

**TOWN OF BETHLEHEM
BOARD OF APPEALS
December 21, 2005**

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

PRESENT: 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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The first order of business this evening was to consider the application of Robert & Carol Dunn, Elm Avenue East, Selkirk, New York. The application was found to be in order and Mr. Micelli made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Robert & Carol Dunn, for a Use Variance under Article V, Section 128-26 B, Schedule of Uses, 129-99 for the construction of a 6-unit dwelling, which is not a permitted uses at premises Elm Avenue East, Selkirk, New York 12158, it is hereby ordered that a public hearing on this matter be held January 18, 2006 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.

The next order of business was to consider the application of The Econo Lodge, Daniel Patel (Owner), 15 Frontage Road, Glenmont, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by EconoLodge for Variance under Article VI, Supplementary Regulations, Section 128-52, Off Street Parking & Loading for an addition of parking for a new 2-story building, which will not meet the parking setback requirements at premises 15 Frontage Road, Glenmont, New York, it is hereby ordered that a public hearing on this matter be held January 18, 2006 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.

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The next order of business was a discussion of the previous public hearing held in the matter of David & Melissa Prescott for Variance under Article XIII, Use & Area Schedules, Section 128-100 A, Minimum Side Yards. The following points were brought up by the Board members: There are no other visible 3-car garages on the street. The proposed encroachment is too close to the property line. The essential character of the neighborhood would be negatively impacted. Two neighbors spoke in opposition of the proposed addition. 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 the Variance, for presentation at the next Board meeting on January 4, 2006.

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The next order of business was a discussion of the previous public hearing held in the matter of Cumberland Farms (Applicant), The Big M Truck Stop (Owner) The following points were brought up by the Board members: There were many Variance's due to an oddly configured lot as far as setbacks. The proposed setback issues were not a large concern. A question was raised about exhibit 4, which were the guidelines and computation for the proposed high-rise sign. The Board members felt that all of the proposed signage was on the excessive side. The old Code would have allowed a maximum of 218 feet for signage, which would have been 109 feet by 2 feet. With the elimination of the 50-foot high rise sign would bring the total square footage down to 241.5 square feet. The Applicant decided to withdrawal the 50-foot high-rise sign on the Application as confirmed in their 12/27/05 letter and will come back at a later date if the business is negatively affected. On a motion made by Chairman Hodom seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variances, for presentation at the next Board meeting on January 4, 2006.

The next order of business was to consider the proposed resolution of RDA Associates, Antonio Califano, CEO.

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

RESOLUTION

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WHEREAS, an application has been filed with Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking a Variance under Article XIII, Use and Area Schedules, Section 128-100A, Minimum Lot Width,

requested by RDA Associations, Antonio Califano, CEO (“Applicant”), for undeveloped property at Russell Road, Albany, New York; and,

WHEREAS, the Board, 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 November 16, 2005; and

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

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

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

FINDINGS OF FACT

The Applicant is seeking a variance approval for a building lot in a proposed subdivision that will meet all the minimum requirements of the amended Town zoning ordinance except one. The Applicant will have to locate the proposed main structure in a location on the lot that will create a dimension of 84.38 feet for the width of the lot. This is 15.62 feet shy of the 100 feet required. The width of a building lot is measured at the building line.

The property is currently zoned Residence “A”.

Applicant and his family company plan to develop a residential subdivision on approximately 50 acres. Applicant's home has been constructed on the property, along with limited road, water and sewer infrastructure to his home.

The Applicant's proposed subdivision is pending before the Town Planning Board and review was suspended during the Town's 2003 moratorium on certain residential development.

At the time of the moratorium, 4 lots in the proposed subdivision fronting on Russell Road each had approximately 95 feet wide. At that time, the Town Zoning Law required a minimum width of 85 feet for these lots.

Following the moratorium, the Town Zoning Law was amended to increase the required minimum width for these 4 lots from 85 feet to 100 feet.

Three of the lots have been modified to comply with the new width requirement. The fourth lot, the subject of this variance application, cannot be modified further due to restrictions imposed by adjoining wetlands regulated by the federal government.

Applicant is hoping to sell these four lots initially to raise the capital needed to continue with the development of the remainder of the subdivision.

Other than Mr. Califano and a representative of RDA Associates, no one spoke at the public hearing.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicant.

The requested variance is granted. Applicant will be required to obtain final subdivision approval from the Planning Board before proceeding further with development.

Dated: December 21, 2005

Michael Hodom
Chairman
Board of Appeals

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Mrs. O'Brien 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			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on December 22, 2005.)

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On a motion made by Mrs. O'Brien, seconded by Mr. Brookins, and unanimously carried by the Board, the minutes of the December 7, 2005, meeting were approved.

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

Meeting Adjourned: 8:25 p.m.

Respectfully submitted,

Secretary