

**TOWN OF BETHLEHEM
BOARD OF APPEALS
December 15, 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.

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a continuation for a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Scott & Barbara Rogler for property at 139 Marlboro Road, Delmar, New York. The Applicant wishes to construct an addition, which will exceed the allowable percentage of lot occupancy at the premises 139 Marlboro Road, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is the reopening of a previously adjourned public hearing. The Applicant is proposing to construct a 646.88-square foot addition to the existing 2,117.04-square foot main structure. This will create a main structure of 2,763.92-square feet, which is 550.08-square feet over the 2,213.84-square foot that is allowed. The lot occupancy will be 18.81-percent, which is 3.81-percent over the 15-percent that is allowable. There are existing accessory structures on the lot, which when combined with the proposed new main structure it would create a total lot occupancy of 20.19-percent exceeding the allowable by .19-percent.

The existing structure is located in a "AA" Residential District and is occupied as a

single family dwelling.

CHAIRMAN HODOM: Just a correction there Mark, the revised percentage of lot occupancy now is 18.73-percent?

MR. PLATEL: That's correct.

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 November 17, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Scott and Barbara Rogler for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for construction of an addition, which will exceed the allowable percentage of lot occupancy at the premises of 139 Marlboro Road, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the November 10, 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. We'll use the same procedure that we used the last time we were here. If you just go ahead and tell us – and by the way thank you very much for preparing the revised documents, it's much clearer; straightforward. Go ahead and introduce yourself for us and proceed.

MR. ROGLER: Okay. Without the – repeating myself from the last meeting, my name is Scott Rogler and I reside at 139 Marlboro Road in Delmar; life long resident of Delmar and my wife, my two children would like to put in an addition to improve the existing structure, a myriad of reasons but the main reasons would revolve around the addition of the kitchen – or excuse me not an addition of a kitchen, the extension of a kitchen. The extension of a master bedroom and it would also allow us to bring a washer and dryer facilities upstairs so that I wouldn't have to be going up and down the stairs to some of like common household stuff, not that I do it all that much, but I'm waiting for a arm come around.

CHAIRMAN HODOM: Mr. Rogler, the percentage of lot occupancy overage is fairly considerable and I'm just wondering had you looked at any possible ways of reducing the addition by eliminating some of the areas? I went through your narrative previously and you pretty much had a preferred listing of areas that you were requesting and it happened that the master bedroom was number five, let me find it here if I can. While I'm looking for it had you taken a second look at any possibility of reducing the areas at all?

MR. ROGLER: I don't think that we really – I don't think we gave it due diligence other

than to say, okay if it was - - if the Board deemed it necessary then perhaps we would look at the family room area that would be behind the garage as a possible area to trim some space. I believe there's an area that's about 6 by 20, plus or minus that might be - - where the family room would kind of kick out a little bit to put in a door and accessing the pool. That 6 by roughly 20, so you know there's a possible reduction of 240-square feet. The - other than that to answer your question, no we really hadn't thought about it. When Mr. Wiggand and actually just as a side when Mark was mentioning the total percentage of the lot, we did have some discussions on the sheds for total occupancy on the lot that - and one of the discussions was one or both of those sheds may have to be removed to fall under the 20-percent and that's about the extent of it.

CHAIRMAN HODOM: Initially and I think it was from the minutes from the last hearing, the primary need was for the kitchen and secondary to that was the attached family room and then thirdly was the bathroom from the outside for the pool purpose. Fourthly you wanted to bring the laundry facilities from the basement to the first floor and then finally you identified the master bedroom as a possible change. I had done some preliminary calculations that if you did delete 6-feet from that family room and perhaps eliminated the office and laundry room, that would bring you somewhere down around 16.8-percent or 1.7-percent over.

The other alternative would be to eliminate the office, the master bedroom addition and the 6-foot off the family room, which would bring you down to approximately 1.5-percent over the allowable and in looking at that I was trying to get it below 2-percent, which is been a fairly consistent value that the Board has used over the years. So I guess my question is are you willing to reduce some of those areas to bring it under 2-percent? It sounds like you're willing to reduce that family room by the 6-feet so that the back of the house would be in line.

MR. ROGLER: I'm just - - not to interrupt, but I'm just afraid if we start taking out pieces for example the bathroom slash office area that it really kind of changes the look and feel of how the back of the house would look when it's finished. It would have less of a finished look. I'm also concerned that it actually would increase the cost, overall cost by doing what might be jogging in and jogging out and John maybe...

MR. SHATRAW: Can I say something?

CHAIRMAN HODOM: Sure, just introduce yourself.

MR. SHATRAW: I'm John Shatraw, my companies name is Modern Domains. I'm under the assumption that you guys have all pretty much toured the property, is that accurate?

CHAIRMAN HODOM: Yes.

MR. SATRAW: Because I even considered reconfiguring the house some inside, you know to try to accommodate more space but the way the house is laid out inside even I

don't even know if we can gain space by reconfiguring because like their dining area, their kitchen obviously have modest means. They're pretty small as opposed to probably most of the houses in the area. I don't mean to jump off the point here but they don't have any real excessive room in the house to begin with, you know their house is kind of in the way it's chopped up it doesn't allow for a lot to do with like the way - - where the fireplace is located and you know pre-existing conditions and I know you're trying to figure out what we can do to shorten it. I think probably the only good idea would be to chop off of the family room. I don't know about the rest of it.

CHAIRMAN HODOM: I guess I looked at it as currently it's a 4-bedroom, 2-bath house right know, which for a family of four is adequate. And the way I was looking at it was and because the lot for a "AA" zone, the minimum lot size is 15,000-square feet. It has to be at least 15,000-square feet and yours is very close to that so that the 15-percent or the 15,000-square feet gives you your maximum size building for the residence. Many times we get into a position where we're in the older part of town and the lots are so small that they can't do anything to make any expansion. In your case the lot size is a fairly good size and it almost meets the requirement for the zoning at 15,000-square feet.

What I looked at was you basically have a master bedroom up in the upper corner that you're utilizing know. If we eliminated that projection for the new master bedroom and took the office out, move the laundry room, half bath closer to the kitchen where the plumbing is anyway you would have a gap there but it would be a lot less encumbrance on the property and I'm just throwing it out to you, I'm not making a suggestion one way or another. I think the Board would feel a lot better in that regard to try to keep it under 2-percent, at least that's my feeling. I can't speak for the rest of the Board but I think past history proves that. I mean if you want to leave it exactly the way it's shown, that's the way we'll treat it. I'm just asking you if you're willing to make some accommodations to reduce the total area.

MR. ROGLER: Again I think at this point the – in terms of accommodation I think really the only thing that I think we would be comfortable with would be possibly taking that 240-square feet plus or minus off the living room. I just – and I don't know how to put this nicely, I think it would look really crappy from the back if it was chopped up. It has and I believe you've got some of the photos; it has a 3-season porch on it that gives it that chopped up feeling and I think we wouldn't be improving the look. If anything we would be doing a disservice to it by putting a larger gap there now.

We kind of picked that corner off the north section of the house where the bathroom is to come straight down to essentially square off the back of the house to give it a much cleaner look. We obviously didn't want to come in any further than that because we thought, again, from an architectural standpoint that it just looked better if you just squared off the back of the house. We – I think had that little jut out in the family room primarily for a door and that was it. I think we could probably make arrangements to have that door come straight out or locate the door in a different section of the family room so that we would have access to the pool. I don't think that's a major thing but at this point I'd have to say we're pretty – not to be shrewd about it but that's kind of where

we are.

CHAIRMAN HODOM: Okay, that's why I asked the question. So you would be willing to reduce that by roughly 114-square feet which is the 6 by 19, 6-foot by 19-foot. I wasn't quite sure where you were getting your 240 from. I think you mentioned 240-square feet.

MR. ROGLER: Oh, sorry – bad math.

MR. PLATEL: It's actually 114-square feet and after you were to take...

MR. ROGLER: And I don't know where I got the 240 from either.

MR. PLATEL: Okay. If you take the 114-square feet off the total addition it now brings it to 17.95-percent.

MRS. O'BRIEN: What about what you're doing as you're saying with the family room but then coming back a bit on the entire back area, the kitchen office, the laundry room, the master bedroom, shaving several feet off there so it's....

MRS. ROGLER: And it goes – it's straight across the back because if we start shaving you'll have like this little couple feet and then it will look not so nice and it'll be hard roof it I guess. I mean I was thinking because now we've got roofs going everywhere.

MR. SHATRAW: In their terms it pretty much – this is all dead space for them anyways, but I understand what you're saying you want to get it into the tolerable limits for you guys. It would just be kind of nice because the juts already there to carry the jut all the way over, you know for the back of the house. It will be more architecturally....

MRS. O'BRIEN: But it adds significant square feet?

MR. SHATRAW: Yes ma'am.

CHAIRMAN HODOM: Let me ask you also were you going to eliminate that front bump out, that 10.4-feet by 2-feet?

MR. ROGLER: That's a bay window. It has no foundation under it but it does...

CHAIRMAN HODOM: That's a bay window?

MR. ROGLER: Yeah, it does jut out.

CHAIRMAN HODOM: You don't show it on the new plan so I wasn't quite sure if that was going to be eliminated because that could also reduce some of the square footage. It's taken into account on the existing building, is that correct Mark?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Okay.

MR. ROGLER: And I think the - - and I can't speak to the draftsman the reason that he didn't do that was because we were making our changes in the front. I don't know that.

CHAIRMAN HODOM: The intent is to leave that there?

MR. ROGLER: Yes, it's a window – yeah it's not going anywhere. We just replaced that 6-months ago.

CHAIRMAN HODOM: And that is taken into account in the new figures?

MR. PLATEL: For the new figures, yes.

CHAIRMAN HODOM: Are there any other questions from the Board?

MR. MICELLI: I don't have any.

MR. WIGGAND: I think we covered it well.

MRS. O'BRIEN: Mr. Rogler you had indicated when you were before us the last that one of the reasons is that you wanted the changes made in particularly the size of the kitchen is because of your arthritis. I don't see that you or have you planned on doing any handi-cap accessibility as far as the bathrooms in particular.

MR. ROGLER: The – at this point the size of the bathrooms, the – I'll call it ½-bath with shower is accessible. The new bathroom because it has a pocket door would be accessible.

MRS. O'BRIEN: But there's no shower.

MR. ROGLER: Again there's a shower that is accessible already. So there wasn't any...

MRS. O'BRIEN: The doors – the width of the doors and stuff are all...

MR. ROGLER: The hardware would probably – pole bars and that kind of thing would have to be added when such time arose.

MRS. O'BRIEN: No I meant the accessibility – the door.

MR. ROGLER: Oh width of doors, yeah their all set.

MR. SHATRAW: You need 32-inches in the door. I don't know...

MR. ROGLER: The pocket door is 36 as I recall John.

MR. SHATRAW: Yeah, 32 is what you need to get a wheelchair through.

MRS. O'BRIEN: And the half bath there is a 32-inch door?

MR. ROGLER: The existing?

MRS. O'BRIEN: Yes.

MR. ROGLER: Yes. I just actually re-tiled that floor so I know.

CHAIRMAN HODOM: Any other questions? Are we all set?

MR. SHATRAW: Yeah I think more on his – usually unless he's going to be wheelchair bound, this stuff will be more of the lines of – the faucet handle, the door handle.

MRS. O'BRIEN: Well I only mentioned that because that was something specifically spoke to the last time...

MR. SHATRAW: Yes Ma'am.

MRS. O'BRIEN: Was that the kitchen particularly if he were wheelchair bound, he would need room to get around.

CHAIRMAN HODOM: Okay if your presentations complete there's and there's no further question or comments – Mrs. Rogler do you have anything more to say?

MRS. ROGLER: Nope I'm all set, thanks.

CHAIRMAN HODOM: Okay. We'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MRS. ROGLER: Have a good holiday.

Hearing closed 7:50 p.m.

On a motion made by Chairman Hodom, seconded by Mrs. O'Brien and unanimously carried by the Board a previously scheduled public hearing for Bob LaFave has been changed to January 19, 2005 at 7:45 p.m.

On a motion made by Chairman Hodom, seconded by Mrs. O'Brien and unanimously carried by the Board the meetings of January 5, 2005, James Dertinger and Michael Rowe have been moved up by 15 minutes respectively.

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On a motion made by Mr. Brookins, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the December 1, 2004, meeting were approved as amended.

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

Meeting Adjourned: 8:00 p.m.

Respectfully submitted,

Secretary