

**TOWN OF BETHLEHEM
BOARD OF APPEALS
October 1, 2003**

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York was held on the above date at the Town Offices, 445 Delaware Avenue, Delmar, New York. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom
Robert Wiggand
Richard Lewis
Gilbert Brookins
Marjory O'Brien

Patrick Seely Attorney to the Board

Mark Platel Building Inspector

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

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a public hearing for an Area Variance under Article XVII, Side Yards, Section 128-73, Required Widths requested by Francis and Mary Beth Bonafide for property at 7 Shetland Drive, Delmar, New York. The Applicant wishes to construct of an attached carport, which will encroach into the side yard setback requirement at premises 7 Shetland Drive, Delmar, New York

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant proposes to construct a 10-foot by 40-foot, 400-square foot carport addition to the existing main structure that will create a side yard of 8.4-feet, which is 1.6-feet shy of the 10-foot required. All other zoning requirements for the property and structure will be maintained.

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

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you please read the 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 October 1, 2003 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Francis and Mary Beth Bonafide, 7 Shetland Drive, Delmar, New York for Variance under Article XVII, Side Yards. Section 128-73, Required Widths of the Code of the Town of Bethlehem for construction of an attached carport, which will encroach into the side yard setback requirement at premises 7 Shetland Drive, Delmar, New York 12054. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 24, 2003 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 of the Applicant. 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. Bonafide just come up and introduce yourself to us and tell us what you want to do and why you want to do it and how you want to do it.

MR. BONAFIDE: Sure, Francis Bonafide, actually Frank if you don't mind. We'd like to put a carport on the one side of our house. I believe there's pictures' floating around, we've done quite a few renovations over the years. Mark had been involved with a number of them so he knows my workmanship and how much I care about how it looks and how it fits in. We have never really had good storage for our automobiles and as we get a little older I'd like to rectify that. We expect to stick around for a few more years at least and we'd like to have some protection for the vehicles as well as being able to get in and out ourselves with out getting into the weather, especially after last winter. Unfortunately I don't have enough side yard for what I proposed and I thought it best to ask for a variance because I don't really see anything much smaller than what I proposed really working out very well.

CHAIRMAN HODOM: Mr. Bonafide, you have an existing little storage facility on the same side of the house.

MR. BONAFIDE: Yes I do.

CHAIRMAN HODOM: What do you intend to do with that?

MR. BONAFIDE: That would be taken down.

CHAIRMAN HODOM: Okay. Describe to us if you would how the carport would be constructed, it's architectural features, why you need 10-feet.

MR. BONAFIDE: Okay. We - - what I'd like to do is, again blend it into the house. It's basically a roof only with some posts. I'd use the same architectural shingle, the same roofing design, which is a hip front and back, which I also have on the rest of the house. The pitch would be the same if I can get it to this size. You know some plantings and so on to make it a little more attractive. As far as the reason for 10-feet, again I circulated some pictures and took some measurements. The vehicles we have, we're not into compact cars anymore we're pretty much into vans and larger cars to accommodate family. When you get into that situation, you don't squeeze them into tight spaces. The van I have currently is about 6-feet wide and when you open both doors fully it's 12-feet wide. The minimum amount you can open of those doors is 18-inches to squeeze out of the car. So that would be up against the house, so you're starting off with 9-feet just to squeeze out of the car on either end. Again the other side obviously is open, but there'll be posts - as a matter of fact there'll probably be a post right where the door will be if I have 2-cars under the structure. And I don't see being able to move that post very much because of spans. So really again, I tried to minimize this thing, I really am not trying to put a massive structure up at percentage of lot. I think we did stay under that and - but unfortunately I just don't make the side yard.

CHAIRMAN HODOM: You originally had a 2-stall garage attached.

MR. BONAFIDE: It really is not; it was not though. As I explained...

CHAIRMAN HODOM: Tell us what you did to change it from a 2-stall to a 1-stall.

MR. BONAFIDE: Originally the garage that we had and there is still a few more on the street like it had a 14-foot door on it, which I don't even know if you can get a 14-foot door. When we first moved in, we were very young and we had 2-compact cars and we could squeeze both of them into that garage through that door. No longer the case, what we had done to our house is we expanded that downstairs area, made the hallway larger, put a family room on the back and it really necessitated us taking part of the garage, the width and the depth as a matter of fact. I kept it large enough to put a, you know a mid-size car in, but that would be it. There's also, because of the way the house was originally constructed, there's a HBAC duct that runs through it so head room is also an issue. I can never get a van in there or anything like that. So we're stuck with what we have and short of going up to one of the really pricey neighborhoods, I probably can't have a 2-car garage otherwise.

CHAIRMAN HODOM: You show it 10-feet by 40-feet, plus or minus.

MR. BONAFIDE: Correct.

CHAIRMAN HODOM: So you're telling us your intention is to store both vehicles that you currently own.

MR. BONAFIDE: Well I have, I have a daughter in college and a son who's 16, so there's going to be more than 2-vehicles at my house. This way there's one in the garage,

maybe two underneath the roof. I also have a collector car that I keep and right now that is what's taking up the garage. That would obviously be moved outside with a cover. So, like a lot of people in Town we have a fleet of cars.

CHAIRMAN HODOM: How many cars do you currently have?

MR. BONAFIDE: Three - - three plus the collector car.

CHAIRMAN HODOM: The vintage car?

MR. BONAFIDE: Yeah.

CHAIRMAN HODOM: Do you do any type of work on your vintage car on the premises?

MR. BONAFIDE: Yeah, I play around with it. Nothing major going on, I don't have those types of skills.

MR. BROOKINS: What is your car?

MR. BONAFIDE: Pardon me?

MR. BROOKINS: What is your collector car?

MR. BONAFIDE: It's a very sad and pathetic 1969 Mercedes 280 SL, 2-seater, and is very pathetic.

CHAIRMAN HODOM: You've lived on the - - at the residence for 22-years?

MR. BONAFIDE: That's correct. It was interesting looking at the list of the folks within 200-feet. A lot of them - - I didn't recognize a lot of the names.

CHAIRMAN HODOM: Have you spoken with your neighbors?

MR. BONAFIDE: I went around the neighborhood; I talked specifically with the folks most involved. The people right across the street, next-door, 2-doors down and behind me, the ones that would actually see this. And all were - have no problems with it; were in agreement. I'm a little disappointed, they told me they would send something in but obviously they did not, but I don't believe anybody has a problem with it. My one neighbor actually has the same carport that I'd like to put up.

CHAIRMAN HODOM: A neighbor close by has a carport?

MR. BONAFIDE: Yes, 15 - we're at 7, the next one down is 11 and the one after that is 15 and he has the identical house and the identical carport.

CHAIRMAN HODOM: Do you intend to store anything else under the carport?

MR. BONAFIDE: Maybe winter, you know we might put some patio furniture under there or what not, but I don't see it as a junk collector if that's what you mean. I have a large shed for – that we put up for that purpose.

CHAIRMAN HODOM: Is that a 2-story shed?

MR. BONAFIDE: Yes, it is.

CHAIRMAN HODOM: 12 by 16?

MR. BONAFIDE: Yes. Again, if you were there – I believe you were there, I try to put it back where it wasn't to problematic for everybody and have it blend in. And even that has the similar shingles and I take a lot of pride in the house and I don't believe in tacking anything on and I think Mark may remember, I ripped the roof completely off the house to make the addition look like it was there originally, you know I want to take on the same type of you know, have the same character with this if it's allowed.

CHAIRMAN HODOM: You had mentioned in your September 17th letter to the Board that you were possibly thinking of planting some vegetation. I think you used the term at the base – along this base to enhance this area. Can you tell me what your referring to as the base of the...

MR. BONAFIDE: I'm talking about the outer edge of this and maybe along the posts and possible some screening although I wouldn't put it all along. We still have the opening of the doors and again, if you saw we put a couple of plantings up along the driveway and so I want to try and keep it so that it shades it a little bit and everybody doesn't have to look at all the asphalt.

MR. BROOKINS: You mentioned that you had some vandalism or burglary on the...

MR. BONAFIDE: Yes we did. My daughters car was broken into about 2-years ago and they just wiped her out. It was her mistake for leaving it open, but she - - it was a bad day. She left her wallet, she left her pocket book, she just gotten an ATM card and she left the pin number to the ATM card in it. More so than the money – her grandmother passed away recently, just before that and had given her some things and those went to. You know I only say because I honestly believe if these things were under cover or something, I don't think they would have been so bold as to go under cover, you know right into a carport to get it. Maybe they would, but even if I did this I think I would put some motion light inside there or something. She learned her lesson obviously.

CHAIRMAN HODOM: During your discussions with your neighbors, were there anyone – was there anyone in opposition to your proposed carport?

MR. BONAFIDE: No one that I spoke to.

CHAIRMAN HODOM: Did you show them the drawings and...

MR. BONAFIDE: No, I did not. Well no one had any opposition, I really didn't see a reason to, you know if they'd asked me I - - the timing on this was kind of strange so I really didn't get the chance. I walked around the neighborhood and a lot of people weren't home originally and then the letters went out. I'd actually originally drafted a letter to send everyone, but there was no sense doing it after they got the notice. But again, like I said I talked to 4 or 5 of the neighbors, 3 especially that would be directly impacted where their property's abut mine and they would be on the side of the carport and no one at all had a problem with this.

MR. WIGGAND: Is that neighbor here tonight?

MR. BONAFIDE: No, none of the neighbors on my list are here tonight.

MR. WIGGAND: But you did talk to that neighbor right next to you?

MR. BONAFIDE: Pardon me?

MR. WIGGAND: The closest one to this addition, you talked to him?

MR. BONAFIDE: Yes I did, the Recene's.

MR. WIGGAND: That building, you did mention earlier that you are going to take down that attachment.

MR. BONAFIDE: That little attachment, yeah it's old and it's been there - I think it was there - we would take that out and take the slab out underneath it.

MR. WIGGAND: So the reason why you want this entire depth of your house is because you're going to put more than 1-car under there.

MR. BONAFIDE: Yes, yes I would like to be able to accommodate 2-cars.

MR. WIGGAND: Your blacktop presently doesn't go that far back.

MR. BONAFIDE: No it does not, it stops at the shed. Again, you know we weren't sure if we were going to do this at the time. The blacktop was done a couple of years ago.

MR. WIGGAND: Well Mr. Lewis and I was down there today and there was a white car, I think it was white, in the yard there. Is that the car...

MR. LEWIS: No, it was a blue van.

MR. BONAFIDE: A van. Well that was my van, yeah I had a work car today so I didn't

have my van.

MR. WIGGAND: We did go to the door but we got no answer.

MR. BONAFIDE: My wife and I were at work so – if we had known you were coming I could have come home and...

MR. WIGGAND: Well that was all right. We did ring the doorbell though.

MR. BONAFIDE: No one was home.

MR. WIGGAND: One important question I want on the record here, there is no intention for you to enclose those walls?

MR. BONAFIDE: Absolutely not. I understand the ramifications of that. I have no intention of....

MR. WIGGAND: That could be a trouble point.

MR. BONAFIDE: When we originally were doing the house, we considered going out that way and adding a full garage, but again I understand that it has to have a foundation and there's the side yard. At this point I don't have any – no, it's not a consideration. I simply want cover for the cars.

MR. WIGGAND: Well over the years we've covered a number of this type of thing, these open garages or open carports and as you sometimes all of a sudden – I know myself, I pass by one and all of a sudden it has some I don't know if it's ply-wood or something on the side walls and they want to protect the cars from the wind and this type of thing. That will not be allowed.

MR. BONAFIDE: No, I believe if I can get this width and have a little bit of an overhang, there's no problem with protection. Anything less, then again we get into the snow piling right up against it and so on. You see it's a very dark area over there; it's on kind of the northerly side of the house. Like I said I can't even grow grass there.

MR. WIGGAND: Well what you're saying goes on the record.

CHAIRMAN HODOM: Any other questions from the Board?

MRS. O'BRIEN: You're saying that there won't be any kind of an enclosure there, even a temporary – a drop down kind of thing?

MR. BONAFIDE: I don't anticipate that, I hadn't planned on it.

MRS. O'BRIEN: I just wanted to be clear.

MR. BONAFIDE: Is that a - - I'm just curious, is there a restriction against something like that, a roll down curtain or something?

CHAIRMAN HODOM: Well the restriction would be if it's not requested in your Variance request, your Application, then it wouldn't be allowed.

MR. BONAFIDE: Okay.

CHAIRMAN HODOM: Unless the Board made a condition to allow it if it was so approved.

MR. BONAFIDE: Okay just so I understand.

CHAIRMAN HODOM: But it has been in the past – side yards, rear yards, front yards are set up specifically for protection of neighbors and the community. The Board looks very strongly at encroachment into any of these areas. From my past experience 8 ½ -feet is adequate for a carport, you may have some difficulty with the door on the house side but you could let the people off before you pull into the carport.

MR. BONAFIDE: You know, it defeats the purpose in the snow or rain. And again I have to...

CHAIRMAN HODOM: Well but you don't have any entrance from that carport anyway.

MR. BONAFIDE: But I have to approach at an angle to get in there, so that requires even that much more room. I honestly don't see this being anything less than 10-feet to the outside of the posts obviously. I mean we have 3 or 4-inches to play with but - - I don't think it would look right at 8-feet either. I think the neighbor on Brookview has something narrow and it looks terrible in my opinion. Again it has to do with the look of this thing, the ability to get the roof line right and obviously the ability to put the car in there and at least some comfort level, but if I have to let somebody off in the snow or the rain or get in – it just doesn't make any sense to me, we're doing that now.

MR. WIGGAND: So what you're saying because of the depth of it is 40-foot deep, you feel you need that 10-feet in width?

MR. BONAFIDE: Well yeah, but the 10-feet is mostly for clearance to get in and out. You folks that were there saw the driveway that's there. That driveway is 10-feet, it's not as much room as you think it is. As far as the encroachment we're talking about – let the record show I'm holding my fingers about 18-inches apart. I know their rules and their laws, but I hope that they're based on some common sense.

MR. WIGGAND: We're pretty careful on these side yards and front yard restrictions.

MR. BONAFIDE: I understand that – I understand that.

MR. LEWIS: I'm trying to visualize unsuccessfully I fear, the distance between your property line and where your neighbor on the left structure starts.

MR. BONAFIDE: There is just over 40-feet between the two – from foundation to foundation. So he would have – if I have 18 ½, then he's got 22, 21 ½.

MR. LEWIS: That's - - okay.

MR. BONAFIDE: So there would be – there would still be nearly 30-feet between the properties.

MRS. O'BRIEN: You said that the 10-foot would be to the outside of the posts?

MR. BONAFIDE: Yes.

MRS. O'BRIEN: Now how much is your roof going to overhang?

MR. BONAFIDE: Probably not much more than a foot.

MRS. O'BRIEN: You have rather wide overhangs on the roof on the house.

MR. BONAFIDE: Yes, I do.

MRS. O'BRIEN: But this would be in more in keeping with the current...

MR. BONAFIDE: Yeah, I can't possibly do that. I don't think that would go well on a 1-story.

CHAIRMAN HODOM: Any other questions from the Board? Are there any questions or comments from the audience? Anyone wishing to speak in favor of the Applicant? Anyone desiring to speak in opposition? Hearing no further questions or comments, we'll declare the hearing closed and notify you in a timely manner. Thank you very much.

MR. BONAFIDE: Okay, thank you.

Hearing closed 7:50 p.m.

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The next order of business is a continuation of a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District requested by USA Mart, Inc. the Applicant, AMNA Enterprises, Inc. the owner for property at 414 Route 9W, Glenmont, New York. The Applicant wishes to alter an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises of 414 Route 9W.

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

MR. PLATEL: Yes, Mr. Chairman. This is a reopening of a previously adjourned Public Hearing. The Applicant is seeking a modification to a previously granted Special Exception under Article VI, permitted Uses, CC Retail Commercial District, Section 128-17 C (3) Gasoline Station.

The Applicant is proposing to renovate the existing 2-bay service area of the building and turn it into a retail sales area. Under the existing Special Exception, the Applicant is confined to the sale of individually packaged items and other listed items for an "Other Motor Fuel Station" as stated in Article I, 128-1, Definitions and Usage.

The existing structure is located in a CC Retail Commercial district and is occupied as an other motor fuel station.

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, New York will hold a continuance of a public hearing on Wednesday October 1, 2003 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on Application if USA Mart (Applicant), Amna Enterprises (Owner), for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District of the Code of the Town of Bethlehem for an alteration to an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises 414 route 9W, Glenmont, New York 12077. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 24, 2003 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. Before we into this hearing if we do get into the hearing, is Mr. Aktar here? Mr. Ozbay?

MR. KAHYA: No, I am here. I am his partner, Ozbay's partner.

CHAIRMAN HODOM: And your name is?

MR. KAHYA: Mustafa, M-U-F-T-A-F-A, and last name K-A-H-Y-A.

CHAIRMAN HODOM: And how do you say that?

MR. KAHYA: Mustafa Kahya.

CHAIRMAN HODOM: And you say – you're the...

MR. KAHYA: Partner of Yalcin.

CHAIRMAN HODOM: Partner of whom?

MR. KAHYA: Yalcin. Amna is the landlord.

CHAIRMAN HODOM: And Yalcin is the owner of the property.

MR. KAHYA: Umm-hmm, no – Amna Enterprise own the property. We got lease from him for 10-years.

ATTORNEY SEELY: You're the tenant?

MR. KAHYA: Yes.

ATTORNEY SEELY: Okay.

CHAIRMAN HODOM: Well let me see, maybe I wrote it down.

ATTORNEY SEELY: That's okay, I remember we tried to get this straightened out at the last hearing, and the last hearing we had the gentleman who owned the property was here.

CHAIRMAN HODOM: Oh, okay. Mohammad Aktar owns the property?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay. At the previous hearing Mr. Kahya, there were several requests made of additional documentation that the Board needed to make an intelligent decision in this matter, many of which have not been received. Several of which were received within the past few days.

MR. KAHYA: Okay.

CHAIRMAN HODOM: Let me go over what we haven't received from you. We haven't received the corrected copy of the short Environmental Assessment Form for the SEQRA requirement. Do you have that with you?

MR. KAHYA: No.

CHAIRMAN HODOM: Do you know why it wasn't submitted?

MR. KAHYA: Can I write it down what I needed? Can I write it down?

CHAIRMAN HODOM: But we don't want to go over it again because it was asked for previously. And I really don't want to go ahead with the hearing until we have the documentation that was requested.

MR. KAHYA: Yes sir. That's about the soil underground?

CHAIRMAN HODOM: No, no. The request of the SEQRA document was made by our council, Mr. Seely to Yalcin or Aktar and Kenny. All that data was going to be provided to the Board within a week's time.

MR. KAHYA: They didn't tell me that, that's why you know.

CHAIRMAN HODOM: The other item that requested was a completed floor plan of the existing building which the same submittal was made. The same submittal was made on the floor plan as was made at the first hearing, gas station, office shown to remain. The existing storage room is shown to remain. And in the hearing that wasn't going to be the case. We asked for the locations of toilet facilities. That has not been shown. Did anybody talk to you about what was required? Did anyone come in and talk to Mr. Shea, who specifically requested if there were any questions to please come in and he would sit down with you folks and go over what was needed?

MR. KAHYA: Sir, the plan doesn't show where the bathroom is?

CHAIRMAN HODOM: The site plan does.

MR. KAHYA: Okay.

CHAIRMAN HODOM: But there's no definitive size of the bathroom, what the amenities of the bathroom are.

MR. KAHYA: I'm not going to do any change on the bathroom or the outside of building.

CHAIRMAN HODOM: Let me ask you this Mustafa, do these plans comply with the new International Code?

MR. KAHYA: I don't know.

CHAIRMAN HODOM: Tom you did the plans, do they comply with the International Code?

MR. WICKMAN: What's the new International Code?

MR. PLATEL: The New York State Building Code.

MR. WICKMAN: Oh, the Building Code yeah. What's the International Code, I'm not familiar with that.

CHAIRMAN HODOM: Wasn't it adopted January 1?

MR. PLATEL: January 1st of this year the State adopted the International Code and they still call it the New York State Building Code, but it is - - we adopted the International Code.

CHAIRMAN HODOM: So these plans are prepared with the latest Code?

MR. WICKMAN: With my knowledge, yes.

CHAIRMAN HODOM: Well what is the date of the latest Code that you used for these plans?

MR. WICKMAN: 1980 – 1978 or 80.

CHAIRMAN HODOM: So then...

MR. WICKMAN: This is very simple.

CHAIRMAN HODOM: Please, why don't you introduce yourself to us so we have you on the record. It's Tom Wickem?

MR. WICKMAN: Thomas Wickman, my name is on the plans, my address and phone number.

CHAIRMAN HODOM: What I'm suggesting to you is Mustafa, we can proceed with the hearing. If the documentation is not here the Board can not make an intelligent, educated decision in this matter and probably would not move in the affirmative if it ever moves in the affirmative because of the lack of information. If you prefer to go ahead with the hearing this evening with the lack of information that I've already expressed to you and there's other that you haven't provided, we can do that. My recommendation to you is that you adjourn the hearing, provide the data that was requested previously in sufficient time for the Board prior to the hearing. That is your option.

MR. KAHYA: We leave it. We come at the next time.

MR. LEWIS: Mr. Chairman, I would make the recommendation to the Board that we not set this down until the information is received.

CHAIRMAN HODOM: In this case that's exactly what we'll do. We won't set a new date until we have all the new documentation. I will not elaborate on the documentation because it's in the minutes, you can come in and look at it. You can come in and talk to Mark or Kevin.

MR. KAHYA: Okay.

CHAIRMAN HODOM: But please give us the information that we need and Tom please, make sure of what you have shown us here is up to the new Code.

MR. WICKMAN: Well there's very little structural change. Well what else is there?

CHAIRMAN HODOM: You're changing the use of the facility and in changing the use of the facility, the new Code has to be included with the new design. All the new requirements of the new Code, the New York State Building Code or International Code have to be part of your submittal. I heard you and Mark talking about – you show an 8 by 20 parking stall.

MR. WICKMAN: Yes.

CHAIRMAN HODOM: You may be exactly right in your comments, but the Town requirement is 9 by 20.

MR. WICKMAN: I see that.

CHAIRMAN HODOM: The plan better show 9 by 20 and there should be sufficient parking spaces based on the ordinance.

MR. WICKMAN: 9 by 20 in my experience is too wide, people tend to park caddy-cornered and screw up the whole works, because it's too wide for an average car.

CHAIRMAN HODOM: And I'm not saying that you're incorrect. What I'm saying is that what the Town Code requires is a minimum of 9 by 20, 180-square feet.

MR. WICKMAN: I've seen that in print.

CHAIRMAN HODOM: Okay. That's what we would expect to have on your plans.

MR. WICKMAN: That's a 1960's printing.

CHAIRMAN HODOM: There are ways to amend the Code, but not through this Board.

MR. WICKMAN: I'd like to advise - - remind the Board this is an upgrade of the use of the property. So it will no longer be a repair garage, it's going to be a retail store, which also sells gasoline.

CHAIRMAN HODOM: That's correct, which is changing the use of the premises.

MRS. O'BRIEN: Doesn't matter, it's still a change in use.

CHAIRMAN HODOM: But it's a change in the use, that's all we're saying.

MR. WICKMAN: Oh yeah.

MR. KAHYA: But can I say something.

MR. LEWIS: But there's no indication of any handicap bathroom.

MR. KAHYA: Yes sir.

MR. WICKMAN: Oh yeah it is. It is existing right now as a handicap lavatory.

CHAIRMAN HODOM: It's shown on the site plan. Mustafa, you wanted to say something?

MR. KAHYA: Yeah I want to say, like none of my changes, like you changing kitchen to the living at the home, right? Same thing like the shop is going to be a convenience store, I'm not going to change on the outside and on anything on the wall, just the inside. You change your kitchen to the living room and you going to make kitchen living room and your gonna sit down in the kitchen, like changing the inside not the outside.

CHAIRMAN HODOM: Unfortunately you weren't at the last...

MR. PLATEL: The New York State Code will tell you that if you have a change of use, the new use has to meet the Code.

MR. KAHYA: Okay, but we have new plan and everything; I mean we not done illegally. You know we do with the legal and the paper work and everything, you know we let you know. I shouldn't thinking like I'm gonna get this much big paperwork you know like we done before in Glens Falls station, USA Clifton Park, and Ballston Spa – all we open up the convenience store, we get contract permit in like half hour. Pay the fee and come back.

ATTORNEY SEELY: It's just that it's a different Town.

MR. KAHYA: It's a New York State though, you know?

ATTORNEY SEELY: That's right, it's just that different Towns have different requirements and in order for us – in order for you to comply with the Zoning Code and get your Variance, we just need the information.

CHAIRMAN HODOM: Another point that was brought up by Mr. Shea, and unfortunately you weren't here. I don't know if this gentleman was here previously either, and Tom wasn't here either. We have a whole new array of individuals, but you're going to need a building permit from the Town of Bethlehem before you can proceed with the work anyway. In order for them to issue you a building permit, they're going to need a set of documents, plans that are very specific of what you intend to do there both interior and exterior, so you better do it now.

MR. KAHYA: No, I will do it, I will do it. But they didn't tell me that, I mean, Yalcin – they didn't tell anything about - - Yalcin my partner, but he doesn't care about this business because I run this, he is just, you know like my partner on the paperwork, you know.

CHAIRMAN HODOM: Okay. Well I wish you would have been here at the last hearing then, maybe we could have proceeded this evening.

MR. KAHYA: I had to go to Turkey, that I'm from Turkey. I had to go to Turkey that's why I couldn't come.

CHAIRMAN HODOM: Okay. I would suggest that you come in, review the minutes or sit down with Mark or Kevin and see what exactly what you need. There were some other questions relating to the Department of Health, if they have to make any approval of the existing, because now you've got food products in this large area. The letter that you submitted from D.E.C., it was strictly for ground water standard, the resin for the interior of the building. In actuality it says that the site has been classified as closed, but you still don't meet the standards. I think this Board would be looking for - - I believe it was Yalcin who said he had all the documentation that we requested. He was going to have it to us within a few days and of course that didn't happen. So again, please read through the minutes, they're open to you. I would advise Karen that she could make you a copy of them so that you could read through and see what we're requesting and then when you have everything put together, we'll set a new hearing date. How long do you think this would all take you?

MR. WICKMAN: At least a few weeks.

MR. KAHYA: A few weeks, yeah.

MR. WICKMAN: But you've gotta get letter from – I mean the environmental statement.

CHAIRMAN HODOM: Do you think it could be done within 30-days?

MR. WICKMAN: Yeah, I think so.

CHAIRMAN HODOM: Because we don't like to adjourn anything more than 30-days. If you wind up with a problem, then you come in and speak with Karen or Mark and just

say that this is a problem so we need more time with it, but we'd like to have here within 30-45 days.

MR. KAHYA: Okay. Can you write down what I need to on the letter because with - - explain everything.

MR. PLATEL: Can you stop in tomorrow?

MR. KAHYA: Yeah.

MR. PLATEL: It would be better, stop in tomorrow and we'll have a list for tomorrow.

ATTORNEY SEELY: One of the things you want to focus on that I know Mr. Hodom pointed out at the last hearing was that there is in place a Special Exception that the property operates under right now from 1969. That was amended in 1988. We had asked that you provide to the Board what it was you were looking to change about the Special Exception that was granted and so if know how it is that you...

CHAIRMAN HODOM: It's his phone.

ATTORNEY SEELY: So that we know what it is that you're trying to change about the operation of the property so we can look at exactly what it is you need a Variance for. Some of the things you're proposing like hours of operation that were beyond what was previously approved, that's just one example. Make sure that you know what it is that you're trying to change about that from those two prior resolutions. Okay?

CHAIRMAN HODOM: If you're changing something that's already been approved in the past two resolutions, we want to know about it. If you're not going to change it we want to know about it so that this resolution takes care of the other two as well as a new one. I think the minutes are very clear that once you read through them you'll find out what the Board is looking for. So on your request we'll make a motion to adjourn to a date uncertain?

MR. KAHYA: Yes.

CHAIRMAN HODOM: Okay.

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

Hearing Adjourned 8:15 p.m.

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The next order of business was to consider the application of Grace Gidley, 21 Maple Avenue, Slingerlands, New York. The application was found to be in order and Mr. Lewia made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Grace Gidley, 21 Maple Avenue, Slingerlands for Variance under Article X, Highway Frontage and Access, Section 128-42, Distance between access strips on flag lots for construction of a driveway and installation of utilities for a building lot at premises McCormack Road, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held November 5, 2003 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Wiggand 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 Bethlehem Auto Laundry, Inc., 462 Route 9W, Glenmont, New York 12159. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Bethlehem Auto Laundry, Inc., for Special Exception under Article VI, Permitted Uses, Section 128-17 B (15), CC retail Commercial District for a lot line revision giving Bethlehem Auto additional land for additional parking and modification to ingress/egress at premises 462 Route 9W, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held November 5, 2003 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Brookins seconded the motion and it was unanimously carried by the Board.

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The next order of business was a discussion of the previous public hearing held in the matter of AT & T Wireless, 15 East Midland Avenue, Paramus New Jersey for Special Exception under Article VI, Permitted Uses, Section 128-12 B (1), Public Utility and Chapter 113-4 A (1), Alternative Tower Sites for the installation of communication antennas on an existing water tank at the premises of 308 Kenwood Avenue, Delmar, New York 12054. The following points were brought up by the Board members: The request is reasonable. AT & T is following the wishes of the Town to co-locate on an existing structure rather than asking to build a new tower. The documentation submitted was more than adequate. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Seely to prepare a proposed resolution granting the Special Exception for presentation at the next Board meeting on October 15, 2003.

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The next order of business was a discussion of the previous public hearing held in the matter of Gold Coin Restaurant, 1360 New Scotland Road, Slingerlands, New York for Variance under Article VI, Permitted Uses, Section 128-22, Schedule B – Off Street Parking, Article XX, Nonconforming buildings & Uses, Section 128-88, Alteration of Building devoted to nonconforming uses for construction of a new building to replace an existing nonconforming building at premises 1360 New Scotland Road, Slingerlands, New York 12159. The following points were brought up by the Board members: A discussion took place at the last meeting held September 3, 2003 granting the Variance. The Board was waiting to hear from the Albany County Planning Board's recommendation. On a motion made by Mr. Lewis, seconded by Mr. Brookins, and unanimously carried by the Board, the Board moved to accept the recommendation of the Albany County Planning Board and directed Attorney Seely to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on October 15, 2003.

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The next order of business was to consider the proposed resolution of Elizabeth Hogan, 61 Burhans Place, Delmar, New York 12054.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York for a Variance under Article XII, Percentage of Lot Occupancy, Section 128-49, Total Building Area, Section 128-55, Accessory Structures and Article XVI, Front Yards, Section 128-66, Required Depths requested by Elizabeth Hogan (“Applicant”) for property at 61 Burhans place, Delmar, New York; 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 September 17, 2003; and,

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

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

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

FINDINGS OF FACT

The Applicant is proposing three different additions (collectively “the project”) to the existing site that will require the three separate variances. The applicant is proposing to remove an existing 1-story 733.25 square foot portion of the existing main structure and replace it with a 576.6 square foot 1-story addition. Also on the main structure is a proposed 4’4” by 6’6” roof to be constructed over the existing front door entrance. The applicant is also proposing to construct a 552 square foot detached garage to be located at the rear of the lot. The new detached garage will occupy 6.48 percent of the lot, which is 1.48 percent over the 5 percent accessory structure allowed or 126-square feet over the 426-square feet allowable. The total lot occupancy will be 20.42 percent, which is .42 percent over the 20 percent allowable or 36.04 square feet over the 1,704 square feet allowed by a lot consisting of 8,520-square feet. The front yard setback will be 25.67 feet, which is 9.33 feet shy of the 35 feet required. The existing front yard setback of 30 feet is a pre-existing non-conforming condition. The existing structure is occupied as a single-family dwelling and is located in an “AA” residence zone.

In the winter the front porch has become impassable without a cover-- the snow comes right off the roof onto the steps. The side entry also presents safety issues with only a small cover over the door so the driveway gets iced up and the Applicant is very concerned about safety.

The Applicant also requires more space for the garage, which is currently a single car garage with a little extra storage space. The Applicant owns two vehicles and would like to keep them both in a garage because of the winter. There is no attic in the house and the basement is musty thus limiting that space for storage purposes. The house also has very little closet space to which she would have easy access.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires the variances sought.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety, and welfare of the neighborhood and community and concludes that permitting the proposed project, which is a minimal request for each of the three variances sought, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners and that the benefit could not be achieved by some other means.

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

1. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, and,
2. The Applicant shall complete construction of the addition within two years of the date of this resolution.

October 1, 2003

Michael C. Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 2, 2003.)

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On a motion made by Mr. Lewis, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the September 17, 2003, meeting were approved.

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

Meeting Adjourned: 8:45 p.m.

Respectfully submitted,

Secretary