNESSY: Do you know if they can be recessed in those canopies, I'm not sure. We'd have to talk to the canopy people.

MS. IGLER: It depends on what kind of canopy it is, but there is recessed lighting available, however the recessed lighting does give off more illumination than the surface mounted lights that we've proposed and that's why we went with them.

MR. CAPONERA: How about the shoebox type lighting?

MS. IGLER: That's what – well this is kind of like a shoebox, it's a Scottsdale; it's a very small fixture and the lighting flashes down onto the dispensers and into the fueling area.

CHAIRMAN HODOM: Can you provide some documentation to us of what you're proposing to use as far as lighting?

MS. IGLER: Yes.

CHAIRMAN HODOM: And spacing, discussions about the illumination?

MS. IGLER: Yes.

CHAIRMAN HODOM: Is the canopy itself illuminated?

MS. IGLER: No.

CHAIRMAN HODOM: Is there any signage on the canopy?

MS. IGLER: Yes.

MR. HENNESSY: Just Exxon in the corner; we just have an Exxon in the corner.

MS. IGLER: 2-sets of Exxon channel letters, their illuminated, very low illumination.

MR. HENNESSY: Just the letters are.

MS. IGLER: Just the letters. It's not a backlit canopy.

CHAIRMAN HODOM: Do we know what sizes they are?

MS. IGLER: What size the letters are?

CHAIRMAN HODOM: Yes, the signage itself.

MS. IGLER: I think the letters are 24-inches in height, 4-inches – because they actually appear like they're floating on the canopy.

CHAIRMAN HODOM: Well the reason I'm asking is because the Town also has signage restrictions so we would need information on the signage you're proposing here other than your pole sign.

MR. CAPONERA: Mr. Chairman does this Board do sign or does this go through a sign review board.

CHAIRMAN HODOM: No, we do signs.

MR. CAPONERA: Okay so I'd ask that you study the sign requirements and limitations and...

ATTORNEY MOORE: Or are these site plan issues that go to the Planning Board?

MR. PLATEL: No they can go through here.

ATTORNEY MOORE: They can go through here?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Does it go for site plan review anyway for the Planning Board? I was going to make that recommendation but I assumed that it was going to the Planning Board for site plan review anyway.

MR. PLATEL: That would be up to the Board.

CHAIRMAN HODOM: Up to us?

MR. PLATEL: Yes.

MRS. O'BRIEN: Do you have drawings of the kinds of canopy's and pumps that you're proposing for the site?

MS. IGLER: Do you have the canopy drawings?

MR. HENNESSY: The design drawings?

MRS. O'BRIEN: Well no, I meant pictures of ...

MR. HENNESSY: Oh photo's.

MRS. O'BRIEN: Yes photos of what they would be...

MR. HENNESSY: I have a photo of the sign; I don't think we have photos of the canopy.

MS. IGLER: I know but I can provide you with them if that's what you would like. I have a very similar project that we did in Colonie.

CHAIRMAN HODOM: We would like anything that is going to be considered as being constructed on the property even showing the colors and the materials being used.

MS. IGLER: Okay.

CHAIRMAN HODOM: The height is showing as 36-inches.

MRS. O'BRIEN: Mr. Caponera, back to the where you show the diesel pump on the drawing here you also have a notation of kerosene?

MR. CAPONERA: Bill could you put that up again? That I'm not familiar with. Bill could you answer that question?

MR. HENNESSY: Yes, we were proposing to have the satellite for kerosene in the back here. It would not be a large – it would be an above ground – possibly an underground tank but it would be...

MRS. O'BRIEN: To dispense kerosene?

MR. HENNESSY: Yes.

MRS. O'BRIEN: Is the diesel operation or the kerosene operation a self dispensing as the front fuel pumps and the front fuel pumps you said they're located there so that the convenience store operators could see them. How are they going to see what's being dispensed in the back here and again are those self dispensing or what kind of an operation is proposed there?

MR. ALI: We do have back door.

MRS. O'BRIEN: Well that's a door where it's not somebody looking out and seeing what's going on.

CHAIRMAN HODOM: If you're going to make some comments sir, just introduce yourself. You can make them, but introduce yourself to us so we can get you on the record as making the comment.

MR. CAPONERA: He's the tenant.

MR. DAWOODANI: My name is Amin Ali Dawoodani; I'm a tenant with...

CHAIRMAN HODOM: Do you have a card or anything with you Amin?

MR. DAWOODANI: Yes I do. I'm a president of Patel Inc.

MR. CAPONERA: He's the president of the lessee.

MR. CAPONERA: Again Mrs. O'Brien if you have concerns about that I think that's something that we have to go back to and look at and there may be a proposal to...

MRS. O'BRIEN: Well I'd just like a further...

MR. CAPONERA: Yeah explanation and that's a good point.

MR. MICELLI: I have a question for Mr. Hennessy. I visited the site today and I was under the impression when I spoke to the tenant that there was going to be diesel under the canopy, is that true?

MS. IGLER: I can elaborate on that.

MR. HENNESSY: Okay.

MS. IGLER: One of the dispensers in the proposal is a 3-plus one and basically all that means is that it dispenses 3-grades of gasoline as well as diesel fuel and diesel fuel is necessary evil since the automobile industry is going more and more toward hybrid cars. Hybrid cars are being manufactured to run on diesel fuel and if that catches on and more and more people buy them, he would lose out on a big part of the business plus your higher end vehicles are your Mercedes, most of them are diesel, you know your Saab's, your VW's, they're all diesel burning engines. So he would actually lose on a big part of the buying public.

MR. MICELLI: Now what are the chances of a semi pulling up to that canopy? Can that possibly happen, no?

MS. IGLER: A semi, no.

MR. MICELLI: Okay.

MS. IGLER: There's just not enough room there.

MR. MICELLI: All right, so with that height restriction they would know that if they wanted to...

MS. IGLER: I don't even think it's a matter of the height restriction, there's just no room; it's not driver friendly.

MR. MICELLI: Right, okay.

MR. CAPONERA: It clearly is designed for automotive access.

MR. MICELLI: Okay.

MR. CAPONERA: Just the way you're looking at, there's no way you can get a bigger truck in and out of there. Would you agree with me Mr. Hennessy?

MR. HENNESSY: Yes the maneuver that the vehicle would have to do there, I mean he could because I will say that we've looked at the possibility of our trucks for filling the tanks, possibly exiting here and going out to a signalized intersection. It's just an appropriate maneuver for a truck and that's an option but for him to negotiate that turn and pull up to a dispenser...

MR. MICELLI: It's not going to happen.

MR. HENNESSY: Is not likely at all and not anticipated.

MR. MICELLI: Thank you.

CHAIRMAN HODOM: Just to clarify as why - - so you're looking for 4-dispensers, not 3-dispensers?

MR. HENNESSY: We talked about 4, but no we can really only fit 3 there in our opinion so we're only proposing 3.

MR. CAPONERA: I think the Chairman is talking about you have proposed...

MR. HENNESSY: Oh, the fourth would be - - I'm sorry the fourth would be the diesel kerosene.

CHAIRMAN HODOM: Well you have a dual, a double dispenser here do you not - at the easterly side of the...

MR. HENNESSY: No that's just one.

CHAIRMAN HODOM: That's a single?

MR. HENNESSY: Just one. The smaller icons there actually those are structural steel columns holding up the canopy.

CHAIRMAN HODOM: Okay.

MR. HENNESSY: So the square in the middle is the MPD, the multi purpose dispensation.

CHAIRMAN HODOM: So your definition of the grade of gasoline, again you would push a button and you'd be able to get kerosene or diesel fuel from it?

MS. IGLER: On one dispenser and on the MPD's there are 3-grades of gasoline that are dispensed from the gasoline nozzle. On the opposite side of the dispenser, it says diesel fuel and that's separate – that's a separate handle so to speak that they would pick up.

CHAIRMAN HODOM: Okay, so you do have 4-dispensers?

MS. IGLER: There is 3-dispensers, there is 6-fueling positions.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: One on each side.

MS. IGLER: Right.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: How many hoses?

MS. IGLER: 2, 4, 6 and 2 for diesel so there would 8-hoses.

CHAIRMAN HODOM: Any other questions for Mr. Hennessy? Mr. Caponera, I'm just looking at page-1 of your rider sheet to the application in the 5th paragraph pursuant to section 128-23. You make reference of the definitions and uses as described in section 128-1 more importantly about the accessory use or accessory building as a subordinate use or building customarily incident to and located upon the lot occupied by the main building. Can you just clarify what your intent was there?

MR. CAPONERA: Yes I'd be happy to. It is basically our contention that the main use on this property is that of a convenient mart and it is our position that the proposed retail gasoline pumps, the MPD's is accessory to the primary use which is that of a retail use which is an authorized in this zone. That's what I was trying to say here.

CHAIRMAN HODOM: Are you aware of or do you know of any other determinations made in that regard where a gasoline operation was subordinate to the retail store operation.

MR. CAPONERA: I'm not sure I understand your question. Are you asking in other municipalities?

CHAIRMAN HODOM: No in the Town of Bethlehem.

MR. CAPONERA: No. I'm only basing this upon my having the opportunity to go in front of many, many, many Boards through many, many Towns and villages throughout this state and it's been the Zoning Board's positions in those municipalities that they always to what the major use, what the principle use is and they define that typically by

saying well where do you get most of your income from and I'm going to give you an example of the Town of Colonie. That's how they use this they say how do you get to principle use? And their definition is where does more than 50-percent of your income come from? And if it is in this case as a convenient mart if that's where it comes from and then you have other income that's coming in they consider that to be accessory uses.

CHAIRMAN HODOM: Okay.

MR. PLATEL: Can I get my point in on that Mike.

CHAIRMAN HODOM: Sure.

MR. PLATEL: Where I came into where I sent it for the Use Variance was there's also a definition for motor fuel filling station which states an establishment or activity which dispenses motor fuel to the public as a principal or accessory use. So since it's not listed as a principle or accessory use under permitted uses it would have to come to the Board for a Use Variance.

CHAIRMAN HODOM: Okay.

MR. PLATEL: That's how I kicked it into this.

CHAIRMAN HODOM: That's fine, thanks Mark. The – just below that, the 3rd sentence from the bottom in the same paragraph you make reference to accessory uses within 128-24. I don't know if that's a typo or an old code.

MR. CAPONERA: The Code that preceded the 2003 amended code, which I have a copy of here authorized accessory uses under section 128-24 which is the, I'm sorry hang on it may be a typo. It may have been meant to be under 128-23, just give me second.

CHAIRMAN HODOM: Sure.

MR. CAPONERA: It was 128-23, you're correct.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: Forgive me.

CHAIRMAN HODOM: That's fine. I was looking for 128-24 and I couldn't find it.

MR. CAPONERA: That talks about performance standards.

CHAIRMAN HODOM: Right. So that should be 23?

MR. CAPONERA: Correct.

CHAIRMAN HODOM: On page 2 of your rider sheet, last paragraph 4th line down it says that the canopy will not be illuminated and I think we had conversation earlier that the canopy is intended to be illuminated?

MR. CAPONERA: No not the canopy. We're talking about I think what I was referring to is the band around the canopy is not going to be illuminated, it's the lights that's under the canopy that have to be illuminated as a matter of...

CHAIRMAN HODOM: That's not what you said earlier is it.

MRS. O'BRIEN: Well she said that the signage on it...

MS. IGLER: The fascia is not backlit and I believe that's what he was getting at.

CHAIRMAN HODOM: But there will be signage on the face of the canopy that will be illuminated?

MS. IGLER: The Exxon letters if ...

MR. CAPONERA: Proposed signage.

MS. IGLER: Right if they're...

MR. CAPONERA: As long as it meets the code or there's a Variance granted, clearly and I think the Board needs more information on that.

CHAIRMAN HODOM: We do.

MR. CAPONERA: I think Ms. O'Brien wants to see the color of what this canopy is going to look like both from the fascia standpoint and what the proposed signage is going to look like.

CHAIRMAN HODOM: Have we made any analysis – well you don't have the information either and Mr. Hennessy you'll take a look at the signage requirements for this type of structure?

MR. HENNESSY: Would I follow "CC", is that 2-square feet per linear foot of building frontage?

MR. PLATEL: That would be our normal.

CHAIRMAN HODOM: And you can contact Mark for further clarification.

MR. HENNESSY: Okay.

CHAIRMAN HODOM: Any other questions from the Board? Are there any questions or

comments from the audience? Sure sir, please introduce yourself to us and give us your address.

MR. SCHAFFER: My name is Howard Schaffer, I a kind of legislator for the district in which this proposal's being considered. I'm here tonight to speak as a resident of the neighborhood; I live about a quarter – about a half-mile down the road on Maple Avenue. I've had the opportunity to live in the village in Selkirk in the Town of Bethlehem since 1996 and I have seen a change in the operation that the corner store. I think at the time I first moved to Selkirk it was a Bonfare. I think the reason that – I think they're actually – Stewarts bought out Bonfare is my recollection of the process and Stewarts didn't buy out the Bonfare there because they had a Stewarts down the road about a half of mile.

The store gradually went into a level of mismanagement as I think Ms. Nolan said this evening. The proprietor was not maintaining the store and I think it actually closed for a while. The new proprietor has spent a lot of time and energy in the store. He's made it into a successful business. I stop and I've spoken to him on numerous occasions indicating that I've seen the improvement of the store. He has good traffic in the store and I think it would be an asset to his operation if the Board gave him consideration.

During the time period I've lived in Selkirk, I also saw a Hess station across the street close. So I mean you're not - you're actually replacing a gas station with a gas station that was previously there. At the same time I've lived in Selkirk I've also seen the transformation of the gas station on New Scotland across from Price Chopper, the Hess station going from being a Hess station to a Hess mart. So I've seen 1-station go from being a gas operation is now a semi-full service where you can but other things and I think this store is asking to go the opposite way from being a convenience store to being a gas station operation. So I as a citizen in the neighborhood would speak in favor of the operation.

CHAIRMAN HODOM: Thank you sir. Anyone else have any questions or comments or would like to speak in favor or opposition? We aren't going to close the hearing this evening. There's a lot of data that the Board has requested, we won't set a new date this evening until we have the documents. Once we have the documents we'll then we will reconvene at a specified time.

MR. CAPONERA: By all means.

CHAIRMAN HODOM: Okay. Thank you Mr. Caponera.

On a motion made by Mrs. O'Brien, seconded by Mr. Brookins and unanimously carried by the Board the meeting was adjourned to a date uncertain.

Hearing Adjourned 8:55 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XVI, Front Yards, Section 128-66, Required Depths requested by Karen B. McGuire for property at 38 Pineview Avenue, Delmar, New York. The Applicant wishes to construct a canopy over existing steps, which will encroach into the Front Yard Setback requirement at premises 38 Pineview Avenue, 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 5-foot by 6-foot, 30-square foot roof over the existing front steps. The new roof will create a front yard setback of 30.5-feet. This is 4.5-feet shy of the 35-foot front yard setback 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, 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, will hold a public hearing on Wednesday November 3, 2004 at 8:00 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Karen McGuire for Variance under Article XVI, Front Yards, Section 128-66, Required Depths of the Code of the Town of Bethlehem for the construction of a canopy over existing steps, which will encroach into the Front Yard setback requirement at premises 38 Pineview Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the October 27, 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.

CHAIRMAN HODOM: Thank you, Karen. Miss McGuire 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.

MS. MCGUIRE: First of all I have to tell you how nervous I am. I spend my days teaching 7th grade and I was thinking as I was sitting here and basically nobody listens to me all day long and the fact that I'm speaking in front of people who are actually paying attention to what I'm going to say is terrifying me.

CHAIRMAN HODOM: Well that's an assumption on your part.

MS. MCGUIRE: So I'll take a deep breath and probably read what I know but anyway – my name is Karen McGuire and I've lived at 38 Pineview Avenue in Delmar for 25-years and I am appearing before the Board because I wish to build a canopy over my front

steps. The reasons that I wish to make this change to the front of my house are number 1 is primarily a safety reason. In the winter the water drips from the eaves and freezes on the steps. It's really difficult to keep this clear of ice especially Monday thru Friday when I'm at work and, you know it just kind of builds up.

Second of all the freezing and the thawing I've noticed over the years and the various products I've used on the steps in attempt to keep them clean have caused some deterioration of the concrete, kind of a pitting. And I was hoping a canopy would stop any further deterioration of the landing and the steps. Convenience factor, it seems like UPS only delivers when it's raining or dripping on my packages and it might keep them a little drier. And lastly for cosmetic reasons, I feel a canopy would add some architectural interest to the front of the house. I think it would fit in nicely with my neighbor's homes. We've recently cut down a maple tree and we added some new landscaping and I thought the little canopy would give a nice kind of lift to the whole front of the house and that's it.

CHAIRMAN HODOM: Thank you. Miss McGuire have you spoken with your neighbors regarding the proposed porch addition?

MS. MCGUIRE: Yes. Everybody is quite happy with the idea. I expected a few people here tonight and maybe they came and left. I do have 2-letters from people who couldn't come to kind of...

CHAIRMAN HODOM: Do you want to put those on the record?

MS. MCGUIRE: At least to give you – yeah, on record that my neighbors are fine with it.

CHAIRMAN HODOM: And Ms. Kelleher at 46 Pineview.

MS. MCGUIRE: Yes.

CHAIRMAN HODOM: Can you give us a relationship between your house and her house?

MS. MCGUIRE: There's one house in between my house and – she's the furthest one on the circle and Boyle-Smith is right next to me.

CHAIRMAN HODOM: Okay.

MS. MCGUIRE: And actually the people on the other side were supposed to be here. In fact she called a quarter after seven, the Stewarts that live on Delmar Place but she might of gotten tired of waiting, I don't know if she came in. And again she was going to say that she approved of it.

CHAIRMAN HODOM: Are you making any changes to the existing concrete steps or

are you leaving those right where they are?

MS. MCGUIRE: No, everything – nothing is changing, just a little thing over it.

CHAIRMAN HODOM: Porch, okay.

MS. MCGUIRE: A little porch. I've been watching Trading Spaces too much; it's just like a nice idea and it just...

CHAIRMAN HODOM: Are you currently under contract to have the work done?

MS. MCGUIRE: It's not really – I don't have a contract. My neighbor that actually lives kitty corner is going to help us build it and it will look almost like his. He's going to use his plans from his – that he had approved here a few years ago.

CHAIRMAN HODOM: Just describe to us a little bit on your architectural features, your posts, your columns, your fiberglass shingles. Are they wood, vinyl?

MS. MCGUIRE: Probably wood.

CHAIRMAN HODOM: Painted?

MS. MCGUIRE: Painted, yes.

CHAIRMAN HODOM: To match the house?

MS. MCGUIRE: White, yes. Everything will be white with black, dark shingles kind of to – the closest I can get to match the ones that are on the roof right now.

CHAIRMAN HODOM: And the time frame if the Board were to approve your application. When would you commence work and when would it be completed?

MS. MCGUIRE: As soon as possible.

CHAIRMAN HODOM: Okay.

MS. MCGUIRE: Ideally before the snow flies.

CHAIRMAN HODOM: Any other questions from the Board?

MR. MICELLI: Just out of curiosity I was at the residence today, you must have had unbelievable icicles hanging off of that.

MS. MCGUIRE: We did – well yeah, and...

MR. MICELLI: There's a safety issue with that.

MS. MCGUIRE: Yes, it really – and I’ve been, you know I even over the years go up to the second floor and bat them down, you know with a broom or what ever. I can’t believe it’s taken me this long to decide to do this because it’s a logical thing to get everything to go off to the side as opposed to landing on your head.

MR. MICELLI: Correct. Thank you.

CHAIRMAN HODOM: Any other questions? 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 9:05 p.m.

The next order of business was to consider the application of Scott and Barbara Rogler. 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 Scott and Barbara Rogler for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for the construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 139 Marlboro Road, Delmar, New York, it is hereby ordered that a public hearing on this matter be held November 17, 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.

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 Robert LaFave, Sr. 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 Robert LaFave for Use Variance under Article VI, permitted Uses, Section 128-12, Residence "A" District to allow 2-horses to remain on the property, which is not a permitted use in an "A" Residence District at the premises 445 Krumkill Road, Albany, New York, it is hereby ordered that a public hearing on this matter be held November 17, 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 a discussion of the previous public hearing held in the matter of Dominick Carota and Dr. Stephen Sipperly. The following points were brought up by the Board members: The proposed dog kennel is a concern with the noise level, which will effect the surrounding neighbors. The proposed location is not the right place for a kennel. This would substantially change the character of the neighborhood. On a motion made by Chairman Hodom, seconded by Mrs. O'Brien, on a vote 3 to 1, the Board directed Attorney Moore to prepare a proposed resolution denying Special Exception, for presentation at the next Board meeting on November 17, 2004.

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The next order of business was to consider the proposed resolution of William and Ellen VanValkenburg.

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 (“the Board”) of the Town of Bethlehem, Albany County, New York seeking a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings and Article XVIII, Rear Yards, Section 128-79, Required Depths, requested by William and Ellen Van Valkenburg (“Applicants”) for property at 18 Werner Avenue, 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 July 21, 2004 and September 1, 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 Applicants are proposing to construct 2 additions totaling 554.75-square feet and a deck to the existing 1,852.79-square foot main structure. The total main structure will be 2,407.54, which is 220.09-square feet over the 2,187.45-square feet allowable. The lot occupancy will be 16.51-percent, which is 1.51 over the 15-percent allowed. The proposed rear addition will leave a rear yard setback of 17.3-feet, which is 11.7-feet shy of the 29-feet required. The 29-foot setback was required during the subdivision process by the Town of Bethlehem Planning Board due to the location of the City of Albany water line that abuts the rear yard property line.

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

The Applicants’ property is part of a residential subdivision known as the Barber subdivision, for which final plat approval was granted by the Town of Bethlehem Planning Board on October 22, 2002.

A condition of the Planning Board's final plat approval of the Barber subdivision reads as follows:

All structures (including pools) on Lot 18 Werner Avenue shall be located at least 75 feet from the City of Albany Water Transmission Line (see 29-foot building restriction line shown on final plat) or as otherwise required by the City of Albany Department of Water & Water Supply.

The Applicants' proposed rear addition would encroach into this "29-foot building restriction line."

By letter to the Applicants dated July 6, 2004, the Albany Water Board stated that it did not recommend the proposed rear addition. The Applicants attempted to obtain further clarification or guidance from the Albany Water Board on this negative recommendation, without success.

At the July 21 public hearing, one neighbor spoke in opposition to the Applicants' proposed additions. Following both public hearings the Board received additional written statements opposing the Applicants' proposed additions.

At the public hearings the Board requested its counsel for advice as to whether the Board could modify the "29-foot building restriction line" established by the Town Planning Board.

At the conclusion of the September 1 public hearing, the Applicants elected to close the public hearing rather than await a final resolution of whether the Board could modify the 29-foot building restriction line.

After further discussions between counsel for the Board, the Town Planner and the counsel for the Town Planning Board, it was determined that only the Planning Board could modify the "29 foot building restriction line." The Applicants were informed of this determination by letter dated September 8, 2004.

By Resolution dated October 19, 2004, the Town Planning Board denied the Applicants' request to amend the final plat approval to the Barber Subdivision so as to allow the construction of the proposed rear addition within the 29-foot building restriction line.

CONCLUSIONS OF LAW

In light of the above findings, and in light of the Planning Board's Resolution of October 19, 2004, the Board must deny the Applicants' proposal as submitted.

The application is denied.

November 3, 2004

Michael C. Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on November 4, 2004.)

The next order of business was to consider the proposed resolution of Rita Gavin.

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 Variance under Article XII, Rear Yards, Section 128-79(A)(2), Required Depths, requested by Rita Gavin (“Applicant”) for property at 3 Maewin Drive, Glenmont, New York, in order to construct an addition to the existing main structure; 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 October 20, 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 seeking an Area Variance in order to construct an 8-foot by 10-foot addition to the existing main structure that will encroach into the rear yard setback. The existing structure has a rear setback of 12.2-feet, which is a pre-existing non-conforming condition. However the new 80-square foot addition, which will have a rear yard setback 12-feet will be 13-feet shy of the 25-foot required for new construction in an “AB” Residence District. The existing main structure is currently occupied as a single-family dwelling.

The laundry facilities (washer and dryer) at Applicant’s home are presently located in the basement, and are accessible only by means of a bilco door to the basement from the outside of the home. The proposed addition would enable the Applicant to

locate the laundry facilities inside, and on the first floor of the home. The addition is proposed for the side of the home, in the area where existing plumbing is located.

The proposed addition would meet all other existing setback requirements.

At the public hearing, two neighbors submitted written statements in support of the Applicant's proposal. Other than the Applicant, no persons spoke at the public hearing.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that the Applicant should be granted the requested variance.

The Board concludes that the requested variance will be a benefit to the Applicant, that this benefit cannot be achieved by some method other than a variance, and the requested variance will not affect the health, safety and welfare of the community.

The requested variance is minimal, and is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed laundry room addition on the following conditions:

1. The project will be constructed in conformity with the testimony before the Board and the plans and documents submitted to it;
2. The Applicant shall match the new addition as nearly as possible with the existing siding and roofing on the house; and
3. The proposed project will be constructed within two years of the date of this resolution.

November 3, 2004

Michael C. Hodom
Chairman
Board of Appeals

Mrs. O'Brien 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 Robert Wiggand Richard Lewis Marjory O'Brien Gilbert Brookins	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on November 4, 2004.)

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

Meeting Adjourned: 9:35 p.m.

Respectfully submitted,

Secretary