

**TOWN OF BETHLEHEM
BOARD OF APPEALS
January 4, 2006**

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
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 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 Public Hearing for a Variance under Article VI, Supplementary Regulations, Section 128-54, Signs requested by Gary Barkman for property at 821 Route 9W, Glenmont, New York. The Applicant wishes to construct a freestanding sign, which does not meet the signage requirements at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a freestanding sign that will not meet the new signage requirements. The sign will be 18-square feet, which is 16-square feet over the 2-square feet that is allowed and will be set back 2-feet from the State right of way and front yard property line, 8 feet shy of the 10 foot required. The sign will also have a total height of 7.18 feet, which is 2.18 feet over the 5 feet allowed. This project has already been to the Planning Board and has received site plan approval. The proposed use of the structure is for office space and is located in a Rural Hamlet District.

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.

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 January 4, 2006 at 7:30 p.m. the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Gary Barkman for Variance under Article VI, Supplementary Regulations, Section 128-54, Signs of the Code of the Town of Bethlehem for construction of a freestanding sign, which does not meet the signage requirements at premises 821 Route 9W, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the December 28, 2005 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. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Mr. Barkman if you would just introduce yourself to us and give us your address and tell us what you want to do.

MR. BARKMAN: My name is Gary Barkman, I live in the Town of Bethlehem, 229 Elm Avenue East and then I think Mr. Platel offered a very good explanation of my Variance application. I purchased this property in June of 2004 and have worked with the Planning Board on making a conversion into office space; received approval for that in November but due to the delay in the time of getting that approval the Town had underwent it's zoning change. And under the new zoning rules my original plans for the signage did not meet the new requirements. I spoke with several people of the Town who told me it's a possibility that the Town may be revising that comprehensive plan, but I'd rather not wait for that to happen. I'd like to go ahead and get the sign approved as soon as possible so that's the reason for the Variance request.

CHAIRMAN HODOM: Mr. Barkman I noticed in your application and also in your short environmental assessment form, you mentioned that the recently revised Rural Hamlet zoning does not allow a freestanding sign or wasn't included in that new code, but in actuality it is included in the code.

MR. BARKMAN: Yeah, I think my point was that my project that I originally proposed to the Town to the Planning Board with the included signage did meet the requirements at that time and don't now after the changes were made for the Rural Hamlet so that's why I was asking for the Variance.

CHAIRMAN HODOM: When did you appear in front of the Planning Board.

MR. BARKMAN: Approximately a year ago I think we started but we just had the final approval in October/November. I was notified just prior to the Planning Board approval

by Janine Saatman, the employee of the Town that my plans would not - - the signage would not be acceptable in it's form because of the revisions that were made by the Town in it's comprehensive changes.

CHAIRMAN HODOM: The new Code?

MR. BARKMAN: Right. So we had to eliminate the signage from the Planning Board document that was ultimately approved a few weeks ago.

CHAIRMAN HODOM: Had you considered installing a sign on the house that you're going to use for the office?

MR. BARKMAN: Yes, I had considered it but the nature of the property is the - there's two very large, very old, very beautiful oak trees in the front of the property and the house is set well back off the road and so rather than having to take those trees down or trim them significantly to put a sign on the property I think that would have been required for any visible signage to be on the house would be either the removal or the trimming of those trees. Plus the setback itself and in that particular location the speed limit I think is 45/50-miles an hour, so you know people are going by at a considerable distance I don't think anyone would be looking back at a house that sits significantly off the roadway.

CHAIRMAN HODOM: The reason I bring that up is that if it were on the house you're allowed 40-square where the Code now allows you 2-square feet for a freestanding sign. It's just a suggestion on our part.

MR. BARKMAN: It would allow me 2-square feet without - - but that's why I'm here for the Variance though for the larger freestanding sign.

CHAIRMAN HODOM: Correct. Had you considered locating it somewhere other than where you proposed to between the 2 oak trees?

MR. BARKMAN: Well what's not reflected in the photograph that you see because it hasn't been constructed yet but it is reflected on the diagram. There's a rather large wheelchair ramp that will be constructed in front of the building, a handicap access ramp and because the grade of the building is so high that ramp has to be of significant size so I think from an aesthetic purpose when we have that large ramp coming out front - the placement of that sign will go well and kind of flow into that ramp as it heads towards the building because the ramp I think comes up from the building. It's on the diagram there, close to 30 feet.

MR. BROOKINS: What would you estimate the elevation is at that ramp turn there in terms of how high above grade is it at that point closest to the highway?

MR. BARKMAN: I don't know, perhaps Mark could help us from looking at the diagram.

CHAIRMAN HODOM: There's probably a 2, or 3 foot...

MR. PLATEL: A foot to 2 foot, easy just to the bottom of the – just to come over to the ramp itself then you have a railing above it.

MR. BROOKINS: Would that be considered part of the house?

MR. PLATEL: As far as any kind of setback or whatever?

MR. BROOKINS: No because if you slapped the sign on that it becomes a wall sign.

MR. PLATEL: No I would not consider the ramp part of the building itself.

MR. BARKMAN: We did look at that.

MR. PLATEL: That was discussed.

CHAIRMAN HODOM: Mr. Barkman just let me show you what I was thinking about is perhaps to try to maintain the 10-foot setback requirement either locating the sign here or locating the sign here and it could also be perpendicular in any other case but that way it would be at least – or within the 10-foot setback requirement.

MR. BARKMAN: Well the 10-foot set - - this is the red line indicating the 10-foot setback.

CHAIRMAN HODOM: From your property line, that's correct right.

MR. BARKMAN: I feel kind of amenable to the re-location of the sign. There is a significant setback however I mean the distance from 9W to the sign is considerable. What is the concern for having the sign in that proposed location?

CHAIRMAN HODOM: Only because the Code says that it should be 10-foot, the setback of the sign should be 10-foot from the property line.

MR. BARKMAN: Okay.

CHAIRMAN HODOM: Or 35-feet from the center line of the roadway, which ever gives you the greatest front yard and by setting back the sign 10-feet it gives you the greater front yard from the property line.

MR. BARKMAN: Okay so you mean when you say the front yard, you're referring to the point of the sign forward?

CHAIRMAN HODOM: That's correct.

MR. BARKMAN: Okay.

CHAIRMAN HODOM: Am I interpreting that correctly Mark?

MR. PLATEL: It would be one or the other and in this case it would be the 10-foot from the property from the front edge of the sign.

CHAIRMAN HODOM: Would give him the greatest front yard.

MR. PLATEL: Correct.

MR. BARKMAN: I don't have a specific issue with it.

CHAIRMAN HODOM: With the re-location of it?

MR. BARKMAN: Re-location of the sign. I think when we try to determine the location of the sign when we started with this plan we were trying to something in conjunction with the wheelchair ramp because of it's size and although it certainly wouldn't be considered by anybody that's handicap as an eyesore – it is unusual with the size that it's going to be so we're trying to do something with that.

CHAIRMAN HODOM: Had you looked at other reconfigurations of the handicap ramp?

MR. BARKMAN: Yes. That's been thoroughly explored and unfortunately that's what we came up with.

CHAIRMAN HODOM: So you would have no objection to re-locating into either one of those locations?

MR. BARKMAN: No.

CHAIRMAN HODOM: And the reason I bring that up is because you really have 3-divergents from the current code. First being the setback requirement, the second being the height of the sign and the third being the size of the sign. Is it possible to reduce the height of the sign from 7-foot, 2 to 5-feet?

MR. BARKMAN: Well doesn't the - - you're saying 7-feet, 2-inches is the height of the sign from the ground level or...

CHAIRMAN HODOM: From the grade, yes.

MR. BARKMAN: Oh I see.

CHAIRMAN HODOM: That's what we're working from and the code says it should be no greater than 5-feet from grade to the top of the sign. I mean could you reduce that 2-foot, 8 height from the grade to the underside of the sign?

MR. BARKMAN: Well there is a indentation, a natural slope there that exists from the right of way to the front yard so I think the sign could probably be lowered and wouldn't take much away from the sign with the exception of, you know you would have snow cover issues I guess even the base of the sign potentially.

CHAIRMAN HODOM: But I know the grade you're speaking of, but will that keep you within the 10-foot setback requirement?

MR. BARKMAN: Just still be on that knoll you mean?

CHAIRMAN HODOM: It will still be on that knoll, yes.

MR. BARKMAN: It starts to dip off right about the - - just past the 10-foot setback requirement. I thought the sign, the - you know one of the things we looked at, the height of the sign was appropriately being placed in front of the wheelchair ramp because what has - we mentioned earlier the height of the turn of the ramp in itself by the time you have the railings on it - - of considerable size and by having a larger sign in front of the ramp would in sense somewhat block it.

CHAIRMAN HODOM: The ramp itself?

MR. BARKMAN: Right.

CHAIRMAN HODOM: Can you see anyway of reducing the size of that sign; the height of it?

MR. BARKMAN: Well let's be - - we want to move it, reduce it or both?

CHAIRMAN HODOM: Well again we have 3-Variance's that you're looking for and if we can address each one of them then maybe we can...

MR. BARKMAN: Sure, what's the third one though?

CHAIRMAN HODOM: The third is the size.

MR. BARKMAN: Okay.

CHAIRMAN HODOM: Which is from a freestanding sign in that district is 2-square feet, maximum size.

MR. BARKMAN: Right.

CHAIRMAN HODOM: That was one of the reasons I asked you if you couldn't put it on the building because in hind-sight I don't know how they come from 40-feet on the building to 2-square feet with a freestanding sign, but we have to go by the code.

MR. BARKMAN: Certainly.

CHAIRMAN HODOM: In this instance.

MR. BARKMAN: Let's talk about that issue first.

CHAIRMAN HODOM: Okay.

MR. BARKMAN: As far as the size of the sign. I think you have to put in context the issue of the size of the sign in just that context as far as revamping of the code because if the - - if the code hadn't changed then we wouldn't have the size issue, but then we would only be back to the setback requirement and the height issue.

CHAIRMAN HODOM: But actually if the code hadn't changed you would probably be allowed about a 68-square foot sign.

MR. PLATEL: What was the zone before, general commercial?

MR. BARKMAN: That particular property wasn't though.

MR. PLATEL: Oh it was unzoned so you could have put that there no problem, two times the frontage of the building.

CHAIRMAN HODOM: Right.

ATTORNEY MOORE: The map say's formally PDD?

MR. PLATEL: Oh, is it?

ATTORNEY MOORE: Well that's what it says. Oh, maybe that's a district boundary line.

MR. PLATEL: That's surrounding it.

ATTORNEY MOORE: I'm not sure.

MR. PLATEL: I don't know if that building was actually in that Planned Development District.

MR. BROOKINS: I think that refers to Eastland – Dowerskill.

ATTORNEY MOORE: I think so, that's right.

MR. BARKMAN: Well, you know I'm certainly willing to make...

MR. PLATEL: You would have been able to – there would have no setback requirement

before hand, there would have been no, you know there would have been probably a size of signage requirement but it would have been at least minimum the frontage of the building. The building is how wide?

CHAIRMAN HODOM: 34-plus.

MR. PLATEL: So you would have been able to go at least 34-square feet minimum and the only height requirement was for an accessory structure of 18-feet.

MR. MICELLI: So he was well within everything?

MR. PLATEL: Originally yes.

CHAIRMAN HODOM: And you were going to say?

MR. BARKMAN: So my statement was correct then based on the former zoning that my proposed sign would have passed.

MR. PLATEL: Correct.

CHAIRMAN HODOM: Unfortunately we're not – we don't have that ability to go back to the old code, but what I'm trying to do with you is a little give and take.

MR. BARKMAN: Sure.

CHAIRMAN HODOM: If you're willing to give a little bit, we're willing to give a little bit because it's so close to the change in the code.

MR. BARKMAN: I understand that you're reluctance to – for changes in the code, but the Town has acknowledged to me that this current code is going to be changed so I don't think we're asking for much and this particular issue on the signage issue because it all might be moot anyway 6-months or a year from now after that issue is handled by whoever is reviewing that comprehensive plan.

CHAIRMAN HODOM: Are you aware of a change in the code?

MR. PLATEL: At this point right now between my department, the Building Division and the Department of Economic Development and Planning, we're reviewing the code looking for possible errors and actually in this section we believe there's a possible error in it that would be changed and if what we had been looking at to change the only real issue that we would be looking at still would be the setback requirement and not the size or the height.

CHAIRMAN HODOM: Okay.

MR. BARKMAN: And the building is located in an – basically a commercial area.

There's a commercial store across the street, a commercial building down the street, a drive-in so we all know the area so it's certainly would be in context of the neighboring properties to have a sign of that size.

CHAIRMAN HODOM: Was there specific criteria that you used to determine the size of the sign at the location that you're proposing to install it?

MR. BARKMAN: From an aesthetic perspective to being in conjunction with the wheelchair ramp was basically...

CHAIRMAN HODOM: But there's no line of sight or speed of traffic used to determine...

MR. BARKMAN: No we didn't do any studies or look at anything like that.

CHAIRMAN HODOM: Okay. Do any of the Board members have any questions for Mr. Barkman?

MR. MICELLI: I don't have any.

MR. WIGGAND: I really don't have any more than what's been covered here. Lennie and I were down at the sight today and we walked the sight and I don't have any questions for it Mike. He definitely – I think he's done what he could to present us with a picture of a reasonable sign and the building certainly deserves some type of identification.

CHAIRMAN HODOM: I don't disagree with that.

MR. WIGGAND: And there's an awful long span between his property line and Route 9W so he has to have something that going to be seen and I think he's done a pretty good job in the way he's designed that sign. Now what is it exactly Mike is our question on – is it more of the height of the sign?

CHAIRMAN HODOM: Well there's three area's Bob. The first one is a setback, which Mr. Barkman has already agreed to comply with that. The second being the height of the sign, the current code allows 5-feet to the top of the sign from grade. And then the square footage of the sign, which currently is approximately 24-square feet compared what the code allows is 2-square feet, but I think the code is somewhat misconstrued in the 2-square feet.

MR. WIGGAND: Yes I do to.

CHAIRMAN HODOM: Do you need the 821 on the top of the sign, I mean do you need the address to designate – I mean it's only cutting off 7-inches or so but if you need the address there say you need the address there, but if you don't maybe that's a remedy to reduce the height somewhat.

MR. BARKMAN: This sign was designed by Delmar Sign Shop who I intended to use to build and erect the sign and it's a sign that's similar in nature to a lot of other signs they've done in Town, which look nice and have met the - - and certainly have met the building code requirements for whatever locations they were in. Again I'm amenable to a change in maybe the location of that number – what are you suggesting? Take it off or move it on the sign so that it's not - - so that it brings the height requirement down a couple of inches?

MR. PLATEL: Just to point to you Mike I believe that I had already discounted because house numbers we do not count. I did not count that as part as the signage and I probably have already taken that out of the signage.

CHAIRMAN HODOM: Well I agree with your 7-foot, 2 and that goes up to the...

MR. PLATEL: Did that go to the top of it?

CHAIRMAN HODOM: Yes.

MR. PLATEL: Well then actually you should take that out. I didn't take that out did I? So you'd actually have to take another foot off of that.

CHAIRMAN HODOM: Well another 7-inches because the uptake to - - that little rise in the sign is 6-inches – oh that's right a foot, it is a foot. 5-foot,8 – 6-foot,8 – 7-foot,2 right. So that would reduce it by a foot.

MR. PLATEL: So it's actually only – that's my error.

CHAIRMAN HODOM: That would be 6-foot,2.

MR. PLATEL: It will wind up at 1.18-feet.

CHAIRMAN HODOM: Did we reduce that 2-foot, 8 down to 2-feet underneath the sign?

MR. BARKMAN: Are you going to come over and shovel the snow?

CHAIRMAN HODOM: When have we ever had 2-foot, 8 feet of snow?

MR. BARKMAN: March 23, 1994.

MR. WIGGAND: Well he's got an answer for everything, that's good.

MR. PLATEL: I remember a Thanksgiving.

CHAIRMAN HODOM: Well there was one Thanksgiving but that was a long time ago.

MR. PLATEL: I barely remember it; I think I was only one.

MR. WIGGAND: Well as it is now with this drive route here of 9W is going to be – you'll just have this one sign and one sign only that's going to be directed to the highway.

MR. BARKMAN: Correct.

MR. WIGGAND: Well right now it's going to be passed very easily by 50-mile an hour traffic.

MR. BROOKINS: Did you consider at any point of putting the sign on the right hand side of the driveway in the open space between the driveway and Hague Blvd.?

CHAIRMAN HODOM: That was the one area he said he would. It was either here or over here.

MR. BROOKINS: Oh, is this what you're proposing?

CHAIRMAN HODOM: Yes.

MR. BROOKINS: Okay, all right.

CHAIRMAN HODOM: Just so that we could get the 10-foot setback.

MR. BROOKINS: Exactly.

CHAIRMAN HODOM: And he was amenable to that. Are you proposing any additional signage on the building?

MR. BARKMAN: No.

CHAIRMAN HODOM: This will be your only signage on the property other than directional signage or handicap?

MR. BARKMAN: Right. The directional signage; handicap signage has been approved as part of the Planning Board document. That should be going in soon.

MR. PLATEL: All directional and handicap signage is not included.

CHAIRMAN HODOM: I understand that but as long as there's still – well the signage going on the building I think it's beneficial as well. Any other questions from the Board?

MR. MICELLI: Are we to understand Mr. Chairman that you're going to – Mr. Barkman it's going to come down a foot to 6-foot 2-inches or are we going to leave it as?

MR. PLATEL: That's just going to be taken off.

MR. MICELLI: I don't have any other questions.

MR. WIGGAND: What about lighting?

MR. BARKMAN: We had proposed the ground lighting.

MR. MICELLI: That's where the buoy was covering today – the electric?

MR. BARKMAN: Right.

MR. WIGGAND: Is that what I see here on the – there's no other lighting going on to it, but ground lighting?

MR. BARKMAN: Correct.

MR. WIGGAND: That's it. There's nothing in detail the upper portion of that sign?

MR. BARKMAN: Right.

MR. WIGGAND: Just on the ground that you have proposed.

MR. PLATEL: I'm just seeing if there's any plantings around it.

MR. WIGGAND: You're going to have plantings around it?

CHAIRMAN HODOM: There's 3-plantings around it; 3- yews I believe it is, yes Japanese yews but they're small; 2-foot high. And I'm not so sure that comes under our purview.

MR. PLATEL: Well normally what it is you'll see it blocks any clutter toward the road.

MR. WIGGAND: You've got a little bit of an unusual situation here with that being so far back off the road itself so this is a good resistance here.

CHAIRMAN HODOM: Yes it is.

MR. WIGGAND: Lennie and I looked at it carefully and it's not going to be seen easily with high-speed traffic here. They'll be past it before – so you have to have something there to catch your vision.

CHAIRMAN HODOM: Any other questions from the Board? Are there any questions or comments from the audience? Anyone wishing to speak in favor of the Applicant? Anyone desiring to speak in opposition?

MR. SPINOSA: He's all right as far as I'm concerned.

CHAIRMAN HODOM: Why don't you just come here and introduce yourself to us and give us your name and address.

MR. SPINOSA: Vincent Spinosa, 2 Morningside Drive. I think it's a good idea to have the sign there. I can't see where it's going to do any harm. I'm right across the street from him VanAllen store is mine.

CHAIRMAN HODOM: Okay thank you very much.

MR. SPINOSA: Your welcome.

CHAIRMAN HODOM: Anyone else wishing to speak in favor of the Applicant? Anyone desiring to speak in opposition? Mr. Barkman you will bring the sign within the 10-foot requirement of Code?

MR. BARKMAN: Yes.

CHAIRMAN HODOM: Thank you very much. Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner.

Hearing closed 8:00 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XIII, use & Area Schedules, Section 128-100 A, Minimum Rear Yards requested by Allen Hicks for property at 125 Jefferson Road, Glenmont, New York The Applicant wishes to construct an addition, which does not meet the minimum Rear Yard setback requirement at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a garage addition, and a sunroom addition with an attached deck to the existing main structure that will create a rear yard setback of 5.5-feet and 20-feet. The 5.5-foot setback will be to the deck surrounding the sunroom and the 20-foot setback will be to the garage addition. The existing structure is located in a Residence B District and is occupied as a single-family dwelling.

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, Albany county, Town of Bethlehem will hold a public hearing on Wednesday January 4, 2006 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Allen Hicks for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear Yards of the Code of the Town of Bethlehem for construction of an addition, which does not meet the minimum Rear Yard setback requirement at premises 125 Jefferson Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the December 28, 2005 issue 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 earlier. If you would Allen just introduce yourself to us, give us your address and tell us what you want to do and why you want to do it.

MR. HICKS: Okay. Gentleman, I'm Al Hicks. I am applying for a Variance for the property at 125 Jefferson Road which I had purchased within the last 6-months.

CHAIRMAN HODOM: Just tell us what you want to do with your proposal.

MR. HICKS: Okay. I'm looking at trying to add a garage onto the existing garage to make it basically a 2-bay garage. I also would like to put a sunroom on the back of the house where there was a small outside - - well actually it was a pretty good size outside deck. This is to replace the deck that was out there because we feel it was first of all probably improperly installed and second of all it was basically falling off the house. So in lieu of that I've decided to put in an enclosed sunroom and replace it.

CHAIRMAN HODOM: Mr. Hicks, before we get started you and I have talked about – there are some dimensions on your plans that don't appear to be correct. The first one is the depth of the garage, which is showing 24-feet. The existing garage is approximately 22-feet.

MR. HICKS: Yes sir.

CHAIRMAN HODOM: So your application this evening is for a 14-foot wide by 22-foot deep garage?

MR. HICKS: 22-foot, 8-inch.

CHAIRMAN HODOM: 22-foot, 8-inch?

MR. HICKS: Yes.

CHAIRMAN HODOM: In lieu of the 24?

MR. HICKS: Yes.

MR. STANNARD: It will be 22.

CHAIRMAN HODOM: Is it 22?

MR. STANNARD: Yeah, it will just be 22.

CHAIRMAN HODOM: Okay that's what I measured for the existing. This property is 125 Jefferson Road?

MR. HICKS: Yes.

CHAIRMAN HODOM: It's not 2 Jefferson Road?

MR. HICKS: No sir.

CHAIRMAN HODOM: Several of the drawings have 2 Jefferson Road shown on it.

MR. STANNARD: I thought they were all changed.

CHAIRMAN HODOM: Somebody hand wrote into I think the first drawing.

MR. MICELLI: I think that's what you did Ed.

MR. STANNARD: Yeah on the first copy I think I switched that to 125.

CHAIRMAN HODOM: 12 and half Jefferson Road or whatever it is. This is 125 Jefferson Road, correct?

MR. HICKS: Yes.

CHAIRMAN HODOM: Mark just for the record, you and I have talked about this under the new Code the minimum lot depth is 120-feet?

MR. PLATEL: Correct.

CHAIRMAN HODOM: This lot is only approximately 108-feet deep, but because it's an existing condition we don't have to concern ourselves with that depth?

MR. PLATEL: Correct.

CHAIRMAN HODOM: Okay. Mr. Hicks how many folks do you have in the family?

MR. HICKS: Just two.

CHAIRMAN HODOM: Pardon?

MR. HICKS: Currently only two.

CHAIRMAN HODOM: You and?

MR. HICKS: My wife.

CHAIRMAN HODOM: Okay. How many vehicles do you currently have on the premises?

MR. HICKS: Three.

CHAIRMAN HODOM: How many?

MR. HICKS: Three.

CHAIRMAN HODOM: Okay. You'll have to speak up because it goes on the record. Have you had an opportunity to speak with any various neighbors about your proposal and if you have which neighbors did you speak with and what were their comments?

MR. HICKS: Would you like me to list all of the neighbors?

CHAIRMAN HODOM: Anyone that you spoke with.

MR. HICKS: Okay I went around and introduced myself to – and spoke about this proposal to all of the neighbors that I think – that I thought were going to be immediately affected, that I felt were within the 200-foot range, but I believe it was brought to my attention that there were some others that were probably a little bit beyond I guess what my scope of 200-foot was. So the ones that I talked to were primarily Kevin Conley.

CHAIRMAN HODOM: And his address is?

MR. HICKS: Oh boy.

MR. BROOKINS: 120.

CHAIRMAN HODOM: He's across the street from you?

MR. HICKS: He is kind of sort of directly across the street. And I asked Kevin's assistance or Mr. Conley's assistance in identifying all the neighbors that were pretty much around that area. He was very helpful.

CHAIRMAN HODOM: This might help you to.

MR. HICKS: Okay. So we had Mr. And Mrs. Kevin Conley, Muzafar Ahmad. I spoke

with not directly with Muzafar but with his wife and their comments were the same as pretty much everybody's that they really had no problem with me building this. I also spoke with Evan Walden, Robert Rightmyer of course myself Al Hicks.

CHAIRMAN HODOM: Do you do that often?

MR. HICKS: Mike Varno, Ray Domicich, did I miss anyone? And I believe that was it. Oh, Saca – I don't know a Mr. Frank Saca and I think when I had talked to Karen that that house is vacated and I'm not quite sure about the ownership of it.

MS. GUASTELLA: The notification came back from him.

MR. HICKS: Oh okay, great.

CHAIRMAN HODOM: So there's no one currently living there?

MR. HICKS: Not that I'm aware of. The house looks like it's been un-occupied – it's been un-occupied for the 6-months that I've been there. There's also a Brian and his wife, their home – I think I told Karen also is up for sale. Kevin kind of told me don't even bother wasting your time because they're moving out. So they're having another home built. I talked to some neighbors that were down on the other side of the woods from me on Jefferson. I'm not sure about the address. I believe I talked with one gentleman's wife, it might be this gentleman here – I don't know he's here for the same business but I found out that people were renters and the owners live I think they're somewhere in the development but they – at that time you know I really didn't concern myself with it because I think they're probably around the 200-foot margin from my house as well. So I just mentioned to them, you know I'm putting on an addition and...

CHAIRMAN HODOM: I think this gentleman here is from the New York Post so you'll probably be in that paper as well. Tell us a little bit about your existing lot and beyond the backside of it. What's there right now?

MR. HICKS: Obviously it's in the form of a triangle with the backside being the hypotenuse, along the side. Currently it's just a 1-car garage colonial home and like I said it had a deck on the back, which was – it was a nice deck but Ed I think can testify to this that it was – didn't really look like it was going to last to much longer so I just went ahead and got rid of it.

CHAIRMAN HODOM: Do you have any neighbors abutting right up to the back of your rear property line or is there an open space there?

MR. HICKS: It's open space.

CHAIRMAN HODOM: And why is that an open space?

MR. HICKS: There's a Niagara Mohawk easement there.

CHAIRMAN HODOM: Okay and the property is somewhat depressed from yours and is it swampy?

MR. HICKS: Yes I believe from what I was told by one of the neighbors it used to be kind of a wetlands, but apparently they've come in and I guess it - - I don't think it's a protected wetlands anymore so NIMO has the easement on it. I know that they have a drain installed back to kind of drain the water out of that swampy area.

CHAIRMAN HODOM: So there is a Niagara Mohawk right of way behind your property before you come to – what's the name of that street in the back?

MR. HICKS: I don't think it's a right of way. I think it's just actually an easement.

CHAIRMAN HODOM: An easement?

MR. HICKS: Yeah, there could be a right of way but if there is the access would actually come off of Jefferson Road. It would not come from behind my property.

CHAIRMAN HODOM: And the street behind you is Chrisken?

MR. HICKS: Oh, yes there is a Chrisken Drive.

CHAIRMAN HODOM: And how far away is that from your rear property line would you say?

MR. HICKS: I thought it was close to 200-feet.

MR. STANNARD: It's got to be 200-feet.

MR. HICKS: If not it's got to be pretty darn close.

CHAIRMAN HODOM: Okay so those are the closest neighbors that you have off the rear of the property.

MR. HICKS: Off the rear.

CHAIRMAN HODOM: And off of the side of the property where your proposing to construct the garage addition, how close are your neighbors on that side of the property?

MR. HICKS: Just Kevin Conley, he would be across the street. He would actually be across the street – he would actually be across Jefferson.

CHAIRMAN HODOM: Adjacent to you on the same side of the street, how close are the neighbors?

MR. HICKS: Ed, we measured that today, that's over...

MR. STANNARD: It's got to be 250-feet.

MR. HICKS: Yeah, at least.

CHAIRMAN HODOM: What's between that property and your property? Is it wooded?

MR. HICKS: It's wooded and that's all part of that Niagara Mohawk or I'm sorry National Grid easement.

CHAIRMAN HODOM: Okay. Tell us why you need such a big deck for 2-people.

MR. HICKS: A big deck?

CHAIRMAN HODOM: Well yes.

MR. HICKS: Oh you mean my little wrap around deck? I was looking at putting maybe a grill and a picnic table and some lounge chairs out there so I wanted to have, you know the 8-foot – and the 8-foot across the back would be because I get a little more sunlight there because I do have some very tall trees. I've had them trimmed back but some of those trees are actually on National Grid's property so I really don't want to take them down without their permission.

CHAIRMAN HODOM: It's roughly 280-square foot is what it works out to be.

MR. HICKS: Oh, are you including the sunroom or...

CHAIRMAN HODOM: No I'm just looking at the deck, 8-foot by 20-foot and 8-foot by 14-feet.

MR. STANNARD: Well if I can address that...

CHAIRMAN HODOM: Just introduce yourself.

MR. STANNARD: Sure my name is Ed Stannard, I'm going to be the contractor on this. I think if we all – everybody has a deck built at their house. If you take into consideration where you come up those stairs and go into the door, that area there on the deck is nothing. You can't put anything in front of there; you cannot put any barbeque, no tables in front of that, that's wasted space. So basically Al and his wife plan on entertaining outside and everything and everything – that was the whole object of having the sunroom. So if you take into consideration – you're saying 200 and some square feet but that's not a lot of room when you put like 8 or 10-people on that and if you put a table out on there, there's really not much left.

CHAIRMAN HODOM: Okay.

MR. WIGGAND: Is that deck going to be enclosed?

MR. STANNARD: On the bottom?

MR. WIGGAND: No on the roof.

MR. STANNARD: No, all wide open. That's what is shown on the plan.

CHAIRMAN HODOM: It's an open deck.

MR. STANNARD: Yeah.

MR. WIGGAND: Open deck, it's not going to have any enclosure of any kind.

MR. STANNARD: No, correct.

MR. WIGGAND: I just want to get that on the record.

MR. STANNARD: Sure, no roof over that at all. The object is to have a sunroom and then they can come out of the sunroom and be able to entertain on the deck. The reason for the sunroom is basically many times it gets a little buggy down there – in there, it's nice to come out and enjoy it and have a nice little dinner out there or whatever.

MR. WIGGAND: Because they seem to grow sometimes.

MR. STANNARD: Everything seems to grow.

MR. PLATEL: The bill for the addition.

CHAIRMAN HODOM: Mr. Hicks have you had any conversation with Niagara Mohawk?

MR. HICKS: (shakes head)

CHAIRMAN HODOM: None at all. So you've made no effort to see if you couldn't buy some of that easement back from so that you wouldn't need a Variance?

MR. HICKS: No, no I haven't had any kind of conversation like that.

MR. STANNARD: Well isn't that kind of impossible, doesn't the Town have a right of way down through there to?

CHAIRMAN HODOM: Not that I'm aware of.

MR. STANNARD: There's a storm sewer back there.

MR. PLATEL: Well actually from the map it shows that National Grid actually owns that property. It's not any kind of an easement; I believe it say's that they own it.

CHAIRMAN HODOM: Lands of.

MR. PLATEL: Lands of, so – because if it were an easement he would able to build up to the easement if he owned the land beyond it.

MR. MICELLI: There are overhead lines – electric probably on that easement I would think.

MR. STANNARD: That's further back on the other side of the property. It's closer to the Chrisken Drive.

MR. MICELLI: Right, it's hard to see them but we looked through the trees and we saw them.

MR. WIGGAND: Is this deck going to be built the same time the garage is going to be built?

MR. STANNARD: Everything is going to be constructed at the same time.

MR. WIGGAND: At the same time.

MR. STANNARD: That's the intention.

CHAIRMAN HODOM: I was just trying to see if there's anyway of reducing some of those encroachments. Your property is – because it is that pie shape type of property it's very difficult to do much with it.

MR. STANNARD: The only thing I could come up with – I mean I really don't feel that he needs to – if he takes away from the deck, the size itself you've lost everything. The deck needs to really wrap around it. It's going to make the house just appear a lot more nicer out into the back and everything, but we could if you look at the picture's there, the deck itself – we could clip the corners of the deck itself and that would get a little relief on that easement on – it would be the garage end side of it. We could clip that corner say 3-feet each way, which is going to come back another 2-feet so each corner of the deck we would clip off. Are you following what I'm saying?

CHAIRMAN HODOM: I think you're only encroaching on the 1-corner.

MR. STANNARD: Right but you can't – for looks appearance wise I don't think you would do 1-side. You want to, you know do both side to make it look more symmetrical and everything.

CHAIRMAN HODOM: I see what you're saying.

MR. STANNARD: You know and I know you're not losing that much but you're going to gain 2-feet more off of your easement there or whatever – corner line, by us clipping at least 3-feet each way, you're going to gain 24-inches.

MR. MICELLI: Right so instead of having the right angles ends they would kind of clip them.

CHAIRMAN HODOM: The dimensions that you arrived at were based on the 22-foot garage or 24-foot deep garage?

MR. HICKS: 22.

CHAIRMAN HODOM: Okay.

MR. STANNARD: Well that was my error on the 24, yeah.

MR. MICELLI: So it's actually 22-feet, 8-inches?

MR. STANNARD: The garage is 22-feet.

MR. MICELLI: Oh, just 22 even.

MR. STANNARD: Yeah, the 22-foot, 8 was the interior measurements of the garage.

MR. PLATEL: If it was 24.

MR. STANNARD: Right.

CHAIRMAN HODOM: But you would be willing to do that if the Board thought it was necessary to do that would be to clip off the corners a little bit?

MR. STANNARD: Sure I mean it's – it gives the deck a little bit more appealing anyways. You know a little bit of the corner you're not losing much anyways so I mean it's not that bad of a deal.

CHAIRMAN HODOM: I was thinking of perhaps of just extending it out farther from the sunroom to the – towards the garage but I'm so sure that will help you because that private land is going that way anyway.

MR. STANNARD: You'd have to go the other way and that's what I was saying I think it was with the deck going out the full distance and leaving the corner square it would be 5.5-feet, which would be there. So now if you cut that corner off you're going to gain another 2-feet so now you're at 7 ½-feet whether that helps you or not.

CHAIRMAN HODOM: The deck and the sunroom and the garage all encroach into the 25-foot setback.

MR. STANNARD: Mainly the sunroom and the deck I mean the garage I think there's 17-feet on the corner and what's the setback, 25?

MR. PLATEL: I actually had the garage figured at 20, but I could be wrong.

CHAIRMAN HODOM: 20-feet.

MR. STANNARD: Yeah.

CHAIRMAN HODOM: That's what it says.

MR. HICKS: When we measured today we were looking more about 20.

MR. PLATEL: I had a hard time working with the survey.

CHAIRMAN HODOM: I did to.

MR. STANNARD: Well it's definitely a weird lot. I mean his front line goes almost all the way down to Hancock Drive, which is the first intersection street.

CHAIRMAN HODOM: Right.

MR. STANNARD: And that's 219-feet.

CHAIRMAN HODOM: How would you like a long narrow deck? Mr. Hicks going back to the sunroom.

MR. HICKS: Yes.

CHAIRMAN HODOM: What utilities were you proposing to bring into that room?

MR. HICKS: We're going to put a...

MR. STANNARD: The only thing is it's going to be an unheated space, some electrical maybe 2 or 3-outlets, possible ceiling fan, but it all depends on the height of the roof pitch that we can get there. I mean of course you want to try to keep the roof up as high as we can, but the thought is possibly at a later date maybe throwing in a gas heater, but that's, you know to maybe possibly get more use out of the sunroom. Right now that doesn't seem to be in the works I mean that's something that he could considerably, you know add later on.

CHAIRMAN HODOM: Okay. So it's your intent now and in the future to maintain this property as a single family home?

MR. HICKS: Yes.

CHAIRMAN HODOM: This sunroom is not proposed to be used as any rental property?

MR. HICKS: Absolutely not.

MR. STANNARD: That's a pretty small rental property.

CHAIRMAN HODOM: Well you would be surprised what they do in this Town. As long as it remains as a single-family residence...

MR. HICKS: Yes.

CHAIRMAN HODOM: That's what we're looking for. You're not running any water or sewer?

MR. HICKS: No sir.

CHAIRMAN HODOM: It's unheated at this point in time?

MR. STANNARD: Yes.

CHAIRMAN HODOM: Possibly sometime in the...

MR. STANNARD: The exterior door is in the corner and that was the whole reason – kind of threw these together and I don't know if it's going to help you at all here. It's the layout of the house. Do you want one to, to make you feel special?

CHAIRMAN HODOM: She is special.

MR. STANNARD: I know.

CHAIRMAN HODOM: It's 10-points for me.

MS. GUASTELLA: No, minus.

MR. STANNARD: So basically behind, you know the only real spot for that sunroom to be put on is that little cove in order for it to make, you know behind the garage itself to make it even, you know – there's an exterior door that's already there which would lean into a little hallway which he has which he has, which would – access to the bathroom so everything makes sense for it to just go into that area.

CHAIRMAN HODOM: Okay. Any other questions from the Board?

MR. WIGGAND: I'm just a little confused. Are you putting a roof and an enclosure in

on this – we're talking about a deck here.

CHAIRMAN HODOM: We're talking about 2-things Bob. The sunroom, which is roughly...

MR. PLATEL: Here's the sunroom off the back Bob and then this is the deck that wraps around it.

MR. WIGGAND: Thank you.

CHAIRMAN HODOM: The sunroom is roughly 14 by 12.8.

MR. PLATEL: That's the difference.

MR. WIGGAND: So that's a separate building that's going to rebuild this, separate enclosure.

MR. PLATEL: Correct. That's an addition.

MR. WIGGAND: That's what I was confused with, I'm sorry I thought that was already there.

MR. PLATEL: No, that's new.

MR. WIGGAND: Okay. When I walked around there today or yesterday – for some reason I got mixed up with that one. Thank you, that was the only question I had.

CHAIRMAN HODOM: Anyone else? The architectural features of the proposed sunroom will match as closely as possible to the existing residence, siding, roofing, windows?

MR. STANNARD: Mr. Hicks is going to actually – intending on re-siding the whole place at a later date or maybe possibly the same summer. It's got aluminum siding and at least he'll upgrade it. So I mean he's actually doing a fair amount to the house. He has only been a resident like possibly 6-months now. Eventually he's kind of neatening it all up and I think it will look quite nice when it's all done.

CHAIRMAN HODOM: Well it does appear that you've been doing a lot of improvements, both in the front and you filled in the back as well.

MR. HICKS: Yes I think we had discussed that the property wasn't I believe it's settled over the years so the backfill has settled down quite a bit so I've had to kind of beef up the back yard and level it back out, which I did get some good comments from the neighbors on. They actually liked the way it looked.

CHAIRMAN HODOM: And your deck is treated lumber?

MR. STANNARD: Treated lumber, yes.

CHAIRMAN HODOM: Everything will be constructed to Code?

MR. STANNARD: Is there any other way?

CHAIRMAN HODOM: Just want to ask the question.

MR. STANNARD: Yes sir.

MR. HICKS: Absolutely it better be.

CHAIRMAN HODOM: It didn't appear that the previous deck that was there....

MR. STANNARD: Because there's a new generation taking over.

CHAIRMAN HODOM: Good I'm glad to hear that.

MR. HICKS: I'm paying good money to have this done.

MR. MICELLI: Was that deck on piers? Did they do concrete footings underneath it?

MR. STANNARD: No. There's a good chance that probably didn't have a building permit. I mean that does happen I guess.

MR. PLATEL: On occasion.

MR. STANNARD: Just down in Glenmont.

MR. PLATEL: I'll have to start driving around on Saturday's again.

CHAIRMAN HODOM: Not in our Town it doesn't happen. More than likely the owner of the property probably built his own deck but that's gone. Any other questions from the Board. Mr. New York Post do you have any questions? Were you finished with your presentation? Anything else you want to offer?

MR. STANNARD: Not me, it's getting close to my bedtime so...

CHAIRMAN HODOM: You just want to go home and watch the ballgame I know that.

MR. STANNARD: No, no I've got to go to bed early.

MR. PLATEL: That's right there's a ballgame today.

CHAIRMAN HODOM: Hearing no further questions or comments we'll declare the

hearing closed and we'll notify you in a timely manner. Thank you very much.

Hearing closed 8:30 p.m.

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The next order of business was to consider the proposed resolution of David & Melissa Prescott.

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

RESOLUTION

* * *
*

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking a Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yards, requested by David & Melissa Prescott ("Applicants") for property at 73 Henderson Road, Glenmont, 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 November 16, 2005; 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 Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicants wish to construct an attached garage addition of 372.5 square feet to the main dwelling, which will create a side yard setback of 4.5 feet. This is 3.5 feet shy of the 8 feet that is required for the main dwelling.

The existing structure is occupied as a single-family dwelling and is located in a Residence "B" District.

Applicants' proposed project would create a 3-car garage on the property. The expanded garage, if approved, would be constructed over an existing 9-foot wide concrete pad.

Applicants have two personal vehicles, a company car, and a "classic" automobile, and are seeking extra storage space.

The proposed garage addition would also be constructed over a Town drainage easement, and there was discussion of this issue at the public hearing. In light of the Board's determination on the application, this issue is moot.

Along with the Applicant and his contractor, two neighboring property owners spoke at the public hearing in opposition to the proposed project. The neighbors expressed concerns that the proposed garage addition would be too close to the property line, would negatively affect the appearance and character of the neighborhood, and could possibly cause drainage problems.

With one exception (a corner lot), all properties in the neighborhood have 2-car garages.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches submitted and testimony presented at the public hearing, the Board determines that the proposed variance will be denied.

The proposed addition will be too close to the adjoining property line, and will have a detrimental impact on the welfare of the community and the character of the neighborhood.

The Board denies the Applicants' request for a variance to construct a garage addition encroaching into the minimum side yard set back required by the Town Zoning Law.

January 4, 2006

Michael Hodom
Chairman
Zoning 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 Robert J. Wiggand Gilbert Brookins Leonard Micelli	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on January 5, 2006.)

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On a motion made by Mr. Brookins, seconded by Mr. Micelli, and unanimously carried by the Board, the minutes of the December 21, 2005, meeting were approved as amended.

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

Meeting Adjourned: 9:00 p.m.

Respectfully submitted,

Secretary