

**TOWN OF BETHLEHEM
BOARD OF APPEALS**

October 15, 2008

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

PRESENT: Michael Hodom, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
Dave DeCancio, Board of Appeals Member
Ken Umina, Board of Appeals Member
Matt Watson, Board of Appeals Member
Lennie Micelli, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: Glemont Mobil
Brian Jordan
Sonya and Alla Smelyansky
Hank Digeser (Gould Erectors)

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

PUBLIC HEARING

Glenmont Mobil

Chairman Hodom opened the Public Hearing. Mr. Platel stated that the applicant is proposing to install a second freestanding sign, which will be thirty-two (32) square feet per side and six (6) feet in height. In a commercial hamlet zoning district only one (1) freestanding sign is permitted on the business premise. The current use of the property is a convenience store with a drive thru window business.

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

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, October 15, 2008, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of Frank Hessari, Glenmont Mobil located at 415 Rt. 9W, Glenmont for a Variance under Article VI, Section 128-59 D (1) signs. The applicant wants an additional monument sign.

Mr. Chris Boyea, Bohler Engineering, presented for the applicant. The applicant wants to add an additional monument sign to his Mobil station that has recently gone through extensive renovation. It's located at the corner of Rt. 9W and Feura Bush Road. In the past the site had a large, tall pylon sign at the corner. During the site plan approval process they were told to replace the pylon sign and replace it with a monument sign at the corner. The additional sign they are proposing would be exactly the same size sign. The purpose of the sign would be to notify the patrons traveling down Feura Bush Rd. of the prices and services the site had to offer. The orientation of the existing monument sign at the corner doesn't notify anyone on Feura Bush Rd. because it can't be seen until they have arrived at the intersection. If a person gets to the intersection and makes a right hand turn to go back to the entrance on Route 9W, it would add to the existing congestion at the intersection. If the additional sign were allowed, the potential customers would be able to see the prices and services prior to arriving at the driveway entrance on Feura Bush Road.

Mr. Umina asked if the sign would have a directional component to the Dunkin Donuts and the entrance to the gas station or just advertise the two (2) services. Mr. Boyea said the sign would not have an arrow to point people in because there are already directional signs. Chairman Hodom asked the height of the sign, including the base. Mr. Boyea said the height was between six (6) and seven (7) feet, which is less than the maximum of ten (10) feet allowed. Chairman Hodom asked if additional sign options were being considered. Mr. Boyea said they had looked at other options but didn't find any others that would solve their problem of visibility. They had looked at putting something on the backside of the building but there were some nice trees they would prefer to save and those trees block the visibility from Feura Bush. They felt the monument sign was the best option.

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

McDonalds, located next door, has a monument sign on the opposite side of the sidewalk. The applicant wants to locate the additional sign on the inside of the sidewalk. Chairman Hodom asked the total square footage of their current wall signage. Mr. Boyea said they have a sixteen point seven (16.7) square foot sign in the front, another existing wall sign on the side of the building, a Pegasus that is twelve point five seven (12.57) square feet. He said those two (2) together were about 29 square feet. Chairman Hodom asked Mr. Platel the maximum allowable square feet of wall signage allowed at this site. Mr. Platel said it would be about sixty-seven (67) square feet. Chairman Hodom asked if the Dunkin Donuts was operational at the site. Mr. Boyea said it was recently approved. Chairman Hodom asked if they any other options for the location of the existing free standing sign to serve their needs. Mr. Boyea said they had looked at other areas but no other location would serve their purpose. There is only one entrance on Feura Bush Road that was why they wanted the sign at the Feura Bush Road entrance. That sign would have exterior illumination. Chairman Hodom asked if they were proposing any other monument signs on the premises. Mr. Boyea said no they had just received site plan approval from the Planning Board and this was the only other sign they were requesting. Chairman Hodom asked if the reorientation of the existing sign was discussed during the site plan approval process. Mr. Boyea said there wasn't any discussion because they didn't feel there was any angle that would capture both roads.

Mr. Hessari said it was very important to have the prices posted and would help bring in the customers. He said they had purchased the Mobil when Mobil was selling their stations in New York. The applicant had done the work to upgrade the site. Dunkin Donuts should be operational within a few weeks. If they were granted the variance it would look the same as the existing sign.

Hearing no further comment the hearing was declared closed at 7:19pm.

DISCUSSIONS

Brian Jordan

Chairman Hodom started the discussion. He said normally he would recommend that the fifty (50) foot buffer be maintained. In this application there is a one hundred (100) foot easement on the easterly property line for National Grid and no buildable lot to the northerly property line and the neighbor at the Public Hearing stated he was in favor of granting the variance. Chairman Hodom was in favor of granting the variance for the following reasons: he didn't think it would change the character of the neighborhood, the variance is not substantial, the granting of the variance would not have any adverse effect on the physical or environmental conditions on the neighborhood or the district and the benefit being sought can not be achieved by any other method than an area variance. Even if the building were attached, it would encroach into the fifty (50) foot setback and the alleged difficulty was not self-created. He recommended approval with the following conditions: no heat or sanitary facilities be provided in the proposed garage.

A motion to grant the Jordan application for an area variance with conditions was offered by Mr. DeCancio, seconded by Mr. Watson and approved by all Board members present.

Sonya and Alla Smelyansky

Chairman Hodom started the discussion. The current neighborhood consists primarily of two (2) family and single-family residences. The previous owners had used the residence as an illegal three (3) family. Although three (3) family residences are allowed by right in this district, the minimum lot size required for a three (3) family is eighteen thousand five hundred (18,500) square feet and the applicant's lot does not comply. He thought an undesirable change would be produced in the character of the neighborhood by the granting of the variance. The requested area variance is substantial based on the eighteen thousand five hundred (18,500) square feet required versus the fourteen thousand five hundred twenty (14,520) square feet of the applicant's lot. He thought the granting of the variance would have an adverse effect on the physical conditions in the neighborhood and the district. He recommended denial of the variance.

Mr. Micelli agreed. He said the use, as a three family was illegal from the beginning. Both Mr. DeCancio and Mr. Watson agreed with the Chairman. Mr. Umina also agreed with denying the variance. He had looked at the original plans and they were for a two (2) family residence.

A motion to deny the Smelyansky application for an area variance was offered by Mr. DeCancio, seconded by Mr. Micelli and approved by all Board members present.

Sonya and Alla Smelyansky – Appeal

Chairman Hodom said the Board had discussed the Smelyansky appeal application for an appeal at the last meeting and they upheld the determination of the building inspector.

A motion to deny the Smelyansky appeal application was offered by Mr. DeCancio, seconded by Mr. Watson and approved by all Board members present.

RESOLUTIONS

Hank Digeser (Gould Erectors)

The Board reviewed the draft resolution for Hank Digeser prepared by Counsel.

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

The Board reviewed the draft minutes of October 1, 2008 prepared by staff.

A motion to approve the minutes of October 1, 2008 as amended was offered by Mr. Micelli, seconded by Mr. DeCancio and approved by all Board members present.

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

The meeting adjourned at 7:53 PM.

Respectfully submitted,

Nanci Moquin