

**TOWN OF BETHLEHEM
BOARD OF APPEALS
August 18, 2004**

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

PRESENT: Michael Hodom
 Robert Wiggand
 Marjory O'Brien
 Gilbert Brookins
 Leonard Micelli

 Michael Moore Attorney to the Board

 Mark Platel Building Inspector

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

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Good evening 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 Modification to a previous granted use Variance under Article VI, Permitted Uses, Section 128-12, Residence "A" District requested by Stephen Ziamandanis (Applicant), School House Road Associates (Owner) for property at 299 School House Road, Albany, New York. The Applicant wishes to convert a previous daycare facility with an office and apartment to entirely office space at the premises of 299 School House Road, Albany, 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 a modification to a previously granted use Variance. The existing Variance is for a day care center with an accessory office and 2nd floor apartment. The applicant is proposing to have three separate office spaces with two being located on the first floor and the third on the second floor where the apartment is currently located. The parking requirements for the use would require 14-spaces. The site plan of the existing site shows 15-spaces.

The existing building is currently vacant and is located in an "A" Residence Zone.

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

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 18, 2004 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Stephen Ziamandanis (Applicant), School House Road Associates (Owner) for a modification to a previously granted Use Variance under Article VI, Permitted Uses Section 128-12, Residence "A" District of the Code of the Town of Bethlehem to convert a previous daycare facility with an office and apartment to entirely office space at premises 299 School House Road, Albany, New York 12203. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 11, 2004 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 desiring 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. Ziamandanis will you be making the presentation this evening?

MR. ZIAMANDANIS: Yes, well both I and Neil will be making the presentation. I'm the purchaser but Neil is representing the owner to address any comments or questions.

CHAIRMAN HODOM: Who will be making the initial presentation, yourself?

MR. ZIAMANDANIS: Yes.

CHAIRMAN HODOM: Why don't you just introduce yourself to us and your association with the applicant and continue on.

MR. ZIAMANDANIS: Okay. My name is Steve Ziamandanis; I live in Slingerlands, New York in the Town of New Scotland about 4-mile's from the subject property and I currently have a manufacturers representative firm that's been in business since 1959. My dad started it and I've been there since 1981. I've been there for 23-years and I'm the president of that corporation. We've been at 45 Culvin Avenue in office space for almost 30-years. We've been renting the same office for 30-years and being the new blood, my dad always just liked to rent and didn't want to own and I've always wanted to own buildings and I've owned a few properties in my life so I've been looking for office

space. I drive by this building and I think everybody knows where the Kinder Lane day care center is, that's what this property is. I pass it every day. It became for sale; I pursued it and I'm looking to buy that property.

I'm not the owner of the property yet that's why I mentioned Neil was here. Our sales rep. Firm, which consists of me, my dad and a secretary will be moving into that building. We'll be occupying approximately 1500-square feet of that building. The building is very well suited for a couple offices because it has multiple exits all over the building because it was a daycare center. It's got a complete sprinkler systems and a lot of other stuff in there that makes it suitable for any type of office space. It's a great location; I will be the owner occupied in the building. I do live 4-miles from there so I will be in that premises all the time. I do travel so there could be 3 or 4-days in a row where I won't even be in the building but my dad and secretary are there at all times also. We don't have people come visit us, the only person that visits us is maybe the UPS guy or mail guy. That's about it.

I'm looking to make an approximately 3000-square foot office in the front for a professional office either that being a lawyer, real estate company, insurance agent, anybody that would like to look at office space in the front and upstairs there was an apartment previously, a 900-square foot apartment and I'm looking to make that into a very small office. I've had a couple of people, one being an appraisal company, another one being a small little sales firm looking for a little bit of office space because it's only 850-900-square feet up there. I did a proposed drawing that you're looking at right there showing, you know the idea of where we - - the pink area in the back is where my office would be occupying. So it's a great location for me because I only live 4-miles from the place so as far as the absenteeism of it I'll be there at all times because it will be a owner occupied building. We've rented for years and we're looking to own now so that's the reason for the request for the use.

CHAIRMAN HODOM: Mr. Ziamandanis are you familiar with the requirements for a Use Variance of what the criteria that you must meet?

MR. ZIAMANDANIS: Yes and that has been submitted in the package also. Those points, I guess there's 4-issues that need to be addressed that are also included in you packet that were written from the owner of the property, Schoolhouse Road Associates. His name is Frank D'Allaird and that letter that he wrote is in your packet also addressing those issues of hardship and unique circumstances and changing the character of the neighborhood and other issues like that that we are familiar with, yes. It's on an Upstate reality letterhead and it address all four of those issues that are concerned about - I think that's it right there.

CHAIRMAN HODOM: Okay.

MR. ZIAMANDANIS: That letter was written by Neil representing the owner.

MR. CHERKOSLY: Well that letter was written by me, I represent the owner. I can briefly touch on these issues. My name is Neil Cherkosly, Upstate Reality, also long time friend of the property owner and representing his interest. Obviously in the Variance application we're required to meet certain criteria, which is detailed here very briefly to touch on it. The property is obviously in a single-family residential zone. The physical configuration of the property does not lend itself to being used as a single-family home. It wasn't built, developed or modified in that manner.

The property is excessive in size for a home in that area it's approximately 6300 square feet. We marketed the property for a period of time, we had no real interest in anyone using it as a single-family home and the cost that - - the entire building would have to be gutted and modified at a minimum cost of 30 dollars a square foot over 200,000 dollars and even at that it's questionable it could be a functional property. You know I just wanted to indicate that the owner of the property, they operated it as an owner occupied daycare center until last February. They had moved to Tennessee a year ago, last August. They had a manager running the property for about 6-months. The business failed. They were constantly back and forth, business was marginally profitable when they were there on the premises everyday. Daycare industry has changed. Since they bought it they're losing from what I'm told a couple of hundred thousand dollars between property acquisition and what they've lost on the business.

The business has changed, you know centers are going more to chains and newer facilities and they attempted to rent it - the property again. I had a couple of people look at it as daycare centers. Nobody really stepped up to the plate and thought they could make any money at it and the other point I wanted to make is that the intended use as office space will generate significantly less traffic and be less intensive in the daycare use. That driveway, if anyone's somewhat familiar with it, it's up a rather steep hill and it's - I won't say it's blind but the visibility is poor when your exiting. The egress is not particularly good. This situation will generate less traffic, less potential for any issues with kids running around the property. The type of situation that sometimes generated with daycare and for all those reasons we don't feel there's any self imposed or a detriment to the neighborhood or surrounding properties. You know I feel that this would really be an asset to the area. Thank you.

CHAIRMAN HODOM: Neil, did you have an opportunity to address the other permitted uses in that district, which is also a requirement of 267-b of the Town law to show why those other uses, permitted uses cannot be used for this facility or not practicable for this facility?

MR. CHERKOSLY: Yeah as I understand it the permitted uses and I didn't - I don't believe I brought the copy of the zoning schedule with me.

ATTORNEY MOORE: Here you go.

MR. CHERKOSLY: Okay. I believe the permitted were public or institutional type uses.

Yeah it was here – we had thought, you know possibly a church, maybe some small congregation you know might be a possible feasible use of the property. Again did not have any documented interest from when the property was available, marketed it informally and formally for some time. We think in those instances that the rehab cost were just too high. The acquisition and rehab cost were just too high to make it economically feasible. Any of these other uses, things like obviously a nursery, garden, orchard, golf course you know are not physically feasible to the property configuration. Other uses, which may be permitted such as a private club of a fraternal type of building, again limited if any marketability, marketed property for some period of time. The only other interest I had in this property were for people that wanted to turn it into apartments. The only other offer we had was someone who I believe may have talked to the Building Inspector and had indicated that he wanted to come in and attempt to get a variance for 8-apartment units. Whether that would have happened or not is questionable, but that's the only other documented use that we have and we don't feel the property is feasible economically for any of these other uses.

CHAIRMAN HODOM: Why don't describe to us if you would the procedures that used to market the property.

MR. CHERKOSLY: Property over – since the daycare center was closed last February they had some freeze up in there and to get some small insurance settlement it took some time until we wanted to formally put the property on the market. In the time that there was about a 3 or 4-month time frame when we sold – they had a similar daycare center in the Town of Niskayuna, which absolutely went through a similar procedure and was purchased for an insurance company office on 3512 Rosendale Road, that was their other daycare center. During that time we informally marketed this property I notified, you know various other brokers, CB Richard Ellis, Prudential, we sent out flyers; we didn't formally have a sign on it but it was known to the local brokers that it was available. I don't have the dates here formally that the property was listed with a sign on it for 4 to 6-weeks prior to negotiating the sale with Steve Z. and in that time the only other documented significant interest was from a gentleman that want to put apartments there. The property was multiple listed; it was on the Internet in commercial and residential multiple listing books and putting the sign on it so it was certainly opposed to the market.

CHAIRMAN HODOM: Can you provide to this Board copies of that multiple listing and copies of the flyer that you sent to other realtors.

MR. CHERKOSLY: I may have some in – I probably have it in my file here if I thumb through it.

CHAIRMAN HODOM: That would be helpful if you could show us that.

MR. CHERKOSLY: Here's the multiple listing on the property.

CHAIRMAN HODOM: Is that something the Board should keep for record purposes?

MR. ZIAMANDANIS: This is something I printed off the internet when I went to purchase the property. This was off the multiple listing internet.

CHAIRMAN HODOM: Was there an address change to that property over the past several years?

MR. CHERKOSLY: Not that I know of.

CHAIRMAN HODOM: The reason I ask is the previous resolution had a different address, which was....

MR. ZIANANDANIS: Was it known as Krumkill road at one time?

CHAIRMAN HODOM: It was 405A Schoolhouse Road.

MR. CHERKOSLY: I had some records in my file I had done some work for that property about 10-years ago and it showed as 299 Schoolhouse road at that time. I don't know prior to that, it may have been before 911.

MR. MOSALL: All the addresses have been changed on Schoolhouse Road.

CHAIRMAN HODOM: Just introduce yourself.

MR. MOSALL: Milton Mosall, owner of Mosall's Grove.

CHAIRMAN HODOM: Do you know when the addresses were changed?

MR. MOSALL: Well they were changed when the new system of 911 came in; it was for that purpose. That was a few years ago. My home address is 405 or it was.

MR. ZIAMANDANIS: It's street number 405A, you're right Mike. It's right here on the original site plan from 1980.

CHAIRMAN HODOM: Is it? We are talking about the same facility?

MR. ZIAMANDANIS: This is 1987.

MR. CHERKOSLY: Late 80's maybe, early 90's.

MR. ZIAMANDANIS: Kinder Lane Daycare and school 1987 brick and frame street number 405A.

CHAIRMAN HODOM: Okay. So in your opinion Neil you've addressed the issues required by 267-b of Town Code?

MR. CHERKOSLY: I believe so and obviously if there's any further questions I'd be happy to answer them.

CHAIRMAN HODOM: In reviewing the discussion of the other permitted uses were there any monetary considerations given as to why they wouldn't be feasible or did you make any effort to market them for any of those other permitted uses?

MR. CHERKOSLY: I've submitted properties on the market and I believe in the multiple listing we noted suitable for church, school, etc., may need Variance and so it was you know marketed to the public – is suitable for, possibly suitable for a church or a school. We did not have any interest and it was exposed you know certainly through the real estate network, the internet and a sign so we felt you know we had hoped to maybe get somebody like that because it would have made for a quicker closing and a smoother transaction, however we had no interest and I think it may have been to the cost between acquisition and rehab, you know it may have been more than what those organizations would normally spend for a property of that nature.

CHAIRMAN HODOM: Okay.

MR. CHERKOSLY: And through any relevance when you talk about self imposed hardship, the current owner of the property, I mean you can see the property was listed for 229.9 is what we see in the multiple listing. The current owner owes 280,000 dollars, he's taking on a tremendous loss and I know that's not the main consideration in this issue but just to let you know the owner's losing quite a bit of money and is losing money everyday and is very anxious to come up with a sale on this property.

CHAIRMAN HODOM: That was another question that I did have is any financial data showing that that the current owner is...

MR. CHERKOSLY: You can see the current is 279,000 and it will be public record. The property is sold for 229 is the asking price.

CHAIRMAN HODOM: Can we get a copy of that or copy of this?

MR. CHERKOSLY: Sure.

CHAIRMAN HODOM: Thank you.

MR. CHERKOSLY: And that's just what he owes besides he probably has – he originally owed 360,000 plus a down payment so he's losing about 200,000 dollars on this deal.

CHAIRMAN HODOM: Okay. Mr. Ziamandanis other than your proposed business, what other kinds of businesses are looking to incorporate into that facility?

Mr. ZIAMANDANIS: I've talked to some small insurance companies; I've talked to an appraisal company. I was looking to take the 900-square feet upstairs, they have 3-people, that's it. I'm not looking at any doctors pretty much or offices that require like water or just like exam rooms would be okay but the building is on a slab so it's very difficult to get under the building to run pipes and sinks and all sorts of water and apparatus for like dentists or something like that it would take major reconstruction to do that so and above is an attic, unconditioned space so I'm looking at more professional offices, lawyers, insurance agencies, appraisal companies like I said any type of agency that would not require a ton of actual fixtures in the building I should say. There are 5 or 6-bathrooms in the building, being a daycare center there's quite a bit of that, but those sinks they had located all around the building for the kids. They all had like little catch basins with sump pumps under every sink pumping up to an attic and all the pipes have heat tape on them so they wouldn't freeze. So that led me to believe that - - I don't even want those there and it's not conducive to have something like that - but a more professional space. Being an owner occupied person in the building I'm just looking to get a small tenant in there, somebody to help out with the mortgage and the taxes in the building.

CHAIRMAN HODOM: Are you proposing to do away with the residence part of the facility, the apartment?

MR. ZIAMANDANIS: Yes. I do not want somebody living there year round. I don't want somebody there - I don't want an apartment person at all in there. I want someone that, you know for the neighbors. Someone that's there blasts music at night. I want someone professional that's there from 8 to 5 like we are. I can't be babysitting somebody in an apartment. I've owned a couple of apartment houses over the years and I don't want that. It's not fun.

CHAIRMAN HODOM: The reason I asked the question is because in the application it did mention that the apartment may remain and then your comments this evening. It didn't appear that you were going to maintain the apartment.

MR. ZIAMANDANIS: Well actually the original Use Variance was for an office and an apartment, but I am looking to convert to entirely offices in my application so I'm not looking to put an apartment in there.

CHAIRMAN HODOM: Currently there are 2-site plans that you've proposed to this Board. One being prepared by Kleinke Associates called the parking layout and the other being prepared by...

MR. ZIAMANDANIS: That's the one we're going by, this one is - - I just grabbed as much material as I had so I knew everybody had. I didn't want to be...

CHAIRMAN HODOM: Your proposed parking plan and site layout is the....

MR. ZIAMANDANIS: That's the one that shows the 15.5 and I do want to say for the record that the building is not 6350-square feet, it's about 5490-square feet so if you look at the site plan the building is a rectangle and it is 46 by 100. It's 4600 on the first floor and is approximately on the second floor. It is 5500 so it is not 6350, which would actually affect the parking spaces. At 6360 it would actually require a couple more parking spaces. A parking layout, which is this one right here that shows 20-cars was a parking layout that was done for the owner to change around the parking if he wanted to change it around but the parking that's shown on that site plan there shows 15-spaces, which is an extra space more than what's required for the 5490-square feet that the building has and that is the parking layout that I am going to be using is the one that you have in your hand. This is just an extra one that I had that I included in there showing that there could be more parking space if needed but I do not need those extra spaces.

CHAIRMAN HODOM: So if I refer to maps of lands now or formerly of Joseph Tannatta a site plan prepared by David C. Elliott, Land surveyor, the latest date being July 27, 1994, that's the plan that you're referring to?

MR. ZIAMANDANIS: Correct.

CHAIRMAN HODOM: Which shows 14-parking spaces.

MR. ZIAMANDANIS: And one handicap.

CHAIRMAN HODOM: And one handicap and you still have the garage.

MR. ZIAMANDANIS: There is a 2-car garage.

CHAIRMAN HODOM: Are you going to maintain the garage?

MR. ZIAMANDANIS: Yes the garage will stay unless you want to come get all the toys out of there. The whole place is full of toys.

CHAIRMAN HODOM: My toy days are over I think. The previous resolution – are you familiar with that.

MR. ZIAMANDANIS: The previous granted Use Variance?

CHAIRMAN HODOM: Yes on the resolution.

MR. ZIAMANDANIS: I haven't seen that, no.

CHAIRMAN HODOM: It's dated October 5, 1988 and it - - but it had 13 conditions as part of the approval of the resolution. My question is do you intend to maintain all of the conditions as stated excluding condition number 3, which is occupation of the premises

of 45 children, but there are other conditions that go along with a past Use Variance. I would like you to tell us if you're going to maintain those or if you plan on changing those because normally they would go along with any Use Variance with the land. You haven't had an opportunity to look at those.

MR. ZIAMANDANIS: I have not. I'd like to look at that; I have not seen that. Have you seen this?

MR. CHERKOSLY: I didn't have a copy of it, no. I don't know if the seller ever did. He bought the property from the prior party that got the variance.

MR. ZIAMANDANIS: In 1988, yeah.

CHAIRMAN HODOM: What we can do is – I don't know if there's enough time tonight.

MR. CHERKOSLY: Mr. Chairman we can look at them, I mean maybe Mr. Mosall wants to speak. We can look at them while he speaks.

CHAIRMAN HODOM: Is that an extra copy that we can have him look at?

MR. WIGGAND: This here? Okay.

MR. CHERKOSLY: It was number 3 was the one you were excluding?

CHAIRMAN HODOM: Yes, that with the children. While they're looking that over Mr. Mosall just introduce yourself to us and give us your address.

MR. MOSALL: Yeah, my name is Milt Mosall. I've owned Mosall's Grove for over 50-years and my nephew operates it now but I own it and I'm very much involved with it. I'm not against this; I wish you well, but I am concerned about the parking. The reason is because our front parking lot of the grove is right next to his property that the building is on. It's been my experience that people have a hard time finding a parking spot, they'll go wherever there's an empty space and certainly there's enough parking there with 14 employees but what about clients? If he has a lawyer in there or a doctor where they have several cars come up because of clients, well then they're going to park on my parking lot and then in the summertime they're going to take spaces that we need. In the wintertime I allow Guilderland School District to centralize when we're in it to turn around in my parking lot all through the school year, but they plow it out, and I wouldn't want it to be blocked. Now he mentions an upgrade on the Schoolhouse Road entrance, I believe there's another entrance from Krumkill isn't there?

MR. ZIAMANDANIS: Correct there's a one-way going through it.

MR. MOSALL: That's quite a problem sometimes in the winter. I've seen cars slide

down it, and it has to be really taken care of or people are not going to go up it. They're going to go in my parking lot so I just - - I'm not against that as I've said. I have these concerns and I don't think 14-parking spaces with 1-handicap is enough.

CHAIRMAN HODOM: Is there anyone else that had any questions or comments while they're looking over the previous resolution?

MR. MOSALL: Is my presence necessary now?

CHAIRMAN HODOM: No, if you'd like to leave you may leave.

MR. MOSALL: Okay thank you.

CHAIRMAN HODOM: You're on the record.

MR. CHERKOSLY: Briefly to address Mr. Mosall's question.....

CHAIRMAN HODOM: Sure.

MR. CHERKOSLY: Okay. In regards to parking I would say first that the post use would be significantly less intense than prior use of the property. The prior use of the property had a number of employees on the premises and parents coming in the morning and the evening, drop off and pick up time; a significant amount of cars for a site of that size so this can only be an improvement. The purchaser is intending to have an owner occupied situation. We're really - - the business's there are limited to having employees and an occasional visitor possibly on the premises. They are not going to be medical type uses. The property is not suitable to that where people are coming waiting in waiting rooms and you have a significant number of persons on the premises and further we have an owner occupant on the premises to address any issues. Someone from the ownership entity is there, you know during business hours during the day. These type of things can always occur but I don't feel there's any reason why it has to be more likely to occur under this situation of office usage, parking at about 1-space per 300-square feet is standard in the suburban Capital District.

CHAIRMAN HODOM: Neil while you're there, this facility was also utilized as a mental health community residence. Was the State of New York contacted to see if there was any further interest in using that facility for that type of use?

MR. CHERKOSLY: They were not, however I do know just as inside I'm basically a real estate appraiser by trade and I do quite a bit of work for OMRDD and some of the other state agencies. As a general policy that changed about 10-years ago, they prefer to build new than to do adaptive reuse. That building with a slab, the cost to bring it up to code would be more for them than it would be to knock it down and start from scratch. So I don't think that property would be feasible for that use, at least not through OMRDD. Their policy is to build new and as you probably know from a few of the

community residences the type of requirements that they have.

CHAIRMAN HODOM: Okay.

MR. ZIAMANDONIS: This is the copy back and to answer your question to that, yes we will comply with those. That's pretty standard stuff, it won't change any of the characteristics of the building or anything that we don't plan on doing already. We don't plan on changing anything to the exterior or – of the building at all except getting rid of the rainbow colored shutters on the building might be one of the things we get rid of from the daycare center, but some interior walls being put up and that's really about the extent of it. And some new carpeting and paint and stuff and some other minor details that we're doing so the character of the neighborhood won't change at all. The building will remain pretty much the same as it always was.

CHAIRMAN HODOM: Thank you.

MR. ZIAMANDONIS: And we had looked at the cars, I figured there was between 150, 200-cars a day when it was a day care center coming through there. There was 54-children there so there was just 108-cars of pick up and drop off not including doctors and dentists appointments and employees and now there's – I'll be lucky if there's 30-cars a day even coming through that place so the traffic will be considerably less than it was.

CHAIRMAN HODOM: Just to reiterate, you don't have any problems with the hours of operation restricted to 7:00 a.m. to 5:30 p.m.?

MR. ZIAMANDONIS: No.

CHAIRMAN HODOM: That's Monday through Friday. Had you had an opportunity to discuss the Use with any of the current neighbors, surrounding neighbors?

MR. ZIAMANDONIS: No I haven't. I actually met Mr. Mosall quite a few times. I was hoping he showed up. I met him at a state place years ago. The houses around there are rentals. There's 2-houses next door, they're for sale like by the State of New York like refinanced – buy this house for x-amount of dollars. They've had some low income tenants on some of those houses on Krumkill so a lot of the neighbors are tenants, they're not owners. In the other direction the other neighbors are like Quadrini – it's all land. There's not a lot of houses on the other side of the road and there's a stable and a horse farm right there so there was only a couple houses actually in view of this and those being tenants; the majority of them not all of them but I have not had a chance to see all them, no.

CHAIRMAN HODOM: What time frame if the Board were to approve your application for the change in use, what time frame are you looking at to make the transition?

MR. ZIAMANDONIS: I mean I would still have to go for bank – I mean I’ve already been approved for all the mortgage and stuff but everything is just pending now. So within – as soon as possible. I have a lease where I am, my landlord which is the North East Safety Counsel was nice enough to give me a 6-month lease so I’m going to have to eat a few months on my lease right now to move but I will finally will own my own building and – but it’s going to take me some time to apply for the building permit if needed. There’s no structural being done, I don’t know all the particulars of that just a couple of boarder walls put up between one section and another as shown. I’ve already shown a drawing of that – apply for a building permit at that point which I already did and got denied and came to the Variance meeting. So I would re-apply for a building permit so by that time that happen so 2-months, 2,3-months approximately to move in. I want to get in before the winter because I’ve got to get the heating system – that’s what I do for a living. I’ve got to get in there and upgrade it, because it’s all; it’s oil. I don’t want the building to have freeze ups and major damage, which could happen. So like anything you always want to get in with at least a month before it starts freezing outside so I can clean up and get some things done so no further damage and costs occur.

CHAIRMAN HODOM: Okay.

MR. ZIAMANDANIS: The bank just told us we could probably close in about 30-days or less.

CHAIRMAN HODOM: Any other questions from the Board?

MR. WIGGAND: No everything has been well answered.

CHAIRMAN HODOM: Any questions or comments from the audience? Anyone wishing to speak in favor of the applicant? Anyone desiring to speak in opposition? You’ve presented everything you intended to present this evening?

MR. ZIAMANDANIS: Yes.

CHAIRMAN HODOM: Hearing no further questions or comments we’ll declare the hearing closed and we’ll notify you in a timely manner. Thank you very much.

Hearing closed 8:10 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings for property at 106 Fernbank Avenue, Delmar, New York requested by Patricia Caporta. The Applicant wishes to construct a screened porch, which will exceed the allowable percentage of lot

occupancy at the premises 106 Fernbank Avenue, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 278-square foot addition to the existing 1,831.53-square foot main structure creating a total main structure of 2,109.53-square feet. This is 84.57-square feet over the 2,025-square feet allowed by the 13,500-square foot lot. The lot occupancy will be 15.62%, which is .62 over the 15% that is allowed for the main structure.

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

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, Albany County, New York will hold a public hearing on Wednesday August 18, 2004 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of Patricia Caporta 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 screened porch, which will exceed the allowable percentage of lot occupancy at the premises 106 Fernbank Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 11, 2004 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 this evening. Mr. Houghton if you'd introduce yourself to us, give us your association with the Applicant and your address.

MR. HOUGHTON: Yes, my name is Bruce Houghton and I reside at 12 Apple Blossom Lane in Voorheesville, New York and I was retained by Ms. Caporta to prepare a set of plans for basically it was a re-structuring of the existing deck that was there. It was an open deck, structurally deteriorated to the point where she wanted to re-build and at the same time she had the idea of enclosing, putting a roof on it and enclosing the project for a 3-season room. I had checked the side lines and the rear setbacks and found them to be in compliance and it never dawned on me that this was going to – even though the structure was existing replacing that in kind would encroach on the existing restriction. And with due diligence the building department found that we were a little more than a half of a percent over on the lot coverage so that's the reason for our application to gain relief from that section of the code.

CHAIRMAN HODOM: Were you also the contractor on the job?

MR. HOUGHTON: No I'm not.

MR. WITHKOWSKI: That would be me.

CHAIRMAN HODOM: Do you want to come up front here and just give us your name.

MR. WITHKOWSKI: I'm Mike Withkowski and I reside at 37 Swartson Court, Albany.

CHAIRMAN HODOM: And the name of the company is?

MR. WITHKOWSKI: Michael Withkowski Framing.

CHAIRMAN HODOM: Okay. My understanding is that you commenced the work without a building permit. Is that correct?

MR. WITHKOWSKI: I applied for the permit and 2-weeks down the road I just got started on it. We were getting antsy. I left everything exposed for the inspector to come and look at it. The footings were exposed. I built it to the plan that Bruce had drawn up. I just figured it was a screened porch, I didn't think it was going to be that big of a deal but it turned out to be. I thought the permit would come right away and normally I don't do that.

CHAIRMAN HODOM: Did you look at the general notes that are on the plan?

MR. WITHKOWSKI: The general notes?

CHAIRMAN HODOM: Yes.

MR. WITHKOWSKI: Yeah.

CHAIRMAN HODOM: The first one being that all work shall comply with the Residential Code of New York State and all local codes, ordinances, rules, and regulations.

MR. WITHKOWSKI: Yeah.

CHAIRMAN HODOM: Okay. So you thought you were in compliance with...

MR. WITHKOWSKI: Well I – except for applying for the permit, I guess that would be....

CHAIRMAN HODOM: And it says no work shall begin prior to the issuance of the required permits by the building code enforcement office.

MR. WITHKOWSKI: Yeah I'm aware of that, yes.

CHAIRMAN HODOM: But you went ahead with the work anyway?

MR. WITHKOWSKI: Well it's just a screened porch, I didn't see it to be, you know...

CHAIRMAN HODOM: Do you do work in the Town very often?

MR. WITHKOWSKI: In Bethlehem?

CHAIRMAN HODOM: Yes.

MR. WITHKOWSKI: No.

CHAIRMAN HODOM: Where do you work?

MR. WITHKOWSKI: Michaels Group. I work for them so they sub out to me.

CHAIRMAN HODOM: Have you been paid for your work so far?

MR. WITHKOWSKI: Just the deposit for material and what's done there so far, the floor and the 3-walls is all is done.

CHAIRMAN HODOM: What would happen if the Board didn't approve the application?

MR. WITHKOWSKI: I would have to remove the structure and replace the deck, well the deck that was there was falling down so I don't think I would want to put that back up. I'd just have to remove it; I'm aware of all that, yes.

CHAIRMAN HODOM: And what cost that involves?

MR. WITHKOWSKI: On Patty's cost none.

CHAIRMAN HODOM: But do you know what kind of cost it would be for you?

MR. WITHKOWSKI: For my two men and me it would probably be a couple thousand dollars I would imagine; to take it down and...

CHAIRMAN HODOM: Are the foundations adequately braced?

MR. WITHKOWSKI: Yeah.

CHAIRMAN HODOM: Super-structure's braced?

MR. WITHKOWSKI: Yeah, everything is, you know I frame for a living so I know what has to be done with it, to maintain it until this was approved or disapproved.

CHAIRMAN HODOM: Has the Building Department had an opportunity to look at the conditions so far?

MR. PLATEL: I haven't been down there myself in probably – ever since we found out that it was over lot occupancy. I stopped down once quick to try to make sure that they didn't do any work.

CHAIRMAN HODOM: Doing more work?

MR. PLATEL: Yes.

MR. WITHKOWSKI: Just for the record I had stopped work on it even before we were not approved. I didn't want to go any farther with it until the permit was issued. I just wanted to get the 3-walls up and get a jump on it because she wanted to enjoy it for the summer so it's not like I stopped, you know – I was caught doing it, I stopped on my own.

CHAIRMAN HODOM: Well I'm sure she could have enjoyed the yard for the summer much more than looking at what's there currently.

MR. WITHKOWSKI: Yeah I guess, that's a point.

CHAIRMAN HODOM: Have you pumped out those foundations at all?

MR. WITHKOWSKI: No. There's only water in two of them.

CHAIRMAN HODOM: Because I was there the other day and it looked liked there was water in every one of them.

MR. WITHKOWSKI: In all of them?

CHAIRMAN HODOM: Yes.

MR. WITHKOWSKI: Well I was there...

CHAIRMAN HODOM: We've only had what, 6-inches of rain in August?

MR. WITHLOWSKI: Well I mean I'll pump them out if there's more. I saw...

CHAIRMAN HODOM: Well I'd be concerned about the deterioration of the sub grade below the foundations. I didn't notice any settlement but the more that water stays in there the more opportunity you have for deterioration. It's just a suggestion.

MR. WITHKOWSKI: Yeah, I mean I'll take care of it. It's not a problem.

CHAIRMAN HODOM: Ms. Caporta, did you have an opportunity to discuss the addition with your neighbors?

MS. CAPORTA: Yes.

CHAIRMAN HODOM: Was there any comments one way or another?

MS. CAPORTA: Of me having an addition? No.

CHAIRMAN HODOM: Any objection to the addition?

MS. CAPORTA: No, no.

CHAIRMAN HODOM: And did you talk to the neighbors on each side of the house, across the street, in the back yard?

MS. CAPORTA: I've talked to them all.

CHAIRMAN HODOM: You have? Okay.

MS. CAPORTA: Many times.

CHAIRMAN HODOM: It appears that you're having another contractor do the finish work, the siding and the interior finishes and so forth.

MS. CAPORTA: No.

MR. WITHKOWSKI: No, I'm going to do the whole thing for her.

MS. CAPORTA: Yeah, I hope.

CHAIRMAN HODOM: Are the architectural features on the plans that I missed? What kind of siding are you going to have?

MR. WITHKOWSKI: I'm going to match the siding on the house; it's vinyl. It's the same color and the roof will be the same color as the roof that's there.

CHAIRMAN HODOM: The shingles will be the same?

MR. WITHKOWSKI: Yeah.

CHAIRMAN HODOM: And any other architectural features, windows, doors, will they

match the house as closely as possible?

MR. WITHKOWSKI: As close as possible, yeah. She has windows in the house are pretty old; they're double hung. I would match them, but they'd be newer obviously.

CHAIRMAN HODOM: What types of utilities do you intend to run into that 3-season room?

MR. WITHKOWSKI: I think just a couple of outlets in the wall.

MS. CAPORTA: Electric. Not heat and not air-conditioning.

MR. WITHKOWSKI: Yeah, just a couple of outlets.

CHAIRMAN HODOM: No heat, no plumbing?

MS. CAPORTA: No.

MR. WITHKOWSKI: No.

CHAIRMAN HODOM: This is strictly going to be uses for a 3-season room by you and your family?

MS. CAPORTA: It's just me.

CHAIRMAN HODOM: You have no intention to rent or lease out the space?

MS. CAPORTA: No sir.

CHAIRMAN HODOM: To anyone outside the family?

MS. CAPORTA: No sir, just me.

CHAIRMAN HODOM: What is your, if the Board were to approve the application, what is your proposed completion date on the project?

MR. WITHKOWSKI: As soon as possible. I would probably – when it was approved I can probably finish it in 3-weeks from the approval – from the actual permit handed to me.

CHAIRMAN HODOM: Okay. Any questions from the Board?

MRS. O'BRIEN: Was there a reason why you constructed it to the size that you have?

MR. WITHKOWSKI: It just went with the plans that Bruce had drawn up.

MR. HOUGHTON: We're matching the existing deck that was there.

MR. WITHKOWSKI: Yeah the deck that was there is the same exact sized.

MR. HOUGHTON: Same dimension.

MR. WITHKOWSKI: Without a roof on it.

MR. WIGGAND: Are you finishing the entire inside of the room also?

MR. WITHKOWSKI: Yes.

MR. WIGGAND: What are you doing on the walls?

MR. WITHKOWSKI: I think we're just going to sheetrock the walls and then she wanted waynes coating, it's a chair rail.

MR. WIGGAND: At that time are you going to be putting some insulation in the walls?

MR. WITHKOWSKI: Yeah, and the ceiling.

MS. CAPORTA: Does the floor get it?

MR. WITHKOWSKI: Yeah.

MR. WIGGAND: And have you deviated any of the sizes here at all? Are they all what's shown on your plans?

MR. WITHKOWSKI: Yeah, everything's exactly the same.

MR. WIGGAND: Nothing has grown at all?

MR. WITHKOWSKI: No.

MR. WIGGAND: Okay. And the location of it is where this plan shows?

MR. WITHKOWSKI: Yup.

MR. WIGGAND: What exactly is this number 3 here? Did you make this plan up?

MR. PLATEL: That's us.

MR. WIGGAND: That's you?

MR. PLATEL: That's Eddie Dominelli I believe.

MR. WIGGAND: Okay.

MS. CAPORTA: How many windows do you show there? It is a little bit different. There's five across the front instead of six.

MR. WIGGAND: You show six of them here. That's why we ask that question to get it on the record. If you're making a change we want it on the record.

MR. WITHKOWSKI: Yeah, I forgot about that okay.

MR. WIGGAND: I was down there today and I didn't pay attention to the side wall...

MS. CAPORTA: Oh and we flipped the steps from one side to the other side.

MR. WITHKOWSKI: Right. She wanted the door on the other side of the house.

MS. CAPORTA: Because the other side had the air-conditioning.

MR. WIGGAND: So the steps that are shown here is not on the right if you're looking at the addition, it's on the left?

MS. CAPORTA: They're on the left.

MR. WITHKOWSKI: Exactly.

MR. BROOKINS: And there's an air-conditioner right about where these steps are.

MS. CAPORTA: Right that's why we flipped them.

MR. WITHKOWSKI: Why we moved them to the other side of the room, yeah.

MR. WIGGAND: Is it too much for you to do to get some kind of revised plan showing within your layout of what your doing.

MR. WITHKOWSKI: For the windows and stuff?

MR. WIGGAND: I'd think it would be a wise thing for us to have. We have over the years experienced some pretty different things built.

MR. WITHKOWSKI: I can imagine.

MR. WIGGAND: And I'm sure you wouldn't want to deal with him.

MR. WITHKOWSKI: He seems all right.

MR. BROOKINS: I'm going to address this to Bob and to Mark. If you were down there I'm sure noticed that the edge of the addition furthest from the house underneath the supports, you sort of miss the center of those things, the metal brackets and the floor joist in the room are sort of at the edge. Did you see that and is that a problem?

MR. WIGGAND: It could be a problem and I'm sure that he would take care of something like that. I did not see that. Did you notice it?

MR. MICELLI: It looked like it was off center because I visited the property also today and it looked like it was more close. You can see it in the photograph.

CHAIRMAN HODOM: Yeah the outside 6 by 6, is that right?

MR. WITHKOWSKI: Yeah.

CHAIRMAN HODOM: They don't set center to the 12-inch column, the 12-inch pier. I think that's what Gil was bringing up. Whether that creates a structural problem – that's really up to the Building Department to make that determination.

MR. WITHKOWSKI: Yeah, I would take care of it if it had to be that. There's quite of bit of bearings still on - - there's quite a bit of 6 by 6 still on the actual footing, more than 90-percent I would think.

MR. WIGGAND: I'm sure you'll take care of that.

MR. WITHKOWSKI: Yeah if I had to I could kick them over and make it center.

MR. WIGGAND: You can almost rest assured we'll be back to take a look at the final.

CHAIRMAN HODOM: There's one final question and I know you said you prepared the documents, but they're under Chris Bovenzi's stamp.

MR. HOUGHTON: Bovenzi is the Architect that I work with.

CHAIRMAN HODOM: Okay. I'm assuming that when he submits this to the Building Department it will have a stamp and seal and his signature on it.

MR. HOUGHTON: Absolutely.

MR. WITHKOWSKI: I think the Building Department all ready has them.

CHAIRMAN HODOM: With a stamp on it?

MS. GUASTELLA: Yes.

CHAIRMAN HODOM: Do you know if Mr. Bovenzi has made a site visit to look at the...

MR. HOUGHTON: That's not part of the project, but I can make site visits primarily on the foundation inspection by the Building Department and then the framing inspection.

CHAIRMAN HODOM: Any other questions from the Board. Are there any questions or comments from the audience? Anyone wishing to speak in favor of the applicant? Anyone desiring to speak in opposition? 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.

Hearing closed 8:30 p.m.

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The next order of business this evening is a public hearing for a Variance under Article XVII, Side Yards, Section 128-73, Required Widths requested by Geraldine Aylward for property at 44 Montrose Drive, Delmar, New York. The Applicant wishes to construct a carport, which will encroach into the Side Yard Setback requirement at the premises of 44 Montrose Drive, Delmar, New York.

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

MR. PLATEL: Yes, Mr. Chairman. The applicant is proposing to construct a 250.08-square foot carport addition on the side of the existing main structure. The proposed carport addition would create a side yard setback of 8.48-feet. This is 1.52-feet shy of the 10-foot that is required.

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

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 at the Town Offices,

445 Delaware Avenue, Delmar, New York on Wednesday August 18, 2004 at 8:00 p.m. to take action on Geraldine Aylward for Variance under Article XVII, Side Yards, Section 128-73, Required Widths of the Code of the Town of Bethlehem for construction of a carport, which will encroach into the side yard setback requirement at premises 44 Montrose Drive, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 11, 2004 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 this evening. Mr. Morgan just introduce yourself and your association with the applicant.

MR. MORGAN: I'm Hal Morgan; I'm Gerry Aylward Morgans Husband and I live at 44 Montrose Drive.

CHAIRMAN HODOM: Just tell us what you'd like to do and how you want to do it.

MR. MORGAN: I was here a year ago and applied for a Variance, but now I took about 30-percent less than what I asked for last year. There's been a couple things that have happened since then. The bad part is it cost me another 50-bucks and the price of building materials have gone up about 40-percent, but something that happened over the winter that I never had before because I never had this problem. I put a side door entrance into my garage last April and not realizing what happens in the wintertime – I came out one night and I practically went down. I held myself up because of black ice the water melted and ran down my gutter along side the present garage and it was nothing but a sheet of glass out there, which I didn't know about. So anytime anybody came to the house, I had to meet them or get salt out there quick to take care of that hazard.

I changed the style. A neighbor of mine applied about 2-months after I did and he was granted his Variance and I'm picking on him as you can see on all the papers I submitted to you. I liked the style of his and he had a hip roof so I changed mine to the same as he has because that eliminates the drainage problem from the present garage so I can extend the gutter all the way across. The hip roof will drain onto the side of the yard with no problems. And another thing, last year I mentioned something about storing wood. Well on the pictures – I sent some pictures in, I had wood for 2-years on the side of the garage but every spring I would have to fix the lawn along side the driveway because that's where I would park and it would be a mess. So I went back to my old way, you can see where I have it stacked in the back of the house and that's where I keep it. It's right outside my back door, that's where I put it for the wintertime and that's where I used to put it.

So the primary purpose for this carport is for a car, a shelter for a car. There's no storage and like Frank his side yard setback I think is 8-foot, 4, and that's what mine

would be. He went 40-foot down the property and I'm only going 24 and I've got my side door, which makes it good when you exit the car to go into the garage into the house. And I've got some measurements in there to on the vehicles.

My wife's vehicle, which would probably be using it the most, mirror to mirror is 80-inches. Mirror to the right side door fully open is 111-inches. I'm asking for 10-foot 5 with a 6 by 6 post in the corner and then siding on the side of the house, which extends 3 ½-inches out from the foundation so I'm losing 5 ½ -inches at that post and 3 ½ -inches on the side which is a total of about 9-inches off of the 10/5. So that would leave me an opening of 9-foot 8-inches, which is 116 and my wife's car is 111. She would have to drive in within 5-inches of that post in order to open the car, which one night I tried. I put a – you have a picture there of a brown barrel, I was in the car when she drove in that way and I got out but I'm like Bob, you know I'm pretty big. In trying to get out a narrow door especially with a bad leg, I had to lift my leg but I could get out. She yelled at me about scratching the door but that's another thing. Then I got out and I guided her in, I said wait a minute let me guide you in I want to see it. So I got in front of her and there's a picture of the car there when I guided her in and the door wouldn't still open because she wasn't going to move over that close no matter what. I don't what else to tell you I think I sent everything in if there's any questions. The only thing I'm changing on that is the pitch I'm going to a 4-foot 4 on 12, instead of 3 on 12.

CHAIRMAN HODOM: Mr. Morgan...

MR. MORGAN: And I've been over to Franks all the while he's been building his and – sort of checking things out to get some ideas.

CHAIRMAN HODOM: Let me just ask you about – there's a discrepancy between your drawing and your letter of July 2nd. In your first paragraph you say that the side yard Variance of 17-inches is...

MR. MORGAN: I was 17-inches.

CHAIRMAN HODOM: Okay, but if you work with your figures, your numerical values on your elevation plan it shows that from the outside face of your 6 by 6 post to the property line is 8-foot 4-inches and that would - - because there's a 10-foot side yard setback requirement, that would indicate that you're encroaching into the side yard by 1-foot 8-inches or 20-inches. Perhaps there was some wrong numbers used from your site plan.

MR. MORGAN: No we used 18,9.

MR. PLATEL: Yeah normally it would be 18,9, which is...

MR. MORGAN: 18,9, oh I used 18-feet, 9-inches, that's what I used.

CHAIRMAN HODOM: Is that what it is, is 18.9?

MR. PLATEL: When you see surveys they're always .9, they don't give you inches. So it could have just been transcribed wrong to 18.9 rather than 18.9, which is actually 18.11.

CHAIRMAN HODOM: Almost 18,11?

MR. PLATEL: And I was using 18.9-feet.

CHAIRMAN HODOM: And I think you came up with 18, correct?

MR. PLATEL: 18-feet, 9-inches and with the...

CHAIRMAN HODOM: I mean your encroaching was 18?

MR. PLATEL: 8.4-something, no 1.52 I think it was, yes a foot and a half, 18-inches.

CHAIRMAN HODOM: So instead of the...

MR. MORGAN: See right now I could go 9-foot, right now with no problem.

CHAIRMAN HODOM: 9-feet to where?

MR. MORGAN: To put a carport. I think that's what he's figuring...

MR. PLATEL: No, but what he was driving at was it's actually 18-inches, not 17 as you proposed.

CHAIRMAN HODOM: Well I mean if you use Mr. Morgan's calculations, the 8-foot 4, it would be 20-inches that he's requesting. And then your letter asks for 17.

MR. MORGAN: Yeah.

CHAIRMAN HODOM: Mark's calculation is 18. I just want to get to one figure here that we're using.

MR. MORGAN: Let's go with 17 then. If I could build my carport without a Variance - - I think I have room for 9-foot, 17-inches on top of that would be 10-foot 5. That's the way I did it.

CHAIRMAN HODOM: I don't have a good site plan that indicates the surveyor's dimensions.

MR. MORAN: The one we had showed 19,1. Mark refigured and he came up with that

18,9. I think I have that.

CHAIRMAN HODOM: Well if we use - - there's 19-foot setback on the one side, the other side of the house where the carport is, okay? That's 19-feet.

MR. MORGAN: Yeah, that's what the thing says. They also said here; they said this was 19 and then the map last year had this as being 19 also.

CHAIRMAN HODOM: I just want to try to work it out mathematically. We've got 19-foot setback on one side and we've got 42.1-feet for the width of the house, so that's...

MR. PLATEL: You would subtract those 2-numbers from 80 gives you 18.9-feet.

CHAIRMAN HODOM: So 61.10 taking away from the 80 – 18.9-feet which is roughly 18-foot 11 versus 18,9 you show.

MR. MORGAN: So you're coming up with more?

CHAIRMAN HODOM: More room for you.

MR. MORGAN: For me yeah more.

CHAIRMAN HODOM: So if you take the 10-foot 5 from that you have 8-foot, 6, which will be instead of your 8-foot 4, it's 8-foot 6. So your actual encroachment is only 18-inches.

MR. MORGAN: Well I'm confused.

CHAIRMAN HODOM: Well we're going to work with 18-inches.

MR. MORGAN: I'm lost.

MR. PLATEL: We picked you up 2-inches.

MR. WIGGAND: You're gaining.

MR. MORGAN: That's why I say I'm going to work with him.

CHAIRMAN HODOM: Hal had you had an opportunity to discuss this with your neighbors?

MR. MORGAN: Oh yeah

CHAIRMAN HODOM: I think we have 1-letter here.

MR. MORGAN: Yeah, he wrote last year and he still feels the same. He's my next-door neighbor. He's the one who says if you want to build it build it all the way to my garage.

CHAIRMAN HODOM: And that's from Mr. Taub.

MR. MORGAN: No, Mr. Taub is another neighbor up the street.

CHAIRMAN HODOM: Okay. Do I have another letter?

MR. MORGAN: He didn't write one this year – my next door, he did last year.

CHAIRMAN HODOM: We've only had one this year from Mr. Taub.

MR. MORGAN: Okay.

CHAIRMAN HODOM: But you spoken with the other neighbors?

MR. MORGAN: Yes.

CHAIRMAN HODOM: And nobody has any objection?

MR. MORGAN: No, in fact some of them are here.

CHAIRMAN HODOM: Good. Any other questions from the Board? Are there any questions or comments from the audience?

MR. TRAVIS: Yes, my name is Scott Travis and I live at 42 Montrose.

CHAIRMAN HODOM: Okay.

MR. TRAVIS: I'm here in support of this as well. I would much rather here hammering for a short time than to hear Geraldine yelling every time she dings the doors because it's a couple inches too small for her.

CHAIRMAN HODOM: Thank you Mr. Travis, anyone else?

MR. BONAFIDE: My name is Frank Bonafide, 7 Shetland Drive. You folks were good enough to issue me a Variance last year for the very same thing and I can tell you that 10-foot for carports - - still I still say it isn't enough but I did it anyway. I've got nothing but good reviews and I don't know if you folks saw while you were out looking around but everybody seems to be very pleased with it. So I don't see it as being an issue with the neighborhood at all. I think it will be very helpful for Hal to have it.

CHAIRMAN HODOM: Thank you. Anyone else? Anyone wishing to speak in favor of the Applicant other than those who have already done? Anyone desiring to speak in

opposition? Hearing no further questions or comments we'll declare the hearing closed and notify you in a timely manner Mr. Morgan. Thank you.

MR. MORGAN: Thank you.

Hearing closed 8:50 p.m.

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The next order of business was a discussion of the previous public hearing held in the matter of Frank and Wendy Mancini, 94 Trinity Place, Selkirk, New York for Variance under Article XVI, Front Yards, Section 128-71, Accessory Structures for the construction of a storage shed which will encroach into the front yard setback requirement. The following points were brought up by the Board members: The existing pool can be moved to another location so the proposed storage shed will be able to meet the 70-foot setback requirement. On a motion made by Mr. Wiggand, seconded by Mr. Micelli, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution denying the Variance, for presentation at the next Board meeting on September 1, 2004.

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The next order of business was a discussion of the previous public hearing held in the matter of CVS (applicant), Mullen Capital (owner) for Variance under Article VI, Permitted uses, Section 128-17 (D), Accessory Business Signs for the construction of an Electronic Message Board, which will exceed the allowable square footage at the premises 256 Delaware Avenue, Delmar, New York. The following points were brought up by the Board members: The corner where the proposed new sign and electronic message board would be placed is a very busy intersection and it would be a distraction to oncoming motorist. There is an elementary school across the street where children have to cross. Many accidents have occurred at that intersection. On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution denying Variance, for presentation at the next Board meeting on September 1, 2004.

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The next order of business was a motion made by Mrs. O'Brien, seconded by Mr. Wiggand and unanimously carried by the Board to go into Executive Session at 9:25 p.m.

No action was taken in Executive Session.

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On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, and unanimously carried by the Board, the minutes of the August 4, 2004, meeting were approved as amended.

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

Meeting Adjourned: 9:40 p.m.

Respectfully submitted,

Secretary