

**TOWN OF BETHLEHEM
BOARD OF APPEALS
September 7, 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: Marjory O'Brien
Gilbert Brookins
Leonard Micelli

Michael Moore Attorney to the Board

Mark Platel Building Inspector

ABSENT: Michael Hodom
Robert Wiggand

Acting Chairperson O'Brien 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 XVII, Side Yards, Section 128-73, Required Widths requested by Janice Lamphron for property at 71 Fairlawn Drive, Selkirk, New York. The Applicant wishes to construct an attached garage addition, which will encroach into the side yard setback requirement at premises 71 Fairlawn Drive, Selkirk, New York

ACTING CHAIRPERSON O'BRIEN: Mr. Platel, go for it.

MR. PLATEL: Yes, Madam Chairperson. The Applicant is proposing to construct an attached 12-foot by 24-foot, 228-square foot garage to the main dwelling, which will create a side yard setback of 7 feet. This will be 3 feet shy of the 10-foot required.

The existing structure is located in a Planned Residence District with "AA" Zoning requirements.

ACTING CHAIRPERSON O'BRIEN: Did you say 228 square feet?

MR. PLATEL: Correct.

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

ACTING CHAIRPERSON O'BRIEN: Because the thing here says 288.

MR. PLATEL: Maybe I wrote down the wrong number – 288, I'm sorry.

ACTING CHAIRPERSON O'BRIEN: It's 288, okay we caught that one. Ms. Guastella please read the official call of the meeting.

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 September 7, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Janice Lamphron for Variance under Article XVII, Side Yards, Section 128-73, Required Widths of the Code of the Town of Bethlehem for the construction of an attached garage addition, which will encroach into the side yard setback requirement at premises 71 Fairlawn Drive, Selkirk, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 24, 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.

ACTING CHAIRPERSON O'BRIEN: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition of the Applicant. All comments and questions will be directed to the Board. 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. Mr. Lamphron I gather you're going to make the presentation. Will you just tell us what it is your planning to do and why?

MR. LAMPHRON: Okay we want to add the second garage 12 feet wide by the length of the house which is 24 feet for the purpose of putting our second vehicle in there. My wife and I both work quite a distance from our home and we have to transport ourselves via vehicles – individual vehicles everyday and so for the sake of weather conditions and such it would be to our advantage to be able to put both vehicles in a garage at night for snow and such like that. I work odd hours; I have to be at work at 6:00 in the morning and so many times to start off that early in the day when it is winter it's a little difficult when you go out there chopping snow and trying to get your defrosters to work up and everything. My wife works for the State, she works for taxation and finance and she turns around and many times she has to travel for various conferences, meetings or to go in audits. And so I, you know – having again the vehicles capabilities you know as far as the safety factors of it to be able to house those vehicles in any inclement weather is something that we would consider a real must.

ACTING CHAIRPERSON O'BRIEN: Mr. Lamphron how many are in your family?

MR. LAMPHRON: Two.

ACTING CHAIRPERSON O'BRIEN: Just you and your wife?

MR. LAMPHRON: Yes.

ACTING CHAIRPERSON O'BRIEN: It showed several cars in the drive in your picture. There's 2 and then the pick up truck over on the side?

MR. LAMPHRON: Yes, I have a truck too.

ACTING CHAIRPERSON O'BRIEN: Oh, okay.

MR. LAMPHRON: Yeah, my truck is 13 months old and it hasn't got 3,500 miles on it yet. It's strictly to go to the dump and go to Home Depot.

ACTING CHAIRPERSON O'BRIEN: Is that the one that's going to be in the garage?

MR. LAMPHRON: No, the vehicle is going to be in the garage.

ACTING CHAIRPERSON O'BRIEN: Okay. How long have you lived at your present house?

MR. LAMPHRON: My wife has lived there for 29 years and I've lived there for the last 10 years.

ACTING CHAIRPERSON O'BRIEN: Okay. Is this something you're constructing yourself or do you have a contractor?

MR. LAMPHRON: No, I have a contractor doing it, in fact, the contractor is present.

ACTING CHAIRPERSON O'BRIEN: Okay. So you're ready to go whenever...

MR. LAMPHRON: I'm ready whenever.

ACTING CHAIRPERSON O'BRIEN: Okay. Can you perhaps describe a little bit of how you're going to do this and how it will fit in with the current house and the neighborhood?

MR. LAMPHRON: First of all the letter went out to my neighbors if they had any complaints or problems and they stated no. But what we're going to do is we're going to dig down to the foundation, a 4-footer as prescribed and my contractor will be getting a building permit to take care of all the necessary, you know requirements based on to put on a 24-deep by 12-foot wide garage. That will go up one story with a sloped roof.

ACTING CHAIRPERSON O'BRIEN: The siding on the garage is that...

MR. LAMPHRON: The siding on the garage will be – we just had the house re-sided and it will be a continuation of that with a 4 by 4 vinyl insulation just as the rest of the house is.

ACTING CHAIRPERSON O'BRIEN: And the roof?

MR. LAMPHRON: And the roof will be just black shingles.

ACTING CHAIRPERSON O'BRIEN: The same as the house?

MR. LAMPHRON: The same as the house primarily.

ACTING CHAIRPERSON O'BRIEN: Have you spoken to your neighbors next door where...

MR. LAMPHRON: Yes I have.

ACTING CHAIRPERSON O'BRIEN: And have they had any comments?

MR. LAMPHRON: In fact the first thing I did is I asked Dan do you have any problems? He said if I had to move I'd put a garage on my side but they moved his house too far over when they built it so he doesn't have his 19 feet so there's no way he can do it and so he said no, no, one of us should be able to get over on him so he said it's fine.

ACTING CHAIRPERSON O'BRIEN: Well your request here is there is a required side yard of 10 feet, this would encroach 3 feet into that 10 feet leaving a 7 foot side yard but you will be moving over a little bit there.

MR. LAMPHRON: Yeah well as far as Dan is concerned there's no problem there anyhow because usually I mow – in fact it will make the job a little bit easier for me, I mow his lawn on the side anyhow so it would - it attaches to my property because he's real close to our property line. They just moved the - - I don't know why the inspectors didn't get that when they were building those things 29 years ago but they offset him way over to his left hand side.

ACTING CHAIRPERSON O'BRIEN: I noticed you have some trees on a portion of what I assume is the property line there.

MR. LAMPHRON: Right.

ACTING CHAIRPERSON O'BRIEN: Are you planning to put anymore to obscure the garage at all or just leave it the way it is?

MR. LAMPHRON: No, my driveway is primarily 24 feet wide so when I put up the second garage, you know if you give me permission to do that, then I'll just – going to re-

do the driveway to the 24 feet which is just what it is now so really there's going to be no change in that what so ever.

ACTING CHAIRPERSON O'BRIEN: Anybody else have any questions? Gil?

MR. MICELLI: One other question when looking at the premises today I noticed that on the bottom of your house where your garage is existing right now you have brick on the bottom of that?

MR. LAMPHRON: There's brick – it's brick sided half way up we've got brick for the whole front of the house.

MR. MICELLI: So in the front of the new garage if it's approved...

MR. LAMPHRON: No, there's not going to be any brick.

MR. MICELLI: It's just going to be vinyl siding?

MR. LAMPHRON: Right it's going to be vinyl, just a continuation.

MR. MICELLI: All right and the tree's like Marge said just so I understand that correctly that's before...

MR. LAMPHRON: Yeah you're talking about to the left of the driveway there's 5, 4 trees there and so they'll be there – they'll be staying there. Once the garage gets added where our chain link fence is now, we're taking that out for the face and we're just going to put in a white – again I've got to find out if I need a permit for that or not – put in a white vinyl, you know just dress it up a little more.

MR. MICELLI: And your gas meter and your electric meter are going to be put on the outside wall of the new building?

MR. LAMPHRON: They're going to be moved over, yes.

MR. MICELLI: Okay is there going to be electricity and heat in this new facility?

MR. LAMPHRON: Yes there is. It's just a continuation of the house. I've got to get my furnace man to come over and – as soon as the garage goes up, you know to run the power for heat over to it.

MR. MICELLI: Did you ever think of completing the top part?

ACTING CHAIRPERSON O'BRIEN: Heat in the garage?

MR. LAMPHRON: Well that's something that we might think about down the road but that's something that a – quite candidly I can't afford at the moment even if I wanted to.

MR. MICELLI: Sure. That's all the questions I have, thank you.

ACTING CHAIRPERSON O'BRIEN: Are there others in your neighborhood that have added a second garage that you're aware of?

MR. LAMPHRON: I'm not really aware of that.

ACTING CHAIRPERSON O'BRIEN: You're going to start the avalanche, right?

MR. LAMPHRON: I don't know if I'm going to start an avalanche or not.

ACTING CHAIRPERSON O'BRIEN: You'd be amazed how it works.

MR. LAMPHRON: But they have to have – with 7 feet maybe they'll get a Variance. If they get 2 feet I think they're lost.

ACTING CHAIRPERSON O'BRIEN: Gil did you have any questions?

MR. BROOKINS: Do you have any other doors or windows other than the door in the front plan?

MR. LAMPHRON: Yes there's a side door to the existing garage.

MR. BROOKINS: Okay.

MR. LAMPHRON: Yeah the addition that's going to be on the garage is going to have a back door to it.

MR. BROOKINS: All right, back here.

MR. LAMPHRON: Yeah and my wife wanted to put a window in there and I said I don't think Dan wanted you to be watching him so we did away with the window.

MR. MICELLI: And Mr. Lamphron are neighbors at 68, 74, 75, 65 and 70 all on the same street on Fairlawn are fine you have spoken to them?

MR. LAMPHRON: Yeah, right yes I have.

ACTING CHAIRPERSON O'BRIEN: We do have a letter here from Mr. & Mrs. Lippold at 75 Fairlawn Drive...

MR. LAMPHRON: Right that's Dan.

ACTING CHAIRPERSON O'BRIEN: Okay they have no objections?

MR. LAMPHRON: No.

ACTING CHAIRPERSON O'BRIEN: Okay. Are there any questions or comments from the audience? Anybody wishing to speak in favor, see this is when you should have brought your wife.

MR. LAMPHRON: She's at school.

ACTING CHAIRPERSON O'BRIEN: Anybody wishing to speak in opposition?

MR. BROOKINS: Mark I've got just one question. In the planned residence district what did the original specs call for in terms of garages or limit in anyway.

MR. PLATEL: Basically all I did with it – when the Planning Board designated this as a planned residence district the way they did it they stipulated that it would have “AA” restrictions, which would give you your 10 foot side yard so it's just the same restrictions that you have in any other part of the Town.

MR. BROOKINS: But no restrictions in terms of the number of doors or the number of garage – cars.

MR. PLATEL: No he's okay, anyway it would be the same as it would be any other zone as opposed to the other PRD where they didn't limit the number.

ACTING CHAIRPERSON O'BRIEN: We've got some curious things working over there.

MR. PLATEL: Those were special requirements that they added to those.

ACTING CHAIRPERSON O'BRIEN: Anything else you'd like to tell us?

MR. LAMPHRON: Well I would just like the garage approved, other than that no.

ACTING CHAIRPERSON O'BRIEN: Okay well hearing no further questions or comments I'll declare the hearing closed and as I mentioned it's unlikely we'll make a decision tonight because the full Board is not here.

MR. LAMPHRON: Right

ACTING CHAIRPERSON O'BRIEN: But hopefully on the 21st of September at our next meeting we'll discuss it and you'll be notified of our decision.

MR. LAMPHRON: So I'll be notified probably by the end of the month.

ACTING CHAIRPERSON O'BRIEN: Yes I would expect so.

MR. LAMPHRON: Okay thank you.

ACTING CHAIRPERSON O'BRIEN: Thank you.

Hearing closed 7:45 p.m.

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The next order of business this evening is a public hearing for a Variance under Article V, Planned Development Districts, Schedule B, off Street Parking requested by The Beverwyck for property at 41 Beverwyck Lane, Slingerlands, New York. This Application is for the expansion of parking, which is determined by the Board of Appeals.

ACTING CHAIRPERSON O'BRIEN: Mr. Platel, please give us the reason for the hearing.

MR. PLATEL: Yes, Madam Chairperson. The Applicant is proposing to construct an addition to the existing assisted living complex that will add 38 new units creating a total of 79 units. There will be 86 parking spaces for the site that will give you 1.09 spaces per unit. Under Article V, 128-8, C. Bulk requirements it is up to the Board of Appeals to determine the required parking for the use of the site.

The current use of the property is an assisted living complex and is located in a planned residence district.

ATTORNEY MOORE: Can I just make a note for the record that the Applicants aware the Town Board has approved the new zoning code, which is due to be filed soon. If it's filed it's likely to change the jurisdiction of this Board and transfer this matter to the Planning Board just so you're aware of that, thank you.

MR. WENTH: Yes we are aware of that, thank you.

ACTING CHAIRPERSON O'BRIEN: As I understand this is an expansion of the existing facility at Beverwyck?

MR. WENTH: That's correct.

ACTING CHAIRPERSON O'BRIEN: And this will have 79 units, some of them skilled nursing and some assisted living?

MR. WENTH: Yeah if I may just...

ACTING CHAIRPERSON O'BRIEN: Hold on one second. Let Karen read the legal notice.

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 September 7, 2005 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of The Beverwyck for Variance under Article V, Planned Development Districts, Schedule B, Off Street Parking of the Code of the Town of Bethlehem for the expansion of parking for the existing assistive living facility, which is determined by the Board of Appeals at premises 41 Beverwyck Lane, Slingerlands, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 24, 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.

ACTING CHAIRPERSON O'BRIEN: Thank you, Karen. We'll use the same procedure as we did before; we'll hear the Applicant and if there's any questions or comments please address them to the Board. Mr. Wenth I gather you're giving your presentation if you'll just introduce yourself and tell us what you're doing.

MR. WENTH: Sure. My name is David Wenth and I'm the senior project manager with Northeast Health and the Eddy. With me tonight is David Ceaser and he's the Assistant Vice President of the facilities in project management, Doug Miller the Executive Vice President of Beverwyck as well as Brett Steenburgh who is our licensed head engineer.

Basically at the request of the Economic Development and Planning Department we are seeking the determination of the proposed parking spaces for the project. Beverwyck face side, which is the subject project, is currently with the Planning Board as it was mentioned in the re-zoning process and we are nearing completion as we speak. The face side just as a way of a background so you have a sense, the existing terrace is the building that we are expanding off of. It's located up near Krumkill Road and Beverwyck Lanes and it has 41 assistive living units with parking spaces and actually we have 1.36 spaces per dwelling unit at that facility. The ALU – excuse me phase 5, will be adding 18 dementia units as well as 20 skilled nursing beds for the project.

It's imperative to note that with the assisted living population the skilled nursing population certainly as well as the Alzheimer population. These are folks that do not drive. Predominately if they are mobile they can utilize campus transportation to get to appointments as the case may be. Then the philosophy of Beverwyck all along has been to maximize their independence as they reside on our campus.

The existing terrace I mentioned has 56 spaces that is 1.36-spaces per dwelling unit. That's comprised of the 41 assistive living units which has 41 spaces or one per dwelling unit and then the balance of 15 spaces we typically use for our community center. You may recall when we went through the phase 3 project, the supervisor of the Town asked us – requested of us to work with her to develop a community space that residents of the Town of Bethlehem could use for civic functions,

meetings, what ever the case may be so we had allocated spaces there for that facility.

The proposed project, what we're looking to do is starting off is demolishing or getting rid of these spaces here. The reason being is the orientation to the new structure, this being where the original parking lot was would be shifted over here. Again, the orientation to the new expansion, this being the Alzheimer's, this being the skilled nursing. The new construction will add 45 additional spaces, 20 for the skilled nursing, Alzheimer's will have 10, other being the community would be 15 with a total new spaces of 86 that's a net gain of 30 spaces for the campus.

Now when we went through and tried to determine how to plan the number of parking spaces, at the time the Town did not have a code that was clear for these populations as is consistent with many Town's throughout this area. Having said that we took a look at specific facilities where the facilities are stand alones if you will. Many of our assistive living facilities are attached physically to the independent living building. That's the case in Niskayuna and up in Queensbury. Having said that the population and utilization of parking could be anywhere on the campus because they can access the building for many access points or entrance points.

We took a look at facilities in Canajoharie, Albany, even here in Bethlehem with Delmar Place, which I believe that project came to you folks at some point for parking review. To take in sense as for these stand-alone facilities, what do they have as far as number of spaces per dwelling unit? And generally speaking what we found for the structures, skilled nursing, we actually have a stand alone facility in Troy called Heritage House up in Tibbits Avenue. It's a 120-bed facility with 96 spaces that's 0.8 per dwelling unit with skilled nursing. We took a look at as I mentioned assistive living adult home facilities through out the Capitol District. On average we were finding 0.37 spaces per dwelling unit. Delmar Place having 94 units with 54 spaces or 0.6 per dwelling unit.

Basically when we took the Delmar Place model as – seeing that it's here in the Town. This Board has reviewed it and approved it at some point in the past as well as the skilled nursing facility in Troy, again which is a stand-alone skilled nursing facility. Our plan using their calculations would end up with 31 additional spaces beyond what those municipalities have required. Having said that those 31 spaces we view for guests, visitors, certainly the community if they're using the community space which will exist once this facility is opened or will continue to exist once the facility is open.

The only other point, I know I did provide some photos of the existing terrace parking lots and you can see the current utilization and in addition I provided you a letter from the Economic Development and Planning Board dated March 31st where staff considered our plans to be realistic, however from a procedure standpoint, you know we needed this Board to make a formal determination. That's pretty much where we stand, we have taken a look at the new zoning codes with planning staff and what we have proposed is within the code as presented or as approved by the Board a couple weeks back.

ACTING CHAIRPERSON O'BRIEN: If you can explain something?

MR. WENTH: Sure.

ACTING CHAIRPERSON O'BRIEN: You're taking out some current parking spaces.

MR. WENTH: Yes.

ACTING CHAIRPERSON O'BRIEN: How many are you removing?

MR. WENTH: We're re-moving 15, but adding back 45 so there's a net gain of 30.

ACTING CHAIRPERSON O'BRIEN: Okay because you talk about – well what does that give you then as your ratio?

MR. WENTH: Over all?

ACTING CHAIRPERSON O'BRIEN: Overall for the entire...

MR. WENTH: Would be 1.09-per dwelling unit.

ACTING CHAIRPERSON O'BRIEN: Okay, because you talked about 86 total. Where does that come in?

MR. WENTH: The 86 total would be comprised of the existing parking as well as a new parking area that's been constructed.

ACTING CHAIRPERSON O'BRIEN: All right so we have a total of 86 parking spaces...

MR. WENTH: That's correct.

ACTING CHAIRPERSON O'BRIEN: And how many residents?

MR. WENTH: There is...

ACTING CHAIRPERSON O'BRIEN: Assistive living you have how many – in both the old and the new?

MR. WENTH: The old would be 41; the new is 18 plus 20 skilled nursing.

ACTING CHAIRPERSON O'BRIEN: And that includes the - -

MR. WENTH: The Alzheimer's?

ACTING CHAIRPERSON O'BRIEN: Alzheimer's, right but the dementia is 18 of the

20?

MR. WENTH: That's correct.

ACTING CHAIRPERSON O'BRIEN: Okay.

MR. WENTH: But note it's 18-Alzheimer's, 41-originals, original residents and 20 skilled nurses.

ACTING CHAIRPERSON O'BRIEN: Okay the 18 are considered assisted living, the dementia?

MR. WENTH: That's correct.

ACTING CHAIRPERSON O'BRIEN: Okay and a total of 86 parking spaces.

MR. WENTH: Right.

ACTING CHAIRPERSON O'BRIEN: When is the construction supposed to start?

MR. WENTH: We have to get through re-zoning first, which we hope to have shortly. We'll be kicking our architect off on construction documents that being said we are hoping to be in the ground spring of 2006.

ACTING CHAIRPERSON O'BRIEN: And when you remove the 15, will there be accommodations made?

MR. WENTH: Yes there will be.

ACTING CHAIRPERSON O'BRIEN: Temporarily until the entire...

MR. WENTH: Yes actually I probably should have taken pictures of our other parking lots on the campus.

ACTING CHAIRPERSON O'BRIEN: There's a lot of parking over there.

MR. WENTH: There's a lot of parking spaces available. So if we had to make operationally staff park down and walk up to the building we would do that.

ACTING CHAIRPERSON O'BRIEN: Where do your employees currently park?

MR. WENTH: I'll defer to Doug Miller.

MR. MILLER: In this particular part of the campus right in the yellow section...

MR. WENTH: Right over in here.

ACTING CHAIRPERSON O'BRIEN: Could you give me your name please?

MR. MILLER: Doug Miller.

ACTING CHAIRPERSON O'BRIEN: And I'm sorry could you repeat that?

MR. MILLER: The employee parking right now is comprised of that yellow area to the left, the existing spaces.

ACTING CHAIRPERSON O'BRIEN: So the employees use the parking that is for residents and visitors as well?

MR. MILLER: It's all general parking.

ACTING CHAIRPERSON O'BRIEN: Will you be expecting to have a greater percentage of employees because of the skilled nursing?

MR. MILLER: There will be an increase on that staff ratio, yes.

ACTING CHAIRPERSON O'BRIEN: But that hasn't influenced your designation of parking spaces?

MR. MILLER: As far as the amount or the designation where...

ACTING CHAIRPERSON O'BRIEN: The number.

MR. MILLER: No, that's already incorporated into that.

MR. WENTH: Yeah it's already incorporated.

MR. MILLER: The assistive living model has a pretty low level staffing...

ACTING CHAIRPERSON O'BRIEN: Right.

MR. MILLER: Right now the 41 units, we have 3 caregivers on the shift. It goes down to 2 caregivers at the night shift. Of course daytime will bring on some food service workers and housekeeper and a maintenance person plus a program director but as David referred to in the 6 years we've been there, there's not been one resident who has brought a car with him. At that point in their life...

ACTING CHAIRPERSON O'BRIEN: The assisted living there, there's nobody driving?

MR. MILLER: No.

ACTING CHAIRPERSON O'BRIEN: Okay.

MR. MILLER: No, no one's driving thank God. We provide campus transportation anywhere in a 50-mile radius.

ACTING CHAIRPERSON O'BRIEN: What's your anticipation of staffing in the skilled facility?

MR. MILLER: Well we're going to do a shared model between the skilled and the Alzheimer's with staff so I really have to approach that way. Being a 20-bed unit is so small you can't staff it as a stand alone, but staff will work between both units, but to answer your question day shift will head north in 12 to 14 and that includes all staff, not just care staff but housekeeping, food service and maintenance. That will go down to probably anywhere between 8 and 10 for the night shift.

ACTING CHAIRPERSON O'BRIEN: Do you, I don't know if it's relevant to the parking, but are the meals prepared in these buildings or are they...

MR. MILLER: Yes. There's one central kitchen currently that will also be used to serve the expanded facility.

ACTING CHAIRPERSON O'BRIEN: So there wouldn't be additional trucks or anything bringing meals and things over?

MR. MILLER: No.

ACTING CHAIRPERSON O'BRIEN: Do you anticipate any additional level of other services, laundry?

MR. MILLER: There will be - - well we have laundry now so again, it really just expands the infrastructure that's really there. It won't be delivered laundry, commercially; let's put it that way if that's what you meant. You know, trash would be on the same pick up schedule we have with all our contacts on campus. We move that around on a small little pick up truck. There's not a big truck that comes in and out. The dumpsters we have, there's area for that but that's over near the utility wiring.

ACTING CHAIRPERSON O'BRIEN: Gil, Lennie, any questions?

MR. MICELLI: Yes, if you could explain on this side where the blue graft is, if you come off of Krumkill Road and you take a right, I believe that was Beverwyck Lane coming into the...

MR. MILLER: Yes it's Beverwyck Lane.

MR. MICELLI: Now that right on that cul-de-sac, because I was there today, is that opposite Olympia Drive?

MR. MILLER: No.

MR. WENTH: No this is a stub road called Striker Ridge – or actually this is Olympia.

MR. MILLER: No that's Olympia.

MR. WENTH: This is Olympia, yes. Striker Ridge is down here.

MR. MICELLI: Now if I remember correctly there wasn't – that doesn't cross over. I had to go past Olympia to get into...

MR. WENTH: Yes.

MR. MICELLI: Right. So now if this is approved so that's going to open up towards the residential neighborhood, which is on the other side of Beverwyck Lane. And my other concern is there's a berm that's across that now, would that have any affect? Is that going to be taken out, that berm at any given time or is that going that going to stay? When you're driving on Beverwyck Lane all to the right. I noticed standing in...

MR. WENTH: Right, down here?

MR. MICELLI: It would be before making the right to go into...

MR. WENTH: Right in here, yes.

MR. MICELLI: Right, like when you come into all that, because I noticed today when I was standing in the existing parking lot looking at that white house.

MR. WENTH: Sure.

MR. MICELLI: When I look to the right I noticed that that's the residential area and I noticed that the berm does take an awful lot away from that. I mean it was kind of...

MR. WENTH: Are you talking about the house up here on the...

MR. MICELLI: No – well yeah the white house I guess you...

MR. WENTH: We own that.

MR. MICELLI: You've purchased that now?

MR. WENTH: That is going to be demolished to accommodate this building.

MR. MICELLI: Correct, now if you back up I was in that cul-de-sac this morning where the blue is and looking across I noticed that the berm was pretty high so you really couldn't see much – I think it might even be on the old plans.

MR. WENTH: If you see that here is the community room and this is where the original parking lot is coming down here.

MR. MICELLI: Right.

MR. WENTH: There it is right here.

MR. MICELLI: Exactly.

MR. WENTH: This new parking lot is shifted up.

MR. MICELLI: It's shifted, right. What I was saying is when I was in that cul-de-sac this morning looking that berm really protected – I mean I think the only thing I could really actually see was the tip of the sign of Olympia Drive.

MR. WENTH: We'll take a look at that.

MR. MICELLI: That was just my concern; you know I didn't know how much of construction was going to go on here as far as that.

MR. WENTH: As I said the project still has to go through site plan review.

MR. MICELLI: Exactly.

MR. WENTH: And certainly that will be looked at.

MR. MICELLI: And like Madam Chair said there isn't going to be any change of services, everything will basically be kind of the same.

MR. WENTH: That's correct.

MR. MICELLI: As far as your garbage and your meals and deliveries and things like that.

MR. WENTH: Yes.

MR. MICELLI: Okay. Thank you very much.

MR. WENTH: Sure.

MR. BROOKINS: A question about your – some of the data that you provided us and this is – this particular handout, number 2, the Eddy Heritage, that's Troy?

MR. WENTH: Yes that's Troy.

MR. BROOKINS: Okay and so you've got an experienced rate and you did some parking or traffic counts a year or plus ago and you've got an average vacancy of about 2.8, which is – or excuse me 0.28 which is about one spot for four units. You've got some comparative figures in number 4 and then a projection in the 0.21 at the low end and 0.6 at Delmar Place facility at the high end and then you've got your projection at 1.9.

MR. WENTH: That's correct.

MR. BROOKINS: Why do you have 1.9 and it seems like you're projecting and potentially building more parking more parking spaces than your experience would dictate you need or that the comparable facilities have.

MR. WENTH: Sure. Very good question, again the community center exists. The actual use of that in the past I mean I think Doug can speak to that better than myself but there is demand for that by residents of the Town of Bethlehem be it, you know, I'm not sure what some of the groups that we have...

MR. MILLER: Currently right now we have 3 groups that use that community space on a monthly basis. One is Capitol Region quilters guild that comes in there, there's also a Parkinson's support group that meets there and also CDPHP provides some community service lectures on their agenda that asks to use that space so that the Town of Bethlehem residents have something closer to them than the Albany, Colonie where they do also just free public information forms on health care issues and such. Now we've had everything from, oh I don't know, orchestras rehearse there and the benefit of that is of course they get space to rehearse and the residents get to listen to some music at night. We don't charge anything for it, we generally only allow not for profit organizations to use that. It's not there to vehicle financial positions or anything like that, but like I said right now I think there's only two groups because of the summer, but traditionally there's three groups in there.

ACTING CHAIRPERSON O'BRIEN: Is that the facility that you use a polling place on Election Day?

MR. MILLER: It's also a polling place for primary and elections, yes.

MR. WENTH: And just to reiterate the current – the newly approved Code by the Town this year meets that Code as far as number of spaces per dwelling unit for this type of facility.

MR. PLATEL: You also give it – it's not 1.9 it's 1.09, more like 1.1.

ACTING CHAIRPERSON O'BRIEN: Do you have anything else Gil?

MR. BROOKINS: No.

ACTING CHAIRPERSON O'BRIEN: Okay. Is there in the audience that has any

questions or comments? We ask that you come to the microphone, tell us your name and speak, your address to – your name and address.

MR. JENNINGS: My name is Spenser Jennings, J-E-N-N-I-N-G-S, and I have several concerns and I guess most of these gentlemen up here know me indirectly. I've lived in the neighborhood for quite some time now.

ACTING CHAIRPERSON O'BRIEN: Your address please.

MR. JENNINGS: 7 Marathon, okay, and over the years since Beverwyck was there it started out with one plan and as you see it's going to expand, it's going to expand, this is not the end of it, okay, and the problem I have is with the traffic. I've complained before about the traffic. They're not able to somehow restrict the traffic to Beverwyck Lane. We find vendors, commercial trucks go through this, the kids, the employees that work at Beverwyck, they come through with their boom boxes blasting. They speed through the streets – I walk everyday as Michael knows and I'm aware that they indicate that the Town said there's nothing they can do about it. You're going to have to be able to control the traffic out of the community, restrict them to Beverwyck Lane otherwise someone is going to get killed, some child is going to get run over and we'll back to square one again and I don't know how you smart people – you've got to figure out how to do it. I asked them to block off that street to curtail traffic. They said, well the Town said we need it for emergency vehicles and all of that – so what. There are ways that emergency vehicles can get in and out of those streets, put up signs, whatever you need to do, okay, but you've got to get the trucks out of there, you've got to get the kids and employees who – you know it's a speed way quite frankly and it's a quality of life issue. And it's going down and it's changing and I'm not going to rest until it's corrected.

ACTING CHAIRPERSON O'BRIEN: I appreciate hearing your comments, Mr. Jennings. I have to clarify, however, that what we're doing tonight is simply deciding on the number of parking spaces that are needed for the facility.

MR. JENNINGS: I became aware of that when I ...

ACTING CHAIRPERSON O'BRIEN: This will also be going to the Planning Board...

MR. JENNINGS: Exactly and I'll be there.

ACTING CHAIRPERSON O'BRIEN: And we'll pass on your comments and I hope you will go there to.

MR. JENNINGS: Okay, fine, sure.

ACTING CHAIRPERSON O'BRIEN: And again, thank you for speaking. Anybody else wishing to comment? Let us have your name and address please.

MR. MISE: Yes, my name is Alfred Mise and I live on 36 Olympian and I understand

this is not the point to make my – raise my issue here. I just want to support Mr. - Spencer, was it?

MR. JENNINGS: Yes.

MR. MISE: And his comment and if you would flip that chart over please. The new proposed parking plan makes Olympian Drive a through way right in to the parking area there, which just emphasizes – re-emphasizes the speed situation we have here today and we've got kids on that street and there is a lot of traffic that comes through there so I'm concerned about that.

ACTING CHAIRPERSON O'BRIEN: Okay as I said we will pass the comments on...

MR. MISE: So I understand the situation, but...

ACTING CHAIRPERSON O'BRIEN: To the Planning Board and thank you for speaking.

MR. JENNINGS: Will we be invited to the Planning Board meeting?

ACTING CHAIRPERSON O'BRIEN: Yes.

MR. PLATEL: Also watch it on the Town website just in case it doesn't get out.

ACTING CHAIRPERSON O'BRIEN: Any other questions or comments? Anybody wishing to speak in favor of the parking plan? Anybody wishing to speak in opposition?

MR. MICELLI: I wanted to ask him a question but he left. Is his street Marathon – where would that be, is that before Olympia?

MR. PLATEL: It parallels Beverwyck a block over here.

MR. MICELLI: Okay.

MR. JACOBWITZ: Where the end of that green sticks in, that's our back yard. I realize you're talking about parking. Obviously you know the chicken and the egg...

ACTING CHAIRPERSON O'BRIEN: Your name please?

MR. JACOBWITZ: Dan Jacobwitz from 9 Marathon Lane. Obviously the parking goes along with the facility and you know if you don't give them the parking I don't think it's going to stop them on the facility. Obviously if you don't give them – you stop the expansion that way of the facility then they wouldn't need the parking so...

MR. MICELLI: Well let me ask you question, I'm sorry, what is your percentage of complaints from the residents? Do you have a quota on that?

MR. MILLER: Well I can address this. Mr. Jennings has come to one of our neighborhood meetings. When we do these projects we traditionally and always have invited neighbors in to review these plans in great detail. We had one of those back in...

MR. WENTH: March 4th.

MR. MILLER: March 4th. And Mr. Jennings was there with probably about 15 other neighbors so we had them all sign in and were able to keep a list of that. Mr. Jennings brought up his concerns of the people who cut through from Krumkill to Marathon to Olympia to Beverwyck Lane. That was the allegation. I don't deny that that happens or condone it. We did address it with him at the meeting and subsequent to that I sent a letter to Supervisor Egan requesting an evaluation of stop signs and other signage on Olympia that would hopefully curtail some of that activity. It's a public road. We cover this on the orientation with our employees and we also remind them throughout their employment that we would prefer that they take Beverwyck Lane out to Krumkill. I really can't prohibit them from using another public road but we have advised them if they would please do that it would really improve our good neighbor position and there has been times where Mr. Jennings specifically has said people cut through there, delivery trucks come there again, we did send that letter to Supervisor Egan who passed it on to the Police Chief as well as the Department of Public Works. Both of those advised back to her after their evaluation in a letter dated June 28th from Supervisor Egan that they've spoken and decided that there's no issue for them to put signs in on that stop area. So I did send a letter back on July 20th to Mr. Jennings with a copy with the Supervisors letter. We tried to address this. I did take the initiative to write the letter for Mr. Jennings on behalf of his neighbors and himself because I don't condone cutting through there or speeding or anything else. We have a security guard that's there for resident's safety purposes. I've even positioned that person. I went on Beverwyck Lane so that if we can specifically see employees there speeding that we would take our own enforcement with them because I have 220 residents on campus and their safety is my first concern so certainly if they're speeding on that road they have a potential to have an altercation with a resident, but at this point we have again, gone forward with what we had at our means to help try to support Mr. Jennings position and correct the situation.

MR. MICELLI: So today when I came, I came down Blessing Road and took a right onto Krumkill Road. Now Marathon is that coming up the hill on the other side?

MR. MILLER: It would be beyond Beverwyck.

MR. MICELLI: It's beyond Beverwyck, but there is an alley that cuts obviously into Beverwyck.

MR. MILLER: If you will this is Olympia. Your first quick left hand turn along this property line is the rear property line of those who live on Marathon. It actually comes here.

MR. MICELLI: Okay.

MR. MILLER: Then it connects back out to Krumkill probably about 1000 feet down.

MR. MICELLI: So actually they're coming to a residential neighborhood.

MR. MILLER: What is alleged is you're coming in off of Krumkill into Marathon here onto Olympia...

MR. MICELLI: To go into work. What is the purpose of doing that though?

MR. MILLER: It's a very good question. A lot of my employees deny that they do that.

MR. MICELLI: Right.

MR. MILLER: But I don't see the advantage if they were cutting through there. They have to actually slow down – it's not really a shorter distance, but I don't deny Mr. Jennings is truthful what he has seen. I mean I wouldn't...

MR. MICELLI: Now say this gets all approved now what is going to be the increase of employees and obviously more visitors on holidays and during the week so that is only going to intensify more traffic in that residential area obviously.

MR. MILLER: Well to answer your question there will be an increase in traffic slightly for staff as we talked about earlier. Visitors – we generally find that people who visit are working during the day and weekends and evenings is when you visit the seniors that may be residing in facilities but again it's not that they wouldn't discover if you will this other path to the door but I don't understand why they wouldn't come off of Krumkill, which is our main thoroughfare to the property and then just come directly to the parking area.

MR. MICELLI: So looking at that everything to the left like we were - Atrium, 3 Atrium was main hub of the facility so say all those employees that come out. They come around the curve so mostly they don't make it to Krumkill off of Beverwyck, they cut through Olympia.

MR. MILLER: That's what is alleged.

MR. MICELLI: That's what's going on now so which means that I'm saying like in hindsight the new facility is going to cause more because this is going to be a direct line of – because that road is going to be open. So everyone is going to shoot across Olympia, there are more employees than visitors and I mean you can't stay out there 24/7 like a police officer but I'm saying that's going to intensify more into the residential area.

MR. MILLER: Even in reality when our security guard is stationed there and appeal to the employees not to go through there if that's the case, which quite honestly it's been

very limited what we've seen, you know without being confrontational they say it's a public road, I can't go through there and I say well of course it's a public road but we prefer that you do now I have no employment contractual responsibility to have them use what road. For that matter traffic spills out through Dutchbrook as well. I mean it's just that natural flow down to Krumkill.

ACTING CHAIRPERSON O'BRIEN: I'm assuming there's no stop sign then on Olympia?

MR. MILLER: There is none. That was a request that was put in a letter to Supervisor Egan.

MR. WENTH: As well as no through traffic or local traffic only.

MR. MILLER: Right.

MR. MICELLI: See I still can't visualize that because if there's a traffic light there I could see people, you know but there's no – I mean you can still come out to Krumkill either way you go.

MR. MILLER: I've actually tried to time this to tell you the truth.

MR. MICELLI: I think it's faster off of Beverwyck Lane, right? I came out today, went down Beverwyck, took a right I had no problem. I didn't even have to wait for a car.

MR. MILLER: It actually takes more effort to go out that way. As David said and you know and I think one of the questions that was brought up was the berm as you know on our campus we're surrounded by berms.

MR. MICELLI: Right.

MR. MILLER: We've tried to take into consideration the lights that to park in the middle of the night and you know during late evening so that they're not shining back to people's buildings. That was – you know we're on - there was 80 acres from Krumkill there 15 years ago. Trees are beginning to mature now to help serve some of that use and clearly we – if you've been through there we've created a forest so that we could put as much blind as we could up in that area.

ACTING CHAIRPERSON O'BRIEN: It's really not our place here, but I would think that putting the exit from the parking directly opposite Olympia is going to just exacerbate the problem. Have you thought about moving the entrance and exit further up on Beverwyck Lane so that it will discourage...

MR. MILLER: It's been the Town's position that they wanted exits aligned to create 4-corner versus...

ACTING CHAIRPERSON O'BRIEN: Well then tell them if they're going to do that they absolutely need to put in signs.

MR. STEENBURGH: From a traffic safety issue, the minimum distances between, I'm sorry, Brett Steenburgh, the engineer for the applicant. For traffic safety issue having the exits and entrance and that Town road aligned is a much safer intersection than say having one 3-400-foot off alignment with that Town road. And certainly you know I'm sure your comments to the planning commission regarding cut through traffic would probably be welcomed as far as you know the addition of a stop sign on that and could maybe put additional...

ACTING CHAIRPERSON O'BRIEN: I mean with no traffic control on either side of Beverwyck there it seems like an accident waiting to happen everyday.

MR. WENTH: Well I've also discussed with my colleagues that you know it would be our position if the town even allowed us we would purchase the stop sign at our expense if they allowed us to be placed. And I'm not sure that's even allowable that you can do that because well without getting into it, the way it was explained to me it's much deeper than that. It's not the purchase of the sign it's the precedent that started with inside development areas. You could probably go through 100's of these streets in the Town of Bethlehem and obviously not have signage and I think there is a concern that that would start the avalanche that was talked about earlier if it were. That could just be a request on every development.

ACTING CHAIRPERSON O'BRIEN: I guess I would ask that when you go to the Planning Board you simply discuss whether this is the ideal location for the entrance there. Any more comments from anybody?

MR. MICELLI: Just one more quick question. I think you might have mentioned it earlier but how many employees are employed on the facility total?

MR. MILLER: Currently or when we do the whole expansion?

MR. MICELLI: Everything, the whole complex.

MR. MILLER: Right now I have to kind of do the math on it to be honest with you. We expect anywhere from 12 to 14 additional employees for the expansion is probably the best way to answer that. Some of those positions are shared again the program director will have all the oversight, the maintenance will have the oversight. It's really care giving staff that will come in there.

MR. MICELLI: And total prior to this new addition, how many are on...

MR. MILLER: We approximately have 21 employees.

MR. MICELLI: Twenty-one employees okay thank you.

MR. PLATEL: Is that the whole site Dave I mean even in the other sections?

MR. WENTH: The other section independent?

MR. MILLER: Oh, independent no that's another story.

MR. PLATEL: How many do you have in that?

MR. MILLER: We have 220 residents in the independent complex and we have about - - individuals we have about 90-95 on the payroll. 40 of that consists of young kids who come in and wait tables for us and they're in - they're on the campus from like 4:30 to 7:00 so it's a limited time frame.

MR. MICELLI: Oh, okay. Thank you.

ACTING CHAIRPERSON O'BRIEN: Is there anybody wishing to speak in favor? Is there anyone wishing to speak in opposition? Hearing nothing we'll declare the hearing closed and you will hear from us and we will not be making any decision tonight because of the Chairman not being here. Thank you very much for your presentation.

Hearing closed 8:25 p.m.

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The next order of business was to consider the application of Joseph Tiberia. 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 Joseph Tiberia for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, single Family Dwelling for the construction of an addition, which will exceed the allowable percentage of lot occupancy at premises 3 Windmill Drive, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held October 5, 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. 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 Kathleen Ackerman. The application was found to be in order and Mr. Brookins made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Kathleen Ackerman for Variance under Article XII, percent of Lot Occupancy, Section 128-50, Single Family Dwellings for the construction of an addition, which will exceed that allowable percentage of lot occupancy at premises 102 University Street, Selkirk, New York, it is hereby ordered that a public hearing on this matter be held October 5, 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.

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

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The next order of business was to consider the proposed resolution of Malka Evan.

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 IX, Accessory Uses, Section 128-36, Private Garages in Residence Districts, requested by Malka Evan (“Applicant”) for property at 22 Devonshire Drive, Slingerlands, New York (“the property”); 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 July 20, 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 22-foot by 30-foot, 3-car detached garage. The existing main structure already has an attached 3-car garage. The proposal, if granted, would create a total of 6-car spaces on the property. The Zoning Law allows a private garage for the storage of up to 3-motor vehicles as an accessory use to the principal use of the site. The proposed 6-spaces will be 3-more than allowed by law.

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

Applicant owns a number of expensive “classic” vehicles and/or sports cars. Many are presently stored at locations in Pittsfield, Massachusetts and Stephentown, New York. Applicant would like the convenience of having the cars stored at his home.

No service, repair, detailing or maintenance work of any kind is to be performed in the proposed new garage structure.

The cars presently stored and proposed to be stored at the Applicant’s property are driven infrequently.

The Applicant has spoken to one of his neighbors, who expressed no opposition to the proposed project.

Other than the Applicant and his builder, no one spoke at the public hearing regarding 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 July 20, 2005 hearing;
2. In the construction of the garage, the Applicant shall match, as nearly as possible, the existing roofing and siding on the home;
3. The use and occupancy of the additional garage will be limited exclusively to the inside storage of automobiles and for no other purpose or use; that no servicing, repairs, restoration, painting, nor commercial operations or activities of any kind be conducted or allowed on the property at any time.
4. The exterior of the building will conform to the architecture of the residence, be appropriately landscaped so as to be shielded from public view and be maintained in a safe and sightly condition.
5. The project shall be completed within two (2) years of the date of this Resolution.

September 7, 2005

Michael Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on September 8, 2005.)

On a motion made by Mr. Brookins, seconded by Mr. Micelli, and unanimously carried by the Board, the minutes of the August 17, 2005, meeting were approved.

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

Meeting Adjourned: 8:35 p.m.

Respectfully submitted,

Secretary