

**TOWN OF BETHLEHEM
BOARD OF APPEALS
December 17, 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

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. We have no public hearings this evening; we have no new applications. We have a discussion for Grace Gidley requesting a variance under Article X, Highway Frontage and Access, Section 128-42, Distance Between Access strips on Flag Lots for the construction of a driveway and installation of Utilities for a Building Lot at the premises of McCormack Road, Slingerlands, New York.

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The next order of business was a discussion of the previous public hearing held in the matter of Grace Gidley, 20 Maple Avenue, Slingerlands, New York. The following points were brought up by the Board members: The only way to access the 3-lots is through the right of way. The applicant should not be denied use of the property. The original intention of the Applicant has been consistent and well documented. Potential drainage issues will be dealt with through the Town's Engineering Department. On a motion made by Mr. Lewis, seconded by Mr. Brookins, 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 January 7, 2004.

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The next order of business was to consider the proposed resolution of Greg and Carol Roeder, 10 Fernbank Avenue, Delmar, New York 12054.

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 by Gregory Roeder, for an Area Variance under Article XII, section 128-55, Lot Occupancy and Article XVI, Section 128-71, Front Yards at premises 10 Fernbank Avenue, Delmar, New York for the purpose of constructing a replacement garage; 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 December 3, 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

Gregory Roeder ("Applicant") and Carol Roeder are Owners of property located at 10 Fernbank Avenue, Delmar and seek an Area Variance under Article XII, section 128-55, Lot Occupancy and Article XVI, Section 128-71, Front Yards at the premises for the purpose of constructing a replacement garage. The Applicant wishes to

demolish the existing 422.24-square foot detached garage that is on the site and construct a new 528-square foot detached garage with a proposed front yard setback of 65-feet. The new front yard setback will be 20-feet shy of the 85-feet required. Also the lot occupancy for accessory structures will be 5.87 percent, which is .87 over the 5-percent allowed or 78-square feet over the 450-square feet that is allowed by a lot consisting of 9,000-square feet.

The existing use of the property and structures is as a single-family dwelling and is located in an “AA” Residence Zone.

The Owners purchased the property in March 2003. It is improved by a single family home and a detached garage, the latter of which is of concrete block construction with two carriage doors. The garage was estimated to have been built in the 1930’s. The garage is not large enough to accommodate the current storage needs of a resident. The garage doors on the current garage also are not as functional as current construction standards and the configuration of the garage doors pose a nuisance for ingress to and egress from the garage. In addition, the location of the garage blocks effective use of the remaining lot behind the garage as evidenced by the limited access to that area of the lot that has led to the current overgrowth of unattractive plants and weeds. The Applicant desires to plant a garden in the underutilized area behind the current location of the garage and to open up the area for use by his children. Consequently, the Applicant seeks to demolish the existing garage and replace it with a new 22-foot by 24-foot garage that is 20 feet closer from the property line.

The Applicant reports speaking to those neighbors who would see the new garage and heard no objections. The adjoining neighbor spoke in favor of the application and no one spoke in opposition.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires the variances sought.

This Board has balanced the benefit to the Applicant with the detriment to the health, safety, and welfare of the neighborhood and community and concludes that permitting

the proposed project, which is a minimal request for each of the two variances sought, would not result in any undesirable change in the character of the neighborhood, would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district or be detrimental to adjoining property owners and that the benefit could not be achieved by some other means.

Accordingly, the Board grants the Applicant's request for a Variance to construct the proposed addition, subject to the following conditions:

1. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, and,
2. The Applicant shall complete construction of the addition within 18 months of the date of this resolution.

December 17, 2003

Acting Chairman Wiggand
Chairman
Board of Appeals

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

(Resolution filed with the Clerk of the Town of Bethlehem on December 18, 2003.)

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On a motion made by Mr. Wiggand, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the December 3, 2003, meeting were approved.

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

Meeting Adjourned: 8:15 p.m.

Respectfully submitted,

Secretary