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>
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</thead>
<tbody>
<tr>
<td>Daniel Coffey</td>
<td>Chairman</td>
<td>Present</td>
<td></td>
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<tr>
<td>Holly Nelson Lutz</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>Matthew C. Watson</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>George T. Harder</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>Nicholas R. Cartagena</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Michael Moore</td>
<td>Planning/Zoning Board Counsel</td>
<td>Present</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>Excused</td>
<td></td>
</tr>
<tr>
<td>Justin Harbinger</td>
<td>Assistant Building Inspector</td>
<td>Present</td>
<td></td>
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</tbody>
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II. Public Hearings

A. Public Hearing for an application submitted by Clifford & Pamela Young for construction of a carport located at 78 Dorchester Avenue, Selkirk, that does not meet the requirements of the law under Article V, Section 128-40.

The Applicant is proposing to construct an attached carport that would create a side yard setback of 6.3" - 3.7' shy of the 10' required.

The existing structure is located in a Planned Development District and is occupied as a single family dwelling.

A motion to indent the public hearing notice was made by Ms. Lutz, seconded by Mr. Watson.

**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, December 2, 2015 at
7:00 PM., at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application by **Clifford and Pamela Young, 78 Dorchester Avenue, Selkirk** for an area variance under Article V, Section 128-40. Applicant would like to construct a carport that does not meet town code set back requirements.

Clifford and Pamela Young presented to the Board. Currently the Young’s have a one car attached garage. Due to property constraints the proposed carport would have to be located on the side of the house where the required setback would not be met. Construction of a garage would also require a variance and would be too costly. Mr. Young indicated that there are other carports in the development and felt the carport would not be a negative impact on the neighborhood. There was a brief question and answer period.

No one was present to speak in favor or in opposition to the application

The Board voted to close the Public Hearing as follows:

<table>
<thead>
<tr>
<th>RESULT:</th>
<th>CLOSED [UNANIMOUS]</th>
</tr>
</thead>
<tbody>
<tr>
<td>MOVER:</td>
<td>George T. Harder, Board Member</td>
</tr>
<tr>
<td>SECONDER:</td>
<td>Holly Nelson Lutz, Board Member</td>
</tr>
<tr>
<td>AYES:</td>
<td>Coffey, Lutz, Watson, Harder, Cartagena</td>
</tr>
</tbody>
</table>

**B.** Public Hearing for an application submitted by Hess Retail Stations LLC, for a change to existing signage located at 146 Delaware Avenue, Delmar that will not meet the requirements of the law under Article VI, Section 28-59 Signs, K, D (1), D(6)

This application was originally before the Board on November 4, 2015 for a Public Hearing.

ACPB has found that the proposed action will have no significant countywide or intermunicipal impact and deferred for local consideration with an advisement to the Board to consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

Chairman Coffey referenced an email from Robert Leslie, Director of Planning, conveying his non support of granting the variance. He referenced several examples of gas stations and other businesses in Bethlehem over the past few years that complied with the sign code when changes to a nonconforming freestanding sign were proposed.

Andy Lautenbacher was present on behalf of Speedway, he distributed a new proposal for signage with no illumination and a reduction in the total square footage.

There was no one present in favor or in opposition of the variance.

The Board voted to close the Public Hearing as follows:

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<th>RESULT:</th>
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</tr>
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<td>AYES:</td>
<td>Coffey, Lutz, Watson, Harder, Cartagena</td>
</tr>
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</table>

**C.** Public Hearing for an application submitted by Hess Retail Stations LLC, for a change to existing signage located at 1358 New Scotland Rd, Slingerlands that will not meet the requirements of the law under Article VI, Section 28-59 Signs, K, D (1), D(6)

This application was originally before the Board on November 4, 2015 for a Public Hearing.
ACPB has found that the proposed action will have no significant countywide or intermunicipal impact and deferred for local consideration with an advisement to the Board to consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

Chairman Coffey referenced an email from Robert Leslie, Director of Planning, conveying his non support of granting the variance. He expressed that allowing the existing non-conforming sign to remain at the Speedway location would be inconsistent with the New Scotland Road Hamlet Master Plan and referenced several examples of gas stations and other businesses in Bethlehem over the past few years that complied with the sign code when changes to a nonconforming freestanding sign were proposed.

Andy Lautenbacher was present on behalf of Speedway, he distributed a new proposal for signage with no illumination and a reduction of the total square footage.

There was no one present in favor or in opposition of the variance.

The Board voted to close the Public Hearing as follows:

RESULT: CLOSED [UNANIMOUS]
MOVER: Holly Nelson Lutz, Board Member
SECONDER: George T. Harder, Board Member
AYES: Coffey, Lutz, Watson, Harder, Cartagena

D. Public Hearing for an application submitted by RCS School District - 1146 Route 9W, A.W. Becker School, for existing signage that does not meet the requirements of the law under Article VI, Section 128-59, L

This application was last before the Board for a Public Hearing on October 21, 2015. The existing electronic reader board is located at A.W. Becker School, Route 9W in Selkirk and is on a State Right-of-Way. The Public Hearing was tabled until New York State Department Of Transportation had a chance to weigh in on the matter.

On October 15, 2015 Albany County Planning Board (ACPB) disapproved without prejudice stating the application represents a significant number and type of variances from town code regulation. In addition, the sign location outside of the property ownership and within a New York State Right-of-Way is substantial. Significant variances from the sign code regulation should also be considered for their precedent setting nature. The school district should work with the town to resolve issues for the need for signage.

Don Roberts of New York State Department Of Transportation emailed Mr. Libby, Superintendent of Schools, on November 24, 2015 detailing terms and conditions for a "Use and Occupancy Permit" to allow the sign on the State Right-of-Way if approved by the town.

Chairman Coffey noted that members of the Board conducted a site visit on Sunday, November 15, 2015 to view the electronic reader board sign.

Kris Langlois, Attorney for Girvin & Ferlezzo was present to speak on behalf of the Applicant, Ravena Coeymans Selkirk School District. Robert K. Libby, Superintendent of Schools, was also present to answer questions.

There was a brief question and answer period regarding placement of the sign, various uses of the sign, its necessity and conditions NYSDOT would place on the sign if approved.

Edward Reville - Bethlehem Resident - spoke in favor of the variance.

There was no one present to speak in opposition.

The Public Hearing was closed as follows:
RESULT: CLOSED [UNANIMOUS]
MOVER: Matthew C. Watson, Board Member
SECONDER: George T. Harder, Board Member
AYES: Coffey, Lutz, Watson, Harder, Cartagena

III. Applications - Review and Possible Public Hearing Scheduling

IV. Resolutions

V. Discussion/Possible Action

- CLIFFORD & PAMELA YOUNG - 78 DORCHESTER AVENUE, SELKIRK

  The Board voted to APPROVE the variance as follows:
  Chairman Coffey was in favor of granting the variance for the following reasons:
  • Not a significant variance
  • Costly to extend garage which would also require a variance
  • No opposition from adjacent neighbor
  • Would not have any adverse effects on the neighborhood
  • Configuration of the property leaves no other option
  Mr. Cartagena was in favor of granting the variance for the following reasons:
  • Not a significant variance
  • Hardship was not self-created
  • Configuration of property
  • Would not have any adverse effects on the neighborhood
  • Alternative too costly
  Ms. Lutz was in favor of granting the variance for the following reasons:
  • For all reasons already stated
  • Design of the carport would add to character of neighborhood
  • Not a substantial variance
  Mr. Harder was in favor of granting the variance for the following reasons:
  • Not a substantial variance
  • Felt the character of the neighborhood would be changed but agreed to grant the variance
  Mr. Watson was in favor of granting the variance for the following reasons:
  • For all reasons the Chairman stated
  • Design will blend in nicely with the house
  With a MOTION by Mr. Watson, Seconded by Ms. Lutz the variance was approved 5-0.
  Counsel will draft a resolution to be voted on at the next meeting.

- HESS RETAIL STATIONS LLC - 146 DELAWARE AVE., DELMAR
The variance was DENIED as follows:
Chairman Coffey was not in favor of granting the variance for the following reasons:
- Variance(s) are significant
- Not consistent with the code for the Delaware Avenue corridor
- Multiple gas stations on Delaware Avenue have implemented signs that are conforming
  Mr. Harder was not in favor of granting the variance for the following reasons:
  - Agrees with the Chairman
  - Variance(s) are significant
  Ms. Lutz was not in favor of granting the variance for the following reasons:
  - Agrees with the Chairman & Mr. Harder
  - Variance(s) are significant
  - Keeping with the precedent for compliant signs within the code
  Mr. Cartagena was not in favor of granting the variance for the following reasons:
  - For all reasons already stated
  - Variance(s) are significant
  - Multiple gas stations on Delaware Avenue have implemented signs that are conforming
  Mr. Watson was not in favor of granting the variance for the following reasons:
  - Variance(s) are significant
  - For all reasons already stated

With a MOTION by Mr. Harder, Seconded by Mr. Cartagena the variance was DENIED 5-0.
Counsel will draft a resolution to be voted on at the next meeting.

- HESS RETAIL STATION LLC - 1358 NEW SCOTLAND RD, SLINGERLANDS

The variance was DENIED as follows:
Chairman Coffey was not in favor of granting the variance for the following reasons:
- Variance(s) are significant
- Not consistent with the New Scotland Hamlet Master Plan
  Ms. Lutz was not in favor of granting the variance for the following reasons:
  - Agrees with the Chairman
  - Variance(s) are significant
  - Not consistent with the New Scotland Hamlet Master Plan
  Mr. Harder was not in favor of granting the variance for the following reasons:
  - Agrees with the Chairman
  - Variance(s) are significant
  - Mr. Cartagena was not in favor of granting the variance for the following reasons:
  - For all reasons already stated
Mr. Watson was not in favor of granting the variance for the following reasons:

- For all reasons already stated

With a MOTION by Mr. Watson, Seconded by Ms. Lutz the variance was DENIED 5-0.

Counsel will draft a resolution to be voted on at the next meeting.

**RCS SCHOOL DISTRICT - 1146 ROUTE 9W**

The variance was DENIED as follows:

- Chairman Coffey was not in favor of granting the variance for the following reasons:
  - Appearance of design and illumination of sign during site visit - was a large "Las Vegas" like sign
  - Design of sign not compliant with the sign code
  - Town code 125-59 (L)(9) strictly prohibits electronic reader signs
  - Other signs in area are pre-existing non-conforming signs
  - Would set a dangerous precedent for other businesses, schools, property owners in town
  - Other means of communication available for residents

Mr. Harder was not in favor of granting the variance for the following reasons:

- Agrees with the Chairman
- Severe safety issue - distracting drivers, especially with scrolling sign

Mr. Cartagena was in favor of granting the variance for the following reasons:

- visited the site and struggled with safety issues and the signs aesthetics but overall was in favor of granting the variance for the following reasons:
  - Factors mitigate issues mentioned
  - Agreement with NYS DOT with terms and conditions mentioned
  - Not in a heavily populated area of town
  - Purpose of signage to benefit the school district

Mr. Watson was not in favor of granting the variance for the following reasons:

- Variances are significant
- Holes in NYS DOT comments, too many variables
- Safety issues
  -  Ms. Lutz was not in favor of granting the variance for the following reasons:
  - Visited site did not like the view of the sign when illuminated at night
  - Internally illuminated sign for the 9W corridor not compliant with the town code
  - Was a self-created hardship
  - Scrolling text is a problem under the town code
  - The precedent the Board would be setting if the variance is approved
  - Stronger conditions needed to be applied by NYS DOT
VI. New Business

VII. Minutes Approval

A. Wednesday, November 18, 2015

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Matthew C. Watson, Board Member
SECONDER: Holly Nelson Lutz, Board Member
AYES: Coffey, Lutz, Watson, Harder, Cartagena

VIII. Adjournment

Motion To: Adjourn

RESULT: ADJOURN [UNANIMOUS]
MOVER: Holly Nelson Lutz, Board Member
SECONDER: George T. Harder, Board Member
AYES: Coffey, Lutz, Watson, Harder, Cartagena

The meeting was adjourned at 8:18 P.M.

Next Regular Meeting Wednesday, December 16, 2015