

**TOWN OF BETHLEHEM
BOARD OF APPEALS
December 5, 2007**

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, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
Gil Brookins, Board of Appeals Member
Mark Hennessey, Board of Appeals Member
Kenneth Umina, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: Jessica Brand
Selkirk Warehouses

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

APPLICATIONS

Jessica Brand

The Board received an application for a Variance under Article XIII, Use and Area Schedules, 128-100, Schedule of Area, Yard and Bulk Requirements for property at 2 South Helderberg Parkway, Slingerlands. The applicant wants to put an addition on their residence and change existing garage from a one (1) car to a two (2) car.

A motion to set the public hearing on January 16, 2008 at 7:00PM was offered by Chairman Hodom, seconded by Mr. Umina and approved by all Board members present.

DISCUSSIONS

Selkirk Warehouses

Selkirk Warehouses had previously submitted an application under Article V, Section 128-39 D-4 to enable them to construct a new warehouse on their property. An issue of paper streets had surfaced during the public hearing and the hearing was adjourned until a date uncertain. The applicant had been asked to resolve that issue. The applicant's attorney had submitted some information and then additional information that had been requested by Mr. Moore. The information included a new survey and a title report with supporting documentation.

Chairman Hodom asked Mr. Moore to advise the Board whether the information received was adequate to reopen the hearing. Mr. Moore said that there was a discussion between himself, Mr. Potter, the Town's Attorney and Mr. Silliman, the Planning Board Attorney about the material. It was their opinion that the submission was adequate. The report from the applicant's title company was broadly written, in terms of insuring the rights of the applicant with respect to the paper streets. The title report submitted by Sneeringer, Monihan, Provost and Redgrave dated November 28, 2007 Schedule B, Section 2, Item 9, states, "Policy affirmatively insures that owners of other properties shown on said Hackett Gardens Subdivision Map have no rights to use the portions of said streets in the insured premises for access or utility services purposes." They have also included an updated survey map from Ferguson and Foss, showing the boundaries of the consolidated parcel. The area of the variance is within the boundary of that consolidated parcel. With those submissions, it was the attorneys' judgment that the applicant had sufficiently addressed the concerns that were raised with the

initial application. The application should proceed.

Chairman Hodom stated that the re-submittal showed the property boundary on the north side of Vassar Street. The original submittal from Steven E. Smith, Engineering and Architectural Surveying, showed the property line on the south side of Vassar Street. He questioned which survey was correct. The applicant was present and Chairman Hodom asked him to explain. The applicant stated that the original submitted site plan was prepared with older survey information. The re-submitted survey had been prepared from the consolidated deed information and should be considered the correct survey. Chairman Hodom asked why the streets were not depicted on the site plan. The applicant said the site plan was based on a 1992 survey which predates the updates. When the site plan was prepared, the main focus was the proposed structures. The site plan did not address the issue of the rights in the paper streets. The resubmission did address the issue for the Board. Mr. Moore said that the title policy addressed the issue that some of the deeds of the adjoining property owners retained some rights to the paper streets. The title company affirmatively asserts in its title policy that it will insure the applicants' title to the consolidated parcel to the extent that whatever rights these adjoining parcels have, they do not include a right of access into the applicants property or a right of utility use into the applicant's property.

Mr. Moore said that the title policy that is part of the re-submission was written in connection with the applicant's consolidation of all its various holdings within the yellow line on the survey into one tax parcel. Mr. Bennett said there were other parcels that they owned but were not part of this consolidation. Chairman Hodom asked the applicant to re-submit the site plan using the updated survey information prior to the public hearing.

A motion to set the reopening of the public hearing on February 6, 2008 at 7:00 PM was offered by Mr. Hennessey, seconded by Mr. Brookins and approved by all Board members present.

A motion to approve the minutes of September 19, 2007 as amended was offered by Mr. Umina, seconded by Mr. Hennessey and approved by all Board members present.

A motion to approve the minutes of October 3, 2007 as amended was offered by Mr. Hennessey, seconded by Mr. Umina and approved by all Board members present.

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

The meeting adjourned at 7:45 PM.