

**TOWN OF BETHLEHEM
BOARD OF APPEALS
October 19, 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 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 Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Front Yards requested by Robert Kempter for property at 638 Kenwood Avenue, Slingerlands, New York. The Applicant wishes to construct a front porch addition, which will encroach into the front yard setback requirement at the premises.

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 an 18-foot by 8-foot front porch addition to the existing main structure creating a front yard setback for the new porch of 11.8 feet. This is 13.2 feet shy of the 25 feet that is required. The existing structure has a front yard setback of 10.3 feet, which is pre-existing and nonconforming condition.

The existing structure is a single-family dwelling and is located in Core Residential District.

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 October 5, 2005 at 8:00 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Robert Kempter for Variance under article XIII, Use & Area Schedules, Section 128-100 A, Minimum Front Yards of the Code of the Town of Bethlehem for construction of a front porch addition which will encroach into the front yard setback requirement at premises 638 Kenwood Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 28, 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. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone wishing to speak in opposition of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. If you would just introduce yourself to us, give us your address, tell us what you want to do and how you want to do it and why you want to do it.

MR. KEMPTER: My name is Robert Kempter, I reside at 1655 Helderberg Trail in the Village of Berne. I would just like to return the house to its original looks as I imagine they were and I just want to put the porch back on. I guess that's my presentation.

CHAIRMAN HODOM: Before we get into it at all will you just sign that for me please?

MR. KEMPTER: I took pictures of all the houses up and down Kenwood and Cherry and New Scotland have similar type structures and they all have porches so I just want to repair mine to it's original character. Hopefully you saw the pictures.

CHAIRMAN HODOM: Yes they're being passed around. You may have the top copy.

MR. KEMPTER: What's this for?

CHAIRMAN HODOM: It's a second mortgage on the residence.

MR. KEMPTER: I suppose I should read this first. I figure you guys know.

CHAIRMAN HODOM: Now that may not be a good assumption. It's just an acknowledgment of your application permit fee. When did you purchase the house?

MR. KEMPTER: I believe it was April of this year.

CHAIRMAN HODOM: This year?

MR. KEMPTER: Yes.

CHAIRMAN HODOM: Did you purchase it from Mr. Cubello?

MR. KEMPTER: Sure did.

CHAIRMAN HODOM: Good and Mark I think you said earlier the house is currently a pre-existing non-conforming use for front yard.

MR. PLATEL: It's an existing condition yes.

CHAIRMAN HODOM: And that's 10.3 feet shy?

MR. PLATEL: I believe...

CHAIRMAN HODOM: Or 14.7 noncompliant.

MR. PLATEL: Okay yes, 14.7 – it's 14.7 feet shy existing condition.

CHAIRMAN HODOM: And that is actually closer to the 25-foot setback requirement then the porch is going to be.

MR. PLATEL: That's correct.

CHAIRMAN HODOM: So the porch is really inside the...

MR. PLATEL: Existing setback.

CHAIRMAN HODOM: Existing setback of the house.

MR. PLATEL: Right.

MR. KEMPTER: Well the floor will be – the roof might stick out just a hair, just for better looks.

MR. PLATEL: Well when you look at the survey it's going to line up nice.

MR. KEMPTER: Footprint, yeah the footprint will be within less than the house. It will be back just a bit from the house.

MR. PLATEL: Correct.

CHAIRMAN HODOM: Are you proposing to make any changes to the foundation of the porch?

MR. KEMPTER: There is no foundation right now. There's a cement slab there and I was just going to build over the cement slab, put down posts, normal deck construction. It's going to be an enclosed porch, turn posts, corner brackets; you know it will look completely in character with the neighborhood.

CHAIRMAN HODOM: Okay, there is no foundation under the concrete slab currently?

MR. KEMPTER: No. I don't know – there might be something where the posts used to be, I haven't looked for it. I was going to dig, you know, 4 foot sonotubes.

CHAIRMAN HODOM: And put them underneath there?

MR. KEMPTER: Yeah.

MR. BROOKINS: You mentioned you were going to enclose the porch?

MR. KEMPTER: Oh no, no, just a covered porch.

MR. BROOKINS: Okay.

CHAIRMAN HODOM: Do you know when – well first of all was there an existing porch there previously?

MR. KEMPTER: Oh yeah. In the photographs you can see the gambrel roof where the porch used to be. The existing flashing is all there, I'm not going to reuse it but it's all there.

CHAIRMAN HODOM: And do you know when that existing porch was removed?

MR. KEMPTER: I have no idea, no.

CHAIRMAN HODOM: Can you describe to us some of the architectural features that you're going to be using with this porch?

MR. KEMPTER: Well the house I'm keeping the soffits the same. I'm just going to scrape those and paint them so that will be original to the house. There's a small bead that runs down the underside of the roof boards – like the first two roofboards are really exposed so they're exposed joists and the porch is going to be of similar construction. I don't know exactly what you wanted – I'll have crown molding or you know some kind of molding on the porch. It's going to have a metal roof.

CHAIRMAN HODOM: So the architectural features will match as closely to the architectural features as the house.

MR. KEMPTER: I want it to look just like every other house in the neighborhood

basically. The house I live in now is one I restored also. It's an 1840's center hall colonial – had a fire in it and that's restored – you know the porch I restored right back to all wood. The rest of the house is vinyl because that's what it was. This house will be vinyl too, white vinyl, green shutters. Its already got replacement windows, 6 over 6-panes.

CHAIRMAN HODOM: What are you doing with the back structure?

MR. KEMPTER: The building?

CHAIRMAN HODOM: Yes.

MR. KEMPTER: Well I just had it painted, repairing the foundation. It's going to stay right where it is.

CHAIRMAN HODOM: Is that going to be a garage of some kind?

MR. KEMPTER: No it's not really a garage, it's just a shed. It doesn't have a large door, it's got two small doors, two small windows – two large windows; good storage attic, but I'm keeping the slate on the front. The backside I've already put steel in because I needed the slates on the backside to fix the main roof of the house, that's staying slate.

CHAIRMAN HODOM: I didn't look on the backside of the shed building.

MR. KEMPTER: Yeah the backside of the shed is a metal roof now because I had to strip the slates off that to fix the house because the ones off the garage were a different. The garage is no longer there.

CHAIRMAN HODOM: Do you have a proposed time frame as to when you will start this construction and complete it?

MR. KEMPTER: Well I'd like to get it on before winter. I'd like to get the - - I'm planning on blowing in insulation and the siding and the porch before – well by December hopefully.

CHAIRMAN HODOM: Are you doing the work yourself?

MR. KEMPTER: Oh yeah, my wife and I. Hopefully my brother will come over and help me with the siding.

CHAIRMAN HODOM: Who's doing the site grading?

MR. KEMPTER: Glen Peter's is his name; he's from Greene County. He's my mechanic; he works on my cars; he took me for a thousand bucks today – well it was for both cars so it wasn't too bad; get them ready for winter, but he just does it in his off hours. He just likes machinery.

MR. MICELLI: Before you purchased the house, how long was it empty?

MR. KEMPTER: I believe 18 years, that's what I can figure – I think.

MR. PLATEL: Probably 10.

MR. KEMPTER: Ten, you figure?

MR. PLATEL: Right around 10.

MR. KEMPTER: We were just going by magazines we found and mail and things like that and there's probably 300 pairs of shoes in the attic, half of them are brand new; still have tags on them.

CHAIRMAN HODOM: Men's or women's?

MR. KEMPTER: Women's. The only things interesting in the house unfortunately. You guy's made some money off me going to land fill. The Town made out very well.

CHAIRMAN HODOM: They didn't charge you did they?

MR. KEMPTER: Every trip.

CHAIRMAN HODOM: We generally give exceptions to that don't we?

MR. PLATEL: For shoes yeah.

MR. KEMPTER: For shoes?

MR. PLATEL: They can go into the Salvation Army bin.

MR. KEMPTER: I don't know they've been up there baking in that attic for who knows how long. They're pretty dried out, I suppose you could have salvaged them but I wasn't looking that close.

CHAIRMAN HODOM: Is this a property that you intend to live in or are you doing it for – rent it, resell it?

MR. KEMPTER: I'm probably going to resell it.

CHAIRMAN HODOM: Resell it?

MR. KEMPTER: Yeah but then again the house we're living in now we were supposed to fix and resell. I sold the house I built in '76 to move into this one and I never planned on that either. This one we're probably going to sell it. My wife and I we just buy houses and fix them up, we've done a few. I retired from the phone company in '97 – something

to keep me busy.

CHAIRMAN HODOM: Good for you and that certainly needed fixing up.

MR. KEMPTER: Oh yeah it did. He wouldn't come down in his price though; he just wouldn't come down.

CHAIRMAN HODOM: Who, Mr. Cabello?

MR. KEMPTER: Mr. Cabello, Dominick.

MR. MICELLI: Now is that the guy who lives in Albany that you hear all these horror stories?

MR. KEMPTER: Yeah he lives on Hoffman Ave, right by the ball fields there.

ATTORNEY MOORE: Hangs his deer on the front porch.

MR. MICELLI: It's a nice site when you sit in traffic and you're either coming from lunch or going to lunch and you see that there.

MR. WIGGAND: When you're referring here to a steel roof, what type of steel roof are you referring to?

MR. KEMPTER: Yeah raised ribs steel roof, desert tan. It's the same as - - I put the same roof on the back of the shed and on the kitchen and on the porch.

MR. WIGGAND: And the roof in the front is going to be underneath the window?

MR. KEMPTER: Yeah.

MR. WIGGAND: These windows set pretty close to that roof on that second floor don't they?

MR. KEMPTER: Yeah if you look at the picture you can see exactly how close they are.

MR. WIGGAND: Thank you.

MR. KEMPTER: I think it's 7 inches probably.

MR. WIGGAND: Yeah there's not much room there.

MR. KEMPTER: No it isn't. I'll have to keep the 3 – or 1 and 3-pitch, 3 in 1-pitch. That's pretty much where it has to be.

MR. WIGGAND: So you're not going to raise those windows or replace those windows?

MR. KEMPTER: Oh no, they're replaced already.

MR. WIGGAND: So you're going to be quite low on that topside there under the windows.

MR. KEMPTER: Yeah I'm not sure exactly. I'd have to look at the pictures to remember exactly how much it is.

MR. WIGGAND: I think you have enough room. It's going to be a very shallow pitch to the roof.

MR. KEMPTER: Well with the metal roofing you have to have 3 inches per foot I think.

CHAIRMAN HODOM: Mr. Kempter did you have an opportunity to speak to your neighbors about what you're proposing to do?

MR. KEMPTER: Oh yeah. I know Kathy pretty well – met them; Kathy and Bill on one side and the Carpenters next door. Diane Carpenter – father Ralph; Ralph lives out in Clarksville. I met Paul once – the neighbors down a little farther...

CHAIRMAN HODOM: Paul Doyle?

MR. KEMPTER: Doyle's right. I know everybody is real happy I'm there. In fact I think Kathy said that they should be giving you a medal instead of making you go to the Zoning Appeals Board.

MR. PLATEL: I'll give you a medal later.

MR. KEMPTER: But that was just her saying it.

CHAIRMAN HODOM: Any other questions from the Board?

MR. WIGGAND: I'm all set.

MR. MICELLI: I don't have any.

CHAIRMAN HODOM: Any questions from the audience? Anyone desiring to speak in favor of the Applicant? Anyone desiring to speak in opposition? Mr. Kempter anything more that you would like to say?

MR. KEMPTER: No, I'm all set.

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. KEMPTER: Thank you very much.

Hearing closed 7:45 p.m.

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The next order of business was to consider the application of Kelly Higgins, 33 Harwick Drive, Glenmont, New York. 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 Kelly Higgins for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear Yards for construction of a deck which will encroach into the rear yard setback requirement at premises 33 Harwick Drive, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held November 2, 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 Stewarts Shops Corporation, 33 Frontage Road, Glenmont, New York 12077. 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 Stewarts Shops Corporation for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Rear yards for the placement of a storage freezer, which will encroach into the rear yard setback requirement at premises 33 Frontage Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held November 2, 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. Brookins 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 RDA Associates, Antonio Califamo, CEO. 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 RDA Associates for Variance under Article XIII, use & Area Schedules, Section 128-100 A, Minimum Lot Width for a vacant lot that does not meet the minimum lot width at premises Russell Road, Albany, New York, it is hereby ordered that a public hearing on this matter be held November 16, 2005 at 7:30 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 Robert Kempter for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Front Yards for the construction of a front porch addition, which will encroach into the front yard setback requirement at premises 638 Kenwood Avenue, Delmar, New York. The following points were brought up by the Board members: The Applicant is attempting to revitalize the house which has been vacant for at least 10 years. The proposed porch was once existing. The new porch will be in harmony with the neighborhood. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on November 2, 2005.

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The next order of business was to consider the proposed resolution of Janice Lamphron, 71 Fairlawn Drive, Selkirk, New York.

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

RESOLUTION

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Side Yard, requested by Janice Lamphron (“Applicant”) for property at 71 Fairlawn Drive, Selkirk, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and a mailed 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 September 7, 2005; 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 Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to construct a 12-foot by 24-foot, 288 square foot garage attached to the main dwelling, which will create a side yard setback of 7 feet. This will be 3 feet shy of the 10 feet required.

The existing structure is located in a Planned Residence District with “AA” Zoning Requirements.

The Planning Board and Town Board approved the area and bulk requirements for this subdivision (Skycrest) in a 1977 project approval document. These requirements are not affected by the new Zoning Law that was recently adopted by the Town Board.

The proposed new garage would be an extension of the existing garage on the home, and would be the same depth as the home.

Applicant and her spouse drive separately to work. The second garage would enable them to put each of their vehicles into an enclosed space during periods of cold or inclement weather.

The proposed garage would have heat and electricity, and would be sided in vinyl matching the house.

The Board has received one written statement from a neighbor supporting the project. The Applicant has spoken with other neighbors who have expressed no opposition to the project.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the October 5, 2005 hearing;
2. In the construction of the garage, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.

October 19, 2005

Michael Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 20, 2005.)

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The next order of business was to consider the proposed resolution of Joseph Tiberia, 3 Windmill Drive, Glenmont, New York 12077.

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

RESOLUTION

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking two Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Front and Side Yards, requested by Joseph Tiberia for property at 3 Windmill Drive, Glenmont, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and a mailed 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 October 5, 2005; 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 Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The applicant is proposing to construct a 16-foot by 22-foot, 352-square foot addition to the existing dwelling that will create a front/side yard setback of 16 feet,

which is 4 feet shy of the 20-foot required for a corner lot. There is also an existing deck that has a side yard setback of 5 feet that apparently was constructed without a permit sometime in the past. This is 3 feet shy of the 8-foot setback requirement and is a pre-existing non-conforming condition. The Planning Board and Town Board approved the area and bulk requirements for this subdivision (Dowerskill Village) in a 1975 project approval document. These requirements are not affected by the new Zoning Law that was recently adopted by the Town Board.

The existing structure is occupied as a single-family dwelling and is located in a Planned Residence District.

The proposed one-story addition would serve as a new “great room” or additional family room on the Applicant’s house. The addition would be for year-round use, will be heated and have electric service, but no plumbing. The addition would have a crawl space beneath, not a full basement.

Similar additions are found on other homes in the neighborhood.

The Applicant has spoken with his neighbors, who expressed no opposition to the proposed addition.

An addition of the size proposed, requiring the front/side yard setback variance, improves the appearance of the home, and makes the addition appear as a natural extension of the home.

Applicant has no plans to enclose the existing deck structure.

Other than the Applicant, no one spoke at the hearing.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variances will be granted.

The Board has determined that the requested variances will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than the variances.

The requested variances will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variances are the minimum variances that are necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances has not been created by the Applicant.

The requested variances are granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the October 5, 2005 hearing;
2. In the construction of the addition, the Applicant shall match, as nearly as possible, the existing roofing, landscaping and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.

October 19, 2005

Michael Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 20, 2005.)

The next order of business was to consider the proposed resolution of Kathleen Ackerman, 102 University Street, Selkirk, New York.

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

RESOLUTION

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Lot Coverage, requested by Kathleen Ackerman for property at 102 University Street, Selkirk, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and mailed 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 October 5, 2005; 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 Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to construct a 16-foot by 24-foot, 384-square foot addition to the existing main structure. If approved, this would create a lot occupancy of 16.04%. This is 1.04% over the 15% that is allowed in this Planned Residence District.

The Planning Board and Town Board approved the area and bulk requirements for this subdivision (Elm Estates) in a 1970 project approval document. These requirements are not affected by the new Zoning Law recently adopted by the Town Board.

The existing structure is occupied as a single-family dwelling and is located in a Planned Residence District.

At the public hearing, the Applicant confirmed her intention to construct the 16-foot by 24-foot addition shown on the site plan, rather than the 14-foot by 24-foot addition shown on her contractors plan.

The proposed addition would have a half-bath, a family room and an extension of the existing kitchen to add an eating area. The proposed addition would have a crawl space beneath, not a basement.

Applicant is seeking to add additional living space to the dwelling, a small ranch-style house. Her son is getting older and the additional bath will provide privacy for both of them. Applicant also seeks to add additional living space for use when family members visit.

The Applicant has spoken with her neighbors who expressed no opposition to the proposed addition.

Other than the Applicant and her contractor, no one spoke at the public hearing.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

The requested variance is granted, on the following conditions:

1. The proposed addition will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the October 5, 2005 hearing;
2. In the construction of the addition, the Applicant shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.

October 19, 2005

Michael Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 20, 2005.)

The next order of business was to consider the proposed resolution of Mary Claire Cox, 625 Kenwood Avenue, Delmar, New York 12054.

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

RESOLUTION

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XIII, Use & Area Schedules, Section 128-100A, Minimum Front and Side Yards, requested by Mary Claire Cox (“Applicant”) for property at 625 Kenwood Avenue, Delmar, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and a mailed 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 October 5, 2005; 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 Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to construct a 6.67-foot by 17.5-foot front porch addition to the existing main structure creating a front yard setback of 10.33-feet. This is

14.67-feet shy of the 25-feet required.

The existing structure is occupied as a single-family dwelling and is located in a Core Residential District.

A prior building permit for the construction of the proposed porch was issued in 1988. A concrete slab foundation was constructed for the porch but, due to financial and personal issues, the remainder of the work was not completed. The prior building permit was closed in 1998, with a notation from the Building Department that the porch could be completed as a “grandfathered” project.

In connection with other ongoing home improvements and renovations, Applicant now wishes to complete the construction of the porch. The new porch will be constructed over the previously constructed concrete slab, and of the same dimensions.

At the public hearing, one person spoke in favor of the proposed project. The Board has also received a written statement in support of the proposed project.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the October 5, 2005 hearing;
2. In the construction of the porch, the Applicant shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution.

October 19, 2005

Michael Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on October 20, 2005.)

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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 October 5, meeting were approved as amended.

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

Meeting Adjourned: 8:00 p.m.

Respectfully submitted,

Secretary