

**TOWN OF BETHLEHEM
BOARD OF APPEALS
June 16, 2004**

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

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

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 Special exception under Chapter 113-3 (B), 113-4 A (1), Alternative Tower Sites requested by Independent Wireless One, (Applicant), Bill Banahan (Owner) for property at Old Quarry Road, Selkirk, New York. The Applicant wishes to install 6 PCS antennas and related call processing equipment to an existing tower at the premises of Old Quarry Road, Selkirk, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to co-locate up to 6-antennas on an existing 180-foot tall telecommunications tower. The proposed co-location will also include 2-equipmenet shelters that will occupy approximately 16-square feet of building area and will be located on a 9-foot by 12-foot concrete pad. The existing tower and equipment are located in a RNZ District and the current use of the site and structure is a public utility.

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 of Bethlehem, Albany County, New York will hold a public hearing on, Wednesday June 16, 2004 at 7:30 p.m., at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Independent Wireless One for Special Exception under Chapter 113-3 (B), 113-4 A (1), Alternative Tower sites of the Code of the Town of Bethlehem to install 6-PCS antennas and related call processing equipment to an existing tower at the premises Old Quarry Road, Sle Kirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 9, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone wishing to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Mr. Cusack will you just introduce yourself to us and your association with the applicant and tell us what you would like to do.

MR. CUSACK: My name is Mike Cusack, C-U-S-A-C-K. I'm vice president of Independent Wireless One, the applicant and with me is Rick Andress our RF manager, radio frequency engineering department. What we're proposing here is the co-location of a Sprint PCS communications facility on an existing Crown Tower located on Old Quarry road over by the Selkirk area of town, where the railroad yard is. The objective that we're trying to achieve with this site is to improve our service in the area particularly to the south and to the east and the west. Our nearest site is located on Elm Ave., it's the Town's water tank facility. We're, as I said in the previous hearing a couple meetings back, we're very happy with that facility. It's working very well, usage is very high on it and we're expanding to fill in to supplement that usage and expand the coverage footprint further away from the center of Town. The roads here that I think will be best served here by this particular facility are going to be Route 32 after Feura Bush, County Route 301 kind of circling and around to the south and then coming back down – Albany Filtration Plant Road, which is labeled as County Route 102. On the particular map that I'm looking at this facility is also going to take care of a small problem that we're having right now on the thruway believe it or not. In the vicinity of – I'm going to be careful here, Heath Road it looks like and Clapper Road, so it's where – and the other road is Weisheit Road. So kind of where down where Wemple crosses the other side and we have a small problem there that this is going to help us with. Beyond that I can answer any questions on the facility that you have.

CHAIRMAN HODOM: If you would Mike, maybe you can clarify – you don't mind me calling you Mike do you?

MR. CUSACK: No, go right ahead.

CHAIRMAN HODOM: In your application for a Special Exception it does state 6-antenna,

however in your introduction letter statement and support of application and the description of use you're listing 3-pipe mounted panel antennas and 1-GPS antenna.

MR. CUSACK: That's correct I should have touched on that. We have 3 - - the facility that we'll actually construct if this is approved is going to be 3-antennas if you can think of the faces of the top of the tower, we're going to have one going in of each of the three directions. The second set of three is if we need it for future expansion and, you know capacity would really have to go through the roof and usage very, very high for us to put that on. But we mentioned that, that that would be the most we would put on the tower over time, but we can certainly - - what we're proposing here right now is to do it with three as our initial build.

CHAIRMAN HODOM: Okay so this application is for the 3-antenna?

MR. CUSACK: It can be. We'd like to get the approval for the six if that's acceptable to the Board. If it's not we'll come back if we need to add three at a later time.

CHAIRMAN HODOM: Well why don't you describe the reasons that you would want to add three at a later time. Is it to cover the areas that these antennas are not going to cover?

MR. CUSACK: It basically adds thru-put, but I'll let Rick explain that because he...

CHAIRMAN HODOM: Okay just introduce yourself to us Rick if you would.

MR. ANDRESS: I'm Rick Andress and I also work for IWO. It would cover exactly the same area. It just as usage grows you add what they call carriers so basically if you add a second carrier it doubles the amount of traffic you can carry on a site and then if the other third carrier triples the amount of traffic. So we can get by with the current configuration up until we have to have a fourth carrier, which we wouldn't anticipate within 10-years, but in the future at some point we certainly hope that our traffic grows to the point where we would have to add the three extra antennas. But it would be strictly just to add capacity to the site, not any coverage.

CHAIRMAN HODOM: Okay. The other thing is in your section 3 - your SEQRA form, your SEQRA application does list the - - in item six it does list the 3-antennas, but it excludes the GPS antenna which you're asking for so if you would kindly correct that.

MR. CUSACK: That does need to be corrected, yeah the GPS antenna although very small is critical to the operation to the site. It's approximately this big.

CHAIRMAN HODOM: Okay.

MR. CUSACK: 6-inches, 8-inches, somewhere in that range.

CHAIRMAN HODOM: And is that to be located on the tower or is that going to be located on the ice bridge?

MR. CUSACK: It depends when they get it. They do this at the time of construction; they try to put it on the ice bridge unless they're screening from tall trees. It has to have visibility to the horizon for satellite reception so that it can pick up the proper number of GPS satellite signals. So it depends on how - - they don't like to cut trees down. The only time they go up the tower whether it is when they need the clearance.

CHAIRMAN HODOM: Okay.

MR. ANDRESS: Which we really try to avoid at all costs because of maintenance purposes if you have to swap out that end if should something fail. It's much easier to do it on the ground then to hire a - - so we'll definitely try to keep it on the ground at all costs.

CHAIRMAN HODOM: The report from Crown Castle International of May 11, 2004, which is your - apparently your structural analysis report, it lists several items in that first paragraph which is the Crown Castle structural statement of work, the terms of the Crown Castle purchase order number 158109 and the proposed equipment listed in table 1, and then all proposed - this is in the third paragraph, all proposed equipment shall be installed in accordance with Crown Castle drawing, number 806679A-167, but none of these items are attached to the letter. I think the Board would have to see those for review.

MR. CUSACK: The first - - I know that the first item is, is just their financial lot arrangement with this engineering firm, the statement of work and purchase order is just the terms of their getting hired and paid so it's their scope of work and basically the promise that if they do the work they'll be paid by Crown. The table 1 and Crown Castle drawing number I can certainly provide.

CHAIRMAN HODOM: Because I don't know and I don't think the rest of the Board knows what they're basing their analysis on. Is it the 4-antenna that you're proposing at this point in time or is it the 7-antenna that you're proposing at possibly some future date?

MR. CUSACK: Right. It's the 3 - 3-antennas.

CHAIRMAN HODOM: So we'll stay with the 3-antenna application.

MR. CUSACK: We're going to stay, let's stay with three just to keep it consistent.

CHAIRMAN HODOM: Okay. But if you could get those other items to us I'd appreciate it. And you can cross out any kind of monetary values that you find that you'd rather not tell us about, but I'd think we'd like to see what they're statement of work is.

MR. CUSACK: Who should I give it to?

CHAIRMAN HODOM: This is it right here?

MR. CUSACK: That's it.

CHAIRMAN HODOM: Thank you. That's just what, the statement of work in terms of...

MR. CUSACK: That's the table.

CHAIRMAN HODOM: That's the table?

MR. CUSACK: The application table and the drawing that Crown provided.

CHAIRMAN HODOM: Okay.

MR. CUSACK: They're not going to give me the purchase order materials. They won't give me the purchase order, their internal accounting materials. I don't know if I'm going to be able to get that.

CHAIRMAN HODOM: Okay you can change that just tell us you can't get it.

MR. CUSACK: I'll let you know.

CHAIRMAN HODOM: Okay. This is page 2 of your statement in support – paragraph 3, hours of operation. The fourth line it says that the facility has improved when the existing access drive and existing parking is available. If you look at section 2, drawing T01 down in the lower left hand corner under other requirements, it says that the facility has no plumbing or parking. So if you could clarify that for us as well.

MR. CUSACK: No public parking. Clarification to that is on the next sheet. These are of course unmanned facilities so there's not going to be any running water or bathroom facilities. The access road is shown on sheet 01, which comes up from the water plant and when you make that right on this drawing off to the – I'm trying to find the direction here, it looks like off to the north and you turn into the little driveway where it says existing gravel access road. That is the parking areas, they're basically just saying there's a spot to park if you send a truck up to climb the tower of fix something that's broken.

CHAIRMAN HODOM: Okay.

MR. CUSACK: We're not providing any public parking or anything like that. These are locked facilities. In my recollection I haven't been up there in several years, but my recollection that you can't get past a certain point without going through a gate because you have to pass across the filtration plant to get here.

CHAIRMAN HODOM: Correct.

MR. CUSACK: To this facility to start with.

CHAIRMAN HODOM: If you can just have Clough Harbour make a correction to that drawing to that drawing eliminating that.

MR. CUSACK: That comment?

CHAIRMAN HODOM: Yes.

MR. CUSACK: Sure.

CHAIRMAN HODOM: And then your application does state 6-PCS antennas and related call processing equipment. You will modify that to 3-PCS antennas and 1-GPS antenna.

MR. CUSACK: That's correct.

CHAIRMAN HODOM: Okay. Do we need a new application or we can just modify that?

ATTORNEY MOORE: We can just modify that.

CHAIRMAN HODOM: Also if you would Mike, in 113-6 B there's a statement regarding that you should notify the Board in your application that there's - - the installation will not cause any harmful emissions. If you could just get us a letter to that effect we would appreciate that. I'm assuming that there are no harmful emissions being generated.

MR. ANDRESS: There are none, that's right.

CHAIRMAN HODOM: I believe you've complied with the other requirement of that section and I didn't find any notice in your submittal regarding the harmful emissions so if you can get that to us.

MR. CUSACK: (nods in agreement)

CHAIRMAN HODOM: Other question from the Board?

MR. WIGGAND: Mike is this 180-foot tower; is this existing the way you're describing it? It's 180-foot tall and I don't know if I lost it or did we have them, a picture or something of that tower. If we did I've misplaced it.

CHAIRMAN HODOM: It's on ZO3.

MR. WIGGAND: I just don't have that in front of me. Is there other antennas on that tower?

MR. ANDRESS: There's one set on the very top.

MR. WIGGAND: On the very top, I recall that now. I just didn't have that in front of me.

MR. ANDRESS: And we're going to come down.

MR. WIGGAND: 13-feet to your site there?

MR. ANDRESS: So you're at 163.

CHAIRMAN HODOM: About 15-feet.

MR. WIGGAND: And that is an existing tower now?

MR. MICELLI: Here it is Bob.

MR. WIGGAND: Thank you.

CHAIRMAN HODOM: Anyone else have any questions? Any questions or comments from the audience? Anyone wishing to speak in favor of the applicant? Mike how soon can you get us this documentation, within 3 or 4-days?

MR. CUSACK: Yeah I can get it to you by Monday, probably by Friday.

CHAIRMAN HODOM: Okay so we can close the hearing and as long as I have it within 7-days that will be fine.

MR. CUSACK: Yes.

CHAIRMAN HODOM: Okay. Anyone wishing to speak in opposition of the applicant? Hearing no further questions or comments we'll declare the hearing closed pending the final receipt of the requested documentation. Thank you very much.

MR. CUSACK: Thank you.

Hearing closed 7:50 p.m.

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The next order of business this evening is a continuation of a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-20 C (3), Light Industrial District requested by Stewarts Shops Corporation for property at 33 Frontage Road, Glenmont, New York. The Applicant wishes to remove existing canopy, islands and pumps and replace with larger canopy, concrete pad and 4-fuel dispensers at the premises 33 Frontage Road, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is a reopening of a previously adjourned public hearing. The applicant is seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576-square foot canopy and replace it with a new 44-foot by 45-foot, 1,980-square foot canopy. The new canopy will house 4-new gasoline dispensers, replacing the 2-dispensers that are now existing on the site. The structure is located in a light industrial district and is occupied as a motor fuel filling station and convenience store.

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

Notice of Public Hearing. Notice is here by given that the Board of Appeals; Albany County, New York will hold a public hearing on Wednesday April 21, 2004 at 7:30 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Stewarts Shops Corporation for Special Exception under Article VI, Permitted Uses, Section 128-20 C (3), Light Industrial District of the code of the Town of Bethlehem to remove existing canopy, islands and pumps and replace with larger canopy, concrete pad and 4-fuel dispensers at premises 33 Frontage Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 14, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier this evening. Mr. Bulmer just introduce yourself to us again if you would.

MR. BULMER: I'm Paul Bulmer a real estate rep for Stewarts Shops. A couple things we did and I know you have it right in front of you Mr. Chairman, the letter from the DEC requested, which covers both sites that they are aware that both sites are happening and I've talked to Keith Guertz to that they're certainly – especially the other site where there's going to be a tank removal, but as far as some of the things on this site that we talked about, number 1 I want to make it – notice of a couple things. And I just found out today that there was a back page submitted with this that shouldn't have been that showed tanks and other things so that can be discarded and thrown out. That was a mistake.

The second one – when I drove home the night after that first meeting I realized the plan was inaccurate. It didn't show the existing picnic up there on the top and that is to remain. So we made sure that that was added back on to the plan. Some of the comments made that night I know there was a question raised about the building signage as it was. There are 2-existing building signs each are 21-square feet. I think we spoke yesterday that those are in compliance. Also the neighbor had shown up and I actually – I just went there today and her diner was closed because I said I'd bring it to her and I had forgotten to, to show what kind of fence we're looking at. We're proposing a split rail fence between the properties to eliminate the cars coming back and forth. I know that was one of her concerns.

CHAIRMAN HODOM: Correct.

MR. BULMER: If she'd rather have something else, you know we're okay with that if the Board's okay with that but if she would prefer something else to I mean we'd be flexible with that, but we're fine with the split rail fence. That would alleviate the concerns she had. There was a concern about the no parking. We'll put it however you want; we just showed on there no parking. We could paint it in however we want, we can hatch that if you'd prefer, but we'll certainly try to eliminate the truck parking there as best we can.

CHAIRMAN HODOM: While you're on that topic Mr. Bulmer.

MR. BULMER: Sure.

CHAIRMAN HODOM: Would you be willing to put some actual vertical signage there, no parking?

MR. BULMER: Sure, that's fine.

CHAIRMAN HODOM: Because of the wintertime it gets covered up.

MR. BULMER: I'd want to keep it on that island so I don't clip it with a truck on the site.

CHAIRMAN HODOM: Sure absolutely.

MR. BULMER: But that's fine.

CHAIRMAN HODOM: Maybe the hatched area like you mentioned with some signage there. That doesn't impact the signage for the site?

MR. PLATEL: No, directional signs like that do not.

CHAIRMAN HODOM: The proposed foot rail fence that you've shown on the plan, is that wood, is it vinyl, is it steel?

MR. BULMER: You can do anything you want. I'm going to let you decide. We just put a split rail fence and we can do a wood one – I mean wood we're going to have to do some maintenance on. We can probably do a vinyl which is probably the easiest to maintain. If the Board has a preference we'll lean that way. I think they put it on there to be somewhat agreeable with her. If she has a preference, I thought maybe she'd be here.

CHAIRMAN HODOM: Well that was my only concern is the maintenance. If it's a wood it's going to deteriorate over time. The vinyl will probably hold up better.

MR. BULMER: We can agree to a vinyl split rail. And for some reason and I can't imagine that can be an issue for us, but if it is I'll let you know but I'll assume it's fine. I can't imagine why that should be an issue for us.

CHAIRMAN HODOM: Pardon?

MR. PLATEL: I'm thinking wintertime with plowing, where does the snow go? If the snow goes that way I don't think the vinyl will hold up.

CHAIRMAN HODOM: Well if the vinyl won't hold up the wood won't hold up.

MR. BULMER: Yeah, but we shouldn't be driving around I mean she's got those existing...

MR. PLATEL: All I was just wondering if this was kind of open here if that's where the snow got plowed to in the wintertime.

MR. BULMER: I don't think so because she's got - -the neighbor has the parking, you know she's got parking spots coming right into here from the diner as it is so I mean if we've been doing that, we've been doing that incorrectly all along and I'm sure we would have heard about it at this point. My guess is that picnic area we dump the parking onto, you know whether or not we shovel it up and over and pile it, there's no reason why we don't. That's a concrete pad and I guess long prior they use to - - I don't know if we sold propane or something out of that. That's why that was originally there, once that went away we just turned it into a picnic area. So I assume we had to shovel it up and over on that. I really don't know.

CHAIRMAN HODOM: Do you have any suggestions Mark, I mean if that's a concern? You can always get the metal posts with the wire cable, that wouldn't impede any snowplowing.

MR. PLATEL: It wouldn't look very nice though.

MR. BULMER: But I can't imagine now that they're dumping - I mean if they got the, and I don't even know what they call them, the parking barriers as they would. They can be running a plow up and over those.

MR. MICELLI: I think they would push it closer to Red Star by that fence.

MR. PLATEL: I think what they do - - don't they lose a couple of spaces maybe is what happens is they just push it up and back it into that one corner.

MR. MICELLI: I don't ever remember seeing snow by that diner.

MR. WIGGAND: I think you're right, I think it was all pushed towards Red Star taking up a few of these parking spaces. These parking spots aren't really used an awful lot down there.

MR. PLATEL: I was just concerned whether they took and pushed it over in this way or

not.

MR. WIGGAND: You've got to be careful of traffic coming in, everything moves around that and now these additional pumps in there, this is very important that this stays open.

MR. BULMER: What happens when you get 4-pumps is they become parking spots, I mean people pull in and use them so if you're filling up they're likely not moving. That's really all I had on this, I think those were the concerns that were raised by your Board the last time.

CHAIRMAN HODOM: Just clarify the bronze finish on the canopy.

MR. BULMER: Okay the bronze, and actually I know that was incorrectly shown the first time. The bronze finish that's on the canopy now, which is shown, we actually have a bronze finish on there now and it's going to be the same kind of bronze finish which matches the, you know the roof on the building itself. So that's going to be the same look just expanded to the larger canopy. The lighting was recessed I know that was - - I think we discussed and it's shown on there as recessed lighting. I believe that note is on there, yes, proposed 320-wattage recessed canopy lights so they will be recessed, which is usually a concern of many Boards where they're hanging down so it doesn't look like the airport out there, a small airport.

CHAIRMAN HODOM: Just to recap your statement earlier that the tank installation drawing G-1 that was submitted, it was submitted in error?

MR. BULMER: Correct.

CHAIRMAN HODOM: It's not part of the package?

MR. BULMER: Correct.

CHAIRMAN HODOM: Okay. You're not replacing any of the tanks there?

MR. BULMER: Not at all. When that day comes they're actually going to have to put a new location on them because with the canopy where it is filling them – they wouldn't be able to fill right now where the canopy is so my guess is they're going to have to move those probably in this location because it would be easier to drive in and get the truck in there so in the future that would have to be addressed. Right now these tanks are still fine.

CHAIRMAN HODOM: Were you able to get the automobile manufacture's to have all the gas fill tanks on the left side of the cars?

MR. BULMER: No I haven't, I've tried and I couldn't get a meeting together with all of them. Another question that was raised and I want to address to was about our tank registrations; well actually this gets to the next site.

CHAIRMAN HODOM: Mr. Wiggand had raised a question about the space in-between the

islands.

MR. WIGGAND: You were going to come back here with an answer to.

MR. BULMER: You know what, I forgot to have them put it - - we can put a bollard on it, you know typical - - that's never - we've never seen that be an issue and I mean it's just from our operation it's never been a point where anyone's diving in and out of those. We've never had that at least visibly occur or have had an incident - one's that occurred. Our preference would be not to do it but if the Boards insistent we could raise a curb, you know and bring the concrete but...

MR. WIGGAND: The main thing that's happening right now, you're on record of what your saying and you're covering that item and that's what I wanted you to do. So in your other stations you don't have a problem with cars cutting through?

MR. BULMER: Correct.

MR. WIGGAND: Okay, you're going to take care of that.

CHAIRMAN HODOM: Are you satisfied with that Bob?

MR. WIGGAND: Yeah I'm satisfied with that as long as they're aware of it. So how did we leave that fence with, Mike?

CHAIRMAN HODOM: Well we can discuss it.

MR. WIGGAND: We don't have to have any further meetings on that fence?

CHAIRMAN HODOM: No, I think it's just a matter of what the Board prefers as far as materials.

MR. WIGGAND: Well he seems to be quite cooperative with that.

CHAIRMAN HODOM: Yeah it'll probably end up being gold plated.

MR. PLATEL: With bronze to match the canopy.

CHAIRMAN HODOM: Mark you're all satisfied with the signage?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Updated your records to the current status?

MR. PLATEL: Yes.

CHAIRMAN HODOM: Good.

MR. WIGGAND: Are the shrubs located where they're shown here? It's nice the way you have this.

MR. BULMER: In theory they should be, yeah, I mean that's our...

MR. WIGGAND: Because you don't have those there now.

MR. BULMER: Not to be facetious but that's usually what - - we typically give them a plan and when they go to put it in the landscape architect's are usually better than us - or landscapers and when they get out there if there's a better arrangement or not, we want at least that kind of density. But if for some reason they can't do what's shown they always come back to us and - can we make this change.

MR. WIGGAND: I'm very familiar with this station, I'm there everyday getting milk.

MR. BULMER: I'm sorry right now about the cost.

MR. WIGGAND: This open area here, that's where the bathroom is. You're not going to change any of the building itself?

MR. BULMER: No, nothings going to change with the building.

MR. WIGGAND: Okay.

CHAIRMAN HODOM: Any other questions from the Board? Any questions or comments from the audience? Hearing no comments - are you all set Paul on this one?

MR. BULMER: Yes.

CHAIRMAN HODOM: We'll declare the hearing closed and notify you in a timely manner.

Hearing closed 8:05 p.m.

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The next order of business this evening is a continuation of a public hearing for Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail commercial District requested by Stewarts Shops Corporation for property at 309 Delaware Avenue, Delmar, New York. The Applicant wishes to remove existing canopy, 2-fuel dispensers and underground gasoline storage tank and replace with new canopy, 2-fuel dispensers and 2-new underground storage tanks at premises 309 Delaware Avenue, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. This is the reopening of a previously adjourned public hearing. The applicant is seeking a modification to a previously granted Special Exception to remove an existing 24-foot by 24-foot, 576-square foot canopy and replace it with another 24-foot by 24-foot, 576-square foot canopy in the same location. The height to the top of the new canopy will be 17.5-feet, that is 3-feet lower than the height of the existing canopy. They will also be replacing the 2-existing gasoline dispensers with 2-new dispensers and removing the underground gasoline storage tanks and replacing them with new tanks. The structure is located in a "CC" Retail Commercial District and is occupied as a Motor Fuel Filling Station and Convenience Store.

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 for the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday April 21, 2004 at 7:45 p.m., at the town offices, 445 Delaware Avenue, Delmar, New York to take action on application of Stewarts Shops Corporation for Special Exception under Article VI, permitted Uses, Section 128-17 C (3), CC Retail Commercial District of the code of the Town of Bethlehem to remove existing canopy, dispensers and underground gasoline storage tanks and replace with new canopy, 2-fuel dispensers and 2-new underground gasoline storage tanks at the premises 309 Delaware Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 14, 2004 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier. Mr. Bulmer just introduce yourself again and tell us what you would like to do.

MR. BULMER: Sure, I'm Paul Bulmer, real estate rep for Stewarts. To start off I want to talk about some of the concerns that were, again raised with this location and I think the question was raised as to why the building can't be moved back and if you actually look at it this is the property line. The building actually sits on the property line it's just about a foot off it so that can't go back, it's all Delaware and Hudson property behind it – that whole gravel area, which is where we drive around the building and which is why the building has always been upfront so unfortunately our hands are tied and we can't move that building back. I think one of the questions was during construction what's going to happen and what happens and I guess when these went in and I asked that question what happened what ever it was – 14/15-years ago, they parked on the south side and in the back in the gravel area. I mean it's just – it's how it's going to, you know it didn't shut down and we just basically used the one entrance and got in the back as best we could.

Also with the tank registration that was – I think that question was raised, can we get copies of that? We actually don't get those until DEC comes. We pull the existing tanks. We have to do – make sure the site is clean and the tanks are installed properly. We, by law and this is just a heads up if there is anyone else doing new tanks in town – cannot fill those new tanks until we get that registration from them. So it's a process, they give it to us pretty much through – in the middle of the construction, they're in and they're installed properly. We can't get a license to fill until we get that registration. We can't get that registration until they give us the check off. So we'd be glad to provide those to you during the process and get you copies of them if you want to see those registrations.

CHAIRMAN HODOM: If you would please, yes.

MR. BULMER: The notes have been corrected on the back, I apologize for those and that's – was kind of sloppy on our behalf. In reality it came from the manufacturer. They never changed their own notes and we just took them off - - they sent them to us on a cad and we just print them off, of course assuming that they're correct. They're still giving us notes on steel tanks and they got the new tanks so...

CHAIRMAN HODOM: You're referring to the notes on drawing G-1?

MR. BULMER: Yeah, you raised the question size to they were talking about some steel tanks and some other issues and they're all fiberglass tanks and the notes have been corrected. That was it; I really don't have much on this one. Obviously the signage and I think we discussed the signage on the canopy last time where we'll have a 10-square foot sign on each end of the elevation. Obviously the canopy itself – the area remains the same; although the height is only 3-feet so I guess the cubic area is smaller and also to match the building.

CHAIRMAN HODOM: Our counsel at our previous hearing had requested that the tank closure filed with DEC also be provided to the Board, so if you could do that as well.

ATTORNEY MOORE: That will be generated by your contractor.

MR. BULMER: That's right.

CHAIRMAN HODOM: And it's for record purposes.

MR. BULMER: That's fine. I don't have anything else unless I'm missing something.

MRS. O'BRIEN: Mr. Bulmer, these are the only tanks you have on the property now and they will all be removed?

MR. BULMER: Correct.

MRS. O'BRIEN: And new ones placed?

MR. BULMER: Correct.

MRS. O'BRIEN: Okay.

MR. BULMER: There's about a 98-percent chance or 99-percent chance we're going to have – you know there's a clean up here, I mean so and we're aware of it and DEC is aware of it so that will - - which is a good thing to get this up and out at this point.

CHAIRMAN HODOM: Are they currently steel tanks?

MR. BULMER: They're currently double wall steel tanks. Once the outside wall breaks down - - the whole point of the double wall steel tanks is once there's an indication the outside wall breaks down, you pull the tanks and that has certainly occurred.

MR. MICELLI: What cause's that? Just years of wear and tear on it basically?

MR. BULMER: Yeah they just corrode. That's why the fiberglass, you know supposedly are going to be - - they say they're not going to break down, but who knows. If there will be a new additive to gas in 10-years that breaks down fiberglass, who knows, I don't know.

MR. WIGGAND: We may bring you back in 20-years or so.

CHAIRMAN HODOM: Do you have a time frame on this facility?

MR. BULMER: Both of them we'd like to start I know certainly sooner than later this summer. The exact dates I don't know but I can find out and get back to you. If you want I can call you tomorrow with what would be our ideal schedule. I know we have a schedule, I don't have the exact dates but I'm sure it's within the next month or so.

CHAIRMAN HODOM: Well I think the question is if the Board were to approve the applications, 2-years would be adequate time for you to start and complete the work?

MR. BULMER: Yeah, 3-months; we'll be done shortly.

CHAIRMAN HODOM: Any other questions from the Board? Any questions or comments from the audience? Hearing no further questions or comments we'll declare the hearing closed and notify you in a timely manner. Thank you very much Mr. Bulmer.

Hearing closed 8:15 p.m.

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The next order of business was to consider the application of William & Ellen Van

Valkenburg. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by William & Ellen VanValkenburg for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings and Article XVIII, Rear Yards, Section 128-79, Required Depths to construct an addition, porch and deck, which will exceed the allowable percentage of lot occupancy and encroach into the rear yard setback requirement at premises 18 Werner Avenue, Delmar, New York, it is hereby ordered that a public hearing on this matter be held July 21, 2004 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Brookins 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 New Visions of Albany for a modification to a previously granted Use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District for the construction of an attached pavilion at the premises 334 Krumkill Road, Slingerlands, New York. The following points were brought up by the Board members: The applicant was agreeable to plant 3-additional trees to provide a natural screen for the neighbors. The plans were well drawn. The proposed pavilion would not be a detriment or affect the character of the neighborhood. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Use Variance, for presentation at the next Board meeting on July 7, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Independent Wireless One (Applicant), Bill Banahan (Owner) for a Special Exception under Chapter 113-3 (B) and 113-4 A (1), Alternative Tower Sites to install 6-PCS antenna and related call processing equipment to an existing tower at the premises Old Quarry Road, Selkirk, New York. The following points were brought up by the Board members: The proposed coverage would be an improvement and will be placed on an existing tower owned by Crown Castle. Additional documentation will be submitted before the building permit will be issued. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Special Exception, for presentation at the next Board meeting on July 7, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of Stewarts Shops Corporation for a Special Exception under Article VI, Permitted Uses, Section 128-20 C (3), Light Industrial District to remove existing canopy, islands, and pumps and replace with larger canopy, concrete pad and 4-fuel dispensers at premises 33 Frontage Road, Glenmont, New York. The following points were brought up by the Board members: The Applicant is willing to accommodate adjacent neighbor by putting a fence up to stop through traffic. The proposed plan was well done and will be an improvement to the existing site. On a motion made by Mr. Brookins, seconded by Mr. Wiggand, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Special Exception, for presentation at the next Board meeting on July 7, 2004

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The next order of business was a discussion of the previous public hearing held in the matter of Stewarts Shops Corporation for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District to remove existing canopy, dispensers, and underground gasoline storage tank and replace with new canopy, 2-fuel dispensers and 2-new gasoline storage tanks at premises 309 Delaware Avenue, Delmar, New York. The following points were brought up by the Board members: The replacement of the tanks is necessary. The outside wall of the double steel tank has broken down and will be replaced with a fiberglass tank. The new canopy, and signage will enhance the site's appearance. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Special Exception, for presentation at the next Board meeting on July 7, 2004.

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The next order of business was to consider the proposed resolution of David Chainyk for property at 19 Elm Place, Albany, New York.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York seeking a Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District requested by David Chainyk for property at 19 Elm Place, Albany, New York; and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 19, 2004; 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 of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to construct a 2-family dwelling in a Residence "A" District. In a residence "A" District a duplex or 2-family residence is not listed as a permitted use or as a permitted use after site plan approval or as a Special Exception. The lot that the proposed duplex is to be constructed upon is at this time a vacant parcel of land on a dead end street.

Elm Place now has 5 duplex houses owned by the Applicant and by David Catalfamo, located at Nos. 7, 11, 15, 18 and 22 Elm Place.

The Applicant's family has owned property in the neighborhood since the 1970s, and has built a considerable number of houses in this neighborhood over the years. Final

subdivision approval for a group of two-family houses was granted to Andrew Chainyk by the Planning Board in 1982. In 1984, the Town Zoning Law was changed and two-family houses were removed from the list of permitted uses in the Residence “A” district. 19 Elm Place is the last lot owned on this street by the Applicant’s family.

The Chainyk family property on Elm Place has been the subject of two prior Resolutions of this Board:

- 1) On June 15, 1994, following a full and proper environmental impact review under the State Environmental Quality Review Act (SEQRA), Andrew Chainyk was granted a use variance to allow the construction of three two-family dwellings on a portion of the family’s Elm Place property.
- 2) On March 6, 2002, the Applicant was granted an extension of time to complete the construction of two previously approved two-family dwellings, following the death of Andrew Chainyk.

The Applicant has a contract for the sale of 19 Elm Place to David Catalfamo, contingent upon the granting of the requested use variance by this Board. Mr. Catalfamo proposes to build on the property a duplex identical in design to buildings located at 18 and 22 Elm Place.

The Applicant has submitted three statements from local real estate agents attesting to the Applicant’s inability to sell 19 Elm Place as a single family lot, since the property is surrounded by two-family residences.

The neighborhood surrounding the property is exclusively residential. Given the size and location of 19 Elm Place, the other uses permitted in the Residence “A” district (Section 128-12) would appear to be infeasible.

At the public hearing, there were no statements either for or against the application.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that the Applicant has shown that the applicable zoning regulations have caused “unnecessary hardship,” and the

requested use variance should be granted.

The Board makes and continues the same Findings of Fact and Conclusions, conditions, restrictions, limitations and safeguards as set forth in its prior Resolutions of June 15, 1994 and March 6, 2002, and hereby incorporates by reference all the transcripts, testimony, restrictions and conditions accompanying those Resolutions by reference, as if fully set forth herein.

The Board also adopts and incorporates by reference in its entirety, as if fully set forth herein, the Board's June 15, 1994 "SEQR Resolution" for the "Andrew Chainyk Project, 400A Schoolhouse Road, Albany, New York," and all findings and conclusions of that Resolution, as its State Environmental Quality Review Act (SEQRA) "Negative Declaration" for the present application, pursuant to Article 8 of the New York Environmental Conservation Law.

The Board is satisfied that, for each permitted use under Section 128-12, the Applicant has met the standards of New York Town Law Section 267-b(2)(b).

The requested variance is the minimum necessary to address the Applicant's unnecessary hardship, and will not affect the character of the neighborhood, or the health, safety and welfare of the community.

The requested Use Variance is granted.

June 16, 2004

Michael C. Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on June 17, 2004.)

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The next order of business was to consider the proposed resolution of Bonnie Goldsmith & Terrence Rooney for property at 13 Glendale Avenue, Delmar, New York.

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

RESOLUTION

* * *

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Bonnie Goldsmith and Terrence Rooney (Applicants) for an Area Variance under Chapter 128 of the Town Code, Article XII, Percentage of Lot Occupancy, Section 128-55, Accessory Buildings, for property at 13 Glendale Avenue, Delmar, New York. The Applicants wish to construct a storage shed which will exceed the allowable percentage of lot occupancy for accessory structures at the premises of 13 Glendale Avenue, Delmar, New York; and

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 19, 2004; 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 of Appeals has reviewed the evidence and testimony presented to it and makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

Applicants are the owners of property located at 13 Glendale Avenue, Delmar, New York (Town of Bethlehem).

The Applicants are proposing to construct a 4.5-foot by 14-foot, 63-square foot storage shed onto the existing 397.31-square foot detached garage creating a total accessory structure of 460.31 square feet. This is 60.31 square feet over the 400-square feet allowable. The lot occupancy for accessory structures will be 5.75-percent, which is .75 over the 5-percent allowable for accessory structures.

The existing structures are located in a Residence “A” District and the main structure is currently occupied as a single-family dwelling.

The shed is proposed to be used solely for storage of gardening supplies and recreational equipment. The Applicants report that the neighborhood has seven similar storage sheds.

The Applicants will match the color and trim of the proposed shed to the existing garage.

At the hearing, the Applicants modified their plans to provide that the shed will be attached to the adjoining garage and constructed on an “Alaskan slab” foundation, rather than be detached from the garage and supported on concrete piers below grade.

At the hearing, one person spoke in favor of the application and one person submitted a written statement in opposition.

Following the hearing, the Applicants presented a written statement signed by thirteen (13) neighbors stating that they had no objection to construction of the proposed storage shed.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants’ request for a variance should be granted.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety and welfare of the neighborhood and community and concludes that the requested variance is minimal, that permitting the proposed project is the minimum variance that would provide for the reasonable use of the property, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners, that the benefit could not be achieved by some other means, and

that the Applicants' lot is small, so the difficulty prompting the request has not been self-created.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed storage shed, subject to the following conditions:

1. Prior to construction the Applicants shall ensure that their written plans are modified to reflect the above change in construction, and that the modified plans are approved by the Town Building Department.
2. The Applicants shall complete construction in strict accordance with the modified plans, and with all testimony and exhibits submitted to the Board in support of the application.
3. Construction authorized by this Resolution shall be completed within two (2) years of the date of this Resolution.

June 16, 2004

Michael C. Hodom
Chairman
Board of Appeals

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Mr. Wiggand 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			
Richard Lewis			
Gilbert Brookins			
Marjory O'Brien			

(Resolution filed with the Clerk of the Town of Bethlehem on June 17, 2004.)

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The next order of business was to consider the proposed resolution of Alan and Barbara Via for property at 5 Mayfair Drive, Slingerlands, New York 12159.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Barbara and Alan Via (Applicants) for an Area Variance under Chapter 128 of the Town Code, Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings, for property at 5 Mayfair Drive, Slingerlands, New York. The Applicants wish to construct an addition to the dwelling which will exceed the allowable percentage of lot occupancy at the premises of 5 Mayfair Drive, Slingerlands, New York; and

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on May 19, 2004; 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 of Appeals has reviewed the evidence and testimony presented to it and makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

Applicants are the Owners of property located at 5 Mayfair Drive, Slingerlands, New York (Town of Bethlehem). The Applicants are proposing to construct 2 separate additions to the existing structure totaling 480.16-square feet. The new additions along with the existing structure will create a total main structure of 2,711.96-square feet. This is 170.96-square feet over the 2,541-square feet that is allowed. The lot occupancy will be 16.18-percent, which is 1.18 over the 15-percent allowable.

The existing structure is located in a Residence “AA” District and is currently occupied as a single-family dwelling.

The two additions would be at the rear of the existing one-story dwelling: an 18’ by 16’ foot family room/sitting area with fireplace; and a 24’ by 8’ extension to the master bedroom

The existing one-story dwelling, while approximately 2200 square feet in size, has unique features, which effectively diminish the livable space. The dwelling was constructed to accommodate a handicapped person, so the doors, hallways and bathrooms are overly sized. There is also a laundry room on the first floor, which further diminishes the living space.

At the hearing, one neighbor spoke in support of the proposed additions. Applicants also submitted a written statement of support signed by five neighbors.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants' request for a variance should be granted.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety and welfare of the neighborhood and community and concludes that the requested variance is minimal, that permitting the proposed project is the minimum variance that would provide for the reasonable use of the property, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners, that the benefit could not be achieved by some other means, and that the Applicants' difficulty prompting the request has not been self-created.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed additions to their dwelling, subject to the following conditions:

1. The Applicant shall complete construction in strict accordance with the March 13, 2003 plans and specifications of Richard H. Green, P.E., P.C., and with all testimony and exhibits submitted to the Board in support of the application.
2. The additions shall, as much as possible, match the roofing, siding and trim of the dwelling.
3. Construction authorized by this Resolution shall be completed within two (2) years of the date of this Resolution.

June 16, 2004

Michael C. Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on June 17, 2004.)

The next order of business was to consider the proposed resolution of Nick & Mary Perillo for property at 12 Sheffield Drive, Delmar, New York 12159.

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

RESOLUTION

* * *

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Nick and Mary Perillo (Applicants) for an Area Variance under Chapter 128 of the Town Code, Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings, for property at 12 Sheffield Drive, Delmar, New York. The Applicants wish to construct a three-season room over an existing deck structure, which will exceed the allowable percentage of lot occupancy at the premises of 12 Sheffield Drive, Delmar, New York; and

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on June 2, 2004; 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 of Appeals has reviewed the evidence and testimony presented to it and makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

Applicants are the Owners of property located at 12 Sheffield Drive, Delmar, New York (Town of Bethlehem). The applicants are proposing to construct a 13-foot by 17.5-foot, 227.5-square foot addition to the existing, 1,776.63-square foot main structure giving a total main structure of 2,004.13-square feet. This is 216.94-square feet over the 1,787.19-square feet that are allowed. The lot occupancy will be 16.82 percent, which is 1.82 over the 15-percent that is allowed.

The existing structure is occupied as a single-family dwelling and is located in an “AA” Residence District.

The rear of Applicant’s home presently has a deck with a southern exposure that receives full sun during much of the day. The proposed three-season room will enable maximum use of this portion of the home without prolonged sun exposure, and in an enclosed space.

The proposed room will have electricity, but no heat or plumbing. Applicants have no plans to convert the room to year round living space.

The Board has received no written or oral objections to the Applicant’s proposal.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants’ request for a variance should be granted.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety and welfare of the neighborhood and community and concludes that the requested

variance is minimal, that permitting the proposed project is the minimum variance that would provide for the reasonable use of the property, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners, that the benefit could not be achieved by some other means, and that the Applicants' difficulty prompting the request has not been self-created.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed three-season room on the existing deck structure, subject to the following conditions:

1. The Applicant shall complete construction in strict accordance with the March 1, 2004 plans and specifications of Patio Enclosures, Inc., and with all testimony and exhibits submitted to the Board in support of the application.
2. The three-season room shall not be further enhanced or altered without prior approval of this Board.
3. Construction authorized by this Resolution shall be completed within two (2) years of the date of this Resolution.

June 16, 2004

Michael C. Hodom
Chairman
Board of Appeals

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Mr. Wiggand 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			
Richard Lewis			
Gilbert Brookins			
Marjory O'Brien			

(Resolution filed with the Clerk of the Town of Bethlehem on June 17, 2004.)

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On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the June 3, 2004, meeting were approved.

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

Meeting Adjourned: 8:50 p.m.

Respectfully submitted,

Secretary