

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
June 1, 2005**

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

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

Michael Moore Attorney to the Board

Mark Platel Building Inspector

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

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem; welcome this evening. The first order of business this evening is a public hearing for a Variance under Article X, Highway Frontage & Access, Section 128-39, Residential Lots to abut Accepted Highway or Street & Article X, Highway Frontage & Access, Section 128-41, Driveway Placement on Residential Lots requested by Joseph Rappazo for property at 126 Smultz Road, Glenmont, New York. The Applicant is proposing a one-lot subdivision of a parcel, which will not meet the 28-foot road frontage access required for an existing residence and the proposed driveway will not meet the abutment requirement to the highway.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to sub-divide the existing lot, which does not have highway frontage. With the split, the residential portion would be required to meet the 28 feet of highway frontage and also have the driveway located in the abutment of the highway. At this time the property is accessed by an easement and does not meet these requirements.

The property in front of the Board is located in a Light Industrial District and the structure is occupied as a single-family dwelling. The remainder of the property is a proposed golf course.

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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.

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 June 1, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Joseph Rappazzo for Variance under Article X, Highway Frontage & Access, Section 128-39, Residential lot to abut accepted highway or street, of the Code of the Town of Bethlehem for a one lot subdivision of a parcel, which will not meet the 28 foot road frontage & access required for an existing residence at premises 126 Smultz Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 27, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition of the Applicant. We just request that you come up, stand or sit close to the black microphone; it's for recording purposes only. Mr. Rappazzo why don't you introduce yourself to us, give us your address and tell us what you want to do.

MR. RAPPAZZO: Okay. My name is Joseph Rappazzo. I Live at 126 Smultz Road, Glenmont. We're trying to get a Variance through our road that we live on for a golf course that we're proposing – well actually we're doing and we actually did widen the road some already and we just want to get access for the people to come in to the golf course and it's going to be an 18 hole par 3 and I don't know if any of you have been there, you know stopped down and see what it is. I mean we've done a lot of work there so far. We've been working on it for 3 years. The road we plan on - it's shale, it's over a foot of shale and the road coming up now we want to top it off with crusher run to make it nice and smooth and eventually we hope to blacktop it but right at the moment, you know we don't have the funds to do that so but that's what we're hoping for once we get the approval for it.

CHAIRMAN HODOM: Mark maybe you can clarify some of the issues here. The golf course is permitted by the zoning.

MR. PLATEL: Correct.

CHAIRMAN HODOM: The access road that we're discussing this evening is really for the access to the 4.9 acre parcel that he's splitting off from the 49 that he owns or the 51 that he owns.

MR. PLATEL: For the residence is what it's for.

CHAIRMAN HODOM: For the residence?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Okay. Mr. Rappazzo do you have any kind of deed or right of way giving you access over that roadway that's in the easement?

MR. RAPPAZZO: Yes we do. We have a deed that gives us a 10 foot right of way all the way through.

CHAIRMAN HODOM: And your name is on that?

MR. RAPPAZZO: Yes it is and then we also – and when we did our slaughter house in 96' we also came over to the Town and we got the right of way to go in and out on the previous road.

CHAIRMAN HODOM: Is that for us to keep or do you have another copy?

MR. RAPPAZZO, JR.: I have a copy.

CHAIRMAN HODOM: We can make...

MRS. RAPPAZZO: You can keep it.

CHAIRMAN HODOM: Okay. I was also going over your short environmental assessment form and on it you described it for building a golf course on the property.

MR. RAPPAZZO: Yes.

CHAIRMAN HODOM: Question number 8 is will the proposed action comply with existing zoning or other restrictions and you responded as yes. It will if in fact you receive a Variance from this Board allowing you to have a smaller abutment than the 28 foot requirement. My question is whether or not you should have checked the no box.

MR. RAPPAZZO: Yes.

CHAIRMAN HODOM: Question number 9 was what is present land use and the vicinity of the project and you indicated industrial but there's also residential use there, there's agricultural use there.

MR. RAPPAZZO: Well it's just one house, the residential house that's where we live and then 46 acres of it would be into the golf course itself out of 52.

CHAIRMAN HODOM: Question number 10 is does the action involve a permit approval or funding now or ultimately from any other governmental agency, Federal, State, or local. Have you made any contact with the Department of Environmental Conservation? Do you need a SEQRA I mean do you have wet lands there? Has anybody looked at the parcel?

MR. RAPPAZZO: No we don't have any wetlands. We've looked into it and on our deed or our maps there's no wetlands at all.

CHAIRMAN HODOM: Have you...

MR. RAPPAZZO, JR.: Excuse me, we have contacted the DEC and they looked in their books and they specified that there was nothing on their maps at the DEC.

CHAIRMAN HODOM: Okay. How about the Albany County Department of Health? I'm assuming you are going to require some toilet facilities?

MR. RAPPAZZO: Yes, well we've already went through Albany County when we did the slaughter house and we had to put a separate system for the slaughter house at that time. We put in a leach field and a manhole and a septic tank and we've done that already. Now for the new one we have to contact them just have them verify that the one that we put in was big enough for the facility and we are going to put in a handicap men's room and ladies room and also we do have a facility there already but we're actually going to add an extra handicap men's room and ladies room.

MR. PLATEL: Just basically what we're doing here is the golf course is separate on it's own. We've already gone over the golf course and things that he needs. The reason that we're here is because with him splitting the property he's making a change to it so now he's going to have to - we're only really looking at the residential aspect of this.

CHAIRMAN HODOM: Okay.

MR. PLATEL: The golf course is something separate on it's own that we've dealt with before - talked to him about DEC and doing all of that stuff. Really what we're here for is just that split off for the residential use.

CHAIRMAN HODOM: Okay.

MR. PLATEL: I actually didn't get a chance to read through that so I didn't realize he was addressing the golf course.

CHAIRMAN HODOM: But that what it says.

MR. PLATEL: Really what we're here for is actually just for that residential portion.

ATTORNEY MOORE: Where's the Variance Mark, required for this?

MR. PLATEL: What it is, here is actually where the Town highway is, right here and here is all of his frontage along this and this is an easement that he has okay, so he's only accessing the residential part for the easement and there's probably stipulations that there are for residential lots to abut a Town highway. There's nothing in there for the commercial or industrial uses.

ATTORNEY MOORE: Okay so the Variance is from the requirement that the property abut a Town highway.

MR. PLATEL: Right, for residential use.

ATTORNEY MOORE: Okay.

CHAIRMAN HODOM: I would suggest that a revised short form environmental review be completed and submitted to the Town also signed and dated. The golf course is a permitted use in that light industrial zone.

MR. RAPPAZZO: Yes.

CHAIRMAN HODOM: And I'm going to ask you some questions about it because it's still on my mind. Mark let me ask you this before I get into any questions. Does Mr. Rappazzo have to go into the Planning Board for their review?

MR. PLATEL: No.

CHAIRMAN HODOM: They do not, okay.

ATTORNEY MOORE: Site plan, nothing?

MR. PLATEL: Nothing.

ATTORNEY MOORE: Okay.

CHAIRMAN HODOM: I have some concerns about the roadway and it not only deals with the residential use but certainly the golf course use and it's - I measured it when I was up there the other day and I talked to you and it's only 13 to 15 feet wide in most locations coming from your property down to where the Town maintenance ends. Do you intend to widen that roadway so that there is two-way traffic?

MR. RAPPAZZO: Well we actually - there is two-way when you get down from around the corner where you measured it from the top of the hill, that does open up where the guard rail is and then from there down is just that short piece, but then from there it goes all the way down to where the Town road is and actually we're wider than the Town is.

CHAIRMAN HODOM: Well I measured it at several different locations all the down

there and that's why I came up with from 13 to 15 feet. The Town highway where the maintenance side is, is basically 18 feet. Smultz Road coming up from 144 is around 18 to 20 feet.

MR. RAPPAZZO: We're going to extend where it ditch line is. We're actually putting in pipe in there and we're actually moving the base – that base over to the bank itself so from the guard rail over there should be plenty of room for two-way traffic.

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

MR. RAPPAZZO: About 30...

MRS. RAPPAZZO: 28.

MR. RAPPAZZO: 28 years.

CHAIRMAN HODOM: And you're the only residents off of that highway?

MR. RAPPZZO: Yes.

CHAIRMAN HODOM: Or that access road.

MR. RAPPAZZO: Right.

CHAIRMAN HODOM: The proposed subdivision is that something that's going to be used within the family or are you going to sell that parcel if you can, the 4.9 acres?

MR. RAPPAZZO: No we're going to...

MRS. RAPPAZZO: That's where we live.

MR. RAPPAZZO: That's where we live, that's part of our property for ourselves.

CHAIRMAN HODOM: So what's being subdivided then?

MRS. RAPPAZZO: We wanted to separate it from the golf course, that's all.

CHAIRMAN HODOM: So the subdivision involves your existing residence being separated from the golf course.

MR. RAPPAZZO: Exactly.

CHAIRMAN HODOM: You have a letter from the fire department acknowledging...

MR. RAPPAZZO: Yes we do.

CHAIRMAN HODOM: That the roadway is adequate for fire vehicles.

MR. RAPPAZZO: As a matter of fact they brought the fire truck, the hook and ladder and they brought it down and drove it in and turned around. The only change they made me do is trim a couple of branches off the one pine tree next to the house, but other than that it was fine.

CHAIRMAN HODOM: I had several other questions but they are all relating to the golf course and if that's not part of the issue this evening then I shouldn't be asking you the questions. I would hope the Town will ask them in the future when you proceed with the golf course if in fact the Variance is passed. Did you make any contact with Clear Channel Broadcasting regarding your proposed subdivision?

MR. RAPPAZZO: Yes we've been in contact with clear channel.

CHAIRMAN HODOM: In writing or orally?

MR. RAPPAZZO: Bruce Secor has been in contact with them.

CHAIRMAN HODOM: Do you have any kind of written response from them?

MR. RAPPAZZO: No we don't have any.

CHAIRMAN HODOM: Do you have any oral response with them?

MR. RAPPAZZO: No, Bruce has been contacted.

CHAIRMAN HODOM: Pardon me?

MRS. RAPPAZZO: Not of present.

CHAIRMAN HODOM: I don't know if that presents a problem with our considering the Variance if in fact the owner of the property in the easement has not given the authority to make the change.

ATTORNEY MOORE: The only change at present is well let me back up and ask Mark another question. Why wasn't the Variance required or was the Variance required, you know at the time the Rappazzo's acquired the property because the lack the road frontage at that time to. It's only now that they are splitting the lot off that's it's just come to the Town's attention?

MR. PLATEL: Well yeah that they're splitting it off because before I don't know when the house was built exactly but it's one of those pre-existing non-conformers and now that he's going in and splitting the land up now we have to go for the access. We have to do the same thing down on Hartman Road where they actually had to wind up extending the road a little bit so they could get their frontage. It had been pre-existing without any

highway frontage and once it got split they had to change it.

ATTORNEY MOORE: Similar to the issue that we had I think at the last meeting for the question regarding restrictive covenants or restrictions in the deed. There are records in here Mr. Chairman that 2two easements, one is – according to the deed reflected on a survey, a Boutelle survey from 1962, which we don't have and the second is the one that we're talking about, a 10 foot ingress and egress easement over the existing 10 foot gravel road referenced in a deed to Fairview Broadcasters from 19 - it doesn't say the date.

CHAIRMAN HODOM: I think that's the one right here.

ATTORNEY MOORE: Okay, but again we don't have the terms of those easements.

CHAIRMAN HODOM: No.

ATTORNEY MOORE: They're just referenced in this deed. But again this Board while it's certainly appropriate to ask that we take a look at the language if it's available. We don't get into - we don't have the authority to enforce any...

CHAIRMAN HODOM: Deed restrictions.

ATTORNEY MOORE: Deed restrictions or easement restrictions as between the grantor and the Rappazzo's.

CHAIRMAN HODOM: Mr. Rappazzo is it possible that you could obtain the 28-foot abutment at Smultz Road?

MR. RAPPAZZO: Well that's - we're working on – Bruce Secor is actually working, trying to communicate with those people, but you know as of right now we haven't got a hold of them.

CHAIRMAN HODOM: Communicating with which people?

MR. RAPPAZZO: Clear Channel, because they only go up there – they're only up there maybe once a month if they're up there at all because the radio station itself has been eliminated from there. All they have is just a tower so they don't even go up there like I said maybe once a month. I do their snow plowing for them in the winter time and I do their brush-hogging around the cables, you know as far as people being there you never see anybody even there, maybe once a month if that. And I've maintained the road, you know as far as taken care of it. I've been doing that since I've been there.

CHAIRMAN HODOM: I know in Mr. Secor's letter to you of February 28, 2005, he mentions that he could not find a letter or inspection report in the file to document the completion of work that was required by the previous Town decisions. Is there a letter available?

MR. RAPPAZZO, JR.: There isn't, Mr. Flanigan lost the paperwork...

CHAIRMAN HODOM: Why don't you come up here and sit. That's your son?

MR. RAPPAZZO: Yeah, that's my son.

CHAIRMAN HODOM: Just introduce yourself.

MR. RAPPAZZO, JR.: Joe Rappazzo. I live at 536 Wemple Road in Glenmont. When they originally did the butcher shop, Mr. Flanigan had made them put up the guardrails and widen the road and I've checked into those papers and they just can't be found. I'm not sure if he misplaced them or didn't do them. I don't know where those papers are and it would be very helpful to actually have those papers because after we did all of the work it obviously passed the requirements to establish his business up there as the butcher shop.

CHAIRMAN HODOM: And the Town has made an effort to locate them as well?

MR. PLATEL: I'm assuming since John gave them a CO to open up that he had checked to make sure that they did it. We haven't been able to find the paperwork.

MR. RAPPAZZO: I mean we had our grand opening, I mean Sheila Fuller was there and Neil Breslin and you know they were all there. We sure wouldn't have opened if they didn't give us the right of way to go.

CHAIRMAN HODOM: He also says that the driveway surface has been improved and paved. Are there any portions of your roadway from where the maintenance side is that the Town ends, is there any paved portion of that?

MR. RAPPAZZO: Yeah, actually the whole thing was paved but then it got broken up this winter and then from the top of the hill where you come around the radio station, that's – that is paved, that is paved there and then it stops up past the second driveway going to the radio station and then it's dirt – and then it's stone from there up. There is blacktop from there up, from the driveway to our residence is blacktop.

CHAIRMAN HODOM: I did see sparse locations that looked like....

MR. RAPPAZZO: It's very rough.

MR. RAPPAZZO, JR.: It's not like a driveway out here.

CHAIRMAN HODOM: How long have you been working on the golf course?

MR. RAPPAZZO, JR.: Since 1999.

CHAIRMAN HODOM: Is it a private course, public course?

MR. RAPPAZZO, JR.: It's a public course. I actually had a meeting with Sheila Fuller regarding the EPA dredging down there because that was a concern I had, airborne PCB's, what ever, I just want to get her view on what kind of facility was going to be down there because we are relatively close to it. She seems to be all in favor of it as well. I know Colonial Acres is on the Market now and they want the Town to purchase that as a municipal golf course. We're kind of hoping more houses get built instead and they come to ours but it's a different issue.

MR. PLATEL: You meant Teri Egan, right?

MR. RAPPAZZO, JR.: Yes, what did I say?

CHAIRMAN HODOM: I just let that slide by.

MR. RAPPAZZO, JR.: Oh, I'm sorry – Teri Egan and George Levene.

MR. PLATEL: Leveille.

MR. RAPPAZZO, JR.: Leveille – not good with names.

CHAIRMAN HODOM: Just two questions more about the golf course. You don't show any parking on your site plan for the golf course for visitors.

MR. RAPPAZZO, JR.: Right.

CHAIRMAN HODOM: I'm assuming that you're going to have parking for the golf course.

MR. RAPPAZZO, JR.: Yes we are. We're figuring for 100 parking spots, eventually we're going to do a bar and grill type deal hopefully down the road after we open. Somebody had – I'm not sure if it was one of you people but they came back comparing us to Western Turnpike golf course as far as the septic system requirements and the parking...

MR. RAPPAZZO: Steve Hart.

MR. RAPPAZZO, JR.: Steve Hart did and a totally different golf course so we asked that he go back and compare us to a comparable golf course. I think 100 is adequate considering if you have 4-foursomes an hour it would be 72 parking spots necessary so I think the 100 should be sufficient.

CHAIRMAN HODOM: Any proposal for a clubhouse in the future?

MR. RAPPAZZO, JR.: Eventually, nothing right now. We just want to get open and

bring some money in and then apply for the permits and go through that for the clubhouse later.

CHAIRMAN HODOM: Are you giving some early breaks on people who sign up?

MR. RAPPAZZO, JR.: It depends on if we get this Variance or not.

MRS. O'BRIEN: I don't play golf.

MR. RAPPAZZO, JR.: It's a great place to learn.

CHAIRMAN HODOM: I have no further questions at this time. Anybody else have any questions?

MR. BROOKINS: I've got a quick question for you. In addition to Bruce Secor, have you had your attorney discuss the easement issues with Clear Channel?

MR. RAPPAZZO, JR.: No we have not.

MR. BROOKINS: You might want to do that.

MRS. O'BRIEN: Mark, can I clarify something? As it stands now with the golf course could go in with the road as it is without the frontage but they wouldn't be able to have a house?

MR. PLATEL: Correct.

MRS. O'BRIEN: Okay. The house is there existing and they didn't have to worry about that, but in order to divide it off into two separate properties and have access to the home there you have to have frontage. Where are we talking about frontage, out on Smultz Road or where the...

MR. PLATEL: The frontage would have to be on the property line. You have to have 28 feet of highway frontage.

MRS. O'BRIEN: So he - this is....

MR. PLATEL: That road is not a road is not a road. The Town road ends...

MRS. O'BRIEN: Where the...

MR. PLATEL: There's a line showing you where the Town highway ends.

MRS. O'BRIEN: Yes, right.

MR. PLATEL: So it would have to have frontage on the Town, State, County Road.

MRS. O'BRIEN: Yes there, which is not Smultz Road. It's this access road or whatever you call it.

CHAIRMAN HODOM: It's an extension of Smultz Road I think Mark.

MR. PLATEL: It's an extension of Smultz Road. The Town has accepted by user or I forget what exactly what the term is Mike where they accept the highway because they've been maintaining it for X amount of years so that's a Town highway to that point.

MRS. O'BRIEN: Okay. Now his property is some distance from where the Town highway ends.

MR. PLATEL: Correct.

MRS. O'BRIEN: And this is all easement his property doesn't abut anything. So the Variance would be for this extended distance?

MR. PLATEL: The distance has nothing to do with it. The only thing we're looking at is he doesn't abut the highway; he is accessing the land by an easement.

MRS. O'BRIEN: Okay so the 28 feet and stuff - - it's simply that where his driveway is down here doesn't anyway shape or form abut...

MR. PLATEL: If he had 28 feet abutment on the highway he wouldn't be here.

ATTORNEY MOORE: Right if he purchased the strip of land up here....

MRS. O'BRIEN: Okay, right but if he purchased that he would not have to have his access there.

MR. PLATEL: But his driveway wouldn't be in that either unless he...

MRS. O'BRIEN: Would it need to be?

MR. PLATEL: Yes the driveway has to be in the abutment also.

MRS. O'BRIEN: So if he was able to purchase some land that would get him toward the Town highway he would have to run his driveway all the way...

MR. PLATEL: He would have to have the driveway located in that abutment.

MRS. O'BRIEN: But the golf course is okay.

MR. PLATEL: There are no requirements for commercial entities or industrial entities for frontage.

MRS. O'BRIEN: Well that makes a lot of sense, but I understand it.

MR. BROOKINS: If they did not intend or if they were not interested in splitting the parcel we wouldn't even be here.

MR. PLATEL: It's pre-existing, right – pre-existing non-conforming.

MR. BROOKINS: What's your motivation for splitting parcels.

MR. RAPPAZZO, JR.: Financial reasons, it's an S-corporation right now. The golf course is going to be a S-Corporation. If something should happen, I don't foresee it because 16 percent of the residents in Delmar golf, we're close to Albany. I don't think it's going to fail. If it did they could take the land but my parents wouldn't lose their house.

MR. BROOKINS: It makes sense.

CHAIRMAN HODOM: Any other questions?

ATTORNEY MOORE: I have a question about this letter from Mr. Secor just so I understand, do you have a copy of that in front of you or maybe you'll now the answer if I just refer to it. In the first paragraph there's a reference to certain required improvements to the driveway to the end of Smultz Road to the butcher shop. The house was formally a butcher shop, is that....

MRS. RAPPAZZO: No.

ATTORNEY MOORE: What am I missing?

CHAIRMAN HODOM: The butcher shop is the – I'll show you on this map.

ATTORNEY MOORE: Okay, oh the pro shop.

CHAIRMAN HODOM: That was the existing butcher shop.

MR. BROOKINS: Are butcher shops still in existence, I mean I know it's physically there but are you still doing business out of it?

MR. RAPPAZZO: No.

ATTORNEY MOORE: And my other question then was what were the required improvements?

MR. RAPPAZZO, JR.: They wanted us to put a culvert in...

MR. RAPPAZZO: 18 inch culvert on the top of the road where you measured – made us put guard rail up from the bottom to the top and we had to have stone because actually the Town does come up all the way in the wintertime and turn around where the slaughter house is, they actually come up and turn around there because for them to come up half way up the hill and try to back down around the corner it would be pretty dangerous for them to do it. As long as I kept the road presentable for the Town to come up – they actually came up and just turn around and come back down.

MRS. O'BRIEN: Well another question would be why can't the entire length of the road be deeded over to the Town.

MR. RAPPAZZO: That's a possibility.

ATTORNEY MOORE: The Town Board would have to accept it.

MR. RAPPAZZO: We actually were thinking of doing that but we wanted to get things cleared up first and then have them come – we'd actually get, you know they could come right up and turn around no problem.

MRS. O'BRIEN: You wouldn't need a Variance.

ATTORNEY MOORE: But they don't own that.

MR. PLATEL: They don't own it.

MRS. O'BRIEN: Oh that's right it's an easement, okay.

CHAIRMAN HODOM: Lennie, Bob?

MR. WIGGAND: I was just going to ask one question because I want to get it on the record. Pertaining to the parking lot, you mentioned 100 cars. Could you kind of describe to us on this map – it doesn't really show that where you were talking for a parking lot. I've looked the land over and the land is suitable for a parking lot.

MR. RAPPAZZO, JR.: It's this area right here. It's actually right along here, goes almost all the way back to the property line – 15 feet back from it and I believe and I believe 5 feet is the requirement that you have to stay away from it and it's this area right here.

CHAIRMAN HODOM: Is it above the pond or in the pond area. Do you have a pond there now?

MR. RAPPAZZO, JR.: There is a pond there. We're actually going to be filling that in.

MR. WIGGAND: So you're going to go from this property line here...

MR. RAPPAZZO, JR.: Eventually. There's room for additional parking if we need it.

Right now we're doing 100 cars right here and we're leaving this field. If we have to later on we can...

MR. RAPPAZZO: Extend the parking lot.

MR. WIGGAND: So this parking lot will then have stations for these automobiles of course and you will have driveways in between it or something?

MR. RAPPAZZO, JR.: Yes, that's right.

MR. WIGGAND: This is a pretty good size piece of land here.

MR. RAPPAZZO, JR.: Yes it is. I went up and actually measured the Ames parking lot and went by the measurements of those parking lots and the spaces in between and...

MR. WIGGAND: So you have a very suitable piece of land in there to take in other cars if you expand to that size.

MR. RAPPAZZO: It's one of the main; you know it's one of the main things. If you don't have parking you don't have people coming to golf. You want make sure that you have enough.

MR. RAPPAZZO, JR.: We have room right now for 100 cars with for 100 cars with an additional 50 cars I could put in there if we had to extend it.

MR. WIGGAND: I just wanted to get that on the record, thank you.

CHAIRMAN HODOM: Does the Board feel comfortable in closing this, this evening or do you need more time?

MRS. O'BRIEN: I don't think there's anything else we can add.

MR. BROOKINS: I'm comfortable with it.

CHAIRMAN HODOM: Okay. Are there any questions or comments from the audience?

MR. RAPPAZZO, JR.: How many golfers on the Board?

ATTORNEY MOORE: A little market survey?

CHAIRMAN HODOM: There's a few of us. Anyone wishing to speak in favor of the Applicant? Anyone desiring to speak in opposition? Are you finished with your presentation?

MR. RAPPAZZO: Yes.

CHAIRMAN HODOM: Okay 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. RAPPAZZO: Thank you very much.

Hearing closed 8:10 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths requested by Ayoub & Sheryl Dounane for property at 1 Evelyn Drive, Delmar, New York. The Applicant wishes to construct a front porch addition, which will encroach into the front yard setback requirement at premises 1 Evelyn Drive, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 48 square foot covered porch to the existing main structure that will create a front /side yard setback of 19 feet, which is 1 foot shy of the 20 feet that is required for a corner lot.

The existing structure is occupied as a single-family dwelling and is located in an "AA" Residential District.

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

Notice of Public Hearing. Notice is hereby given that the Board of Appeals, Albany county, Town of Bethlehem will hold a public hearing on Wednesday June 1, 2005 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Ayoub & Sheryl Dounane for Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem. The Applicant wishes to construct a front yard addition, which will encroach into the front yard setback requirement at the premises 1 Evelyn Drive, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 25, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier this evening. We'll hear the applicant's 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. If you would just introduce yourself to us, give us your address and tell us what you want to do, why you want to do it and

how you want to do it.

MR. DOUNANE: My name is Ayoub Dounane. I live in 1 Evelyn Drive, Delmar, New York and we were thinking to modify, you know the – change the existing stairs to wooden stairs instead of stone stairs and the position of the stairs is going to be facing the – Evelyn Drive.

CHAIRMAN HODOM: Could you just turn that mic towards a little bit or take it – thank you.

MR. DOUNANE: Basically the stair position has got to be changed from the side of the house to facing the road, which is Evelyn Drive. So coming to the, you know to the door, the main entrance you'd be walking straight – those stairs facing the door instead of coming from the side and make - that's the only change and the base of the surface where there is you know the step into the house is going to be extended 1 foot out from the existing surface that we have now. The contractor he took all the measurements – the required measurement according to the regulations that he said. That's probably the limit as far as you can go out from the existing surface of the step into the house. And it's going to be mahogany and the posts, you know the body of the foundation is going to be pressure treated wood and it is going to have a railing on both sides and they're going to change the metal awning into a real roof with shingles that match the roof and that's about it.

CHAIRMAN HODOM: Have you been having problems with the existing front entrance and the steps and the metal roof over it?

MR. DOUNANE: Yes we have some dripping with the snow and we have a problem with wobbly, you know stones that fall off you know have to repair, you know put some cement.

MRS. DOUNANE: The stairs aren't even so they're not up to code anymore. The first step is really, really high and then they're short.

MR. DOUNANE: And we're concerned about, you know safer for the - even anyone, I mean mailman or any visitor or things like that.

CHAIRMAN HODOM: Well I tripped walking up the stairs to.

MR. DOUNANE: Well we apologize about that.

MR. WIGGAND: I did to.

MR. DOUNANE: That's why we're rushing; you know to take care of that.

CHAIRMAN HODOM: The risers they vary quite a bit from step to step.

MR. DOUNANE: Yeah we've been having problems since we bought the property so we've been fixing every summer trying to do some touches and things like that, but it's better to...

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

MR. DOUNANE: Since summer of 99'

CHAIRMAN HODOM: Have you had an opportunity to discuss what you're proposing to do at the front entrance with your neighbors?

MRS. DOUNANE: Actually we have 2 of our neighbors right here, yes we have.

CHAIRMAN HODOM: And any comments that they were for it or against it?

MR. DOUNANE: Well as far as I know the new porch if it's permitted to do that work is going to give dimension to the house and it's going to be nice looking. It's a wood stairs and we'll look at it from our perspective that it's going to give nice looking – interest to the street, the dead end which is Evelyn Drive. It's going to give a really nice looking hopefully and the neighbors were very supportive to the idea and...

CHAIRMAN HODOM: Did you have something that you were going to submit this evening in writing from the neighbors?

MR. DOUNANE: Yeah.

CHAIRMAN HODOM: Did you want to do that?

MRS. DOUNANE: Yeah, we have two different letters.

MR. DOUNANE: We have Mr. and Mrs. Gold, which is our right hand side neighbor. And we have across the street from us is Mr. and Mrs. Yatevitch and they are very supportive to the idea.

CHAIRMAN HODOM: And in discussing with your neighbors you showed them the plan that Bennett Contracting prepared?

MR. DOUNANE: Yeah we even talk about it in exact measurement and how it's going to look like and all that – almost specific details to the work how it's going to be.

CHAIRMAN HODOM: Do you have an estimated if the Board were to approve your Variance request, a starting time and a completion time?

MR. DOUNANE: From the contractor perspective he said it going to take 2 weeks because the posts they have to be digging and it's going to be concrete which hold the porch I mean the base of the porch and hold it there. The posts coming from the built up

roof so they going to build a roof, I mean with this solid body wood and all that kind of thing.

MRS. DOUNANE: Probably in August.

MR. DOUNANE: And we're looking for probably in August if things work out.

CHAIRMAN HODOM: It's something you would plan on doing this year.

MR. DOUNANE: Yes.

CHAIRMAN HODOM: Any other questions from the Board?

MR. WIGGAND: I have one question, on the front are you going to put a front walk in to the road out in front or are you going to bring it over to the side to the driveway?

MRS. DOUNANE: To the driveway.

MR. WIGGAND: I'm talking about the steps coming down from your porch.

MRS. DOUNANE: To the driveway.

MR. DOUNANE: To the driveway, yes.

MR. WIGGAND: So everything else is going to be removed there, what you have there presently? Don't you have a sidewalk there now or something?

MRS. DOUNANE: Oh yeah there's a tiny little walkway to the stairs.

MR. WIGGAND: Yeah there's some kind of walkway if I'm saying it right.

MR. DOUNANE: From the side?

MR. WIGGAND: Yes from the side.

MR. DOUNANE: Yeah from the side to get into the existing stairs right now.

MR. WIGGAND: Yes the existing stairs, but now you're going to change that walkway.

MR. DOUNANE: We're going to probably coming from – yeah landscape, we're going to be coming from the front yard.

MR. WIGGAND: Over to the driveway?

MR. DOUNANE: Yes.

MR. WIGGAND: Okay you don't show that here and I just wanted to ask for the record. So you're not going to run it out to the highway?

MRS. DOUNANE: No.

MR. WIGGAND: Okay.

MRS. O'BRIEN: Will you be removing the existing porch, the existing stairs?

MR. DOUNANE: The Bennett contractor he said they're going to demolish almost like a foot or either foot or I'm not sure exactly but not the existing – the whole existing structure. It's not going to be demolished completely but it's going to be, the base is going to be enough and we will be stepping up into the, you know into the main entrance.

MRS. O'BRIEN: And the stairs will be removed?

MR. DOUNANE: The stairs will be removed but not the entire structure.

MRS. O'BRIEN: And then the other will be built over the...

MR. DOUNANE: And they're going to put the, I believe the lattice, the height – what's going to be left or remain from the existing concrete or stones.

MR. WIGGAND: Well the underside of this whole new structure, the stairs and the porch is going to be – something put around it for screening? There will be nothing open underneath it then?

MR. DOUNANE: No, absolutely not, no.

MR. WIGGAND: I don't see what you've got here.

MR. DOUNANE: It's going to be walls.

MR. WIGGAND: I don't know what you mean by it.

MR. PLATEL: I believe he said he was going to put lattice on it.

MR. WIGGAND: You're going to put lattice on it?

MR. DOUNANE: Lattice to hide behind the of the existing...

MR. WIGGAND: So you are going to have something there to protect it from children getting underneath it.

MR. DOUNANE: Yes.

CHAIRMAN HODOM: Anyone else? Any questions or comments from the audience? Anyone desiring to speak in favor of the Applicant? Please just come up here if you would and identify yourself and give us your address.

MR. YATSEVITCH: My name is Alex Yatsevitch, my wife Clair and I live right across Evelyn Drive from the residence in question. We would very much like to see the porch changed to what it is now as has been noted by several members of the Board here. Functionally, that thing should never have been built the way it is now and I always made an effort to repair it at some point in time, some expense to him and the result is not something which is safe or something that anybody would want to look at. Even though the particular petition does not address the functionality of the thing simply the offset. I think the loss of 1 foot in offset is going to be negated or simply counter balance by the improvement and the safety of the steps and the appearance of the final products so we're very much in favor of having the Board approve it.

CHAIRMAN HODOM: Thank you very much. Ma'am?

MRS. GOLD: Hi my name is Mellissa Gold; we live directly next door; we're at 3 Evelyn Drive. I'm not as familiar with the structural aspects however I think that aesthetically certainly I trust their judgment and we've also used the contractor who they're working with so we trust their work as well and we know that they've done some very good work for us and also for Alex's house as well. So we're very confident that the changes would only improve the aesthetic quality of the house and of the block.

CHAIRMAN HODOM: Thank you very much. Any further questions from the Board. You're all set with your presentation? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

Hearing closed 8:20 p.m.

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The next order of business was to re-schedule a continuation of a public hearing of Betty Nolan, 1250 Route 9W, Selkirk, New York. The application was found to be in order and Chairman Hodom made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Betty Nolan to re-schedule a continuation of a public hearing for a Use Variance under Article VI, Permitted Uses, Section 128-23, Rural Districts Unzoned to construct a canopy with three (3) fuel pumps for retail sale including 2-10,000 gallon underground storage tanks at the premises 1250 Route 9W, Selkirk, New York, it is hereby ordered that a public hearing on this matter be held June 15, 2005 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien 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 Ayoub & Sheryl Dounane, 1 Evelyn Drive, Delmar, New York. The following points were brought up by the Board members: The existing stairway is dangerous. The proposed new steps are a minor encroachment into the front yard. The proposed project will not alter the quality of the neighborhood. On a motion made by Mr. Wiggand, seconded by Mr. Micelli, 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 June 15, 2005.

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The next order of business was to consider the proposed resolution of Norman & Mary Cohen.

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 Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwelling, Article XII, Percent of Lot Occupancy, Section 128-44, Total Building Area, and Article XVII, Side Yards, Section 128-73, Required Widths, requested by Norman and Mary Cohen for property at 18 Hawthorne Avenue, Delmar, New York (“the Property”); and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on April 20, 2005; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

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

#### FINDINGS OF FACT

The Applicants are proposing to construct a 464 square foot addition to the existing 1,079.36 square foot main structure. The 160 square foot rear porch will be removed and the 464 square foot addition will be constructed creating a total main structure of 1,383.36 square feet. This is 201.39 square feet over the 1,181.97 square foot main structure allowed by a lot consisting of 7,879.8 square feet. The total building area will be 1,743.36 square feet, which is 167.4 square feet over the 1,575.96 allowed.

The lot occupancy for the main structure will be 17.56 percent, this is 2.56 percent over the 15 percent allowed, and the total lot occupancy will be 22.12 percent, which is 2.12 percent over the 20 percent allowed. The side yard setback will be 6 feet at the addition, which is 4.1 feet shy of the 10 feet required.

The Applicants also own the lot adjacent to the subject property. It has been determined that this a buildable, pre-existing non-conforming lot. The property is located in an "AA" Residential District and is occupied is a single-family Dwelling.

Applicants seek to increase the living area of the first floor of their home by constructing a "mudroom" entrance, full bathroom, sunroom and bedroom on the first floor.

The new proposed living space will be for 4-season use.

Mrs. Cohen has a chronic respiratory illness and must conserve her energy daily. Being able to live entirely on the first floor would aid in dealing with this condition.

The proposed sunroom addition, while encroaching into the sideyard setback area, will extend no further than the existing northern side of the house. This side of the house is a pre-existing encroachment into the side yard setback area.

At the public hearing, one neighbor spoke in favor of the proposed project.

Applicants have spoken to the person who will be purchasing an adjoining property, who had no objection to the proposed project.

Applicants provided the Board with written statements in support of the proposed project from seven neighboring property owners.

The Board has received no written or oral statements opposing the proposed project.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicants' needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicants. The property is located in an older part of the Town where many lots are narrow.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the April 20, 2005 hearing;
2. In the construction of the addition, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution

June 1, 2005

Michael Hodom  
Chairman  
Board of Appeals

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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 J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on June 2, 2005.)

The next order of business was to consider the proposed resolution of Timothy Beebe & David Marshall.

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 Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XVII, Front Yards, Section 128-68, Corner Lot Required Depths, requested by Timothy Beebe and David Marshall (“Applicants”) for property at 26 Darroch Road, Delmar, New York (“the Property”); and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 4, 2005; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

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

#### FINDINGS OF FACT

The Applicants are proposing to construct a 700 square foot detached garage that will encroach into the required front yard setback. The proposed garage would have a 13-foot setback, which is 7 feet shy of the 20 feet that is required.

The existing main structure is located in an “AA” Residence District and is occupied as a Single-Family Dwelling.

Applicants presently keep two motor vehicles at the property. They also own a “classic car” stored off-site, which limits Applicants’ ability to use this vehicle. The

proposed new garage structure would be used for parking/storage of one vehicle and the “classic car.”

The Applicants’ existing two-car garage is used for parking of one vehicle. The rest of the space in the existing garage is taken up with storage areas, and the entranceway into the house.

The proposed garage structure would also include a small storage area and changing area for the Applicants’ swimming pool.

The location of the proposed structure was chosen to enable use of the existing driveway, to maintain an attractive alignment with the house, and to preserve the utility of the backyard area and swimming pool.

The Board has received two written statements from neighbors in support of the proposed project.

At the public hearing, one person spoke in support of the proposed project.

Applicants have spoken to nine of their neighbors, all of whom were in support of the proposed project.

There were no written or oral statements made in opposition to the proposed project.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicants’ needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicants.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the May 4, 2005 hearing;
2. In the construction of the garage, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.
4. Applicants shall preserve or, as necessary, replace the existing shrubbery on the Roweland Avenue (south) side of the property to screen the garage structure from the road.

June 1, 2005

Michael Hodom  
Chairman  
Board of Appeals

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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			
Marjory O'Brien			
Gilbert Brookins			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on June 2, 2005.)

The next order of business was to consider the proposed resolution of Kelly Santore, 165 Wemple Road, Glenmont, 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 Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) by Kelly and Jeff Santore (“the Applicants”), for a Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths, for construction of an attached garage addition, which will encroach into the Front Yard setback requirement on property at 165 Wemple Road, Glenmont, New York (“the Property”); and

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 4 and May 18, 2005; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

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

## FINDINGS OF FACT

The Applicants are proposing to construct a 22-foot by 22-foot, 484 square foot garage addition to the existing main structure that will create a front yard setback of 33.8 feet. This is 1.2 feet shy of the 35 feet that is required.

The existing structure is located in an "AA" Residence Zone and is occupied as a Single-Family Dwelling.

As part of a home improvement project at the property, the Applicants would like to convey the existing garage on the front of the house to living space, and the proposed new garage will replace the existing one.

At the public hearing, Applicants testified that they had spoken to three of their neighbors who expressed no opposition to the project.

At the public hearing an adjoining property owner objected to the location of the proposed garage on the front of the Applicant's home.

At the public hearing, another neighbor expressed concern over the potential impact of the garage on sight distances for vehicular traffic.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants require a variance to construct the proposed garage. After reviewing the application, sketches submitted and testimony at the hearing, and after due deliberation, the Board determines that the proposed variance will be denied.

The proposed encroachment is 1.2 feet, however, the Applicants' need for the new garage can be met by reconfiguring the project to a 22' x 20' garage that would not require a variance.

The benefit to the Applicants from the 22' wide garage would be minimal, while the detriment to the neighborhood would be apparent. All homes in the neighborhood were built with uniform front yard setbacks. The Applicants' proposal, if allowed, would produce an undesirable change in the appearance and character of the neighborhood, to the detriment of nearby properties.

Accordingly, the Board denies the Applicants' request for a Variance to construct a garage in excess of the front yard setback requirement.

June 1, 2005

Michael Hodom  
Chairman  
Board of Appeals

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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
Robert Wiggand Leonard Micelli Marjory O'Brien	Michael Hodom  Gilbert Brookins	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on June 2, 2005.)

The next order of business was to consider the proposed resolution of Eric and Jessica Farbent.

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 Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking a Variance under Article XVI, Front Yards, Section 128-66, Required Depths and Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths, requested by Eric and Jessica Farbent for property at 48 Douglas Road, Delmar, New York ("the Property"); and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 18, 2005; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

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

#### FINDINGS OF FACT

The Applicants are proposing to construct a two-story addition to the existing structure that will create a front yard set back of 33.55 feet and a front/side yard setback of 17 feet. This will be an encroachment of 1.45 feet into the 35-foot front yard setback and 3.0 feet into the 20-foot front/side yard setback requirement.

The proposed addition to the Applicants' home will include the following:

- A two-car garage (the former garage at the home was converted to a "mudroom" and storage space by the prior owner);
- A master bedroom suite on the second floor level, where the Applicants' children have their bedroom space; and
- A covered wrap around front porch, replacing the present front porch steps, which are exposed to the elements.

Applicants have spoken to their neighbors and they expressed no opposition to the project.

Other than the Applicants, no one spoke at the public hearing.

The Board has received no written statements regarding the proposed project.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the two proposed variances (for the front yard, and for the front/side yard) will be granted.

The Board has determined that the requested variances will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variances will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variances are the minimum variances that are necessary and adequate to the Applicants' needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances has not been created by the Applicants.

The requested variances are granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the May 18, 2005 hearing;
2. In the construction of the project, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.
4. Applicants shall have the existing driveway removed, and the area seeded and converted to a lawn.

June 1, 2005

Michael Hodom  
Chairman  
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on June 2, 2004.)

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On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the minutes of the May 18, 2005, 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