

**TOWN OF BETHLEHEM
BOARD OF APPEALS
October 5, 2005**

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

PRESENT: Michael Hodom
Robert Wiggand
Marjory O'Brien
Gilbert Brookins
Leonard Micelli

Michael Moore Attorney to the Board

Mark Platel Building Inspector

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

- - -

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 a variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Front & Side yards requested by Joseph Tiberia for property at 3 Windmill Drive, Glenmont, New York. The applicant wishes to construct an addition, which will encroach into the front & side yard setback requirement at premises 3 Windmill Drive, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 16-foot by 22-foot, 352 square foot addition to the existing dwelling that will create a front/side yard setback of 16 feet, which is 4 feet shy of the 20 feet required for a corner lot. There is also an existing deck that has a side yard setback of 5 feet that apparently was constructed without a permit sometime in the past. This is 3 feet shy of the 8-foot setback requirement. The Planning Board and Town board approved the zoning requirements for this subdivision as provided in the project approval document. These requirements as approved at that time are not affected by the new zoning ordinance that was recently adopted.

The existing structure is occupied as a single-family dwelling and is located in a

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

planned residence district.

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 5, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of, Joseph Tiberia for variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Front & Side yards, Section 128-100A, Minimum front 7 Side yards New York for of the Code of the Town of Bethlehem for construction of an addition, which will encroach into the front and side yard setback requirements at premises 3 Windmill Drive, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 28, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition 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. Any questions or comments should be directed to the Board and should be to the issue this evening. Mr. Tiberia just introduce yourself to us and tell us what you want to do and why you want to do is and how you want to do it.

MR. TIBERIA: Joseph Tiberia, 3 Windmill Drive. On the northwest side of 3 Windmill Drive, which faces Hague Boulevard where I plan to build a 16 by 22 foot addition, which would be 4 feet off the front of the house. I believe the pictures that I provided there on the north – from the north side of the house should identify the yard. The house is situated in such a way that it sits very deep in the lot and I have spoken to my neighbors and of course they don't have any problem with it and in fact I guess they're looking forward to see what it would look like. The house – the addition would be a, again, a 16 by 22. The vinyl siding would match the existing house. The green shutters would match the existing house; the pitch of the roof is a 4/12-pitch, which would match the existing house. It would have a frost wall or a 4-foot basement in it, a crawl space. I'm not looking for a full basement; I don't need the extra room. The room would be used as a great room or an additional family room would access through the dining room as it is right now.

CHAIRMAN HODOM: Can you tell us Mr. Tiberia, the number of people in the family currently?

MR. TIBERIA: Three, my wife and my son and I.

CHAIRMAN HODOM: You did mention that – you did talk to your neighbors. Can you tell us what the conversations were?

MR. TIBERIA: Well we're a very close nit neighborhood there. There aren't a lot of transient people coming and going. Several of the gentlemen were at my house today and they took a look at the grounds of all the houses are really kept up very well and I spoke to my neighbors about the addition and actually Mr. Davis in the back of me, which also borders my property on the back of the house on Hague Boulevard was looking forward to even more privacy, which his house – which it would afford his house, again because the house sits so far back in the lot. It's a pie shaped lot and it sits back so far that it really doesn't affect anyone but Mr. Davis. I did send out and give all of the addresses within – I think it was 500 feet of all of my neighbors, several of them approached me and were interested in and were looking forward in looking forward to see what the addition would look like.

CHAIRMAN HODOM: And were you able to show them what it would look like?

MR. TIBERIA: Yeah, there are several additions in the neighborhood, which are similar, not exactly like mine, but similar.

CHAIRMAN HODOM: And how long have you lived at the premises?

MR. TIBERIA: I believe we bought the house in 1996.

CHAIRMAN HODOM: Was it a new house at that time?

MR. TIBERIA: No, I am the third owner of the house I believe – at least 3 previous owners.

CHAIRMAN HODOM: The existing deck that's currently there, did you construct that or was that there?

MR. TIBERIA: No the deck was there, but the deck was – the posts were in, the beams were in and the joists were in good shape. The top of the deck and the railing on the deck was in disrepair when I bought it and I think I repaired that about 2 years later, 1998 I believe, '97,'98.

CHAIRMAN HODOM: You're proposing to use this addition as a 4-season use?

MR. TIBERIA: Yes sir.

CHAIRMAN HODOM: Is it your intent now and in the future to maintain this residence as a single-family dwelling?

MR. TIBERIA: Oh yes.

CHAIRMAN HODOM: You're not intending to build a room to lease out for rental purposes?

MR. TIBERIA: No. It wouldn't be appropriate in that neighborhood.

CHAIRMAN HODOM: The architectural features – I think you talked about your intent to match the siding as closely as possible, the shingles as close as possible.

MR. TIBERIA: Yeah.

CHAIRMAN HODOM: Window structures and so forth?

MR. TIBERIA: Yeah aesthetically I'm hoping – it is my hope and again we planned this when we purchased the house 10 years ago so a lot of thought went into what we were going to do but I want to make sure aesthetically that when it is viewed from the road or from my neighbors houses that it appears that it was built with the house. That's my intention so I'll make sure that the siding matches, again the green shutters match. The landscaping will be consistent with what we have and we'll get that in immediately, you know height, color and texture – same as what I have on the lot to make sure it blends aesthetically with what we have there now.

CHAIRMAN HODOM: And what utilities would you propose bringing into this new addition?

MR. TIBERIA: I'm sorry, utilities?

CHAIRMAN HODOM: Utilities, mechanical, electrical; items of that nature.

MR. TIBERIA: Well it will be heated with forced hot air, which we have now; gas. One of the problems that I have before I even do construction is I'll have to have NIMO move my gas line because my meter is on that side so we'll have electric lights and gas and I'm probably proposing a gas fireplace in that – in that area also.

CHAIRMAN HODOM: No plumbing as far as...

MR. TIBERIA: No, no plumbing.

CHAIRMAN HODOM: For additional bathrooms.

MR. TIBERIA: No.

CHAIRMAN HODOM: Can you describe to us that layout of the existing residence?

MR. TIBERIA: I have 8 copies here because I didn't provide them if you want them or I'll just discuss it.

CHAIRMAN HODOM: If you can provide them it will be fine as long as you have them, sure, thank you.

MR. TIBERIA: I didn't – it's very rough and we did them late but it's a side hall colonial adjacent to the proposed addition is a front living room and a dining room with the kitchen attached to that with an opening of maybe 10 feet – it's open to the kitchen. So the access would be through that dining room probably with a 4-foot opening.

CHAIRMAN HODOM: And you do have an existing family room?

MR. TIBERIA: Yes sir, back of the house and back of the garage.

CHAIRMAN HODOM: Do you have a basement under the existing home?

MR. TIBERIA: I do.

CHAIRMAN HODOM: Is that a finished basement?

MR. TIBERIA: It is a full basement. One side has a separation where it is finished downstairs. I say finished – I mean there's sheetrock and 2 by 4 wall. It's basically a utility room for myself.

CHAIRMAN HODOM: Work out area?

MR. TIBERIA: Yes on the other side.

CHAIRMAN HODOM: And the proposed addition again is additional family room or great room as you said?

MR. TIBERIA: Yeah, you know we do entertain and it would give us additional space that we could use for our dining room, we could expand through there, and also living space.

CHAIRMAN HODOM: Any other questions from the Board?

MRS. O'BRIEN: This is a 1-story addition; you're not extending it to a second floor?

MR. TIBERIA: It is a 1-story addition, yes.

MRS. O'BRIEN: And how many bedrooms do you have?

MR. TIBERIA: Three bedrooms upstairs – it is a side-hall colonial, 3 bedrooms, 2 ½ baths.

MR. WIGGAND: And there's no basement planned underneath the new addition? It's a crawl space.

MR. TIBERIA: Yeah, a 4-foot crawl space at this time is what I'm planning.

MR. BROOKINS: Did you consider at any time reducing the size of this to eliminate the need for a Variance?

MR. TIBERIA: We did. We discussed it, like I said when we purchased the house it's been in planning for 10 years and I traveled quite a bit through the 90's and I knew I wasn't going to be home to do it. It's possible now. Reducing the size of it if we reduce the size or even moved it back where we had I think more room to get away from the side setback, aesthetically I don't think that it would go in the theme of the house because it would be pushed back and I think that if it was viewed from the road or from the front of the house, from the front elevation it would appear as an addition, which is really something I don't want. Again, like I said the 4/12-pitch and the vinyl siding – everything, I'm hoping that when it's done and the landscaping is in that it appears that it was built with the house.

MR. BROOKINS: Thank you.

CHAIRMAN HODOM: Mr. Tiberia, you're not proposing at this time to enclose the deck in any manner, put a roof over it?

MR. TIBERIA: No I'm not.

CHAIRMAN HODOM: It will remain as an open deck at this point in time?

MR. TIBERIA: At this point in time, yes.

MR. WIGGAND: Mike are you referring to the existing deck that's there now in the back of the house?

CHAIRMAN HODOM: Yes.

MR. WIGGAND: Enclosing it?

CHAIRMAN HODOM: No I just asked if his intention was to enclose it and his comment was it's not his intention to enclose it or to cover it up.

MR. WIGGAND: Okay.

CHAIRMAN HODOM: So it will remain an open deck. Do you have a time frame as to what you're proposing as far if the Board were to approve the application when you would start construction and when it would be completed?

MR. TIBERIA: Yeah, being as though we're going into winter I think I'll lose that time so if it was approved today I am looking at really 12 months to have it completed in 12 months. I'm hoping to have it done in 6, but to be completely, you know from A to Z completed in 6 months if I have good weather once I start it.

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

MR. TIBERIA: No I'm not. I didn't want to put the cart before the horse. I'd like to see what the Variance committee tells me about it.

CHAIRMAN HODOM: Any other questions? 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 we'll notify you in a timely manner. Thank you very much Mr. Tiberia.

MR. TIBERIA: Thank you very much.

Hearing closed 7:45 p.m.

- - -

The next order of business this evening is a public hearing for a Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot coverage requested by Kathleen Ackerman for property at 102 University Street, Selkirk, New York. The Applicant wishes to construct an addition, which will exceed the allowable percentage of lot occupancy at premises 102 University Street, Selkirk, 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 16-foot by 24-foot, 384 square foot addition to the existing main structure that will create a lot occupancy of 16.04%. This is 1.04 over the 15% that is allowed in this Planned Residence District. As stated in the previous hearing the requirements in a previously approved PRD are not affected by the new zoning ordinance.

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

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, please read the official call of the hearing.

Notice of Public Hearing. Notice is hereby given that the Board of Appeals, Albany county, Town of Bethlehem will hold a public hearing on Wednesday October 5, 2005 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action

on application of Kathleen Ackerman for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot Coverage of the code of the Town of Bethlehem for construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 102 University Street, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 28, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier. We'll hear your presentation; entertain any questions or comments from the audience. Just let me ask you a question before you begin. There is a discrepancy between your site plan which shows a 16 by 24-foot addition and your plans show a 14 by 24-foot addition.

MS. ACKERMAN: Right there is, 2 feet difference. Let me introduce John Menneto, he's the contractor that I'd be working with and when John and I sat down after I had the plans already created by DeRaven Design, he and I talked about the fact that being that the house is so small right now that the additional 2 feet might really help out in giving me a little more space. So we put them on the plans for you when we heard we needed to go ahead with the Variance. I did talk to DeRaven Design, Roxanne who works there and she said she could change those if we need to and – pending the meeting tonight.

CHAIRMAN HODOM: Okay so you're proposing the 16 by 24?

MS. ACKERMAN: Yes.

CHAIRMAN HODOM: All right just introduce yourself to us and tell us what you want to do and why you want to do it.

MS. ACKERMAN: Kathleen Ackerman, I live at 102 University Street. I'm interested in adding an addition, which would include a half bath, a family room and extend my kitchen to have an eating area. The house is quite small right now, you probably seen that when you came out. It doesn't provide room enough for entertaining, my son is getting older; he's inviting friends over and we're tripping over each other. It's quite small so the intention is to expand the living space. Bedroom space is not necessary I did consider possibly going up but it didn't seem feasible because it really didn't give me the space that I was looking for. I don't need more bedroom space; I really do need the living space. So that was the intention.

CHAIRMAN HODOM: Had you had an opportunity to talk with your neighbors?

MS. ACKERMAN: I have, I've spoken to all of them. They've been very supportive; there was no objections from our conversations. They were a bit surprised that a Variance would be necessary for the size of the addition based on the size of the house as well but they all seemed very supportive and eager to see how it's going to turn out.

CHAIRMAN HODOM: And can you give us the size of your family currently.

MS. ACKERMAN: Just myself and my son, however I do spend a lot of time with my nieces and nephews. I don't work during the summer; I'm a teacher so I'm home and lots of kids are at my house all summer long and the space would definitely be beneficial especially the bathroom.

CHAIRMAN HODOM: And how long have you lived at the residence.

MS. ACKERMAN: 12 years.

CHAIRMAN HODOM: And again it is your intent now and in the future to maintain this dwelling as a single-family home?

MS. ACKERMAN: Yes.

CHAIRMAN HODOM: The addition is not for rental purposes of any means?

MS. ACKERMAN: No not at all.

CHAIRMAN HODOM: The architectural features that you're proposing...

MS. ACKERMAN: Would all remain the same. We're planning on re-siding the house so that the new addition would match the siding; new roof as well.

CHAIRMAN HODOM: And the utilities that you propose on bringing in to the family room?

MS. ACKERMAN: Forced air as well, we're planning on adding a gas fireplace in addition.

CHAIRMAN HODOM: Okay. You will have plumbing in there for the half bath?

MS. ACKERMAN: Yes.

CHAIRMAN HODOM: Can you describe for us the layout of the existing home?

MS. ACKERMAN: Yes it's a 3-bedroom ranch. When you enter you come right into the living room, which goes right into the dining room – it's one open room. To the left you would find the kitchen, it's a working kitchen. There's no eating area at all in there at this point. Off the living room and dining is the hallway, which would lead to one bath and three bedrooms.

MR. WIGGAND: So this is a new kitchen that will be built in there?

MS. ACKERMAN: Yes.

MR. WIGGAND: The existing kitchen...

MS. ACKERMAN: The kitchen would be expanded and also remodeled.

MR. WIGGAND: So this kitchen that we see drawn here, is that all new or is that part of the old kitchen?

MS. ACKERMAN: It would be part of the existing kitchen now but everything in there will be new that goes in.

MR. WIGGAND: Okay.

MS. ACKERMAN: It generally is just going to be extended.

MR. WIGGAND: Thank you.

MRS. O'BRIEN: This will be located where you're deck is or your patio?

MS. ACKERMAN: Yes.

MRS. O'BRIEN: Are you planning to replace that once the addition is done?

MS. ACKERMAN: The first step is the addition. I don't think I would put a deck on, I might do a patio area down the road, but there's no plans for that as yet.

CHAIRMAN HODOM: And you're not proposing to install a full basement?

MS. ACKERMAN: No.

CHAIRMAN HODOM: It would be a crawl space area?

MS. ACKERMAN: Right.

MRS. O'BRIEN: There's no plans at this point for there to be a door to the outside from the new family room?

MS. ACKERMAN: I think there is doors going out from the family room on the plans.

CHAIRMAN HODOM: That's right next to the bathroom.

MS. ACKERMAN: Yes.

MRS. O'BRIEN: Okay.

CHAIRMAN HODOM: There's no steps there, but there are doors.

MS. ACKERMAN: We'll have to put them up.

CHAIRMAN HODOM: Do you have a proposed construction schedule if the Board were to approve the Variance?

MS. ACKERMAN: John do you want to talk about that?

CHAIRMAN HODOM: Just introduce yourself to us please.

MR. MENNETO: John Menneto, I live at 493 Delaware Avenue; I'm a small contractor in the area. Ideally Ms. Ackerman would love to be able to expand the house for the holiday season, you know we were looking at – you know we didn't anticipate that – from our application that we were a month or 6 weeks away from the hearing so we still have the intentions of trying to get the foundation in if the decision is made fairly quickly and allows us time and with that you know my intention would be to get the shell weather tight as quickly as possible. So the hope would be if weather permits that we not only get the shell water tight and windows in that we're able to re-roof the entire house including the new addition as well as side the house before the rough weather hits. And then obviously if we weren't to get the addition finished for the holiday season we would work on it and try to get it done in a timely fashion.

CHAIRMAN HODOM: Mark the existing shed is not a problem?

MR. PLATEL: Where is the existing shed?

CHAIRMAN HODOM: Back in the southeast corner, it's a 9 by well I don't know what size. It's a 8 by 8, I guess.

MR. PLATEL: How long has it been there?

MS. ACKERMAN: Forever – well since we've been there.

MR. PLATEL: Not as far as a Variance goes, it's not an issue. It is on an easement though as drawn.

CHAIRMAN HODOM: Any other questions from the Board?

MR. WIGGAND: No.

MR. MICELLI: I don't have any.

CHAIRMAN HODOM: Any questions or comments from the audience. Anyone wishing to speak in favor of the applicant? This is your opportunity Mr. Contractor.

MR. MENNETO: I think that she's – as she has spoken in the past, you know she's a single mother; she has 1100-square feet; her young son is becoming a little boy now and the privacy of the bathroom and to have a sit-in kitchen is pretty important to her right now so we're hoping that the Board will - you know we don't feel like we're over by that much. The prints as they stand right now, even though there's a difference between the 16-foot and the 14-foot, when we sat to talk she really wasn't happy with the design as it stood right then so since 14 by 24 also exceeded the 15 percent, you know it seemed to me as we worked with it that getting a couple of extra feet that way helped us a little with what she would want to do interior wise. DeRaven Associates had said that they'll modify the interior part of it for her at the cost she has all ready paid so it seems like it would make her house much more comfortable for where she is right now.

CHAIRMAN HODOM: I don't know if you covered this, how many bathrooms do you currently have?

MS. ACKERMAN: Just one.

MR. MICELLI: Is that bathroom downstairs is that a full bath, a shower, tub?

MS. ACKERMAN: It's a full bath.

MR. MICELLI: On the new addition?

MS. ACKERMAN: Oh, the new addition; half bath.

MR. MICELLI: Okay.

CHAIRMAN HODOM: Anyone wishing to speak in opposition to the Applicant? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MS. ACKERMAN: Thank you.

Hearing closed 8:00 p.m.

- - -

The next order of business was public comment for Robert Kempter's public hearing.

CHAIRMAN HODOM: Please Mr. Doyle just come up if you would, stand or sit close to the microphone. Why don't you do Mr. Kempter first.

MR. DOYLE: I want to start by simply saying that 33 years we bought a vacant house out here that had been abandoned for many years. The Eck family lived next door with 3 infant children at the time and there was an open and abandoned well that when I moving some brush I could have fallen down in it. Someone could have fallen in and drowned.

This subject property has been abused and neglected by a callous and indifferent landlord for many years who the Building Department diligently tried to bring him to some form of compliance with our Town regulations. He simply thumbed his nose at them time and time again. Not in just this community but many communities. So we really support this effort to rehabilitate this house just because of what that house became and what it has the potential to become. I pointed out from a standpoint of the physics of the location of the house that actually sits – road kind of curves this way and the house kind bends that way, the porch is going to behind the corner of the house. It won't hit the porch without - - and if it slows down a few cars that there are some parts of our community that are close to the road, that wouldn't hurt us at all.

Some years ago we addressed the speed limits in that Town – on that road and were told that we couldn't do anything about it because it was owned by the State and it was under some other regulations. Well that may be but I'd like to think we can do something about this to support this application. I don't think it poses any difficulty. I looked on the way down and there are other houses that are close to the road and they've been there so we're in support of it.

If we may also since Mrs. Cox application is before you, we also support her for the same – and by the way back to the Kempter – the porch was there originally, he's just – I assume he's putting it back where it was on the original footprint. I was up the other day and looked and the canopy where the roof was is still there and the foundation. We have the same feeling – we've known the Cox's for many, many years. They've been wonderful neighbors, meticulously neat. Their house is always – you know flowered and one of the best looking on the street and her efforts to put in a porch shouldn't pose any danger. The road is well constructed, well designed it was modified a few years ago and we support her application also.

CHAIRMAN HODOM: Just give us your name and address for the record.

MR. DOYLE: Yes, Paul and Gayle Doyle, 648 Kenwood. Thank you Mr. Hodom for this consideration.

CHAIRMAN HODOM: Thank you very much. Mrs. Doyle did you want to make any comments while you're here?

MRS. DOYLE: Just that I totally agree with him. I think that the beauty kind of slows traffic down anyway. As everyone is improving their houses on the street it really is looking beautiful and I think that's going to be an asset to all of us.

CHAIRMAN HODOM: Thank you very much.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Janice Lamphron under Article XVII, Side Yards, Section 128-73, Required Widths for construction of an attached garage addition, which will encroach into the side yard setback requirement at premises 71 Fairlawn Drive, Selkirk. The following points were brought up by the Board members: The proposed addition is a minimal request. The property is not a big lot. The need for garages are becoming more important. The neighbors did not have any opposition to it. The proposed garage will not affect the essential character of the neighborhood. On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on October 19, 2005.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Cumberland Farms. The following points were brought up by the Board members: Cumberland Farms will transfer the Special Exception to the Planning Board will come back before the Board of Appeals for an Area Variance with new documentation needed due to the new zoning ordinance. On a motion made by Chairman Hodom seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board will re-schedule a public hearing when the new documentation is presented

- - -

The next order of business this evening is a public hearing for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Front yards requested by Mary Claire Cox for property at 625 Kenwood Avenue, Delmar, New York. The Applicant wishes to construct a front porch addition, which will encroach into the front yard setback requirement at premises 625 Kenwood 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 6.67-foot by 17.5-foot front porch addition to the existing main structure creating a front yard setback of 10.33 feet. This is 14.67 feet shy of the 25 foot required.

The existing structure is occupied as a single-family dwelling and is located in a Core Residential District.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, please read the official call of the hearing.

Notice of Public Hearing. Notice is hereby given that the Board of Appeals, Albany county, Town of Bethlehem will hold a public hearing on Wednesday October 5, 2005 at 8:15 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Mary Claire Cox for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Front Yards of the Code of the Town of Bethlehem for construction of a front porch addition, which will encroach into the front yard setback requirement at premises 625 Kenwood Avenue, Delmar, New York Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 28, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier. We'll hear your 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. If you will just introduce yourself to us, give us your address and tell us what you want to do and why you want to do and how you want to do it.

MS. COX: Mary Claire Cox, I live at 625 Kenwood Avenue and the house when we bought it had a porch, an enclosed porch and because it was decaying and falling down my ex-husband, John Cox, took the porch down but received a grandfather clause that he could replace it with an open porch.

CHAIRMAN HODOM: Received a grandfather clause from....

MR. HEFFERNAN: I'm Tom Heffernan Mary's son-in-law. The porch was taken down years ago by Mary's ex-husband and at the time the intent was to re-do the porch, to keep the integrity of the house – of the original look and with financial issues, again it was her ex-husband and he was trying to help her with it at the time, other issues but we're in the position now where Mary is financially set to make those adjustments to the house and along with other home improvements and again that's what we're trying to do at this point. That's what we're requesting for.

CHAIRMAN HODOM: Was there at one time a building permit issued to build this?

MR. HEFFERNAN: Yes and it was started with – the slab is there and the slab I believe comes out approximately just under 7 feet and the porch would be on what the existing slab is. There would be no additional room towards the road.

CHAIRMAN HODOM: I noticed that some work has started.

MR. HEFFERNAN: That's correct.

CHAIRMAN HODOM: And apparently it was started because you thought you had a building permit to proceed with the work.

MR. HEFFERNAN: The work was started – there was also other interior stuff going on in the house. I think it was to a point where the contractor was hired to do a bathroom and the front porch and he was moving along pretty good with the bathroom and it was a Monday morning I believe where he thought that he was ready to go and start it and I was like we're not approved for a building permit. So as soon as I brought to his attention and I talked to Mark, you know we didn't do any more work but it was approved years ago and then it expired.

CHAIRMAN HODOM: Okay. Does the building permit expire over a period of time?

MR. PLATEL: Yes I believe that one was closed out because it didn't get done.

MR. HEFFERNAN: Yeah it was closed with the understanding that the work would be done.

CHAIRMAN HODOM: It was closed out back in '98?

MR. HEFFERNAN: That's correct.

CHAIRMAN HODOM: June of '98.

MR. HEFFERNAN: Yes sir.

CHAIRMAN HODOM: But you had all intentions if you could do it financially to put that porch at that point in time.

MS. COX: Right. I'm putting new siding on the house and I have a new roof and a new chimney and I wanted to add the porch – restore it.

CHAIRMAN HODOM: The porch is – it will be an open porch you're not enclosing it but you will put a roof over it.

MR. HEFFERNAN: I don't know if you have copies but it would...

CHAIRMAN HODOM: We do have some drawings, yes.

MR. HEFFERNAN: It's pretty much – I believe they call it a shed roof, that's just a roof with the 4-posts coming down, but it would be open so there's no obstruction.

CHAIRMAN HODOM: Mark am I correct in even the existing home today is non-compliant?

MR. PLATEL: Correct. Basically if I remember it's at 17 feet, which is an 8-foot encroachment, the existing house itself.

CHAIRMAN HODOM: The concrete pad, which is roughly 17 by 6-foot, 8 is currently existing?

MR. PLATEL: Correct.

CHAIRMAN HODOM: That would be acceptable as it stands if they didn't put a roof over it is that correct?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Okay. So all you're doing is proposing to put a roof over that concrete pad to give you some protection during the summer months?

MS. COX: And to make the house more attractive.

CHAIRMAN HODOM: And the proposed porch is the same size as the existing pad itself?

MR. HEFFERNAN: Yes and it's actually smaller than where the original porch was by approximately one foot further back from the road.

MR. WIGGAND: How long has that pad been there?

MR. HEFFERNAN: I believe since the building permit back in '98.

MR. WIGGAND: The only concern that I have with it is – we were there today...

MR. MICELLI: Yeah we stopped by to look at the job.

MR. WIGGAND: The only thing I have with it is it appears that that slab is setting right on the ground, there's no footing or foundation under it.

MR. HEFFERNAN: I believe there's footings just set back within...

MR. WIGGAND: Well that's the only concern I've got because if you're going to be setting and you've got some of it framed in all ready with the supports all ready on that slab and you have rafters going up to the building.

MR. HEFFERNAN: That's correct, yes.

MR. WIGGAND: Now if that slab is just setting on top of the ground you could have a problem with that. If it ever raises with the frost you're going to have some movement in

those rafters and eventually you're going to be in trouble. I've built a lot of them; I know what I'm talking about.

MR. HEFFERNAN: I was told...

MR. WIGGAND: I just want to make you aware of that.

MR. HEFFERNAN: Yeah.

MR. WIGGAND: Because that could be a problem. If that slab moves at all and it appears to be a relatively new slab there, am I saying that right?

MR. HEFFERNAN: I believe it's probably prior to June of 1998.

MR. WIGGAND: It appears to have moved a little along the house itself, now I don't know what happened there – there's nothing serious there but if it ever moves a slightest little bit it's going to move those rafters with the post that you have there presently unless that foundation is proper. That's the only thing that bothers me. I'm quite familiar with this stuff and what can happen to it.

MR. MICELLI: Well is it possible that there could be 4-foot posts underneath there?

MR. WIGGAND: I don't see anything there except that slab setting on the ground.

MR. MICELLI: We noticed today that it pulled away from the house all ready, the slab, if you look at it and we're just concerned that if something happens we would hate to see – you know go through all that work and everything and then it shifts on you or something.

MR. WIGGAND: You get a heavy winter frost and that slab could raise and you're going to raise the roof rafters and everything with it. And I'm just giving you a little bit of a warning on that because I've had experience with that happening to people over the years. Be very careful with that, that slab is sitting on the ground unless there's something hidden there.

MR. HEFFERNAN: I was told, okay now I haven't been around since 1998 but I didn't have a part in that project.

MR. WIGGAND: If it has footings under it or posts under it, it possibly could but I can't see them. I can't see underneath that. I'm just giving you a little bit of a tip on this because it could be a problem for you so it's part of our record that we've mentioned it. That can be a very serious problem because if it raises it could raise the roof rafters, damage the front of your house in a very sever frost winter. So be sure you check that before you do anything with it. I'm sure Mark will now, he'll look at that. I just wanted to make mention of that I don't want to see people hurt with things like that that do things that all of a sudden things start to move.

MR. MICELLI: That's the last thing you want to come out and see that thing start shifting.

MR. WIGGAND: You get a hard frost winter were you've got the frost going down a couple of feet that could raise that up. You have no foundation underneath that floor. Sorry I had to bring you that kind of news, that's not fun for me. When you're starting to put roof rafters and stuff onto it, it could hurt the home itself.

CHAIRMAN HODOM: The architectural features of your proposed porch, the roofing you're going to try match the house?

MR. HEFFERNAN: It's already ordered.

CHAIRMAN HODOM: The house is going to be re-roofed as well as...

MS. COX: It was just re-roofed.

CHAIRMAN HODOM: Okay.

MR. HEFFERNAN: We just ordered additional shingles for it so they had all come from the same batch.

MS. COX: And the roof was finished about a month ago.

CHAIRMAN HODOM: You're going to enclose or encapsulate the 4 by 4 pressure treated columns or no? I'm just asking a question I'm not saying you have to do that but so it's on the record what architectural features you'll have there.

MR. HEFFERNAN: No, if they were going to be it would be probably just like a 1 by 4 and then paint it.

CHAIRMAN HODOM: What are you going to side the house with, the new siding?

MS. COX: Vinyl siding.

CHAIRMAN HODOM: Vinyl siding, okay. You're not going to replace the wood that's there now?

MR. HEFFERNAN: No.

CHAIRMAN HODOM: You're just going to go right over the...

MS. COX: Right.

CHAIRMAN HODOM: Okay.

MRS. O'BRIEN: It will look very different if it's not dark brown. It's a very unique house there.

MR. HEFFERNAN: I know. Some of the wood is just in tough shape, it gets weathered.

CHAIRMAN HODOM: Any other questions from the Board? Any questions or comments from the audience? Anyone desiring to speak in favor of the Applicant? We actually have a letter from Roger Griffiths supporting the applicant and also Mr. Doyle this evening spoke in favor of this application. 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.

MS. COX: Good night.

Hearing closed 8:30 p.m.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of The Beverwyck who rescinded their application due to the new zoning ordinance. They will now move to the Planning Board for Site Plan review.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Joseph Tiberia for Variance under Article XIII, use & Area Schedules, Section 128-100 A, Minimum Front & Side yards for the construction of an addition, which will encroach into the front and side yard setback requirements at premises 3 Windmill Drive, Glenmont, New York The following points were brought up by the Board members: the property is very well kept up. The design of the proposed addition will appear as it was built with the original construction. There was a deck existing on the property that was built without a building permit that accounts for one of the encroachments. The 4-foot setback works well with the layout of the house. On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on October 19, 2005.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Kathleen Ackerman for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Lot Coverage for the construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 102 University Street, Selkirk, New York. The following points were brought up by the Board members: The lot is small. The house is fairly small. The proposed addition is needed for the Applicant for additional living space. The plan is well thought out. On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on October 19, 2005.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Mary Claire Cox for Variance under Article XIII, Section 128-100 A, Minimum Lot coverage for construction of a front porch addition, which will encroach into the front yard setback requirement at premises 625 Kenwood Avenue, Slingerlands, New York. The following points were brought up by the Board members: Many homes in the area are close to the road. The widening of the road by the State affected the front yard setback requirement. From an aesthetic standpoint the proposed porch will not affect the neighborhood. The proposal will be an improvement to the property. On a motion made by Mr. Brookins, seconded by Mr. Wiggand, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variances, for presentation at the next Board meeting on October 19, 2005.

- - -

The next order of business was to consider the proposed resolution of Joseph Rappazzo.

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

RESOLUTION

* * *

*

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 X, Highway Frontage and Access, Section 128-39, Residential Lots to Abut Accepted Highway or Street, and Article X, Highway Frontage and Access, Section 128-41, Driveway Placement on Residential Lots, requested by Joseph Rappazzo (“Applicant”) for property at 126 Smultz Road, Glenmont, New York. Applicant proposed a one – lot subdivision of a parcel which will not meet the road frontage access required for the existing residence on the property; and

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to 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 June 1, 2005, August 17, 2005 and September 21, 2005; and,

WHEREAS, on or about September 9, 2005, the Bethlehem Town Board adopted a new Chapter 128 to the Town Code (“Zoning Law”); and

WHEREAS, under the new Zoning Law, Applicant now requires a variance under Article XIII, Use and Area Schedules, §128-100, Schedule of Area, Yard and Bulk Requirements, Minimum Highway Frontage, Rural District; and

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

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

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

FINDINGS OF FACT

The Applicant is proposing to sub-divide his existing lot in the Rural District. The portion of the lot containing the Applicant's single-family dwelling would be required to have 75 feet of "highway frontage" as defined in the Zoning Law.

The Applicant's lot has no "highway frontage." The Applicant's property is accessed via an easement over property of an adjoining landowner, Regent Communications, Inc.. The easement begins at the terminus of the public portion of Smultz Road, and continues to the Applicant's property line.

The remainder of the Applicant's lot in the Rural District is under construction as a golf course. Public access to the golf course would also be over the easement.

The golf course is a permitted use of land under the previous and current versions of Chapter 128, and the Applicant has undertaken significant construction activity in furtherance of this land use.

The easement is a privately-owned roadway, not a public street.

The Board originally closed the public hearing on June 1, 2005.

On June 15, 2005, the Board voted to reopen the public hearing. Regent Communications, Inc., the adjoining landowner and owner of the easement, did not receive notice of the June 1, 2005 hearing.

The public hearing was reconvened on August 17, 2005. At that time, the Board received two letters from Regent Communications regarding the Applicant's use of the easement, and a July 5 letter from the Applicant regarding recent improvements to the roadway on the easement.

At the continuation of the public hearing on September 21, 2005, the Board received additional written details from the Applicant on planned improvements to the roadway on the easement.

Other than the Applicant and members of his family, no one spoke at the public hearings on the proposed variance. The Board has not received any written statements supporting or objecting to the proposed variance. The Board has received a memo from the Town Engineer addressed to the application.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed highway frontage variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance 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.

The requested variance is granted, on the following condition:

The construction and use of the roadway to the golf course over the subject easement shall comply with any and all applicable requirements of federal, State or local law.

Dated: October 5, 2005

Michael Hodom
Chairman
Board of Appeals

- - -

Mrs. O'Brien made a motion that the Resolution be adopted, Mr. Wiggand 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 October 6, 2005.)

- - -

The next order of business was to consider the proposed resolution of Thomas & Susan Cunningham.

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

RESOLUTION

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 XIII, Use and Area Schedules, Section 128-100A, Minimum Side and Rear Yard Requirements,, requested by Thomas and Susan Cunningham ("Applicants") for property at 25 Middlesex Drive, Slingerlands, 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 September 21, 2005;
and,

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

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

BE IT RESOLVED, that the Zoning 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 an addition and deck to the existing main structure that will create a rear yard setback of 14 feet, which is 11 feet shy of the 25 feet required and a side yard of 7.86 feet, which is 2.14 feet shy of the 10 feet required. The existing deck is encroaching 8 feet into the rear yard setback and was constructed without a permit sometime in the past. The existing side yard set back of 8 feet on the property is also a pre-existing non-conforming condition. The existing structure is located in a residence "A" District and is occupied as a single-family dwelling.

Applicants are proposing to construct a three-season room addition and deck onto their residence. The project will have electrical service only. There will be no plumbing, and the room will not be for full time occupancy.

At the public hearing, the Applicants presented a written statement of support for the proposed project from one of their neighbors.

At the public hearing, another neighbor spoke and expressed his support for the proposed project.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the proposed area variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

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

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

The requested variance is granted, on the following conditions:

- 1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the September 21, 2005 hearing;
- 2. In the construction of the addition, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home; and
- 3. The project shall be completed within two (2) years of the date of this Resolution.

October 5, 2005

Michael Hodom
Chairman
Board of Appeals

- - -

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 6, 2005.)

- - -

On a motion made by Chairman Hodom, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the September 21, 2005, meeting were approved as amended.

The meeting was adjourned on a motion made by Mr. Brookins, seconded by Mr. Micelli and unanimously carried by the Board.

Meeting Adjourned: 9:05 p.m.

Respectfully submitted,

Secretary