

**TOWN OF BETHLEHEM
BOARD OF APPEALS
July 16, 2003**

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
 Richard Lewis
 Gilbert Brookins
 Marjory O'Brien

Donald DeAngelis Attorney to the Board

Mark Platel Building Inspector

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

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, Article XVII, Side Yards, Section 128-73, Required Widths requested by Helen Ernst for property at 8 Boylston Drive, Delmar, New York. The Applicant wishes to construct a screened in porch, which will exceed the percentage of lot occupancy and also encroach into the side yard setback requirement 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 seeking Area Variances from Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings and Article XVII, Side Yards, Section 128-73, Required Widths.

The Applicant wishes to construct a 13.5-foot by 16-foot screened porch addition to the existing main structure. The total new building area will be 184 square feet, which when added to the existing will create a total main structure of 1,875.44 square feet, which is 261.2 square feet over the 1,614.24 square feet allowed. The lot occupancy will be 17.43 percent, which is 2.43 over the 15 percent allowable. Also after the addition was to be constructed the side yard setback will be 8.15-feet, which is 1.85-feet shy of the 10-feet required.

The existing main structure is occupied as a single-family dwelling and is located in an "AA" Residence Zone.

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

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town on Bethlehem, Albany County, New York will hold a public hearing on, Wednesday July 16, 2003 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Helen Ernst, 8 Boylston Drive, Delmar, New York for Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, Article XVII, Side Yards, Section 128-73, Required Widths of the Code of the Town of Bethlehem for construction of a screened in porch, which will exceed the percent of lot occupancy and encroach into the side yard setback requirement at the premises 8 Boylston Drive, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the July 9, 2003 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. Anyone desiring to speak will be allowed to do so, we just request that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board. Mrs. Ernst, just introduce yourself and tell us what you want to do and why you want to do it and how you want to do it.

MRS. ERNST: Sure. I'm Helen Ernst and I live at 8 Boylston Drive with my family. We'd like to build a screened in porch in our back yard to be able to eat without the bugs. We have kind of a strange shape to the back of our yard, which made it really difficult to figure a method to fit that screened in porch in which is why we are asking for the Variance. I do have letters from our immediate neighbors that border the backyard on all 3-sides as well as our 2-neighbors across the street. So that's basically the immediate neighbor's all saying that they would not have a problem with the Variance.

CHAIRMAN HODOM: Would you like to put those on the record?

MRS. ERNST: Sure.

CHAIRMAN HODOM: Are these letters something that you obtained?

MRS. ERNST: I did on my own.

CHAIRMAN HODOM: Okay. And in your discussion with your neighbors, were you able to show them your plans of what you proposed to do?

MRS. ERNST: Yes.

CHAIRMAN HODOM: And what it would look like eventually when it was completed?

MRS. ERNST: Yes.

CHAIRMAN HODOM: Okay. Could you tell us a little bit how the proposed addition would look like architecturally, how it blends in with the home?

MRS. ERNST: Well, it should look just like an extension of the house. It will be all screens around on 3-sides, it will be the same height as the existing deck is 2-levels, the bottom is going to go away and be replaced with this screened in porch, which will be the same level as the existing deck. So that should just kind of look straight across in the back. It's got a shed roofline on it; I mean it's not going to be anything terribly exciting. It's a screened in porch. We're going to match the siding to the house and stuff so that it should blend in. The entrance to it will be off our dining - with French doors off the dining room and it will also have a slider that will go out onto the deck.

CHAIRMAN HODOM: This would be considered like a 3-season room?

MRS. ERNST: Yes, no heat.

CHAIRMAN HODOM: You don't intend to run any plumbing out there or any heating out there?

MRS. ERNST: There will be an electrical going out there for a ceiling fan and that's about all that's going out there.

CHAIRMAN HODOM: It is your intent to maintain this residence as a single-family dwelling?

MRS. ERNST: Yes.

CHAIRMAN HODOM: It's not your intent now or in the future to turn this new addition into a rental room or anything of that nature?

MRS. ERNST: No, no it's just our family and our dog.

CHAIRMAN HODOM: Can you tell us a little bit about the make up of your family?

MRS. ERNST: Sure. My husband's right here and we have two sons, a freshman in high

school and a sixth grader, both boys.

CHAIRMAN HODOM: Does anyone in the family have any allergies to insects or bee stings or anything of that nature?

MRS. ERNST: No.

CHAIRMAN HODOM: Are you currently under contract to have the addition constructed?

MRS. ERNST: We don't have a signed contract, but I have my builder here with us.

CHAIRMAN HODOM: Okay. If the Board were to approve the application, what kind of construction schedule are you looking at to start and to complete?

MRS. ERNST: It's under discussion, but I think it would be within the next 3-months.

CHAIRMAN HODOM: To start and complete?

MRS. ERNST: To start and to finish.

CHAIRMAN HODOM: Okay. The - - maybe I can address this to your builder; I know that you have some foundation plans and a framing plan. We're these developed by yourself or were they developed by...

MR. DICKENSON: No, they were developed by an architect.

CHAIRMAN HODOM: By an architect?

MR. DICKENSON: Yes.

MRS. ERNST: Right, they were done by George Farnum.

MR. DICKENSON: George Farnum.

CHAIRMAN HODOM: If you would identify yourself as well.

MR. DICKENSON: My name is Ken Dickenson. George Farnum is an architect; he did the prints for us. He's out of Ballston Spa, I believe.

CHAIRMAN HODOM: So they would meet all the State, Federal, County and Local Codes?

MR. DICKENSON: Yes.

CHAIRMAN HODOM: Helen, I know you gave me a copy of that larger print today or yesterday.

MRS. ERNST: Did you take one? No you didn't take it but I can give you one.

CHAIRMAN HODOM: I thought there might be one in the file, but there wasn't one.

MRS. ERNST: No, they just came. You more than welcome to...

CHAIRMAN HODOM: Would you mind submitting one of those for the record just so that we see that it's stamped by an architect and prepared by an architectural firm? George T. Farnum, 78 Front Street, Ballston Spa, New York. Okay. And I would imagine once these are submitted to the Building Department, if the Applications approved, it would be stamped by the architect?

MRS. ERNST: Okay.

CHAIRMAN HODOM: How long have you lived at the residence?

MRS. ERNST: We moved in in 1990.

CHAIRMAN HODOM: Will this addition affect that pond at all?

MRS. ERNST: No, the pond is in the corner.

CHAIRMAN HODOM: The runoff off the roof won't affect the pond?

MRS. ERNST: I hope not.

ATTORNEY DEANGELIS: It's going to affect your rear windows though, is it not? You're going to lose them aren't you?

MRS. ERNST: There's a double window in my dining room right now that will be lost and replaced with the French doors. So that's the modification.

ATTORNEY DEANGELIS: Just the double window then?

MRS. ERNST: Just the double window. The other windows in the kitchen, that's going to stay.

ATTORNEY DEANGELIS: Would that be looking into the screened porch?

MRS. ERNST: It'll be looking into the screened porch, yes.

CHAIRMAN HODOM: The existing fence and the existing shrubbery; trees and so forth will remain as they currently are established?

MRS. ERNST: Yes.

CHAIRMAN HODOM: It is a pretty well protected lot; it doesn't affect an awful lot of people that can see it. The only one I think is on your – as you're looking at the house on the left hand side.

MRS. ERNST: Yeah, that would be the Dorman's and they signed a letter.

CHAIRMAN HODOM: Other questions from the Board?

MR. WIGGAND: The only question that I might have on it; I noticed that you have 2- windows where you're going to place that French door, that 60-inch door.

MRS. ERNST: Yes.

MR. WIGGAND: You don't create a real problem of going over that property requirement. That's the size of this, 16-foot in width. My first question before I saw this plan here would have been why couldn't you come back like a foot or so, or 15-inches or something. It wouldn't require that side yard problem where you come into that line.

MRS. ERNST: What happens is the door doesn't fit in the dining room at that point. The door has to fit in the dining room.

MR. WIGGAND: Oh, I understand it but that's a large door. You couldn't do with a smaller door.

MRS. ERNST: It would have to be like a single door instead of an out-swing French door. I think it was to make sure...

MR. WIGGAND: You have a 5-foot door there.

MRS. ERNST: Right, it's a French door. I wanted to have light coming into the dining room.

MR. WIGGAND: You have a very peculiar; you know the lines of your lot there. You're not over by much, just in that little corner.

MRS. ERNST: No, I know just the corner.

MR. WIGGAND: I don't want you to think I'm making a big deal out of it. Now the other question I have; with that row of trees there, we couldn't possibly find a property line. Are those trees on your property?

MRS. ERNST: Those trees are on the property line basically. There is actually a pipe if you go behind the fence, behind the trees. The people probably who originally who lived

in the house – when the house was built back in the early 70’s probably put those trees on the lot. And it’s really right on the line; some of them are on one side or the other. That’s basically the property line is the tree trunks.

MR. WIGGAND: Well it’s very difficult to see exactly where that line is. That is a peculiar shape lot.

MRS. ERNST: Very peculiar.

MR. WIGGAND: I can see your problem with that. The French doors that you chose to use, that’s why you wanted to have it the 16-foot width; to have room to put those doors in. Is that petition here where it shows the dining room – is that petition where it’s actually in your home now existing?

MRS. ERNST: Yes, that’s there right now. Where the windows are actually centered in the dining room, so we’re actually moving over a little bit.

MR. WIGGAND: Okay; now I understand.

MR. DICKENSON: Her original idea or plan was to start at the flush right hand window, which would have pushed us further over that property line; that Variance line so I suggested that we slide the door all the way over to the one corner, take the windows right out; clean up the wall and thereby minimizing the amount that we’re going to cut into that.

MR. WIGGAND: You put that door tight against that existing wall.

MR. DICKENSON: Right. I just slid everything right over and originally we were going to try to center the door, but that would have put us that much further out.

MR. WIGGAND: That would have given you a little more of a problem.

MR. BROOKINS: Some of your sketches and drawings show a roof window or skylight and some of them don’t.

MRS. ERNST: I definitely am going to have two skylights.

MR. BROOKINS: Okay. That will help you with the light you’re going to be losing into those interior rooms.

MRS. ERNST: I have beautiful trees, I don’t know if you guys - - everyone else got to see my back yard. There’s beautiful trees, really large mature trees on the lot and so I also want the skylights to be able to look up once in a while and see the trees.

MR. LEWIS: The skylight’s are on that?

MR. BROOKINS: They are on there.

CHAIRMAN HODOM: Mrs. Ernst, had you considered possibly using the existing 72-inch doors on your upper deck and moving the proposed covered porch to that area?

MRS. ERNST: Yeah, I guess - - the reason for doing it this way is because of the dog. We have a greyhound and she needs to get out and run and that's why we fenced in the back yard. So, she goes in and out right now, you know you open the sliding glass door off the kitchen and out she goes right into the yard. I didn't want her to have to go through the porch and get the porch all dirty and muddy and snowy in the winter. And then have her come in and so I would have to open 2-doors as well. I'd have to, you know open the door to the screen and open the door to the house to get her in and out each time. So in bad weather that would be a miserable task, and I didn't want all her mud and stuff coming through the screened porch. We opted to do that separately so that we still have that exit through the kitchen directly out; she can go directly from the deck into the yard without ever going onto the screened in porch.

CHAIRMAN HODOM: Understood, but if you had moved the proposed covered porch to the upper deck...

MRS. ERNST: Yeah?

CHAIRMAN HODOM: Maintaining that existing 72-inch door and then made another exit from the house to the lower deck, wouldn't you accomplish the same end?

MRS. ERNST: From my dining room to the lower deck?

CHAIRMAN HODOM: Yes.

MRS. ERNST: I don't want her coming through the dining room. I want her coming into the kitchen onto a tile or it's a linoleum floor where I have a rag and I catch her and wipe off her feet.

CHAIRMAN HODOM: What is the current flooring in the dining room?

MRS. ERNST: Wood.

CHAIRMAN HODOM: Okay. That would alleviate one of the Variance requirements if you could move it to that upper deck. Your only reason that you didn't consider moving it to the upper deck was because of the dog?

MRS. ERNST: Well it's that and there's also - - there's a wall there so you would have some pretty fancy work to do with the roof line, because you'd be right against the family room there to.

CHAIRMAN HODOM: I don't know, would the roof line change with all that?

MRS. ERNST: Yes. There's a different roofline over the garage and family room than the rest of the house.

CHAIRMAN HODOM: But the garage is parallel to your edge of your upper deck, so you wouldn't have to go and affect the garage roof. If I'm looking at it correctly, you could move that proposed porch over this way and not affect the ceiling line – or the roofline.

MRS. ERNST: It would have to be up against that other roofline.

CHAIRMAN HODOM: But it would probably be about the same pitch or close to it.

MRS. ERNST: It was just another added thing that we would have to work out. It was really the dog that was my major concern.

CHAIRMAN HODOM: How long have you had the dog?

MRS. ERNST: 3-years.

CHAIRMAN HODOM: 3-years?

MRS. ERNST: Yes. She's in charge of the - - can you tell?

ATTORNEY DEANGELIS: Don't make her get rid of the dog.

CHAIRMAN HODOM: I didn't say anything about getting rid of the dog. My dog goes through the dining room all the time. Any other questions from the Board? Any questions or comments from the audience? Anyone wishing to speak in favor of the Applicant? Mr. Ernst, this is your time to speak. You can speak in favor or against, which ever you choose.

MR. ERNST: Should I speak in favor or against?

MRS. ERNST: I think you're in favor.

MR. ERNST: I speak in favor of it.

MR. DICKENSON: As the contractor, I'll speak in favor of it as well.

CHAIRMAN HODOM: Okay. Anyone else desiring to speak in favor of the Applicant? Anyone desiring to speak in opposition? 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.

MRS. ERNST: Thank you.

Hearing closed 8:40 p.m.

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The next order of business this evening is a reopening of a hearing for a Variance under Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings and Article XVIII, Rear Yards, Section 128-79 A (2), Required Depths requested by Douglas Bender for property at 14 Quail Hollow Road, Glenmont, New York. The Applicant wishes to construct a 4-season room, which will exceed the percent of lot occupancy and encroach into the rear yard setback requirement at the premises of 14 Quail Hollow Road, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is the re-opening of a previously adjourned public hearing. The Applicant is seeking area variance from Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, and Article XVIII, Rear Yards, Section 128-79, required Depths.

The Applicant had a 3-season room constructed without obtaining a building permit on top of the existing deck, which has an existing variance granted in April of 1991 for the rear yard setback encroachment. The rear yard setback will be 20-feet, which is 5-feet shy of the 25-foot required and the lot occupancy will be 17.11 percent, which is 2.11 percent over the 15 percent allowed. The total building area will be 1,941.57 square feet, which is 239.22 square feet over the 1,702.35 square feet allowed by a lot consisting of 11,349 square feet.

The existing structure is occupied as a single-family dwelling and is located in an "A" residence zone.

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 of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, July 2, 2003, at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Douglas Bender, 14 Quail Hollow Road, Glenmont, New York for Variance under Article XVIII, Rear Yards, Section 128-79 A (2), Required Depths of the Code of the Town of Bethlehem for construction of a 4-season room, which will encroach into the Rear Yard Setback requirement at premises 14 Quail Hollow Road, Glenmont, New York 12077. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 25, 2003 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. Mr. Bender, you can make an additional presentation. Is your builder here this evening?

MR. CRONIN: I'm here, thank you.

MR. BENDER: The last time I was here, I was asked about bringing letters from my neighbors about this.

CHAIRMAN HODOM: Yes.

MR. BENDER: And Mr. Flynn is the neighbor that's right in the back; you know that I'm encroaching on.

CHAIRMAN HODOM: Okay.

MR. BENDER: Then one of my other neighbors gave me a letter. Do you need the envelopes or just the letters?

CHAIRMAN HODOM: The letters are fine, thank you. These are letters that you obtained yourself Mr. Bender?

MR. BENDER: Yes.

CHAIRMAN HODOM: And these were obtained after the structure was constructed?

MR. BENDER: Yes sir.

CHAIRMAN HODOM: Okay. Were you able to talk to any other neighbors?

MR. BENDER: I asked a couple of neighbors on the side and the neighbor on the one side where it's – that it's closest to. I asked them if they would write a letter and they indicated that they would, but you know they never wrote the letter for me so I didn't want to bug them too much.

CHAIRMAN HODOM: Understood. This is your builder here, Mr. Cronin?

MR. BENDER: Yes sir.

CHAIRMAN HODOM: Mr. Cronin why don't you if you would, introduce yourself when you start, but I'd like to hear why you did what you did in the Town of Bethlehem.

MR. CRONIN: My name is Tom Cronin; I'm owner of C.E.I. Limited, I also own 4-season sunroom franchise; I'm a builder within the region and there is no reason that I

can give the - - and I realistically ask the forgiveness of Mark because I put him in a bad position. We had applied for the permit and with...

CHAIRMAN HODOM: Well let me ask you this first, you applied for the permit, but you're already substantially complete with the construction?

MR. CRONIN: I don't believe we're substantially complete.

CHAIRMAN HODOM: When did you apply for the permit?

MR. CRONIN: We initially applied in April, but I didn't have a notarized copy and my - - someone had attempted to drop off the paper work in April and then some Town's accept it without a notarized signature, others do not. He then brought it back to the office, another week went by and back and forth and I had to come down and have the signature notarized, and I dropped off the paperwork. In the construction schedule, the room had already been delivered. There was a pre-existing deck....

CHAIRMAN HODOM: When was the room delivered?

MR. CRONIN: On, I'm not sure - May - let's see. It was the end of May; I don't have the exact date. I apologize; I don't have that exact information. But what happened was is that being a contractor and builder; I made the mistake of starting without the permit. Construction schedule being what it was, I - - in likely sometimes, we make mistakes; we ask permission or we ask forgiveness. In this case I'm asking forgiveness. I usually do, and I've had - - I'm working on three other projects in Town; followed all the procedures, applied for the permit; when the permit's issued, I start construction. In this case, it was a pre-existing deck, I thought it would be a simple approval and we proceeded without the permit. It's my fault.

CHAIRMAN HODOM: Do you agree that it was your obligation to obtain the permit?

MR. CRONIN: Absolutely.

CHAIRMAN HODOM: Okay, so there's no question about that because there was a conflict in your documents. The original contract stated that the owner's responsible for the permit's required for the work.

MR. CRONIN: It's my responsibility. I do that as a procedure for - - and on behalf of the client because we have to obtain the architectural stamped approved plans and that's impossible for the homeowner to obtain. I mean, they can do it but it's a long arduous task for them to do that so I take that responsibility on every permit that I submit and I've submitted other plans; we're working on 2-rooms now, completing another one and I have another one I'm submitting to the Town so it's my fault.

CHAIRMAN HODOM: When did the work actually start?

MR. BENDER: I'm not sure, very end - - I'm kind of trying to remember, it's like the very end of Aprilish, yeah. I couldn't give you a date.

CHAIRMAN HODOM: Was it – well let me go over your schedule. And I'm working from the date of acceptance, which was February 25, 2003. This is your target schedule, which if you take it in general terms it was 11-18 weeks from architectural plans to completion. If you take it by the schedule that you have, the 3-4 weeks to produce architectural drawings would have been March 18th through March 25th, 4-8 weeks to obtain a building permit; you have a nice window there. That would have been April 15th to May 13th. So you did allow some time for the building permit, but you neglected to get one.

MR. CRONIN: I didn't apply on a timely basis; it's my fault. We obtained the architectural plans; it takes time to get them stamped. It was my error and with the expansion of my company and I am the source of that. I am the one who generates the architectural plans and my architect stamps them off. I do the permit app. And I'm training other people to do these other things and I have 6-crews out there. So I dropped the ball; it's my mistake, it's my fault.

CHAIRMAN HODOM: Did the savings, the sale saving of 5,000 dollars have anything to do with the expedition of the start of construction? Did that affect you?

MR. CRONIN: No, not necessarily. The effect is that there were certain sales going on at certain times for processing of the order and ordering the room. The room is then dropped, and ordered within a certain time period. Usually what I do is permit, architectural plan, - - architectural plan, permit. Once that's issued then I order the room. Because of my time constraints and my schedule, I dropped the ball on that and that's not what I normally do but in this case I dropped the ball; it's my fault.

CHAIRMAN HODOM: You mentioned earlier that you have other work proceeding in the Town of Bethlehem. Do you have building permits for each of those other projects?

MR. CRONIN: Every one of them, every one of them. The Avella's, the Lanes; we have another one we just contracted for with the Johnson's. Each one of them we applied for the permit on time and with architectural plans, the room was not started or attempted to be started until the permit was issued. In this case here I dropped the ball; it's my mistake.

CHAIRMAN HODOM: Had you worked in the Town of Bethlehem previously?

MR. CRONIN: I don't believe that I had worked specifically within this Town with permits; no. I've - - you know it's within the 4-season sunroom franchise that I own, with my company I had not applied in this Town before, no.

CHAIRMAN HODOM: But you were aware that prior to starting construction you should have a building permit?

MR. CRONIN: Absolutely.

CHAIRMAN HODOM: Richard?

MR. LEWIS: I was just going to say that on the last page of the contract, because start dated was 04/25/03. I don't know whether that was an anticipated date because the contract date was 02/25/03, but it was probably somewhere in there.

MR. CRONIN: I try to stay on a time schedule and that was my target start date. The room was in just about that time. I can't remember the exact date that we started.

MR. LEWIS: But it will be around that date?

MR. CRONIN: Approximately. So again if I had applied properly on a timely basis like I should have, then the permit or the fact that we needed a Variance would have been brought to my attention if I had done that. Here basically I got caught with my pants down because I pre-empted the work on a pre-existing deck. I thought this shouldn't be a problem and I started on contract time correctly but without the permit, so that's my fault.

CHAIRMAN HODOM: When we adjourned the hearing previously, the Building Department wasn't sure if they had adequate construction drawings or not, and this Board will not make a determination if we do not have adequate construction drawings. Do we currently have adequate construction drawings?

MR. PLATEL: I just got these today a little after 4, well actually I just got them when I was upstairs. They were in the Supervisors office; they were locked – just got them about 7:00 p.m. I can look at them tomorrow.

CHAIRMAN HODOM: You haven't had adequate time to review them?

MR. PLATEL: Not right at this minute, no.

MR. BROOKINS: Mark, has anybody from the Building Department actually been down there to make a field visit?

MR. PLATEL: No. Well I stopped one day after Mike stopped by.

MR. BROOKINS: But since our last meeting?

MR. PLATEL: No, I have not.

MR. BROOKINS: Okay.

MR. CRONIN: Structurally what we did and I explained it to Mark earlier, but the - - it was a pre-existing deck, which was structurally sound and obviously a Variance had been

applied for and approved. What I did to enhance it was not necessary, but what I did to enhance it was I – on each corner, they had – the corner was cut at a 45 and stairs going to the outside. My opinion was that - - and you know what we did was we added sono tubes to the 2-corners and extended the deck structure out with the 2 x12 extension of base wall structure to ensure that there would be adequate support. The existing structure would do that but I felt it was more important to do that. And then we put the stairs there and we put concrete steps – or concrete platform at the edge of each stairs to ensure proper passage in and out of the room. The - - we reinforced the whole front beam with a 2 x 12 double header to ensure that. The weight load factor in the outside was carried and covered properly.

CHAIRMAN HODOM: Mr. Cronin, are you the licensed architect and engineer?

MR. CRONIN: No. I have the schooling for it, but I'm not licensed.

CHAIRMAN HODOM: Because my interpretation of Town Code is if it's an occupied space, the requirements compared to a deck are totally different. You do need a certified foundation plan for an occupied space rather than just a plan.

MR. CRONIN: Yes.

CHAIRMAN HODOM: I don't know if C.E.I. limited or 4-season sunrooms have an architect on staff or an engineer on staff.

MR. CRONIN: I do, and I can get a – the deck plans I had shared with Mark that I could get those stamped as well as a letter attesting to the construction that it's been built to Code.

CHAIRMAN HODOM: I think that's what this Board would be looking for.

MR. CRONIN: I'll make sure of that. I can get that within a week's time easily.

CHAIRMAN HODOM: Okay. I know when I was down there it wasn't very easy to see what had been done to the foundation under the deck. It was enclosed, so it may very well be necessary for you to remove any kind of obstructions on the outside of that deck so that the Building Department can make their necessary inspections.

MR. CRONIN: I would also dig down and show the sono-tubes to show that we went the full 4-foot down on the two sono-tubes that we added. If need be I'll do that.

MR. LEWIS: Mr. Cronin, have you done anything to amend this contract so you don't have the conflict that you have where on one page you say the owner's responsible for all permits, etc. And two pages later under project, you say that you are to submit the Building Department a completed application for a building permit together with the working drawings, etc. One page contradicts the other. Don't you think it would be – that this sentence putting the obligation on the owner to get the permits should be stricken?

MR. CRONIN: We - - there are certain circumstances where the owner does obtain the permit, and the architectural plans and other circumstances where I do. The contract is a generic contract in the computer, which specifies that but then we address it and it includes here on page 6, it says all aspects of insulation, flashing and calking, Architectural drawings and building permit are included.

MR. LEWIS: But I just think it should be amended someplace to say the owner or contractor is responsible...

CHAIRMAN HODOM: Perhaps the method of resolving that in the future Mr. Cronin, we're not trying to tell you how to operate your business, but you could just cross out that sentence in the contract if it's going to be handled by you. That way it would alleviate any future problems you might have in other instances.

MR. CRONIN: Okay. I understand; I'll look into that.

ATTORNEY DEANGELIS: What you indicate, Mr. Cronin is that there are some projects where the owner actually gets those documents?

MR. CRONIN: It depends because I'm also a general contractor. I do additions, housing, window sliding door additions; I do total rehabs as well. We do garages, we do kitchens, you know so I'm a full general contractor. At times the homeowner will contract their architect and give me a set of plans and I'll build to spec. so in that case that's their responsibility. That's why the contract in page 1, it addresses that it's you know their responsibility, but then in page 3, it specifies that - - it says we will prepare the work and drawings for the additions, submit to the Building Department and pay the required fee and obtain the building permit, project to meet local codes.

ATTORNEY DEANGELIS: Would you use this same contract for a garage?

MR. CRONIN: Oh no, I'm just saying, you know well 4-seasons does have garage additions as well, so they do that sometimes prefab, sometimes I'm mixing a prefabricated room with a stick built addition. So it might be all in one inclusive contract. In this case it was specifically geared towards this room alone so yeah, I could initial that so that this way it's....

CHAIRMAN HODOM: I think that the easiest way for you, I mean again we're not trying to tell you how to run your business, but cross it out and you initial it and your client initials it and then it's not an issue any longer.

MR. CRONIN: Quite honestly it's never come up before. I've worked within the rules and in this case I made a mistake.

CHAIRMAN HODOM: Are you 100 percent complete?

MR. CRONIN: There's just some minor touch ups and a few things, other than that we are 100 percent complete. It's not a heated room; it's a 3-season room.

CHAIRMAN HODOM: I understand that now, after talking to Mr. Bender at the last hearing. Did, and I'm following page 5 of 8 under the foundation, I guess you just received some foundation plans Mark, that's what we got tonight?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Were the 8-inch diameter piers flared at the bottom to 16-inches?

MR. CRONIN: Yes, we used big foots.

CHAIRMAN HODOM: How do you flare it at the bottom to 16-inches?

MR. CRONIN: You would build a - - you would dig a 16-inch wide hole, you would put a big foot, which is a circular unit and then it cones up to a center and then you put in your 8-inch or I use 12-inch depending on the structure. And then you put your sono-tubes sitting in the center and then you'd pour your concrete in - flares into the extended big foot. And then you back fill around the - - you know once it's poured.

CHAIRMAN HODOM: Sounds like a good system to me - and your back fill, do you compact your back fill with a tamper or anything of that nature?

MR. CRONIN: It's - well, the cone now has 24 or 16-wide depending on the structure, it's solid concrete. So when you put this sono-tube within the big foot structure, the concrete fills all the way to the outside. So now you have a 16 or 24-inch round circular unit that it this high.

CHAIRMAN HODOM: Is there any reinforcing in that?

MR. CRONIN: I'm sorry?

CHAIRMAN HODOM: Any reinforcing bars?

MR. CRONIN: No, solid concrete.

CHAIRMAN HODOM: It's just concrete?

MR. CRONIN: Right, and obviously the objective is to, you know stop the cantilevering or potential - - especially in clay based areas along riverbeds, we always use the big foots. And then we usually go 24 with a 12-inch sono-tube.

CHAIRMAN HODOM: Was any of that submitted to the Town? Your big foot installation, was that part of the foundation plan that you submitted?

MR. CRONIN: I don't recall.

MR. PLATEL: Not on what I got today.

MR. CRONIN: I don't have a copy of my initial application.

CHAIRMAN HODOM: I would prefer that whatever you did there, that you submit to the Building Department for their review and acceptance, okay?

MR. CRONIN: Okay.

CHAIRMAN HODOM: Not a problem?

MR. CRONIN: No, not at all.

MRS. O'BRIEN: These plans that were submitted today, that were obtained from Curtis Lumber, is this the original deck plans?

MR. CRONIN: No, we supplemented just the corners of the existing deck.

MRS. O'BRIEN: No, what I'm saying is where do these come from? What are they showing, and why do they come from Curtis Lumber? Who did the original deck?

MR. CRONIN: I'm - - that's part of the permit process that's on file with the Town.

MRS. O'BRIEN: But you got these plans from Curtis based on what you told him was there?

MR. CRONIN: The existing structure, right.

MRS. O'BRIEN: Existing structure?

MR. CRONIN: Exactly.

CHAIRMAN HODOM: Mr. Cronin, you don't show any flared piers there either.

MR. CRONIN: Yeah, I have to double-check that. I was - I rushed that this afternoon to get that to Mark, but I'll - - whatever I did and whatever it is, I'll make sure I get to Mark properly.

ATTORNEY DEANGELIS: Mr. Cronin, do you understand that the Building Department must have on file exactly what you built there. Seriously sir, they've got to know exactly what you did there.

MR. CRONIN: I understand.

ATTORNEY DEANGELIS: Because it could come back to haunt them later on.

MR. CRONIN: I understand, I know what you're saying.

ATTORNEY DEANGELIS: If there's something wrong with those footings or anything else, the homeowner is going to go see the Building Department. So they've got to know exactly what you did, that's why they look at the plans first.

MR. CRONIN: I understand that. That's why even with my clients, I explain to them that the Building Department is not there to hurt you; it's there to protect you from bad contractors. And I understand that because some people say oh, go ahead without a permit. I say no, I'm not going to build without a permit, or like the light vent schedule, I say you have to add skylight to supplement the loss of light within the room and so I work with all Building Departments. Mark knows, I have two rooms ongoing now, one's completed, one's being finished. I have another one that I'll be submitting shortly, so I want to have a good relationship with the Town.

CHAIRMAN HODOM: We won't close the hearing this evening because of the lack of information.

MR. CRONIN: Okay.

CHAIRMAN HODOM: And we'll leave it between you and the Building Department to satisfy their needs before we make a final decision in this matter. Our decision is made totally separate from the Building Department, but we are not about to make a decision without knowing what's there currently is adequate.

MR. CRONIN: I understand sir.

CHAIRMAN HODOM: We ultimately could deny the Variance, and we're back to square one. Let me ask you this Mr. Cronin, if this Board were to deny the Variance, what is the position of your company?

MR. CRONIN: I don't know. I've never been in this position before. I would do whatever is necessary to make it right.

CHAIRMAN HODOM: Which ultimately could be to remove the structure that you currently have installed, and put the deck back to its original condition.

MR. CRONIN: Hopefully we won't come to that, but if that is what it is, it's my responsibility.

CHAIRMAN HODOM: As long as that's understood. Any other questions from the Board?

MRS. O'BRIEN: Yes, I still have questions about the plans.

CHAIRMAN HODOM: Sure, go ahead Marge.

MRS. O'BRIEN: You went to Curtis Lumber today in Ballston Spa?

MR. CRONIN: Yes.

MRS. O'BRIEN: What did you give them, or what did you ask them?

MR. CRONIN: I told them that I had a pre-existing deck structure that I augmented the exterior with sono-tubes in the corners and braced the front with a 2 x 12 beam and you know, supported it for the outside structure. I said, you know generate a set of plans to show existing deck with the corner sono-tubes that we had submitted.

MRS. O'BRIEN: Okay, so they gave you a plan of a deck.

MR. CRONIN: Right.

MRS. O'BRIEN: That would support the load that you're talking about.

MR. CRONIN: Correct.

MRS. O'BRIEN: But we don't know that this is what is existing. There's no way for us to know that this is what's there.

MR. CRONIN: I'll pull the set of plans of the old deck; I had analyzed, I had reviewed it and what I will do is pull the old files and see what the deck design was prior, then ensure that these coincide with what I did to augment that. And to ensure that it's built to...

MRS. O'BRIEN: Even to the extent that you said you put additional posts on the corners, and they show the posts, you know equally spaced here. If the deck was at this angle, is that where the posts were or were they at the further ends of the angle?

MR. CRONIN: No, the angles – they were cantilevered. So, that basically shows the location of the existing sono-tubes, but I'll verify that. I'll pull the existing plan and then I'll resubmit to Mark the exact drawings, which we...

MRS. O'BRIEN: And this is something that Curtis Lumber says this is the kind of structure you would need to support this kind of a load?

MR. CRONIN: The load factor, exactly.

MRS. O'BRIEN: So you're working, I don't want to say ass-backwards but...

ATTORNEY DEANGELIS: That's a good word.

MRS. O'BRIEN: I mean you're saying what do I need to do what I've all ready done, rather than this is what we've got, will it support what we've done?

MR. CRONIN: I had reviewed it with my architect engineer in advance; there was just two minor corners that we were supplementing the corners. The front load factor was already there pre-existing to support a deck structure. I wanted to augment that and structurally make it sounder for the corner because it's a...

MRS. O'BRIEN: But this is not...

MR. CRONIN: I understand that.

MRS. O'BRIEN: This really is not factual as far as what's there. We really can't use this at all.

MR. CRONIN: Well that's why I'm going to go back to the Town, pull the old permit, see what deck was built; the plans from that, make sure the exact location of the other sono-tubes is there and then what I did...

MRS. O'BRIEN: And the beams and everything else that they're saying you need.

MR. CRONIN: Right, everything. And then I will resubmit to Mark the augmentation that I did to the existing deck and then that will be resubmitted.

MR. LEWIS: Mr. Cronin?

MR. CRONIN: Yes.

MR. LEWIS: Considering the circumstances involved with this project, if the Building Department were to ask you to open up part of the room to substantiate what you're going to be submitting, visual substantiation. Would you be willing to do that?

MR. CRONIN: Whatever's necessary.

MR. LEWIS: So, if Mark or Kevin Shea or somebody from the Building Department say we want to take a look at this, you would make yourself available to whatever they thought was reasonable?

MR. CRONIN: I can do that, absolutely, whatever's necessary.

CHAIRMAN HODOM: Mr. Bender do you recall, did Curtis Lumber design the original deck?

MR. BENDER: No, not to my knowledge. We had - - I know the contractor came out

and put it up so I wouldn't think that Curtis Lumber did it, because we kind of had it built to – my wife kind of designed it so I don't think it was anything that was like bought off the shelf type thing. So, I wouldn't think that Curtis Lumber did it; I don't think so. I don't know.

CHAIRMAN HODOM: Do you have the – well we have it on file, correct?

MR. PLATEL: Yes we do.

MR. CRONIN: That's why I want to go to Mark, we'll pull it from the file and see exactly what was there and then show the augmentation.

CHAIRMAN HODOM: Any other questions from the Board.

MR. CRONIN: Again I apologize, this will never happen again.

CHAIRMAN HODOM: I trust not. Mr. Bender, again I'm going to ask you to allow this Board to adjourn to a date uncertain until we find out all the facts and ramifications of the deck and the addition. And this no promise that even if everything is good, that this Board is going to approve your Variance, but before we can take any action we have to know what's there. Do you have any objection to adjourning this hearing to a date uncertain until we find out all the facts?

MR. BENDER: No I do not.

CHAIRMAN HODOM: All right. Mr. Cronin, I would strongly suggest that you sit down with the Building Department tomorrow and whatever they request from you, that you provide them in a timely manner so that we can get this matter resolved as soon as possible.

MR. CRONIN: If Mark tells me to be there at 8:30 tomorrow, I'll be there.

On a motion made by Mr. Brookins, seconded by Mrs. O'Brien and unanimously carried by the Board, the public hearing was adjourned to a future date.

Hearing adjourned 8:25 p.m.

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The next order of business was to consider the application of Daniel Walsh, 33 Placid Lane, Glenmont, New York 12077. 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 Daniel Walsh, 33 Placid Lane, Glenmont, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for construction of a 3-season room, which will exceed the percentage of lot occupancy at the premises 33 Placid Lane, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held August 6, 2003 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Chairman Hodom 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 George Magony, 455 Elm Avenue, Selkirk, New York for Area Variance under Article XI, Height Regulations, Section 128-44 (c), General Limitations for construction of a garage, which will exceed the height requirement at the premises 455 Elm Avenue, Selkirk, New York. The following points were brought up by the Board members: There is plenty of land on the property to build within the Code of the Town of Bethlehem. It is an "A" residential district and the style of the proposed garage is commercial. The case presented by the Applicant was not compelling and did not show a significant hardship. On a motion made by Mr. Lewis, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney DeAngelis to prepare a proposed resolution denying the Variance, for presentation at the next Board meeting on August 6, 2003.

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The next order of business was a discussion of the previous public hearing held in the matter of Helen Ernst, 8 Boylston Drive, Delmar, New York 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 construction of a screened porch, which will exceed the percentage of lot occupancy and encroach into the side yard setback requirement at premises 8 Boylston Drive, Delmar, New York. The following points were brought up by the Board members: The lot is oddly configured. The reasons presented were valid. The Applicant made accommodations to minimize the side yard setback. There was no opposition from the adjoining neighbors. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney DeAngelis to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on August 6, 2003.

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On a motion made by Mr. Lewis, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the July 2, 2003, meeting were approved.

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

Meeting Adjourned: 8:55 p.m.

Respectfully submitted,

Secretary