

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

**TOWN OF BETHLEHEM
BOARD OF APPEALS**

June 16, 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

Lisa DeStaso Jones, applicant
Steve Bolduc, Keystone Builders
Jonathan VanDerpoel, applicant
Dan Schweigard, applicant
Tom Butler, applicant

Chuck Radliff, Sr.
Dan Rain
Katrina Bolen
Debbie Kerns

Chairman Coffey called the meeting to order at 7:00pm noting that there is a quorum with all members being present as well as Attorney Mike Moore.

PUBLIC HEARINGS

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

Mark Platel: The applicant is proposing to construct an addition and carport totaling 881.85 square feet to the existing 1,094.8 square foot single family dwelling. The total structure will be 1,967.65 square feet which is 732.3 square feet over the 1,244.36 square feet allowed for all structures on a 6,221.8 square foot lot. The lot occupancy will be 31.77% which is 11.37 over the 20% allowed. The proposed front yard setback to the proposed car port will be 10.7 feet which is 14.3 feet shy of the 25 feet required and the setback at the addition will be 23.5 feet, 1.5 feet shy of the requirement.

The existing structure is occupied as a single family dwelling and is located in a Core residential Zoning District.

Chairman Coffey noted the hearing notice of June 16 was not read into the record on June 16. Mr. Umina moved that notice of the public hearing as published in the Spotlight be read into and added to the minutes of the Board. Seconded by Mr. Watson and passed with approval of all members present.

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.

Mrs. Jones spoke on her own behalf. She advised the proposed addition is out of necessity. Her

59 husband has a permanent spinal cord injury and the addition is needed to make the house and his
60 living space wheelchair accessible. The street where they live is quite small and traditional
61 accessibility, such as ramps, would not be appropriate. She presented signed form letters from
62 the following neighbors in support of her request to make 16 Pineridge wheelchair accessible.

63
64 Dan Rain, 12 Pineridge Place
65 Bruce & Katrina Bolen, 96 Hudson Avenue
66 Sally Hipp, 3A North Street
67 Nicholas Scolaro, 102 Hudson Avenue
68 Richard & Tammy Tearoe, 100 Hudson Avenue
69 Robert Muncil, 15 Pineridge Place
70 Nancy & Paul Maguire, 19 Pineridge Place
71 Jeanette Johnson, 92 Hudson Avenue
72 Shelley Jean Elfeldt, 5 North Street

73
74 Joe Duclos, 9 North Street left a message on Mark Platel's voicemail, indicating he had no
75 opposition.

76
77 Chairman Coffey presented photos of the home, showing the front of the house. Mr. Platel
78 noted the house has pre-existing, non-conforming setback, with the front porch jutting into the
79 right of way and front right corner of the porch approximately three feet from the property line.
80 The homeowner would like to gain wheelchair accessibility into the rear of the home, build a
81 handicap accessible bedroom and bath on the first floor, and expand the kitchen by moving the
82 exterior wall out by 30 inches, thereby making it wheelchair accessible. Her husband, Mike
83 Jones, has been in a facility since the accident and would like to return home to this house that
84 he spent eight years renovating.

85 Steve Bolduc of Keystone Builders spoke to the approximate time it will take to make the
86 proposed changes. The project is being supported by material, monetary, and time donations, so
87 it will probably take longer than usual for a project of this scope. He hopes to move the project
88 along as quickly as possible because he believes time is of the essence and Mr. Jones has a
89 limited time in the special facility where he is being treated. Best estimate is about 2 ½ to 3
90 months. The original construction drawings were done by a different builder. Mr. Bolduc is
91 doing new construction drawings and will handle the project from this point forward. Mrs.
92 Jones noted the areas affected are not visible from the street and that the neighbor most affected,
93 Dan Rain, supports her request. Mr. Bolduc pointed out that 52% of the addition is living area;
94 the other portion is a covered carport for protecting Mr. Jones from the elements when loading
95 and unloading his wheelchair from a van. The interior addition is the minimum required to
96 support Mr. Jones' needs. Mr. Bolduc and Mrs. Jones indicated the proposed addition is modest
97 and in character with the home. At Mr. Umina's request, Mrs. Jones advised that Mr. Jones'
98 will be released from a facility in New Jersey into a sub-acute facility somewhere between
99 Kingston and the Capital Region sometime soon. He can come home when the doctor advises
100 and when the home is ready to accommodate him and full-time home healthcare workers.

101 Mr. DeCancio asked Mr. Platel why the carport area is counted as building area. Mr. Platel
102 advised the code is written that all roofed space is counted. Chairman Coffey noted the
103 proposed carport would be under the minimum setback requirement, as is the pre-existing
104 building, which is not up to code anyway. He also noted as a cul-de-sac, there are only two
105 neighbors that drive past the property. Chairman Coffey asked Mr. Bolduc if there is any other
106 way to design the addition to accommodate Mr. Jones' situation and he indicated no.

107 Mr. Rain got up to speak in strong support of the addition. His home is the house adjacent to the
108 left. He feels it is necessary.

109 Katrina Bolen spoke in favor as a neighbor who has also been communicating the family's needs
110 to the community. She feels there is strong community support for the addition to help Mr.
111 Jones get back home.

112 A friend of Mrs. Jones, Debbie Kerns, spoke in support of the addition as a resident of Delmar.
113 Chairman Coffey asked if there was anyone else that would like to speak for or against.
114 He closed the public hearing and advised if those present on behalf of the project could stay, he
115 would plan on opening the request for discussion later in the meeting.

117 **Jonathan VanDerpoel, 233 Route 9W, Glenmont** for a Use Variance under Article XIII, Use
118 and Area Schedules, Section 128-99 Schedule of Uses.

119
120 The applicant is proposing to construct a second, single family dwelling on the existing property
121 where single family dwellings are not a permitted use. The property is Zoned General
122 Commercial and the current use of the land is residential.

123
124 To forego the reading of the Public Hearing, Chairman Coffey requested a motion to indent the
125 Public Hearing notice into the record. Mr. Watson moved, seconded by Mr. Umina, all in favor.

126
127 Mr. VanDerpoel indicated the home, built in 1793, has been in his family for over a hundred
128 years and his is the third generation to reside there. His son, Scott, has expressed a desire to live
129 on the parcel. When Mr. VanDerpoel moved to the home in 1983, pre-Comprehensive Plan, it
130 was legal to build two houses on one tax lot. It is a large property and requires a good deal of
131 upkeep. As he and his wife get older, and because they both have hearing disabilities, it is
132 becoming more essential for him to have assistance with maintenance of the property. Mr.
133 VanDerpoel presented a map to show the expansiveness of the property, which is about 10 acres
134 in area. They would like to build a house and a driveway not far from the existing structure and
135 pool area.

136 Chairman Coffey asked what the zoning was prior to the Comprehensive Plan approval in 2005.
137 Mr. VanDerpoel advised it was residentially zoned until 2005. Mr. DeCancio asked if there
138 were wetlands or storm water basins affected. Mr. Platel advised no. Scott VanDerpoel advised
139 all drainage is gravity fed into a drainage area. Chairman Coffey asked about neighbors and
140 whether there were any other residences. There are not. The only access to the property is the
141 sole driveway. Mr. Umina commented Mr. VanDerpoel's residence appears to be landlocked.
142 Mr. VanDerpoel noted the ingress would be planned with emergency vehicles in mind and that
143 the property is currently accessible by fire trucks. Mr. Platel advised in a general commercial
144 zoning district, more than one principle use is allowed on a lot. Mr. VanDerpoel advised that
145 while he has discussed selling the property with developers in the past, it has not been
146 considered commercially viable because of the lack of access. No one has indicated any support
147 or opposition to Mr. VanDerpoel's request.

148 Chairman Coffey noted there are four criteria necessary to meet the requirements of a use
149 variance and asked if Mr. VanDerpoel could present documentation of the hardships, including
150 failure to get a reasonable return that he has presented in his application. He was advised the
151 next step is to find such documentation and present it to the board for consideration.

152 Attorney Moore advised the project would require site plan approval from the Planning Board
153 and so it would need to be determined how the SEQR process would be handled by the boards.
154 The hearing was left open pending additional documentation from the applicant.

155
156 Further discussion determined the SEQRA review would be uncoordinated.

157
158 The Albany County Planning Board was scheduled to review the request on June 17, 2010.

159
160 **APPLICATIONS**

161 **None**

162
163 **RESOLUTIONS**

164 **Peter Ebert, 109 Bridge Street, South Bethlehem** for an area variance under Article V,
165 Section 128-38, Heavy Industrial District, D. 1) additional 100 foot buffer, to construct a
166 commercial garage in the 100 foot additional buffer. Attorney Moore noted the resolution draft
167 was revised to include an additional ten foot setback for off street parking and to include a
168 landscaping requirement, not to be excluded with the granting of the variance.

169
170 Mr. Watson moved to do an uncoordinated review of the unlisted action under SEQRA. Mr.
171 DeCancio seconded, and the motion passed with all in favor.

172
173 Mr. Umina moved to approve the variance according to the resolution, Mr. Micelli seconded.
174 Motion passed with all in favor.

175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229

DISCUSSIONS

Added: Lisa Destaso Jones, 16 Pineridge Place, Delmar for an Area Variance under Article XIII, Use and Area Schedules, Section 128-100 Schedule of Area, Yard and Bulk Requirements. The Albany County Planning Board was scheduled to review the request on June 17, 2010. However, after reviewing the ACPB's criteria and a brief discussion, it was determined by counsel it is not necessary and to request the ACPB remove it from the agenda. Chairman Coffey noted the existing non-conforming status of the property would make it unfeasible to construct the addition in a way that would conform with current zoning requirements and as there is strong neighborhood support of the proposal and that as time is of the essence, he would like to move forward in granting the variance if the board agrees. Attorney Moore noted it is a type 2 action under SEQRA and requires no action on the board's part. Mr. Watson moved to approve. Mr. Umina seconded. The motion passed with all in favor with the resolution to be reviewed at the July 7 ZBA meeting. Because Mr. Bolduc indicated he was ready to move forward with construction as soon as possible, he is concerned about waiting until the July 7 meeting. Attorney Moore advised a special meeting could be scheduled for the purpose of voting on the resolution with the appropriate notice given as considered reasonable. Mr. Watson moved to hold a special meeting on June 23 at 7pm. Mr. DeCancio seconded. Approved with all in favor.

Added: Jonathan VanDerpoel, 233 Route 9W, Glenmont discussion whether to do an uncoordinated review as an unlisted action under SEQRA. Chairman Coffey felt although the preference may often be to do a coordinated review, the board decided their preference was to do an uncoordinated review, because they didn't want to send it to the Planning Board for SEQRA review not knowing if the variance was going to pass. It was acknowledged if the variance was granted, the applicant would need to go before the Planning Board and the Planning Board would conduct another SEQRA review. Mr. Umina made the motion, Mr. Watson seconded, all in favor of proceeding with an uncoordinated review of SEQRA, none opposed.

Attorney Moore recused himself from the Independent Towers discussion and excused himself from the meeting.

Independent Towers, Discussion and possible action on SEQRA Coordinated Review. Chairman Coffey advised the purpose of the discussion was to determine if the boards would do a coordinated review of SEQRA with the Planning Board assuming lead agency status, as is being done with the cell tower application for ESCO Towers at Van Dyke Road. It was agreed the application for Independent Towers be handled the same way in order that the Planning Board have both cell tower applications before it. Dan Schweigard gave a brief overview of his involvement in the project and advised he is available to answer any questions. He was advised by the Board that the purpose of the discussion was to determine the handling of SEQRA review and lead agency status and that this was not a public hearing. Mr. Umina moved to refer the matter to the Planning Board to handle as a coordinated review in regards to SEQRA. Mr. Micelli seconded and the motion was approved by all Board members present.

The minutes of the May 19, 2010 meeting were approved on a motion from Mr. Umina, seconded by Mr. Micelli, with all in favor.

The minutes of the May 19, 2010 meeting were approved on a motion from Mr. Micelli, seconded by Mr. DeCancio, with all in favor.

The meeting was closed on a motion from Mr. Micelli and seconded by Mr. Watson with all in favor at 8:09 pm.

Respectfully submitted.
Robin Nagengast