

**TOWN OF BETHLEHEM
BOARD OF APPEALS
June 7, 2006**

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

PRESENT: Michael Hodom
Gilbert Brookins
Leonard Micelli
Anthony K. Umina
Mark Hennessey

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. The first order of business this evening is a public hearing for a Variance under Article VI, Supplementary Regulations, Section 128-54D, Signs & Article XIII, Use & Area Schedules, Section 128-100, Minimum Front Yards, & minimum front yards for corner lots, sub note 1, requested by Betty Nolan for property at 1250 Route 9W, Selkirk, New York. The Applicant wishes to construct a canopy with 3-fuel pumps for retail sale and construction of a freestanding sign at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a canopy that will encroach into the required 30-front yard setback. The canopy will be located 16.5-feet, 7-feet and 13.6-feet from the front yards of this corner lot. The location of the canopy has changed from when this Board for better traffic flow on the site.

The site is located in a Rural Hamlet District and the current use is a convenience store.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you please read the

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

official call of the meeting?

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 June 7, 2006 at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Betty Nolan, for Variance under Article VI, Supplementary Regulations, Section 128-54 D, Signs and Article XIII, Use & Area Schedules, Section 128-100, Minimum Front Yards and Minimum Front Yards for corner lots, sub note 1 of the Code of the Town of Bethlehem for the construction of a canopy with 3-fuel pumps for retail sale and construction of a freestanding sign at premises 1250 Route 9W, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 31, 2006 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone wishing to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board and it should be to the issue of the hearing this evening. Mr. Caponera if you would introduce yourself.

MR. CAPONERA: Thank you Mr. Hodom, Mr. Chairman, members of the Board, as some you may recognize me I'm Victor A. Caponera, Jr. I'm an attorney with offices at 3 Atrium Drive in Albany, New York and I represent the owner of this property Betty J. Lawrence, now known as Betty J. Nolan who sits to my rear and she for those of you who weren't here the last appearances that I came before this Board has owned this property since 1979. As the Board is aware I appeared with my client and the current tenant and Mr. Hennessy, not spelled as the same way as Mr. Hennessey who is now on the Board so there's no relationship, which ultimately resulted in a Use Variance being granted to my client to operate – well to continue to operate the existing convenient mart that's on the property, and to construct the 3-bay facility on which there would be 3-fuel dispensers and a canopy.

Now a funny thing happened on the way to the market. In this case a funny thing happened from zoning to planning, the zoning changed and we went from a Rural Districts Not Zoned under section 128-23, to Rural Hamlet District under section 128-33, of chapter 128 of the Town of Bethlehem Zoning Law. Now that was adopted in August of 2005. Through no fault of mine, my client, the tenant or Mr. Hennessy or I'm sure any members of this Board or even you Karen. And as a result when our Mr. Hennessy; our engineer went to the Planning Board, the Planning Board had made some suggestions about changing the location of the canopy. Now as all you I'm sure remember, all of you that were here before and I'm sure you know this Mr. Hodom, the canopy that was

approved by this Board was located in a different location than what you see up there right now and the Planning Board suggested and as your Building Department head has indicated, that it be revised to be located in a location, which is what we see up there. Now as some of you may know and some of you may not know, when it was previously zoned, not zoned under 128-23 there really was no setback requirements, but now there is and because of that we're here in front of this Board seeking an Area Variance, not to be confused with a Use Variance for the setbacks that we're talking about.

With this new Rural Hamlet District there's a minimum front yard setback as established in the insert of the Town's new Zoning Code and it's pretty interesting and certainly very educational to read that insert. I must say I found it very engaging when myself and Mr. Hennessy went through it but anyway the front has to be 30-feet back from the right of way or 55-feet of the center line of the road. When you look at our application under the proposal and as your Building Inspector has indicated the setbacks do not meet that criteria, 13.6-feet from New York State Route 9W, however - - and then if you look on the Maple Avenue it's 16.5, however when you look at these you have to consider that the canopy basically sits approximately 70-feet from the center line of this intersection of 9W and Maple Avenue and on the 13.6-side, which is closest to State Route 9W, it sits approximately 60-feet from the centerline of Route 9W and on Maple Street it's about 40-feet. So when you look at an area Variance you have to weigh the equities, benefit to the applicant versus the detriment to the surrounding properties. This is an unusual intersection because there is so much distance between the property line and Route 9W, more particularly and then even Maple Avenue. God only knows what the State of New York has in mind for 9W, but perhaps they may widen it at some future time, I don't know.

So because of these newly enacted setback requirements an area Variance from the front yard setback is requested and also – and if anyone can explain this to me I'd be happy to listen, the Town enacted a new sign law and that to is very engaging when you try to read it and understand it, but suffice it to say we have a free-standing sign that we're proposing that's 30-square feet with a height of 8.6-feet and when the new zoning went into effect in August of 05' the new signing ordinance under 128-54 basically talked about how you measure signs and the bottom line is our sign is proposed is 2.5-feet from the property line yet it sits nearly 60 to 70-feet from the intersection and obviously from a health, safety and welfare standpoint when you look at this you have to have a sign that somebody can see when they're traveling through this intersection. It's quite a distance from the road, however it's close to the property line and by virtue of the new sign code it doesn't meet the minimum setback and as a result we're seeking an area Variance from that sign law also.

CHAIRMAN HODOM: Mr. Caponera may I just interrupt you for a minute? You have mentioned this evening and also in your narrative that the height will be 8-feet, 6-inches, however the drawings you proposed, sheet 1 of 1, drawing S-1 shows the height being 8-feet. Has there been some changes from that?

MR. CAPONERA: No there isn't. The 6-inches is measured on top of the – what is that

Bill?

MR. HENNESSY: That's either a stone, concrete cap....

CHAIRMAN HODOM: But the total height is 8-feet?

MR. HENNESSY: Yes.

CHAIRMAN HODOM: Okay.

MR. CAPONERA: Thank you for pointing that out, Mr. Chairman. So as I stated before and quite simply we don't have to get into the real zoning issues pertaining to Use Variance where the criteria is much more stringent, but we have to look at the benefit to the Applicant versus the detriment to the surrounding property's. It's my humble opinion that after being in front of this Board and growing to know and love every one of you after so many appearances and this Board embracing the previous application last year that this is - - we're only here because of the new zoning code and because of the requirements - I should say the suggestions of the Planning commission of this enlightened jurisdiction. The benefit sought to the Applicant obviously cannot be achieved by any other means. The question you might ask is why, well the reason why is this is because the Planning Board wants it and we've already gotten a Use Variance to have this canopy here and we feel that certainly this is not a substantial request. It's not going to have any adverse affect on the surrounding properties and clearly this is not a self created hardship when given the fact that the property has been under the same ownership, the same young lady since 1979 who, by the way when we first started this had red hair - well anyway, sorry - I should be referring to myself. Obviously we feel that our application together with the documents that I submitted to this Board should be favorably considered and we would be happy to answer any questions.

CHAIRMAN HODOM: Thank you Mr. Caponera. Mark let me ask you a question, on the signage do the masonry supports come into the square foot requirement of the signage or is it just the sign?

MR. PLATEL: It's just the sign.

CHAIRMAN HODOM: And, Mr. Caponera, Mr. Hennessy, did the Planning Board also request that you relocate the sign to this location because your previous site plan showed it somewhat further west of the current location?

MR. HENNESSY: The Planning Department I've been meeting with...

CHAIRMAN HODOM: Please just introduce yourself for us.

MR. HENNESSY: I'm sorry the individuals in the Planning Department....

CHAIRMAN HODOM: Your name?

MR. HENNESSY: William Hennessy, Hennessy Engineering of Voorheesville. Initially the Planning Department suggested that – to inquire with DOT to see if we could put it within the right of way because we have such an expansive right of way, but DOT denied that suggestion. So this location that we’ve chosen is the best location that we found at the side yard. This exact location was not chosen by the Planning Board, no but...

CHAIRMAN HODOM: But the previous sign was located in the DOT right of way so you had to move it out of there.

MR. HENNESSY: The previous stand for the sign was on the property but the proposed sign, yes was over the right of way so we had to move it inside the property.

MR. CAPONERA: And it’s further away than the existing sign.

CHAIRMAN HODOM: From the right of way, correct it’s further east. Just for a point of interest even with the previous layout of the canopy, with the new code you would still have had requirements – the area Variance’s still would have been required.

MR. CAPONERA: You’re absolutely right.

CHAIRMAN HODOM: Now looking at the concept plan of the canopy and sign, will those gas prices remain for the benefit of the Zoning Board?

MR. CAPONERA: You’re taking a page right - - I thought that was pretty good. We’re only hoping that that will happen but we can’t guarantee it.

CHAIRMAN HODOM: Maybe Mr....

MR. DAWOODANI: Amin Dawoodani. If we get the gas – is what we’re trying to do we’ll keep the prices lower than today.

MR. HENNESSY: And since the prior application the applicant is now a resident of the Town to provide better service to the store.

CHAIRMAN HODOM: Well welcome to the Town.

MR. BROOKINS: I have a question about the sign and I’m assuming that from the placement and your calculations that it’s a single sided sign facing the intersection?

MR. HENNESSY: No it’s a double-sided sign.

CHAIRMAN HODOM: The new code allows just for 1-face now. We don’t have to consider both faces, correct Mark?

MR. PLATEL: Yeah we no longer count double-sided.

CHAIRMAN HODOM: Right it's just the square footage of the sign.

MR. BROOKINS: Okay because it would be over 60.

CHAIRMAN HODOM: The canopy will remain the same size as it was shown previously?

MR. CAPONERA: That's correct.

CHAIRMAN HODOM: The height of the canopy is the same height that what was shown previously?

MR. CAPONERA: That's correct, right Bill?

MR. HENNESSY: Yes.

CHAIRMAN HODOM: There is signage on the canopy and the building or just...

MR. HENNESSY: No signage on the canopy, we agreed to that previously at the Use Variance application. We are maintaining a Subway sign on the building. That's the only...

MR. CAPONERA: Other sign that would be so there's 1-wall sign and 1-freestanding sign.

CHAIRMAN HODOM: But the total signage does not exceed what the current code allows?

MR. CAPONERA: That's correct, right?

MR. HENNESSY: 50-square feet is the current code?

MR. PLATEL: What's on the building?

MR. HENNESSY: I think it's 20; I think we came right in at 50.

MR. PLATEL: You're going to be at 40 so actually you would exceed that.

MR. HENNESSY: That was in the application.

MR. PLATEL: That would actually exceed it by 10-feet. If it's 20-square feet on the building they have 30 for the planned sign so they would be 10-feet over.

CHAIRMAN HODOM: Is that a standard Subway sign?

MR. HENNESSY: It's actually a smaller than the standard one. It's a smaller sign because it is about 40-feet from the highway but it's not a more common larger pedestal mounted sign that they have sometimes.

CHAIRMAN HODOM: So if the Board should grant this application we should also include the excess signage square footage, which is approximately 10-square feet. Did anything else change on the site?

MR. CAPONERA: Yes we changed the location on the rear side, you might want to show the Board that.

MR. HENNESSY: I apologize I didn't bring a colored drawing this evening. We've actually increased some green-space in this area and in this area. This helps mitigate the distance of the canopy. We actually proposed to include an approximate 7 to 8-foot strip of green space to add to that front corner and talking with Planning we're also going to add some green space around the building here. We originally were proposing possibly some planters but we're going to curb that now and make that all green area there. We will formalize this intersection a little bit more than our previous application so it meets DOT standards. Those are really the only main changes other than the location of the canopy.

MR. MICELLI: Now that side you were just talking about, is that where the Subway sign is going to be or...

MR. HENNESSY: It's currently on this building here.

MR. MICELLI: On that building there?

MR. HENNESSY: Yes.

MR. MICELLI: And nothing as I remember from the last time we met prior back that's all wetlands and there was going to be no parking back there. We did away with the kerosene back in that area and...

MR. HENNESSY: Correct.

MR. MICELLI: So that hasn't changed?

MR. HENNESSY: Correct. We actually - - some of the suggestions we had with Planning and hence some of the delays we've had in figuring it out is we talked about locating some of the facilities in here and came into play the wetlands so we actually acquired a wetland delineation from New York State so this is actually delineated by New York State and here's the 100-foot buffer coming over here further limiting what we can do in that area.

MR. MICELLI: There's an entrance back there to, I believe where the trucks would load

and unload?

MR. HENNESSY: The entrance here?

MR. MICELLI: Right.

MR. HENNESSY: Yes.

MR. MICELLI: Okay, it will all stay the same.

MR. HENNESSY: Well actually even from the previous application we're eliminating 1-entrance here.

MR. MICELLI: Okay.

MR. HENNESSY: So they're actually the 1-way closer to the intersection here. There's a 2-way entrance here, 2-way entrance here we're eliminating. This 2-way entrance here and we're actually moving the 1-way further away from the intersection for safety and formalization purposes.

MR. MICELLI: Thank you.

CHAIRMAN HODOM: And while you're up there Mr. Hennessy I think at the Use Variance hearing there is also an entrance to the building on the back side?

MR. HENNESSY: Yes there is. We're going to formalize that as an accessible and acceptable entrance to meet building code for vehicles back here because of the parking requirements in the rear.

CHAIRMAN HODOM: Thank you very much.

MR. HENNESSEY: And is it the Neenan's who live south of the property?

MR. CAPONERA: I'm sorry?

MR. HENNESSEY: On the map here there's a building, the Neenan's to the south.

MR. CAPONERA: Yes.

MR. HENNESSEY: And have you talked to them at all? Are they okay with all this?

MR. HENNESSY: They're actually – there is a tenant there now. They don't live there; they're a landlord.

MR. HENNESSEY: Okay.

MR. HENNESSY: We've had no discussions with them.

MR. CAPONERA: They did not appear at any of the 15-previous appearances we've had.

CHAIRMAN HODOM: I think that was somewhat of an exaggeration, but they were all enjoyable meetings.

MR. CAPONERA: As I've said I've grown to know and love every one of you, thank you though.

CHAIRMAN HODOM: And the curb cuts that you currently show have been reviewed by DOT or do you still have to run it by them?

MR. CAPONERA: Yes they've been reviewed and accepted.

CHAIRMAN HODOM: By DOT?

MR. CAPONERA: Yes that's correct.

MR. HENNESSY: There's no significant changes really in the curb cuts so we didn't feel that there was any point in doing changes from DOT's perspective – we've improved the southerly access from the previous application.

CHAIRMAN HODOM: Mark do they still have to go back to the Planning Board for final review and approval?

MR. PLATEL: Yes.

MR. CAPONERA: You're kidding me.

CHAIRMAN HODOM: So you'll get to know them better to Mr. Caponera.

MR. CAPONERA: Thank you. I may not have any hair on my head but you're probably right.

CHAIRMAN HODOM: Well we'll leave that discussion alone. Any other questions from the Board?

MR. MICELLI: I don't have any.

MR. BROOKINS: I would just like to make a comment. I was particularly pleased with the work that you guys had done particularly with the signage and the placement. I think it's – given the configuration that you had to work with I think you've done a nice job.

MR. CAPONERA: Thank you very much.

MR. BROOKINS: And you've been very patient.

MR. CAPONERA: Well it is a virtue.

CHAIRMAN HODOM: And Ms. Nolan with that comment that means that there is no further invoicing from Mr. Caponera.

MR. CAPONERA: I take exception to that.

CHAIRMAN HODOM: Are there any questions or comments from the audience? Amin did you want to say anything else? I assume that you're still there and you plan on making all these changes?

MR. DAWOODANI: Yes I'm looking forward for this.

CHAIRMAN HODOM: Anyone wishing to speak in favor of the Applicant that hasn't already done so? Ms. Nolan, anything to say this evening?

MS. NOLAN: No, I just hope that we can finish this.

CHAIRMAN HODOM: Anyone wishing to speak in opposition to the Applicant? Hearing no further questions or comments we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MR. CAPONERA: Thank you very much.

Hearing closed 7:30 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XIII, Use & area schedules, Section 128-100A, Minimum Side Yards requested by Thomas & Joanne Coffey for property at 47 Clifton Way, Slingerlands, New York 12159. The Applicant wishes to construct and attached carport addition, which will encroach into the Side Yard Setback requirement at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a 12-foot by 18-foot garage addition to the main structure that will create a side yard setback of 4.1-feet. This is 5.9-feet shy of the 10-foot required

The existing structure is occupied as a single-family dwelling and is located in a Residence "A" 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 7, 2006 at 7:15 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Thomas & Joanne Coffey for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Side Yards of the Code of the Town of Bethlehem for construction of an attached carport addition, which will encroach into the side yard setback requirement at the premises 47 Clifton Way, Slingerlands, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 31, 2006 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 and/or in opposition to the Applicant. Anyone desiring to speak will be allowed to do so, we just request that you come stand or sit close to the black microphone; it's for recording purposes only. Mr. Coffey before we get started here the application submitted stated that the request for the purpose of the building and the attached carport / garage....

MR. COFFEY: I was putting my car in there so I called it a carport or a garage so that's my intention.

CHAIRMAN HODOM: Well there is a difference between a carport and a garage so...

MR. COFFEY: It's a garage.

CHAIRMAN HODOM: So it's an enclosed structure.

MR. COFFEY: That's correct.

CHAIRMAN HODOM: Okay thank you.

MR. COFFEY: I think I submitted a picture that's reflective of an addition that was put on the adjoining property, Mr. Gansle that's the neighbor on the affected side of the property. I'm going to replicate that.

CHAIRMAN HODOM: If you would just introduce to us Mr. Coffey and tell us what you want to do, and why you want to do it and how you want to do it.

MR. COFFEY: Okay. I'm Tom Coffey; I live at 47 Clifton Way and I had the house built in – I think it was 1993 and have lived there since. The reason that I want to construct the garage to house a car. I have a convertible that I use seasonally and I would like to put it there in lieu of putting a cover over the car and keeping it out in the adverse weather so what I'm looking to do is to construct a garage that - - similar to the garage next door that is of the same siding, same look – I want it to look like it was put in during the original construction so I'll use the same roof-line, the same shingles, the same siding, soffit, color, everything else.

CHAIRMAN HODOM: Do you have any details of the design of the garage?

MR. COFFEY: I didn't have that done yet because I wanted to make sure I got approved and I didn't want to engage in an architect or engineer to do the work until I was approved by the Board, but I intend to that in cooperation with the Building Department to make sure I build it to specification.

CHAIRMAN HODOM: So you intend to have a full foundation and...

MR. COFFEY: A form of a full foundation I guess.

CHAIRMAN HODOM: A concrete floor?

MR. COFFEY: No, not a concrete floor but I'm going to put in footings I believe and support it, similar to what my neighbor has done.

CHAIRMAN HODOM: I don't know what your neighbor did so why don't you tell us what you plan on doing.

MR. COFFEY: I did speak to somebody about how to do it and I guess what you can do is put footings in and then put a header across the - - can I ask my neighbor to explain it or is that improper?

CHAIRMAN HODOM: That's fine.

MR. COFFEY: Because he built his – do you mind Bernie?

CHAIRMAN HODOM: Please introduce yourself to us and give your address.

MR. GANSLE: Bernard Gansle, I live at 43 Clifton Way and I think Tom was going to put footings in – 5-footings in and then a header across it and then built it up and attach it to the house so it would actually - - he has a blacktop driveway there now and the footings I think would go...

CHAIRMAN HODOM: Let me ask you this, is your – do you have a garage?

MR. GANSLE: Yes.

CHAIRMAN HODOM: Do you have a continuous concrete footing or are they piers?

MR. GANSLE: I'm sorry, they're piers.

CHAIRMAN HODOM: Okay and from the pier footing to the concrete floor....

MR. GANSLE: No.

CHAIRMAN HODOM: Okay, what do you have?

MR. GANSLE: I have a wood floor.

CHAIRMAN HODOM: A wood floor?

MR. GANSLE: Right, mine isn't for an automobile.

CHAIRMAN HODOM: Are you going to have a wood floor?

MR. COFFEY: No I have asphalt.

CHAIRMAN HODOM: Okay.

MR. COFFEY: I had my driveway torn down last year and put in a new driveway, which goes around the side of the house.

CHAIRMAN HODOM: Right.

MR. COFFEY: To put the structure over the driveway so that I'll have a nice clean driveway into the structure.

CHAIRMAN HODOM: Okay so from your concrete pier footings you're going to run up wood piers or concrete piers?

MR. COFFEY: Concrete.

CHAIRMAN HODOM: What's going to support your header Mr. Coffey?

MR. COFFEY: Concrete footings and then...

CHAIRMAN HODOM: So you've got a concrete – an individual concrete pier footing and then you're going to run up concrete piers to the floor level.

MR. COFFEY: Yes.

CHAIRMAN HODOM: And then on top of those concrete piers you're going to have a

wood header?

MR. COFFEY: I believe so. Once again, I'm not skilled in this so that's what I understand and then build off of that up to the - - and then attach to the house.

CHAIRMAN HODOM: Okay. Mr. Gansle is that what you have? You have concrete piers and then you have a wood header that you built off of?

MR. GANSLE: Yes.

CHAIRMAN HODOM: And wood studs?

MR. GANSLE: Yes.

CHAIRMAN HODOM: Trusses or rafters?

MR. COFFEY: I don't know what those are, I'm a nursing home administrator and I apologize for that. I don't...

MR. GANSLE: I would be standard wood construction.

CHAIRMAN HODOM: Is it your intent to also widen the existing driveway?

MR. COFFEY: It's already there.

CHAIRMAN HODOM: No, no to widen it to match to what you have on the side of the house? Right now you make a little bend in your driveway to wherever you park your car now.

MR. COFFEY: Am I going to widen it, no I'm not.

CHAIRMAN HODOM: Okay. There seems to be substantial room behind the existing home if you want to put a garage there, another facility to enclose your convertible. Is there any reason why you can't build behind your house?

MR. COFFEY: I don't think that the house – the property is conducive to that. You would have to run a driveway around the whole house and put it in the back of the house. I wouldn't suggest that that would be a proper thing to do. I think what I'm suggesting to be done would lend itself to making the house look better. It will accommodate my needs and going behind the house is inconsistent with what anybody else has done in the neighborhood. So no I don't think that that's an advisable thing to do.

CHAIRMAN HODOM: Mr. Coffey can you give us the size of your family, ages of children?

MR. COFFEY: I have my wife and I won't give you her age but I have a daughter that's

16-years old.

CHAIRMAN HODOM: Okay. And how many cars do you have in the family?

MR. COFFEY: Four.

CHAIRMAN HODOM: And do you drive all four?

MR. COFFEY: Yes.

MR. GANSLE: One of those is the convertible.

MR. COFFEY: Pardon me? Right that's correct. I do operate all 4-vehicles. They're all licensed and I operate them on a regular basis.

CHAIRMAN HODOM: And when did you purchase the convertible?

MR. COFFEY: Last year. I just purchased another car this year and that's what gives us the fourth car.

CHAIRMAN HODOM: I was trying to look at your photos here and I didn't see a convertible.

MR. COFFEY: It's in the garage.

MR. BROOKINS: You've peaked my curiosity, what is...

MR. COFFEY: It's a BMW convertible.

MR. BROOKINS: Okay.

MR. COFFEY: I just use it in the summertime.

CHAIRMAN HODOM: Other than Mr. Gansle have you spoken with your other neighbors?

MR. COFFEY: I have a letter that lives directly across from where the structure would be and she offered to write a letter. She offered to come tonight but I said that wouldn't be necessary.

CHAIRMAN HODOM: This will suffice.

MR. HENNESSEY: And this neighbor lives directly across the street?

MR. COFFEY: Yes directly across the street.

MR. HENNESSEY: So within eyeshot of the whole....

MR. COFFEY: Yeah that's correct.

CHAIRMAN HODOM: Mr. Coffey in 2003 you were in front of this Board requesting a storage shed to be installed in the same location. Is this building going to be used as a storage area?

MR. COFFEY: I put a storage shed in because I was denied – well I have a storage shed to house my tractor and all my other - - I maintain an acre of land so I have a lot of tools. Some of my neighbors call them toys but I do maintain my property. I'm very meticulous in the way I take care of my property.

CHAIRMAN HODOM: That's the building to the far left hand side in the back?

MR. COFFEY: Yes, which that to does have matching siding, matching shingles, matching windows, doors.

MR. BROOKINS: And you do a very nice job.

MR. COFFEY: Thanks.

CHAIRMAN HODOM: Any other questions from the Board?

MR. UMINA: I was there in fact Mr. Micelli and I went there and I couldn't see how Mr. Coffey could put anything in the back of his house that would be aesthetically pleasing or even functional. It is my recollection that there is a big slope that goes into the...

MR. COFFEY: It drops off.

MR. UMINA: It drops off really quickly and then there's a big porch on the back and anything in the back would interfere with your use of the porch and I saw the garage that is built right next door and it seems to me that if your construction is the same as the construction next to you that it would look like it was meant to be there. So that's just my observation to put on the record.

CHAIRMAN HODOM: Mr. Gansle, when you constructed that addition – it encloses a boat?

MR. GANSLE: Yes.

CHAIRMAN HODOM: Did you require a Variance to do that?

MR. GANSLE: No, I had enough...

CHAIRMAN HODOM: You had enough side yard setback to do that.

MR. GANSLE: Yes.

MR. COFFEY: I think we all have similar size properties. I have a wrap around porch that's the center of the house, which made the side be closer to the side yard because there's an 8-foot or 10-foot porch. You can see in the picture on 1-side of the house that's why it didn't – it opposed on the side yard requirement.

CHAIRMAN HODOM: Any other questions from the Board? Any questions or comments from the audience?

MR. GANSLE: I would just like to say that the addition would be on my side of the house, and I'm sure Mr. Coffey the way he meticulously builds things, that it will look very, very nice and if he does half the job that he did on the shed to match the house it will look very nice and be very pleasing to the eye.

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

Hearing closed 7:45 p.m.

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The next order of business this evening is a public hearing for a Variance under Article V, Districts, Use & Area Requirements, Section 128-28 C, Accessory Uses and Article XIII, Use & Area Schedules, Section 128-100A, Minimum Rear Yards and Maximum Lot coverage requested by The Delmar Reformed Church for property at 77 Adams Place, Delmar, New York. The Applicant wishes to demolish a back porch and construct a 1-story addition, which will encroach into the rear yard setback requirement, exceed the total lot occupancy and be less than 10-feet away from an accessory structure at the premises.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to demolish the existing back porch and construct a new addition to the rear of the existing main structure. This will create a rear yard setback of 18.43-feet, which is 6.57-feet shy of the 25-foot required. The total lot occupancy will be 20.22-percent, which is .22-percent over the 20-percent allowed and the addition will be located 4-feet from the accessory structure and this is 6-feet shy of the 10-foot separation required.

The existing structure is a single-family and is located in a Core Residence 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 7, 2006 at 7:30 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of The Delmar Reformed Church for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear Yards of the code of the Town of Bethlehem for demolition of a back porch addition and construction of a 1-story addition which will encroach into the back yard setback requirement at premises 77 Adams Place, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the May 24, 2006 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. John what's your last name?

MR. LEATH: Leath, L-E-A-T-H, and I'm the property chairman for the Delmar Reformed Church.

CHAIRMAN HODOM: What we will need is a letter from the church authorizing you to represent them.

MR. LEATH: Okay.

CHAIRMAN HODOM: Just so we have it on the record. It's John?

MR. LEATH: Yes.

CHAIRMAN HODOM: And if you would please tell us what you proposed to do and why you want to do it and how you want to do it.

MR. LEATH: Okay, the property is a lot contains one of the parsonages, it's on the back of the main church property and we would like to remove the back porch and pantry area, which is approximately 7 1/2-feet by 20-feet and we would remove that and put on an addition that's 9-feet, 8-inches by 21-feet so it's a little bit larger than the current piece of building that's there, but it would also be an enclosed area; a living room and a half bath. The current porch is on piers and this would actually be on a foundation. We would dig a foundation and build as a more permanent structure.

MR. MICELLI: I'm sorry, that's going to be a half bath and a living room you said,

right?

MR. LEATH: Yes.

MR. MICELLI: Okay thank you.

CHAIRMAN HODOM: These are 2-separate parcels, the church property and the parsonage property?

MR. LEATH: Yes.

CHAIRMAN HODOM: Okay, although apparently you're currently using - or the parsonage is using part of the church property for their back yard. I mean you have a fence there that goes mid way to the garage and...

MR. LEATH: Yes.

CHAIRMAN HODOM: Not to the garage on the parsonage property but to the garage on the church property.

MR. LEATH: Yes.

CHAIRMAN HODOM: Okay. The addition is somewhat larger than - the proposed addition is somewhat larger than the existing back porch. Mark if it was built the same size as the existing porch would there still be a requirement for Variance's?

MR. PLATEL: If they tore it right down, yes.

CHAIRMAN HODOM: It would be, okay.

MR. BROOKINS: How much do they have to leave intact, more than one 2-by 4?

MR. PLATEL: Yeah, more than 1-2 by 4.

MR. LEATH: Unfortunately the current support of the porch is not up to any particular building standards for us to utilize.

CHAIRMAN HODOM: It's on piers and they're deteriorating?

MR. LEATH: Yeah some cement footings - - we're not even sure how deep they go and then this metal pole - metal pipes that come up from...

CHAIRMAN HODOM: To support that back porch.

MR. BROOKINS: Old Technology.

MR. HENNESSEY: So this change would actually be a better foundation, a better overall building?

MR. LEATH: Yes.

MR. HENNESSEY: And up to code?

MR. LEATH: Yes.

MR. UMINA: And the setback abuts the parking lot, is that correct?

MR. LEATH: Yes.

MR. UMINA: Which Delmar Church owns and I was there the other day and was trying to figure out what was going on and you have 2-parsonages, one is in the front and one is in the back.

MR. LEATH: Yes.

MR. UMINA: And the parsonage that we're talking about abuts the parking lot in the back of the church.

MR. LEATH: Yes.

MR. UMINA: And that's where the setback issue is created.

MR. LEATH: Yes.

MR. UMINA: Okay.

MR. LEATH: One of the options we discussed, I believe if we could apply to have that lot become part of the larger lot and the setbacks and occupancy would change but we decided that we really don't want to do that at this time. If we ever decided to sell the property then we would have a different issue.

MR. HENNESSEY: Is that in the cards?

MR. LEATH: Not in the plans.

MR. MICELLI: Do you live on the property, John?

MR. LEATH: No, it's our associate pastor that lives on the property.

CHAIRMAN HODOM: The existing porch currently is being used strictly as a porch?

MR. LEATH: Yes, it's not heated, it's not well sealed so a porch, mudroom sort of thing.

CHAIRMAN HODOM: And this proposed addition is a half bath and a laundry area and I'm not quite sure what the other portion is.

MR. LEATH: It's a living area that would be a living room, den sort of area. I'm searching for the drawings, yes there's a half bath, a small laundry area and the rest of it would be a den, living area.

CHAIRMAN HODOM: Like a study or something of that nature.

MR. LEATH: More for the children – the associate pastor has 2-preschool age children so they're looking at setting up sort of a den and their kids will be close by but out of the living room/dining room.

CHAIRMAN HODOM: And as you look at your plan the dining room is off the kitchen?

MR. LEATH: Yes.

CHAIRMAN HODOM: And the living room is to the top of the page of the dining room?

MR. LEATH: Yes.

CHAIRMAN HODOM: Okay. So there currently is not a family room or rec-room?

MR. LEATH: Well you have the main room on the front of the house, that's the family room, living room right now and then the dining room, kitchen will be in the middle and then another living room, den area in the back.

CHAIRMAN HODOM: And there's currently 2-adults and 2-children living in that house?

MR. LEATH: Yes.

CHAIRMAN HODOM: Okay.

MR. BROOKINS: Have you talked with either of the neighbors to the north or south?

MR. LEATH: No.

MR. MICELLI: And the cellar, what is that going to be used for, storage?

MR. LEATH: Yes. We had considered just putting a crawl space but a couple of us who have to work on the house prefer actually to have a stand up area.

MR. MICELLI: Windows in there too?

MR. LEATH: Yes I think they're in the drawing.

CHAIRMAN HODOM: Is everything else going to remain pretty much as it currently exists, the existing garage is there for that property?

MR. LEATH: Yes.

CHAIRMAN HODOM: The garage is for the church property, the 6-foot high fencing?

MR. LEATH: Yes everything else is going to remain as it.

CHAIRMAN HODOM: So the only changes you're making there is removing the porch and adding on that additional room?

MR. LEATH: Yes.

CHAIRMAN HODOM: Do you have a time frame as to when this would occur if the Board were to approve it?

MR. LEATH: By this fall. The reason I'm chuckling is this has been in discussion for about 15-years. We have a young new associate pastor and he's a little bit more gung-ho and he was actually hoping that it would be built this spring but this is as far along as we've gotten. We actually have drawings done.

MR. MICELLI: It's nice by the way.

MR. LEATH: Yeah she got to the point that she moved all the patio furniture thinking that it was going to happen right away and it's just a little bit longer.

CHAIRMAN HODOM: Is there a river that runs through it in the back where you have your little dugout areas?

MR. LEATH: Not yet.

CHAIRMAN HODOM: Any other questions from the Board? Mr. Leath, all set? Is there anything else you want to add?

MR. LEATH: No, I'm all set.

CHAIRMAN HODOM: Please get us that letter and...

MR. LEATH: Who would it need to be signed by, the pastor or...

CHAIRMAN HODOM: Who owns the property?

MR. LEATH: I'm not quite sure what the ownership...

CHAIRMAN HODOM: You may have a governing committee or something or a chairperson.

MR. LEATH: Maybe the larger church organization – there's a whole reformed church of America structure and I'm not sure if it belongs...

ATTORNEY MOORE: I don't think we have to go that far.

MR. BROOKINS: Is there a local church counsel or a president or....

MR. LEATH: We have the church consistory of which the pastor is the president.

CHAIRMAN HODOM: That's fine. 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 8:00 p.m.

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The next order of business was to consider the application of Suzanne Furlong, 99 Adams Place, Delmar, New York. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Suzanne Furlong for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yards for the demolition of a 1-car detached garage and reconstruction of a 2-car detached which will encroach into the side yard setback requirement at the premises 99 Adams Place, Delmar, it is hereby ordered that a public hearing on this matter be held June 21, 2006 at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

The next order of business was to consider the application of Eliot Rich and Marla Eglowstein Rich, 65 Iroquois Trail, Slingerlands, New York. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Eliot and Marla Rich for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Maximum Lot coverage and minimum front yards for the construction of an addition, which will exceed the allowable lot coverage and encroach into the front yard setback requirement at premises 65 Iroquois Trail, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held June 21, 2006 at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was to consider the application of Karen & Steven Bylsma. The application was found to be in order and Mr. Umina made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Karen & Steven Bylsma, for Variance under Article XIII, Use & Area Schedules, Section 128-100A, Maximum Lot Coverage for the construction of a 3-season room, which will exceed the allowable lot coverage at the premises 7 Schuyler Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held July 5, 2006 at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of Nicholas & Cherise Vitillo, 207 Maple Avenue, Selkirk, New York. The following points were brought up by the Board members: The Board will recommend that Mr. Vitillo Sr, will transfer the property to Mr. Vitillo Jr. and that the Planning Department will review and give recommendation of the proposed house and trucking business. On a motion made by Mr. Chairman Hodom, seconded by Mr. Mr. Brookins, 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 21, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of Betty Nolan, 1250 Route 9W, Selkirk, New York. The following points were brought up by the Board members: The Applicant was previously approved by the Board for a Use Variance in August, 2005. The Town of Bethlehem's zoning code was changed in August 2005 causing new setback issues for the Applicant. The Planning Board had recommended a new location for the canopy, which would be encroaching into the front yard setback requirements. On a motion made by Mr. Umina, seconded by Mr. Hennessey, 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 21, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of The Delmar Reformed Church, 77 Adams Place, Delmar, New York. The following points were brought up by the Board members: The proposed addition will improve the property. The lot is small. The essential character of the neighborhood would not be affected. On a motion made by Mr. Brookins, seconded by Mr. Hennessey, 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 21, 2006.

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The next order of business was to consider the proposed resolution of Robert & Carol Dunn.

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

RESOLUTION

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) for a variance under Article V, District, Use and Area Requirements, §128-25 (B) and Article XIII, § 128-99, Schedule of Uses, by Robert and Carol Dunn (“Applicants”) for property at 18 Elm Avenue, Selkirk, New York, and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notices 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 January 18, February 1, April 15 and May 3, 2006, and,

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

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

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

FINDINGS OF FACT

Applicants are the owners of a 2.486 acre vacant lot at 18 Elm Avenue East, in the Town's Residence "A" district. The lot is part of a subdivision previously approved by the Town Planning Board and the Albany County Department of Health.

By Resolution of this Board dated August 2, 2000, Applicants were given a variance authorizing access to the lot by means of an easement granted by Niagara Mohawk Power Corporation.

Applicants now seek a use variance from the Board authorizing the construction of a multiple-unit residential structure on the property. Only single family residences, and other non-residential uses, are allowed in the Residence "A" district (see, Town Code Section 128-99).

Applicants' principal argument in support of the requested use variance is that they would allegedly receive a higher financial return by developing the property with a multi-family dwelling rather than a single-family dwelling.

There was testimony at the public hearings from neighboring property owners objecting to the requested use variance, on the ground that it would alter the essential residential character of the surrounding area.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and on the testimony and exhibits presented at the public hearings, the Board concludes that the Applicants have not carried the

burden required to demonstrate their entitlement to a use variance, and the application is DENIED.

Applicants have failed to meet all the requirements of New York Law, as codified in Town Code section 128-90(C) (1)-(4), specifically:

1. Applicants failed to demonstrate, by competent financial evidence, that they cannot realize a reasonable return on their property by the uses permitted under Town Code Section 128-99; and
2. The Board finds that the requested use variance, if granted, will alter the essential character of the neighborhood where the property is located.

The requested use variance is denied.

June 7, 2006

Michael Hodom, Chairman
Zoning Board of Appeals

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
Gilbert Brookins			
Leonard Micelli			
Anthony K. Umina			
Mark Hennessey			

(Resolution filed with the Clerk of the Town of Bethlehem on June 8, 2006.)

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The next order of business was to consider the proposed resolution of Mel & Janice Lamphron.

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 XIII, Use and Area Schedules, Section 128-100, Area, Yard and Bulk Requirements, Minimum Side Yards, requested by Mel and Janice Lamphron ("Applicants") for property at 71 Fairlawn Drive, Selkirk, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notices 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 17, 2006; and,

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

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

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

FINDINGS OF FACT

By Resolution dated October 19, 2005, this Board granted Applicants a side yard setback variance of 3 feet, in order to construct an attached garage addition on to the main dwelling at the property. The dwelling is located in a Planned Residence District with “AA” zoning requirements.

Applicants now request a modification of the October 2005 Resolution in order to add a second floor living space above the new garage, which will also enhance the appearance of the home. There will be no change to the previously approved side yard setback.

The overhang on the front of the expanded garage structure will be 2 feet 2 inches, which is consistent with the existing overhang on the main dwelling. This also creates a front yard setback of 34 feet, which is one foot shy of the 35 feet required. The Board will consider both the side yard and front yard variances on this application.

The roofline of the expanded garage structure will be consistent with the main dwelling.

Applicants provided one letter of support for the project from a neighbor.

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

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 request to modify the October 19, 2005 Resolution (side yard variance) is GRANTED, and the front yard variance needed for the project is also 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 variances.

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

The requested variances are the minimum 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 side and front yard 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 17, 2006 hearing, except as the same may be modified by the Town Planning Board;
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 the time provided by section 128-89 (P) of the Town Code.

June 7, 2006

Michael Hodom
Chairman
Zoning Board of Appeals

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Mr. Hennessy 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 Gilbert Brookins Leonard Micelli Anthony K. Umina Mark Hennessey	None	None	None

(Resolution filed with the Clerk of the Town of Bethlehem on June 8, 2006.)

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The next order of business was to consider the proposed resolution of Bart & Lisa Robinson.

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

RESOLUTION

*

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”), seeking a variance under Article III, Zoning Maps and Districts, Section 128-17(C), Exceptions (Fences), requested by Bart and Lisa Robinson (“Applicants”) for property at 164 Hasgate Drive, Delmar, New York; and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notices 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 17, 2006; and,

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

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

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

FINDINGS OF FACT

Applicants' property is located at the corner of Hasgate Drive and Forsten Drive, in a Residence "A" district. The front yard faces on Hasgate Drive, and the front/side yard faces on Forsten Drive.

Applicants propose to erect a 6-foot high fence (4 foot solid, 2 foot lattice) along the front/side yard (Forsten Drive), which will extend 20 feet into this yard. The Town Code presently prohibits fences higher than 4 feet, and prohibits fences anywhere in a front yard. Thus, two variances are required.

The fence is required for security, as the Applicants have recently constructed a swimming pool in the rear yard (see, Town Code section 128-50 [A]); and for privacy along the well traveled streets of the neighborhood. Landscaping does not provide security, and is more expensive.

At the public hearing, Applicants agreed to move the fence back so it only extends 15 feet into the front/side yard. This would be consistent with a proposed

corrective amendment to the Town Code now under consideration, as stated at the public hearing by the Building Inspector and a member of the Town Board.

The proposed fence is otherwise in compliance with the Town Code.

Applicants presented the Board with two letters from neighbors who support the proposed project.

Applicants have spoken to other of their neighbors who also support the proposed project.

Other than the Applicants, one person spoke in favor of the Applicant at the public hearing.

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 variances 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 variances.

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

The requested variances are the minimum 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 for fence height and fence location are granted, on the following conditions:

4. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the May 17, 2006 hearing except as the same may be modified by the Town Planning Board;
5. The project shall be completed within the time frame required by Town Code section 128-89(P).

June 7, 2006

Michael Hodom, Chairman
Zoning Board of Appeals

- - -

Mr. Umina 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
Gilbert Brookins			
Leonard Micelli			
Anthony K. Umina			
Mark Hennessey			

(Resolution filed with the Clerk of the Town of Bethlehem on June 8, 2006.)

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On a motion made by Mr. Umina, seconded by Mr. Micelli, and unanimously carried by the Board, the minutes of the May 17, 2006, meeting were approved as amended.

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

Meeting Adjourned: 9:10 p.m.

Respectfully submitted,

Secretary