I. Call to Order

II. Public Hearings
   A. Public Hearing for an Application submitted by Rick Marshall of AJ Sign, representing Key Bank located at 370 Delaware Avenue, for an area variance under Article VI, Section 128-59 Signs (D).
   B. Continuation of a Public Hearing for an Application submitted by Peter G. Barber, Esq. Representing The Stram Center for Integrative Medicine for an area/use variance under Article(s) VI & XIII located at 90 Adams Place Delmar.

III. Applications - Review and Possible Public Hearing Scheduling
   A. Accept Application and set Public Hearing for an Application submitted by Jacqueline Conti, 80 Darroch Road, Delmar, for an area variance under Article V, Section 128-47 B (3), Fences

IV. Resolutions

V. Discussion/Possible Action
   1. Key Bank - 370 Delaware Avenue
   2. The Stram Center - 90 Adams Place

VI. New Business
   A. Hewitt's Garden Center - Time Extension

VII. Minutes Approval
   A. Wednesday, November 06, 2013

VIII. Adjournment
   Adjourn

   Next Regular Meeting Wednesday, December 4, 2013
I. Call to Order

A Regular Meeting of the Zoning Board of Appeals of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 7:00 PM.

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daniel Coffey</td>
<td>Chairman</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Leonard Micelli</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>David R. DeCancio</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Matthew C. Watson</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>George T. Harder</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Michael Moore</td>
<td>Planning/Zoning Board Counsel</td>
<td>Absent</td>
<td></td>
</tr>
<tr>
<td>Kathleen Reid</td>
<td>Assistant to the Zoning Board of Appeals</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Mark Platel</td>
<td>Assistant Building Inspector</td>
<td>Present</td>
<td></td>
</tr>
</tbody>
</table>

II. Public Hearings

III. Applications - Review and Possible Public Hearing Scheduling

- ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY RICK MARSHALL OF AJ SIGN, REPRESENTING KEY BANK LOCATED AT 370 DELAWARE AVENUE, FOR AN AREA VARIANCE UNDER ARTICLE VI, SECTION 128-59 SIGNS (D).

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, November 20, 2013 at 7:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application by Rick Marshall of AJ Signs representing Key Bank located at 370 Delaware Avenue, Delmar, New York for an area variance(s) under Article VI, Section 128-59 Signs (D).
RESULT: APPROVED [UNANIMOUS]
MOVER: Leonard Micelli, Board Member
SECONDER: David R. DeCancio, Board Member
AYES: Coffey, Micelli, DeCancio, Watson, Harder

- ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY PETER G. BARBER, ESQ. REPRESENTING THE STRAM CENTER FOR INTEGRATIVE MEDICINE FOR AN AREA/USE VARIANCE UNDER ARTICLE(S) VI & XIII LOCATED AT 90 ADAMS PLACE DELMAR.

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, November 20, 2013 at 7:15 p.m., at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application by Integrated Associates, contract vendee for Bethlehem Central School District located at 90 Adams Place. Applicant wishes to use said property for a wellness center which is not a permitted use under, Article XIII, Section 128-99 and for an area variance under Article VI, Section 128-56, off street parking.

RESULT: APPROVED [UNANIMOUS]
MOVER: George T. Harder, Board Member
SECONDER: David R. DeCancio, Board Member
AYES: Coffey, Micelli, DeCancio, Watson, Harder

IV. Resolutions

- THE GROVE SUBDIVISION

RESOLUTION

* * *

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking Variances under Article VI, Supplementary Regulations, Section 128-42(A)(1)(General Regulations, lot requirements, lot formed from lot already occupied by a building) and Article XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements, Note 1 (Residential “A” District, minimum highway
frontage, minimum size, minimum lot width, minimum front yard [right of way],
corner lot) requested by Thomas Paonessa (“Applicant”) for undeveloped property in
the Grove Subdivision (between Monroe Avenue and Interstate 87, North
Bethlehem), 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
September 4, September 18 and October 16, 2013;

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

Applicant is proposing to develop property in the Town’s Residential A District, west of Russell Road and north of Interstate 87 near the border between the Towns of Bethlehem and Guilderland. The property is part of a subdivision plat originally approved and filed decades ago, which has been partially developed over the years. Portions of the property include “paper streets” (streets depicted on the original subdivision plat but never built or dedicated to any municipality). Applicant proposes nine (9) new lots in the subdivision. If the variances are granted, the project will also require subdivision approval from the Town Planning Board.

Peter Yetto and Christopher Longo of Ingalls & Associates appeared at the hearings in support of the application.

By Resolution of May 3, 2006, the Board had granted the Applicant’s request for variances on eight (8) proposed lots in the subdivision. The 2006 Resolution discusses the Town’s legal analysis and position regarding proposed development on the “paper streets.” The 2006 variances expired, and a second Resolution approving these variances was issued by the Board on August 4, 2010. The August 4, 2010 variances have also expired.

Applicant now proposes a total of nine (9) lots, with a new lot at 27 Bower Avenue (“Lot 7”). These lots require multiple variances as follows (by reference to Phase 2 - Preliminary Plat, “The Grove,” prepared by Ingalls & Associates, [last revised 9/11/13]) (“Ingalls map”):

a) **Variances required for “Lot 7”, 27 Bower Avenue**

<table>
<thead>
<tr>
<th></th>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Frontage:</td>
<td>53.2’</td>
<td>70’</td>
</tr>
</tbody>
</table>
Lot Width: 78' 100'
b) Variances required for “Lot 11”, 19 Bower Avenue

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Width:</td>
<td>78’</td>
</tr>
</tbody>
</table>

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c) Variances required for “Lot 12”, 18 Grove Place

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Depth:</td>
<td>85’</td>
</tr>
<tr>
<td>Lot Size:</td>
<td>11,195 s.f.</td>
</tr>
<tr>
<td>Front Yard:</td>
<td>30’</td>
</tr>
</tbody>
</table>

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d) Variances required for “Lot 13”, 25 Pine Street (Corner Lot with two “front yards”)

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Width:</td>
<td>85’</td>
</tr>
<tr>
<td>Lot Size:</td>
<td>10,636 s.f.</td>
</tr>
<tr>
<td>Front Yard:</td>
<td>13.4’ (Bower Avenue)</td>
</tr>
<tr>
<td></td>
<td>19.3’ (Pine Street)</td>
</tr>
</tbody>
</table>

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e) The portion of the property at 25 Pine Street is already occupied by a building. Proposed “Lot 12” and “Lot 13” would be formed from this existing lot
and will also require a variance from Town Code Section 128-42 A(1), which provides:

“No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located…”

The areas of non-compliance and the degree of non-compliance for these two Lots are set forth above.

f) Proposed “Lot 13” (25 Pine Street) is also a corner lot (Pine Street and Bower Avenue). Per Note 1 of the Town Code’s Schedule of Area, Yard and Bulk Requirements, this Lot must meet the “required front yard” setback on each side of the corner. The proposed front yard setbacks for this Lot are set forth above.

Consistent with the Board’s 2006 Resolution, Town Planning staff have requested the Applicant to keep buildings and driveways out of the “paper streets.” The present configuration of the subdivision, as shown on the Ingalls map, reflects the Applicant’s effort to comply with that request.

At the September 4 hearing, the Board requested the Applicant to consider modifications to “Lot 7” (27 Bower Avenue) to minimize the requested variances. At the September 18 hearing, Applicant presented the Ingalls map, a modified Preliminary Plat increasing the width of this Lot from 78 to 85 feet, and increasing its proposed highway frontage from 53+ to 58 feet, decreasing the requested variances by the same amounts.

Further modifications to the Lot configurations do not appear to be practical without using portions of the “paper streets.”
By Recommendation dated August 15, 2013 (Case No. 4-130801777), the Albany County Planning Board deferred to local consideration on the application.

As required by law, the Board notified both the City of Albany and Town of Guilderland of the application.

Other than as noted above, the Board received no written or oral testimony related to the application.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearings, and other documents submitted by the Applicant, the Board determines that the proposed variances shown above (pp. 2-4, items “a”-“f”) will be granted.

The Board has determined that the requested variances 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 Board’s 2010 Resolution (p. 3) notes the community benefits that will accrue from completion of the subdivision. Granting the requested variances will facilitate the completion of the subdivision.

The only alternative to the requested variances would be a legal proceeding to extinguish pre-existing rights of use (if any) contained in other deeds to lots in the original subdivision. The benefit sought by the Applicant (maximum development of its property) is now achieved by keeping proposed development out of the “paper streets,” as requested by Town legal and planning staff.

The requested variances will have no adverse effect on the physical or environmental conditions in the neighborhood.
The requested variances are the minimum that is necessary and adequate to the Applicant’s needs, while still preserving the character of the neighborhood and allowing for further development of the property.

The alleged difficulty necessitating the requested variances has been created in part by the Applicant, who purchased the property with knowledge of the “paper streets.” This determination is outweighed by the other factors discussed above.

The proposed variances are a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR 617.5[c] [12]), and no environmental impact review is required.

The requested variances described above are GRANTED, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the September 4, September 18 and October 16, 2013 hearings except as the same may be modified by the Town Planning Board;

2. The project shall be completed within the time required by section 128-89 (R) of the Town Code.

November 6, 2013

Daniel Coffey
Chairman
Zoning Board of Appeals

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The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on November____, 2013.

Kathleen Reid, Secretary
Zoning Board of Appeals
The Resolution drafted by Counsel was approved 5-0 as follows:

RESULT: APPROVED [UNANIMOUS]
MOVER: George T. Harder, Board Member
SECONDER: David R. DeCancio, Board Member
AYES: Coffey, Micelli, DeCancio, Watson, Harder

V. Discussion/Possible Action

- BENDERSON GROUP - TIME EXTENSION NOT REQUIRED

Chairman Coffey advised the Board that the Benderson Group variance application does not expire until next summer, therefore a time extension is not required at this time.

VI. New Business

- ENVIRONMENTAL QUALITY REVIEW ACT WORKSHOP

The Board has fulfilled their training requirements for the year therefore the meeting scheduled for December 4, 2013 will not be rescheduled for training purposes.

- RULES OF PROCEDURE UPDATE

Chairman Coffey went over some minor revisions to the Rules of Procedure for the Zoning Board of Appeals.

VII. Minutes Approval

A. Wednesday, October 16, 2013

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Leonard Micelli, Board Member
SECONDER: David R. DeCancio, Board Member
AYES: Coffey, Micelli, DeCancio, Watson, Harder

VIII. Adjournment

Motion To: Adjourn

RESULT: ADJOURN [UNANIMOUS]
MOVER: Leonard Micelli, Board Member
SECONDER: Matthew C. Watson, Board Member
AYES: Coffey, Micelli, DeCancio, Watson, Harder

The meeting was adjourned at 7:08 PM

Next Regular Meeting Wednesday, November 20, 2013

IX. ZBA-Action Items