

**TOWN OF BETHLEHEM  
BOARD OF APPEALS  
August 20, 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  
Marjory O'Brien

Patrick Seely Attorney to the Board

Kevin Shea Building Inspector

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 128-49, Total Building Area and Section 128-55, Accessory Structures requested by David Lawrence for property at 4 Magee Drive, Glenmont, New York. The Applicant wishes to construct a detached garage, which will exceed the total building area and also exceed the lot occupancy for accessory structures at the premises of 4 Magee Drive.

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

MR. SHEA: Yes, Mr. Chairman. The Applicant is seeking an Area Variance from Article XII, Percent of Lot Occupancy, Section 128-49, Total Building Area and Section 128-55, Accessory Buildings

The Applicant is proposing to demolish the existing 446.88 square foot detached garage and construct a new 624 square foot detached garage in the same location. The total lot occupancy will be 20.39 percent, which is .39 percent over the 20 percent allowed and the accessory lot occupancy will be 7.31 percent, which is 2.31 percent over the 5 percent allowed.

The existing structure is located in an "A" Residence Zone and is occupied as a pre-existing nonconforming 2-family dwelling.

CHAIRMAN HODOM: Thank you, Kevin. 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 20, 2003 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of 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 of the Code of the Town of Bethlehem for construction of a detached garage, which will exceed the total building area and also exceed the lot occupancy for accessory structures at the premises of 4 Magee Drive, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 13, 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 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. Lawrence if you would just introduce yourself to us and tell us what you want to do and tell us what you want to do and why you want to do it and how you want to do it.

MR. LAWRENCE: Hi, my name is David Lawrence; I live at 4 Magee Drive. Presently I have a garage structure there that I would to re-do and make it a little bit bigger. A 24 by 26 size that would give me some added storage for myself and my tenant, and beautify the property a little bit.

CHAIRMAN HODOM: Is it that you're going to redo it or you're going to demolish it and rebuild it?

MR. LAWRENCE: The plan I have is to take it down and rebuild a new garage.

CHAIRMAN HODOM: In the same area that's...

MR LAWRENCE: Basically the same location, its just going a little bit east ward to increase the size that I'm asking the Variance for.

MR. LEWIS: Going a little to the rear to, is it not?

MR. LAWRENCE: Yeah, about a foot and a half.

MR. LEWIS: Are you going to take down that structure that's behind the garage? The little...

MR. LAWRENCE: There's a box back there.

MR. LEWIS: Box there.

MR. LAWRENCE: Yeah, I think that's almost ready to fall down.

MR. LEWIS: I was going to say a good gust of wind along with that.

CHAIRMAN HODOM: You're basically changing the existing 2-car garage, which currently is approximately 20-feet by 23-feet, increasing it to 26-feet by 24-feet. What do you plan on storing in the garage?

MR. LAWRENCE: Lawnmowers - - you know the lawnmower, the snow blower, different things you need around the property, shovels and things like that. Normal stuff that would be in the garage, nothing extraordinary or anything like that. We just presently have 2-cars in the garage and there's very little room to put anything in there.

CHAIRMAN HODOM: The car that's currently in there, is that an antique car?

MR. LAWRENCE: Yes, well I just sold one as a matter of fact last week, but I had two antique cars so you know I would like to keep them covered out of the elements and stuff like that. And it would just add a little bit of more space for you know suitcases and such in the garage area.

MR. LEWIS: Besides the antique cars, you have two antique cars?

MR. LAWRENCE: Now I have one, I sold one last week.

MR. LEWIS: You have one. There was a Cadillac and a GMC truck, are...

MR. LAWRENCE: They're both mine. And also my tenant, I want to add a new driveway, a parking area. Presently the tenant has to use Alteries Parking lot, which he graciously lets us park our car there. But when I put the new structure over I'll have a new driving pad. I've been in touch with the Town Highway Department about that already.

CHAIRMAN HODOM: Is it wider than the existing driveway that you have there currently?

MR. LAWRENCE: Yes. It'll be a little bit wider than that.

CHAIRMAN HODOM: Will it be the width of the proposed garage?

MR. LAWRENCE: Yes, and a little bit extra for additional parking space but it won't be like in the garage.

CHAIRMAN HODOM: The paved area would be how wide?

MR. LAWRENCE: It's going to be increased by the - - the present driveway will be redone and then one similar size to that next to it. You know it'll be just one area so that 3-cars can park in there.

CHAIRMAN HODOM: Okay. Tell us a little bit about the architecture of your new garage. Will it match the siding of the home?

MR. LAWRENCE: I plan on using the vinyl siding that would be the 8-inch vinyl siding to match the house. It'll be a new garage package, you know that Curtis Lumber has or whatever, and would look basically the same - it would match the house, there wouldn't be any great difference.

CHAIRMAN HODOM: It would be white like the house is?

MR. LAWRENCE: White like the house, yes.

CHAIRMAN HODOM: It'll have 2-overhead doors?

MR. LAWRENCE: I'm thinking on just one door, Mr. Hodom, the 16 by 7-foot door.

CHAIRMAN HODOM: Are there any utilities being run to the garage?

MR. LAWRENCE: Presently there's just an electric line for a light inside and it's...

CHAIRMAN HODOM: And you don't plan to expand on that at all?

MR. LAWRENCE: No, it's not going to be a working garage or anything; it's just the parking and storage space.

CHAIRMAN HODOM: You don't do any repair work or detailing or any of that?

MR. LAWRENCE: I used to, I don't do it any more. That's why I'm kind of investing myself in my antiques - - my antiques cars and that.

CHAIRMAN HODOM: You're intent for this is not to do any of that?

MR. LAWRENCE: Is not to do anything, no.

CHAIRMAN HODOM: What is your construction program if the Board were to approve your application? When would you start? How much time would you need?

MR. LAWRENCE: Well I talked with the Building Inspector and I was calling around trying to get contractors to build and everything, and I'm finding that it's a long waiting list to get on there. And the Building Inspector suggested to me 1-2 year - - you know ask for a 1-2 year time limit and then you should be able to cover it in that time. I've called numerous construction firms and that and you know their waiting list is into next year, the couple that I called. So...

CHAIRMAN HODOM: Have you had an opportunity to discuss this proposed change with your neighbors or Alteries?

MR. LAWRENCE: I talked to Harvey over at Alteries and he didn't have any objections to it at all. I think it would enhance the neighborhood. Taking the garage that's it's there and putting a new one up, it would just make, I feel it would make the property look a lot nicer for our Town.

CHAIRMAN HODOM: How about the homeowners on the right? I don't know what number that would be, but you're the first house on this street so the next house.

MR. LAWRENCE: I'm a midnight worker so when these folks are up, I'm in bed. And when I come home, they're all at work so I don't see very much of them at all as to - - I don't even know their names to be honest with you. The first name of the lady next door is all I know, I don't even know her last name - just in passing over the, you know over the fence saying hello or something like that has been the extent of that. But I did talk to Alteries - Harvey at Alteries, the owner.

CHAIRMAN HODOM: How long have you owned the property?

MR. LAWRENCE: I purchased the property March of last year.

CHAIRMAN HODOM: Are there any other improvements that you're proposing to do that may not be shown on this site plan?

MR. LAWRENCE: Other than the new garage and the added driveway space, that was the only thing that I had planned.

CHAIRMAN HODOM: This is a one-story building?

MR. LAWRENCE: Yes.

CHAIRMAN HODOM: Strictly for the storage of vehicles and/or miscellaneous equipment that you would use around the premises?

MR. LAWRENCE: Right. Snow blower, hoses, you know things that you - -

CHAIRMAN HODOM: Okay. Other questions from the Board?

MR. WIGGAND: I have a couple of things. This plan that Curtis puts out has a general information plan on what you're going to – or what can be built of what they suggest. Now you know that if you go over 400-square feet you have to put a foundation under that garage?

MR. LAWRENCE: Right.

MR. WIGGAND: That was told to you?

MR. LAWRENCE: Yes.

MR. WIGGAND: A lot of people are getting confused with that because this garage you're building is over the 400-square feet so you've got to put a block foundation or a poured foundation under it, not an Alaskan slab.

MR. LAWRENCE: Right.

MR. WIGGAND: We've run into that before with people that didn't realize that. You say that you're going to put in one 16 by 7-foot door in?

MR. LAWRENCE: That's what my plan is, yeah.

MR. WIGGAND: Now, you're not going to use the garage for your own car, am I taking that wrong or is it just for your storage and your hobbies?

MR. LAWRENCE: Well, it's to keep the hobbies out of the weather and the elements and you know another car will fitting in there that would be fine. You know I'm not looking to put 4-bays in that, just enough to have a covered area for a car like the antique cars. Once that moves out then my car then obviously we would park inside the garage.

MR. WIGGAND: Is that Cadillac your car?

MR. LAWRENCE: Yeah, I just got that.

MR. WIGGAND: That's a pretty nice car. You also mentioned earlier about, what are you going to do – add to your driveway, does it wing off the...

MR. LAWRENCE: Yes, just to add parking space so the tenant has a place to park. Like I said presently she's parking over at Alteries, and that's why I asked Harvey about it. He's been gracious enough to let us park the car over there.

MR. WIGGAND: As we look at your driveway from Magee Road, you'll be widening it out on the left side of it?

MR. LAWRENCE: In front of the mailbox.

MR. WIGGAND: To receive another car?

MR. LAWRENCE: Right.

MR. WIGGAND: Okay.

ATTORNEY SEELY: Kevin, this – the existing garage is slightly larger currently; it's slightly larger than allowed. Is that correct, if I'm reading the write-up correctly? What's permitted is 426-square feet and we've already got 446 on there.

MR. SHEA: I'd have to do the math, no. Mark did the figures here, Karen do you have that?

MS. GUASTELLA: I think it's on the survey, which is up there.

ATTORNEY SEELY: Sorry Kevin I wasn't trying to put you on the spot.

MR. SHEA: No, if you would just let me figure it out quickly.

ATTORNEY SEELY: But that's okay. The worksheet, if I'm reading this right on the right hand side gives what the allowed is.

MR. SHEA: If I can look at that I can...

ATTORNEY SEELY: Oh yeah, sure. I thought you had a copy, my fault.

MR. SHEA: Yes, I would say that at that time – we're in "A" zone, okay. The existing garage is 446, correct?

ATTORNEY SEELY: Yes.

MR. SHEA: The 5 percent would have been 426, maybe 20-square feet over.

ATTORNEY SEELY: So it's slightly over as it exists.

MR. SHEA: Yes. Did anybody do an addition, an overhang – I'm not sure. I didn't go out and see it. You know 20-square feet; 4 by 4 or ...

CHAIRMAN HODOM: 4 by 5.

MR. SHEA: 4 by 5.

MR. WIGGAND: You wouldn't exceed 18-inches...

MR. SHEA: Well, there again let me see the picture of the overhangs. If that's taken into consideration, he could be credited the 18-inches, so it maybe a mute point. And let me

see the garage, being the vintage of that garage.

CHAIRMAN HODOM: It would be 16 or so.

MR. SHEA: It wasn't built in the 50's.

ATTORNEY SEELY: Sure. I merely wanted to establish that we had already a pre-existing garage that was a little bit over the accessory occupancy.

CHAIRMAN HODOM: Any other questions from the Board?

MR. BROOKINS: We're kind of overdosing on the driveway, and I just want to make sure I understand. Currently the driveway is just shy of 20-feet.

MR. LAWRENCE: Right.

MR. BROOKINS: And you want to double that? You're going to add another 20-feet to this, is that what I understand?

MR. LAWRENCE: Along side of it.

MR. BROOKINS: This way?

MR. LAWRENCE: Yes.

MR. BROOKINS: This way?

MR. LAWRENCE: No, the other side.

MR. BROOKINS: Towards the back?

MR. LAWRENCE: Yes.

MR. BROOKINS: Okay. But when you extend it, it's going to be the equivalent of like 4-parking spaces? Is that what your intention is?

MR. LAWRENCE: I don't know. I talked to – I think it's Howard down at the Highway Department; they have to come in and put a new pipe in there for drainage and everything. Presently, it's stopped up now and I'm getting water on my property. So it was his suggestion that we put the additional parking area on this side. I haven't drawn any plans out or anything like that. It was just that it would be easier to do that drainage problem that we're having with the ditch. Basically, I'm just looking to add like a parking place there, I don't want the whole yard blacktopped.

MR. BROOKINS: Okay.

CHAIRMAN HODOM: Is the reason for that is because the tenant doesn't share the use of the garage?

MR. LAWRENCE: Presently now, she doesn't even share the use of the property because there's no place - - you know she can park on the grass and that's why we're going to put the blacktop in so that she has a place to park.

CHAIRMAN HODOM: So if you went the 26-foot and then say another 8-foot; 34-feet. Will that be adequate?

MR. LAWRENCE: That would probably be adequate I would think.

CHAIRMAN HODOM: Okay. That would give you a...

MR. LAWRENCE: An additional parking space and...

CHAIRMAN HODOM: But it would be 6-foot less than the - - doubling it, but I think the less asphalt you have there, the more aesthetically pleasing it is.

MR. LAWRENCE: Right. I don't want to make it a parking lot.

MR. SHEA: He's required to have four.

CHAIRMAN HODOM: Four what?

MR. SHEA: Parking spots.

ATTORNEY SEELY: Because it's 2-family?

MR. SHEA: 2-family, yes.

CHAIRMAN HODOM: Well if you take 4 times...

MR. SHEA: Two out of the garage is fine, but then he's got to provide two other spaces somewhere.

MRS. O'BRIEN: But there are in front of the garage.

MR. SHEA: No, no stack parking.

CHAIRMAN HODOM: What is our requirement, 8-foot or 9-foot?

MR. SHEA: 9-foot, 9 by 20.

CHAIRMAN HODOM: He can go 36-feet then.

MR. SHEA: In other words, if he were to build that today they would look at it to say, okay 2-family, he's required 4-parking spots. A minimum of 9 by 20; no stack parking.

CHAIRMAN HODOM: Okay. But are you saying that he needs 36-feet in width to accommodate the 2-family home? I mean you have the garage itself.

MR. SHEA: You have the garage itself. The thing is, in other words that he can't really count in front of the garage because you got to have some type – what the zoning says; maneuverability. But he can have some stacking in the driveway area or whatever, all he would have to provide is an area for 9 by 20, which is 180-square feet of parking. Whatever he can do to - - there again, he has to provide that area, does it have to be blacktopped; no. The Town does not require blacktop.

MRS. O'BRIEN: So the question is, is 8-feet beyond the 26 which would be the width of the garage, is that adequate for - - if the garage is going to be 26-feet, it'll extend the black top at least that far and then go 8-feet beyond that?

MR. WIGGAND: Well when I asked him the question before, you wanted to put it - - I asked you would it be on the right side of your...

MR. LEWIS: It would be towards the house, wouldn't it?

MR. LAWRENCE: No, it would be on the other side.

MR. LEWIS: The other side?

MR. SHEA: So he has 40-feet there to play with.

MR. LEWIS: The east side?

MR. LAWRENCE: Yes.

MR. SHEA: I mean he has the space to do it, okay, does he have to blacktop it; no. It's more of a space matter than it is anything else and I would say he has enough. Because don't forget two of the parking spots that would count or give him credit would be the garage, okay, and he would just have to provide two outside parking spots which would be 18-feet by 20-feet, so that should suffice.

CHAIRMAN HODOM: So basically we're looking at something that's 36-feet wide, okay.

ATTORNEY SEELY: You've been to the Town Highway Department, you've told us. Does the Town Highway Department have to sign off on the widening of a driveway – not at all?

MR. SHEA: Residents in this situation, if there's a ditch or gully they require

lengthening of the pipe. Usually if it's in the Town right of way, the Town will do that, because that's their property.

MR. LAWRENCE: There's also a basin at the end on the corner of the property where this water drains to.

CHAIRMAN HODOM: Catch basin?

MR. LAWRENCE: Yes, but it's not getting there because of – over time, you know dirt fills in and things like that.

MR. SHEA: Is there a culvert pipe there now?

MR. LAWRENCE: It's a ditch.

MR. SHEA: It's just a ditch?

MR. LAWRENCE: There's a culvert pipe underneath the driveway.

MR. SHEA: Okay. Because I know on the opposite, they're very deep ditches that the culvert pipes had to go through. The Town doesn't always pick up the extent of that either.

MR. LAWRENCE: Well I talked - - like I said, I talked with Howard, Howard said that would be the real easy fix for the Town and me, you know he said we'll drop 2-pieces of pipe in there and you know the water problem will go down because like I said, presently Alterie's is pitched down to the road and the road is pitched down on my property so when it rains it fills up.

CHAIRMAN HODOM: It backs up pretty good?

MR. LAWRENCE: Yup.

CHAIRMAN HODOM: I think the Board would just - - if they were to approve the application, would like to minimize the quantity of asphalt paving you have in the front and it looks like you're entitled to have up to 36-feet for the total width for your ownership and your tenants ownership. Any other questions from the Board? 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 and we'll notify you in a timely manner.

MR. LAWRENCE: Thank you very much for your time.

CHAIRMAN HODOM: Thank you Mr. Lawrence.

Hearing closed 7:55 p.m.

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The next order of business this evening is a public hearing for a Special Exception under Article VI, Permitted Uses, Section 128-17 C (3), CC Retail Commercial District requested by USA Mart Inc., the applicant; Amna Enterprises, Inc., the owner for property at 414 Route 9W, Glenmont, New York. The Applicant wishes to alter an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises of 414 Route 9W, Glenmont.

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

MR. SHEA: Yes, Mr. Chairman. The Applicant is seeking a modification to a previously granted Special Exception under Article VI, Permitted Uses, CC Retail Commercial District, Section 128-17 C (3), Gasoline Station.

The Applicant is proposing to renovate the existing 2-bay service area of the building and turn it into retail sales area. Under the existing Special Exception the Applicant is confined to the sale of individually packaged items and other listed items for an "other motor fuel station" as stated in Article I, 128-1, Definitions and Usage.

The existing structure is located in a CC Retail Commercial District and is occupied as an other motor fuel station.

CHAIRMAN HODOM: Thank you, Kevin. 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 August 20, 2003 at 7:45 p.m. at the Town offices 445 Delaware Avenue, Delmar, New York to take action on application of USA Mart, Applicant, Amna Enterprises Inc., Owner for Special Exception under Article VI, Permitted Uses, Section 128-17, C (3), CC Retail Commercial District of the Code of the Town of Bethlehem for an alteration to an existing structure to allow the sale of items not listed under the previously granted Special Exception at the premises of 414 Route 9W, Glenmont, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the August 13, 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 of the Applicant and anyone desiring to speak on opposition. Anyone desiring will be allowed to do so, we just ask that you come stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board. Is there a representative of USA Mart, Inc. here?

MR. SKENDER: Yes, I'm Kenny.

CHAIRMAN HODOM: And your name is?

MR. SKENDER: Skender, Kenny's Construction. My name's S-K-E-N-D-E-R, middle name Kenny.

CHAIRMAN HODOM: Kenny?

MR. SKENDER: Yeah.

CHAIRMAN HODOM: Kenny Skender?

MR. SKENDER: Yeah.

CHAIRMAN HODOM: Okay. And your association with USA Mart is what Kenny?

MR. SKENDER: I'm the contractor if the Board allows us to do renovations. I'm the contractor who's gonna do the job. I do the renovation.

CHAIRMAN HODOM: Are you with USA Mart Incorporated?

MR. SKENDER: No, I'm separate but I did application for permit.

CHAIRMAN HODOM: Okay. I'm just wondering if there's - - who the gentleman is who signed this letter from USA Mart, Inc.

MR. OZBAY: That's me.

CHAIRMAN HODOM: And your name is?

MR. OZBAY: Yalcin, Y-A-L-C-I-N; last name O-Z-B-A-Y.

CHAIRMAN HODOM: So you're...

MR. LEWIS: What are you to USA Mart? Are you USA Mart?

MR. OZBAY: I'm USA Mart.

MR. SKENDER: Owner.

CHAIRMAN HODOM: Okay. So it's Yalcin Ozbay?

MR. OZBAY: Yes.

CHAIRMAN HODOM: And Amna Enterprises is authorized to Yelcin Ozbay to convert and change his business from mechanic to a convenience store and get permission from the Town of Bethlehem and per all other laws. All changes and amendments will be part of that property located at Route 9W, Feura Bush Road, Glenmont. This was submitted by Muhammad Akhtar?

MR. OZBAY: He owns the property.

CHAIRMAN HODOM: Okay. He owns the property.

MR. BROOKINS: Is that you?

MR. AKHTAR: Yes.

CHAIRMAN HODOM: This is Amna Enterprises?

MR. AKHTAR: Yes sir.

CHAIRMAN HODOM: Mr. Akhtar, am I saying that correctly?

MR. AKHTAR: Yup.

CHAIRMAN HODOM: Okay. You're the owner...

MR. AKHTAR: Right.

CHAIRMAN HODOM: And USA Mart, Inc. is the Applicant, and you're currently operating the business?

MR. AKHTAR: Right.

CHAIRMAN HODOM: You're giving authority to USA Mart Inc. to act on your behalf?

MR. AKHTAR: He lease that property from me, so he is running business right now and he wants to convert there the garage into a convenience store.

CHAIRMAN HODOM: Okay, and you agree with that?

MR. AKHTAR: Yeah, right.

CHAIRMAN HODOM: Okay.

MR. AKHTAR: Yeah, I'm giving him permission so that he can do that.

CHAIRMAN HODOM: Fine. The last time we met a couple of years there was some confusion as to who had authority to do what and to whom.

MR. AKHTAR: Yeah, that was Sunoco, they wanted to do some canopy improvements.

CHAIRMAN HODOM: So everybody's in agreement –

MR. AKHTAR: Yeah, right.

CHAIRMAN HODOM: The owner, and the lessee?

MR. AKHTAR: Right.

MR. LEWIS: And the contractor.

MR. AKHTAR: Right.

CHAIRMAN HODOM: And Kenny here.

MR. SKENDER: Everybody agree on that.

CHAIRMAN HODOM: And who's going to be your spokesman? Tell us what you want to do and how you want to do it and why you want to do it?

MR. OZBAY: He knows better than me.

CHAIRMAN HODOM: Why don't you tell us what you want to do, how you want to do it and why you want to do it.

MR. SKENDER: We going to do - - the existing building is gonna stay same, there's not going to be changes, and outside walls. And we gonna do renovation inside, we gonna remove previous business what was a service. We gonna remove that service and do the renovation with no outside changes. It's not gonna be any outside wall being removed except the front where their service door right now; there's gonna be windows in it and entrance door; big windows. And finish with the bricks, same brick with this existing building has right now. The reason why we do – it's knowledge of the customers asking for the items when they shop for the gas they asking for some items what they needed and we're not able to sell it at this time until we do the renovation. So we needed that permission to get better service to the customers and everybody else.

MR. LEWIS: What is going to happen to the existing area where money is now being taken and goods are being sold; cigarettes, gum, newspapers, soft drinks – what are you going to with that area?

MR. SKENDER: That area is going to be completely remodeled like - - I don't how many people are familiar with that building right now, we gonna make a like a regular store; convenience store inside.

MR. LEWIS: Now you're talking about that area outside the present area where you're selling this stuff. You're going into the area where the bay is.

MR. SKENDER: We going remove to the bay area.

MR. LEWIS: And what are you going to do with the - - when you take all this stuff out and move into the bay area, what are you going to do with that section of the building?

MR. SKENDER: We'll probably have using like a storage room.

MR. LEWIS: That's going to be gone. The bay area is now being use primarily for storage.

MR. SKENDER: Primarily for storage.

MR. LEWIS: And you're going to use what is now the selling area for the storage area?

MR. SKENDER: It'll be storage.

MR. LEWIS: So you're going to flip-flop them?

MR. SKENDER: Just flip-flop.

MR. LEWIS: So what is there that you don't sell now that you want to sell?

MR. SKENDER: We wanted more like items that - - and then start with the people want to have it like all pre-packaged food. Like for in the morning people want to have a donut so they want this pre-packaged stuff and more items, mostly food.

MR. LEWIS: You also want to sell alcoholic beverages, beer...

MR. SKENDER: Yes.

MR. LEWIS: Beer and ...

MR. SKENDER: Beer, soda...

MR. LEWIS: You mentioned wine coolers and you're - - are wine coolers permitted?

MR. BROOKINS: It's the same as a beer license.

MR. LEWIS: It's the same as beer, okay. And you'd have to permission from the State Liquor Authority; the State Liquor Authority would have to approve the sale of beer, wine coolers and whatever else is allowable.

MR. SKENDER: That's correct.

MR. LEWIS: Have you approached the SLA on this at all?

MR. SKENDER: Not really, cause we needed permission for remodeling so, then...

MR. LEWIS: But you haven't checked with them to see?

MR. SKENDER: No, because we were waiting for this night to be discussed and when we get a permission and we do renovation, usually Liquor Authority asking for the pictures of the place, of the coolers and everything – storage for it. So all those pictures of the remodeling; they going to go to the Liquor Authority for their records.

MR. LEWIS: So you need our permission so you can tell the State Liquor Authority how you're going to set this up.

MR. SKENDER: Yes.

MR. BROOKINS: Does USA Mart, and I guess this goes back to you – do you have any other similar kinds of facilities in the Capitol District?

MR. AKHTAR: Yeah, we have 4- 6-7; 7.

MR. BROOKINS: Anything in the Town of Bethlehem?

MR. OZBAY: No, we have Clifton Park, Troy, Ballston Spa, two in Grand Falls, Schenectady, and Glenville Route 20.

MR. BROOKINS: No, 50?

MR. OZBAY: Route 20.

MR. BROOKINS: No, Glenville.

MRS. O'BRIEN: Schenectady he said.

MR. OZBAY: Guilderland, I'm sorry.

MR. BROOKINS: Yeah, okay. Route 20 doesn't go through Glenville. Have you changed those other facilities to this format, are they similar to the format that you're proposing here in terms of convenience?

MR. OZBAY: Yes. (Inaudible)

MRS. O'BRIEN: Do you currently provide any automotive service in the service bays?

MR. OZBAY: No, it is closed right now.

MR. SKENDER: It's closed right now.

MRS. O'BRIEN: Okay, and how long has it been closed?

MR. OZBAY: A year.

MR. AKHTAR: More than a year.

MR. SKENDER: Yeah, more than a year.

CHAIRMAN HODOM: Excuse me just a minute, why don't you both move up closer to the microphone, we're having difficulty picking it up. And if you would just identify yourself when you're speaking, the record will be clearer. Go ahead Marge.

MRS. O'BRIEN: I was just asking if the service bays were in use and they said no, they haven't been for over a year.

MR. OZBAY: We're going to sell milk, beer; it's a small place that's we're going to put the big one so we have just Pepsi and Coke. We don't have the other stuff cause I don't have any room. I mean people wants for Snapple, people wants for milk, we have many people to give it to, you know what I'm saying. It's no good.

CHAIRMAN HODOM: Have you had an opportunity to look at the resolution that was passed previously authorizing a Special Exception for this location and what was allowed then and what you're asking to deviate from currently? Has anyone looked at this previous approval?

MR. SKENDER: Yeah.

CHAIRMAN HODOM: What I'd like you to do is tell me or tell the Board what you're planning on changing that differs from the previous approved resolution. I would like to know what you intend to change from the previously granted resolution to what you're currently asking for. What change are you asking for that you made in this previous resolution?

MR. SKENDER: Only the change that we ask for now is to - - there is not going to be any more other service, we're not going to provide any more service - vehicle service and we're going to the retail store.

CHAIRMAN HODOM: But you're not going to do any minor repair or normal maintenance service?

MR. SKENDER: No, not any more. We just change - - it will be not more and...

CHAIRMAN HODOM: And previously the petitioner was that the auxiliary services

were limited to vending machines, dispensing candy, non-alcoholic beverages, cigarettes, public telephone booth, so forth and so on. You want to expand on that area considerably.

MR. SKENDER: Yes, we do.

MR. LEWIS: Well, it's already been expanded on.

MRS. O'BRIEN: What are your current hours of operation?

MR. OZBAY: 6:00 – 12:00; 6, 12.

MRS. O'BRIEN: 6 a.m. to 12 midnight?

MR. OZBAY: 6 a.m. to 12 p.m.; yeah.

ATTORNEY SEELY: Is that what you intend to have if the Board was to approve this, 6 to 12, 7-days a week?

MR. OZBAY: 7-days a week.

MR. WIGGAND: Well according to the resolution that you're reading now, it's supposed to be closed at 11:00.

MR. SHEA: You've got to be careful with that unless they're in for a modification of that. I mean I can understand a modification to the convenience store, because it says you will do service replacement of parts, which has been ceased. That's one of the reasons they're in here because that service part of it which was part of the resolution has ceased. So therefore they're in really for the convenient end of it, but everything I would say unless they're in here asking to change the hours and lighting and stuff like that, my understanding is that you're asking to go in to a convenient mart with a motor sale with no service.

My understanding was they weren't asking for anything else, time change, location, lights or anything like that. So that should be specifically spelled out, if you want that now or forever hold your peace. You had better tell them now because what's going to happen is this resolution stays the same; it's a modification to this resolution that you're going to get. In other words, if that's what they decide to do, my understanding if you decided would be removing of the service, repairs and parts, okay and go into basically a convenient type station. My understanding was there was no change in time, operation of service, which I've been down there a couple times just to make sure the lights were not on and few other things. So if they want that Mike...

CHAIRMAN HODOM: I guess what I'm going to ask would be concession from the rest of the Board is that rather than us asking you how you're going to differ from this resolution, I'm going to ask you to put in writing to this Board – we'll adjourn the hearing and you put in writing to the Board what your intentions are on how you plan to deviate from the past resolution, item by item okay, so that everybody's clear, I mean if

you want to increase the hours or change the hours, you have to tell us that. If you want to change the non-alcoholic restrictions, tell us that.

MR. OZBAY: Lighting, signs...

CHAIRMAN HODOM: Lighting, anything that is restricted in this resolution or defines specifically, I would like you to address those items, okay. That not only helps you but it certainly helps the Board make a better decision.

MR. LEWIS: Mike, one question I have is seeing that the area that is the Applicants wish to turn into a mini-mart was previously used for a service area. Is there any kind of testing that has to be done before they can do that to make sure that such things as motor oil, gasoline, break fluid, anti-freeze isn't in that floor area – hasn't seeped down into the floor area and thus created a potential danger.

MR. AKHTAR: No, it was done before. Environmentally it was tested and tested and they did not find anything.

MR. LEWIS: Do you have a copy of your findings?

MR. AKHTAR: Yes, sir.

CHAIRMAN HODOM: Okay, perhaps you can submit that with the other data.

MR. AKHTAR: Oh, okay cause when I bought Sunoco gas station, okay and environmentally it was all right.

MR. LEWIS: How long ago was this?

MR. AKHTAR: It was when I bought – 99.

CHAIRMAN HODOM: 1999.

MR. LEWIS: 1999?

MR. AKHTAR: Yeah, after that we were not running a service station.

MR. LEWIS: You mean a service area?

MR. AKHTAR: Yeah right.

MR. LEWIS: Okay. Would you include that with the material?

MR. AKHTAR: Yeah sure I can give you some of my copy of that.

CHAIRMAN HODOM: Please, we would appreciate that.

MR. AKHTAR: Okay.

ATTORNEY SEELY: Dick, I understand your question, but to also perhaps be invoking D.E.C. as far as what requirements they might have when someone wraps up this kind of operation.

MR. AKHTAR: Yeah, I have that copy too.

ATTORNEY SEELY: You have something from the Department of Environmental Conservation?

MR. AKHTAR: Yeah, from D.E.C., I have a copy too.

ATTORNEY SEELY: Whenever you have associative environmental issues, if you could provide that, whether it's D.E.C. or a phase 1 report or whatever...

MR. AKHTAR: And then we have for tanks, both are inside store – tank monitor and then they gonna give for every single - - for report; there's leaking – no leaking.

ATTORNEY SEELY: I don't think we want to know that right now.

MR. AKHTAR: You are looking for to - - that there's not any contamination, you know. Because I was tested and D.E.C. was agreed so I have that letter and copy of that.

ATTORNEY SEELY: Okay, good. Whatever you have on that issue.

MR. AKHTAR: Yeah, I have letter on that so I can provide you that.

ATTORNEY SEELY: Okay.

MRS. O'BRIEN: But does that specifically clear you to use that same area for the sale of food? It may be different from, you know you got cleared that environmentally it's okay, but you were only using it for storage. Will D.E.C. now say that it is okay to use that area for the sale of food?

ATTORNEY SEELY: It's actually part of the health department that has to weigh in on that one I would assume.

MRS. O'BRIEN: Somebody has to look at it.

MR. AKHTAR: Yeah, they do not have any objection on that.

MR. LEWIS: Did they say that? They did?

CHAIRMAN HODOM: Well I think perhaps the report that you have may show that.

MR. AKHTAR: Yeah, I can show you that. I can provide you with copy of that.

MR. SKENDER: (inaudible)

CHAIRMAN HODOM: Mr. Skender, if in fact Mr. Akhtar has had the D.E.C. in there to investigate, or the County Health Department to investigate, there has been generated some kind of paper work that would show that everything is acceptable. And if the Board were to finally approve your application, it would be a condition that all State, Federal, Local and County codes and requirements be maintained. If you have the documentation, that certainly is helpful to the Board.

MR. AKHTAR: Maybe I can bring it right now, let me check in my car if you want.

CHAIRMAN HODOM: The other thing is that you had a letter from – maybe it was you, from USA Mart that says that we’re planning to add more products to sell in our store according to our customers needs. These products briefly include – well I’d like a list of what you intend to sell there, a more specific list expanded other than – “briefly” covers a lot of areas.

MR. LEWIS: Yeah, and then broken down.

CHAIRMAN HODOM: List it individually. And again, it services your interest as well as the Boards interest. If there’s some gray areas and we have questions, it’s very difficult to come up with an affirmative decision.

ATTORNEY SEELY: I would also ask that you completely fill out the SEQRA form here, for instance on one of the questions on the front here it asks does any aspect have a currently valid or approval it says no, but you don’t need to list it but it asks whether or not you’re going to need any other approvals. Yes, certainly you’re going to need a bunch of them. Please list those and on the back there’s a series of questions that need to be answered and I want to make sure that someone signs this as well.

MR. BROOKINS: Also, in the products you mentioned obviously the soda, soft drinks, dairy are all pre-packed, but if you intend to actually prepare any fresh food whether it’s breakfast, you know an egg kind of thing or any sandwiches or anything that you prepare there which would be different than pre-packed that you buy over here and sell later.

MR. SKENDER: No, no none of that.

MR. BROOKINS: None of that? Okay. Well just specify that.

MR. LEWIS: You’re not talking about preparing sandwiches; you’re not talking about going into a delicatessen operation?

MR. SKENDER: No.

MR. OZBAY: We're not going to do any sandwiches.

MR. LEWIS: So in other words you're talking about prepackaged meat, prepackaged cheese?

MR. SKENDER: None of that, everything will be prepackaged.

MR. LEWIS: Well as Mr. Hodom says, make sure that you have everything in there.

CHAIRMAN HODOM: Do you have any idea when you can all this information together?

MR. AKHTAR: From me I can give you tomorrow.

CHAIRMAN HODOM: It should all come in together; I mean that will make it a lot easier. I'm just trying to decide whether we can make a date.

MR. SKENDER: Probably Friday. (Inaudible)

CHAIRMAN HODOM: That includes all of your...

MR. LEWIS: That would be the SEQRA, resolution and what is required there to?

CHAIRMAN HODOM: Yes, right.

MR. LEWIS: Are they going to have to go out and get any permits?

CHAIRMAN HODOM: Well that's up to them, I mean it's ...

MR. LEWIS: Yeah, but I'm talking about time.

CHAIRMAN HODOM: That's what I'm looking at.

MR. LEWIS: You're not going to be able to get permits by Friday if they're required. That may be a little more time consuming.

MR. SHEA: What are they going to need permits for?

CHAIRMAN HODOM: I don't know if they need permits for it either. If they have the documentation...

MR. LEWIS: Well I didn't know, I was asking.

CHAIRMAN HODOM: I don't know. If they need permits than it's their responsibility to obtain them.

MR. LEWIS: Yes, but again we're talking time frame.

CHAIRMAN HODOM: Well that would be a condition, I mean if we moved on the application that could be a condition that any permits required would have to be obtained before they could proceed. I'm just looking at – trying to set a date. Would you rather we adjourn the hearing to a date uncertain until you know you have all the documentation we've requested or we can set you up for September 17<sup>th</sup>. Will that give you adequate time? Our next meeting date is September 3<sup>rd</sup> and that's pretty well full.

MR. SKENDER: That's good, September 3<sup>rd</sup>.

MR. OZBAY: September what?

CHAIRMAN HODOM: With the new applications, that may be tied up already, so it looks like the better date is September 17<sup>th</sup>.

ATTORNEY SEELY: We know you prefer September 3<sup>rd</sup>, but just knowing what our schedule is like for that night.

MR. OZBAY: We have another meeting September 17<sup>th</sup>, down in Queensbury.

MR. BROOKINS: Where?

MR. OZBAY: Town of Queensbury, south Glen Falls.

CHAIRMAN HODOM: You have another meeting on September 17<sup>th</sup>? We've got 2- new applications and we've already have the one.

MR. WIGGAND: We already have two here, Gold Coin and Elizabeth Hogan.

CHAIRMAN HODOM: So September 17<sup>th</sup> isn't good for you?

MR. OZBAY: No.

CHAIRMAN HODOM: Well we're looking for the first week in October, first Wednesday in October – what's the date there?

MR. AKHTAR: It is tough for you September 3<sup>rd</sup>?

ATTORNEY SEELY: September 3<sup>rd</sup> we're already jammed, we've got 2-public hearings that are going to be that night that night that are going to take quite a lot of time.

MR. AKHTAR: Give us 10-15 minutes.

ATTORNEY SEELY: Well it won't take 10 or 15 minutes.

CHAIRMAN HODOM: It's going to take more time than that. It's unfortunate that we didn't have all this documentation to begin with.

MR. AKHTAR: But he actually wants that to complete that before winter.

MR. BROOKINGS: Do all of you have to go to Queensbury?

MR. OZBAY: Yeah, he be here for September 17<sup>th</sup>, I'm not here September 17<sup>th</sup>.

CHAIRMAN HODOM: But there may be questions that we have for you, all of you, do you know what I mean?

MR. AKHTAR: Oh, okay.

ATTORNEY SEELY: We could try it, but if we wound up with things that the other two guys can't answer, we're just going to wind up...

CHAIRMAN HODOM: We'll adjourn it again. Why don't we set for October 1<sup>st</sup>, that's our first meeting in October.

ATTORNERY SEELY: What meeting do you have in Queensbury on the 17<sup>th</sup>?

MR. OZBAY: Gas station.

ATTORNEY SEELY: In front of their Zoning Board?

MR. OZBAY: They set for last night, 7:30. I left for there 1:00 – morning. That's crazy.

MR. WIGGAND: Well look at the education you're getting tonight.

MR. OZBAY: Look it's 8:30 now.

CHAIRMAN HODOM: Is that okay, October 1<sup>st</sup>?

MR. OZBAY: Yes.

CHAIRMAN HODOM: Is there anyone here for this hearing specifically that have any comments or questions they might want to ask of the owners? Okay. The Board agrees on October 1<sup>st</sup>? If you could have all the data to us by Mid September to give us time to look through it. If you can get it to us next week, fine.

MR. BROOKINS: If you have any questions, I don't want to give Karen work, but if you do have questions call the office. You don't mind do you Karen?

MS. GUASTELLA: Not at all.

CHAIRMAN HODOM: Then with your gentleman's permission - - yes ma'am?

MRS. MACMILLEN: Michael, my name is Elvina Macmillen and I live at 420 Route 9W, so of course I'm just a neighbor to them. And as we look around our Town, we see that there is many gas stations with convenient marts, and I don't object at all in them putting a convenient market in there. They keep their property immaculate, they keep it will lit all night long, because it is a very dark corner. There's absolutely no noise. I live across the street from the Mobile Gas station which is open and you can even verify this with the Police Department. I've had to call them 2-3:00 in the morning because they're using the air hammer. We don't get that with these people here. It's becoming a kid's playground over at the Mobile gas station. I've lived there for 42-years and it gets worse.

CHAIRMAN HODOM: I don't know if there are any restrictions on the Mobile Gas station, but...

MRS. MACMILLEN: Well I think they should be closed at 11:00 at night.

MR. SHEA: I'm not sure open, but you know I'll have to check the resolution.

MRS. MACMILLEN: They bring in - - the kids bring in all their friends to do all their body work and stuff.

MR. SHEA: Well that's all well and good, but then if the station - - they have to abide by it. The reason they're not open for business at that hour is because these people thought that it would be a nuisance to the neighbors and that's probably why they put restrictions on it. So any restrictions you guys have with the lighting at certain times and this and that, you know so if that's the case, I'll be more than happy to check that tomorrow and...

CHAIRMAN HODOM: Would you?

MR. SHEA: And if that's the case, you know sometimes this can be done with a simple letter notifying them. And you're probably 100 percent right, they're probably kids that work there and at night...

MRS. MACMILLEN: Yeah they bring their friends, and Kevin the owner doesn't know it. And the police don't call the owner; they do not call the owner. They go down there and they quiet them down. Two weeks ago, I was up at 3:00 in the morning and I said nothing and finally at 4:00 in the morning I called the police because we couldn't sleep.

MR. SHEA: I don't blame you on that. I will check into that Mrs. Macmillen. If we're not aware of it; the Building Department, we would probably have no reason to check.

MRS. MACMILLEN: Well I know they're not open selling gas.

MR. SHEA: Well I mean, I think they have restricted hours of opening and then if you're making noise there...

MR. LEWIS: Well you're asked to closed because of the noise to begin with.

MR. SHEA: Air hammers and something like that...

MRS. MACMILLEN: All 3-bay doors were wide open.

MR. LEWIS: Well that shouldn't be.

MR. SHEA: Whether they're open to the public or not, I mean I'm sorry I...

CHAIRMAN HODOM: There are still restrictions.

MR. SHEA: There still restrictions. I would have to read them but I would imply most of those would be to that form that says you know you're supposed to close at 11:00, okay. That doesn't mean Joe, Tommy and Billy can come in and do work on their because they worked all day.

MRS. MACMILLEN: But we've never had a problem here with any of these people here or the people before, never. Never had a problem, even when Sunoco was there.

MR. SHEA: Okay, I'd be more than happy to check into that tomorrow.

CHAIRMAN HODOM: Thank you; appreciate that. With your permission gentlemen, we'll establish 7:30 on October 1<sup>st</sup> as a re-schedule date for your hearing. Please get your information to us just as promptly as possible. Go through this resolution; address every item that's in here; any other changes you want to make. I know you said that it wasn't going to be any changes to the outside, but again in this resolution there are discussions about outdoor tire sales and so forth. Address each and every item that's in here, okay.

MR. SKENDER: Okay, we'll look into the resolution and add what we want.

CHAIRMAN HODOM: And add what you want to change, exactly.

MR. WIGGAND: I might suggest you have your attorney look at that. Do you have an attorney representing you people? It would make things a little easier for everyone. Make sure it's done right before you come in again otherwise it'll be postponed for another date maybe. And like Mr. Hodom says, as soon as you can get the information to us then the Board can start looking at it before this October 1<sup>st</sup> hearing.

MR. HODODM: I would also caution you to take another look at this plan that you have because as you said earlier, you're going to make that existing office area that it currently selling materials out of, food products and cigarettes into a storage area. That's not what this says, it says existing to remain and that implies that that operation will remain there

as well. So if you're going to make that into a storage area, so indicate it on this plan.

MR. SKENDER: Okay, we'll do that.

MR. SHEA: Mike, they're going to need a building permit, believe it or not whatever they do. So we're going to need a floor layout anyway, so if you require them to do a floor layout, that would be helpful. It's one step closer to their building permit.

CHAIRMAN HODOM: Okay. So, do you understand what Mr. Shea is saying?

MR. SHEA: What you're doing is going to require building permit if you change the use under the New York State Code as of January 1<sup>st</sup> of this year. Any change of use and this is a change of use, you're changing from, you know a service station to a retail business, okay. So any modifications there, you have to any code updates or compliances. So you might as well and do a layout because there's exiting to be considered, okay ventilation in that area. You may need different in regards to a building permit in regards to drop ceilings and stuff like so you might as well put it all together and get it all done so these people – in other words you're not going to be bouncing back and forth like a tennis ball. So, good layout and give them the opportunity to look at the entire site, lay your parking out, the parking requirements 250 square foot for gross floor area and I'm not sure of the square footage of the building.

MR. SKENDER: The parking lot is there.

MR. SHEA: The parking lot is there, but they have to know how you are going to control traffic unless you want to go to a site plan after this. I'd like to see you dealing with this Board, I mean you could get the approval and then continue on to the site plan under CC Commercial Retail. So if you could get everything done here and satisfy this Board, I guess you don't have to go to another Board. Put it all together and if there's any questions please come and see me.

MR. SKENDER: I put it together with a new - - and everything.

MR. SHEA: I think that will be very helpful to this Board.

MR. SKENDER: I'll make a new layout.

CHAIRMAN HODOM: Good.

MR. WIGGAND: And Mike I have one more thing to add to this. As you mentioned I think we should have a more detailed plan.

MR. LEWIS: We just said that.

MR. WIGGAND: Yeah, I know we just said that but there is more - - that old map that's in there that started when the station was built shows a lot more detail on what's back

there now as far as area. Is that what we're referring to, make sure you should get us some more and just - - it's just saying here existing area to remain.

MR. SHEA: Bob's saying is that you have to show the bathrooms are there...

MR. WIGGAND: Show the whole thing.

MR. SHEA: And everything else, in the new code your bathroom requirement is different now as a business. You have to have 2-bathrooms, it has to be a woman's and men's room. It has to open to the public, so you know there's a lot of things in the layout that these people have to see, not that they're the code compliant people but to make their decisions that they recommend a change, it may not fit into the code and there may be a reason that's there on my end of it.

MR. WIGGAND: But I don't know what the other copy of the original map that was submitted in that folder there, it shows a very large room behind here. I know this Board would want to know what you're going to be doing with that room. It does not show it here.

MR. SKENDER: Every room will be a plan to the layout.

MR. WIGGAND: Now we're doing what we want.

MR. SKENDER: Every room - - what it's going to be.

MR. WIGGAND: And what the use of that room is going to be because you've got one room - you've got the front room here where you're now working out of, selling your gas and your products in that front room. Behind that there's another room, a very large room behind there.

MR. SKENDER: What they use right now for storage room.

MR. WIGGAND: Okay, that's fine but once you develop this we also want to know what you're going to be using that room for.

MR. LEWIS: And again, don't forget the lavatories; bathrooms. According to Mr. Shea, you have to have a ladies room and a men's room. They have to be separate.

MR. AKHTAR: That is a new code that you have?

ATTORNEY SEELY: It's a new State Code, so it's not just our Town.

CHAIRMAN HODOM: It's international code.

ATTORNEY SEELY: You'll be dealing with that in Queensbury and any place else.

MR. SHEA: Any time you change the use. Actually there's a permit issued for a change of use.

MR. WIGGAND: I think what we're trying to say when you come back here October 1<sup>st</sup> with all this information and we have the plans before October 1<sup>st</sup>, things will go through a little easier.

MR. SKENDER: I start work tomorrow.

On a motion made by Mr. Lewis, seconded by Mr. Wiggand and unanimously carried by the Board the hearing was adjourned at 8:45 p.m.

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The next order of business was to consider the application of Gold Coin Restaurant, 1360 New Scotland Road, Slingerlands, 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 The Gold Coin, 1360 New Scotland Road, Slingerlands, New York for Variance under Article VI, Permitted Uses, Section 128-22, Schedule B – Off Street Parking, Article XX, Nonconforming Buildings & Uses, Section 128-88, Alteration of Buildings devoted to nonconforming uses for construction of a new building to replace existing nonconforming building at premises 1360 New Scotland Road, Slingerlands, New York, it is hereby ordered that a public hearing on this matter be held September 3, 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 Elizabeth Hogan, 61 Burhans Place, Delmar, New York 12054. 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 Elizabeth Hogan, 61 Burhans Place, Delmar, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-49, Total Building Area, Section 128-55, Accessory Buildings and Article XVI, Front Yards, Section 128-66, Required Depths for construction of a detached garage and a front stoop cover which will exceed the percentage of lot occupancy for the total building area and an accessory structure and encroach into the front yard setback requirement at the premises 61 Burhans Place, Delmar, New York 12054, it is hereby ordered that a public hearing on this matter be held September 17, 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.

Mrs. O'Brien 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 David Lawrence, 4 Magee Drive, Glenmont, New York 12077 for 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. The following points were brought up by the Board members: The existing garage is in bad shape and this request would be considered a reasonable upgrade to both the property and to the neighborhood. On a motion made by Mrs. O'Brien, seconded by Mr. Wiggand, 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 September 3, 2003.

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The next order of business was to consider the proposed resolution of Daniel Walsh, 33 Placid Lane, Glenmont, New York 12077.

The following proposed resolution was presented by Attorney Seely 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 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; 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 August 6, 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 is proposing to construct a 240 square foot 3-season room addition 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 Applicants would like to construct a screened-in 3-season room, with sliding windows, sliding doors to limit the exposure to insects. The back yard is heavily wooded, which attracts quite a bit of insects around there. The addition will be totally finished inside; no heat. There will be skylights, electricity for a fan and light in the room and there will be a deck off it. This additional space will not be used for any kind of other occupancy or rented out to any other persons. The property will continue to be used only as a single-family home.

The Applicants considered downsizing the project, but the proposed room would be so small it would not be feasible to do it, as it would leave them with a room sized only ten feet by 13 feet, which would be only half the size of the proposed addition.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants require an area variance for the proposed addition. After considering the testimony and exhibits submitted, the Board determines that the application will be granted.

The Variance sought is minimal, the proposed addition will not affect the character of the neighborhood or adversely impact neighboring properties, and there is no other feasible means by which the Applicants can achieve the benefit sought without the variance.

Accordingly, the Board grants the Applicants request for a Variance to construct the three-season room subject to the following conditions:

1. The three-season room shall be constructed in accordance with the testimony, application and exhibits submitted at the hearing, and in accordance with any other applicable laws, regulations or ordinances, and
2. The proposed construction shall be completed within one year from the date of this resolution.

August 20, 2003

Michael C. Hodom  
Chairman  
Board of Appeals

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

(Resolution filed with the Clerk of the Town of Bethlehem on August 21, 2003.)

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The next order of business was to consider the proposed resolution of Douglas Bender, 14 Quail Hollow Road, Glenmont, New York 12077.

The following proposed resolution was presented by Attorney Seely 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 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; 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, July 16 and August 6, 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 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 without 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 five feet 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.

The Applicant previously had an open deck in the location where the three-season room has been constructed to substantial completion. The Applicant, however, would like to shield himself and his wife from insects and heat on hotter days.

The Applicant brought with him his contractor, CEI Ltd, owned by Tom Cronin to the two adjourned hearings held on July 16 and August 6, 2003. The contractor took full responsibility for not applying for the building permit prior to the start of construction. Mr. Cronin submitted a letter from Richard Benko, P.E., analyzing the sufficiency of the proposed drawing for the addition to ensure it complied with the structural requirements. Mr. Cronin also represented that the actual construction conformed to this drawing.

The Applicant submitted letters in favor of the addition from several neighbors.

## CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicants require the variances in order to be allowed to keep the addition. The Board has reviewed the testimony and documents submitted at the three public hearings conducted and grants the application.

The addition will fit in with the character of the neighborhood and will not adversely affect any neighboring properties. The benefit sought to be achieved could not be reached with any alternative that would not require the two variances. Further, the prior deck had been approved for the rear yard setback in 1991 and the addition would meet the same conditions for the rear yard setback. Thus, while the lot occupancy variance is more than minimal, the Board grants the Applicants' request for a Variance to maintain the existing three-season room addition subject to the following conditions:

1. The addition will comply with the testimony and exhibits submitted to the Board;
2. The construction will be subject to inspection and approval by the Building Department of the piers, and whatever other components are deemed necessary by the Building Department to ensure they meet all applicable codes, rules, regulations and ordinances; and
3. The remaining finish work shall be completed within 60 days of the final approval from the Building Department.

August 20, 2003

Michael C. Hodom

Chairman  
Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on August 21, 2003.)

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On a motion made by Mr. Lewis, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the August 6, 2003, meeting were approved.

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

Meeting Adjourned: 9:15 p.m.

Respectfully submitted,

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Secretary