

**TOWN OF BETHLEHEM  
BOARD OF APPEALS**

**November 4, 2009**

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. Chairman Hodom presided.

PRESENT: Michael Hodom, Board of Appeals Chairman  
Keith Silliman, Planning Board Counsel  
David DeCancio, Board of Appeals Member  
Lennie Micelli, Board of Appeals Member  
Ken Umina, Board of Appeals Member  
Matt Watson, Board of Appeals Member

Mark Platel, Assistant Building Inspector  
Justin Harbinger, Assistant Building Inspector

Amy Blanch, 50 Blessing Rd.  
Margaret Hauerwas, 62 Blessing Rd.  
Bridget Lenaghan, 56 Blessing Rd.  
Serge Isabelle, 50 Blessing Rd.  
Melissa Dubin, 35 Mosall Dr.  
Mr. & Mrs. Greene, 7 Staffords Crossing  
Robert Gersowitz, 27 Staffords Crossing  
Mike Golanka, 15 Staffords Crossing  
Michael Cohen, 3 Staffords Crossing

AGENDA: Hauerwas, Isabelle, Blanch & Lenagham  
Econolodge  
Gary & Regina Bohl

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

**PUBLIC HEARINGS**

**Hauerwas, Isabelle, Blanch & Lenagham**

The Board had received an application for Hauerwas, Isabelle, Blanch and Lenagham, 50, 54, 56, 62 Blessing Rd., Slingerlands, for an area variance under Article VI, Supplemental Regulations, Section 128-48, Flag Lots and Shared Driveways.

Mr. Platel said the applicant is proposing to subdivide a flag lot that will have a pole length of one hundred thirty-two point one three (132.13) feet which is sixty-three point eight three (63.83) feet shy of the two hundred (200) feet required. All lot and bulk requirements for all the remaining and proposed lots will be in compliance for the Residential A district. The existing use of the property is as a single family use and is located in a residence A zoning district.

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

Notice is hereby given that the Board of Appeals of the Town of Bethlehem,

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Albany County, New York will hold a public hearing on Wednesday, November 4, 2009 at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Hauerwas, Isabell, Blanch & Lenagham for an area variance under Article VI, Section 128-48, flag lots, of the Code of the Town of Bethlehem for creation of a flag lot at 56 Blessing Rd., NY.

Mr. Hite, LLS presented for the applicants. They wish to re-subdivide lots within an approved subdivision. The original subdivision was about seven (7) or eight (8) years ago. The lots within the subdivision are owned by family members. Mr. Isabelle and Ms. Blanch want to create a flag lot so they can build a smaller home. They have outgrown the five (5) bedroom home at 50 Blessing Rd. Mr. Hite said the proposed layout was the best design he could come up with and it did not meet the minimum requirements for the length of the pole for a flag lot. The lots will meet all the other requirements. A small portion of the three (3) lots were used to create the flag lot. Sanitary sewer, water and power are all available for the proposed lot. This property abuts a subdivision to the east. All the applicants were present.

Chairman Hodom asked the width of the access area at Blessing Road. Mr. Platel measured the plat and it scaled out to thirty (30) feet, twenty-eight (28) feet is required.

Currently 50 Blessing Rd. is up for sale and occupied by Mr. Isabelle and Ms. Blanch. They have not discussed the proposal with their neighbors other than the family members residing next door at Blessing Rd. They were not aware they should have done so. They thought that's why they were having this meeting and there is a treed area that separates the lots they own from the neighbor's lots.

Mr. Hite said they started looking at the possibility of adding the flag lot about two (2) years ago. They had assumed they would only need to appear before the Planning Board. Mr. Isabelle said they have outgrown the home. He said two (2) of his children are in college and one (1) is fifteen. He only lives with them every other weekend. Ms. Blanch's children no longer live with them. They would like a smaller home with three (3) bedrooms. The architecture of the new home would be similar to the houses around them. They had submitted pictures of a possible home. The home would be two (2) stories with two (2) bedrooms and bath on the second floor and master suite and other living space on the first floor. It might not be the exact home shown but something similar. If the variance is approved they would have the home built in about a year and one half.

Mr. DeCancio asked why the driveway was not designed to meet the requirements. Mr. Hite said placing a two hundred (200) foot driveway on the lot would make it very crowded and there is a heavy ridge in the back with trees. Mr. DeCancio thought it might impact the neighbors less if the house was moved a little more away from the yards of the Staffords Crossing homes. Mr. Hite thought the home could move some but he didn't think the placement of the home would impact the neighbors. They were trying to leave the grading alone on the site and they didn't want the home to be behind a garage. The power pole will remain on the front property.

Mr. Platel and Chairman Hodom decided that the length of the pole would be measured differently and the variance request could be reduced by about twelve (12) feet. There are

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thirteen requirements that flag lots must meet. This lot only requires a variance from one (1) of those criteria.

The public hearing was opened to the audience for questions and comments.

Jacqueline Watskey, 31 Mosall Drive. She asked for the square footage of the proposed construction compared to the existing home to get an idea of size. Mr. Isabelle said the existing house is three thousand (3,000) square feet and the proposed house would be two thousand one hundred fifty (2,150) square feet.

John Green, 7 Staffords Crossing. Opposed. He said he was the neighbor of Mr. Isabelle and Ms. Blanch. He asked how close the proposed house would be to the property line. Mr. Hite said the existing house is about twenty-seven (27) feet off his rear property line. The proposed home would be about forty (40) feet away and the tree line will stay. When asked, Mr. Isabelle said they moved into the home about four and a half (4 ½ ) years ago. Mr. Green said if he had known about the original three (3) lot subdivision, he would have opposed that. He said he looks out of his kitchen window and he sees their house. He thought the proposed lot would affect his ability to sell his home.

Mike Golanka, 15 Stafford's Crossing. Opposed because of the proximity to his home. He was concerned with the proximity of the proposed home to his backyard and home. He moved there in 2002 partially because of the privacy of the yard. Six (6) months out of the year there wasn't foliage on the trees to block the proposed home. He thought the home would look into his kitchen and bedroom. His home is down lower than the proposed home. Mr. Hite said the view Mr. Golanka would have would be of the side yard of the proposed home. The front faces the right of the property. The proposed home would be forty (40) feet from his property line. If the home is shifted right it could be another ten (10) feet away from the line. Mr. Golanka was also worried about his property value with a home right in the back of his house.

Melissa Duben, 35 Mosall Drive. Opposed. She owns the home to the right and she has a pool up on the hill. She said her home is on the sewer easement and she needed to place her pool so that she wouldn't affect the sewer easement. She thought she heard them say they would be going into the sewer easement and wanted to know if it would cause a problem for her. Mr. Hite said they would be tying into the manhole in the sanitary sewer easement with a sewer lateral in front of the manhole. The manhole was not located on her property, it was on Mrs. Hauerwas's.

Chairman Hodom asked if the applicant had considered putting a non-deciduous tree buffer along the northern property line. Mr. Hite said they hadn't discussed it yet. The applicant was not opposed but said that property line consisted of the backs of sheds. Ms. Blanche said a buffer would be helpful for them. Mr. Hite said Mr. Golanka's shed was on their property by about one and half (1 ½ ) feet.

Sue Green, 7 Stafford's Crossing. Opposed because of the aesthetics. She asked why the applicant didn't put in a buffer for them along their existing home. Their house is closer. She said they hadn't received any notification that a home was going to be built there. Chairman Hodom assumed the existing home had met all the zoning requirements so the Board of Appeals

would not have been involved. The only reason the Board was involved for the building of the proposed home was because a variance was needed. Mrs. Green asked how close to the property line could a home be built. Mr. Platel said a home in that district could be built as close as ten (10) feet from the side yard property line without a variance. Mrs. Green said they were never notified when the existing subdivision went in.

Bridget Lanahan, co-owns property with her mother, Ms. Blanch. She goes to pharmacy school, her sister got married a year ago and has a baby. She now owns Serge's (Mr. Isabelle) old house, his children are gone. She thought if the neighbors were in their position they wouldn't want to be paying for a large home when none of the children lived in the home. She said they were just trying to move to a smaller home.

Bob Gersowitz, 27 Staffords Crossing. Opposed because of the possible drop in property values and when his home was purchased he depended on the zoning at the time to protect them from a house in their backyard. He said there was a question as to the style of the house that would be built. Mr. Hite said they picked out a house that architecturally was a style they would want to build and it would fit on the lot. He said the final design would be similar. If the variance is approved, this project still needed to go before the Planning Board for a subdivision amendment. Chairman Hodom said this Board must rely on the information on the style of house that is before them. If there is a drastic change, they would need to come back before this Board. The built house would not be drastically different. Mr. Gersowitz said he understood that the proposed flag lot met all the requirements but one. He asked which requirement it didn't meet, what was the purpose of the requirement and why should it be waived in this instance. Chairman Hodom said the pole (access to the main lot) of the flag lot should be two hundred (200) feet. Mr. Platel said when the Zoning Law was amended in 2005, that requirement was established. Mr. Gersowitz asked why. Mr. Silliman said the thinking was the two (2) front lots and the flag lot would be created at the same time within a new subdivision. Mr. Gersowitz assumed the regulation was in place so homes would not be on top of one another, it would be more aesthetically pleasing and wouldn't affect property values. Mr. Silliman said that was why a person needed to acquire a variance if all the regulations weren't met. Mr. Gersowitz said there seemed to be a concern from the neighbors in this instance that it would not be aesthetically pleasing and might affect property values.

Jacqueline Watskey, 31 Mosall Drive. Asked if this would be the time that conditions would be added to an approval, such as the buffer. The Board said if approved, conditions could be added.

Michael Cohen, 3 Staffords Crossing. Opposed because of the aesthetics and lowering of the property values. Mr. Cohen asked if the Planning Board looked at zoning issues. Chairman Hodom said they would if the variance is approved. Mr. Cohen was worried that once the variance was approved, the Planning Board wouldn't listen to the neighbors' other concerns. Chairman Hodom said the only issue the Board of Appeals deals with is the pole length of the flag lot. Conditions can be added such as buffer. Mr. Silliman said the Planning Board would continue with more of the details such as type of trees for the buffer.

Mr. Golanka said those details don't deal with the problem of a house in their backyard.

The public hearing was declared closed at 7:50PM.

## **RESOLUTIONS**

### **Gary & Regina Bohl**

The Board had received an application for Gary & Regina Bohl for property at 8 Olympian Dr., for an area variance under Article XIII, Section 128-100, % of lot coverage.

The Board reviewed the draft Resolution AV-0908 prepared by Zoning Board Counsel.

A motion to approve Resolution AV-0908 as drafted was offered by Mr. Umina, seconded by Mr. Watson and approved by all Board members present.

### **Econolodge**

The Board had received an application for Econolodge, 15 Frontage Rd., Glenmont, for an area variance under Article VI, Section 128-56, F & G; parking into front and side yard setbacks.

The Board reviewed the draft Resolution AV-0909 prepared by Zoning Board Counsel.

A motion to amend Resolution AV-0909 to include a condition limiting the maximum number of the rooms allowed to forty-eight (48) and requiring a reduction of parking by two (2) spaces to eliminate two (2) variances was offered by Mr. DeCancio, seconded by Mr. Umina and approved by all Board members present.

Resolution AV-0909 was tabled.

## **MINUTES**

The Board reviewed the draft minutes of October 21, 2009 prepared by staff.

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

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

The meeting adjourned at 8:05.

Respectfully Submitted,

Nanci Moquin

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