

**TOWN OF BETHLEHEM
BOARD OF APPEALS
April 21, 2004**

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

PRESENT: Michael Hodom
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 Mr. Bulmer. 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 Special Exception under Article VI, permitted Uses, Section 128-20 C (3), Light Industrial District requested by Stewarts Shops Corporation for property at 33 Frontage Road, Glenmont, New York. The Applicant wishes to remove the existing canopy, Islands, and pumps and replace with a larger canopy, a concrete pad and 4-fuel dispensers at the premises of 33 Frontage Road, 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 seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576-square foot canopy and replace it with a new 44-foot by 45-foot, 1,980-square foot canopy. The new canopy will house 4 new gasoline dispensers, replacing the 2-dispensers that are now existing on the site. The structure is located in a light industrial district and is occupied as a motor fuel filling station and convenience store.

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

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

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 public hearing on, Wednesday April 21, 2004 at 7:30 p.m., at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Stewarts Shops Corporation for Special Exception under Article VI, Permitted Uses, Section 128-20 C (3), Light Industrial District of the Code of the Town of Bethlehem to remove existing canopy, islands and pumps and replace with larger canopy, concrete pad and 4-fuel dispensers at premises 33 Frontage Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 14, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. Mr. Bulmer, if you would introduce yourself to us and your association with Stewarts.

MR. BULMER: My name is Paul Bulmer. I'm a real estate representative for Stewarts Corporation. I handle a lot of the new site locations and a lot of the modifications to existing sites. Just through your readings here it's very simple what we're trying to do. The old pumps - - number one, the 2-pumps are older and in need of replacement, in doing expanding to four. It's really not - - it certainly will allow us to pump, you know a little more gas. It's really not that - it's getting the cars in and off the site quicker and just neaten that up. I know going to four may not sound like it's neating it up or improving the aesthetics of it, but it certainly will be a cleaner site from a traffic flow of stand point; getting cars on and off that site. I know that gets bunched up there and actually I think there's an inaccuracy on this plan. It show the existing canopy having the shakes and I think that one has already gone to the bronze to match the front of the building. The new one will as well, I think they did that on both of them. The other site we'll go to still has the shakes on it. So we'll have the front of that will match the front of the building as well. We are not proposing to change out the tanks here on this location at this point. These tanks were put in, in 1993. They're a double walled steel tank that are still working fine so that's why these underground tanks are not to be changed at this time.

CHAIRMAN HODOM: You're not changing any of these tanks?

MR. BULMER: That's right; correct. The underground tanks are staying on this site. You know those and at both locations the double wall tanks - the outside of the tanks through an IT and I don't what this stands for - the - basically how they test the outside of the tanks on a double wall. These are fine and there's really no point to change these. They're tested weekly, at what point we see some excessive moisture in that is when we'll go in and change those tanks out to the fiberglass tanks. I really don't have much on this other than, you know it's simply to really improve the ease of getting on and off the site, getting more people in and out quicker. These pumps will be set up with the pay at the pump, although I can't guarantee once they're operational it's going to work right away because it's tied to our new register system which is going in within the next 6-

months and where that falls with this, so it may go in and have a little sign on them for 2-months, hang out and then when the registers go in that's unfortunately tied to another outside vender whose putting in the whole new computerization of all our stores. So hopefully we can tie that in with this, but I can't guarantee it but it will be forthcoming shortly.

CHAIRMAN HODOM: Mr. Bulmer, on the proposed canopy it's a white aluminum fascia?

MR. BULMER: It's bronze, which matches the soffet on the existing building.

CHAIRMAN HODOM: Okay, the drawing does show white aluminum fascia.

MR. BULMER: It does on that.

CHAIRMAN HODOM: But it will be bronze?

MR. BULMER: If you want the bronze, I'd prefer the bronze. I think he made a mistake on that to tell you the truth; the drawing. And what's there right now is bronze, if you saw it which I think looks a heck of a lot better than a white fascia, which ends up getting dirty and dingy. I'm not sure – I think that was a mistake and I didn't pick that up before so I apologize.

CHAIRMAN HODOM: You don't show any new signage being proposed on the canopy.

MR. BULMER: That's right.

CHAIRMAN HODOM: And there will be no signage on the canopy?

MR. BULMER: Correct.

CHAIRMAN HODOM: Because currently there is one sign on the south side of the existing canopy.

MR. BULMER: You know; yeah. You know what, I think – and I just got this this afternoon, but I gotta believe I would want to keep that signage there and I can come back and show you again what that would look like. I think if we took a photo of - - you've got a photo of the existing. I would propose that we keep the same size sign on that south side if the Board would be agreeable I know it's not on the plan. I can have the plan amended and get it back to you at the next meeting if you like, but I'd certainly want to keep that sign on there if the Board's agreeable to it.

CHAIRMAN HODOM: We would like to see if you're going to have some signage there...

MR. BULMER: Okay.

CHAIRMAN HODOM: A plan including the signage and as long as it's no larger than what's currently existing.

MR. BULMER: Fine.

CHAIRMAN HODOM: But at least it makes our records complete.

MR. BULMER: Yup, and I'll have him change the color to if the Board is in agreement with the bronze, I would recommend it.

CHAIRMAN HODOM: That's what you're proposing is the bronze, it's noted in the record but the drawing should be corrected.

MR. BROOKINS: As long as you're making changes, if you could lower those gas prices a little bit that would be fine to.

MR. BULMER: It's funny that every Board I go to asks the same thing.

MR. BROOKINS: Just a thought.

CHAIRMAN HODOM: Are there any other changes or work being preformed at the facility there aren't shown on the drawings?

MR. BULMER: I have nothing else.

CHAIRMAN HODOM: Okay. There's no other work being preformed on the existing facility?

MR. BULMER: No, nothing at all.

CHAIRMAN HODOM: Okay. So it's strictly the...

MR. BULMER: It's strictly the pumps and the...

CHAIRMAN HODOM: The canopy.

MR. BULMER: Well, there'll be a new – as it says on the plan there will be a new concrete pad and that's it. It's strictly on the, you know on the tanks and the pumps – I mean on the pumps and the canopy.

CHAIRMAN HODOM: The existing lighting, currently there's four – I don't know what the wattage is of the lighting, but would the lighting remain primarily the same? It'll be down lights under the canopy?

MR. BULMER: Correct.

CHAIRMAN HODOM: It won't be shining out onto the roadways?

MR. BULMER: Correct and these are 320-watt canopy lights, so there'd be 8 of them.

CHAIRMAN HODOM: Okay. But they're strictly down lights?

MR. BULMER: Correct. And if you want, which I would recommend because a lot of Boards are finding - - after they go in because it doesn't show on there. I would ask us to make sure that they're recessed and we can do that. Even the new shop that we just opened out on 85, I've already got an issue now with the neighbor because they're a down light. So as we're putting these in, if I was sitting over there and don't get me - - the only reason I'm saying this is that area is light enough. We don't need a down light. The best way to project that is to do a recessed light. And it doesn't say - it just says a proposed light on there, but if I were sitting on your side of the table I'd ask for it to be recessed because to tell you the truth, it doesn't really effect me. Some of our gas-marketing folks like it, you know to have the FAA to have a problem with it and I don't think we need to.

CHAIRMAN HODOM: Well are you suggesting that you will install a recessed light?

MR. BULMER: Yeah, we can absolutely do that.

CHAIRMAN HODOM: Okay. And that would be part of testimony as well that the lights will be recessed. Do you have a fire suppression system?

MR. BULMER: Yes, it'll have a full fire suppression system above the canopy and obviously, I mean that's where all the units sit.

CHAIRMAN HODOM: Okay.

MR. BULMER: Do you need to see the details on that?

CHAIRMAN HODOM: No as long as it's going to be - you're to comply with all the federal, state and local and county codes.

MR. BULMER: Absolutely.

MR. WIGGAND: Mr. Bulmer, I have one question for you.

MR. BULMER: Sure.

MR. WIGGAND: You show here on your plan a break in your concrete here and a large empty area here. Is this concrete going to be continuous here and there's not going to be a drive through or anything like that?

MR. BULMER: Correct.

MR. WIGGAND: It doesn't show it that way that's the only reason why I'm asking it.

MR. BULMER: We could de-mark it, or...

MR. WIGGAND: We would not want to see any cars going through there.

MR. BULMER: So you just don't want a car jogging through is what you're saying.

MR. WIGGAND: I'm speaking as a past fire chief.

MR. BULMER: It's not shown, I mean if you want us to - - if you're asking me to continue it, we could probably do that or even just raise it slightly or de-mark it on the pavement, we can paint it that way.

MR. WIGGAND: It looks like a natural pull for a vehicle or a motorcycle or anything as such and I'm sure that's not your intent there with that plan.

MR. BULMER: Obviously not – and the nice thing about it is there's enough width that it wouldn't make sense for a car to do that, you know but not everyone's driving with sense so if you want we could - - if you want the canopy to extend, I would agree to that if you want that between the 2-pumps, if that makes it easier or we could de-mark just with paint.

MR. WIGGAND: I think it's something for your engineers to look at because I don't think I'd like to see any possibility of the cars flowing through there unless it's designed for cars to pull through.

MR. BULMER: No, absolutely not.

MR. WIGGAND: And it's not the way your pumps are facing.

MR. BROOKINS: I had a similar question about directional arrows, I don't know if anybody else was concerned or have a question about that and a related question. I don't know how familiar you are with the facility down in there. Right now these are where the pumps are. This area right here is a convenient kind of staging area for large trucks and it's going to get tight there if that continues, you know and because you've moved these pumps to here and large – I don't think any of your trucks do this, but I've seen DOT trucks stage out here when they're running in to get something, Red Star trucks or whatever and it gets a little – potentially it's going to get a little tight there. And then if you add to that people who are, you know are they coming in this way, they're going to get screened from people who might be coming in this way and...

MR. BULMER: We can certainly do a no parking area; you know we can mark it I mean

I don't know what it'll do. We can certainly mark it off, put a no parking sign...

MR. BROOKINS: I'm just bringing it up at this point to give some consideration, I don't know how the others feel about that but as I looked at it, it started getting cramped in there.

MR. WIGGAND: He brings up a good point there that the highway gets pretty tight sometime with large tractor and trailers right along that - - there's a, I don't know if some kind of slope into the - - drainage ditch there along that road and they seem to just pull out of that drainage ditch, which is on a flat level there, but you take around 7:30/8:00 in the morning, you can't believe the different traffic right on there. So I don't know if there's an answer to it, I really don't know that, but it seems to work but it's something to think about.

CHAIRMAN HODOM: I think Mr. Bulmer made a good recommendation is that you mark it off as a no parking area.

MR. BULMER: We'd paint it off as no parking, put a small sign on it or whatever and...

CHAIRMAN HODOM: Had your engineering department looked at any kind of structured driving lanes which Gil was referring to as far as directional arrows?

MR. BULMER: I really don't think I have it and I'll tell you what becomes the issue on these and most gas stations is - and I wish that we'd get all our cars with the gas tanks on the left side. It really becomes - - it really becomes a problem because you get them on both sides of your car. If you're pulling in from this entrance and you have them on the right, I have them on the left it becomes an issue and I think no matter how much you mark that and we can mark it but it's still where your tanks - where your own entry, you know where you fuel from is what people do and I'm not trying to, you know not answer it but it's the reality of what happens. We can certainly mark it to try to get everybody coming in from this entrance to go on the left side of the pumps and what should be the natural flow of them on both directions on both directions. I just can't guarantee it, if you want us to mark it on the pavement. We can try to make some recommendations on there and show, again how to do that. Unfortunately marking on the pavement is only good, you know certain times of the year, it's not good when it snows and you've got ice and everything else. If your Board has some recommendation, I could entertain it but if you want we could try to come up with something and get it back on the plan.

MR. WIGGAND: Most all the cars come in from the north, they're all pointing to the south towards the building to pick up the gas. I don't know if I've ever seen...

MR. PLATEL: For the most part.

MR. WIGGAND: For the most part.

MR. BULMER: But the issue still comes down to if your pumps on the other side and if

you got a guy who did swing around or faced, you know and....

MS. FOTIU: What's happening to the parking spaces that are on the right of the pumps? Where are those parking spaces?

CHAIRMAN HODOM: I'm sorry ma'am?

MS. FOTIU: Are there going to be any more parking spaces to the right of the pumps?

CHAIRMAN HODOM: Could you just introduce yourself to us?

MS. FOTIU: I'm so sorry, my name is Fifi, I'm from Uncle Milti's diner, which is a diner next store to Stewarts.

CHAIRMAN HODOM: Fifi?

MS. FOTIU: Yes.

CHAIRMAN HODOM: With Uncle Milti's diner?

MS. FOTIU: That's correct.

CHAIRMAN HODOM: And your question was?

MS. FOTIU: My question is to the right of the screen, to the right of the pumps are there going to be any other parking spaces because presently there are?

CHAIRMAN HODOM: Are you looking at the – like the east side of the plan?

MS. FOTIU: That's the north side.

CHAIRMAN HODOM: Well the north side has parking spaces.

MS. FOTIU: Well those are – are they going to be existing or are there going to be parking spaces there?

MR. BULMER: We're going to remove those because of the location of the canopy and just have what's up on the topside.

MS. FOTIU: So that's just going to be...

MR. BULMER: An area – and I think what the attempt there, it may very well be to satisfy some of those trucks that are coming around that want a spot to - - and I don't know that but I would think you may have room and we're certainly not recommending that but if a truck gets on a site and he's stuck but I think it's just an area to drive around the existing....

MS. FOTIU: Because right now I'm very concerned because I have a lot of problems with, you know it's not your doing but the customers, especially you have a lot of traffic with trucks; big trucks. They're cutting through – I have a problem - they're cutting through my parking lot and all the barriers have all been crashed. They're just, you know they just keep going just to get into the gas pumps. Boom, they cut right across the parking lot and all the concrete barriers that I've put, no matter how many times I've fixed, they keep getting crushed and they just - just to go there and I think that, you know that's just going to make the situation worse.

MR. MICELLI: I don't think I'm following you, can you explain...

MS. FOTIU: I'm so sorry.

MR. MICELLI: I mean between your business and Stewarts is that what you're talking about?

MS. FOTIU: Yes.

MR. MICELLI: Oh there, okay.

MS. FOTIU: To that side, to the right of the screen, which would be the north side.

MR. MICELLI: Okay. I understand now.

MS. FOTIU: And that's what my concern is how is the traffic just to make sure that they go, you know the way that the pumps are positioned that would make it even more convenient for them to come in from, you know into Frontage Road and take a right and cut right across.

CHAIRMAN HODOM: There are concrete bumpers up there currently.

MS. FOTIU: Yes, but that's – they're totally being ignored.

CHAIRMAN HODOM: Is there any signage there that says no through traffic at that location?

MS. FOTIU: At this side not, no there isn't but there are, you know the concrete blocks and they cut right through them.

CHAIRMAN HODOM: Are those concrete bumpers, are they anchored into the pavement?

MS. FOTIU: Yes.

CHAIRMAN HODOM: And they still go through them?

MS. FOTIU: Yeah, they've been crashed.

MR. MICELLI: They're the low ones.

CHAIRMAN HODOM: Yes.

MS. FOTIU: Yeah they're – what is it...

CHAIRMAN HODOM: 6-inches or so above ground.

MS. FOTIU: I don't want to put a concrete wall there.

CHAIRMAN HODOM: Fifi, what was your last name?

MS. FOTIU: Fotiu.

CHAIRMAN HODOM: Could you spell it for us?

MS. FOTIU: F-O-T-I-U.

CHAIRMAN HODOM: Okay.

MS. FOTIU: It's just a concern. I don't have anything against the pumps. I think that would be nice.

MR. BULMER: Why don't I go down and take some pictures of that site to and when we come back I'll try to make some recommendations as to how we can better shield that side. I don't want to make any guarantees right now but I'll take your, you know we'll go back with your concern and we'll try to address it as best we can. I'm not sure what the answer is, but let me go take a look at it.

CHAIRMAN HODOM: Other than a little higher barrier...

MS. FOTIU: But they're signs on the – on the ground, you know indicating exactly how to get to the pumps.

CHAIRMAN HODOM: But you don't have diesel there I don't believe. It's all gasoline.

MR. BULMER: I think it's all gasoline. I think we have all gasoline, I'm not sure if we're, I can't imagine we're going to diesel here. Competing with the diesel down the road is pretty impossible with the truck stops so I doubt it.

CHAIRMAN HODOM: I'm just wondering why that, other than for convenience they're driving through your property and maybe just stopping in and getting a coffee or something of that nature.

MS. FOTIU: Yeah just, you know cutting through for whatever. I mean, you know it's - - cause it's a very congested area for trucks, it's small.

CHAIRMAN HODOM: It's a very confined site, I would agree with that.

MS. FOTIU: And the other thing I'm concerned about is if the Town could post some speed limits or slow, you know slow the traffic down a little bit because they're going very fast through there, it is a secondary road.

CHAIRMAN HODOM: There are no speed limit signs currently existing?

MS. FOTIU: I believe not, I could be wrong.

MR. PLATEL: I think there's one right when you turn onto Frontage, but I think you miss it because it's right on the right hand side. I think it does say 30, but that's right after people are...

MS. FOTIU: Yeah and the traffic is very fast for just a little, you know just a little - call it service road.

MR. BULMER: And that's not a kind of road that's likely to be policed, you know that side of the road doesn't...

CHAIRMAN HODOM: Stewarts will look into that?

MR. BULMER: I'll address it as best we can. We'll take a look at it. I'm not sure what we can do.

CHAIRMAN HODOM: Did you have anything else ma'am?

MS. FOTIU: No, that's it.

CHAIRMAN HODOM: Okay. I think you do have parking spaces there currently. I'm going to call it the east side only because of the directional arrow, because the north side you're showing parking spaces on and the west side you're showing parking spaces on. The only suggestion I would make would be that you use those concrete barriers that the thruway uses or DOT uses; Jersey barriers or whatever they call them.

MR. PLATEL: They don't look all that nice though.

MR. BULMER: Paint them green.

CHAIRMAN HODOM: They can be made attractive, that would certainly stop the flow of traffic from one property to the other. Any other questions from the Board?

MR. BROOKINS: It's not shown on here, but I'm sure you have a handicap parking spot some place.

MR. BULMER: Yeah, I know we do. I don't know exactly where it is; we've gone through and done about all our sites.

MR. WIGGAND: There's two of them right in front of the store.

CHAIRMAN HODOM: Yes, there are two. They should be shown on the plan.

MR. BULMER: But I will make sure they show them on the plan that's finalized, I will.

CHAIRMAN HODOM: Albany County had a recommendation, Mr. Bulmer that includes any review by the New York State Department of Environmental Conservation for potential jurisdiction under bulk petroleum storage regulations. I don't know if DEC is involved with this project at this point in time but you probably have previously approved DEC...

MR. BULMER: What we do is what we're going to do on the other site is we have a third party and we use Passaretti Geological, which is approved by the DEC. They come there on site whenever we do any tank or pump removal. If they detect any kind spill or anything, I mean they're under strict obligations to report that spill at that point so they will be there on site on both jobs.

CHAIRMAN HODOM: I don't know if DEC gets involved in this type of modification with canopy's and pumps but you should look into that.

MR. BULMER: We will look in that and the only reason they may have wanted to is because we're obviously, we have some new lines and they may therefore have a desire at point, you know what I mean? If you were just putting new pumps on top of existing supply line, then they probably wouldn't but we can verify that.

CHAIRMAN HODOM: If in fact DEC doesn't have any jurisdiction over or is not interested in it, we would like to see a copy of the letter just acknowledging that.

ATTORNEY MOORE: Or I think you have registration certificates probably for...

MR. PLATEL: I believe they do Mike. I do believe they will be there when they do change the lines.

ATTORNEY MOORE: There'll be registration certificates or something of that sort for the tanks and the lines.

MR. BULMER: Yup.

ATTORNEY MOORE: So just provide copies to the Board would be my

recommendation just so we have them.

MR. BULMER: Okay, of the new registration.

MS. FOTIU: Is it something that also is notified to the neighbors as well or no?

CHAIRMAN HODOM: What is that ma'am?

MS. FOTIU: As to what the conditions are of any spillage or anything or I don't know what's involved, you know what's involved in this process.

CHAIRMAN HODOM: Well we're not aware of any problems with the existing tanks. All we're looking at right now is that the Department of Environmental Conservation review the installation and make their recommendations or issue any kind of certifications or issue any kind of certifications that everything's acceptable. Now if it isn't acceptable certainly Stewarts would have to make the modifications to make it acceptable to DEC.

MR. BULMER: And what happens if there is a spill, I mean the DEC gets notified right away by this other party. That's why they're there independent of us and the DEC would come out...

MS. FOTIU: I'm familiar with the other party.

MR. BULMER: Yeah, okay. But they come out and, you know evaluate not just our site but off site as well.

CHAIRMAN HODOM: Anything else? How soon do you think you can have the documentation to us?

MR. BULMER: Not tonight. We can get these changes made probably by the end of next week on the plans so I can get new plans to you middle of next week. The tank registration information, I'm not sure how that process works, let me find out. I don't know if we – if they sign off once they're installed or not.

ATTORNEY MOORE: There's probably copies on site or there should be.

MR. BULMER: Oh the existing, are you looking for the existing ones right now. I mean we can get you all of the tank registrations for the existing ones, that's not an issue. We can have that.

CHAIRMAN HODOM: Well I'm sure they're going to have some kind of certification with the new work as well.

MR. BULMER: Okay.

CHAIRMAN HODOM: And I would imagine Stewart's is in the process of contacting...

MR. BULMER: Oh absolutely on any of these. I'll get the verification as to what the DEC's involvement is and if there needs to be no DEC involvement because of the scope of work, I'll get some letter to verify that as well.

CHAIRMAN HODOM: Okay.

MR. BULMER: I think I know where you're coming from. You basically want to know what does DEC going to know about this job and what their involvement is.

CHAIRMAN HODOM: Yeah, we just want to make sure you have all the approvals and oversight from any regulatory agency. So we probably will not close the hearing this evening, we'll adjourn it to a future date uncertain at this time until we get all the updated documentation. How does the Board feel about that?

MR. PLATEL: Mike, while he's checking out the signage that's on the existing, can you get the existing signage on the building also? I believe there's 3-signs on the building now, just get the size of those if you would please.

MR. WIGGAND: He did mention there is going to be signs on the canopy?

MR. BULMER: Yeah, we'd like to keep what we have there.

MR. WIGGAND: I had a note on it here.

CHAIRMAN HODOM: Currently there's only 1-sign and it's on the south side.

MR. BULMER: That's the only spot we need it.

CHAIRMAN HODOM: And as long as it isn't any bigger than that I don't think anybody would have any objection, because I'm not aware that they're over in square footage.

MR. PLATEL: No, the last permit that they got was actually to reduce signage but that was only for 1-sign so I don't know if they're increasing that or not. I don't see...

CHAIRMAN HODOM: It appears that the new signage is smaller than the existing signage because you've gone to a script or scroll type of sign. The one on Delaware Avenue it appears that way.

MR. BULMER: Yeah, we gotten away from...

CHAIRMAN HODOM: The protruding sign?

MR. BULMER: Yeah.

CHAIRMAN HODOM: Okay.

MR. PLATEL: The only thing I saw that – I don't believe you have one on there now do you?

CHAIRMAN HODOM: Yes.

MR. BULMER: I think we do.

CHAIRMAN HODOM: They do have one there.

MR. PLATEL: Oh, okay.

CHAIRMAN HODOM: But the prices are lower.

MR. PLATEL: New York State takes their share to.

CHAIRMAN HODOM: They have it listed with the taxes and fees are.

MR. MICELLI: Did you see that article?

MR. BULMER: Yeah, we did that once to.

CHAIRMAN HODOM: You have it on your sign.

MR. BULMER: Well we actually put a sign out once up in Saratoga for gas at .99-cents plus tax and then we listed all the tax. You know we did it for like a day before we got in a lot of trouble for it; .80-cents in tax.

CHAIRMAN HODOM: Any other questions, did you have any other questions?

MR. BULMER: I don't have any.

CHAIRMAN HODOM: I'll make a motion to adjourn the hearing until a date uncertain when Mr. Bulmer can get...

MR. BULMER: How often do you meet, are you once a month or twice?

CHAIRMAN HODOM: Twice, first and third Wednesday's.

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

Hearing adjourned 8:00

- - -

The next order of business this evening is a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District requested by Stewarts Shops Corporation for property at 309 Delaware Avenue, Delmar, New York 12054. The Applicant wishes to remove the existing canopy, dispensers and underground gasoline storage tank and replace it with a new canopy, 2-fuel dispensers and 2-new storage tanks at the premises of 309 Delaware Avenue, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576-square foot canopy and replace it with another 24 by 24, 576-square foot canopy in the same location. The height to the top of the new canopy will be 17.5-feet, that is 3-feet lower than the height of the existing canopy. The will also be replacing the 2-existing gasoline dispensers with 2-new dispensers and removing the underground gasoline storage tanks and replacing them with new tanks. The structure is located in a "CC" Retail Commercial District and is occupied as a motor fuel filling station and convenience store.

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 for the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday April 21, 2004, at 7:45 p.m. at the Town offices, 445 Delaware Avenue, Delmar, New York to take action on application of Stewarts Shops Corporation for Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District of the Code of the Town of Bethlehem to remove existing canopy, dispensers and underground gasoline storage tank and replace with new canopy, 2-fuel dispensers and 2-new storage tanks at the premises of 309 Delaware Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 14, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. Mr. Bulmer, just introduce yourself again if you would for us and your association with Stewarts.

MR. BULMER: Sure, I'm Paul Bulmer real estate representative for Stewarts Shops.

CHAIRMAN HODOM: And tell us what you want to do here.

MR. BULMER: Here we're actually just replacing all the existing facilities and keeping them in the same spot. Believe me if I could get 4-pumps on here I'd love to. We just obviously don't have the room to do it. So we're replacing all the units exactly where they are. These tanks in addition to the other site, these tanks – underground storage tanks will be replaced with the new fiberglass tanks which are non-corrosive, which is good. The other tanks that we're taking out were older than the Glenmont shop. These went in, in 1990; was a double walled steel tank. There's some moisture that we certainly detected in the 2nd containment, which is the outside portion of the tank which is when we really get the trigger that hey, it's time to get these out. Soon the inside wall will go, that's why they were built the double walls so you can kind of get a notice when it's time to change these.

Not saying that there's any contamination, you know when we pull this out, you know there's probably a 50/50 chance there's some contamination there. Passaretti Geological will be on the site here as well even more important than obviously the other one pulling these tanks out. So they will - - if they detect a spill, immediately notify DEC and then we will have to go right by the DEC guidelines, so DEC will be very involved in this one. They're aware we're doing – anytime there's a tank removal, DEC is involved, but they're not going to be on the site. They rely on Passaretti to be their eyes and ears and, you know we work very closely with DEC throughout the state and so I'm sure they're aware we're doing this and as a matter of fact and I don't even now there's a meeting on Tuesday here in Albany, there's a whole new brown-field plan going into effect and I don't even know anything about it. It's being presented to all these developers and everybody in the gas business on Tuesday downtown on different tax credits and everything if there is contamination and this may be one that if it is contaminated it could fall into that. I don't know what all those reg.'s are going to be Tuesday so there's all new rules and reg.'s about how these things can be done and to benefit us in getting them out.

We're going to 2-tanks, one is a 12,000-gallen one is a 6,000-gallen underground storage tanks and they're going to go in the same location as the previous ones obviously this 12,000 will be a longer tank but other than that the new canopy as you see the shakes are going to go away. What we're proposing is since the, you know the soffet on the building which changed previously from the shakes to the bronze that the new canopy will match that. It will be much smaller in height than the existing canopy, which is kind of very large and at some point I'm sure was attractive, but no longer is. At 6-foot wide, this will only be 3-foot wide and we'll go to the new 10-square foot signage on each end of the canopy. Right now you have a dormer I guess if you would, coming out of each end of the north and south end of the canopy with our signage on it. So it'll be the smaller sleeker looking signage. But we're just going to go with the 2-dispensers as well. There's already pay at the pump here, these will have pay at the pump as well going in.

CHAIRMAN HODOM: On your drawing G1 and I know you mentioned that they were going to fiberglass tanks. It appears that under paragraph B of the notes that most of the

reference in notes 1 through 12 refer to steel tanks. You've got cathodic protection and...

MR. BULMER: Yeah, you know what and I'm not the engineer, I can't answer it. Let me just verify that the notes correspond to what the fiberglass tanks that are going in. These are certainly going to be the fiberglass tanks going in and the notes are not correct. I'll have him make that adjustment. I apologize.

CHAIRMAN HODOM: I think he does mention steel tanks and then of course he refers to note number 8 that tanks will be coated with coal tar epoxy. I don't think you do that with fiberglass tanks I think that specification basically is for a steel tank. That should be changed if it's incorrect. Actually in note number 3 it says all cathodically protected steel tanks must meet or exceed bla, bla, bla. And again we would want the same kind of clarification from DEC, any certification or registration that you have to be documented. I believe Albany County made the same kind of requirement.

ATTORNEY MOORE: In this case whether or not there's any contamination found since there is a tank removal and replacement, there's going to be a tank closure report filed with DEC.

MR. BULMER: Correct.

ATTORNEY MOORE: So it would be my recommendation that that be provided to the Board here for the record.

CHAIRMAN HODOM: That certainly would be after, but it's - - we would want it for our record purposes.

MR. BULMER: And similar to that if there is a spill – becomes an open spill, once we get the no further action letter from DEC to close the site, I mean we'd certainly provide that back to you as well.

CHAIRMAN HODOM: Okay.

MR. MICELLI: Paul will that new sign be a wood sign on the new canopy, the one that's going to be 3-feet smaller than the other one?

MR. BULMER: I've gotta believe our desire for is to be, yeah.

MR. MICELLI: And my other question is when the pumps do get disturbed obviously they're going to be moved, does weight and measurements come back in to calibrate them?

MR. BULMER: They should. We have to notify them and I'm not sure – I can't guarantee how quick they get there, I know they go around.

MR. MICELLI: But that is part of the program?

MR. BULMER: We have to notify them that it's happening.

MR. MICELLI: Thank you.

CHAIRMAN HODOM: Are you doing any other work?

MR. BULMER: There's nothing on the building, it strictly to the underground storage tanks, the piping obviously over and to the canopy in the back.

CHAIRMAN HODOM: Are you repaving the entire site or just the area that's disturbed?

MR. BULMER: The entire site, the areas that it disturbed, but I can't guarantee – yeah what happens typically is we'll do enough damage that it becomes – the area of disturbance becomes quite large. You know it's not just where those pads are going, it's all around to get those tanks in there it takes up quite a bit, which is actually a good thing and it really cleans the site up.

MRS. O'BRIEN: Will you be remarking the parking lot?

MR. BULMER: Yes.

CHAIRMAN HODOM: Is it your intent to maintain the business and operation throughout the installation of the tanks and pumps?

MR. BULMER: We try to, we've had situations where it doesn't work and in a case like this it may not because of – I can't guarantee. We're certainly going to attempt to and how fast we do that, if it becomes a nightmare we'll, you know we'll have to take some other measures but I know it becomes...

CHAIRMAN HODOM: There's very limited parking now and then with the excavation for the – to remove the old tanks and installation of the new tanks, it's going to encompass quite a large section of that parking area.

MR. BULMER: Let me just put down – I'm just writing a note for myself for operation plans during that then I'll get back to you as to how fast we do that. If you want to see some kind of, I mean there's – I wish we had an area that I could say we could do some parking mitigation on here but I really don't know where if that whole north side is chewed up. I don't know the answer to that but let me try see if we could find out. You know I mean even if we put a can not park here and a do not parking signs out front I think we'll just – it'll essentially cut us off and people aren't going to stop, you'll still get your walk-ups and I can't imagine that the police would allow people out there parking on the road there so...

MR. PLATEL: I believe the last time they replaced the tank it did stay open back in 99' I

believe it did stay open.

MRS. O'BRIEN: Did they replace the pumps – the dispensers as well?

MR. PLATEL: I can't remember if they replaced the pumps. I know they did the tanks.

MR. BULMER: Those dispensers are newer than 90' with the pay at the pump unless they revamped those.

MRS. O'BRIEN: In doing either one keep some space, but doing both of them could...

MR. BULMER: Let me find out if it could be staged. It may be easier to block it off to tell you the truth, just not let cars in. I don't know if somebody's such a die-hard Stewarts fan, I don't know they may – where are they going to park and walk.

CHAIRMAN HODOM: They'll just drive up to the next Stewarts.

MR. BULMER: Yeah, we'll run a shuttle.

MR. PLATEL: Just don't have the ice cream sale competition during that time.

CHAIRMAN HODOM: Mark you had mentioned the signage on the existing facility at the other building, did you want the same information here?

MR. PLATEL: Oh I have the information on this but I don't have it on the other one. That's somewhere to be found. The only one I found on the other one was a reduction of one sign.

CHAIRMAN HODOM: This drawing does say bronze metal roof. Any other questions from the Board? Any more comments that you'd like to make, Mr. Bulmer?

MR. BULMER: No, I'm all set. I'll get these changes and both these plans back to you hopefully by the end of next or middle of the week. Prior to that I can get you the copy on the signage on that to.

MR. PLATEL: 2-square feet to lineal building frontage so you've got to be careful how much you've got in there and how much you want.

MR. BULMER: On the outside?

MR. PLATEL: Especially on the other one.

MR. BULMER: Since we're making a change.

CHAIRMAN HODOM: This one here looks like signage square footage wise is going to decrease somewhat.

MR. PLATEL: Yes so that's why I'm not worried about this one.

MR. BULMER: But it's a total tent regulation right? We can carry it over from one site to somewhere else, I'm kidding. We pick up 8-feet and we can bring it over to another site.

CHAIRMAN HODOM: You can certainly try.

MR. BULMER: If you could ask for anything.

MR. MICELLI: And then you get the big neon ice cream cone up top, but I don't know if it's going to...

MR. PLATEL: As long as it doesn't spin in circles.

CHAIRMAN HODOM: I'll entertain a motion to adjourn the hearing to a date uncertain.

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

Hearing adjourned 8:20 p.m.

- - -

The next order of business was to consider the application of David Chainyk, 19 Elm Place, Albany, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by David Chainyk for Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District to construct a 2-family dwelling, which is not a permitted use in an "A" Residence Zone, it is hereby ordered that a public hearing on this matter be held May 19, 2004 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

- - -

The next order of business was to consider the application of Bonnie Goldsmith & Terrence Rooney, 13 Glendale Avenue, Delmar, New York 12054. 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 Bonnie Goldsmith & Terrence Rooney for Variance under Article XII, Percent of Lot Occupancy, Section 128-55, Accessory Buildings to construct a storage shed, which will exceed the allowable lot occupancy for accessory structures at the premises 13 Glendale Avenue, Delmar, New York, it is hereby ordered that a public hearing on this matter be held May 19, 2004 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

- - -

The next order of business was to consider the application of Alan & Barbara Alan, 5 Mayfair Drive, Slingerlands, 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 Alan & Barbara Alan, 5 Mayfair Avenue Slingerlands, New York for Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings to construct an addition, which will exceed the allowable percentage of lot occupancy at the premises 5 Mayfair Drive, Slingerlands, New York 12159, it is hereby ordered that a public hearing on this matter be held May 19, 2004 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

- - -

The next order of business was a discussion of the previous public hearing held in the matter of Howard Freed & Rachel Michaud for Variance under Article XV, Width of lots, Section 128-63 A (D), Minimum Required Widths for vacant property currently under Site Plan Approval, which does not meet the required width of lot at premises McCormack Road, Slingerlands, New York. The following points were brought up by the Board members in favor of the proposal: The proposed building lot will not adversely effect the character of the neighborhood. The lot was considered a buildable lot when it was purchased in 1983. The overage of the required width of lot is minimal. The following points were brought up by the Board members in opposition of the proposal: There are numerous options that the applicant had for the property in question. The hardship is self-created. On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, and carried by the Board by a vote 4 to 1, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on May 5, 2004.

- - -

The next order of business was a discussion of the previously approved public hearing held in the matter of The Gold Coin Restaurant, 1360 New Scotland Road, Slingerlands, New York 12159. The Applicant is requesting a modification to the plans that were originally submitted. The Board accepted the changes presented. On a motion made by Mr. Hodom, seconded by Mr. Wiggand and unanimously carried by the Board, the Board directed Attorney Moore to prepare an amended resolution granting the modification, for presentation at the next Board meeting on May 5, 2004.

The next order of business was to consider the proposed resolution of Michelle & Daniel Sanders, 45 Carolanne Drive, Delmar, New York 12054.

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

RESOLUTION

* * *
*

WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York (the Board) by Daniel and Michelle Sanders

(Applicants) for an Area Variance under Chapter 128 of the Town Code, Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings, for property at 45 Carolanne Drive, Delmar, New York. The Applicants wish to construct two additions to the home, which will exceed the allowable percentage of lot occupancy at the premises of 45 Carolanne Drive, 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 March 17, 2004; and,

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

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

BE IT RESOLVED, that the Board of Appeals has reviewed the evidence and testimony presented to it and makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

Applicants are the Owners of property located at 45 Carolanne Drive, Delmar, New York (Town of Bethlehem). The Applicants propose to construct 2 additions totaling 542.97 square feet, including roof overhangs, to the existing main structure that will create a total main structure of 2,096.24 square feet. This is 241.31 square feet over the 1,854.93-square foot that is allowed by a lot containing 12,366.2-square feet. The lot occupancy will be 16.95 percent, which is 1.95 percent over the 15 percent that is allowed.

The existing structure is located in an AA Residence Zone and is currently occupied as a single-family dwelling.

Applicants have lived at the property since 1999 and have three children. They propose to construct two additions to the home, in the front and the rear. The front addition will consist of a new front porch, and alternations to accommodate a first floor mudroom and laundry area. The rear addition will consist of a glass-enclosed 4-season sunroom, which is not living space.

Applicants have agreed to reduce the size of the roof overhangs from 24-inches to 18-inches, which has reduced the excess lot occupancy of their proposal from 2.4% to 1.95%.

Applicants have discussed their plans with neighboring property owners, and reported no objections.

The entire home is to be resided and roofed to match the proposed additions.

Applicants will not remove any trees from the backyard to accommodate the sunroom.

The Board has received no written or oral objections to the Applicant's proposal.

Because of the physical condition and location of the Applicant's parcel, the strict application of the provisions of Chapter 128 of the Town Code would unreasonably restrict the use of the building for which the variance is sought.

The granting of the requested variance is necessary for the reasonable use of the Applicant's property.

The variance requested is the minimum that will provide for the reasonable use of the Applicant's property.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants require the variance sought.

This Board has balanced the benefit to the Applicants with the detriment to the health, safety and welfare of the neighborhood and community and concludes that permitting the proposed project is the minimum variance that would provide for the reasonable use of the property, 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 Applicants' request for a Variance to construct the additions, subject to the following conditions:

- The Applicants shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application.
- Construction authorized by this Resolution shall be completed within two (2) years of the date of this Resolution.

April 21, 2004

Michael C. Hodom
Chairman
Board of Appeals

Mr. Wiggand 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 J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on April 22, 2004.)

On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the April 7, 2004, meeting were approved.

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

Meeting Adjourned: 8:50 p.m.

Respectfully submitted,

Secretary