

**TOWN OF BETHLEHEM
BOARD OF APPEALS
May 4, 2005**

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

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

Michael Moore Attorney to the Board

Mark Platel Building Inspector

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

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The First order of business this evening is a Public Hearing for a Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths requested by Kelly and Jeff Santore for property at 165 Wemple Road, Glenmont, New York. The Applicant wishes to construct an attached garage addition, which will encroach into the Front Yard setback requirement at the premises 165 Wemple Road, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a 22-foot by 22-foot, 484 square foot garage addition to the existing main structure that will create a front yard setback of 33.8-feet. This is 1.2-feet shy of the 35-feet that is required.

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

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

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

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 May 4, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Kelly Santore for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings & Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem for construction of an attached garage addition, which will exceed the allowable percentage of lot occupancy & encroach into the front yard setback requirement at premises 165 Wemple Road, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 27, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. Just for clarification there is only one Variance request this evening and that's for the encroachment into the Front Yard setback requirement. The Applicant does not exceed the allowable percentage of lot occupancy. The procedure that we'll use - - yes sir?

MR. FATTURA: Are we still talking about this on Wemple Road, Right?

CHAIRMAN HODOM: Yes.

MR. FATTURA: Okay.

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

MRS. SANTORE: Sure. I'm Kelly Santore and this is my husband Jeff. We've lived at 165 Wemple Road for 3-years. We moved in with 2-children and now we have four. We are running out of space in the house and we'd like to take our existing garage and make it into a larger family room and put a garage on – in front of the family room. It's for living space; we're running out quickly.

CHAIRMAN HODOM: Let me ask you a question – were you complete, did you finish?

MRS. SANTORE: Yes.

CHAIRMAN HODOM: In your application your explanation for the reason of the

proposal was that the new garage was to be built on the safer side of the house, which I believe was Bryn Mawr, but it's actually being constructed on the Wemple Road side of the house.

MRS. SANTORE: Yes.

CHAIRMAN HODOM: So there's been a change from your original application request to the current drawing?

MRS. SANTORE: Yes. We originally wanted to put it on the side of the house, but when I went in and showed everything to Karen and Mark they said that it was way too close to the road – too close to the setback.

MR. SANTORE: Over the setback.

MRS. SANTORE: Over the setback or whatever it was because it was a 22 by 22-foot garage. It would have - - they basically said that we should probably look at other alternatives because we didn't want to get turned down when we came to the Board of Appeals for that garage so we went to the front of the house.

CHAIRMAN HODOM: Okay. I did see some - - it looks like some erasers on the original plan, but I wasn't quite – after reading the application request I didn't know what you're intent was, but thank you for clarifying that for us. Had you had an opportunity to discuss the proposed addition with your neighbors?

MRS. SANTORE: We know three (3) of our neighbors that we speak to all the time and they just are happy that we're getting a pool. They don't care about the other stuff.

CHAIRMAN HODOM: Okay, but did you have an opportunity to talk to them about your garage addition and where it was going to go and how it was going to look?

MRS. SANTORE: Yes.

CHAIRMAN HODOM: And in doing so what kind of comments did you receive?

MRS. SANTORE: Nothing really, they just were excited for us and they, you know were anxious to see what it would look like. They're all dying to see, you know the inside and when it's done and things like that. They didn't think it would bother them at all to have the garage. Either way the side or the front – they didn't care either way.

CHAIRMAN HODOM: Had you looked at the possibility of perhaps reducing the depth of the garage from the 22-feet to say 20-feet and that way there would be no requirement for a Variance?

MRS. SANTORE: Well in talking to the architect, he said that a 22 by 22 is pretty standard now of days mainly because of the SUV and mini-vans and things like that

because that's what we have because of the kids we have a mini-van and a Dodge Durango so we can fit everybody in the car and they're really - - they're long so if we were to pull into a 20-foot garage we would have no space what so ever for like a bike or anything like that and I have teenagers that ride their bikes and stuff and pull in and out of the garage with them.

CHAIRMAN HODOM: I do appreciate your obtaining an updated survey showing some actual dimensions of the property and in actuality it's a less encroachment than what was originally being considered. It's 1.2-feet rather than the 2 or 3-feet that were...

MRS. SANTORE: Right.

CHAIRMAN HODOM: And you're going to use the existing garage for a new family room?

MRS. SANTORE: Yes.

CHAIRMAN HODOM: Maybe just describe what you're proposing to do with existing home. You do have it here as a project scope, but just so it goes on the record.

MRS. SANTORE: Sure. The house was - when you walk in the front door it was a living room, dining room area, which left me a very small - just a dining area. We barely fit into it and as I've said I have a large family. So my husband and I were trying to figure out a way that we can have a bigger dining room. That's how we started this whole thing was that I wanted a bigger dining room. I have 8-brothers and sisters and we have holidays at my house and it's just really - - that was what we set out originally to do. Then I was pregnant for Michael and our family was growing so we decided we would try to do everything all at once and take my family room that I have now which is a small family room and make that my dining room and then right off the dining room is where the garage is now and we figured we would open it up so that the family room, dining room and kitchen would all be sort of a big open room and it would be big enough for, you know my family and things so that's how it started out.

CHAIRMAN HODOM: Okay.

MRS. SANTORE: We're taking our existing formal living room which we don't need any more and going to have that be a play room for the babies.

CHAIRMAN HODOM: The existing dining area you're changing to an office?

MRS. SANTORE: Yes.

CHAIRMAN HODOM: Do you run a business out of the house?

MRS. SANTORE: I do and my husband does as well. I am involved with 3 other partners on a diverse management group. We own a couple of properties in downtown

Albany and we rent space there and I have a lot of paperwork and I do all the filing for LLCs and things like that so I try to do some of that at home instead of at my full time job and my husband started his own business last year as the property manager and he manages several properties in downtown Albany and I have to do like his billing and all his books and everything so...

CHAIRMAN HODOM: You're the only two who work out of the office? You don't have employees that come in or...

MRS. SANTORE: I'm the only one that works in the office.

CHAIRMAN HODOM: Okay. The proposed architectural features of your addition, is it your intent to match the existing siding, roofing, window structures as close as possible to the existing?

MR. SANTORE: Yes. It'll be the same because we just sided it – siding will be the same. We have – and it only last year that we sided it so the materials are in stock and I have some left over siding from when we did it that we're going to use it so it will match almost exact. It hasn't had time to fade or change color; the same roofing material.

CHAIRMAN HODOM: And what is your proposed, if the Board were to approve your application, work schedule? Your starting time; your completion time?

MRS. SANTORE: Hoping we still have money left after we finish the pool, we'd like to start it as soon as possible. We have a couple of guys that are going to give us some estimates and things on to putting the garage on.

CHAIRMAN HODOM: But if it was approved by the Board you would expect to have it completed this year?

MRS. SANTORE: Yes.

MR. SANTORE: Oh absolutely.

MR. WIGGAND: Mrs. Santore have you checked your deed? Have you looked at your deed at all?

MRS. SANTORE: I went through the deed but...

MR. WIGGAND: I built all those homes there.

MRS. SANTORE: You did?

MR. WIGGAND: Yes including Bryn Mawr Drive and I have a little bit of question to ask you that might throw a little bubble in things here, check your deed.

MRS. SANTORE: Okay.

MR. WIGGAND: There's a road setback on that deed and I didn't know you were planning this garage in the front of it. Weren't you planning it on the side there?

MR. SANTORE: We were originally.

MRS. SANTORE: But we were to...

MR. SANTORE: Too far off of the setback on the side.

MR. WIGGAND: But this front garage you better check your deed on that and Bill Waldbillig who was the man that owned that property back when we developed it and he threw some things on to that deed there that prevented you from doing just what you're doing so you wouldn't be in front of the other homes. If you notice the homes are in line there including yours.

MRS. SANTORE: Actually the one on Wemple – are you speaking of the house's on Wemple?

MR. WIGGAND: Well I'm speaking about your house. Your house faces towards Wemple.

MRS. SANTORE: Correct.

MR. WIGGAND: And Bryn Mawr Drive. Aren't you on Bryn Mawr Drive here?

MRS. SANTORE: Yes we're the corner lot.

MR. WIGGAND: I developed all of those homes on that street there so I'm familiar with what I'm talking about and I'm pretty sure you'll find that Bill Waldbillig, the owner of that property when we built that place there, that section of it, shows a restriction on anything closer than maybe 40-feet, 45-feet from the road.

MR. SANTORE: I thought it was 35.

MRS. SANTORE: He's talking about in the deed though.

MR. WIGGAND: You've got to go by your deed; you don't go be something else that has been established.

MR. SANTORE: But I thought I read that – with Paul Hite, our deed.

MRS. SANTORE: I know that we had looked at several different deeds that were on - - that Paul has.

MR. WIGGAND: If you noticed all of those homes is in line with each other.

MR. SANTORE: Right.

MR. WIGGAND: When this was developed we didn't want to have - - jogging back and forth. There was a straight front line there that these homes are on, not to exceed a certain point. All of those home that I'm very familiar with because we built them and all of those homes on Bryn Mawr Drive and we would have went further with it except that the - - we ran into a big problem because if we went any further we'd be closer to the ravine. So I did stop at that ravine on Bryn Mawr Drive, but check your deed on that. You've got some deed restrictions on that and they're very strong deed restrictions. The only one that can release something like that is the original owner.

MR. FRATTURA: I was told I couldn't put a garage there just because of what you're saying.

CHAIRMAN HODOM: Sir please wait your turn okay? Just so we can get it on the record we would need your name and so forth. You'll have an opportunity to speak. Mr. Hite does reference the map of Gra-Bil estates, property of William H. Waldbillig, March 24 of 65' and also section 2A, property of William H. Waldbillig, June 15 of 1965. He doesn't reference anything regarding a setback. This again raises a good point, if your deed has a restriction then your bound by that restriction.

MR. WIGGAND: Well we have restrictions in these deeds because if the - - you can imagine what would happen to them with people building in different directions.

MRS. SANTORE: I know we have looked at some deeds of people that lived on Bryn Mawr Drive and they did have a setback such as that on the opposite - - at least on the ones on the opposite side of Bryn Mawr from us. I did not notice a deed restriction in our deed and neither did Paul when he reviewed it, but I'd have to look at my deed.

MR. WIGGAND: That's something for you to look into.

CHAIRMAN HODOM: Could you perhaps provide a copy of your deed to the Board?

MRS. SANTORE: I actually provided several copies of the deed when I first did the application. I had to get them to Karen.

MS. GUASTELLA: Kelly was that the original that I gave back to you?

MR. WIGGAND: If you notice all the fronts of those homes all line up with each other, approximately within a couple feet of each other, but I developed that whole area so I know something about that.

CHAIRMAN HODOM: Mr. Santore we don't have a copy of your deed in our file. Well

why don't we go on and if you can provide us a copy of the deed that would be beneficial.

MRS. SANTORE: Okay.

CHAIRMAN HODOM: Did you have some other questions Bob?

MR. WIGGAND: No I was just concerned that they touch base on this in time because you're going to find on your deed that - - well I didn't own the land I built the buildings and we developed it right from the field all those homes on Bryn Mawr Drive and one thing we had in there is restrictions on all of them so you couldn't have a home bump in front of each other and every home we ever built has got those restrictions because you could imagine what kind of a terrible thing you'd have if all of a sudden people start building things in front of your own home. You wouldn't like that.

MRS. SANTORE: Well I know that the house that's next to us if you're looking at our house to the left it's set back further than our house to begin with so I don't know that the deed restriction would be on the front of Wemple, which is where we're proposing to put the garage because they're all ready set back.

MR. WIGGAND: I know on Bryn Mawr Drive it is.

MRS. SANTORE: Correct but we're not proposing to build on Bryn Mawr. We're proposing to put an addition facing Wemple.

MR. WIGGAND: See I worked with Bill Waldbillig at the time, an elderly man and his wife and I thought that the deeds covered what I'm speaking about.

CHAIRMAN HODOM: Mrs. Santore will provide a copy of their deed. Mark just a question; is there a Variance required for a home occupation?

MR. PLATEL: It would depend really what they're doing in there. People bring work home, they have their own home offices, it depends on exactly what the business is that's being run out of there. It's a touchy question.

CHAIRMAN HODOM: Well rather than have the Santore's come back at another time if it's required, we ought to deal with it all at the same time.

MR. PLATEL: Well that would be a Use Variance if it is and it would be a totally different - you couldn't do it through this anyway. I'll have to talk to them after and see what's going on.

CHAIRMAN HODOM: Fine. Any other questions Bob?

MR. WIGGAND: No as long as they understand what I know about it because I built it.

CHAIRMAN HODOM: Lennie anything?

MR. MICELLI: I think Bob covered it. I mean we were at your home today and when we were standing in your driveway we just, on the Wemple side the 2-homes to your left was there any problem with those 2-homes?

MRS. SANTORE: I don't know them.

MR. MICELLI: Okay. See our concern was if you come out of their porch you can't look down any more if the proposal – everything goes through on your driveway, nor can the other 2-homes on that side. So that was an issue and concern that both Bob and I had today looking at the property and we stayed there a good 40-minutes, you know going back and forth. At first it was kind of confusing – just to clarify one thing in front of the garage you said that your were going to rip up the asphalt and put grass in front of the old garage and then the new garage?

MR. SANTORE: That was if we had put on the Bryn Mawr side if we built the garage there we would take that right off and it would be over.

MR. MICELLI: So that was our concern was the neighbors not being able to look down Wemple road when they come out onto their porch or if they wanted to sit on their front lawn.

MRS. SANTORE: Yeah, I definitely understand, but if we were to build a 20-foot garage and not need a Variance they would end up having to - - the same issue.

MR. MICELLI: Exactly, correct.

MR. WIGGAND: You can see the problem would be with people with the front lines off the street. If every neighbor started doing that all of a sudden you'd be kind of upset to because all of a sudden you building next to your house and you can't say it's alright for you to do it but no one else, and that is a deed restriction in your deed that you can't come any closer to the road than...

MRS. SANTORE: Like I said sir I'll review the deed and I'll have an attorney take a look at it as well. Thank you.

CHAIRMAN HODOM: Marge?

MRS. O'BRIEN: No.

CHAIRMAN HODOM: Gil?

MR. BROOKINS: No, I'm fine.

CHAIRMAN HODOM: Do you think we should close the hearing?

ATTORNEY MOORE: No, they have to come back with their deed.

CHAIRMAN HODOM: Okay.

MRS. SANTORE: Once we give the copy of the deed to you what – if there's not a restriction then what is the next step?

CHAIRMAN HODOM: I was just conferring with counsel tonight normally we would close the hearing, but I think this evening because we still need the deed to review and perhaps ask you some additional questions we won't close the hearing. We'll just adjourn it and reschedule it to another date and once we have the documents that we requested and once you've had the opportunity to discuss the home occupancy with Mark, but we will continue on this evening with people that are here that might want to make some comments or have any questions.

MRS. SANTORE: Okay thank you.

CHAIRMAN HODOM: Did you want to make any other presentation to the Board?

MRS. SANTORE: No.

CHAIRMAN HODOM: Is there anyone that has any questions or comments? Yes sir, just introduce yourself to us and give us your address.

MR. FRATTURA: My name is Fred Frattura, I live at 167 Wemple Road. As I look out my front window I see part of a garage now. I've been there since 1978, we have a beautiful little neighborhood and all the houses are kept in nice shape. Never, you know in the immediate area within a quarter of a mile there's not junk cars or anything like that.

If in fact I understand that garage out the driveway then that's going to leave my front sitting room looking at the side of a garage and if I wanted that I would have stayed – you know I've stayed in the City of Albany. If - - I don't think that there should be allowed a garage to jet out 20 or 30-feet from the front of the house. There's plenty of room on the other side of the house and I don't think anybody would object if they wanted to go behind the house, but as far as having a garage in my front yard it's going to kill my property value. I applied for an application in 1986 and I couldn't get one so I had a builder who knew some people here get it for me but I still couldn't put up the garage in a line and I was not allowed to even go beside my house. I had to go behind my house, also I had no idea that it was turning into a business area because I wanted to have a wholesale license because I'm a car dealer and I was told absolutely positively not. I couldn't even have a wholesale license on Wemple Road so this is new to me that there's, you know business's going in next-door, offices.

I don't want my property value, you know to go down as much as it will with a garage sitting out in front of my house. I've been there since 78' and everybody that has

lived in that house prior to these people have done a very,very good job to keep the house up and everything, which is, you know I understand they're remodeling but for, you know I've been looking at junk cars next door with flat tires, kids bikes, rusted out lawn mowers laying on – all between my house and the house next door and it's gotten me quite aggravated. I've never said anything, but to, you know - - now they're – I mean if anybody looks at my property they'll know it's not my stuff because it's not on my property but it's right on the property line. And it's going to devalue my property value quite a bit and there's lot's of room over there without going out in front of the house I mean like you said when you turn the corner you see a nice line of houses. You don't see a house on the corner 3-different colors with a garage sticking 30-feet out front and you know I won't be able to look out my front window towards Bryn Mawr or towards Beacon and see anything but a garage and that's our sitting room. If anybody wants to see some pictures to see what it looks like when I look out my front window and with a garage sitting there I won't be able to see anything but a garage and like I've said we've been there since 78'.

CHAIRMAN HODOM: Thank you very much Mr. Frattura. If you want to submit some pictures you certainly can.

MR. FRATTURA: Well no I just want to, you know I want to, you know I want it understood that I don't, you know that I don't think it's good for the whole neighborhood.

CHAIRMAN HODOM: You're on record as you think that the addition of the garage is going to be disruptive to your view.

MR. FRATTURA: Absolutely and it's going to decrease my property value, I mean you know as it is right now it's, you know well I understand now it's under construction and it has been for the last 3-years and it's just that - - it's you know - -

CHAIRMAN HODOM: Okay thank you very much. Is there anyone else with any questions or comments? Now is the time to speak ladies and gentlemen if you'd like to. Is there anyone wishing to speak in opposition to the applicant other than Mr. Frattura?

MRS. DIBERNARDO: I have a question, my name is Pat DiBernardo and I live on Bryn Mawr Drive. The only concern I have was the possible impact on the visual distance as we exit our road. Right now up at the corner there's a power pole and a tree there and with this proposed garage if the cars naturally are going to be parked closer to Wemple Road if it possible would impact our distance there because there's a turn, like a blind curve a few hundred feet from that driveway. So I'm just concerned over the fact if there were cars at the bottom of that driveway when we're exiting our street if we're going to have a clear view of the curve.

CHAIRMAN HODOM: It would appear to me Mrs. DiBernardo that from the proposed easterly face of the proposed new garage there's close to 34-feet to the property line and then there appears to be another 15 to 20-feet of driveway from the property line to

Wemple Road. Assuming that this survey that this survey map is correct it looks - - once you came to the intersection of Bryn Mawr and Wemple there should be adequate site line to make a turn or to look either direction. Now if there are cars in the driveway from Wemple Road up to the garage...

MRS. DIBERNARDO: That's what I mean, closer to Wemple Road part.

CHAIRMAN HODOM: Well that may present some difficulty, but we can't control that either. If somebody has a party or something - has more cars in the driveway than they normally do that may present a problem at that one instance, but it would appear for the most majority of time that there's adequate site line on that corner.

MRS. DIBERNARDO: And what Mr. Wiggand was saying before, we in our deed we have a restriction of 55-feet from the road setback on Bryn Mawr Drive.

CHAIRMAN HODOM: On Bryn Mawr.

MRS. DIBERNARDO: On Bryn Mawr, yes. Just what he said in the deed ours is 55-feet.

CHAIRMAN HODOM: Well as I said earlier the Santore's will provide us a copy of their deed and if there's any restrictions off of Wemple they will be duly noted in the deed.

MRS. DIBERNARDO: Pardon?

CHAIRMAN HODOM: I said if there are any restrictions off of Wemple as far as setbacks go it will be duly noted in the deed and we'll take note of that.

MRS. DIBERNARDO: I was just clarifying what he said on our street it's 55-feet. I don't know about up there though.

CHAIRMAN HODOM: Okay, thank you. Mr. Frattura you have another question?

MR. FRATTURA: Well just what Mrs. Dibernardo said about the cars. There is 4-cars in the driveway every night sometimes 5 and this is, you know I understand they both have sport utility vehicles and also there is usually a truck in the driveway and the last couple of days I think there has been a van there. It's lettered up with, you know with writing on it and stuff. But the cars are always parked in the driveway and if you go 25-foot more then they're going to be right to Wemple Road because, you know 2-cars - you can see the pictures the cars are always in the driveway but I mean this is, you know - - I'm concerned with looking out the window and seeing a garage and defacing my value.

CHAIRMAN HODOM: You're on record on that already, okay? I just don't want you to become redundant and go over the same thing again.

MR. FRATTURA: Well what Mrs. Debernardo said about the cars in the driveway.

CHAIRMAN HODOM: We will take the car issue under consideration as well. It's on the record and we review the entire record before we make any kind of determination. Is there anyone else with any comments or questions? Anyone wishing to speak in opposition to the Santore's? Anyone wishing to speak in favor of the Applicant? We will not close the hearing this evening because we will wait for the submittal of the deed and also for a determination from Mark on the home occupancy, not that it has any impact on your area variance, but it's a consideration as well. Is that acceptable to you folks that we adjourn it to a - - how soon do you think you can get us a copy of the deed?

MRS. SANTORE: I was going to send my husband over to get it while we were still here but we're adjourning so I can get it to you as quickly...

CHAIRMAN HODOM: We could probably hear you on May 18th. We have an open agenda on May 18th, we have 2-applications to schedule, but I think for this information we could probably schedule you for May 18th.

MRS. SANTORE: Okay.

CHAIRMAN HODOM: It shouldn't take that much more time to review the information and then close the hearing.

MRS. SANTORE: Okay.

CHAIRMAN HODOM: Is that something that you can have that information to us within a few days?

MRS. SANTORE: Absolutely.

CHAIRMAN HODOM: Is that acceptable to the Board.

MR. WIGGAND: Yes that's fine.

On a motion made by Mrs. O'Brien, seconded by Mr. Micelli and unanimously carried by the Board the Public Hearing was rescheduled to May 18, 2005 at 7:30 p.m.

Hearing adjourned 8:00p.m.

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The next order of business this evening is a public hearing for a Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths for property at 26 Darroch Road, Delmar, New York requested by Timothy Beebe & David Marshall. The Applicant wishes to construct a detached garage addition, which will encroach into the Front Yard Setback requirement at the premises 26 Darroch Road, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to construct a 700-square foot detached garage that will encroach into the required front yard setback. The proposed garage would have a 13-foot setback, which is 7-feet shy of the 20-feet that is required.

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

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

Notice of Public Hearing. Notice is hereby given that the Board of Appeals, Albany county, Town of Bethlehem will hold a public hearing on Wednesday May 4, 2005 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Timothy Beebe & David Marshall for Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths of the Code of the Town of Bethlehem for the construction of a detached garage addition, which will encroach into the Front Yard setback requirement at premises 26 Darroch Road, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the April 27, 2005 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We’ll use the same procedure that we used earlier, we’ll hear the applicant’s presentation; we’ll entertain any questions or comments from the audience, we will hear any one wishing to speak in favor and anyone desiring to speak in opposition. Anyone desiring to speak will be allowed to do so just please come stand or sit close to the black microphone. Mr. Beebe, Mr. Marshall one of you please make a presentation.

MR. BEEBE: Sure.

CHAIRMAN HODOM: Just introduce to us and tell us what you want to do and why you want to do it.

MR. BEEBE: Mr. Chairman my name is Tim Beebe and I live at 26 Darroch Road, which is located on the corner of Darroch Road and Roweland Avenue. We're proposing to build a detached garage. The purpose for the Variance would be to maintain the alignment of the new garage so it would be perpendicular to the house. We're not proposing any – it would access the new garage off the existing driveway so to maintain the perpendicular right turn and not shadow the pool area because the track of the sun. That's why we're proposing locating it where we are in a nutshell.

CHAIRMAN HODOM: Tim why is the new garage needed?

MR. BEEBE: There are currently 3-cars registered, we moved there about 3-years ago and had 3-cars one of which is currently being stored off site down in Selkirk just because there's - - it's a classic car and I want to keep it under cover so it doesn't leave me many opportunities to drive it so part of the reason for the garage is to be able to store that on the property so that when the weather's conducive to driving if I could. Also, like I said we've got 3-cars and the existing garage is one of them is being occupied – one of the stalls is being occupied by a car. David also owns a truck that will be stored in this new garage and the other half of the 2-car garage – existing garage just is our main traffic pattern in and out of the house. There's some shelving that was pre-existing there so it doesn't really accommodate a car at this point.

CHAIRMAN HODOM: So the existing garage is being used as a 1-car garage.

MR. BEEBE: 1-stall, correct.

CHAIRMAN HODOM: I know we received 2-letters from adjoining neighbors. Did you have the opportunity to discuss your proposed plans with your immediate neighbor within the 200-foot boundary area?

MR. BEEBE: We personally spoke to 9 of the 19 and they're all in support of the project.

CHAIRMAN HODOM: I know the 2-letters that we received affirmed their approval of their acceptance of your proposed garage. So the main reason for the 40-foot long garage is for a classic vehicle plus another vehicle behind it. Is that what it is?

MR. BEEBE: Correct or probably in front of the classic could probably end up in the back.

CHAIRMAN HODOM: Okay. Had you considered perhaps locating the garage on the northerly part of your lot in the rear lawn area close to where the shed is?

MR. BEEBE: Not really just because there's a specimen dogwood tree on that side of the house and it wouldn't really – to bring a driveway in off of Darroch and back there would be very disruptive to the whole site plan the way it is existing.

CHAIRMAN HODOM: You've got a lot of shrubbery and so forth on that side of the property?

MR. BEEBE: yes.

CHAIRMAN HODOM: Okay. The proposed architecture considerations for the proposed garage, what are your architectural features that you're considering as far as siding, roofing, doors, windows?

MR. BEEBE: The plan you've got is actually – we're probably going to go with a cedar shingle siding to match the existing house and that plan initially we talked about metal roofing but we're probably going to go with more of an asphalt shingle that more closely duplicates slate. Slate is just prohibitive in cost.

CHAIRMAN HODOM: You currently have slate on the house?

MR. BEEBE: Slate, yes the house currently has slate, correct.

CHAIRMAN HODOM: But in lieu of the metal roofing you would consider using an architectural slate looking shingle?

MR. BEEBE: Correct, one of those that creates a shadow line that pretty closely duplicates slate, yes. And then we're proposing 2-casement windows on the Roweland Avenue side and then a small window above the overhead door in the front and a small window in the back and we're toying with the idea of putting a cupola on the roof just to allow more light in as well.

CHAIRMAN HODOM: There's a little additional room off of the northerly side of the garage. What is that supposed to be used for?

MR. BEEBE: A changing room for the pool when guests come over and also for storing lawn furniture in the wintertime.

CHAIRMAN HODOM: And that would be constructed with the same materials?

MR. BEEBE: Correct.

MR. BROOKINS: What utilities do you anticipate for the garage?

MR. BEEBE: Electrical only.

MR. BROOKINS: And you've peeked my interest what's the collectable car?

MR. BEEBE: It's an old Mercedes, a 69' Mercedes sedan.

MR. BROOKINS: Okay thank you. I'm a car buff so I'm interested in these sort of things.

CHAIRMAN HODOM: Tim, it's your intent now and in the future to maintain this residence as a single family home?

MR. BEEBE: Absolutely.

CHAIRMAN HODOM: It's not your intent to use this proposed garage area as any living space; strictly for the storage of the vehicles and tools and so forth?

MR. BEEBE: Bicycles, snow thrower, lawn mower, all those modern conveniences of life.

CHAIRMAN HODOM: I know there are some shrubbery and trees along Rowland currently. Are you proposing on planting some additional trees and shrubs or is that just the way it's shown on the plan? Does this indicate what's there now or...

MR. BEEBE: Yeah that's what there now. I don't know if you noticed when you stopped over at the site there were some privet that had been dragged to the back that was along the current driveway where the stockade fence is now and we plan on once the project is settled relocating that to probably add some additional rough screening.

CHAIRMAN HODOM: I think your plan indicates that. It does show where the existing shrubs are and then you've got some on the interior side of the fence that looks like it will be new and then it would buffer it from Rowland.

MR. BEEBE: Yeah there's considerable vegetation there on both sides of the fence currently.

CHAIRMAN HODOM: Do you have a proposed time schedule that you're looking at?

MR. BEEBE: If approved it's going to be dependant on the availability of contractors. I've got a primary contractor that is going to work the project, but he's probably going to have to sub out the slab at a minimum so it will be – you know probably at the mercy of whoever can do it. I hope to get started on it soon, I mean it's definitely construction season.

CHAIRMAN HODOM: And this is a 1-story structure, correct?

MR. BEEBE: Correct.

MR. WIGGAND: Now this garage isn't going to be used for restoring automobiles or

working on other just...

MR. BEEBE: Other than routine, you know...

MR. WIGGAND: Similar to what I had in my place with all the old cars. Keep them clean and drive them once in a while and that type of thing.

MR. BEEBE: Correct.

MR. WIGGAND: You're not going to be tearing them down and...

MR. BEEBE: Not if I can avoid it.

MR. WIGGAND: Okay I understand what you're doing. But I thought we should have that question answered on record here because if all of a sudden there's welding going on and all the other stuff – I don't think that's going to happen.

MRS. O'BRIEN: Had you considered at all moving the garage back further towards the pool, which would give you additional side yard – you wouldn't need as much of a Variance? You've got several feet there that...

MR. BEEBE: If we were to move that much it would end up being behind the house and it would create a greater than a 90-degree angle.

MRS. O'BRIEN: Well the house – the garage is here, this line and the line that's here is still far forward of that.

MR. BEEBE: That line isn't exactly accurate as far as the patio around the pool.

MRS. O'BRIEN: I expect it would come on to the patio, but it would not be even as far back as the house if you want to line is here where you gain several feet from that bringing it back.

MR. BEEBE: Again as I stated earlier the track of the sun – it would put this in shadow. The garage itself would create a shadow on this side of the patio. That's one of the other reasons that we're trying to maintain it being perpendicular to the house so that this is a right angle. This really isn't a lot of space there now. I'm not sure exactly if I'm following what you're suggesting.

MRS. O'BRIEN: Just that, you know this is where the Variance is needed and if you move it back further then it's not a whole 7-foot Variance.

MR. BEEBE: I still think - - I would still need a Variance because I'm not going to gain...

MRS. O'BRIEN: The significance of the Variance makes a difference to.

MR. BEEBE: I don't think I - - the 7-feet just wouldn't work. It would end up throwing the alignment – have you been to the site?

MRS. O'BRIEN: Yes.

MR. BEEBE: I just would – with the help of Mike Cirillo we put the stakes in and it really kind of brought the whole thing to light as far as we weren't really - - as appropriate to place it.

MRS. O'BRIEN: Okay.

CHAIRMAN HODOM: What's the setback on that rear line Mark for an accessory structure? Is that 2-feet?

MR. PLATEL: 2-feet, yes.

MR. BEEBE: We didn't want to do that because there some yews there that add screening and they would have to be cut down. I think it's a 12-foot, 1-inch or something to that effect....

CHAIRMAN HODOM: Right.

MR. BEEBE: Really just for the sake of the neighbors to maintain that.

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

MR. MICELLI: No.

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

MRS. CAPONE: I support Tim's project because everything he does is just so.

CHAIRMAN HODOM: Would you introduce yourself to us ma'am, tell us your name?

MRS. CAPONE: He only knows me 20-years. Marie Capone 440 Delaware Avenue in Delmar.

CHAIRMAN HODOM: Thank you ma'am. Any other questions or comments from the audience? Anyone wishing to speak in favor of the Applicant other than those who have already done so? Anyone wishing to speak in opposition? Hearing no further questions or comments we declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

Hearing closed 8:20 p.m.

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The next order of business was to consider the application of Eric & Jessica Farbent. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Eric & Jessica Farbent, for Variance under Article XVI, Front yards, Section 128-68, Corner Lot Required Depths for the construction of an addition, which will encroach into the front yard setback requirement at premises 48 Douglas Road, Delmar, New York, it is hereby ordered that a public hearing on this matter be held May 18, 2005 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Colleen & John Barbuto. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Colleen & John Barbuto for Variance under Article XVI, Front Yards, Section 128-68, Corner Lot Required Depths for the placement of a storage shed, which will encroach into the front yard setback requirement at premises 22 Haddington Lane, Delmar, New York, it is hereby ordered that a public hearing on this matter be held May 18, 2005 at 8:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

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

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The next order of business was a discussion of the previous public hearing held in the matter of The Nathaniel Adams Balnchard American Legion Post for a modification to a previously granted Special Exception under Article VI, Permitted Uses, Section 128-12 B(2), Residence "A" District. The following points were brought up by the Board members: The case was presented well. The Post would be assuming all responsibility for the proposed garage. No neighbors objected to the project. The placement of the garage is appropriate for the site. On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Special Exception, for presentation at the next Board meeting on May 18, 2005.

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On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the April 20, 2005, meeting were approved as amended

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

Meeting Adjourned: 8:40 p.m.

Respectfully submitted,

Secretary