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**TOWN OF BETHLEHEM
BOARD OF APPEALS**

June 2, 2010

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 Ave, Delmar New York

PRESENT: Daniel Coffey, Board of Appeals Chairman
Michael Moore, Board of Appeals Counsel
Lennie Micelli, Board of Appeals Member
David DeCancio, Board of Appeals Member
Matt Watson, Board of Appeals Member
Kenneth Umina, Board of Appeals Member
Mark Platel, Assistant Building Inspector
Justin Harbinger, Assistant Building Inspector
Peter Ebert
Bill Banahan
Paul E. Hite
Jon VanDerpoel
Francis Bossolini
Angelo Trichilo
Raffaella Trichilo
Ron Levesque
Ken Hahn

Chairman Coffey called the meeting to order at 7:05pm noting that there is a quorum with all members being present as well as Attorney Mike Moore.

PUBLIC HEARINGS

Thomas Paonessa, Proposed Grove Subdivision, North Bethlehem for area variances under Article XIII, Area Schedules, Section 128-100, Schedule of Bulk and Area Requirements.

The applicant is proposing a 10 lot subdivision of which 8 lots will be new building lots, however 3 of the proposed lots will not meet all of the lot and bulk requirements in a Residence "A" Zoning District. Lot 25 Pine St. will not meet the minimum lot size required of 14,520 square feet having a lot size of 11,184 square feet. Proposed lot, 12 Grove Street will also have a lot size of 11,184 square feet not meeting the same 14,520 square feet required and the lot depth of 85 feet will not meet the 120 feet required. Also the applicant is proposing that this lot have a 30' front yard setback 5 feet shy of the 35 feet required. Proposed lot, 11 Bower Ave will have a lot width of 90 feet which is 10 feet shy of the 100 feet required. For the Board's information, variances were granted for these lots in the past, however the time limitations expired for the variances prior to the applicant applying to the planning board for subdivision approval

To forego the reading of the Public Hearing, Chairman Coffey requested a motion to indent the Public Hearing notice into the record. Mr. Watson moved, seconded by Mr. Micelli, all in favor.

Chairman Coffey advised the procedure to be used is to hear the Applicant's presentation, entertain any questions or comments from the audience, hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition. All comments and questions should be directed to the Board.

Mr. Bossolini from Ingalls & Associates spoke on behalf of the applicant, Tom Paonessa of TP Builders. He described the lots as indicated on the site plan. Lot 13 has an existing structure. Lot 11 is an existing lot as part of the subdivision. The remaining subdivision applied for consideration is on the opposite side of Norfolk Street and the south side of Bower Avenue. The requested variances are for three lots that are part of this subdivision. The requested variance for

59 lot 11 is strictly for lot width purposes. The current lot is constricted by Bower Avenue and a
60 paper street. Lot 12 and 13 is the result of a proposed division of the existing lot. The intent is
61 to construct single family houses that are similar to recently constructed homes in the
62 neighborhood.

63
64 Mr. Micelli asked how many homes are currently in the subdivision. Mr. Bossolini advised
65 about a dozen homes. Mr. Bossolini further advised that a subdivision application has been
66 submitted to the Planning Board. It was further discussed that in 2006, similar variances were
67 granted to the applicant, but have since elapsed. Mr. Platel noted that one of the applicant's
68 requests was denied in 2006, specifically for 18 Grove for lot width. Mr. Bossolini admitted he
69 wasn't sure of all the details as he was not representing the applicant in 2006.

70
71 In response to Mr. Watson's question, Mr. Platel indicated zoning laws have not changed since
72 2006. Regarding size, Mr. Bossolini advised many of the existing, built on lots in the older
73 subdivision are smaller than those before the board. He did not know why the original variances
74 in 2006 were not acted upon.

75
76 Tom Paonessa, Jr. advised from the audience that the planned homes will be approximately 2600
77 square feet each. This is similar to the size of the existing house on an adjacent lot.

78 Chairman Coffey asked whether compliance with zoning requirements was possible. Mr.
79 Bossolini pointed out that in the case of #11, the lot was limited by the paper street and wetland
80 issues. Chairman Coffey asked if it would be possible to reduce the number of lots to meet
81 zoning laws. Mr. Bossolini agreed that reducing the number of planned lots would resolve the
82 need for a variance and advised that the thought process behind the current application was a)
83 the variances were previously granted and b) the intention is to make a building lot that fronted
84 onto Grove.

85
86 Part of the Grove subdivision is in the Town of Guilderland. Guilderland's zoning requirements
87 are a little smaller at a quarter of an acre while the Town of Bethlehem's requirement is a third
88 of an acre.

89
90 Ken Hahn, 10 Pine Street spoke in favor of the variance. Joining Bower Avenue to Grove Place
91 will benefit the agencies that provide crucial services to the neighborhood by extending access to
92 the areas that now terminate in dead end streets. The examples Mr. Hahn provided were the fire
93 department, highway department, and mail carriers. He also spoke to Mr. Paonessa's character
94 and quality in workmanship.

95
96 Angelo Tricholo, 17 Grove Place agreed with Mr. Hahn's reasons for supporting the variance.
97 His property is adjacent to one of the parcels and across the street from the other two. He added
98 that the trash collectors would have better access to the streets.

99
100 Raffaella Tricholo, 17 Grove Place echoed her husband's reasons and added that currently her
101 children need to walk to the end of the street for the school bus because buses can't turn around
102 on the dead end streets.

103
104 Chairman Coffey asked if there was anyone else that would like to speak for or against.

105
106 It was noted that the application was sent to the Albany County Planning Board for review June
107 17. The ZBA will wait to see the Albany County Planning Board's determination before making
108 a decision. It also needs to be decided if there will be a SEQRA coordinated review with the
109 Town Planning Board. Application was made with the Town Planning Board, but there hasn't
110 been any action yet. The next discussion will be at the July 7 Board of Appeals meeting.
111 The public hearing was closed (no motions, no vote).

112 **APPLICATIONS**

113 **Lisa Destaso Jones, 16 Pineridge Place, Delmar** for an Area Variance under Article XIII, Use
114 and Area Schedules, Section 128-100 Schedule of Area, Yard and Bulk Requirements.

115 Mr. Micelli moved to schedule the public hearing for June 16, 2010 at 7pm. Mr. DeCancio
116

117 seconded and all were in favor.

118
119 **Jonathan VanDerpoel, 233 Route 9W, Glenmont** for a Use Variance under Article XIII, Use
120 and Area Schedules, Section 128-99 Schedule of Uses. Mr. Umina moved to schedule the
121 public hearing for June 16, 2010 at 7:15pm. Mr. Micelli seconded and all were in favor.

122
123 **Yasemin Fuels, 414 Route 9W, Glenmont** for an Area Variance under Article VI,
124 Supplemental Regulations, Section 128-59, Signs. Mr. Micelli moved to schedule the public
125 hearing for July 7, 2010 at 7pm. Mr. Watson seconded and all were in favor.

126 **DISCUSSIONS**

127 **Peter Ebert, 109 Bridge Street, South Bethlehem** for an area variance under Article V,
128 Section 128-38, Heavy Industrial District, D. 1) additional 100 foot buffer, to construct a
129 commercial garage in the 100 foot additional buffer.

130
131
132 Mr. Platel noted that Mr. Hyte provided a requested site plan indicating where the septic system
133 would be located. The Board reviewed the site plan and the recently received notice from the
134 Albany County Planning Board. Attorney Moore clarified the ACPD's recommendations are
135 that either the Board of Appeals or the Planning Board require that the Albany County Board of
136 Health review the application for water supply, wastewater discharge and other required permits,
137 and that in the past, the ACPB recommendations are included as conditions for any approval that
138 the BOA issues. Mr. Platel affirmed that Health Department approval is required for the
139 building permits.

140
141 Attorney Moore noted as an Unlisted Action under SEQRA being a non-residential structure in
142 excess of 4000 square feet, so the BOA's options are to do an uncoordinated review and send the
143 determination along the Planning Board, or defer to the PB in a coordinated review. Chairman
144 Coffey stated he felt comfortable proceeding with an uncoordinated review in this instance. Mr.
145 Umina and Mr. Micelli agreed that a coordinated review would unnecessarily burden the
146 applicant.

147
148 Attorney Moore advised the next step, if appropriate, is to complete part II of the short
149 environmental assessment form and make a formal determination of significance. This was
150 done, with Chairman Coffey reading each question and board members answering all the
151 questions in the negative. The completion of the SEQR review was approved on a motion by
152 Mr. Watson, seconded by Mr. Umina, with all in favor. Mr. Micelli spoke in favor of granting
153 the variance as it would benefit Mr. Ebert's business. Mr. DeCancio stated he is also in favor as
154 the current zoning causes an undue hardship for Mr. Ebert and his business. Mr. Watson also
155 supported the variance, stating he feels it is not a substantial request, especially in light of the
156 fact there was a larger structure removed to make way for a smaller structure. Mr. Umina gave
157 his support of the variance for all the reasons just provided by the other members of the Board.
158 Mr. Watson moved to approve the variance request with the modified language from the ACPB.
159 The motion was seconded by Mr. Umina and passed with all in favor.

160 **RESOLUTIONS**

161 **Hoffman's Car Wash 55 Delaware Ave, For area variances under Article VI, Supplemental**
162 **Regulations, Section 128-59, Signs, D) Signs in the H, CH and RH Districts, 1) & 6).**

163 Attorney Moore confirmed everyone had the correct version of the resolution. Mr. Umina
164 moved to approve the resolution, seconded by Mr. DeCancio. Motion passed with all in favor.

165
166
167 The minutes of the May 5, 2010 meeting were approved on a motion from Mr. Micelli, seconded
168 by Mr. Watson, with all in favor.

169
170 The meeting was closed on a motion from Mr. Micelli and seconded by Mr. Watson with all in
171 favor at 7:57 pm.

172 Respectfully submitted.
173 Robin Nagengast