

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
November 19, 2003**

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  
Richard Lewis  
Gilbert Brookins  
Marjory O'Brien

Patrick Seely 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 all. 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 XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings requested by John and Joanne Danaher for property at 102 Berwick Road, Delmar, New York. The Applicant wishes to construct an addition, which will exceed the percentage of lot occupancy at the premises of 102 Berwick Road.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant wishes to construct a 10-foot by 17-foot single story addition that will add a total of 136 square feet of building area to the existing 2,079.75 square foot main structure. This will create a total structure of 2,215.75 square feet, which will be 207.52 square feet over the 2,008.23 square feet allowable. The lot occupancy will be 16.55 percent, which is 1.55 over the 15 percent lot occupancy allowable for the main structure. The existing structure is currently over the allowable lot occupancy by .53 percent and was built that way back in 1968. At this time the structure is occupied as a Single-Family Dwelling and is located in an "AA" Residence Zone.

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 November 19, 2003 at 7:30 p.m., at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of John and Joanne Danaher for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for construction of an addition, which will exceed the allowable percentage of lot occupancy at the premises of 102 Berwick Road, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the November 12, 2003 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 your presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor or anyone wishing to speak in opposition. If you would just introduce yourself to us, tell us what you want to do and why you want to do it and how you want to do it.

MR. DANAHER: I'm John Danaher.

MRS. DANAHER: I'm Joanne Danaher, Jody Danaher. We both have been living in our house for 9-years and it's a great house and it's a good size house but the kitchen is really quite small and at this point our children our 16 and 12 and we'd like to have more space around the kitchen table. That's the main motivation here to get some additional space in the kitchen so we have the original kitchen in the house. We need to replace appliances. We have original cabinets and all of that and we thought in redoing the kitchen we'd like to push out and have more space.

CHAIRMAN HODOM: Would you just describe the layout of the house for us and also the size of the kitchen and so forth.

MRS. DANAHER: Okay. I don't have the particular dimensions. It's a center hall colonial and the kitchen runs across the back of the house. It's a long thin kitchen. Do you know the dimensions?

MR. DANAHER: It's very narrow; it's only about 12-feet wide. And the eating area is very small.

MRS. DANAHER: The eating area is at the far end and the problem is that the cellar door opens into the eating area then there's a doorway into the dining room and the other passage is into the living room. So, the eating area is surrounded by many doors and it's tight. We have a kitchen table that's there that's 4-foot by 2 ½ -feet. It's just getting tight with the kids getting older and we wanted to have something that was a little bit bigger, more comfortable mainly - - again it's the table space that we're looking for.

CHAIRMAN HODOM: How long have you lived in the residence?

MR. DANAHER: 9-years.

CHAIRMAN HODOM: Okay. The proposed architecture for the breakfast nook would match the existing home as closely as possible as far as siding, roofing, windows and what have you?

MRS. DANAHER: Yes, we're trying to stay with kind of the colonial look of the house. The window that we've selected for the back would be a picture window that would match the picture window that's in the front of the family room. So the windows and all of it; hardwood floors – it would match the structure of the house. We also saw another addition that Mark Crouse had done at the other end of our development on Dumbarton he did several years ago and when we saw that addition, which was a house much like ours, we kind of knew – oh good that's what we wanted. It was very helpful to see that and to see how it blended with the house. I mean I'm not terrific with at picturing these things in my head so when I walked into this neighbors and I could see, I thought – yeah do that. That's what we want.

CHAIRMAN HODOM: Okay. I know we have some letters on record from various neighbors. Had you made an effort to contact anyone that might be impacted by the proposed construction?

MR. DANAHER: We talked to the people on each side and directly in back of us. That's what we were told to do when we came here for the application.

CHAIRMAN HODOM: Okay.

MRS. DANAHER: And the people across the street also wouldn't see, but you know would know about it with the construction. They were also very nice and very positive.

MR. DANAHER: We have a letter from Mr. And Mrs. Brickman that they just gave us the other day. It's not in your....

CHAIRMAN HODOM: I think we do have it.

MR. DANAHER: Oh you do, okay.

CHAIRMAN HODOM: Yes we do have that. We have one from Mr. And Mrs. Brickman, and Mr. And Mrs. Talmage.

MRS. DANAHER: Yes, they're next door.

CHAIRMAN HODOM: They live right next door?

MRS. DANAHER: Yes and they would be the main ones who would be seeing it because of where their deck is. They're very nice people.

CHAIRMAN HODOM: And Mr. And Mrs. Walter's.

MR. DANAHER: Yeah, they're on other side.

MRS. DANAHER: Yup, they're new. They're the new house that went in on what was a wooded lot, it's just now a house and they're very nice and they said fine.

CHAIRMAN HODOM: And Mr. And Mrs. Brusic?

MR. DANAHER: Yeah, they're directly in back of us.

CHAIRMAN HODOM: They're the ones in the back, but they didn't have an address here.

MRS. DANAHER: Yeah they're on Devon.

CHAIRMAN HODOM: Okay. What is your proposed construction schedule if the Board were to approve the Variance?

MR. DANAHER: Well we were hoping to start as soon as possible. We were going to try in the next couple of weeks.

CHAIRMAN HODOM: And completion would be this year if possible?

MR. DANAHER: Yes.

CHAIRMAN HODOM: Had your contractor given you some kind of time frame?

MR. DANAHER: Yes.

CHAIRMAN HODOM: Which was?

MR. DANAHER: To try to get the foundation in the next week or so – a couple of weeks and do the inside work in December.

CHAIRMAN HODOM: Okay. Mark why don't you introduce yourself to us.

MR. CROUNSE: I'm Mark Crouse, I'm their builder and I planned on getting started as soon as I could; frame, roof, side and complete the addition as much as possible and then cut through after the holiday.

CHAIRMAN HODOM: Why don't you describe the structure for us somewhat if you would.

MR. CROUNSE: It's a 10 by 17 with a shed roof. It's going to have a small valley that ties into that screened porch on the back there. Almost all the houses over there have a similar problem with the kitchen. When they expand the houses, they always seem to expand the kitchen.

MRS. DANAHER: I think we waited as long as we did because we really like the porch and we were trying to find a way that we could still get 3-sided screens around the porch. So we – that was a concern.

CHAIRMAN HODOM: What will you be doing with that screened in porch that parallels the proposed breakfast addition?

MR. CROUNSE: It bumps in – it abuts the side of the screened porch so where the wall abuts the side that will be in filled.

CHAIRMAN HODOM: It's a solid wall there?

MR. CROUNSE: Right so when you're in the porch, you'll see a solid wall but there will still be about 4-foot of screening remaining on that.

CHAIRMAN HODOM: So that screened in porch will basically remain screened in?

MR. CROUNSE: Correct.

CHAIRMAN HODOM: As a 3-season room?

MRS. DANAHER: That's what we wanted.

MR. CROUNSE: That has a gable roof on it and then we'll tie into it with a small valley.

CHAIRMAN HODOM: Okay.

MR. BROOKINS: Since you're already over the area allowed, did you consider and this case you wouldn't actually have to be here, did you consider incorporating all or part of the screened area into you're addition?

MRS. DANAHER: Yeah and we just couldn't find a way to do that that we really liked. The screened porch goes off the back of the family room; it's not off the back of the kitchen. So it's kind of far away like at the other end. We just - - we didn't want to tamper with what I consider to be one of the best features of the house. That's this great-screened porch and I didn't want to loose it. So, you know considering the options, this is what we decided on.

MR. BROOKINS: Does your kitchen go all the way to the corner on the left rear?

MR. DANAHER: No.

MRS. DANAHER: No, there's a bathroom and there's the living room.

MR. BROOKINS: Okay, so your living room goes this way, bathroom then kitchen?

MRS. DANAHER: Right.

MR. BROOKINS: Okay.

CHAIRMAN HODOM: Mark just for future reference, the Board appreciates looking at the existing structure – layout of the existing building as well as the new additions proposed. It's a lot easier for us to picture what's happening and why the necessity of the breakfast is required.

MR. CROUNSE: Okay. The width of the kitchen and the width of the addition pretty much – that's a common wall, that 10-foot wall to the bathroom wall.

CHAIRMAN HODOM: Any other questions from the Board? Marge, Gil?

MR. BROOKINS: No.

CHAIRMAN HODOM: Any questions or comments from the audience?

MRS. ECONOMIDES: We live across the street and we don't have any objections. In fact we would like to do the very same thing.

CHAIRMAN HODOM: Why don't you just come up here and introduce yourself to us and then make the same comments just so we have it on record.

MRS. ECONOMIDES: My name is Kathleen Economides and I live at 103, which is right across the street. I understand why they want to do it. The homes there are lovely and we really love our home to, but the kitchen is too small. It was built many, many years ago ours was built in 68' and I'm sure yours was to. Just about everybody in the street has done something to make things a little bit bigger because they don't want to move. They like their house; they like their neighborhood so we have no objections.

CHAIRMAN HODOM: Very good, thank you kindly.

MRS. DANAHER: We'll invite you over to see what happens. It was hard because when you like your house and you like again, the porch you just – you want the space but you don't want to ruin the other features that you like. We were happy when Mark showed us this, we felt this was a really good plan.

CHAIRMAN HODOM: Okay. Anyone else have any comments? Anyone wishing to speak in opposition to the Applicant? Hearing no further questions or comments, we'll

declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MRS. DANAHER: Thank you.

Hearing closed 7:43 p.m.

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The next order of business was a discussion of the previous public hearing held in the matter of Grace Gidley, 21 Maple Avenue for a Variance under Article X, Highway Frontage and Access, Section 128-42, Distance between access strips on flag lots for construction of a driveway and utilities for a building lot at premises McCormack Road, Slingerlands, New York. The following points were brought up by the Board members: There were questions directed to Attorney Seely concerning documents received at the public hearing held on November 5, 2003. The Board decided they needed to review additional documents related to a Variance granted on a neighboring property. The discussion will be re-opened at the next meeting on December 3, 2003.

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The next order of business was a discussion of the previous public hearing held in the matter of John and Joanne Danaher, 102 Berwick Road, Delmar, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single family dwellings for construction of an addition, which will exceed the allowable percentage of lot occupancy at the premises of 102 Berwick Road, Delmar, New York. The following points were brought up by the Board members: The house is already non-conforming and there is no room to build. The request is minimal and there would be no detrimental effect on the surrounding neighborhood. On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the Board directed Attorney Seely to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on December 3, 2003.

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The next order of business was to consider the proposed resolution of Kim and Jeffrey Riker, 33 Ash Grove Lane, Selkirk, New York 12158.

The following proposed resolution was presented by Attorney Seely 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 for a Variance under Article XVI, Front Yards, Section 128-71, Accessory Structures requested by Kim and Jeffrey Riker (“Applicants”) for property at 33 Ashgrove Lane, Selkirk, New York in order to construct a shed that will encroach into the Front Yard Setback requirement; and,

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on November 5, 2003; and,

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

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

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

## FINDINGS OF FACT

The Applicants are seeking a Variance to install an 8-foot by 12-foot, 96-square foot shed that will not meet the 70-foot front yard set back requirement. The proposed shed will have a setback of 60-feet, which is 10-foot shy of the required setback. The lot is improved by an existing single-family dwelling and is located in a Planned Residence District with "A" Residence Zoning Requirements.

The Applicants desire to locate the proposed shed immediately behind the attached garage so that the shed is in a semi-obstructed location on the lot in order to prevent anybody from viewing the proposed shed from the street and so that the Applicants' one neighbor to the east does not have to view it either as they look out or enjoy their back yard.

The proposed location of the shed will place the shed within the construction lines of the house so that the view of the shed from the street is minimized. The proposed location of the shed in the notch behind the garage, as shown on the survey submitted with the application, will allow the Applicants to keep their back yard freed up for current use, as well as for the anticipated construction of a pool in the near future. The proposed location of the shed is on the flattest area in the back yard. There is a slope of approximately eight feet from the back of the house to the back of the Applicants' lot.

No one spoke in favor of or in opposition to the application. The builder of this new development requested by letter from its attorney that the Board deny the application because the proposed shed would allegedly violate certain private, restrictive covenants regarding the construction of sheds in the development.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants require a variance for the proposed shed.

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 shed which while more than a minimal request, 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 shed, subject to the following conditions:

1. The Applicants shall complete construction with materials similar in color and appearance to the existing structure on the property and in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, and,
2. The Applicants shall plant appropriate shrubbery so as to mitigate the view of the shed from the street year-round; and
3. The Applicants shall place the shed no more than 12 inches from any side of the existing structure on the property; and
4. The Applicants shall complete construction of the shed within one year of the date of this resolution.

November 19, 2003

Michael C. Hodom  
Chairman  
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on November 20, 2003.)

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On a motion made by Mr. Lewis, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the November 19, 2003, meeting were approved.

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

Meeting Adjourned: 8:45 p.m.

Respectfully submitted,

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Secretary