

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
March 17, 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  
Gilbert Brookins  
Marjory O'Brien  
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 an area variance under Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Daniel and Michelle Sanders for property at 45 Carolanne Drive, Delmar, New York. The Applicant wishes to construct 2-additions, which will exceed the allowable percentage of lot occupancy at the premises of 45 Carolanne Drive.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant wishes to construct 2-additions totaling 598.76-square feet, which includes roof overhangs exceeding 18-inches to the existing main structure that will create a total main structure of 2,152.03-square feet. This is 297.1-square feet over the 1,854.93-square foot that is allowed by a lot containing 12,366.2-square feet. The lot occupancy will be 17.4 percent, which is 2.4 percent over the 15 percent that is allowed.

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

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

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For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town on Bethlehem, Albany County, New York will hold a public hearing on, Wednesday March 17, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Daniel and Michelle Sanders, for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for the construction of 2-additions, which will exceed the allowable percentage of lot occupancy at the premises of 45 Carolanne Drive, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the March 10, 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 desiring to speak in opposition. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board. Mr. Sanders, introduce yourself to us and give us your address.

MR. SANDERS: Daniel Sanders, 45 Carolanne Drive, Delmar. My wife and I have lived at 45 Carolanne Drive for 5-years. We purchased the house in 1999 and we have 3-children. What we're looking to do with the addition is to provide a larger – a mudroom area and laundry on the first floor and front porch in the front of the house, and in the back of the house provide more of a sunroom addition on the rear. We have a very nice wooded back yard so we're looking at providing a sunroom back there. We we're interested at one time by looking for other houses in other neighborhoods but we really like this neighborhood since we've been here so we wanted to stay and bring the addition or project to really enhance our house and hopefully stay for a long time in the neighborhood. I did go to several of the neighbors to show the plans and they appreciated that I presented to them plans and they didn't have any opposition to what I presented.

CHAIRMAN HODOM: Thank you. On your 2-additions you're showing a 2-foot overhang in both locations. Is there a specific need for a 2-foot overhang?

MR. SANDERS: Not specifically, no I mean that could be modified. I didn't realize that that was potentially an issue being a 1-story addition there's really no other overhang to tie into in terms of like the second floor has a overhang obviously to tie into so we could modify and cut that back a little bit. It was basically to kind of give it more of a low appearance in terms of an extension. That can be changed.

CHAIRMAN HODOM: The Town does have a policy of allowing up to 18-inches in an overhang and it doesn't impact the percentage of lot occupancy but in this case for every lineal feet of overhang you have, you have a half of a square foot of additional lot occupancy because you've gone to 2-feet. It doesn't appear that the remaining part of the

home or the existing home has that large of an overhang.

MR. SANDERS: Right, we could cut that back.

CHAIRMAN HODOM: You can cut that back to at least 18-inches?

MR. SANDERS: 18-inches would be fine.

CHAIRMAN HODOM: Okay. So that would reduce some of the percentage of lot occupancy. Looking at the front porch area, you have 10-foot wide by 4-foot, 4-inch deep projection off the porch where the stairs are located.

MR. SANDERS: Correct.

CHAIRMAN HODOM: Is there a specific requirement for that portion of the deck?

MR. SANDERS: We wish to cover the stairs coming up into the house.

CHAIRMAN HODOM: But you show the stairs outside that area – oh, no the overhang covers the stairs.

MR. SANDERS: Right for the most part.

CHAIRMAN HODOM: Okay, but that projection itself is beyond the deck so you have really a 10-foot wide by 4-foot deep landing area above the steps and then you reach the actual porch area.

MR. SANDERS: Correct.

CHAIRMAN HODOM: And the reason I'm asking this is I'm just trying to minimize the total lot occupancy that you're going to encroach upon and if that's not needed then perhaps we could do away with that, bring your stairs right up to the main part of the porch unless there's a specific need for that little projection.

MR. SANDERS: Well the projection I think enhances the look of the front by having this form come out of this roof line so it breaks this roof line up a little bit by making a more pronounced main entrance. In order to do that it has to extend out as you can see from the side elevation – the north elevation that it extends out with the porch. So that aesthetically is what we were looking for is to break up that porch roof line by – I mean it's not a gable, it's a hip roof and I think again it keeps in line with the rest of the lines of the house but projects as a extension to kind of give it a little more interest than just a straight...

CHAIRMAN HODOM: Straight shed roof?

MR. SANDERS: Straight shed roof, really.

CHAIRMAN HODOM: Can you just give us some idea of why you're looking for an addition of a sunroom onto the house where you have a dining room and family room?

MR. SANDERS: I failed to mention that we also have a dog and having a dog run around the backyard also is – and kids in the back yard coming right into the house, into the dining room we really were looking at sort of an area that we could at least take off the boots or clean up or something before you come into the house proper. So that was one need we were looking for. The other location for the sunroom was potentially adjacent to the living room on that side of the house, but that would have really infringed on the side yard setbacks, so we felt that in terms of putting an addition on the house functionally it would work really as a rear-yard mudroom for the kids and for our pet as well as being large enough so we could sit out there.

CHAIRMAN HODOM: Part of the reasoning is because you have a dog and rather than have the dog come through the dining room – he comes through the sunroom?

MR. SANDERS: Right, I mean we were looking at it like having a ceramic tile floor in there, something that we could have some plants in there too and there's not a lot of sun on the lot based on - - it's just a very wooded back yard, we have another street back there. It, you know it's been there for hundreds of years and basically we wanted to keep the woods back there but that does prevent a lot of sunlight. We get more really back here, actually, ideally again, it would've been on the side where you get most of the southern light but that would have infringed on the side yard setback.

CHAIRMAN HODOM: Are you planning on taking down some of the vegetation back there; the trees?

MR. SANDERS: This is a deck right now, there is one shrub that we walk out to and we're going to just extend that deck.

CHAIRMAN HODOM: I mean your major trees.

MR. SANDERS: No, no.

CHAIRMAN HODOM: Okay, so in actuality the sunroom is more of the 4-season room that you would want to use through out the year?

MR. SANDERS: That's correct.

CHAIRMAN HODOM: Can you describe to us what kind of utilities you plan on installing in the sunroom, electric, are you going to have water, sanitary? Is it strictly going to be a sunroom?

MR. SANDERS: Yes.

CHAIRMAN HODOM: So you'll have electric there?

MR. SANDERS: And there's going to be, you know electric standard outlets and light fixtures, other than that ceramic tile floor, couple of operable windows and the door out to the deck.

CHAIRMAN HODOM: Okay. So it's not your intent, now or in the future to use this room as a rental space, or in-law apartment or in-law bedroom or something of that nature?

MR. SANDERS: No we're not - - it's very glassy as you can see, there's not really room for - to turn into anything like that. We wanted it more than just like a little porch, we wanted it a little bit usable as well. These doors are set up - circulation goes in from the side right into the house right there, so that this area could be left over for some vent, some high chair or something in the like.

CHAIRMAN HODOM: And I'm assuming the windows, H and F, those are encasement type windows. They are not doors?

MR. SANDERS: Correct.

CHAIRMAN HODOM: So again then, primarily the sunroom you're going to have lighting and perhaps a fan, but no...

MR. SANDERS: No mechanical, no plumbing.

CHAIRMAN HODOM: No mechanical, okay. And the heat is a....

MR. SANDERS: It would be an extension of the ductwork from the furnace downstairs or electric. That's what I'm hoping for that we'll just be able to extend the ductwork and finalize that - or electric baseboard, but I'd rather not do that.

CHAIRMAN HODOM: I don't think you have a crawl space under that sunroom, isn't it...

MR. SANDERS: We're probably going to...

CHAIRMAN HODOM: Slab on grade?

MR. SANDERS: Yeah, we're looking at keeping it slab on grade, but again it depends if we're able to extend the ductwork if that wouldn't be too bad to do that. And they have slight area where we can come up through the wall and then have the diffusers - the heat source right on the outside of the existing outside wall.

CHAIRMAN HODOM: And you did mention earlier that you did discuss the proposed additions with the neighbors that were impacted?

MR. SANDERS: The Davies at 49 Carolanne and the family across the way, I forgot their last name but his first name is Tom across the street, directly across the street.

CHAIRMAN HODOM: Did you go in your rear-yard area?

MR. SANDERS: Actually that's now Davies as well. They bought the - - they have all that land back there. They have the rear yard where the dogs run.

CHAIRMAN HODOM: Okay. Were you able to talk to people on both sides of your property? Davies and the opposite side of...

MR. SANDERS: That's on Maria. No, she wasn't in, she's around the corner, but the one across the street and then Joanne Saranac, she's been away. But I think that she spoke to the Davies when the form came to their house and she didn't have any opposition to it.

CHAIRMAN HODOM: Okay. If the Board were to approve your application, what do you propose as a starting time and a completion time?

MR. SANDERS: We're looking at starting mid to late April in terms of the construction and I would see it probably 3 to 3 - - 3-months or so, 3 to 4 months for everything, that's ideal of course when it's construction season.

CHAIRMAN HODOM: Yeah, depending upon how busy it is and the weather and so forth, but you're looking to start in April if possible?

MR. SANDERS: Yes.

CHAIRMAN HODOM: I understand that you're an architect and I'll ask you this question as a professional. The proposal that you presented to the Board this evening other than the overhangs that we've already discussed, do you feel that this is the minimum size area that would be useful to what you're looking to do?

MR. SANDERS: It really is, I mean if you look at the size - we didn't want to just, I mean I think in terms of a plan we moved the bathroom that's pre-existing now, which is a half bath out of the mudroom area. Right now there's a half bath as you come in and to make that mudroom more functional, square it off for closet space and also keep the laundry again off of the mudroom. That all works bringing the laundry upstairs and that's something that we really want to do from the basement and then still having to provide a half bath, I think the plan works pretty well to keep it pretty much in the same area as it now in terms of the plumbing and then just running the utilities right out into that space. And then the other problem with the existing house is the front door, if you can imagine right above the word foyer, the front door when it opens up it hits the front steps and that's really an inconvenience, but that's the way a lot of the houses were. There's really hardly any room to get around the door when you have people coming in or your leaving, because the steps are right there. So, we were able to create a small foyer and again the

extension is only about 6-feet, which is not very large in terms of the building area so I think we kept it as minimum as possible.

CHAIRMAN HODOM: Which extension are you referring to?

MR. SANDERS: In the front, the actual built area.

MR. PLATEL: The 5-foot, ten section.

CHAIRMAN HODOM: Okay, for the laundry room and the lavatory?

MR. SANDERS: Right.

CHAIRMAN HODOM: Okay, I thought you were still talking about the...

MR. SANDERS: And just in terms of how the deck works, in order to - - kind of created some area that breaks up the flatness of the front of the house, we wanted to have a sitting area out there that would be large enough for a few chairs and a table in the nice weather at least and then to be able to get around easily around the addition.

CHAIRMAN HODOM: Well that certainly is a fairly good size area that's roughly 10-foot by 16-foot; the porch area itself. Would you concur with that?

MR. SANDERS: Yeah, it's a good size but I think we like....

CHAIRMAN HODOM: For sitting I would think...

MR. SANDERS: Well we wanted to extend it to the edge of the house, I mean otherwise it's going to - - it really wouldn't fit in as well, you know to the outside edge and to be able to get around the steps as you come up it would be a 4-foot, 8 area and that you know just worked out for the framing and everything to.

CHAIRMAN HODOM: The dimensional data that you shown on A-1, if we were to use the dimensions that you show on the site plan on A-3 that would be appropriate? Initially we had some questions as to what the overall dimensions were, but I think the site plan dimensions of roughly 38 by 10-foot, 6 are actual dimensions for outside of foundations.

MR. SANDERS: 10-foot, 10.

CHAIRMAN HODOM: So the 10-foot, 6 becomes 10-foot, 10 is that what you're saying?

MR. SANDERS: Yeah, that was an error.

CHAIRMAN HODOM: Why don't you just go over those dimensions. Are there any other dimensions that you're looking to change other than the 10-foot, 6? Is the 16-foot, 4

– will that remain as it's shown, and again I'm referring to your site plan on sheet A-3?

MR. SANDERS: Yes, I mean that all adds up to making the - - kind of driven by the 20-foot, 4 and the remaining 16, 4. That brings you out to the outside, 38-feet total.

CHAIRMAN HODOM: So the 38 is currently the existing width of your home?

MR. SANDERS: Yes.

CHAIRMAN HODOM: Do the 5-foot, 10-inch on the southern part of the addition, the 5-foot 10 and the 9-foot 0, are they correct dimensions?

MR. SANDERS: Yes.

CHAIRMAN HODOM: Okay. So the only dimensional error is the 10-foot, 6, which you now request to be changed to 10-foot, 10?

MR. SANDERS: Right.

CHAIRMAN HODOM: Mr. Sanders, if you would for me just change that dimension on A-3 on to the 10-foot, 10 and date it and initial it if you would for me. Thank you. It appears that your intention is to re-side and re-roof the entire house, the existing home to match the siding and the roofing on the additions?

MR. SANDERS: Correct. It will all be one color.

CHAIRMAN HODOM: It will all be one color?

MR. SANDERS: Yes. And I'm looking at doing an architectural shingle as well for the roof.

CHAIRMAN HODOM: Are there any other changes that you're making that aren't shown on the plans, structurally wise?

MR. SANDERS: No.

CHAIRMAN HODOM: And how many in the family, Mr. Sanders?

MR. SANDERS: Five.

CHAIRMAN HODOM: 5-people?

MR. SANDERS: Yes.

CHAIRMAN HODOM: All living at home?

MR. SANDERS: Yes.

CHAIRMAN HODOM: Are there questions from the Board?

MR. WIGGAND: No, I think you've got them all answered. You did a good job as our chairman.

MR. BROOKINS: You did say that you had spoken with your neighbors?

MR. SANDERS: Yes.

MR. BROOKINS: Across the street?

MR. SANDERS: Across the street and then adjacent and then in terms of - - they're also the owners of the back yard lot, but their son lives on Murray which is a pretty good size lot if you're familiar with that back yard. That's the Davies; Bill Davies.

MR. WIGGAND: Now there's also as I understand that all those Cornish overhangs are going to be brought back to no more than 18-inches?

MR. SANDERS: Correct.

MR. WIGGAND: Okay.

MR. PLATEL: For the Boards information that will make it 16.95 rather than 17.4.

MR. WIGGAND: I was just going to ask you if you could come up with than.

CHAIRMAN HODOM: How much was it?

MR. PLATEL: 16.95 percent.

MR. SANDERS: That includes the rear, correct?

MR. PLATEL: Yes.

MR. SANDERS: All of it, good.

CHAIRMAN HODOM: Are there any questions or comments from the audience? Is anyone wishing to speak in favor of the applicant? Anyone desiring to speak in opposition? Any other questions from the Board?

MR. WIGGAND: I have no more.

CHAIRMAN HODOM: 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. SANDERS: Thank you again.

Hearing closed 8:00 p.m.

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The next order of business this evening is a continuation of a public hearing for a Variance under Article VI, Permitted Uses, Section 128-17 (D), Accessory Business Signs requested by CVS Pharmacy (Applicant), Mullen Capital LLC (Owner) for property at 256 Delaware Avenue, Delmar, New York. The Applicant wishes to construct an electronic message board and new signage, which will exceed the allowable square footage at the premises of 256 Delaware Avenue.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is seeking a Variance to replace an existing pylon sign which when combined with the remaining signage on the structure will exceed the allowable signage for the structure. The building frontage on the principal street is 60.44-feet, which allows 120.88-square feet of total signage for the site. After the existing pylon sign is replaced with a new 166.49-square foot pylon sign, the total signage on the site will be 224.49-square feet, which is 103.61-square feet over the 120.88 square feet allowed. The new sign proposal will also have a changeable reader board. The part of the proposal will require a Variance under the same article for flashing or animated lights.

The structure is occupied by CVS Pharmacy and is located in a "CC" retail Commercial 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 of the Town of Bethlehem, Albany County, New York will hold a continuation of a public hearing on Wednesday, March 17, 2004, at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of CVS Pharmacy (Applicant), Mullen Capital, LLC (Owner), 256 Delaware Avenue, Delmar, New York for Variance under Article VI, Permitted Uses, Section 128-17 (D), Accessory Business Signs of the Code of the Town of Bethlehem for construction of an electronic message board, which will exceed the allowable square footage at the premises 256 Delaware Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the March 10, 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 will be same as we did earlier; we'll hear the applicant's presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the applicant and anyone desiring to speak in opposition. Mr. Jacks, just introduce yourself again for us if you would and tell us what you've done since the last time we met.

MR. JACKS: Sure, good evening, my name is Steve Jacks a representative of Site Enhancement Services, a sign consultant for CVS Pharmacy. Tonight we are here to discuss some questions that the Board needed answered and to present the research that we have put together with regards to replacement of the existing free standing sign. Although we did provide the packet of information before you, we have streamed lined the format for presentation purposes. The information that I sent to you for the submittal date was basically the same information that I have here. The only thing is it's a little easier to follow along and to understand. So if you don't mind, if I could pass this out to everybody at this time?

CHAIRMAN HODOM: Is it different from what we have currently?

MR. MERRIT: It actually is different, there are some revisions made.

MR. JACKS: If you don't mind, you take a minute or two to look through it.

CHAIRMAN HODOM: Are you going to pass them to all the Board members?

MR. JACKS: Sure, I sure can. And if anybody else would like a copy of this, I do have some.

CHAIRMAN HODOM: Steve, you're going to go over the differences from this pamphlet to the previous?

MR. JACKS: Actually no I was – basically what I said what it is, is this is a little more streamed lined; it's a little easier to follow along. It's basically the same information that you have; that I provided to you.

CHAIRMAN HODOM: That's all well and good; the problem is that all the questions I have prepared are based on what you submitted previously.

MR. JACKS: And the questions will still pertain to this booklet to.

CHAIRMAN HODOM: Okay. Why don't you as you go along with your new updated and more efficient booklet, correlate it back to what you submitted previously.

MR. JACKS: Okay.

CHAIRMAN HODOM: Thank you. Just tell us where the changes are. If you're making any changes from this booklet to this booklet, that's what we want to hear about. Okay?

MR. JACKS: Okay, no problem. Basically from the last booklet to this booklet I still address the questions and where I'd like to start off this evening is if you turn to the second page, which has the freestanding sign; the proposed free standing sign. One of the questions that needed to be addressed at the last hearing that we didn't address we have answered for you today. It was clearly the – from the bottom of the electronic message board to the top of the grade, there was question. What that is the height is 10-feet, 2 and ½ -inches and what this shows, we believe this adequate height, which allows the traveling motorist down Elsmere Avenue or Delaware Avenue a clearer and unobstructed view for any motorist or pedestrians walking by. So we clearly marked that out for you. If you'd like to turn to the next page?

CHAIRMAN HODOM: Also if you would, I hope you don't mind me interjecting any questions?

MR. JACKS: Sure, not at all.

CHAIRMAN HODOM: But when we met the last time you're P-50 signage for the electronic message board was a different size than what you propose currently?

MR. JACKS: Correct.

CHAIRMAN HODOM: Okay, would you describe why you changed the 10,8 by 3, 6 ½ , to the 9,8 by 2-foot, 6?

MR. MERRIT: Yes actually if I may?

CHAIRMAN HODOM: Just introduce yourself again please.

MR. MERRIT: Certainly, my name is Doug Merrit, I'm an associate of Steve Jackson. We actually made that change in keeping with exactly what Mr. Jacks had said earlier. Made some revisions, specifically from the photos that you'll actually find further back in that booklet. After going back out to the site, we did some measurements. Now we took measurements from 100-feet from the sign and then from 200-feet as you travel and as you approach the sign on Delaware Avenue. We felt that we could accomplish our task in a more minimum fashion, to actually reduce the area and that's what we've done today.

CHAIRMAN HODOM: Okay.

MR. JACKS: On the next page, this shows the - - this is the schematic for the electronic message board itself. This shows you the front view then the next page it'll show the bottom view and so forth. I think that was another one of the questions that was addressed if we could take a look at that. So I did add that into this booklet.

CHAIRMAN HODOM: I think the question that was posed previously was a comparison and I believe, Miss O'Brien had brought that question to being was that she would have liked to have seen and I think the Board would have liked to have seen, a comparison between the existing sign dimensionally and the new proposed sign dimensionally. Now we have the new proposed with the dimensions, unless it's in this new pamphlet, we have nothing on the existing sign and what the dimensions are.

MR. JACKS: Sure. I interpreted that wrong at the last hearing. I thought you would like a superimposed next to it, but I do understand that you would like the dimensions of the existing with the proposed.

CHAIRMAN HODOM: Am I mischaracterizing what you had asked for before?

MRS. O'BRIEN: No.

CHAIRMAN HODOM: I think that's what we were looking for was a comparison in the 2-signs.

MR. MERRIT: I think we both misinterpreted her request...

MR. JACKS: And I apologize.

MR. MERRIT: But we thought when said that was superimposing the sign right next to the old sign, that's the way we interpreted it.

CHAIRMAN HODOM: I'm not quite sure that she used the terminology superimposing, but I know she did use the word comparison. Do you have anything with you this evening that shows the existing sign of what the size is?

MR. MERRIT: The existing sign is from a previous sign company and the 2-signs companies do not share construction documents.

CHAIRMAN HODOM: Okay.

MR. MERRIT: Unfortunately I would have to go out and actually have Hanley Signs come out and just put a tape measure against it on a truck.

CHAIRMAN HODOM: The owner does not have any details or shop drawings of the existing sign that's currently there?

MR. MERRIT: We were not provided shop drawings in the packet of information.

CHAIRMAN HODOM: Were they asked for?

MR. MERRIT: No, because we misinterpreted the request.

CHAIRMAN HODOM: We still would be looking for data on the existing signage.

MR. JACKS: And we'd be more than happy to supply that for you.

CHAIRMAN HODOM: Thank you.

MR. JACKS: The next couple pages are just schematics of the electronic message board of the different views of it and what it's constructed of and the nuts and bolts and stuff.

CHAIRMAN HODOM: Why you're on that, on your page – I guess it's your ENB – I like the previous one because each page was marked with a sheet number. This one, your latest submittal is titled ENB details, page 2 of 2.

MR. JACKS: Yeah, what we like to have done – it's going to make it easier, on - - I'm sorry on my revised one, as you see here there's numbers 1 through 8 and what I did on the top of the beginning of each page, each question that was addressed I put a 1 or a 2 by it. Like for the very first question, the proposed....

CHAIRMAN HODOM: Is there a correlation from where you list the items that were questioned to the page where you answer the question? There's no 1, 2, 3, or 4 on this page to correlate back to your list of items.

MR. JACKS: Oh, no I'm sorry sir.

CHAIRMAN HODOM: Okay. Just let me ask you the question as they come to mind if you don't mind?

MR. JACKS: No problem.

CHAIRMAN HODOM: On your ENB details, page 2 of 2, your note number 11 Dextronics is the manufacturer of the sign?

MR. MERRIT: Yes.

CHAIRMAN HODOM: But in 12 it says the customer is responsible for the structural integrity of the structure the display is mounted to. So do you have from the sign company any kind of data stating that the structure that this sign is mounted to is adequate to support the sign for wind loading and dead load?

MR. MERRIT: Yes, in fact if the sign is approved we will provide sealed engineered drawings on the structure.

CHAIRMAN HODOM: You don't have those currently?

MR. MERRIT: We don't actually ask for them up front because at any given time – the sign was designed for this site specifically so we would actually for our conceptual

purposes we would have to then go back, have the sign drawn up with the specific wind loads and the footing details so we wouldn't actually have that prepared today.

MR. WIGGAND: Will Hanley be producing that?

MR. MERRIT: No, we actually use an engineer out of...

MR. WIGGAND: It would be stamped by an engineer then?

MR. MERRIT: Right, exactly. Hanley would just install it.

MR. WIGGAND: And will that cover the wind loads and...

MR. MERRIT: Oh, yes sir.

CHAIRMAN HODOM: Okay, we would be looking for that.

MR. JACKS: No problem. If you turn to the next page, number 2, this is a super imposed sign. If you look on there, we have the existing sign and then we have the proposed sign. And this clearly shows what sign that CVS is looking for and what we're trying to propose to you.

CHAIRMAN HODOM: A question on this. Again the existing sign I have no problem where that's located, the pipe bollards are shown correctly. In the previous submittal you had shown the proposed sign and a reader board to be in the same area as the existing sign.

MR. MERRIT: Yes.

CHAIRMAN HODOM: You have changed that location with this submittal.

MR. JACKS: Actually in a sense that was an error, before we had this meeting...

CHAIRMAN HODOM: Wait, what was an error?

MR. MERRIT: Well, and let me verify that. I did talk to Mark ahead of time; the site plan that's provided in the booklet is for – it's not to scale; it's not for purposes of actually preparing a permit. It's just for an art rendering showing that; yes it is located at the corner.

CHAIRMAN HODOM: Again, I'll get to that site plan later but in these photos you show the existing sign located in the same vicinity – I'm sorry the new sign located in the same vicinity as the existing sign.

MR. MERRIT: Yes.

CHAIRMAN HODOM: Okay. In this photo, you have now moved the proposed new sign out into the drive parking area if I'm reading this correctly.

MR. MERRIT: You know what, actually those are just for the purposes of showing artwork and if you want I'll put down there that, you know that they're just for art purposes only. That's really just an illustration to show the general area, the vicinity on where the sign would be located. And to give you idea of what it would look like superimposed in that area. It is not meant to have any other distinction other than that.

ATTORNEY MOORE: And to give the Board an idea of the relative size of the two?

MR. MERRIT: Exactly.

CHAIRMAN HODOM: Is the proposed new signage other than the message board this much brighter than the existing sign?

MR. MERRIT: No, in fact I was talking to our designer about it and I said, you know is there way that we can defuse how clean it appears? Actually between the 2-pictures it does vary because if you look at the existing sign it almost has a dull finish but it's the actual photograph because it's just an actual drawing, you would have to alter it and that's not what I was trying to do. All I was trying to achieve was superimpose and the photo to give them some type of scale to the picture to show what the sign would look like.

MR. BROOKINS: So it appears to be on taken in the shade, so you've got a shadow somewhat casted on that, which makes the existing sign look less intense than the new...

MR. MERRIT: Exactly.

MR. BROOKINS: Computer generated sign.

MR. MERRIT: You can tell in the background, it's a very overcast day.

CHAIRMAN HODOM: So the latest submittal, the location as it's shown on the photo is not where you're proposing to...

MR. MERRIT: Not true representation of where it would actually be located.

CHAIRMAN HODOM: Okay.

MR. JACKS: And that was our superimposed. If you flip to the next page, this is some research that we have done for this specific corridor. This shows a site line study from 250-feet and from 100-feet. Actually the pictures kind of do this – the photos do this justice just by looking at from 250-feet if you look at the very first photo; upper left hand corner. You can now see the sign, but it's really not clearly readable or legible from that distance. You can see it.

CHAIRMAN HODOM: Well, at that scale.

MR. JACKS: Yes.

CHAIRMAN HODOM: Okay, just clarify it.

MR. JACKS: But those are some of the research that I have done.

CHAIRMAN HODOM: Do you know what the reduction in the scale is to the norm?

MR. JACKS: No, I do not.

MR. MERRIT: No.

MR. JACKS: On the next page, per your request, there was a viewer reaction time analysis that you would like us to provide for you. Now, this is something that I have looked up and from the Pennsylvania State University Study, this is what they have shown and I kind of showed that the formula, if you look at that calculation down here. Again, I go and read this to you if you like. This time frame or viewer reaction time conservatively estimated at 10-seconds represents the amount of time necessary for a driver to see a sign read it's message, assimilate the information conveyed and finally make the requisite driving maneuvers necessary to act on the information. And basically what consists of is your average age driver driving down this corridor gives them enough time to decelerate, you know turn his turn signal on and make the correct necessary driving functions to make that turn and to see the pedestrians or what is may be out in front of him.

CHAIRMAN HODOM: So that the viewer reaction time study that was presented in the previous brochure isn't correct.

MR. JACKS: Yes, and that is correct.

CHAIRMAN HODOM: The – and unless I misinterpreted Mr. Merritts information previously, I thought that this time analysis was also representative of the size of the sign not only the distance, but there's nothing mentioned in here, either one of these analysis regarding the size of the sign. It's strictly dealing with the height.

MR. MERRIT: Actually if you look at the formula that actually is not addressed, height nor does it address sign area. All that formulas and the Pennsylvania State Study provided was that the necessary amount of time or translated into be that a motorist would need to legibly view the sign assimilate the information conveyed, just understand it and be able to make the necessary maneuvers to enter the facility. And that's the intended idea of the study. We have a foot down at the bottom if you wanted to reference that study and further or more in depth. It's actually a series of studies regarding letter height or sign area. It's actually a very detailed study. It's - - for sign people, it's

enjoyable reading.

CHAIRMAN HODOM: Does New York State acknowledge this study?

MR. MERRIT: Actually as you go a little bit further on the booklet, Steve did have a conversation with...

MR. JACKS: Just a couple of different people throughout the state. One was Nate Ingram.

MR. MERRIT: Mike Doody.

MR. JACKS: And Mike Doody.

MR. MERRIT: And Mike Doody, he's a traffic and safety engineer and his telephone number is available at the bottom of that sheet. You can feel free to give him a call.

CHAIRMAN HODOM: I think you had it in this previous one to and I've spoken with both gentlemen.

MR. MERRIT: Right. The idea was that they were not able to provide any information to Steve at the time of the request.

CHAIRMAN HODOM: Okay. But this Pennsylvania State University Study is acknowledged throughout the nation?

MR. MERRIT: It is, actually it's used by the International Sign Association and it is acknowledged by the American Planning Association, so the APA and the ISA both recognize; both have their own interpretation on it.

CHAIRMAN HODOM: Okay.

ATTORNEY MOORE: I have a question. Am I reading this page correctly to say that your position is the sign has to be 20-feet in height in order to be visible from 510-feet on Elsmere and 580-feet on Delaware. Is that another way of summarizing it?

MR. MERRIT: It's our position that 20-feet is an adequate height when you consider in factoring in the electronic message board. Now, Dextronics as a manufacturer indicates that 15-feet above grade is the optimum height for legibility for the electronic message board. So we felt that 20-feet, considering this study and applying this formula, 20-feet was the appropriate height. You know we obviously if you take in the site factors because each site is different if you're taking in consideration utility poles any electrical boxes, anything that might be located at the corner, then obviously that might present an obstruction, but we felt that 20-feet was appropriate. And it was consistent with other signs we found on the corridor.

CHAIRMAN HODOM: Answer your question?

ATTORNEY MOORE: Yes.

CHAIRMAN HODOM: Mr. Jacks?

MR. JACKS: Yeah, if you'd like to move on to the next page. I do have the site plan here. I point out the sign, but again I would like to reinvert what Doug said is that this is just an illustration and this is for the purpose of presentation only. This is not where the sign is going to be. This is just for illustration and for this drawing only. The sign will be – the proposed sign will take the same spot as the existing sign.

CHAIRMAN HODOM: We will need and we've requested this previously and I asked you to do it in a blow-up fashion for you to locate the sign where you propose to have it constructed. Dimensionally from property lines or DOT right of way lines so that we know where you propose to install the sign, okay?

MR. MERRIT: Yes.

MR. JACKS: Correct. I would like to address one of those, from the New York State Highway Department I did speak to Nate Ingrem and I do have all his information here. He stated there is no minimum setback required in the State of New York. Nate also stated the sign not be in or over the right of way.

CHAIRMAN HODOM: That's correct. It would appear by this illustration on your re-submittal number 5, that the sign will neither be in the DOT right of way nor will it overhang into the DOT right of way. The problem being is that where you show the sign here, it's not where it's going to be constructed so that's why we want a locating plan based from the property line of where the sign is going to be located. We must have that.

MR. JACKS: I'll be more than happy to get that for you.

CHAIRMAN HODOM: Okay.

MR. MERRIT: Actually can we get a clarification from the Board on record that will we need to have the property re-surveyed to show the current position of the current sign? Is it a decision or a condition of the Board this evening that we must have the property surveyed again, because otherwise we could go out and just wheel off the location with known points on the site plan, we do have a copy of the most recent site plan, and then just locate the sign. The problem that we have is that the sign currently is just a single pole and then what we're asking and what we're proposing is a dual pole.

CHAIRMAN HODOM: That's correct.

MR. MERRIT: So what we want to know is will we need to actually show and have a certified survey done of this property or can we just go ahead and wheel off the location

with known points on the site plan?

CHAIRMAN HODOM: Well I can only speak for myself but there are sufficient landmarks there currently.

MR. MERRIT: I agree and that's what I was asking.

CHAIRMAN HODOM: That if you use those landmarks to locate the sign and I'm looking from help from the Board members if you feel that's necessary. I don't think at this point in time it's necessary to have the whole site re-surveyed because there's plenty of markings there that you can work off of.

MR. MERRIT: Right, I just wanted to make sure that - - I didn't want to bring back a document and then have it not be certified by a surveyor and then it not be accepted and approved. I just wanted to make sure I have gotten the clarification on it.

CHAIRMAN HODOM: I will ask you to put a date on this drawing. We've had 2-submittals now of the site plan and both of them date back to 1992. There is no revision date that you've incorporated in either one of those documents for the latest information that you're going to provide us locating the new sign must have a revised date.

MR. MERRIT: Okay fine.

CHAIRMAN HODOM: Okay, the latest date.

MR. MERRIT: So we will have to go through the original engineer and have the civil drawing revised to reflect the new date then, cause otherwise we can just have - I mean our in house design staff could reproduce this but it would not be....

CHAIRMAN HODOM: I think you can use his, the plan that you show here, blown up, reference it back to the known structures here, telephone booth or the traffic pole or the culverts or the manholes and we can determine whether or not you're correct on your sign location there. We will need the property line shown and they must be correct. But I think - and you can use the plan that you currently have, I'm not saying you have to go back to the survey and have it updated, but I want a plan that shows a date of 2004, not 1992.

MR. MERRIT: I understand.

CHAIRMAN HODOM: Do the other Board members concur with that or would you rather see the...

MRS. O'BRIEN: Well as long we see whatever they're showing is accurate with what's existing, you know is the for instance the telephone booth and the pad where it's actually located or where it seems to be on the map here. I don't want to see things just transposed.

MR. MERRIT: I totally agree, it's just it's a liability that we assume that something has changed on that. So I mean at worst I have to look all the landmarks on the plan and make sure because we don't want – we certainly don't want to assume any liability at this point nor would anyone else in our position. That's why I was referring that we will have to take more than just, you know one landmark; we'll have to take several factors into consideration before we do this.

CHAIRMAN HODOM: You can't, and I don't think at this point in time the Board is looking for you to revise the site plan prepared by the surveyor, you can't do that by statute. But you can use the document to show a relocation of your proposed sign using the landmarks and structures that currently exist and the property lines as they currently exist. Now if the property lines are incorrect then the liability is back to the original survey.

MRS. O'BRIEN: If we get anything that is located on that corner, for instance this shows parking areas delineated, I don't be they're a reflection of what's existing; entrances, ingress and egress there is not necessarily what's existing. And in order to adequately determine where the...

MR. MERRIT: So you're saying that the entrances shown on this document are not accurate?

MRS. O'BRIEN: They're basically but, you know they've just done a lot of re-paving and re-marking and it's not what's...

MR. MERRIT: Right the last one of the site plan for the site was 1992 and that's again, that's – you know I have to reiterate that really I would have to go back on – if that's the case I would have to have this site resurveyed.

MRS. O'BRIEN: Well the only thing is take a look at it and see how different it is from what's shown here and then if you feel that you need more than what you can show us in a drawing, but clearly what's shown here is not what's existing now.

MR. MERRIT: Well the owner of the property is here; we'll certainly work with the property owner tonight.

CHAIRMAN HODOM: Well the only that I'm aware of that has changed there is the telephone booth. There's no booth there it's just a pedestal phone now.

MR. MERRIT: Right that was actually one of my - - the reasons why I questioned that because when I drove by I noticed that was a new installation.

CHAIRMAN HODOM: But I believe that the traffic pole is in it's original location. I don't think that's been changed and there are other structures here that you should be able to relate back to. Now if you can't and you find during your investigation that there has

been many changes here such as Marge has implied then I guess – then you’re going to have to have it resurveyed. Go ahead Mr. Jacks.

MR. JACKS: And at your request there’s a couple other questions at the last hearing that we put on here. Question number 7 is, what is the location of the nearest CVS pharmacy with an electronic message board, and the answer we received was the closest one is in Ossining New York is in there CVS Pharmacy with an electronic message board. So there wasn’t anything in the near vicinity.

CHAIRMAN HODOM: Do you folks take videos of the operation of these signs at all, VHS or something that over like a hour period just watching the sign in operation.

MR. MERRIT: Actually no because in a lot of jurisdictions, each jurisdiction is different and currently in our hometown the CVS store, I believe that the interval of change is 15-seconds. Now, we have locations that change once an hour, we have locations that change once a day. So it would be different for each jurisdiction, but if it was a condition of approval we certainly accommodate you.

MR. MICELLI: Is there any – I was concerned, any data on any CVS pharmacy besides the one here that are close to schools like the Elsmere School in any of your locations in New York State?

MR. MERRIT: Not that we’re aware of. I think that with the amount of interaction that we have with CVS regarding the manner, I’m hope they would have brought something like that to life when we questioned that.

MR. MICELLI: And this sign that’s in Ossining, New York which is about 2-hours south close to New York City. Is it the same size sign that you’re proposing here for Delaware?

MR. MERRIT: Actually the original proposed 3-foot, 6.

CHAIRMAN HODOM: Does the Board feel that the video of an operational sign would be beneficial for 45-minutes to an hour?

MRS. O'BRIEN: It still would not show, I mean you can show the video and how the sign changes, but more of my concerns are the reaction here. I mean you’re looking at a sign and say okay it changes every 10-minutes, every 15-seconds, whatever. But that has to be matched with the reaction time and even the reaction times you’re showing here, you know on Elsmere Avenue which ends there at Delaware; 510-feet. You’d be back by the railroad trestle, you have to see it from that far back in order to react as you’re saying here and it’s really not visible that far back.

MR. MERRIT: No, and that’s why I was saying earlier that the study itself will not specifically address what height because every site condition or site specifics – they’re different, every site is different. And the area of the sign is not specifically addressed in

the study.

MRS. O'BRIEN: You're also saying, you know site conditions were on a site, a sign height of 20-feet with your electronic message board – at the top of that is about 12-feet, 20-feet is the top of your CVS sign, you know from the 12 to the 20, but then the 10 to the 12-feet is where the electronic message board is so it doesn't come anywhere near the 20-feet – the desirable height making it more difficult to see. I guess what I'm trying to get at is we're trying – you're trying to put up something that people can see and respond to. Well if it's below 12-feet, it's not within the visible car that you're looking at and if the reaction time to see the sign and make take the appropriate action is 510-feet, you're way back where you can't see the sign anyway.

MR. MERRIT: Well no, the intent there is that between 10 and 12-feet you have the sign able area and that's the intent. What we were faced with at the previous meeting was that will the sign cause an obstruction? If we lowered the sign, the overall height of the sign down at a corner, well it will present an obstruction because it will obviously offer an obstruction from a motorist that was turning right from Elsmere out onto Delaware Avenue, so we're trying to stay away from that. If we elevate the sign we don't feel that a sign at that corner needs to be 25-feet tall. We think that the window of opportunity for CVS to have clear legibility is addressed clearly in the design of the sign between 10 and 20-feet. I don't think anything less because then it would present an obstruction and then I think that there maybe an issue, but without having a sign there and have a, you know a real world test to say that it is an obstruction, I mean that can only presume. The other sign that's less than 10-feet at the corner, it'll present an obstruction. Anything over 20-feet I think is too high.

CHAIRMAN HODOM: Let's clarify it. We have 2-different signs that you're talking about and I guess initially in your original presentation I understand CVS is re-imaging their signage, but there was a question as to the wayward traveler not being able to find CVS. Well, the message board isn't going to help them find CVS, it's the sign for CVS that's going to help them find CVS, okay? So the message board is really the re-imaging, and correct me if I'm wrong that CVS is looking for?

MR. MERRIT: Actually it's the overall aesthetics and appearance of the sign as well as the addition of the electronic message board.

MRS. O'BRIEN: But that can be done without the electronic message board.

MR. MERRIT: No, the electronic message board is specifically to address with the specials, you know it'll serve the community as a service...

MRS. O'BRIEN: It's an advertising gimmick.

MR. MERRIT: I wouldn't say that - - it's a means to convey weekly specials that CVS or any retailer and would offer. It's the same as the manual reader board. If you go out to the Hannaford complex, you know you might find beef on special for 99-cents.

MR. MICELLI: Could I ask you a question? What would be the difference on the message board as opposed to the flyer that would be issued in the Time's Union, say you know the same specials would be advertised on in the flyer that would be on the message board anyway basically?

MR. MERRIT: Well the Time's Union and that's actually a question that's been proposed several times to me. The Time's Union, any paper that you're looking at a subscription base or a person that might go up to a machine, you know pay the necessary amount to get the paper out. Now, that's – I mean you have a specific audience at that point. If you have a specific audience as a motorist is traveling Delaware Avenue or Elsmere, the idea is that this store is a 24-hour location; not all CVS Pharmacy's are 24-hours. So what we're trying to do is to allow – to reach a broader audience, not just one that's defined by a paper and who subscribes to a paper.

MR. MICELLI: Now if you were a customer going into CVS and you would pick up the flyer to find out that Gillette razor blades were 2.99, would that be advertised on the board outside? What I'm trying to get at is it going to be apples to apples or...

MR. MERRIT: No, not at all. Actually there are so many items that are in the flyers that are on special and CVS, which I think we've indicated before and even in the very preliminary conversation with Mark and Karen was that we're only intending to provide a message on the Board that translates to the interval that is deemed appropriate and necessary by an ordinance, which the ordinance does not address that so therefore you'd be the governing body to set that. So we can't put all of the messages on the board that, you know would be found in the flyer, so you know if it would change every, you know 15-minutes or every 15-seconds you'd only have one message, so it's Gillette for 15-seconds or Gillette for 15-minutes.

CHAIRMAN HODOM: Mark, let me ask you a question. If the electronic message board was eliminated, does that place the signage in excess of the allowable square footage?

MR. PLATEL: I'll let you know in a minute.

CHAIRMAN HODOM: And while he's doing that, Doug if the Board assuming that the CVS sign excluding the message board is still over the square footage and the Board were to allow the CVS sign, but not the message board, would CVS proceed with the new signage?

MR. MERRIT: I can't guarantee that.

CHAIRMAN HODOM: Okay.

MRS. O'BRIEN: I just want to go back and clarify what we were discussing a few minutes ago about the sign height of 20-feet. You're saying that has to do with line of site

and clearance that it – no obstruction. However, it specifically says here side conditions were on a sign height of 20-feet in order to maintain appropriate viewer reaction time.

MR. MERRIT: Correct. The idea that that – based on a study that we provided in this booklet on the Pennsylvania State University Study; we did find that a viewer reaction time of 510-feet at the site, you needed a sign that was elevated. The sign at a lower height would not be visible.

MRS. O'BRIEN: Which is why I'm saying the electronic message board is lower than 12-feet.

MR. MERRIT: Well no, I'm saying a sign that's 6-feet off the ground. I'm not saying a sign that's 10-feet. I'm referring specifically that the sign at 20-feet as shown in our illustration is legible and would fit into that study between 10 and 20-feet. Not if it was 6-feet off the ground, it would not happen.

MRS. O'BRIEN: It doesn't say 10 and 20, it says at 20-feet. That's where it's confusing, it doesn't- - I'm just reading what's here.

MR. MERRIT: I'm sorry. I should've expounded in that paragraph, I'm sorry.

MRS. O'BRIEN: You know you're looking for an electronic message board that's between 10 and 12-feet high, but then you're saying here in order to maintain the appropriate reaction time, it's got to be at 20-feet.

MR. MERRIT: Well that's to accommodate the overall sign. You know if I would have put something in excess of 200-feet then – or something less than 20-feet, the same question would be raised. I should have just clarified it in the paragraph; I apologize.

CHAIRMAN HODOM: Did you find that out?

MR. PLATEL: Yes, it would still be 55.26-square feet over.

CHAIRMAN HODOM: Go ahead Marge.

MRS. O'BRIEN: The other thing I just wanted to clarify if I remember from the last time the new sign, the part that says CVS Pharmacy it shows up much brighter on the superimposed sign here. That is not intended to be lighted, or is it intended to be?

MR. JACKS: No.

MRS. O'BRIEN: It's just a sign exactly like the same one except the letters would be larger and it would not say open 24-hours, but it's not going to be a lighted sign, that portion of it?

MR. MERRIT: Let me clarify that. Are you asking the sign face itself that says CVS

Pharmacy; the white plex area?

MRS. O'BRIEN: Correct.

MR. MERRIT: Yes, we do intend to illuminate.

CHAIRMAN HODOM: It's internally.

MR. MERRIT: I don't want to give any mis-inception here.

MRS. O'BRIEN: It will be lighted from within?

MR. MERRIT: Internally.

MRS. O'BRIEN: Okay, so it will be...

MR. BROOKINS: Same as the one right now.

MR. MERRIT: Right.

MRS. O'BRIEN: Okay, so in other words it will in all probability it will show up brighter than many of the signs in the pictures that you took here. It is lighted but...

MR. MERRIT: Well because it's a larger sign face, it would be brighter but at the same time it's the same – it would have the same fixtures inside other than the fact a little bit larger.

CHAIRMAN HODOM: Is that true to fact that the wattage of the fixtures in the proposed sign are the same as....

MR. MERRIT: Well because it's a larger cabinet.

CHAIRMAN HODOM: Okay, but they're the same as the existing sign. So if you've got 4, 40-watt bulbs in the existing sign it will have 4, 40-watt bulbs...

MR. MERRIT: Right, if you have 4 – exactly if you have 4-floresant tubes, it would be the same carried over to the new sign.

MRS. O'BRIEN: It wouldn't be more because it's a larger sign?

MR. MERRIT: No, I believe if you take the sign face off on that sign just by general view and from, you know my sign background it probably has 2 or 3-floresant tubes. The new proposed sign would have 4-floresant tubes, but it is because the sign face is larger. The cabinet is larger.

CHAIRMAN HODOM: In your previous submittal based on the last hearing date of

February 18<sup>th</sup>, your item number 5 provide any studies to date on EMB units specific to the State of New York Highway Commission, did you find any?

MR. MERRIT: No.

CHAIRMAN HODOM: You have not found any.

MR. MERRIT: We have not found any.

CHAIRMAN HODOM: Item number 6, the statement from CVS store manager and or regional manager indicating the store operations are not at the desired level. Were you able to obtain that?

MR. MERRIT: I was actually directed to an individual at the corporate headquarters for CVS Pharmacy and that person has not responded to my e-mail with an attachment. They have responded to my e-mail saying that they would prepare a letter but not the annual sales.

CHAIRMAN HODOM: But not what?

MR. MERRIT: Not specifically regarding the annual sales of the store.

CHAIRMAN HODOM: I don't think this references to the income.

MR. MERRIT: I just wanted to clarify that.

CHAIRMAN HODOM: Sales.

MR. MERRIT: Sales, any type of figures would not be provided in this letter. They have responded to me and we will be getting a letter.

CHAIRMAN HODOM: Okay. And then – well you have answered item number 8, you did provide a site line study for 100-feet where this previous one was 250-feet. We've already gone over, and I'm just reviewing back from our previous meeting minutes of what the Board requested and some comments that you folks made. We did specifically ask for a scaled drawing showing the location of the proposed sign on the site so you owe us that. At the last hearing, both yourself and Mr. Jacks stated that the existing pole sign is in the DOT right of way, it must be relocated. Did you find that to be not true?

MR. MERRIT: No actually after reviewing that, no we did not find that to be the case.

CHAIRMAN HODOM: That it is not in the DOT right of way?

MR. MERRIT: It is not in the right of way.

CHAIRMAN HODOM: Okay. You were going to provide us with the manufactured

engineered drawings for the sign. You provided us some manufactures details for the electronic message board, but you haven't provided anything for the sign; for the CVS sign. Would you do that?

MR. MERRIT: All that we provided to you was the electronic message board.

CHAIRMAN HODOM: That's correct. I think the question that was given to you previously was for signage, not specifically just for the message board, okay?

MR. MERRIT: Okay.

CHAIRMAN HODOM: We've already talked about Marge's request about a comparison between the 2-signs dimensionally. You're going to provide that?

MR. MERRIT: Yes.

CHAIRMAN HODOM: There was a statement by you, Mr. Merrit that a 49-square foot sign was appropriate for the posted road speed as well as a 20-foot height but you're proposing a 68-square foot sign in meat area. Again, I think the Town is being very liberal in their allocation of square footage in the signage and I think it should be larger. So where is the difference between - - why can't you put up a 49-square foot sign?

MR. MERRIT: Can you go back and specifically address that item?

CHAIRMAN HODOM: This is you speaking and it says that " we offer multiple services, that's why we do not propose anything other than just a CVS Pharmacy logo and the name itself. We felt that the logo being that it was 49-square feet was appropriate for the posted road speed as well as for the height that we were proposing going to be used."

MR. MERRIT: That is the sign face that's currently proposed has not changed, it's still 49.3-square feet.

CHAIRMAN HODOM: The new sign?

MR. MERRIT: The same sign face. The CVS Pharmacy portion of the sign is still 49-square feet as it was at the last meeting and today's meeting.

CHAIRMAN HODOM: But in addition to that, you're proposing to add the electronic message board?

MR. MERRIT: Yes.

CHAIRMAN HODOM: Do you consider that signage?

MR. MERRIT: The electronic message board?

CHAIRMAN HODOM: Yes.

MR. MERRIT: I consider it a variable message board, so I mean it's signage – it's not signage in the sense that I will always have the same as the drawing so...

CHAIRMAN HODOM: So that's really performing an additional function for CVS over and above what the sign actually performs. The locations sign, the CVS Pharmacy.

MR. MERRIT: Yes, I believe so.

CHAIRMAN HODOM: Okay. So in saying here that the 49-square foot sign is adequate for...

MR. MERRIT: To meet the identification needs for CVS Pharmacy.

CHAIRMAN HODOM: For that identification needs.

MR. MERRIT: For locating the facility.

CHAIRMAN HODOM: You also made a statement that the actual control of the sign message board is controlled in Rhode Island, not locally?

MR. MERRIT: No, actually the sign is radio controlled.

CHAIRMAN HODOM: Not locally?

MR. MERRIT: No, it comes out of Rhode Island – it's programmed out of Rhode Island. They determine what weekly advertised specials they will have and depending on the message interval, it may be controlled locally. Again, I can only speak to the sign. They have radio control unless there is a specific situation where it's – the intervals are in such a manner in which they would only be changed appropriate and it would be programmable.

CHAIRMAN HODOM: What control if any, would the local facility have if there was a malfunction in the sign?

MR. MERRIT: It turns silent. If there's any malfunction in the sign it turns silent.

CHAIRMAN HODOM: And that's it?

MR. MERRIT: Literally unplug it.

CHAIRMAN HODOM: It's an ambiguous question but how often do they check the sign?

MR. MERRIT: On any typical installation you will have – the store is open let's say standard operating hours, let's say if the store is open till, you know the sign is shut off; there's a delay for the overall sign and the delay may vary, but for the purposes of this meeting let's say the delay is 1-hour then that's when the sign will shut off after the store closes.

CHAIRMAN HODOM: No, but I mean how – and I guess I'm getting back to the malfunctioning of the message board. How often is that sign checked by the local establishment? Say it was set for 2-hours, that it was going to change every 2-hours but something happened and it was changing every 10-seconds and it was distracting traffic on the roadway. How often would an employee of CVS be checking that signage?

MR. MERRIT: Well I think that's a pretty open question, I mean if an individual was outside and saw the sign malfunctioning, it would shut the sign off.

CHAIRMAN HODOM: Are there any other controls that if the sign malfunctioned; went to a different mode, is there a bell or a buzzer or anything that would go off?

MR. MERRIT: No, I don't think there's an alarm that would trigger the sign to automatically turn off. Lets say that a bulb might go out; I don't think that that would be the case so...

CHAIRMAN HODOM: Okay.

MR. BROOKINS: If I might could I ask the question in a little different fashion? Based on your understanding or knowledge of what CVS has done up to this point and particularly, most recently with Ossining, how many malfunctions have occurred to your knowledge?

MR. MERRIT: None.

MR. BROOKINS: Thank you.

MRS. O'BRIEN: In addition, how many of these electronic message boards does CVS have in current operation?

MR. MERRIT: We just started this re-imaging campaign. The re-imaging campaign has been going on for about 4 or 5-months now. So I can't give you an idea of – they have 4500 stores nation wide and I really can't say at this time. I have one in my hometown; other markets that I work in I see these installations. Have we had problems with them? Not that I've seen; it's my opinion.

CHAIRMAN HODOM: Would they normally contact you if they have a malfunction, or would they contact the sign people?

MR. MERRIT: They would contact Hanley Signs and...

CHAIRMAN HODOM: So you may not necessarily know if there's any malfunctioning in the signs?

MR. MERRIT: The installer, the actual installer would be notified first.

CHAIRMAN HODOM: Okay. You were also asked to provide information on customer traffic for various years, say from 1999 to the present. Has that information been obtained?

MR. MERRIT: That's what I've been working on, the corporate contact.

CHAIRMAN HODOM: You had made a statement that the traveling motorist is trained and conditioned to look for the sign and locate the entrance and I think you were going to provide documentation to substantiate that. Have you done that? Is that information available?

MR. MERRIT: That information is provided in the Pennsylvania State Study. I only included an excerpt from that study and that was just showing this particular packet.

CHAIRMAN HODOM: But that was only for line of site information.

MR. MERRIT: It was actually...

CHAIRMAN HODOM: When they pick it up...

MR. MERRIT: That information is actually included in that study. I only included just that portion of the study.

CHAIRMAN HODOM: Could you also provide the balance of that study which would document that the traveling motorist is trained and conditioned to look for the sign and locate the entrance? Along with that Mr. Merrit I think you made a comment that you could provide documentation that the proposed signage will not present any traffic hazard to the passing motorist on Delaware Avenue or Elsmere Avenue. That information is available?

MR. MERRIT: Let me re-phrase that. The sign is not installed at that site and there is no real evidence that that sign would have an impact or a negative impact at that location because the sign is not installed. It's only my opinion as a sign consultant that there would not be an adverse impact because there is no obstruction presented because of the height, the sign...

CHAIRMAN HODOM: So there is no independent documentation...

MR. MERRIT: No, there is not.

CHAIRMAN HODOM: For other similar signage?

MR. MERRIT: Right we contacted New York State as requested, highway commission and they don't have any studies either.

CHAIRMAN HODOM: Mr. Brookins had requested documentation from the local store manager indicating problems locating the facility from potential customers. Was that information able to be obtained?

MR. MERRIT: We specifically talked to CVS about that and they preferred to handle it through the contact that I had been provided and not from the local store manager.

CHAIRMAN HODOM: Okay. You were also going to provide an actual highway study related to the electronic boards. Is that information available?

MR. MERRIT: The actual – yes there is actually - - yes that information is available; I did not provide it in the packet. I will provide it.

CHAIRMAN HODOM: You were also going to provide documentation from Dektronics, the manufacturer of the electronic message indicating the required height of the board and the size of the letters and the characters.

MR. MERRIT: We actually have - - the information that we have is found in the schematics and that it is a 2-line operation. When I talked to our sign company that we were obtained by - - they indicated that they would have to actually get a sales manual and I have not obtained that yet. That is the only documentation that I have received to date.

CHAIRMAN HODOM: Okay, but that's something that you can provide. We've already talked about the design of the sign, the structure being able to support the signage. You're going to provide documentation to that effect?

MR. MERRIT: Construction drawings?

CHAIRMAN HODOM: Right.

MR. MERRIT: We'll go ahead and draw them up.

CHAIRMAN HODOM: Okay. In this statement is for clarification, maybe it was the way I asked the question, maybe it was the way you answered it but the question was and also with your proposed signage you do not intend to have any fluttering banners, pennants or similar advertising devices such as oscillating lights or rotating devices on the sign and your answer was no.

MR. MERRIT: No was meant that no, we would not have any.

CHAIRMAN HODOM: Right, okay – just to clarify that you will comply with the code 100-percent.

MR. MERRIT: Yes sir.

CHAIRMAN HODOM: Okay. And lastly you had mentioned that you do have a member of ICA within your company and most of the information was readily available that the Board requested. Was there problems with your ISA representative or the information wasn't available?

MR. MERRIT: No, actually no the information is available.

CHAIRMAN HODOM: Okay.

MR. MERRIT: I apologize, I really did not think that I was to turn over the manual and the books and so forth so I will fed-ex the manuals and books over to Mark. That's why I just included excerpts; it was the way interpreted I the question.

CHAIRMAN HODOM: And anything that and I don't think we're being, how do I want to phrase it, requesting too much documentation. I think anything that you can provide to us to help us in our decision.

MR. MERRIT: I guess I minimized the actual request, it was more - - I interpreted the request as provide the information – I only pulled information that I thought was obviously it's a massive question but in reality you wanted the entire manual and booklet so the entire source. I will provide the source now.

CHAIRMAN HODOM: Okay. Sometimes we're referred to as, you know a bunch of country bumpkins and we don't know what we're talking about but I think most of us do.

MR. MERRIT: Quite knowledgeable.

CHAIRMAN HODOM: Again it's – and I don't mean to make light of it but all the documentation we request is really beneficial to us in making that decision.

MR. MERRIT: Now that it's been extremely clarified I will provide that information.

CHAIRMAN HODOM: Okay. Any other questions from the Board?

MR. WIGGAND: No, I think it's been well covered.

MR. BROOKINS: I don't think we ever answered your question about the videotape.

CHAIRMAN HODOM: No we did but it appeared that - - and Marge makes a good point – well what do you think? Do you think it's needed or helpful?

MR. BROOKINS: A couple of concerns and we've been putting these guys through the drill here and you held up quite well, but I think that if we go back to your original application and I think the purpose of this whole thing needs to - - we need to refresh or re-think this. That you essentially are representing CVS and you want to get a variance so that you can re-image CVS in a branding activity that they are trying to role out country wide. The electronic message board, and I don't want to put words in your mouth and CVS's mouth, but I think it might be helpful to have someone from CVS come and address a couple of these branding or imaging points that the electronic message board is really a 21<sup>st</sup> century enhancement to what retail has been using for years and years and we can just go down the street to Delaware Plaza and they have a message board but it's not electronic. It doesn't change in any perceivable sequence and, you know that's the way they do it I guess.

We have taken that original application and we roll a whole lot of other things into it including, I think unfounded, putting it on your shoulders to try to address how this imaging and signage is going to effect their sales. How it's going to be used for product promotion and how that's going to integrate with other promotional activities, their mailers, their coupons and I think it's unfair to you guy's in a sense so that's why I say you might want to have someone from CVS come and answer some of these questions if we want to link these up.

I think if you're going to have one of your folks down in Ossining stand out in the parking lot and take a video tape, I don't think it has to be for a hour, you know I'd like to see it go through a couple of cycles. It might give us a better idea of what it looks in terms of intensity, you know relative size and of course it's going to be different here than there, but if it helps to answer any questions on the part of the Board. They can take one of their little VHS tapes off the counter for 95 and run it through a camera and send it up to us, or send it up to you and you can get it to us. I think we're sensitive to what your needs are and we're trying to respond to them as well as other concerns.

MR. MERRIT: I appreciate that point and I certainly appreciate the time that you're obviously giving to this and giving the consideration of the request. So I don't that there's - - and as you addressed it, I don't think that any of the requests that you have made thus far in the last 2-meetings including this meeting have been over and beyond so there's so much within my latitude that I can provide and then I have to go back to CVS. I thank you very much for addressing that, if we can have the appropriate time to address the certain - - these specific questions and these specific requests then we will do so, but in the time frame that we've had to be able to provide this information and it's more than blatantly clear we did not have enough time to provide all of the information within the time frame necessary to attend this meeting.

So I think that probably what we should do is address each question, if we can work with Mark; if we can work with yourself as the Chairperson on the Board then we can set an appropriate date for this request to be heard again, so that we have all the information, all of the 9-items that I have been requested to obtain and then to schedule the hearing indefinitely until we can provide such documentation.

CHAIRMAN HODOM: Okay we can do that. The other Board members – how do you feel about the video, would it be helpful?

MR. MICELLI: I'd like to see it, yes.

MR. WIGGAND: I'd think it would help.

CHAIRMAN HODOM: Marge?

MRS. O'BRIEN: Fine.

CHAIRMAN HODOM: What would you suggest as a time frame if it's not an hour? Half an hour, 20-minutes?

MR. MICELLI: 20-minutes I think is fine.

MR. BROOKINS: What would really be helpful and I don't know the Ossining store from anything but I think it would be helpful to have both daylight and evening video shot so we can get a sense of what it looks like in those 2-environments and, you know maybe a half an hour in total, but whatever their message cycling is.

MR. MERRIT: As I mentioned before, it varies from location so I don't want to have a video of a store that changes 15-minutes so you see one message and then you come back and say that's not what we were looking for – well it wasn't clarified. Let's just try to get it clarified at this point. We have stores that have varying interval messages, you know the store in my hometown obviously as I have indicated before, it changes I think in a manner that you're looking for. So you can actually see the – how the - - lights themselves actually so you don't think there's a flashing mechanism or something like that. I think that's what you're looking for.

MR. BROOKINS: Where is your...

MR. MERRIT: South Bend, Indiana.

CHAIRMAN HODOM: Where is it?

MR. MERRIT: South Bend, Indiana. That's my hometown store, so I - - and again it's unbiased because it's not programmed in or it's not biased, it's not programmed in South Bend.

MR. BROOKINS: Is it a similar – 2-pedastal sign?

MR. MERRIT: It's one size larger than what's shown here today so if CVS gives me the okay then I'll just have one of my installers go out from my company and video it.

CHAIRMAN HODOM: I guess I would like to see the more frequent messages just to see how it relates to...

MR. MERRIT: Yeah, I just don't want there to be any type of...

CHAIRMAN HODOM: I think I can picture what a message changing every hour would do. I really can't picture what a message board changing every 15-seconds. It seems like a lot of information.

MR. MERRIT: Well it only has 2-line capability, so you have Gillette, 1.99.

CHAIRMAN HODOM: Yes but it's something that's changing very frequently and I think in my views looking at the traveler, how is that effecting the traveler; the driver?

MR. MERRIT: No, I clearly understand you position. I understand where your coming from and I think that would address it.

CHAIRMAN HODOM: Anyone else have any comments on that?

MR. BROOKINS: On the other hand one of the applications that you suggested that this could be used for was time and temperature. And obviously that's got to be changing at least - hopefully once a minute.

CHAIRMAN HODOM: You have to program it for whatever time frame you want.

MR. BROOKINS: Well even if it didn't change at all it'd be right twice a day.

CHAIRMAN HODOM: Well how would you feel, what would you like to see?

MR. MICELLI: I'd like to see the rapid movement just to see how much of that with the fast intervals with the traffic as opposed to a long stationary sign changing every hour. I think that - - I would be more interested in the rapid change.

MR. MERRIT: What distance do you want to see? It'll probably go on, I mean let's get some perimeters here if this in fact is accomplished, do you want to see the sign from 20-feet, do you want to see the sign from 30-feet? Where do you want to see the sign from because...

MRS. O'BRIEN: From where you can see the sign in the background so that we understand what the conditions are. In other words if you've got a sign that's attached to the face of the building, well that's not going to serve our purposes.

MR. MERRIT: And I totally agree and that's - - I'm asking you. So I mean if it's going to be done I mean I want to make sure that I'm giving you the information that you're looking for.

CHAIRMAN HODOM: Is there any data that would show when a motorist would initially pick up a sign that's changing; when they would first see it, or notice it?

MR. MERRIT: I don't think to address the electronic message and the technology so, you know I don't believe so.

CHAIRMAN HODOM: In your own experience has been any discussion as to – is it 25-feet, 50-feet?

MR. MERRIT: No.

MRS. O'BRIEN: It depends on your vision.

MR. MERRIT: Visual acuity always comes into play I mean, looking at different age groups. There is so many factors that go into this.

MR. PLATEL: Asking a question on the programming of it, I know it's programmed in Rhode Island you said, can they the programming so it's, lets say from – if they ran during the school hours? If they had it during the school hours it was constantly just one message, then lets say 6:00 till 6 in the morning they can make it a reader board were it changed.

MR. MERRIT: Good question. The board has unlimited capability and function such as you're requesting. You can do that; you can program it. So yes and like I said in the beginning there's so many different interval requirements; message interval requirements throughout the re-imaging campaign because of the different jurisdictions that apply these standards. So, yes it is allowed, they have that capability.

CHAIRMAN HODOM: That's a very good question Mark.

MR. PLATEL: Well 6 to 6 school is open.

MR. WIGGAND: Well where is that program then?

MR. PLATEL: Well you know what I mean.

MR. BROOKINS: 6 in the morning till 9 and then 2 to 5 or something like that.

MR. MERRIT: I'm saying in general that the sign programming that the software allows – it is so flexible that it allows that.

CHAIRMAN HODOM: Just one final question that I have. In your previous pamphlet you have photos of 8 or 10 signs, pylon signs, varying from 15-feet to 25-feet in height. Was there a specific purpose in what you were proposing to do there?

MR. MERRIT: No. The intent there was that we provided similar signage in the corridor

that we were proposing a sign and we just estimated the sign height and we had an individual here who wheeled off that 100 and the 250 point and then while he was here he photographed other signs in the corridor. So no it was only for the idea that when we chose the 20-foot height and the clearance from grade to the bottom of the cabinet, we're trying to keep in line as well.

CHAIRMAN HODOM: Because none of the signs that were shown in the photos required a variance.

MR. MERRIT: I don't think the ordinance that Mark maybe can help us, is there a specific height requirement or...

MR. PLATEL: No, we've always try to keep it to 18-20-feet though, nothing that was too outlandish.

MR. MERRIT: That's why there was no other ulterior motive because there is no specific...

CHAIRMAN HODOM: No, height wise correct, but square footage and so forth, okay.

MR. MERRIT: No, we were just trying to show that what we're proposing is in line, if you look at the architectural topper, the distinction between the old sign and the new sign. It's, you know we try to pride our self in having some, you know excellent design planning. If you look at like the Hannaford sign, actually it's a large sign; it's an attractive sign and it has something; it's not just a square box and that's what we were trying to accomplish and that's why I think we showed that.

CHAIRMAN HODOM: Okay. Any other questions from the Board? Does anyone in the audience have any questions or comments? You can make them tonight if you like, please come up and introduce yourself again for us if you would.

MISS. KLOSS: My name is Kate Kloss, I'm the principle of Elsmere Elementary School located at 247 Delaware Ave. across the street from CVS. I'd just like to reiterate our concern about the electronic message board creating a distraction for drivers and impeding the safety of our many children and families who cross that road on a regular basis.

CHAIRMAN HODOM: Okay.

MR. BROOKINS: Do you have any specific data or documentation that would indicate that this is or you've seen examples of this being a problem or hazard, such as we asked them we, you know it would be interesting to know if you have anything.

MISS. KLOSS: Regarding an electronic message board?

MR. BROOKINS: Yes.

MISS. KLOSS: Well no because none exists currently, there's nothing to compare it to. We do know that that's an unsafe crossing based on experience of the people who have crossed there and in fact our crossing guard as I mentioned last time has been hit already once this year. We just are concerned that any added distraction would further create a safety hazard.

CHAIRMAN HODOM: Okay thank you. Yes ma'am?

MRS. BLANK: My name is Susan Blank and I was here at the last and once again I am here to oppose the electronic message board part of the sign. One thing – thank you for this, this is very helpful because it brought up more questions for me to - - the area in which you have done the site line study is 30 miles per hour from I believe it, Mark you may know better than me, is it 8:00 a.m. to 6:00 p.m. while school is in session. Technically no one should be doing 40-miles an hour on that road from where School's Out is to I believe it's the tanning and dog place right by Friendly's, it's posted there.

Secondly, I noticed your 250-foot east of sign site line study seems to almost to be taken where the crosswalk is, where these children cross everyday. I saw the crossing guard get hit once this year. I saw her get hit last year. I saw a truck go up on a sidewalk because he failed to see that traffic had stopped for the children. Most of the time Parents are waiting on that sidewalk where the truck went up for their children. It is a deep concern - - I also live in that neighborhood which I stated last time, but it is a deep concern to me because there is school there.

There is other message boards in Town, you mentioned the Delaware Plaza. There is not an elementary school across the street from there. Your site line study says to me that right when they get to the crosswalk they see an electronic message board sign, blow off the cross walk, go over and hit anyone there because they notice a sign. I know I sound extreme, but I've seen a lot of stuff happen. My son is a second grader there now. I have even tried with DOT and this has nothing to do with you, but – and the Town before this evening came to have things changed already there. It is a hazard; people are not paying attention. Right about on the other side coming say from here to there it splits into 2-lanes from 1-lane, people are trying to get in their appropriate lanes already; they're distracted by that then if they notice a sign or not a sign. What Mrs. O'Brien had said, you're not going to see where it is on Delaware Avenue, I just don't see a need for the electronic messaging part. I think it is a safety hazard for a problem that already exists in that area. I travel that area via car and walking every day; I live a block away from the CVS. I think it's a problem; I think this will only create more of a problem. Thank you.

CHAIRMAN HODOM: Thank you for your comments. Anyone else wishing to speak. How much time do you think you need? We just adjourn the hearing to a date uncertain at this time and when you think you have the documents together...

MR. MERRIT: What we'd like to do is, you know I would like to be able to work with staff or yourself and gather this information and basically to report back to you my

progress and it would give me an opportunity to address each and every concern that was raised with CVS specifically and not going through another individual go to another individual. So I would like to address each concern because I appreciate the consideration that you're obviously giving towards this request therefore I'd like to give you the best and most accurate answer.

CHAIRMAN HODOM: I'll entertain a motion to adjourn the hearing to a date uncertain.

On a motion made by Mr. Brookins, seconded by Mr. Wiggand and unanimously carried by the board the hearing was adjourned to a date uncertain.

Hearing adjourned 9:25 p.m.

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The next order of business was to consider the proposed resolution of William and Elizabeth Gray, 22 Birchwood Place, Delmar, New York 12054.

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 William and Elizabeth Gray ("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 22 Birchwood Place, Delmar, New York. The Applicants wish to construct an addition, which will exceed the allowable percentage of lot occupancy at the premises of 22 Birchwood Place, 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 application as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on March 3, 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

The Applicant is the owner of property located at 22 Birchwood Place, Delmar, New York (Town of Bethlehem). The Applicant is proposing to construct a 59.5-square foot single story addition to the rear of the existing 1,117.22-square foot main structure that will create a total building area of 1,176.72-square feet. The new building area will be 21.72-square feet over the 1,155-square foot that is allowed by a lot consisting of 7,700-square feet. The lot occupancy will be 15.28 percent, which is .28-percent over the 15 percent allowable.

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

Applicants' family have lived in the home for over eleven years, and are seeking to expand their kitchen and dining area. In order to avoid having an entrance directly from

the existing garage into the dining room, the Applicant has proposed an extension on the rear of the home that is three-and-one-half feet (3½ ') deep and seventeen feet (17') wide. This will allow for an entrance from the garage into the new proposed addition.

The Applicant has no plans for further expansions or enclosures of the living area in the home.

The Applicant has spoken to several neighbors regarding the proposed project. The Board has received no written or oral objections to the Applicant's proposal. One person spoke in favor of the Applicant at the hearing.

There is a pre-existing non-compliance with the applicable side yard regulations on the Applicants' property of approximately eight feet (8'). This situation has apparently existed for many years, and is not at issue on this application.

The building lots in this area of the Town are recognized by the Board as being small.

The Board is aware that a similar small addition was done on a neighboring property, with no impact to neighborhood or community character.

Because of the physical condition and location of the Applicant's parcel, the strict application of the provisions of Chapter 128 of the Town Code would unreasonably restrict the use of the building for which the variance is sought.

The granting of the requested variance is necessary for the reasonable use of the Applicant's property.

The variance requested is the minimum that will provide for the reasonable use of the Applicants' property.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires the variance sought.

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 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, and that the benefit could not be achieved by some other means.

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

1. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application.
2. The Applicant shall construct the addition to match, as nearly as possible, the existing siding and materials on the home.

3. Construction authorized by this Resolution shall be completed within two (2) years of the date of this Resolution.

March 17, 2004

Michael C. Hodom  
Chairman  
Board of Appeals

Mr. Wiggand made a motion that the Resolution be adopted as amended, Mrs. O'Brien 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 March 18, 2004.)

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

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

Meeting Adjourned: 9:45 p.m.

Respectfully submitted,

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Secretary