

**TOWN OF BETHLEHEM
BOARD OF APPEALS
February 6, 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. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
David DeCancio, Board of Appeals Member
Lennie Micelli, Board of Appeals Member
Kenneth Umina, Board of Appeals Member
Matthew Watson, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: Selkirk Warehouses
United Development Group
Mary Willmott

PRESENT:	Pat Scalzo	Tom Walsh
	Terri Herubin	Mike Morelli
	Kate Spiller	Melissa Zera
	Lawrence Curtin	Carol Steven
	Laura Masotti	John Smolinsky
	John Mott	Robert Sneeringer
	Keith Bennett	Jessica Ansert
	Kim Willy	Irina Pouomareva
	Jeremy Speich	Viktor Kustov
	Joe Scalzo	Michael Uccillini

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

PUBLIC HEARINGS

Selkirk Warehouses

The Board received an application for a Variance under Article V, Section 128-39, D (4), Specific Regulations for the district.

Mr. Platel stated that this was the reopening of a previously adjourned public hearing. The hearing was adjourned to a future date to clear up possible rights to paper streets that the owners of property in the adjoining subdivision may have.

The applicant is proposing to construct a 200' x 200', 40,000 square foot addition to the existing storage building that will not meet the required setbacks for the front and rear yard. It is required to have an additional 100' buffer added to the required 50' setbacks from an adjoining residential zoning district. The front yard setback will be 62.1', which is 87.9' shy of the 150' required setback and the rear yard will be 61.83', which is 88.17' shy of the 150' required rear yard setback.

The existing structure is occupied as plumbing supply business and is located in a Rural Light Industrial Zoning District. Site plan approval will be required for this project if approved by the board.

A motion to indent the public hearing notice was offered by Mr. Umina, seconded by Mr. Micelli 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, February 6, 2008, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of Selkirk Warehouses for a Variance under Article V, Section 128-39 D (4), Specific Regulations for the District, setbacks, of the Code of the Town of Bethlehem for construction of a warehouse, at 196 Maple Avenue, Selkirk, New York.

Mr. Bennett said that the company has been located at it Maple Avenue in Selkirk for over seventy-four (74) years. The business has grown over the years, adding warehouses when needed. They presently have about six (6) separate buildings and they are finding this is inefficient for their operation. They want to add the forty-thousand (40,000) square foot warehouse onto an existing twenty thousand (20,000) square foot building that was constructed twelve (12) years ago. Having sixty thousand (60,000) square feet of space would improve the efficiency of the operation and give the company more space. They presently need to rent space off site in the Bethlehem Industrial Park and that is not efficient for them. Until the Comprehensive Plan was passed a few years ago, there weren't any setback requirements in this area of the Town. Now there is zoning and they are surrounded by a Hamlet District and another Residential District creating setback issues. They will not be able to build the warehouse without a variance.

Mr. Bennett said the warehouse would be a metal building on a concrete base.

Chairman Hodom thanked Mr. Bennett for providing the Board with the requested information on the paper street issue and providing the updated site plan. He asked if there were any other changes or modifications to the previous documents that had been submitted for the Board review. Mr. Bennett said everything else remains the same.

Mr. Mott, the architect for the applicant, continued the presentation. He gave an overview of the project. He said the rear of the site is the location of the existing 20,000 sq. ft. warehouse. The applicant wants to add the 40,000 sq ft warehouse to the existing warehouse with access between the two (2) so product can be moved within the building. Presently part of the site is used for the loading and unloading of delivery vehicles. They would have trucks up to the size of semi trucks negotiating the space in front of the warehouses so they need sufficient turning radius space. The lot lines of the site narrow towards the rear and the additional setbacks because of the different zoning districts, make the buildable area of the site into an area so small that the warehouse could not be built. He said there was plenty of land for the building but the setbacks make it impossible to place the structure. They have tried to center the building in on the site as much as possible and their intention was to screen and buffer the structure with the remaining area around the building. They had tried to fit the warehouse in an area of the site that would not require a variance but then it cuts off the ability to use the buildings already on the site. The issue remains that the parcel is large enough for the building and its use but the setbacks cannot be met. If their variance request is approved, the project will then go before the Planning Board and the applicant will then try to mitigate the impact of the building.

Chairman Hodom said along with a letter submitted by MacNamee, Lochner, Titus and Williams were three letters of support for the project. He asked the applicant to locate where those people reside in relation to the project site.

Mr. Bennett said one of the residents lived on Hackett Street, two on Whitehead Street that is south of Hackett Street. He said there aren't any neighbors to the rear of the parcel. The Scalzo's would be the neighbors closest

to the project.

Chairman Hodom asked if any of the other neighbors were asked if they were in favor or opposed to the project.

Mr. Kim Willy, Vice President of Operations, said they had sent a letter out to a few of the people that had not been present the last time they had been before the Zoning Board. They had requested if the neighbor was in favor of the variance for them to sign and return the letter. He said the letter was mailed to about five (5) or six (6) people in total.

Chairman Hodom said the Reeds, a neighbor of the applicants parcel, had initially asked about certain operations that were taking place at the site such as the sale of vehicles that were no longer being used by Security Supply. Mr. Bennett said that the employee parking lot has a grassy area about 50 feet wide between Hackett Street and the parking lot. When they have a company car replaced by a new one, they put the truck or car out in the grassy area for sale. He said if it doesn't sell in a reasonable time, about six weeks, they would probably give it to someone. Mr. Willy said there hasn't been one out there since the last time they were before the Board.

Chairman Hodom asked if they planned on continuing the practice of selling cars in the same manner. Mr. Bennett said if you drove down Maple Avenue, there would be more than one car for sale on lawns. It's never more than one (1) car at a time. Mr. Platel said he would have to look into whether there was an ordinance against the applicant selling cars.

Chairman Hodom asked Mr. Bennett to explain his operation. He said the company was in 11 locations from Poughkeepsie to the Canadian border. Selkirk is the center distribution point. He said they are considered Tech Valley suppliers. They start about 4am, trucks load up and at least one of the tractor trailers is going out at that time. He said the first shift starts at 5am and they leave at 4pm and at that time the second shift arrives from 4pm until 1am or whenever the work was completed. Lately that shift had been leaving earlier because the building business is not as strong as it has been. During the night shift, the employees are pulling orders and staging them for loading onto the trucks first thing in the morning. Presently they have forklift trucks that go between the buildings during the evening and night hours. Once the 40,000 sq ft warehouse is added, most of the inventory will be inside that combined structure. They won't need to run the forklifts outside during the night.

Chairman Hodom asked if their delivery trucks load early in the morning out of necessity to reach a destination far away. Mr. Bennett said the tractor trailer goes to Watertown and then other smaller box trucks deliver to the other facilities each day. Chairman Hodom asked if it was possible to keep the delivery vehicles from leaving the yard before 6AM. Mr. Bennett said that was not feasible because of the distance that must be traveled by the trucks. They would not get the product to the contractor in a timely manner. They deliver directly to contractors mostly.

Chairman Hodom asked at what time do the trucks delivering to Security Supply arrive on the site. He said there was a concern by the Reeds that those trucks come in at all hours of the morning and sit and idle. New NYSDEC regulations prohibit that from happening. Mr. Bennett said that idling overnight in their parking lot has been an issue in the past. The police have been instructed to move the trucks out of there if they are parked there. He said it has not been an issue in the past four (4) to six (6) years, mainly because they have placed big boulders so the trucks can not drive into the employee parking lot.

Mr. Micelli said the letter dated January 2007 from the Reeds states that at least one (1) truck per week idles for hours either on the property or on the road outside the facility. Mr. Willy said there is about a four (4) hour

period that someone is not there to let the trucks onto the site. He was not aware that any trucks were idling near the property.

Chairman Hodom said at the previous hearing a question was raised as to the relocation of the building on the site that would not impact any of the setback requirements. He asked Mr. Mott to summarize the reasons why that would not be feasible.

Mr. Bennett said the existing warehouse has eight (8) over head dock doors where the trucks back into for loading. The proposed building cannot be placed to block those doors. The open area in front of the existing warehouse is needed for the trucks to turn around on the site for loading purposes. Mr. Mott showed where the setback lines were on the site plan. When all the setbacks are taken into consideration, there wasn't any area that could be built on without a variance.

Mr. Pat Scalzo, 18 Eagle Court. He asked what happened with the question of paper streets.

Mr. Jeremy Speich, Esq. from McNamee, Lochner, Titus & Williams said they had retained Sneeringer Monahan. They have issued a title policy which indicates that they will insure the rights to the paper streets and the current rights to the paper streets were either extinguished or abandoned. The key point was no rights of access are impacted; no one would need access over the old paper streets to have ingress or egress to their properties. They obtained a title policy to take care of the technical issues to comply with the Town's request.

Mr. Moore said to summarize what had been placed on the record by the Town was that Mr. Potter, Town Attorney, Mr. Silliman, Planning Board Attorney and himself had discussed the title policy that Mr. Speich referred to and in their collective judgment it was sufficient to address the paper streets issue in order to allow the application to go forward.

Mr. Joe Scalzo, Eagle Court asked what that meant that it satisfied the Town's requirements.

Mr. Moore said the Town did not have any requirements pertaining to the paper streets. The Town was confronted with an issue where based on the certain deeds that had been submitted to the Town, it appeared that some people residing around the Security Supply property retained deeded rights of some sort to the unmapped and unused paper streets including those portions of the those streets which may run through Security Supply's property. Confronted with that situation, the Town does not have the power to resolve questions of title or the extent of any rights, if any, that those people might have in those streets. The legal staff for the Town asked the applicant to provide them with some form of assurance that those rights would not impair the Zoning Board's ability to consider a request for a variance. The applicant gave them a title report in which the title asserted that whatever those rights may be, the rights did not extend to any right of access across Security Supply's property and if necessary they would defend Security Supply against such claims. Upon review by the Town's legal staff, they determined the assurance was sufficient to allow the application to go forward. The Town or the Zoning Board is not making a determination as to what those rights may be that property owners may hold in the paper streets. Those rights are between the holders of those rights and Security Supply. Mr. Scalzo asked who determined who owned the paper streets.

Mr. Sneeringer, from the title company that did the research, said they had gone back to the original filer of the subdivision map in the twenties and there is a clear chain of ownership of the streets from that original subdivider to Selkirk Warehouses. The streets in the perimeter of Selkirk Warehouse's property are in fact owned by Selkirk Warehouses by a deed. Based on their research they determined that Selkirk Warehouses owned the streets and they were willing to insure that they can build on them and do what they want with them. That includes only those streets within the perimeter of their parcel.

Mr. Scalzo asked who owned the other paper streets in the area for the purpose of using them. He said they were all landlocked. Mr. Moore said that was not a question for the Zoning Board of Appeals to resolve.

Mr. Pat Scalzo asked about building a berm with some evergreens to cut down on the noise and lights between his property and Security Supply. Chairman Hodom said those issues would be addressed if the Zoning Board approves the variance because the project will then need site plan approval from the Planning Board. Mr. Scalzo would have an opportunity to voice his opinion to that Board.

Mr. Joe Scalzo said he did not have a problem with the proposal, he thought it would be good for the Town and the applicant. He said there were some needs he personally wanted addressed. He wanted to know who would be notified. Chairman Hodom said along with it being noticed in the paper, as a courtesy the Town notifies people within two hundred (200) feet of the property.

Mr. Pat Scalzo asked if there was any way to make the building longer and narrower, taking it further away from his property. Mr. Mott said they would still need a variance and there were some constraints to the rear of the site.

Mike Morelli, Assistant Director of Economic Development and Planning for the Town, said he was speaking in support of the variance request. One of the goals of the Comprehensive Plan is to retain businesses and attract new businesses in the Town. The tax base is unequal, relying on 80% of taxes from the residential homeowner. Security Supply has been a good neighbor and business in Town for a number of years. They don't want to expand property boundaries and their proposal would allow them to operate in a more efficient manner within the constraints of the site. They need relief from the Zoning Board to continue with the Planning Board. The proposal includes stormwater management where none exists. He thought it would help clean up some of the activity that is already occurring in the yards. The Economic Development and Planning Department thinks it is a reasonable request and would allow an existing business to stay viable in the Town. Security Supply owns other sites outside of Bethlehem and if not allowed to continue to operate in Selkirk, they may move to another location. They support the application.

Hearing closed at 7:40PM.

Glenwood Village

The Board received an application for a variance under Article V, Section 128-33 D (footprint), Article XIII, Section 100 (density, maximum height, minimum rear yard)

Mr. Platel said the applicant was proposing to construct a 150-unit apartment complex that will exceed the seventy-five (75) units allowed by seventy-five (75). The number of units allowed in this district is eight (8) units per acre of developable land that is serviced by municipal water and sewer.

The maximum height requirement for a main structures is thirty-five (35) feet. The Applicant is proposing two (2) forty-nine point five (49.5) foot high apartment buildings (buildings "A" & "B") that exceed the maximum allowed by fourteen point five (14.5) feet. Also the rear yard setback for building "A" is twenty (20) feet, which is twenty (20) feet shy of the forty (40) feet required.

The allowable footprint of any building located in this district may not exceed five thousand (5,000) square feet. Each of the three (3) proposed buildings will exceed the five thousand (5,000) square feet allowed. The structures will be thirty-four thousand four hundred ninety-seven (34,497) square feet, nineteen thousand thirty-five (19,035) square feet and eight thousand three hundred fifteen (8,315) square feet. Buildings may exceed

the five thousand (5,000) square feet if the structure is articulated to appear as multiple buildings not exceeding five thousand (5,000) square feet. It was his opinion that the structures did not appear as multiple structures, therefore exceeding the maximum requirement.

The property is located in a Hamlet Zoning District and is currently vacant land.

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, February 6, 2008, at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of Glenwood Village for Variances under Article V, Section 128-33D, Article VI, Section 128-56, Article XIII, Section 100, Density & Max Height, of the Zoning Law of the Town of Bethlehem for construction of an apartment complex for seniors, on Glenmont Rd., Glenmont, New York near St. Matthew's Cemetery.

Terri Herubin from United Development Group presented for the applicant. They have been working since October to address the concerns that were raised at the last public hearing. She said the major difference between the last proposed plan and the current plan was that the building that had been located at the entrance to the site and closest to Glenmont Road has been moved. All of the buildings are to the rear of the property. They are still proposing one hundred fifty (150) units but the overall footprint of the buildings has been reduced by having two (2) buildings instead of four (4). There is about five thousand (5,000) square feet less building. There is more greenspace and less wetland impact by relocating the buildings. The new proposal has at least one (1) covered parking space for each apartment. The parking for both of the structures is located under the buildings. There are two hundred and two (202) parking spaces on the site; one hundred sixty-five (165) are required.

Ms. Herubin said they were seeking four (4) variances. The footprint is one variance though they believe the façade of the structure has been broken up to have a townhouse style effect with stone and plank. The density variance is needed for a sense of community and make the project financial viable to run the programs for the seniors. The height variance is needed because the parking is underneath the building. There will be elevators from the parking area to each of the floors of the buildings. The rear yard setback variance will allow them to pull the buildings out of the wetland areas for less disturbed areas. She said they have met with senior services and they are in favor of the project. The Albany County Planning Board has found the redesign to be favorable, because it cut down on wetland disturbance and it put parking under the buildings.

Ms. Herubin said the apartment complex will serve the Town's objectives by providing senior market rate independent living rental with no up front equity commitment. It will provide a range of different size apartments from one (1) to three (3) bedrooms. She said there were approximately five thousand (5,000) Bethlehem seniors that would be eligible and have the income that would allow them to move to the community. It creates a community for seniors to live in that addresses their needs through their trademark SUN program. It will be a pedestrian oriented community with a walking path throughout the site as well as a clubhouse for the residents. She said by putting the buildings to the rear of the site, it preserves the character of the neighborhood because the buildings will be mostly hidden behind the slope of the site in front.

When asked by Chairman Hodom, Ms. Herubin clarified there were one hundred five (105) parking spaces under building A and sixty-one (61) under B and thirty-six (36) exterior spaces. Chairman Hodom asked the size of the individual spaces. Mr. Tim Haskins, Project Manager, said the parking layout was per Code. Some of the spaces are compact and others were normal size spaces. He did not have the exact size but estimated they were eighteen (18) feet by ten (10) feet. Chairman Hodom asked if the design of the parking area and spaces was compliant with the Zoning Law. Mr. Haskins said it was.

Mr. Haskins said they have two (2) building designs they refer to as the I shape and the L shape. He showed the proposed elevations of the L building that has two (2) wings and a center court yard entrance. He said that both of the buildings were similar in design and their facades were broken up into balcony chain and a chimney style chain so each of the buildings appear to be separate buildings joined in a townhouse style, each section being less than five thousand (5,000) square feet.

Mr. Umina said the design was significantly different from the previous design. Mr. Micelli asked Ms. Herubin to bring them through the site from the entrance. Ms. Herubin said the entrance boulevard would be lined with trees, the final type had not been decided. A resident would be able to drive right into the parking under the building. They will be able to take an elevator from that level to their apartment. Parking is also available in front of the clubhouse. A circular drive is in front of the L shaped building allowing drop offs at the door. The clubhouse will be the center of the project with an indoor pool, a workout facility, a café, a great room and a game room. The ability to drive into the parking garage from either end of the structure is in both buildings. A gazebo is included on the site. There are sidewalks along the roadway as well as walking paths.

Mr. Haskins said the advantage of this design over the previous design was the ability to have a grander landscaped entrance. The current condition of the parcel is not attractive. Mr. Umina asked how far back the buildings were from Glenmont Road. Mr. Haskins said it was about five hundred fifty (550) feet. The entrance will now follow the natural contours of the land. The outside amenity area is new to this design; there wasn't room on the site for this area in the old design.

Chairman Hodom said in the initial hearing a PILOT agreement was contingent item of the contract. At that time it was not a deal breaker if they did not get the agreement from the Town. He asked if that was still the case. Ms. Herubin said yes.

Chairman Hodom told Ms. Herubin there was an area on their short EAF form that needed to be corrected. He asked the applicant to describe the size and purpose of the maintenance garage. Mr. Haskins said it would be a small building, 16x20 or 20x20 for the maintenance department to have a shop and to keep yard equipment. It would be in the location of the dumpster about one hundred sixty (160) feet from the last residence on the street. Mr. Haskins said they have already spoken with a trash company. The plan was to pick up trash at the two (2) different dumpsters on alternate days.

Mr. Micelli asked if the plans showed access for the fire departments to the Thruway. Ms. Herubin pointed to the access point to the property next door. Their property does not abut the Thruway.

Chairman Hodom said the four (4) story buildings were originally forty-eight (48) feet in height and they were now fifty (50) feet. Mr. Haskins said with the new design, the first thing they investigated was whether they would be able to do underground parking without having a major increase in height. He said the parking garage will not be fully below ground level, it is four (4) feet below grade. It will be open in the back and the courtyard level will be built up to the front level entrance. That was the difference in the height. Ms. Herubin said they had received very positive feed back on the underground parking.

Chairman Hodom asked why they couldn't use an eight (8) foot ceiling in the apartments. Ms. Herubin said the nine (9) foot ceiling was expected. People coming from single family homes want the higher ceilings to give the feeling of something more expansive. They have about four thousand (4,000) senior apartments and they have found that the nine (9) foot ceiling is a real draw. Residents appreciate the look and that is what the seniors want. The Chairman said there was some discrepancy in the height between floors. Mr. Haskins said the standard height between floors should be the same. He said the typical floor height from floor to floor would be

nine (9) foot ceilings plus between 16 to 18 inches for the floor trusses. They have not been designed at this point.

Chairman Hodom asked if their other local facilities had nine (9) foot ceilings. Ms. Herubin said that the Latham complex had eight (8) foot ceilings. They would have preferred nine (9) foot ceilings but that facility sat on a hill and the lower ceilings were a condition of the project. On Glenmont Road the complex will be shielded and only the tops of the buildings will be visible from the road. The higher ceilings are favored by market rate independent senior communities throughout the country.

Chairman Hodom asked the applicant if they felt they were they in full compliance with Section 128-33 D (1). Mr. Haskins said they felt the articulation of the building made each section appear no larger than five thousand (5,000) square feet.

Chairman Hodom asked why there were two (2) separate square footages given for the clubhouse. Ms. Herubin said the clubhouse had not been designed yet. They will be designing the clubhouse to fit the site with the most economically and visually pleasing building they could. She said that the major concern was to pull the building out of the wetland area. They have programming requirements that mandate to a degree the minimum size the clubhouse could be and still retain all their programming. Mr. DeCancio asked how large the clubhouse was at Hearthstone. Ms. Herubin said it was 8,200 square feet. The proposed clubhouse for this facility was still undergoing revisions. They want a clubhouse that will fit into the slope and reduce impacts.

Chairman Hodom asked if a five thousand (5,000) square foot clubhouse would be sufficient. Mr. Haskins said they needed a larger building and would need a variance for the clubhouse as well.

Even though it was outside the Zoning Board's review authority, Chairman Hodom asked the applicant to explain the site lighting. Mr. Haskins said there would be a monument sign with lighting at the entrance and minimal lighting down the entrance road. On the site they would use low ballards. He said seniors need good lighting to see where their going but its detrimental for their ability to focus to step out, look up and see a bright light and then look back down at the ground. They use lighting techniques such as low ballard lights that are lighting below the view shed and they limit the number of light poles to how many the municipality deems necessary for approval. They use canned down lighting to wash lighting off of the building. They prefer to do indirect lighting as much as possible. The clubhouse building that backs up to the cemetery will have a small need for lighting to the back. The parking lots will be lit internally and they will be open in the back so light will flow around the perimeter of those buildings.

Mr. Micelli asked if there was a security patrol on the premises. Mr. Haskins said no but in the parking areas the elevator lobbies will be secure. Mr. DeCancio asked if there were any staff that lived on site. Ms. Herubin said it was all for seniors.

Chairman Hodom asked if trash pickup hours have been discussed because of the adjoining property owners. Mr. Haskins said on other facility sites the pick up is usually not before 7:00AM. They have already started speaking with Waste Management about service, size of containers and time frames.

Chairman Hodom asked if they had tried to purchase an additional twenty (20) feet along the southerly boundary to mitigate the rear yard setback. Mr. Haskins said no. They hadn't thought it was necessary because the property to the rear was wooded and state wetlands and there isn't any access to the land. Ms. Herubin said they were comfortable having the setback were it was because of type of adjacent land. Mr. Haskins said the land to the south was wooded and about one half (1/2) miles to the south is a large (over 12 1/2 acres) of State wetlands. The wetlands on the site originate from that wetland. In order to access the site, there would be

significant wetlands impact.

Chairman Hodom asked if they had a chance to review the CDTA recommendations. Mr. Haskins said they had not. Staff had just received the letter and it was not distributed yet. The Chairman asked if they had spoken with any of the neighbors. Ms. Herubin said she had spoken with Mr. Doukus.

Mr. Micelli asked if a shopping service was offered to the residents as to places such as price Chopper. Ms. Herubin said they provide one food shopping day to the residents.

Shalyn Dukos, 291 Old Glenmont Rd. She said that she was in opposition to the first plan and she thinks it is a greatly improved plan. She asked if the main entrance would be located in front of her house. She asked if the traffic coming in and out of that access point and the traffic in and out of the K-Mart plaza has been looked at. She said the amount of existing traffic congestion was a concern of the community. She said during rush hour the traffic backs up but the evening was much worse. Ms. Herubin said one of the advantages of a senior complex over single family homes is that seniors typically don't drive during rush hour. She said senior trips in general are less than other uses and the hours of those trips are off peak.

Ms. Dukos asked if they had feed back from seniors about the proximity of these buildings to the Thruway noise. She said that on Sunday nights, tractor trailer traffic is high and it's a constant noise. The noise can be loud and maybe an issue. She wondered if the buildings would direct more sound towards her house. Mr. Haskins said he was not a sound expert but when a building is articulated it reduces the amount of echo and reflection off of the building. He said that would help deaden the sound.

Mike Morelli, Assistant Director of Economic Development and Planning for the Town. He said that some communities, once they adopt their Comprehensive Plan, they put it on a shelf as a task achieved. He said the Comprehensive Plan is a blueprint for the community. One of the goals of the plan was to look at the diversity of the type of housing being built in Town. For the past fifty (50) years there have been plenty of four (4) bedroom colonials built at the end of cul-de-sacs. As our community ages the residents are asking for alternatives to the traditional single family home. They are looking for this type of housing. He said this plan is a significant improvement over the last design and staff is very pleased with the plan. It is a very constrained site. There are steep slopes, wetlands and an archeological site on the property. He said this plan reflects a lot of effort on their part. He said the Town's definition of a senior citizen is fifty-five (55) and older. He said depending on the type of financing they receive, the age limitation could be sixty-two (62). He said that seniors don't own as many cars and they don't make as many vehicle trips. Unlike people in subdivision, these residents wouldn't be installing swimming pools or basketball courts. The open space will have a passive use and stay in its natural condition. It was recognized in the Comp Plan process that there isn't enough senior housing. It states that where possible, the senior housing should be located near services. This parcel is close to services. He said the Town is currently doing a Route 9W corridor study. Through that study traffic counts were done and it was determined that Route 9W has the capacity to carry the traffic. Where it is starting to fail is the intersections. The intersection of Feura Bush, Glenmont Road and Route 9W does not work. NYSDOT is looking at installing roundabouts at critical locations, that intersection being one of them. The proposal is for senior housing in a hamlet zone, close to services. Economic Development and Planning thinks this is a good project for the Town and is pleased with the design of the building. He said the nine (9) foot ceilings give a nice massing to the building and he thought the façade was nicely articulated. Mr. Morelli said if the Zoning Board approved the variances, it would then need site plan approval from the Planning Board.

Mr. Umina asked if the housing would always be senior housing? Ms. Herubin said it would be deed restricted to senior housing. She said they are developing and managing the project. They have an interest in the project remaining senior housing.

Mr. Larry Curtin, a fifty (50) year resident of Bethlehem. He said he typifies a lot of the comments. Seniors are looking for a different type housing. He had the typical four (4) bedroom Colonial and raised five (5) children and then moved into a townhouse in Chadwick Square. After twenty (20) years there, his needs changed again. He wanted to get out of the townhouse and there wasn't any housing for him in Bethlehem. He wanted a rental. He went to the United Groups property in Latham. He has been totally happy there. If it had been in Bethlehem he would have moved in there. He had belonged to St. Thomas Parish and had been active in a number of organizations in Bethlehem. He said he was very happy in his apartment in the United Groups project. He said they were caring and they take good care of the property. He wouldn't move back at this stage in his life but if the project had been here before, he would have moved into it.

Victor Kustov, an adjacent property owner, said he thought he was the most affected by the project. His biggest issue is the road in front of his house. He thinks it will produce a lot of traffic for him. He said there was data submitted with the previous plan about traffic. He thought it was low. Mr. Kustov and his wife went to Hearthstone Village and did their own traffic study. He said they went there twice and sat for an hour, 5pm to 6pm one day and 4pm to 5pm the other day and counted the cars. One day they counted thirty-three (33) cars and the other day was twenty-eight (28) cars. He said the number was at least four (4) times as high as the peak numbers that had been submitted. He said it would add additional traffic to Glenmont Road. He wanted to suggest a change in the project that would make it better for himself. He wanted them to bring a road from Route 9W, away from his home, instead of using the road in front of his house to Glenmont Road. Ms. Herubin said there was property between their property and Route 9W and there were wetlands in the area he spoke of. She said that they were only using 26% of their property for buildings and improvements to minimize the impact on wetlands.

Chairman Hodom said those types of issues would be looked at by the Planning Board if it received the required variances from the Zoning Board.

Mr. Kustov said he was told the road in front of his house was too narrow to be a two (2) way road. Mr. Platel said it was a driveway. Mr. Kustov said the Town did not plow it. Chairman Hodom said if they wanted to use it as a road the Town would require it to be built to Town standards. Mr. Kustov asked if the area near his house was wetland area to be enhanced because they were disturbing wetlands in another area. He said it an area right against his property line. Mr. Haskins said that part of the area was a wetland restoration area as part of the wetland mitigation. He said a large portion of the area was already considered wetlands even though it didn't appear wet. He said they would be returning the area to its natural state. Mrs. Kustov asked if they would be introducing more water. Mr. Haskins said the actual wetland design would need to be done. It doesn't necessarily mean that more water would be introduced. The hydrology and the plant species would be restored. What defines where the wetland starts and stops is where the plant life changes. Mr. Kustov said they had a lot of mosquitoes.

Ms. Herubin said they did do a trip generation study at Hearthstone. She said that Hearthstone has a shared driveway. The study done by the traffic engineers showed about fifteen (15) trips in morning and about fifteen (15) in the evening. She submitted the report for the record.

John Smolinsky, member of the Planning Board, he asked how the setback variance affected emergency access to the rear of the structure. Ms. Herubin said there wasn't any difference in access if the setback were forty (40) feet because of the topography in the rear. Mr. Haskins said they could not provide the fire department with rear access with a safe fall zone. A fall zone is an area with an emergency access for trucks that would be far enough away from the building so as they are fighting the fire they are not in jeopardy of the building falling on the responders or their equipment. Both buildings would have sprinkler systems.

Mr. Smolinsky asked if the applicant had been contact with the cemetery management. Ms. Herubin said they had not.

Debbie Gallacci, resident of the Town for over fifty (50) years, said her parents are both elderly. She said the amount of senior housing is very minimal in the Town. She said she was looking forward to the project instead of more single-family homes.

Laurie Massati, a resident of Hearthstone Village. She said senior housing was very important. She lives in a beautiful spot, wonderfully cared for and there are many woman who live in the apartments for company.

Al Taylor, a student at Albany Law School, asked the projected rental prices. Ms. Herubin said one (1) bedrooms would start under \$1,200 with heat and hot water included and covered parking. She said the top end units with three (3) bedrooms and two (2) bathrooms would be a little over \$2,300.

Mr. DeCancio asked if preference would be given to Bethlehem residents. Ms. Herubin said that could not be done under the Fair Housing Act rules. She thinks they will have a waiting list, it will be first come first serve. They will be advertising in the Town.

Mr. Micelli asked if the electrical service would be underground. Mr. Haskins said it had not been planned yet but he figured it would be. The transformers would be located as close to the building as they could.

The hearing was declared closed at 8:55PM.

DISCUSSIONS

Mary Willmott

The Board had received an application for a variance under Article V, Districts, Use & Area Requirements, Section 128-32 (C-1) Accessory uses. The Public Hearing had been held on February 6, 2008.

Chairman Hodom started the discussion. The property had been purchased after the adoption of the new Zoning Law and they should have been aware of the new regulations. They had installed the new propane tank after the purchase. He thought the garage would be too close to the Laws property. He thought it would impede the Law's view of the river. He thought the location of the garage was out of place and it was a substantial variance because accessory structures were not allowed at all in the front yard. The Willmotts had alternatives other than placing the garage in the front yard that would comply with the Zoning Law. He was not in favor of granting the variance.

Mr. Micelli said a main reason for placing the garage where proposed was to help with the drainage problem. He said they had stressed most of their need in the drainage problem area. Chairman Hodom said when you build a hard surface it makes drainage more of a problem. It could not be absorbed in the soil.

Mr. Umina said the Laws were present at the public hearing and did not object to the proposed placement of the garage. Even though it is in the front yard, it is at the end of a dead end driveway that only the applicant uses. Chairman Hodom felt like the Laws were just trying to be a good neighbor. Mr. Watson said he disagreed with the determination of the front yard. He said more people from the river see the house than from the roadside. Mr. Umina said it was a private road. Mr. Moore said Mr. Platel's determination was that the garage would be in the front yard. Mr. DeCancio said the proposed location of the garage was out of the way and if the Laws had any objection to the placement, they should have voiced their opinion at the public hearing. He had to go by what they had said and Mrs. Law said she did not have a problem with the proposed location of the garage.

Chairman Hodom suggested a few conditions prior to a vote. The garage cannot be inhabited, leased or rented,

it can't have any utilities except electric, it shall match the architectural features of the residence and the single car garage is to be demolished.

A motion to approve the variance with the aforementioned conditions was offered by Mr. Umina, seconded by Mr. DeCancio and with a vote of four in favor and Chairman Hodom opposed, the motion passed.

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

The meeting adjourned at 9:20 PM.