

**TOWN OF BETHLEHEM
BOARD OF APPEALS
August 6, 2003**

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

PRESENT: Michael Hodom
 Robert Wiggand
 Richard Lewis
 Gilbert Brookins

 Patrick Seely Attorney to the Board

 Mark Platel Building Inspector

ABSENT: Marjory O'Brien

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

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Good evening everyone. 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 an Area Variance under Article XII, Percentage of Lot Occupancy, Section 128-50, Single Family Dwellings requested by Daniel and Susan Walsh for property at 33 Placid Lane, Glenmont, New York. The Applicant wishes to construct a 3-season room, which will exceed the percentage of lot occupancy at the premises 33 Placid Lane, Glenmont, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The Applicant is seeking an area variance from Article XII, Lot Occupancy, Section 128-50, Single Family Dwellings.

The Applicant is proposing to construct a 240 square foot 3-season room to the existing dwelling that will create a total structure of 1939.93 square feet, which is 108.14 square feet over the 1831.79 square feet allowed by a lot consisting of 12,211.9 square feet. The lot occupancy will be 15.88 percent, which is .88 over the 15 percent allowed in an "A" residential zone.

The existing structure is occupied as a Single Family Dwelling and as stated earlier, is located in an "A" residence zone.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you 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 August 6, 2003 at 7:30 p.m., at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Daniel and Susan Walsh, 33 Placid Lane, Glenmont, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings of the Code of the Town of Bethlehem for construction of a 3-season room, which will exceed the percentage of lot occupancy at the premises 33 Placid Lane, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the July 30, 2003 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear 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. Anyone desiring to speak will be allowed to do so, we just request that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board. Mr. Keith, just come up and introduce yourself, we do have a letter from the Applicants requesting that you be their agent. So, introduce yourself for us and tell us what you want to do and why you want to do it and how you want to do it.

MR. KEITH: My name's James Keith. I'm president of Innovative Contracting and Remodeling covering for Dan and Sue Walsh tonight, they couldn't be here. They are out in California on a business trip. We'd like to construct a 3-season room, screened in sliding windows, sliding doors to limit the exposure to insects, mosquitoes, it's pretty heavily wooded over there and there's quite a bit of insects around there. It's going to be totally finished inside; no heat. Skylights, electricity for a fan and light in the room and that's the existing exterior of the house, and there will be a deck off of that, that's for their personal use.

CHAIRMAN HODOM: Mr. Keith, initially with the first - - with the application that was submitted, the site plan indicated a 19-foot wide by 12-foot deep structure and all the other documents show a 20 by 12-foot. Is 20 by 12 the correct dimension for the...

MR. KEITH: For the exterior, inside is going to be 19 by 11-foot.

CHAIRMAN HODOM: So the footprint exterior is 20 by 12?

MR. KEITH: Yes.

CHAIRMAN HODOM: Okay. The deck is currently installed?

MR. KEITH: No, there's nothing - - there was an old existing deck in need of replacement and that is no longer on the house. There's nothing on the back presently.

CHAIRMAN HODOM: Okay. So that's been removed?

MR. KEITH: Yes.

ATTORNEY SEELY: Are these the pictures?

MR. KEITH: Those are the pictures. We had started and we thought that we were going to be issued a building permit for this process and it wasn't because of the overage in lot occupancy. So everything's at a standstill.

CHAIRMAN HODOM: Okay, but the deck was started inadvertently...

MR. KEITH: Yes.

CHAIRMAN HODOM: You thought you could proceed and...

MR. KEITH: We didn't realize that we were over on the lot occupancy.

CHAIRMAN HODOM: Okay.

ATTORNEY SEELY: There was an existing deck there that obviously deteriorated I guess?

MR. KEITH: Yes.

ATTORNEY SEELY: And so you were replacing...

MR. KEITH: We were taking it down and I said well let's enclose it. That's when I came to the Town to get a permit to enclose it and realized that we were over on lot occupancy.

CHAIRMAN HODOM: Had you made an application for a permit to build a deck?

MR. KEITH: It was the whole unit, the deck and the screened room.

CHAIRMAN HODOM: Oh okay. So then you started without the permit?

MR. KEITH: I was told that I would have and didn't realize I was over on lot occupancy. That's my mistake, yes inadvertently I started - - jumping the gun trying to get things done early in the season.

CHAIRMAN HODOM: Okay. And how did it come about that you stopped work on the deck and the 3-season room, I mean did somebody from the building come in and stop?

MR. KEITH: No, I had applied for the permit and then they notified me that I was going to be .88 percent over on the lot occupancy. So I said we'll have to do what is correct to get this permit.

MR. BROOKINS: How long has the project been in its present state in terms of nothing happening? When did you start, when did the building permit or the - - when did you stop?

MR. KEITH: July. I was there, I had 2 ½ days there and then I stopped. It's been like that for approximately I think about a month now.

CHAIRMAN HODOM: I guess I'm still not clear, you started with a deck, but you didn't have a building permit to start with a deck?

MR. KEITH: Well we had applied for it and I didn't realize it was going to take 2-weeks to get it and they said there shouldn't be a problem with this, so I just started tearing it off so I could move the process ahead a little quicker on my end of the bargain.

CHAIRMAN HODOM: Do you do a lot of work in the Town of Bethlehem?

MR. KEITH: I've done a couple projects in the Town of Bethlehem.

CHAIRMAN HODOM: And do you start them all without building permits?

MR. KEITH: No, I never have. This is the first time I said well the deck - - I thought I could, you know come in and apply for the permit and didn't realize that it was over on lot occupancy so that's a mistake on my half.

CHAIRMAN HODOM: I think you mentioned this earlier, but there's not going to be any other utilities brought out to this space other than electric?

MR. KEITH: Correct.

CHAIRMAN HODOM: So, as far as you know this facility will always remain a single-family dwelling?

MR. KEITH: Yes.

CHAIRMAN HODOM: This additional space will not be used for any kind of other occupancy rented out to any other...

MR. KEITH: Will not be rented, just the two of them live there and they have family and grandchildren that attend, you know regularly. Other than that the house will not be

rented. It will remain a 1-family home.

CHAIRMAN HODOM: What is your proposed schedule for completion if the Board were to approve the Variance?

MR. KEITH: 60-days maximum.

CHAIRMAN HODOM: Is this the design - - this is done by DeRaven Design & Drafting?

MR. KEITH: Yes.

CHAIRMAN HODOM: Will it eventually have a stamp and a seal? Is that a requirement Mark?

MR. PLATEL: Not for this, no.

CHAIRMAN HODOM: Not for this, okay.

MR. PLATEL: Well, I'd have to look at it closer, but I know that they worked with Mr. Green's office.

MR. KEITH: The original plans I turned in did have a stamp on them.

CHAIRMAN HODOM: They did?

MR. KEITH: Yes.

MR. PLATEL: They would be the ones we have I think, Mike for the Application.

CHAIRMAN HODOM: Oh, for the building permit? Okay.

MR. PLATEL: I think what they did was just give us copies of it that didn't have a stamp on it.

CHAIRMAN HODOM: Okay, because normally Dick Green does stamp and sign them.

MR. KEITH: Yeah, they were stamped and signed.

CHAIRMAN HODOM: Okay. Gil, you have something?

MR. BROOKINS: When you were notified that the lot occupancy was over, did you discuss with the Walsh's alternative plans to build this structure and still maintain the 15 percent occupancy? Did you consider downsizing this – did they consider it?

MR. KEITH: They considered it, but the room would be so small it wasn't feasible to do it. I think it was like 100...

MR. PLATEL: You would have 130-square feet off the 10 by 13 at the...

CHAIRMAN HODOM: You would have to reduce it by 108-square feet.

MR. KEITH: Right. It's a very small room.

MR. RYAN: What is it now Jim, I think it's 20 by...

MR. KEITH: 12 by 20 is what it will be.

MR. RYAN: Right. So it will actually be cutting the room in half.

CHAIRMAN HODOM: Why don't you introduce yourself.

MR. RYAN: My name is Jim Ryan, I'm an attorney and I'm Jim Keith's father in law. I came just kind of for moral support. Although I do know both Dan and Sue Walsh and I talked to Jim about it and I also talked to Danny and you know, reducing the room by almost 50 percent doesn't give you what they're looking for. I mean it really becomes a - they had a larger deck there before, and you know reducing the space didn't give them what they were looking to do to add, you know if you look at the layout I think it's right behind the kitchen and then it spreads out by the kitchen and they were going to use those sliding doors to come out on to this new room that would have sliding out to the back yard instead of just an opened screened area.

CHAIRMAN HODOM: Mr. Keith, the only portion of this new deck that is going to be covered with a roof is that 20 by 12-foot section?

MR. KEITH: Right.

CHAIRMAN HODOM: The other deck that you show that's 11.6 by 12-feet is an open deck?

MR. KEITH: Open deck.

CHAIRMAN HODOM: Okay. And that is not going to be roofed over?

MR. KEITH: No roof, just to set a picnic table and umbrella and a couple of chairs, that's it.

CHAIRMAN HODOM: Again, your intent is to match the existing architecture as closely as possible as far as the siding and the roofing?

MR. KEITH: Yes.

CHAIRMAN HODOM: Window features?

MR. KEITH: Yes.

CHAIRMAN HODOM: Okay. Are the foundations, well they must be in place if you've got the deck installed?

MR. KEITH: No, the holes are there that's - - because you need a footing inspection before I could pour anything in. When I realized that's - - it's just, actually the frame that you saw there is just standing there, it's - I have it braced up.

CHAIRMAN HODOM: So you haven't poured a footing or anything yet?

MR. KEITH: Right. No, I haven't poured any of that yet.

CHAIRMAN HODOM: Okay. If the Board approves the application, then you understand the Town has to come in and take a look at it before and after?

MR. KEITH: Yes, before and after and all the way down through.

CHAIRMAN HODOM: Any other questions from the Board?

MR. WIGGAND: Yes, I might just point out a couple of things. First off, I'm quite impressed with you're floor system. I'm in the business and I've never seen anything quite like that one, 2 by 12's on your deck and 2 by 10's on your open area.

MR. KEITH: I didn't want any bounce in it.

MR. WIGGAND: No, there won't be. I was just going to ask you a question, are you planning on putting up a heavy hot tub in there?

MR. KEITH: No, nothing heavy in there I just didn't want - - stepping down off the house I didn't want any bounce to the...

MR. WIGGAND: There won't be.

MR. KEITH: No, well that's...

MR. WIGGAND: I'm impressed with that. That's a good deck, but I see here on the plan - is this the architect that drew this?

MR. PLATEL: DeRaven did that.

MR. WIGGAND: Oh, okay. I see you have a door also on the end of this. Is that the sliding glass door going out onto the deck?

MR. KEITH: Correct, going to the deck yes.

MR. WIGGAND: The drop deck there. And also you have skylights on the roof, so in other words you're going to follow this plan exactly?

MR. KEITH: Yes, there is going to be 3-skylights on the roof.

MR. WIGGAND: And the windows as I see them here?

MR. KEITH: Correct.

MR. WIGGAND: Sometimes things change, that's why I like to have it on the record that you're building it the way it is.

MR. KEITH: No, there's the 3-sliders on the back, 2 on the side and the 6-foot slider on the other.

MR. WIGGAND: Well I'm all set there Mike.

CHAIRMAN HODOM: Dick any questions?

MR. LEWIS: No.

CHAIRMAN HODOM: Are you doing any other structural changes within existing home?

MR. KEITH: No.

CHAIRMAN HODOM: So you're just ledgering off the existing floor joist?

MR. KEITH: Correct, yes.

CHAIRMAN HODOM: Okay. Gil?

MR. BROOKINS: No.

CHAIRMAN HODOM: Are there any questions or comments from the audience? Is there anyone wishing to speak in favor of the Applicant? Mr. Ryan, you can certainly speak in favor of the Applicant if you so desire.

MR. RYAN: I think Jim has certainly laid out the explanation and you know when you asked before whether Jim had done some work, he did some work in fact for the people right next door at 31, Larry and Lois Swartz. He got to work with the Walsh's as well and regrets this confusion about the permit. I mean he's done work for me and for other people and understands that you need a building permit in advance. He took a quick jump

on this, but nothings really been permanent thing done there at all.

CHAIRMAN HODOM: Okay. Is there anyone wishing to speak in opposition to the Applicant? Any other questions from the Board? 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. KEITH: Thank you.

Hearing closed 7:46 p.m.

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The next order of business this evening is a continuation of a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, Article XVIII, Rear Yards, Section 128-79 A (2), Required Depths requested by Douglas Bender for property at 14 Quail Hollow Road, Glenmont, New York. The Applicant wishes to construct a 3-season room, which will exceed the percentage of Lot Occupancy and also encroach into the Rear Yard Setback requirement at the premises of 14 Quail Hollow Road.

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

MR. PLATEL: Yes, Mr. Chairman. This is the re-opening of a previously adjourned public hearing. The Applicant is seeking area variances from Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings and Article XVIII, Rear Yards, Section 128-79, Required Depths.

The Applicant had a 3-season room constructed with out obtaining a building permit on top of the existing deck, which has an existing variance granted in April of 1991 for the rear yard setback encroachment. The rear yard setback will be 20-feet, which is 5-foot shy of the 25-foot required and the lot occupancy will be 17.11 percent, which is 2.11 percent over the 15 percent allowed. The total building area will be 1,941.57-square feet, which is 239.22 square feet over the 1,702.35 square feet allowed by a lot consisting of 11, 349 square feet.

The existing structure is occupied as a single-family dwelling and is located in an "A" residence zone.

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

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, July 2, 2003, at 7:45 p.m., at the Town Offices, 455 Delaware Avenue, Delmar, New York to take action on application of Douglas Bender, 14 Quail Hollow Road, Glenmont, New York for Variance under Article XII, Rear Yards, Section 128-79 A (2), Required Depths of the Code of the Town of Bethlehem for construction of a 4-season room, which will encroach into the Rear Yard Setback requirement at premises 14 Quail Hollow Road, Glenmont, New York 12077. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the June 25, 2003 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier; 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 or in opposition to the Applicant. Mr. Bender, is Mr. Cronin here this evening?

MR. BENDER: Yes.

CHAIRMAN HODOM: Why don't you both come up. I'm assuming that Mr. Cronin has met with the Building Department and...

MR. PLATEL: Yes he has.

CHAIRMAN HODOM: And what's the status?

MR. PLATEL: He submitted enough information for me. Basically what I have to do now is I'm just going to have to go down and dig along side some of the piers just to check the depth on them. I believe you're going to remove the skirt for me so I can see underneath so I can do the inspections I need to.

CHAIRMAN HODOM: Okay. And when will that take place?

MR. PLATEL: Pending your approval one way or the other. I can do it before if you would like.

CHAIRMAN HODOM: Well I suppose if the Board chose to approve the Variance, we could make it a condition that prior to the Variance being finalized, those requirements would have to met.

MR. PLATEL: Well it would also be a condition of the permit once it was issued.

CHAIRMAN HODOM: That would be the way to do it if we were to make a determination in the affirmative. Mr. Cronin, you did submit a letter from Richard Benko.

MR. CRONIN: Yes.

CHAIRMAN HODOM: Had he taken a look at the deck or the foundations at any time?

MR. CRONIN: What I gave him was the initial approved plans for the deck, and that had – as far as the layout of existing sono-tubes and structure which is - - what was pulled from the file. This is the approved deck. The only area that we added was the two corner sono-tubes. There was more than enough support structure on the existing deck, but it was his opinion that if we added the two corners, it would add more strength to that. And we continued the lines across to the sono-tube on either side with the double 2 x 12 and a 4 x 4 post coming in from each side to ensure the weight load factor would be correct. So he was aware of that.

CHAIRMAN HODOM: And was it verified that the original deck was installed as it was shown on the permit application?

MR. CRONIN: Yes.

CHAIRMAN HODOM: It was, okay.

MR. CRONIN: So in essence as I view this 2nd diagram, we're adding the two corner sono-tubes and the two corner sono-tubes is where the initial deck was cut at a 45 degree angle, which in essence he agreed that to support those two corners would be much smarter and better structurally to enhance that.

CHAIRMAN HODOM: So the interior piers were already there?

MR. CRONIN: Correct.

CHAIRMAN HODOM: You've added the two exterior piers along the outside?

MR. CRONIN: Right.

MR. BROOKINS: Explain to me again, and I think you mentioned – I'd like to hear it again. Essentially, you rebuilt the two corners, those 45-degree angle corners.

MR. CRONIN: Correct.

MR. BROOKINS: How do those tie back into existing deck?

MR. CRONIN: We...

MR. BROOKINS: At what points and in what manner?

MR. CRONIN: From this point here, we extended along the initial sono-tubes - - this shows where the existing sono-tubes are. We extended to the point and corner with

additional 2 x 10 on the inside and the exterior to marry to our additional 4 x 4's, so we have it across from all sides. Cause the existing right side was the house wall, it carried from the house wall out to the new sono-tube in the corner and then back across where the new 4 x 4 corner post. So we carried across the double 2 x 10 and then put a new support wall and I did another ledger board along the house itself.

MR. BROOKINS: Okay, thank you.

CHAIRMAN HODOM: As far as you know Mr. Cronin, the other foundations that were existing did not have the enlarged base at the footing?

MR. CRONIN: Correct.

CHAIRMAN HODOM: That you've done with your 2-piers.

MR. CRONIN: The standard for a deck is that you do not want to exceed 12-feet from the house. You're allowed a 1-foot cantilever and then this deck initially had a half waypoint; a series of sono-tubes and your beam structure and then the floor joist structure was laid upon that as well as at the end. So structurally the corners were just to support the corners. Everything else would have and could have supported the room itself.

CHAIRMAN HODOM: Mr. Bender, have you been a part of all this between your contractor and the Building Department and the professional engineer, Mr. Benko?

MR. BENDER: I had nothing to do with the professional engineer.

CHAIRMAN HODOM: Had you talked to him at all?

MR. BENDER: No, no sir.

CHAIRMAN HODOM: Are you satisfied that what's been going on here is satisfactory?

MR. BENDER: You mean structurally?

CHAIRMAN HODOM: Yes.

MR. BENDER: I'm - - I really don't know anything about structures or anything. I mean the room looks okay; it seems solid. I mean I just don't know. I mean I'm not an engineer or an architect.

CHAIRMAN HODOM: Have you talked any further to the Building Department?

MR. BENDER: The only time I called, I just called the Town Building Department. Meaning since the last meeting?

CHAIRMAN HODOM: Yes.

MR. BENDER: I called them up and I wanted to know if Mr. Cronin had supplied all the information that he had to. And I was informed that he had and that there would be a meeting here this evening.

CHAIRMAN HODOM: Mark apparently you spoke with Mr. Benko because the letter's addressed to you?

MR. PLATEL: No I didn't speak to him, but I do have his phone number and this hearing – when I go out there I was also going to call him after I went out there.

CHAIRMAN HODOM: Okay. Does he do work for you frequently Mr. Cronin?

MR. CRONIN: He is an engineer and he reviews all of my plans and ensures that everything is done to Code.

CHAIRMAN HODOM: Any other questions from the Board?

MR. LEWIS: I do.

CHAIRMAN HODOM: Go ahead.

MR. LEWIS: Doesn't the contract that is signed say that everything has to comply with State and Federal Codes and whatever Town regulations there might be?

MR. BENDER: Are you asking me?

MR. LEWIS: No, I'm asking Mr. Cronin.

MR. CRONIN: Yes it is. The contract is very specific to that. All my contracts state that, everything is built to State and Town Code.

CHAIRMAN HODOM: Did you have a question, Mr. Bender?

MR. BENDER: If it's okay I just wanted to let the Board know I got two more letters from neighbors in support along with the two I gave you last time. I'd like to just give you those.

CHAIRMAN HODOM: Sure, to put those on the record. Mr. Bender, I just have a suggestion that you have to get more involved if you do any future work on your premises.

MR. BENDER: Yes sir, I sure will.

CHAIRMAN HODOM: Check with the Building Department; make sure things are being done correctly within the confines and the requirements of the Town. Are there any

questions or comments from the audience? Anyone wishing to speak in favor of Mr. Bender? Anyone desiring to speak in opposition? Any further questions from the Board? Any further comments from the Applicant or his contractor?

MR. CRONIN: Again I'll work with Mark and Mr. Bender, we'll do whatever's necessary to make sure that we comply with all procedures and this will never happen again.

CHAIRMAN HODOM: Okay. 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. BENDER: Thank you.

MR. CRONIN: Thank you.

Hearing closed 8:00 p.m.

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The next order of business was to consider the application of US Mart, 414 Route 9W, Glenmont, New York 12077. The application was found to be in order and Mr. Lewis made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by US Mart, Applicant, Amna Enterprises, Owner, 414 Route 9W, Glenmont, New York for Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District for an alteration to an existing structure to allow the sale of items not listed under the previously granted Special Exception at premises 414 Route 9W, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held August 20, 2003 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. Brookins seconded the motion and it was unanimously carried by the Board.

The next order of business was to consider the application of David Lawrence, 4 Magee Drive, Glenmont, New York 12077. The application was found to be in order and Mr. Wiggand made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by David Lawrence, 4 Magee Drive, Glenmont, New York for Area Variance under Article XII, Percent of Lot Occupancy, Section 128-49, Total Building Area, and Section 128-55, Accessory Structures for construction of a detached garage, which will exceed the Total Building Area and the Lot Occupancy for accessory structures at premises 4 Magee Drive, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held August 20, 2003 at August 20, 2003 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. Lewis 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 Independent Wireless One, 52 Corporate Circle, Albany, New York. The application was found to be in order and Mr. Lewis made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Independent Wireless One for Special Exception under Article VI, Permitted Uses, Section 128-11 B (1), Public Utility and Chapter 113-4 A (1), Alternative Tower Sites, to install four (4) PCS antennas and related call processing equipment within the Church steeple at premises 1499 New Scotland Road, Slingerlands, New York 12159, it is hereby ordered that a public hearing on this matter be held September 3, 2003 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 a discussion of the previous public hearing held in the matter of Daniel Walsh, 33 Placid Lane, Glenmont, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings to construct a 3-season room, which will exceed the percentage of lot occupancy at the premises 33 Placid Lane, Glenmont, New York. The following points were brought up by the Board

members: There would be no major change and or detriment to the surrounding neighborhood. The plans were very well laid out and the proposed addition would be well constructed. The overage was minimal. On a motion made by Mr. Wiggand, seconded by Mr. Lewis, and unanimously carried by the Board, the Board directed Attorney Seely to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on August 20, 2003.

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The next order of business was a discussion of the previous public hearing held in the matter of Douglas Bender, 14 Quail Hollow Road, Glenmont, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, and Article XVIII, Rear Yards, Section 128-79 A (2), Required Depths for an existing 3-season sunroom, which exceed the percentage of lot occupancy and encroaches into the rear yard setback at premises 14 Quail Hollow Road, Glenmont, New York. The following points were brought up by the Board members: The existing structure seems to fit into the surrounding area. There will be conditions set by the Board that will be noted in the resolution. On a motion made by Mr. Wiggand, seconded by Mr. Lewis, and unanimously carried by the Board, the Board directed Attorney Seely to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on August 20, 2003.

The next order of business was to consider the proposed resolution of George Magony, 455 Elm Avenue, Selkirk, New York 12158.

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

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by George Magony, 455 Elm Avenue, Selkirk, New York 12058, for Area Variance under Article XI, Height Regulations, Section 128-44 (C), General Limitations, for construction of a garage, which will exceed the height

requirement at premises 455 Elm Avenue, Selkirk, New York; 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 2, 2003; and,

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

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

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

FINDINGS OF FACT

The Applicant seeks an Area Variance from Article XI, Height Regulations, Section 128-44 (C), of the Zoning Code of the Town of Bethlehem, in order to construct a two-story accessory structure on certain premises located at 455 Elm Avenue, Selkirk, Town of Bethlehem, New York. The area is zoned "A" Residential.

The Applicant proposes to construct a two-story garage with the second floor to be used for storage. This proposed addition of thirty-two by forty (32' x 40') feet would be 23.5 feet high, which is 5.5 feet higher than the allowable height of eighteen feet (18') for an accessory building. The property consists of three (3) acres of land, which is presently owned by the Applicant's mother.

When questioned by the Board as to why such an excessively large structure was needed for two cars and storage, the Applicant replied that he just needed it to store all his "stuff", which was in the basement of his mother's house on the property. According to the Applicant, the storage items would be primarily construction materials, etc.

The structure would have electricity and some water service, later. Only space heaters would be used for heating. The proposed building which is as large as many

private homes, would also have a ten foot (10') high ceiling on the first floor, an eight foot (8') high second story ceiling and contain two separate staircases on each side of the building to the second floor.

The Board members pointed out to the Applicant that, if he lowered the elevation with attic trusses he could easily comply with zoning height restriction and still accommodate all his needs; also a single story structure could accommodate his needs.

No one other than the applicant spoke at the hearing, or wrote to the Board concerning this proposal.

CONCLUSIONS OF LAW

The Applicant requires an Area Variance in order to construct this two-story addition.

Based on the above Findings of Fact, herein, the Board concludes that the proposed large two-story addition, which appears to be more of a commercial use than an accessory use, would constitute an undesirable change, be a detriment to nearby properties, as well as, adversely impact the residential neighborhood. This proposal requires a substantial variance, which is not necessary for reasonable use of the property and cannot be justified under the Code. There exists no compelling reason for this request, other than convenience. If any difficulty is present it is totally created by the Applicant, who has other available options on this large track of land, without so seriously violating the Code.

Accordingly, the Board denies the application for the Variance.

August 6, 2003

Michael C. Hodom
Chairman
Board of Appeals

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Mr. Lewis 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 Robert J. Wiggand Richard Lewis Gilbert Brookins	None	Marjory O'Brien	None

(Resolution filed with the Clerk of the Town of Bethlehem on August 7, 2003.)

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The next order of business was to consider the proposed resolution of Helen Ernst, 8 Boylston Drive, Delmar, New York 12054.

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

RESOLUTION

* * *

*

WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Helen Ernst, 8 Boylston Drive, Delmar, New York 12054, for Area Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings, Article XVII, Side Yards, Section 128-73, Required Widths, for construction of a screened porch, which will exceed the percentage of lot occupancy and encroach into the side yard setback requirement at premises 8 Boylston Drive, Delmar, New York; 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 16, 2003; and,

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

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

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

FINDINGS OF FACT

Applicant seeks an Area Variance from Article XII, Section 128-50, Percentage of Lot Occupancy, and Article XVII, Section 128-73, Side Yards, of the Zoning Code of the Town of Bethlehem in order to construct a screened porch addition to certain premises located at 8 Boylston Drive, Delmar, Town of Bethlehem. The proposed addition of 13.5 feet by 16 feet, or 184 square feet would exceed the lot occupancy by 2.43 percent over the allowable 15 percent. If constructed, the porch would also be 8.15 feet from the sideline, some 1.85 feet short of the 10 feet side yard requirement.

The proposed addition would consist of a screened porch, which would be attached to the rear of the main structure and conform to the existing architecture. The screened porch addition will allow the owners to fully enjoy their property by providing their family with more seasonal living space, as well as, protecting from the insects in the area. The Applicant's property is an unusual "V" shaped lot, which narrows sharply towards the rear of the property, which results in construction difficulties. The owner has also made accommodations to minimize the side yard variance. There was no opposition expressed at the hearing and adjoining neighbors wrote expressing approval of the proposal.

CONCLUSIONS OF LAW

The Applicant requires an Area Variance in order to construct the proposed addition. The Board concludes that the addition is a minimal request, would be in harmony with the intent and purpose of the Code, will not be adverse or injurious to the character of the neighborhood and will alleviate a hardship resulting from a peculiar shaped lot.

Accordingly, the Board grants the Variances upon the following conditions:

1. That the proposed construction be in accordance with the plans, specifications, testimony, and exhibits given on behalf of the Applicants at the hearing; and,
2. That the proposed construction be completed within two (2) years from the date hereof.

August 6, 2003

Michael C. Hodom
Chairman
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on August 7, 2003.)

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On a motion made by Mr. Lewis, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the July 16, 2003, meeting were approved.

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

Meeting Adjourned: 8:25 p.m.

Respectfully submitted,

Secretary