

**TOWN OF BETHLEHEM
BOARD OF APPEALS**

November 19, 2008

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. Chairman Hodom presided.

PRESENT: Michael Hodom, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
Dave DeCancio, Board of Appeals Member
Ken Umina, Board of Appeals Member
Matt Watson, Board of Appeals Member
Lennie Micelli, Board of Appeals Member

Mark Platel, Assistant Building Inspector

AGENDA: St Thomas School
William Curtiss
Karl Geist
Glenmont Mobil

Chairman Hodom called the meeting to order at 7:00pm.

PUBLIC HEARINGS

St. Thomas the Apostle School

The applicant has requested a variance under Article VI, Supplemental Regulations, Section 128-59, Signs, E.

Mr. Platel said the applicant is proposing to install a thirty-two (32) square foot, two (2) sided interior lit sign located in the front yard of the existing St. Thomas School. The size of the proposed sign will exceed the ten (10) square foot sign allowed by twenty-two (22) square feet and the proposed sign would be interiorly lit where only exterior lit signs are allowed. The property is located in a core residential zoning district and the existing structure is occupied as a private school.

A motion to indent the public hearing was offered by Mr. Watson, seconded by Mr. Umina and approved by all Board members present.

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, November 19, 2008, at 7:00 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of St. Thomas the Apostle School for a variance under Article VI, Supplemental Regulations, Section 128-59, Signs, (E) of the Code of the Town of Bethlehem for a sign at the school at 365 Kenwood Ave., Delmar, NY 12054.

Mr. Thomas Kane, the principal of St. Thomas, presented. He said they wanted to construct a sign on the school property as a way to make announcements about the school and promote the school events and also to promote church activities. The building permit application was submitted with the knowledge that a variance would be needed for the square footage of the sign. After submitting the variance application, it was told to them that interiorly lit sign were not allowed in the district. They have amended their application to an externally lit sign and they have also changed the height of sign to comply with the Zoning Law. The sign will now sit five (5) foot

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ten (10) inches above ground. The requested variance is now for an eight (8) foot by four (4) foot sign which is twenty-two (22) square feet above the allowable square footage for signs in their zoning district. He distributed the revised application to the Board. The address of the school and the tax map of the Town are different so the variance will be for 365 Kenwood Ave. and various documents submitted will reflect that change.

Mr. Kane said there will be a twenty-five (25) foot clearance from the sidewalk right-of-way on Kenwood Avenue and a twenty (20) foot clearance from the sidewalk right-of-way on Adams Place.

Chairman Hodom asked if there was a smaller dimensional sign that would be sufficient for their needs. Mr. Kane said there are smaller sign faces available but in order to promote the programs at the school and the church, they felt the larger sign was necessary. Mr. Kane said the school was founded in 1956 and has always been in its current location. It has never had an external sign. Mr. Kane felt that a lot has changed since the school's beginning. He said a sign that could be viewed by people passing by the school would better inform people about the school and the church as a way of invitation and inclusion. If the variance were approved the complete installation of the sign could be done in two (2) days. They have a temporary frost blanket on the area of the proposed sign.

Chairman Hodom asked if there was a wall sign on the school. Mr. Kane said there were letters on the westerly side of the school saying St. Thomas School. He was not completely sure of the size of those letters.

Mr. DeCancio asked if Mr. Kane knew the square footage of St. Thomas's church sign located on Delaware Avenue. Mr. Kane did not know. Mr. DeCancio asked if the school utilized the church building for any purposes. Mr. Kane said it was used for religious purposes and social justice programs. The students maintain the parish food bank. Mr. Watson asked if there was any feedback from the neighbors. Mr. Kane said no.

The name to be on the sign will be St. Thomas the Apostle. They eliminated school on the sign because the sign would be used for both the church and the school.

There being no further comments, the hearing was declared closed at 7:15PM.

William Curtiss

The applicant requested a variance under Article V, Districts Use and Area Requirement, Section 128-30 (C), (3) maximum coverage.

Mr. Platel said the applicant is proposing to construct a six hundred seventy-two (672) square foot garage which will give a total accessory square footage on the property of one thousand three hundred ninety one point seven (1, 391.7) square feet. This is four hundred ninety-four point two (494.2) square feet over eight hundred ninety-seven point five (897.5) square feet allowed for accessory buildings. Lot occupancy with the proposed accessory structure will be seven point seven five percent (7.75%) which is two point seven five (2.75) over the five percent (5%) allowed. Total lot occupancy for main and accessory structures would be thirteen point four nine percent (13.49%) which is under the twenty percent (20%) total lot occupancy allowed. The existing main use of the lot is a single family dwelling and is located in a core residential zoning district.

A motion to indent the public hearing was offered by Mr. Micelli, seconded by Mr. Watson and approved by all Board members present.

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, November 19, 2008, at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on the application of William Curtiss for a Variance under Article V, Districts, Use and Area Requirements, Section 128-30, (C) (3), maximum lot coverage, of the Code of the Town of Bethlehem for construction

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of a garage on property at 58 Cherry Ave., Delmar, NY 12054.

Mr. Curtiss presented. He said he is the owner and resident of 58 Cherry Avenue, Delmar. He purchased the property in 1988. When he purchased the property it was in disrepair. The adjacent paper street has power lines and variety of cables and junction boxes even though there isn't an easement. He has since purchased that land in 2001. That parcel has been added to his house lot. In 2007 he had the property surveyed by Hershberg and Hershberg. National Grid will be moving the power lines to the north side of his property. He will provide an easement. He would like to construct a garage on his property. The plans and the purchase order were submitted with his building permit. Mr. Platel has indicated that the plans fit within the building code.

Mr. Curtiss said the calculations submitted for lot coverage with present accessory buildings was understated. The area marked as picnic area is covered and the calculations should be increased by one hundred forty (140) square feet. Mr. Platel has corrected those calculations. He respectfully requested a variance from the zoning law for construction of a twenty-four (24) by twenty-eight (28) two (2) car garage with a loft. The purpose of the building is to allow him to house classic cars. He owns five (5). One (1) is in the process of being sold. The others are housed next door, under tarps and in existing garages on the property. They are in show room condition and he wants to enter them in car shows. The current housing of the cars does not allow him to work on them. He also works on antique furniture and he would also use the structure to work on the furniture. He has taken a note around to his neighbors explaining his plans. Most people did not have a problem with his plans. Some were not at home. He did have one neighbor complain about maintenance on the property which he has taken steps to remediate.

Mr. Platel said if the garage were attached to the present single family home, a variance would not be required. Chairman Hodom asked Mr. Curtiss if there was a reason he did not want to attach the garage. Mr. Curtiss said it would cost more and architecturally it wouldn't look as good. A stand alone structure, further back on the lot would be more aesthetically pleasing to the neighbors. An attached garage would make a very wide looking house.

Chairman Hodom asked Mr. Curtiss if he would be removing any of the existing accessory structures on the lot. Mr. Curtiss said no. Chairman Hodom said what he was proposing was four hundred ninety-four point two (494.2) square feet over the allowed square footage. If the shed, which houses tools, the existing freestanding garage which has one (1) of the classic cars, the playhouse, which houses more tools and bikes were removed and if he reduced the size of the proposed garage to twenty-four (24) by twenty-four (24), he wouldn't need a variance. Or if the proposed garage were attached to the house, he would not need a variance. Mr. Curtiss said a twenty-four (24) by twenty-four (24) foot garage would not be large enough for his purpose. He wanted access to the loft at the rear of the building. The four (4) foot reduction of the size of the garage would make it difficult to work on the cars.

Chairman Hodom asked if Mr. Curtiss restored the cars for his personal use. Mr. Curtiss said one of the cars he did not. This is not a business but a hobby. He has restored cars for years. He said restoration will vary depending on the condition of the car. Some times engines and entire bodies of the cars must be redone. Chairman Hodom asked if Mr. Curtiss would eventually sell the cars and start on new ones. Mr. Curtiss said he has traded one car for another car plus some cash but that only happened once. He doesn't buy cars to restore and sell but to keep, enjoy and show.

Chairman Hodom asked if there was noise associated with the restoration. Mr. Curtiss said there was not a lot of noise associated with the work he does himself. He has specialty work done by someone else.

The refinishing of the furniture involves caning and some wood refinishing and refurbishing clocks. This is done for personal use. There aren't any unusual or overpowering odors associated with refinishing. Mr. Curtiss said he has not received any complaints of noise or odors from his neighbors.

Chairman Hodom asked Mr. Platel if there were a maximum number of vehicles a person could have on their property. Mr. Platel there was a maximum of unregistered vehicles. Mr. Curtiss said all but one (1) of his vehicles were registered.

Chairman Hodom said Mr. Jackson from 21 Leaf Rd. was concerned with the noise from a compressor. Mr. Curtiss said he didn't use a compressor. He said a neighbor next door complained about noise involved with banging one day but he was done by 9:00pm. He was working in the garage at 52 Cherry Avenue. He said he used to do a lot of the car work in the evening and on the weekends when he worked but now he's retired and he works on the cars during the week.

Chairman Hodom said there were two (2) dimensions on the left side of the property on the site plan submitted, facing 52 Cherry Avenue. There is an eight (8) foot dimension and a twelve (12) foot dimension. The twelve (12) foot dimension is from the proposed garage to the proposed easement. Mr. Curtiss said the eight (8) foot dimension was the easement to National Grid. This will remediate part of the existing problems to their power lines by moving the lines to the easement.

Chairman Hodom asked how many people live in the house. Mr. Curtiss said there are five (5) people, himself, his wife and three (3) tenants. He is the owner of the house. Chairman Hodom asked why he picked the design of the garage. Mr. Curtiss said three (3) years ago he wanted to put up a structure that would not be allowed by the building department. He ruled out metal buildings because he didn't think it would be attractive. The design he choose is by Curtis Lumber. Chairman Hodom quoted Section 128-30 (E) 7. He said the design of the garage wasn't similar to any structure in the neighborhood. Chairman Hodom said the property owner sheet submitted had zero and check marks on it that he asked Mr. Curtiss to explain. Mr. Curtiss said he thought he was using it as a check list of individuals he visited.

Mr. Jackson 21 Leaf Road submitted a letter with some concerns about the proposal. Daniel O'Toole, Margaret O'Toole and Herta Haupt also submitted a joint letter with some concerns and they object to the variance.

Mr. Micelli said the O'Toole/Haupt letter mentioned a number of cars being parked on the side of the house. He asked if they belonged to the tenants. Mr. Curtiss said one of tenants owned a car and he has owned a lot of vehicles himself. He said if he was able to build the garage, then his wife will be able to park her car in the garage.

Mr. Watson asked the height of the proposed garage. Mr. Curtiss wasn't sure. Mr. Platel said it would fall within the allowable height for a garage. Mr. Curtiss said initially it wouldn't be insulated. The second floor of the garage would be for storage only. Mr. Platel showed the plans Mr. Curtiss submitted with his building permit. Mr. DeCancio asked Mr. Curtiss if he was willing to take down any of the other structures on the lot. Mr. Curtiss said he could give away the tool shed and he could take down the picnic shelter but he would rather not. He wants to keep the existing small garage. Mr. Curtiss said the neighbor to the rear would be able to see the proposed garage in the winter but there were trees to block the view. The group of trees on the property would remain intact. He would build the garage himself.

There being no further comments, the hearing was closed at 8:15pm.

DISCUSSIONS

Karl Geist

Chairman Hodom started the discussion of the proposed variance. He said Mr. Geist could have and probably would have rebuilt the garage on the existing foundation within a year of being damaged. Other financial considerations had to be addressed. The property is unique because of the considerable wetlands. Mr. Geist has

complied with all the Board's requests in this matter. The NYSDEC letter to Mr. Geist specifically stated "further if you had submitted a permit to construct the garage on another undisturbed or vegetative portion of your property, when you had the option of constructing it on the already disturbed site, the Department would likely have determined that your application did not meet the standards of the issuance of a permit because you had a reasonable and practicable alternative to you."

Chairman Hodom felt the existing foundation is the only location on the site NYSDEC would allow the garage to be constructed. He said the newly constructed garage would be an improvement over the metal structure that was damaged. The L shaped structure will be a benefit to Mr. Geist. He does not feel an undesirable change will occur in the character of the neighborhood nor a detriment to the nearby properties in the granting of the variance. The benefit sought by the applicant cannot be achieved by any other method other than the area variance. The requested area variance is not substantial, it will not have an adverse affect on the physical or environmental conditions of the neighborhood or the district. The alleged difficulty might have been somewhat created by the applicant because he didn't rebuild within the one year allowed by code but as stated by the applicant, other financial considerations prevented him from rebuilding during that time frame. Chairman Hodom recommended approval of the variance request based on the following conditions: the proposed garage will match the architectural features of the existing home as closely as possible, the structure will not be insulated, the structure or any portion thereof will not be leased or rented for any purpose, there won't be any plumbing facilities, the garage will be used for the storage of the classic automobiles and personal use only, no commercial vehicle, body or mechanical repair work will be preformed at the garage.

Mr. DeCancio concurred with Chairman Hodom. Mr. Umina asked why Chairman Hodom stipulated no insulation. Chairman Hodom said Mr. Geist stated that he didn't have any intention of insulating the garage. Mr. Umina said he didn't agree with that condition. Mr. Watson agreed with Chairman Hodom and he felt that Mr. Geist would make an effort to make sure the appearance of the garage matched the characteristics of the neighborhood. Mr. Micelli said he would have preferred the garage to be closer to the residence and away from Beacon Road it would have made the neighbors happier, but the fact was that NYSDEC said he could only build the garage on the existing foundation. Mr. Micelli supported granting the variance.

A motion to grant the variance application as submitted by Mr. Geist for 16 Beacon Road, Glenmont for the construction of a garage as conditioned was offered by Mr. DeCancio, seconded by Mr. Watson and approved by all Board members present.

St. Thomas the Apostle

Mr. Umina said he didn't have a problem with the sign and would vote in the affirmative. Mr. Micelli said he would support the sign variance request. Mr. DeCancio said he supported the sign. Other churches around Town had similar sized signs. Chairman Hodom said the variance request has been revised to be only for the excess in size. Mr. Platel said there has been other variances granted for additions but none that would affect this application. He said with external lighting, he suggested stating no glare shall be allowed. This is sometimes handled with landscaping at the base of the sign. The Board decided to place a stipulation in the resolution that the lighting will be coordinated with the building department and landscaping could be required.

A motion to grant the variance application for St. Thomas the Apostle at 365 Kenwood Avenue, Delmar for a sign was offered by Mr. Umina, seconded by Mr. DeCancio and approved by all Board members present.

RESOLUTIONS

Glenmont Mobil

The Board reviewed Resolution AV-0814 prepared by Counsel.

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A motion to approve Resolution AV-0814 as amended was offered by Mr. Watson, seconded by Mr. DeCancio and approved by all Board members present.

OTHER

The Board had received a letter from Mr. Lynch in regards to The Crossroads Subdivision requesting that the public hearing be rescheduled and continued. In the previous hearing the Board had requested that the applicant provide a complete set of plans of the current plan for each of the Board members. Those plans have not been submitted. Also the affidavit submitted with the application needed to be revised to include Mr. Lynch as a representative for the applicant. Chairman Hodom asked Mr. Platel if he had contacted the Engineering Department as to whether their site concerns had been addressed in the new drawings. Mr. Platel said the applicant had not submitted anything to Mr. Ritz. Their concerns were still outstanding. Chairman Hodom asked Mr. Moore to send a letter to Mr. Lynch asking him for the additional plans prior to rescheduling.

The Board reviewed the minutes of November 5, 2008 prepared by staff.

A motion to approve the minutes as amended was offered by Mr. Micelli, seconded by Mr. Umina and approved by all Board members present.

A motion to adjourn was offered by Mr. Micelli seconded by Mr. Watson and approved by all Board members present.

The meeting closed at 9:00pm.

Respectfully submitted,

Nanci Moquin