

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
July 7, 2004**

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

PRESENT: Michael Hodom  
Robert Wiggand  
Marjory O'Brien  
Gilbert Brookins  
Leonard Micelli

James Potter Acting Attorney to the Board

Mark Platel Building Inspector

ABSENT: Michael Moore Attorney to the Board

Chairman Hodom called the meeting to order at 7:30 p.m.

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a Variance under Article XVI, Front Yards, Section 128-71, Accessory Buildings requested by Harold Denkers for property at 201 Bender Lane, Glenmont, New York. The Applicant wishes to construct a detached garage, which will encroach into the front yard setback requirement.

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 22-foot by 30-foot, 660-square foot 3-car detached garage that has a proposed front yard setback of 50-feet from the front yard property line. The required front yard setback for an accessory structure in an "A" Residence Zone is 70-feet from the property line leaving the proposed structure is 20-feet shy of the requirement. The existing main structure is occupied as a single-family dwelling and as stated earlier is located in an "A" Residence Zone.

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

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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 July 7, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Harold Denkers for Variance under Article XVI, Front Yards, Section 128-71, Accessory Buildings of the Code of the Town of Bethlehem for construction of a detached garage which will encroach into the front yard setback requirement at the premises of 201 Bender Lane, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 30, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. 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 wishing to speak in opposition. 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. Denkers will you be making your presentation?

MR. DENKERS: Yes.

CHAIRMAN HODOM: Just tell the Board what you'd like to do and why you want to do it and how you want to do it and introduce yourself to us if you would.

MR. DENKERS: My name is Harry Denkers and this is my wife Jane. We've lived on Bender Lane since 1979 and we are finally getting around to building a garage. The garage - - where we want to put the garage is on our driveway, which about 80-90-foot back has a huge drop about 6-feet and we want to place the garage on top of that area - the high point so that the garage will be parallel with our house. We will encroach 20-feet into the building setback line, but the garage will be parallel with the house. And really there is no - - well an engineer naturally will say there's always a way around this but speaking cost wise, relative cost wise it would be prohibitive to build a garage 70-foot back onto my property.

CHAIRMAN HODOM: I understand you have a drop off from where your proposed garage is - I guess it would be easterly, the easterly part of your property. Had you considered perhaps discontinuing the driveway back and then building the garage on the lower section of the property to comply with the 70-foot setback requirement?

MR. DENKERS: That would make the driveway too steep.

CHAIRMAN HODOM: I know on the plans that...

MR. DENKERS: I would be building on my leach field.

CHAIRMAN HODOM: Is that where your leach field is, okay. Where about on your plan is your leach field.

MR. DENKERS: We built it - - it's right over in here in this section.

CHAIRMAN HODOM: Okay so it's just below or very close to that easterly side of the proposed garage.

MR. DENKERS: Right. And this area in here, below here is kind of swampy also.

MR. BROOKINS: Can you give us some references Mike in terms of numbers.

CHAIRMAN HODOM: If you look at drawing 1 on the plan, the proposed garage – apparently the leach field is directly behind it where you see the minus 2.9 dimensions.

MR. BROOKINS: Okay.

CHAIRMAN HODOM: Which certainly would negate any building over the leach field unless the leach field was relocated. Had you done any cost analysis of trying to meet the 70-foot setback requirement?

MR. DENKERS: I did not really do a cost analysis on that. One of the reasons I didn't look because if I have to bring the fill back in that area it would have to be compacted quite a bit and I didn't - - I'd have many problems with filling it.

CHAIRMAN HODOM: Of the driveway or the garage?

MR. DENKERS: Right.

CHAIRMAN HODOM: Was there ever a garage on the property either attached to the house or separate?

MR. DENKERS: No, never.

CHAIRMAN HODOM: Had you had an opportunity to discuss your proposed with any of your neighbors?

MR. DENKERS: Yes. I spoke with Mr. Oates who is to the left of me and he said it's about time and then he said I'll believe it when I see it. The people across the street, the Sigsby's said they had no problem with it. And then the people next to me on the other side, the Kidalowski's, they said no problem, go for it.

CHAIRMAN HODOM: And you showed them the actual location and the plans that you're proposing to use.

MR. DENKERS: Well I just told them exactly where I was going to put it. That's why I

have stakes up so that they could see the general area where I wanted to place it.

CHAIRMAN HODOM: If the Board were to approve your application, what time were you looking at to start construction and complete construction?

MR. DENKERS: I would start this summer assuming that we got approval we would start.

CHAIRMAN HODOM: Is this something that you would construct yourself?

MR. DENKERS: Yes, with my son.

CHAIRMAN HODOM: How long do you think it might take you to do that once started?

MR. DENKERS: Probably, well we have to be in good shape by September before he goes back to college.

CHAIRMAN HODOM: Well he could always take a semester off or something. Can you describe to the Board what kind of architectural features you're planning to use on the garage, siding – the windows, the shingles?

MR. DENKERS: We want to use the same siding that we use on our house. The same vinyl siding that we have, same color. It is a sandy color with white corners and a green fascia and brown shingles.

CHAIRMAN HODOM: So you're trying to match the color scheme and the architecture of the existing home?

MR. DENKERS: That's correct.

CHAIRMAN HODOM: The overhead doors will be white?

MR. DENKERS: White.

CHAIRMAN HODOM: Okay. Does the Board have any other questions?

MR. MICELLI: Just one question Harold I meant to ask you today is there going to be electricity in the garage?

MR. DENKERS: Yes we'll have electricity in there.

MR. MICELLI: And that gravel that's going to be the floor?

MR. DENKERS: I'm going to have a concrete floor, poured concrete.

MR. MICELLI: Thank you.

CHAIRMAN HODOM: Are you planning on any other utilities in the garage?

MR. DENKERS: No.

CHAIRMAN HODOM: Just electricity?

MR. DENKERS: Just electricity.

CHAIRMAN HODOM: So it will be strictly used as a garage?

MR. DENKERS: Just a garage, right.

MRS. O'BRIEN: How many cars do you now have at the house?

MR. DENKERS: I have 1,2,3,4,5. We have about 5-cars, 2-classic cars, an old Mercedes and an old Porsche.

MRS. O'BRIEN: Do you work on those at this property?

MR. DENKERS: No.

MRS. O'BRIEN: But they'd be in the garage?

MR. DENKERS: They would be in the garage, yes.

MRS. O'BRIEN: And the van and everything else will be outside?

MR. DENKERS: Yes.

CHAIRMAN HODOM: Any other questions? Are there any questions or comments from the audience? Is there anyone wishing to speak in favor of the Applicant? Mrs. Denkers, this is your opportunity.

MRS. DENKERS: Please say yes, it's been 24-years without a garage. It's something we've always wanted and we never got around to doing it and now that our kids are all grown up, our last is in his last year of college and now is the time. It's really the only place to put it. We thought about putting it in other areas and there just isn't any other place to put it.

CHAIRMAN HODOM: Thank you. Is there anyone wishing to speak in opposition to the applicant? 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.

MR. DENKERS: Thank you.

Hearing closed 7:45

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The next order of business this evening is a continuation of a public hearing for Special Exception under Chapter 113-3, 113-9 (F) requested by Galaxy Communications (Applicant), William Banahan (Owner) for property at Old Quarry Road, Selkirk, New York. The Applicant wishes to allow construction, operation and maintenance of a FM Radio Broadcasting facility including a +/-300-foot tower at the premises of Old Quarry road, Selkirk, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is a reopening of a previously adjourned public hearing. The applicant is seeking a Special Exception for the installation of a new 300-foot tall FM Radio tower and a 15-foot by 25-foot equipment shelter. The height of the proposed tower is in excess of the 190-foot height restriction as stated in section 113-9 by 110-feet. There are not other structures located on this parcel, which is located in a RNZ District.

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

Notice of Public Hearing. Notice is hereby given the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday April 7, 2004 at 7:30 p.m. at the town offices, 445 Delaware Avenue, Delmar, New York to take action of application of Galaxy Communications for a Special Exception under Chapter 113-3 and 113-9 (F) to allow construction, operation and maintenance of a +/-300-foot FM Radio Broadcasting facility at the premises of Old Quarry Road, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the March 31, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier this evening. We'll hear the applicant's presentation; we'll entertain and 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. Just introduce yourself again for us and tell us or update us on the information.

MR. SWEENEY: I will do that. My name is Mark Sweeney and I'm from the firm of Shanley, Sweeney, Riley and Allen in Albany and I'm representing Galaxy Communications. Tonight I have with me Tim Baker the director of engineering, Ed

Levine, the CEO from Galaxy and I also have Mr. Banahan the land owner in attendance with us tonight and Ed Vopolac from CT Mail who is the consulting engineers on the project.

Basically we as you all will recall, we had our last public hearing in January and subsequent to that time took several steps to move this project forward. First we went back to the Albany County Planning Board, which had previously recommended disapproval with out prejudice seeking certain information to be provided. We provided that information and went back to the County, the county vacated it's resolution of disapproval and basically requested that the project go forward with certain conditions in that recommendation requesting us to check with DEC and a couple of their agencies including the FAA, FCC, things of that nature as conditions of the permit. Also the Albany County Water – the City of Albany regarding access to the site and subsequent to that hearing we undertook substantial efforts to talk to DEC, to talk to the FAA, FCC and Albany Water Board to resolve those issues.

In February prior to that meeting we submitted a substantial package to you that addressed most of the Albany County comments and some of the comments from the Board, those comments focused on removal of the existing tower and our limitations on our ability to do that. The additional visual impact information by this Board to show compliance with local regulations pertaining to visual impact assessment and also for further information on the FCC regulations and whether there was a potential waiver available. Subsequent to that, like I said we were in contact with the FAA. We have received FAA approval for the site at the full height. It will have to be lit, proposed as we said a galvanized finish with a white light on the top. It will be painted red and white.

The other approval that we only received on Thursday is the FCC construction permit approval authorizing modification of the existing facility. So there's two – when we were here last time were pending, they've now been resolved. We can send in copies of those documents for your record if you so wish.

CHAIRMAN HODOM: Please.

MR. SWEENEY: Okay. Then in May having secured much of that information, we submitted another package with detailed site plans to meet your site plan requirement that this Board will be handling site plan for the site. We also submitted a substantial amount of other information pertaining to certain public hearing comments, the FCC requirements visual assessment, the potential lot line adjustment that was requested by this Board. The specific design of the tower being a self-supporting lattice tower with a white light and no painting, and we were pursuing federal approvals and also we had secured comments on the DEC on migratory bird issues. We've responded to those issues and gave you the full set of information, our original, their comments and our response to those comments. They're all before you in this package.

As far as the Albany Water Board and access that was an issue that Mr. Moore had

asked us to follow up on and that was Bill Simco and as you all received today the Board has authorized the commissioner to go and negotiate in the event we do receive approval we will renegotiate the access. Currently we have access from the county up over the driveway to the first road up to our tower on the Callahan property. There's a newer road just up the way that goes to the other existing towers and that goes over the lands of Mr. Banahan. We are proposing to use that road as part as our project so we will be basically adding that additional length of the driveway into the formal easement documents and in return for that concession by the Board they have access to allow them to mount certain equipment on the tower itself for use in their operations and we've agreed to do that at no charge.

I believe Albany County Highway was another area that the county had asked us to see whether any approvals - - we're not proposing anything within the county right of way. The existing entrance of that road will remain the same so there's no jurisdiction for them in that area and I believe the Board has had this package for a while so we're happy at this point to sit and hear the comments and answer whatever questions you may have.

CHAIRMAN HODOM: If you would Mr. Sweeney, if you would just go through the various exhibits and the proposal of your submitted data. It probably will be easier to do it that way.

MR. SWEENEY: Certainly. Our first exhibit pertains to the FCC requirements. If you look at the letter I addressed to Mr. Hodom, our first item is 1A, is the FCC requirements and one of the issues that had come up during our previous hearing was the change in FCC regulations that prompted this application. Prior - - maximum authorization for a class A radio station had been 3000-watts. The FCC regulations have been changed to 6000-watts. We've provided you with the sites of those regulations and also Mr. Baker prepared a supplemental report to these previous analysis. That's attached as exhibit 1. His analysis just goes through how given these regulations they planned and settled on the area where they are. As you will recall our existing facility doesn't work given the FCC separation requirements. The separation requirements are also referred to and the regulations for it are referred to in Mr. Baker's report. And those separation requirements can't be met at our location and if the Board recalls we had made substantial efforts to try to negotiate with other towers, which would be causing interference by upgrading our site and those negotiations were not successful. We then looked to the other alternative of the new site, that's where we are and this explains how the FCC looks at their coverage and how they set their standards and why given the particular facts of this site we are where we are. If you like I can into more detail there, but I think - - my understanding is you want an overview of what we've given to you.

CHAIRMAN HODOM: That's correct.

MR. SWEENEY: The other issue that we had talked about was the removal of the existing tower and we would be agreeable to do that and would have proposed that having the ability to do it. Unfortunately the way the lease that we inherited from our predecessor, Callahan Industry's, which is the landlord, retains the right to keep that asset

in place at the end of our lease. And were we to be approved, construct our new site, terminate that lease, they could then say we want to keep it. We have open negotiations with them to see whether or not they would allow us to take that down. What they've told us is we're going to look at it from a cost benefit for Callahan Industry's and we let you know and we've tried to keep in contact and resolve it, unfortunately we have no resolution at this point but we are actively pursuing negotiations with them. We have provided a copy of our lease and the amendments to it as requested by Mr. Moore so that you could see the provisions in there that give them the right to do what we reported to you.

CHAIRMAN HODOM: Do you know who the other individual is who is using that tower for communications?

MR. SWEENEY: It's a repeater by Cingular Wireless and I don't necessarily know or my understanding is we would agree to put them on the new tower, you know if that was the hang up. But the issue really is for Callahan to decide whether or not they want that asset for future collocation potential or whatever their need may be. They basically said we don't think we want it but we need to look at it, given the capacity due to all the other existing towers down there, you know there's the likelihood of that tower being needed. There's over-capacity in that area I guess is what I'm getting at so that tower isn't going to have such great value as it would if it was a stand alone facility.

CHAIRMAN HODOM: But if the Board were to approve your application and if the existing tower were to be dismantled there's no problem that Galaxy would allow Cingular to use your tower, your new tower for their purposes?

MR. SWEENEY: Correct and I think we've identified a certain area on the tower for collocation capability, I think there's a total of three. We're also going to be accommodating the Albany Water Board so we would be able and willing to do that so that would not be a hang up for you in that regard. One of the things we also gave as part of our exhibit 3 is copies of some of the e-mails that went back and forth between Galaxy and Callahan Industries showing that we were negotiating and that we hadn't come to a resolution yet, but we are in the process of trying to do that.

Exhibit -4 goes on to show no adverse effect letter from New York State Office of Parks and Recreation and Historic Preservation basically saying that as far historic resources are concerned this tower will have no effect on any of them. If you recall there was some comments early on about original visual assessment and whether there was a historic district located to the west in the Town of New Scotland. That was part of the amended visual package that we gave to you in February and all of that was submitted along with the additional photo simulations and upon receiving that issued this letter.

Exhibit -5 is the FAA determination of no hazard. That's basically the FAA approval I was referring to before. I have a copy of the FCC approval; we just received it the other day so I'm glad to give a copy of that to you. And this approval basically gives to build it at full height. Exhibit - 6 is our FCC construction permit application that was

the information that we had submitted to the FCC to say this is what we need; this is why it complies - - we had to show that we complied with their regulations in order to get the approval from them. We've now received the approval from them for this granting a - - they call it a minor modification.

CHAIRMAN HODOM: Again if this was approved would it be - - what is your anticipated completion date for the new tower because there are some limitations that the FCC places on it?

MR. SWEENEY: We would basically anticipate beginning construction this summer and hopefully completing it by October or so. Construction may - depending on to be perfectly honest there's a lot of security issues with the use of the Albany Water Board access. It could delay our construction somewhat. We're trying to work our with them somewhat of a streamed line approach concerning - having something in place to comply with our regulations, address their concerns without having to go through every single time someone tries to access the property. That would greatly stream line it for us and allow us to meet that condition. So hopefully we'll be able to do so.

MR. LEVINE: Plus the climate obviously is a consideration. If you get an early frost and the ground freezes it could be delayed to the early spring but our goal is to have it up by the end of this year.

CHAIRMAN HODOM: Just introduce yourself to us again.

MR. LEVINE: I'm sorry, Ed Levine CEO of Galaxy Communication.

MR. SWEENEY: And I think the limitation that your speaking of is basically one of your time frames. It expires on February 6, 2005 and we will have that constructed. Now one of the things just as a FYI here is for the FAA what we had to do is - - now that we have this approval that gets sent to the FCC, what's called an antenna structure so that the FAA is telling the FCC - - the FCC knows that the FAA has approved this tower for the height. The FCC would not approve our construction permit until this was received then they received it and went on to process the permit.

So that brings us to exhibit - 7 and that's the 3-pieces of information I was discussing regarding the migratory birds. The issue had been raised by the County back in December. We had addressed it initially in our February 9 submission. We've provided that to you as part of 7-A, it's called the proposed impacts of migratory birds. There was a comment letter received by CT Mail on March 25 of this year from DEC region 4-office, Carl Parker Sr., wildlife biologist commenting on the analysis that was provided. In his analysis he does not say that there are any impacts on migratory birds as a result of this, he's saying that you should look at this additional information or these other issues may be relevant to the analysis and in part C there's a supplemental analysis from CT Mail's environmental people that walks through and address's his comments and essentially what they felt is that we meet most if not all of the guidelines set forth by the United States Department of Fish and Wildlife to protect migratory birds.

Most importantly we're in an existing area with other towers. We're in an area that has existing commercial development with the power lines, the filtration plant and the airport nearby and obviously the rail yards. The other thing is the type of tower that has the greatest impact is a painted tower or one with a bright red light that acts as - - it's constantly lit. We don't have that. The type of galvanized finish plus the blinking light is the preferred method of lighting a tower to reduce impacts of migratory birds. So that is, you know we went through a lot of these issues here and I can go into them in more detail if need be, but we feel that we've addressed all of the comments received. We've also provided you with letters from DEC's main office for fish, wildlife and resources as well as the US Department of Fish and wildlife stating that there's no known occurrences of threatened or endangered species in those areas. These type of letters are routinely secured or analysis is performed when ever there's an application as part of what of a screening process to determine whether there would be any problems.

Finally in Exhibit -8 we have the detailed site plan. Before we had given you an aerial photograph showing the site plan layout. This is the actual site plan showing the access, the tower, the details regarding the site and we believe this one flies with the requirements of your code for site plan review. There's no changes to the site. The one thing of note is that the Board had asked us to inquire with Mr. Banahan regarding a lot line adjustment so that we would meet the setback requirement. Mr. Banahan has agreed to work that out with us and make that lot line adjustment, but obviously we wouldn't do that unless and until we receive an approval and we would take care of getting the new deed prepared and all that so that he can have done. So what it would do - - would move the existing lot line between his 2-parcels south to the edge of the circle there which is the 150-foot radius so that we would be in compliance with your code.

And that is followed by exhibit - 9, which is the Board had asked for a copy - - the FCC license we had given to you previously showed our predecessor as the licensee. These documents show that it is now owned by DOT Communications, which is a holding subsidiary of Galaxy and is valid through 2006 I believe. Yes, 6/1 2006 it expires. It shows that it's for a class A facility of maximum 3000 watts power at a height of 100-meters and that is the package we submitted in May to you. The February package, it kind of walked through very quickly the most substantive part of it was the revised visual analysis with a visibility map to show parks, historic areas, historic district boundaries, things of that nature on the map as requested. We also did additional photo simulations as requested and those were all included in that submission there. That was the information that we've given to you in the interim of course with the additional letter you received from the water board today.

CHAIRMAN HODOM: And those are ongoing negotiations?

MR. SWEENEY: Yeah, with that basically - - again if we're approved we will amend the easement. We just didn't want to amend the easement formally unless or until we had the approval. What they've done is authorize the commissioners to negotiate it with us and essentially we've already talked about the terms. They're going to put their materials on our tower. We're just going to change the description of the existing easement that's

on file and record it so that it's valid. And it's pretty straight forward, you know - - their concerns were security related because we already have a right of access. They felt that the best way to handle it is to seek some improvement for their security operation.

CHAIRMAN HODOM: Thank you very much. I would like to commend you folks and speak for the Board as well as myself for addressing the issues that were brought up by not only this Board, but Albany County and previous attendees to the other hearings. I think you've done good job of putting together a nice package. I personally don't have any further questions; all my questions have been answered. I'll look for the other Board members - - go ahead Marge.

MRS. O'BRIEN: Just one question, you did mention that Cingular Wireless, which is on the current tower, would be able to collocate on your tower. Would the tower be available if there are other requests?

MR. SWEENEY: Yes. We would have a total of I think 3 to 4 spaces available for other collocations. It would be a matter of structural capacity more than anything. Our antenna I believe is high enough up that there's plenty of vertical space to accommodate people, it's just a matter, you know how strong the structure is. I think it's been, like I said designed to handle 3 or 4-more.

MRS. O'BRIEN: Because that's something we ask for, you know when somebody collocates we want to know the stability and...

MR. SWEENEY: Oh absolutely and it's, you know we want it - - it's in our benefit to have that so, I mean this is a radio station not a tower development business - but if that's a bonus to them in that regard.

MRS. O'BRIEN: It's a FM station so you're going to have classical music right?

MR. LEVINE: Classic music.

CHAIRMAN HODOM: Gil any questions?

MR. BROOKINS: No, I'm fine.

CHAIRMAN HODOM: Lennie?

MR. MICELLI: No, the presentation was great.

CHAIRMAN HODOM: Anyone in the audience have any questions or comments that you would like to make? Mr. Banahan any comments?

MR. BANAHAN: No.

CHAIRMAN HODOM: You have no problem extending that property line to

accommodate the 150-foot setback requirement?

MR. BANAHAN: No problem.

CHAIRMAN HODOM: Okay. Anyone wishing to speak in favor of the applicant? Anyone desiring to speak in opposition to the applicant? Any further questions from the Board? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner, and again thank you very much for your patience and your due diligence in supplying us the information that was needed.

MR. SWEENEY: Thank you very much.

Hearing closed 8:10 p.m.

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The next order of business was to consider the application of Bob Hughes. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Bob Hughes for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, Article XVII, Side Yards, Section 128-73, Required Widths for the construction of a sunroom, which will exceed the allowable percentage of lot occupancy and encroach into the side yard setback requirement at premises 2 Knights Way, Albany, New York 12203, it is hereby ordered that a public hearing on this matter be held August 4, 2004, at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to consider the application of Frank and Wendy Mancini, 94 Trinity Place, Selkirk, New York 12158. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Frank and Wendy Mancini, for Variance under Article XVI, Front Yards, Section 128-71, Accessory Buildings for the construction of a storage shed, which will encroach into the front yard setback requirement at premises 94 Trinity Place, Selkirk, New York 12158, it is hereby ordered that a public hearing on this matter be held August 4, 2004 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to reschedule a public hearing for Delmar Health & Fitness. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Delmar Health & Fitness to re-schedule a Public Hearing for Use Variance under Article VI, Permitted Uses, Section 128-13, Residence AB District, it is hereby ordered that a continuation of a public hearing on this matter be held August 4, 2004, at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of Harold Denkers for Variance under Article XVI, Front Yards, Section 128-71, accessory Structures for the construction of a detached garage, which will encroach into the front yard setback requirement at premises 201 Bender Lane, Glenmont, New York 12077. The following points were brought up by the Board members: There is a leach field located directly behind where the proposed shed will be located. There is a drop off of approximately 6-feet in the back of the property. This will not be detrimental to the neighborhood or affect the character. The request is reasonable. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on July 21, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Galaxy Communications for Special Exception under Chapter 113-3, 113-9 (F) to allow construction, operation, and maintenance of FM Radio Broadcasting facility including a +/-300-foot tower at premises Old Quarry Road, Selkirk, New York 12158. The following points were brought up by the Board members: This is an area where there are 4-existing towers and the proposed tower will not interfere with any adverse environmental impacts. The size of the tower is needed. The applicant complied with all of the FCC requirements and is in full compliance with DEC. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Special Exception, for presentation at the next Board meeting on July 21, 2004.

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The next order of business was to consider the proposed SEQRA resolution of Independent Wireless One.

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

## RESOLUTION

WHEREAS the Zoning Board of Appeals for the Town of Bethlehem held a public hearing on June 16, 2004 to take testimony and comments on the application of Independent Wireless One (“Applicant”), for a special permit following site plan review under Chapter 13, Telecommunication Towers, 113-3(B) and 113-4 Alternative Tower Sites A (1), to collocate antennas on an existing communications tower at premises located at Old Quarry Road, Selkirk, New York; and

WHEREAS the Board reviewed the testimony and documents presented at the public hearing, including a review of the environmental impacts that may arise as a result of this project; and

WHEREAS the Board has determined that there are no significant environmental impacts associated with the project; and

NOW THEREFORE, BE IT RESOLVED THAT:

The Board adopts a negative declaration pursuant to the New York State Environmental Quality Review Act as set forth on the attached document.

July 7, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York on July 8, 2004.

### **STATE ENVIRONMENTAL QUALITY REVIEW ACT DETERMINATION OF SIGNIFICANCE**

This notice is issued by the Zoning Board of Appeals of the Town of Bethlehem (“Board”), acting as lead agency, in an uncoordinated environmental impact review, pursuant to and in accordance with Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and Regulations (collectively referred to as “SEQR”).

The Board has determined that the proposed installation of 3 telecommunication antennae at a centerline height of 167± feet on an existing 180± foot lattice tower (“Tower”), the installation of a GPS antenna at the base of the existing tower, and the installation of related equipment at the base thereof (collectively “Project”), will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

**Applicant:** Independent Wireless One

**Project Name:** Co-location of PCS Antennae and GPS Antennae at Existing Tower Site

**SEQR Status:** Type [\_\_\_\_\_] Unlisted: XX

**Project Description:** The Project consists of the installation of telecommunication antennae on an existing 180± Tower and the installation of a GPS antenna and related equipment at the base thereof.

**Location:** S.B.L. 120-2-19 Bethlehem, State of New York (“the Project Site”).

**Reasons Supporting This Determination:**

1. The Board as Lead Agency conducting an uncoordinated review, has considered the full scope of the Project and has reviewed the environmental assessment form and the application of the Applicant for a special exception and site plan approval, and all supporting documentation and testimony.
2. The Project Site is used for telecommunication purposes. The proposed use is consistent with existing land uses and will avoid the need for a new telecommunications tower in the Town of Bethlehem.
3. The Project Site has no unique or unusual land forms (cliffs, dunes or other geological formations), and the Project Site is not used by the community as open space or recreation areas.
4. There will be no air emissions from the Project.
5. The Project will not substantially affect water discharges from the Project Site.
6. The Project will not generate solid or hazardous waste.
7. The Project will not significantly alter the visual and/or aesthetic resources in the area of the Project Site and will not have significant adverse visual impact upon the scenic quality of the landscape.

8. While the Project may result in the removal of minimal vegetation at the Project Site, the Project will not significantly affect plants and animals in and around the Project Site.
9. The Project will not impact agricultural land.
10. The Project is not substantially contiguous to, nor does it contain, a building, site or district listed on the State or National Registers of Historic Places, and thus will not have an adverse impact upon historic or archeological resources.
11. There are no anticipated changes in traffic flow to and from the Project Site as a result of the Project.
12. The Project will not generate any unpleasant noise or odors.
13. There will be no adverse environmental impacts as a result of the Project.

**For Further Information Contact:**

Town of Bethlehem  
 Zoning Board of Appeals  
 445 Delaware Avenue  
 Delmar, New York 12054  
 Attn: Karen Guastella, Secretary

**Copies of this Negative Declaration** shall be filed with the Town Clerk of the Town of Bethlehem.

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Authorized Signature

Mrs. O'Brien made a motion that the Resolution be adopted, Mr. Wiggand seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on July 8, 2004.)

The next order of business was to consider the proposed resolution of Independent Wireless One, Old Quarry Road, Selkirk, New York.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) by Independent Wireless One (“Applicant”) and Bill Banahan (Owner), for a Special Exception following Site Plan review under Chapter 113-3(B) and 113-4(A)(1), Alternative Town Sites, for property at Old Quarry Road, Selkirk, New York, to add 3 PCS antennas, a GPS antenna and related processing equipment to an existing tower at the Owner’s premises, Old Quarry Road, Selkirk, New York, and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the application 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 June 16, 2004; and,

WHEREAS, members of the Board are familiar with the area in which the proposed project is to be undertaken 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 public hearing; now therefore,

BE IT RESOLVED, that the Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

## FINDINGS OF FACT

The Applicant is proposing to co-locate 3 antennas and a Global Positioning Satellite (GPS) Antenna on an existing 180-foot tall telecommunications tower. The proposed co-location will also include 2-equipment shelters that will occupy approximately 16-square feet of building area and will be located on a 9-foot by 12-foot concrete pad. The existing tower and equipment are located in a Rural Note Zoned (RNZ) District and the current use of the site and structure is a public utility.

The Applicant proposes to co-locate its antennas on the pre-existing telecommunications tower in order to provide enhanced Sprint PCS wireless communication services in the Town.

The areas which will receive enhanced services are located generally to the south, east and west of the existing tower, in the Selkirk area, and include Route 32 (south of Feura Bush Road), County Route 301, County Route 102, Interstate 87 (the Thruway), Weisheit Road and Wemple Road.

Subsequent to the hearing the Applicant submitted the modified plans and additional material requested by the Board at the hearing. This material now establishes that the application is consistent with the Applicant's testimony at the hearing, and reflects the scope of the project described above: 3 PCS antennas and one GPS antenna and related equipment.

No one spoke in opposition to the project at the public hearing.

## CONCLUSIONS OF LAW

The application complies with the provisions of Chapter 113-3 (B), Chapter 113-4 (A) (1) and (2) and Chapter 128-25.

Based on the above Findings of Fact, the Applicant requires the requested Special Exception and Site Plan approval in order to provide wireless communication services in the Town.

Accordingly, the Board grants the Applicant's request for a Special Exception and Site Plan approval to install the proposed antennae, subject to the following conditions:

14. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, including but not limited to restoring the road way and surrounding areas to the condition they were in prior to installation of the antennae; and,

15. The Applicant shall complete construction of the proposed antennae within one year of the date of this resolution.

16. Include Albany County Planning Board recommendation dated June 16, 2004.

July 7, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

Mr. Wiggand made a motion that the Resolution be adopted, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert Wiggand			
Richard Lewis			
Gilbert Brookins			
Marjory O'Brien			

(Resolution filed with the Clerk of the Town of Bethlehem on July 8, 2004.)

- - -

The next order of business was to consider the proposed resolution of Stewarts Shops Corporation, 33 Frontage Road, Glenmont, New York 12077.

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

#### RESOLUTION

\* \* \*  
\*

WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) by Stewart’s Shops Corporation (“Applicant”), for a modification to an existing Special Exception under Article VI, Permitted Uses, Section 128-20(C)(3), Gasoline Station, for property at 33 Frontage Road, Glenmont, New York, to remove the existing canopy, pump islands and fuel dispensers and replace them with a larger canopy, a concrete pad and four fuel dispensers at the property, and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the application 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 April 21, 2004, continued on June 16, 2004; and,

WHEREAS, members of the Board are familiar with the area in which the proposed project is to be undertaken 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 public hearing; now therefore,

BE IT RESOLVED, that the Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

#### FINDINGS OF FACT

The Applicant is seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576-square foot canopy and replace it with a new 44-foot by 45-foot, 1,980-square foot canopy. The new canopy will house 4 gasoline dispensers, replacing the 2-dispensers that are now existing on the site. The structure is located in a Light Industrial district and is occupied as a motor fuel filling station and convenience store.

The property has been the subject of two prior Resolutions of the Board:

1. On August 6, 1986, the Board granted a Special Exception and Variances to construct an addition to the rear of the existing Stewart's shop at the property for deposit bottle storage; and

2. On November 17, 1993, the Board modified its previous Special Exception to permit the construction of a natural gas fuel pump and compressor building at the property.

The Applicant has agreed to erect and maintain in good repair a white vinyl split rail type fence on the eastern side of its property to deter through traffic to and from the adjoining Glenmont Diner property.

The Applicant has also agreed to erect signs prohibiting vehicle parking in the area on the southeast side of its property, facing Frontage Road, between the edge of the new canopy and the curb on Frontage Road. The area where the signs are to be placed is labeled NO PARKING on the February 24, 2004 Site Plan (modified May 10, 2004) of L.H. Rutland Jr., PE, Drawing No. S-1, submitted with the application.

#### CONCLUSIONS OF LAW

The Board concludes that the requested modification will enhance the appearance of the site, and will be a benefit to the public by allowing more efficient refueling of vehicles.

The Applicant requires the requested modification of the Special Exception granted by the Board on July 21, 1982 in order to allow the listed improvements to its property.

Pursuant to Title 6, N.Y.R.R.R. § 617.5(c)(2), the Applicant's project is a "Type II" action under the State Environmental Quality Review Act.

The application is granted, subject to the following conditions:

1. The Board makes and continues the same Findings of Fact and Conclusions of Law as found in its prior Resolutions of August 6, 1986 and November 17, 1993, and further adopts and incorporates the entire transcript and testimony from the prior proceedings related to the property, as a complete part of the record of these proceedings.

2. Applicant shall notify the Town Building Department of the anticipated starting date(s) for all work authorized by this Resolution.

3. Applicant shall provide the Town Building Department with copies of all reports, registrations and/or approvals submitted to or issued by the New York Department of Environmental Conservation (DEC) in connection with the replaced gasoline dispensers at the property.

4. The work authorized by this Resolution shall be completed in strict accordance with all plans and specifications submitted by the Applicant, all governmental codes and regulations and all testimony presented to the Board.

5. The work authorized by this Resolution shall be completed within two (2) years of the date hereof.

July 7, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

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Mr. Wiggand made a motion that the Resolution be adopted as amended, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom Robert Wiggand Richard Lewis Gilbert Brookins Marjory O'Brien	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on July 8, 2004.)

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The next order of business was to consider the proposed resolution of Stewarts Shops Corporation, 309 Delaware Avenue, Delmar, New York 12054.

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

RESOLUTION

\* \* \*  
\*

WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) by Stewart’s Shops Corporation (“Applicant”), for a modification to an existing Special Exception under Article VI, Permitted Uses, Section 128-17(C)(3), Gasoline Station, for property at 309 Delaware Avenue, Delmar, New York, to replace the existing canopy, fuel dispensers and underground gasoline storage tanks at the property, and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the application 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 April 21, 2004, continued on June 16, 2004; and,

WHEREAS, members of the Board are familiar with the area in which the proposed project is to be undertaken 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 public hearing; now therefore,

BE IT RESOLVED, that the Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

#### FINDINGS OF FACT

The Applicant is seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576 –square foot canopy and replace it with another 24-foot by 24-foot, 576 –square foot canopy in the same location. The height to the top of the new canopy will be 17.5-feet, that is 3-feet lower than the height of the existing canopy. They will also be replacing the 2-existing gasoline dispensers with 2-new dispensers and removing the underground gasoline storage tanks and replacing them with new tanks. The structure is located in a “CC” Retail Commercial District and is occupied at a Motor Fuel Filling Station and Convenience Store.

The property has been the subject of four prior Resolutions of the Board:

- 1) On April 19, 1973, the Board granted the Grand Union Company a Special Exception to operate a combination convenience store and gasoline sales store at the property;
- 2) On October 17, 1979, the Board modified its 1973 Resolution by transferring the Special Exception to Stop-N-Go Foods, Inc., subject as well to fourteen (14) conditions listed in the 1979 Resolution;
- 3) On January 16, 1980, the Board modified its 1979 Resolution to authorize the construction of an additional underground gasoline storage tank; and

4) On July 21, 1982, the Board modified its 1979 Resolution by transferring the Special Exception to Dake Brothers, Inc. and Stewart's Ice Cream Company, Inc., and by modifying conditions 7, 8 and 9 of the 1979 Resolution.

The replacement of the existing gasoline tanks with new fiberglass tanks is necessary, as the outside wall of the existing steel tanks has broken down.

The new canopy and signage will enhance the appearance of the property.

No one spoke in opposition to the present application.

#### CONCLUSIONS OF LAW

The Applicant requires the requested modification of the Special Exception granted by the Board on July 21, 1982 in order to allow the listed improvements to its property.

Pursuant to Title 6, N.Y.R.R.R. § 617.5(c)(2), the Applicant's project is a "Type II" action under the State Environmental Quality Review Act.

The application is granted, subject to the following conditions:

1. The Board makes and continues the same Findings of Fact and Conclusions of Law as found in its prior Resolutions of October 17, 1979, January 16, 1980 and July 21, 1982, and further adopts and incorporates the entire transcript and testimony from the prior proceedings related to the property, as a complete part of the record of these proceedings.

2. Applicant shall notify the Town Building Department of the anticipated starting date(s) for all work authorized by this Resolution.

3. Applicant shall provide the Town Building Department with copies of all tank closure and soil removal reports, registrations and/or approvals submitted to or issued by the New York Department of Environmental Conservation (DEC) in connection with the replacement of the underground storage tanks at the property.

4. The work authorized by this Resolution shall be completed in strict accordance with all plans and specifications submitted by the Applicant, all governmental codes and regulations and all testimony presented to the Board.

5. The work authorized by this Resolution shall be completed within two (2) years of the date hereof.

July 7, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

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Mr. Wiggand made a motion that the Resolution be adopted, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert Wiggand			
Richard Lewis			
Gilbert Brookins			
Marjory O'Brien			

(Resolution filed with the Clerk of the Town of Bethlehem on July 8, 2004.)

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The next order of business was to consider the proposed resolution of New Visions of Albany, 334 Krumkill Road, Slingerlands, New York 12159.

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

## RESOLUTION

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\*

WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) by New Visions, formerly the Albany Association for Retarded Citizens (“Applicant”), for a modification to a previously granted use variance under Article VI, Permitted Uses, Section 128-12, Residence “A” District, for property at 334 Krumkill Road, Slingerlands, New York, to construct an attached pavilion at the rear of the existing structure on the premises at 334 Krumkill Road, Slingerlands, New York, and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the application 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 June 2, 2004; and,

WHEREAS, members of the Board are familiar with the area in which the proposed project is to be undertaken 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 public hearing; now therefore,

BE IT RESOLVED, that the Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

### FINDINGS OF FACT

The Applicant is proposing to construct a 1,582.64-square foot pavilion attached to the existing structure over an outdoor eating area. The original structure was granted a Use Variance in October of 1993 and a modification to that Variance was granted for an

addition in June of 1997. All area requirements for the proposed structure, which is located in an “A” Residence District, will be met. The property is used as a day treatment and residential facility and sheltered workshop for disabled adults, and administrative offices.

This property has been the subject of three prior Resolutions of the Board.

1. On February 3, 1988, the Board granted a Use Variance to allow the construction on the property of a single story, 72,400 sq. ft. day treatment, sheltered workshop and office building at the intersection of Krumkill and Blessing Road in the Town;

2. On October 6, 1993, the Board modified the 1988 Resolution to allow additional uses in the evenings and on weekends at the facility; and

3. On June 4, 1997, the Board further modified the 1988 Resolution to allow the construction of a one-story addition to the main building for storage purposes.

Applicant is now seeking to build an open-air “pavilion-style” roof structure over its existing patio (adjacent to the cafeteria) in order to provide outdoor, protected space which can be used as a classroom or leisure space by its consumers, many of whom are sensitive to the sun, or who require sun protection in the form of shade. Currently, New Visions does not have any protected outdoor space where its consumers can enjoy the out-of-doors and remain shielded from the sun. In addition, the grounds surrounding the patio will be professionally landscaped to provide a garden area complete with flowers, plants and vegetation, which will further enhance the beauty of the Center. The pavilion-style structure, which will be built in accordance with the aesthetic style of the overall Center, would accomplish the following objectives:

1. Provide outdoor protected space for consumers who are sun-sensitive,
2. Provide additional classroom space for consumers as they develop vocational and social skills necessary for the competitive employment and independent living, and
3. Enhance the beauty of the building and grounds.

The Applicant has agreed to plant three additional trees near the proposed canopy addition to provide natural screening from the residential neighborhood south of the property.

The Board finds that the Applicant's plans for the canopy addition have been well drawn.

Three persons spoke at the public hearing with questions regarding the Applicant's proposal, but no one expressed opposition.

#### CONCLUSIONS OF LAW

The Applicant requires modification of the Board's prior Resolution issued on February 3, 1988 in order to construct the proposed attached pavilion on its existing facility. The proposed pavilion will not be a detriment to or affect the character of the neighborhood.

The Board makes and continues all Findings of Fact, Conclusions of Law and conditions set forth in its prior three Resolutions, listed above, and further adopts and

incorporates the entire transcript and testimony from the prior hearings as a complete part of these proceedings and record.

The Board determines that, pursuant to Title 6, N.Y.C.R.R. 617.5(c)(7), the Applicant's present project consists of the construction of an accessory/appurtenant non-residential structure of less than 4000 square feet, does not involve a change in zoning, a change of use or a new use variance, and is consistent with local land use controls and with this Board's prior Resolutions. The project is a Type II action under the State Environmental Quality Review Act.

The Board grants the Applicant's requested modification to the previously granted use variance, subject to the following conditions:

1. The proposed construction shall be completed in accordance with the plans, specifications, exhibits and testimony given on behalf of the Applicant at the hearing.
2. Construction authorized by this resolution shall be completed within two (2) years of the date of this Resolution.

July 7, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

Mrs. O'Brien made a motion that the Resolution be adopted, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert Wiggand			
Richard Lewis			
Gilbert Brookins			
Marjory O'Brien			

(Resolution filed with the Clerk of the Town of Bethlehem on July 8, 2004.)

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On a motion made by Mr. Wiggand, seconded by Chairman Hodom, and unanimously carried by the Board, the minutes of the June 16, 2004, meeting were approved.

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

Meeting Adjourned: 8:40 p.m.

Respectfully submitted,

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Secretary