I. Call to Order

II. Public Hearings
   A. Public hearing for an application submitted by Stanley Hayes of Hyman Hayes Associates on behalf of Albany Medical Center for areas variance(s) located at 99 Delaware Avenue, Delmar. Applicant is proposing facade and landscaping renovations that do not meet the Town's Zoning Code requirements Under Article VI, Section 128-56(H)(K).
   B. Public Hearing for an amended application submitted by Heather Myers on behalf of Air Products, 461 River Road for an additional height variance located at 461 River Road Glenmont and Continuation of a Public Hearing for (3) area variance(s) under Article XIII, Section 128-100 A., Height of (3) structures and Backyard setback. Applicant is proposing modernization and expansion to the existing facility.

III. Applications - Review and Possible Public Hearing Scheduling
   A. Accept application and schedule Public Hearing for an application submitted by Mithun Vyas on behalf of DG SUNY Solar 1, LLC for area variance(s) located at 93 Bridge Street, Selkirk. The Applicant is proposing a solar project that does not meet the requirements of the Town Law under Articles VI, Section 128-67,2, Article XIII, Section 128-100, and Article VI, Section 128-42 A,1.

IV. Resolutions

V. Discussion/Possible Action
   1. Air Products and Chemicals, Inc.-461 River Road, Glenmont

VI. New Business

VII. Minutes Approval
   A. Wednesday, January 18, 2017
   B. Wednesday, January 04, 2017

VIII. Adjournment

   Next Regular Meeting February 15, 2017
TOWN OF BETHLEHEM
ZONING BOARD OF APPEALS
Area or Use Variance
VARIANCE APPLICATION

Address of Variance: __________________________

Presently Zoned: ____________________________ Tax map #: ____________________

Name, Address and Telephone # of Applicant: __________________________

If other than owner, state interest in property and attach proof: ____________________

Name, Address and Telephone # of Representative: __________________________

For a variance under Article(s) __________________________

Requested for the purpose of __________________________

Was an application made for a Building Permit? Yes ___ No ___ When _________

Estimated time required to complete the project __________________________

93 Bridge Street Selkirk NY 12158

DG SUNY Solar 1, LLC

700 Universe Blvd., C1A/JB, Juno Beach, FL 33408

(561)-694-3842

Lessee

Mithun Vyas

700 Universe Blvd., C1A/JB, Juno Beach, FL 33408

(561)-694-3842

Article VI Section 128-67.2, Article XIII Section 128-100
(highway frontage, access, and setback requirements)

9 months

✔

developing and constructing a solar PV project at 93 Bridge Street, Selkirk NY.
Part A

For an Area Variance:

Before an area variance can be granted, State Law requires that the ZBA take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

To grant an area variance, the ZBA must balance the benefits to the applicant and the health, safety, and welfare of the neighborhood and community, taking into consideration the following factors. The ZBA must consider each of these factors, but no one factor is determinative and the weight to be given to each of them will vary with the facts of each particular case.

1. Whether the granting of the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

   In order to fit the solar project on the project parcel, we are requesting an area variance for the property line setback. The setback to the northern property line would be 45 feet (versus 120 feet). The lot to the north of the project location is zoned Rural and is considered a part of the residential district, but there are no residential dwellings on the property, hence no impact is expected. The lot to the south is zoned Industrial and the lot to the west is zoned Rural Light Industrial.

2. Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible.

   The solar system has been reduced in size (i.e., the original DC megawatt capacity has been reduced by 1.2 megawatts), condensed (i.e., the intra-row spacing has been reduced), and reconfigured to minimize the footprint and the environmental impacts (primarily tree trimming) while maximizing setbacks. Reducing the megawatt capacity any further will drastically increase the per unit cost for the interconnection, rendering the project economically infeasible.
3. Whether the variance is substantial. The requested variance is not substantial for the following reasons:

Area variance for property line setbacks is only needed for the lot to the north of the property, which is zoned Rural. Lots to the west and south are zoned Industrial and Rural Light Industrial not requiring a variance for property line setbacks. Additionally, the parcel to the north is well situated to be used for solar development, and if such development moves forward, a setback variance would be appropriate for both properties.

4. Whether the variance will have adverse physical or environmental effects on the neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons:

Given the distance of the project from Bridge Street, the difference between a 120-foot setback and a 45-foot setback (note: the actual setback is in excess of 60 feet in many places along the northern property line) would be largely indistinguishable to neighbors/visitors.

5. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance). Explain whether the alleged difficulty was or was not self-created.

The difficulty was self-created in that we endeavored to design the solar system that respected the nature of the surrounding area (i.e., we limited tree clearing, we are accessing the site from a road other than Bridge Street, we are ensuring that the project is entirely west of the transmission line and therefore significantly set back from Bridge Street, and we are entirely avoiding wetland impacts).
**Short Environmental Assessment Form**  
**Part 1 - Project Information**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<table>
<thead>
<tr>
<th>Name of Action or Project:</th>
<th>Selkirk Solar Farm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Location (describe, and attach a location map):</td>
<td>93 Bridge Street Selkirk NY 12156</td>
</tr>
<tr>
<td>Brief Description of Proposed Action:</td>
<td>Develop, build, own, and operate four (4) solar farms of 2.0 MW each at the Project Location. The solar farms will consist of a ground mounted pole and racking system, with attached solar panels facing south at a 25 degree angle, with a height of approximately 7' to 8'. The panels will be wired together via underground or on-racking conduit, and combined in an approximately 100 sq. ft. inverter equipment structure, and finally connected to the nearby National Grid electric utility service line as directed and determined by National Grid using industry compliant equipment. The area under the solar arrays will be maintained at their near native condition or other suitable restoration. The solar farms will be surrounded by typical 6-foot chain link fence, with appropriate safety signage and gated access available to emergency services, and will require no water or sewer facilities. They will be equipped with a 24/7 remote monitoring system, with a local technician on-call. The solar farms will operate silently, and with minimal maintenance for a period of 30 years or more under and Operations and Maintenance contract.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Applicant or Sponsor:</th>
<th>DG SUNY Solar 1, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone:</td>
<td>561-694-3842</td>
</tr>
<tr>
<td>E-Mail:</td>
<td><a href="mailto:mithun.vyas@neeea.com">mithun.vyas@neeea.com</a></td>
</tr>
<tr>
<td>Address:</td>
<td>700 Universe Blvd. C1A/JB</td>
</tr>
<tr>
<td>City/PO:</td>
<td>Juno Beach</td>
</tr>
<tr>
<td>State:</td>
<td>Florida</td>
</tr>
<tr>
<td>Zip Code:</td>
<td>33408</td>
</tr>
</tbody>
</table>

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?  
   - **NO**  
   - **YES**

2. Does the proposed action require a permit, approval or funding from any other governmental Agency?  
   - **NO**  
   - **YES**

3.a. Total acreage of the site of the proposed action?  
   - **42.6 acres**

3.b. Total acreage to be physically disturbed?  
   - **42.6 acres**

3.c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?  
   - **72.26 acres**

4. Check all land uses that occur on, adjoining and near the proposed action.  
   - [ ] Urban  
   - [x] Rural (non-agriculture)  
   - [x] Industrial  
   - [ ] Commercial  
   - [x] Residential (suburban)  
   - [ ] Forest  
   - [x] Agriculture  
   - [ ] Aquatic  
   - [ ] Other (specify): ____________

   - [ ] Parkland

---

Page 1 of 3
5. Is the proposed action,  
   a. A permitted use under the zoning regulations?  
      | NO | YES | N/A  
      |    | ✓   |     
   b. Consistent with the adopted comprehensive plan?  
      | NO | YES | N/A  
      |    | ✓   |     

6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?  
   | NO | YES  
   |    | ✓   

7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?  
   If Yes, identify:  
   | NO | YES  
   | ✓  |    

8. a. Will the proposed action result in a substantial increase in traffic above present levels?  
    | NO | YES  
    | ✓  |    
   b. Are public transportation service(s) available at or near the site of the proposed action?  
    | NO | YES  
    | ✓  |    
   c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?  
    | NO | YES  
    | ✓  |    

9. Does the proposed action meet or exceed the state energy code requirements?  
   If the proposed action will exceed requirements, describe design features and technologies:  
   | NO | YES  
   | ✓  |    

10. Will the proposed action connect to an existing public/private water supply?  
    If No, describe method for providing potable water:  
    The project does not need access to potable water supply.  
    | NO | YES  
    | ✓  |    

11. Will the proposed action connect to existing wastewater utilities?  
    If No, describe method for providing wastewater treatment:  
    The project will not generate any wastewater.  
    | NO | YES  
    | ✓  |    

12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?  
    | NO | YES  
    | ✓  |    
   b. Is the proposed action located in an archeological sensitive area?  
    | NO | YES  
    | ✓  |    

13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  
    | NO | YES  
    | ✓  |    
   b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?  
    | NO | YES  
    | ✓  |    
   If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:  
    Lakes and Ponds - 863-586.  
    Wetlands - Federal Waters  
    | NO | YES  
    | ✓  |    

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:  
   | Shoreline | Forest | Agricultural/grasslands | Early mid-successional  
   | ✓ | | |  
   | Wetland | Urban | Suburban  
   | ✓ | |  

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?  
    | NO | YES  
    | ✓  |    

16. Is the project site located in the 100 year flood plain?  
    | NO | YES  
    | ✓  |    

17. Will the proposed action create storm water discharge, either from point or non-point sources?  
   If Yes,  
   a. Will storm water discharges flow to adjacent properties?  
      | NO | YES  
      | ✓  |    
   b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?  
      | NO | YES  
      | ✓  |    

Dry swales are proposed alongside the site access road to source-treat added impervious area for stormwater quality purposes. These dry swales will discharge into an existing ditch and impoundment onsite.
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?
   If Yes, explain purpose and size:
   Dry swales are proposed alongside the site access road to source-treat added impervious area for stormwater quality purposes. These dry swales will discharge into an existing ditch and impoundment onsite. 1.3 acres of impervious surface.
   YES

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?
   If Yes, describe:
   YES

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?
   If Yes, describe:
   YES

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Applicant/sponsor name: DG SUNY Solar 1, LLC
Signature: [Signature]
Date: 1/10/2017
SOUTH 51º 59' 59" E OF NEW YORK STATE ROUTE 396, COUNCIL OF THE TOWN OF BETHLEHEM, COUNTY OF ALBANY AND STATE OF NEW YORK, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:


THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID NEW YORK STATE ROUTE NO. 396, THE TOWN OF BETHLEHEM, COUNTY OF ALBANY AND STATE OF NEW YORK, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:


THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID NEW YORK STATE ROUTE NO. 396, THE TOWN OF BETHLEHEM, COUNTY OF ALBANY AND STATE OF NEW YORK, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:


THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID NEW YORK STATE ROUTE NO. 396, THE TOWN OF BETHLEHEM, COUNTY OF ALBANY AND STATE OF NEW YORK, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:


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NOTES
2. AREAS OF THIS PROPOSED SITE LIE WITHIN A FEMA DESIGNATED 100 YEAR FLOOD HAZARD AREA PER FEMA PANEL #36001C0312D, DATED 03/16/2015.
3. PARENT PARCEL INFORMATION:
   PROPERTY OWNER: DAVID E. FRICK
   PIN: 121.00-2-20
4. WETLAND DELINEATION WAS COMPLETED BY KLEINFELDER, DATED 06/06/2016.
5. EXISTING VEGETATION AND NATURAL AREAS WILL BE PROTECTED TO THE GREATEST EXTENT POSSIBLE. MINIMAL CLEARING OF THE LAND SHALL BE UNDERTAKEN DURING DEVELOPMENT.
6. SAFETY AND SECURITY SIGNAGE IS TO BE POSTED AT INTERVALS OF 100' ALONG PERIMETER FENCING.
7. ELECTRONIC FILES WILL BE FURNISHED TO THE CONTRACTOR FOR USE IN FIELD LAYOUT UPON REQUEST.
NOTES


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9. ELECTRONIC FILES WILL BE FURNISHED TO THE CONTRACTOR FOR USE IN FIELD LAYOUT UPON REQUEST.
**TOWN OF BETHLEHEM**

Zoning Board of Appeals Minutes

Wednesday, January 18, 2017
7:00 PM

---

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>Jane Barnes</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Jeremy Martelle</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Daniel Coffey</td>
<td>Chairman</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Holly Nelson Lutz</td>
<td>Board Member</td>
<td>Absent</td>
<td></td>
</tr>
<tr>
<td>Dave Devaprasad</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>Absent</td>
<td></td>
</tr>
<tr>
<td>Craig Yaiser</td>
<td>Assistant Building Inspector</td>
<td>Present</td>
<td></td>
</tr>
</tbody>
</table>

- **WELCOME NEW BOARD MEMBERS - JEREMY MARTELLE AND JANE BARNES**

  Chairman Coffey welcomed Jeremy Martelle and Jane Barnes to the Board of Appeals.

II. **Public Hearings**

III. **Applications - Review and Possible Public Hearing Scheduling**

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY STANLEY HAYES OF HYMAN HAYES ASSOCIATES ON BEHALF OF ALBANY MEDICAL CENTER FOR AREAS VARIANCE(S) LOCATED AT 99 DELAWARE AVENUE, DELMAR. APPLICANT IS PROPOSING FACADE AND LANDSCAPING RENOVATIONS THAT DO NOT MEET THE TOWN’S ZONING CODE REQUIREMENTS UNDER ARTICLE VI, SECTION 128-56(H)(K).**

  The Board voted to accept the application and set the Public Hearing for February 1, 2017 at 7:00 PM as follows:
RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Board Member
SECONDER: Jeremy Martelle, Board Member
AYES: Jane Barnes, Jeremy Martelle, Daniel Coffey, Dave Devaprasad
ABSENT: Holly Nelson Lutz

IV. Resolutions

V. Discussion/Possible Action

VI. New Business

- AIR PRODUCTS - 461 RIVER ROAD, GLENMONT - BALLOON TESTING SCHEDULED

Air Products, located at 461 River Road, Glenmont is under review by the Zoning Board of Appeals for 4 height variances and a rear yard setback variance. The Application was before the Board for a Public Hearing on January 4, 2017 at that time the Board requested a balloon test be performed for the height variance(s).

The Applicant and Staff have coordinated a balloon test date of Saturday January 21st from 7AM to 11AM with an alternate date for inclement weather for Sunday January 22nd.

The date and time will be posted on the Town’s website as well as any cancellation.

VII. Minutes Approval

A. Wednesday, January 04, 2017

Chairman Coffey asked for a Motion to table the Approval of the January 4, 2017 Meeting Minutes until a quorum was present to vote. Mr. Martelle and Ms. Barnes were not present and did not view the meeting and therefore were not eligible to vote.

The Motion was approved as follows:

RESULT: TABLED [UNANIMOUS]
MOVER: Dave Devaprasad, Board Member
SECONDER: Jeremy Martelle, Board Member
AYES: Jane Barnes, Jeremy Martelle, Daniel Coffey, Dave Devaprasad
ABSENT: Holly Nelson Lutz

VIII. Adjournment

A motion to adjourn the meeting at 8:03 PM was made by Mr. Devaprasad, Seconded by Mr. Martelle.

Next Regular Meeting February 1, 2017
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>
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<tbody>
<tr>
<td>Brian Gyory</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Daniel Coffey</td>
<td>Chairman</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Holly Nelson Lutz</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
</tr>
<tr>
<td>Dave Devaprasad</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>Present</td>
<td></td>
</tr>
</tbody>
</table>

II. Public Hearings

A. Public Hearing for an application submitted by Heather Myers on behalf of Air Products, 461 River Road, Glenmont for area variance(s) under Article XIII, Section 128-100 A., Height of (3) structures and Backyard setback. Applicant is proposing modernization and expansion to the existing facility.

The Applicant is proposing to expand the existing air product production facility which will require four area variances, three for height and one rear yard setback. The proposed rear yard setback of 25' will be 25' shy of the 50' required. The height of the three structures requiring a variance will be 67', 98' and 180' where a maximum height of 60' is permitted.

The existing 120' tower received a height variance in 1974 when the height requirement was also 60'. The property is located in a Heavy Industrial Zoning District and the use of the property is for the manufacturing of gas products.

A motion to indent the Public Hearing notice into the minutes was made offered by Mr. Devaprasad, Seconded by Mr. Gyory.

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, January 4, 2017 at 7:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by Heather Myers on behalf of Air Products and Chemicals, Inc. for an area variance located at 461 River Road, Glenmont. The Applicant is proposing to expand and modernize the existing facility. The proposed project does not meet the Town’s Zoning Code requirements under Article XIII, Section 128-100 A. Height of structures and rear yard setback.

John Privitera, Counsel for Air Products and Chemical Inc. presented for the Applicant along with Heather Myers, Air Product Project Engineer; John Kraft, Air Products Site Manager; Larry Bleam, Air Product Manager; David McCarthy, Air Products; Mike Tucker, Site Engineer.

The Applicant is proposing an expansion and upgrade of the current facility. The 120' cold box structure currently on the site received 130' variance in 1974 has been functioning for 40 years, the reason for the upgrade is a need to modernize, expand, to be competitive and to gain energy efficiencies beyond what was designed 40 years ago and with new technologies be able to bring down energy use. The Applicant can not find any other feasible alternative to produce the same energy efficiencies, be more competitive and offer a higher quality and purity then the new structures will allow. Mr. Privitera described the escapements and natural back drop that surround the parcel and given the industrial use of the neighborhood feels that it would not be a substantial variance and would fit into the neighborhood and not be a detriment. He explained that there will be no pollution, noise levels or change to the current use of property. Mr. Tucker presented a site plan of the facility with the proposed changes to the layout. The cold box currently on site will not be used in the future and currently there are no plans for it to be removed.

After a brief question and answer period the Board requested the following from the Applicant:

1. To conduct a balloon test at the site for all structures requiring a height variance.
2. Photos of the Balloon(s) from different angels and different vantage point on River Road and surrounding streets (Smultz Road, Glenmont Road, etc.).
3. A photo simulation of the proposed structures (at the three locations) based on the visible locations of the balloons as documented in the photos taken.
4. Consider if Applicant would remove existing cold box that will no longer be needed.

No one spoke in favor or in opposition to the project.

The application is required to go to the Albany County Planning Board and will be on its January 19th agenda.

If the area variance(s) are approved the project will go before the Planning Board for Site Plan review.
RESULT: KEPT OPEN

III. Applications - Review and Possible Public Hearing Scheduling

IV. Resolutions

- GORDON BLAISDELL - 34 ROCKEFELLER ROAD

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 a Variance under Article V, District Regulations, Section 128-27 C (1) (Residential “A” District, Accessory uses, location, side yard setback) requested by Gordon Blaisdell ("Applicant") for property at 34 Rockefeller Road, Delmar, 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 December 21, 2016; 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

Applicant proposes to remove an existing non-conforming shed located within his side yard setback and replace it with a larger shed in the same location. The proposed new shed would be 1 foot from the side yard line, less than the 5 feet required by the Town Code (variance of 4 feet requested). The proposed new shed would comply with all other applicable requirements of the Town Code. The property is located in the Residential “A” District and is occupied by a single family residence.

Applicant Gordon Blaisdell testified in support of the application.

Applicant’s testimony and photographic evidence shows, and the Board finds, that the proposed location of the shed is the only practical location available on the property. The property is a small and narrow lot, near the Normanskill Creek, with an old creek bed or drainage channel on one side, and a steep slope in the rear yard. Applicant also requires access in his side yard to a grinder pump for his sewage system, which limits where a shed could be located. The proposed new shed would be larger than the existing shed, but more functional and attractive. The roofing and siding on the new shed will match that on the dwelling.

The shed is needed for storage, as the home has no full basement, only a crawl space.

At the public hearing, Applicant submitted a list signed by twenty-three (23) of his neighbors in support of the proposed shed, including the neighbor with the adjoining side yard.

At the Board’s request, Applicant agreed to move the proposed shed two (2) feet closer to the house, to minimize the size of the requested variance. The Town Building Inspector testified that this modification to the shed location would still be in compliance with applicable building codes (separation distance between non-fire rated storage shed and main structure).

One person testified at the public hearing in support of the application. The Board received no other testimony, written or oral, regarding the application.
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 a variance (Residential “A” District, accessory structure, side yard setback) will be granted, but of two feet, not the four feet requested (shed to be located 3 feet off the side property line).

The Board has determined that the above granted 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. All of Applicant’s neighbors, including the neighbor whose property adjoins the shed location, have indicated their support for the project. The Applicant has agreed, and will be required to, match as nearly as possible the siding and roofing on the shed to that on the dwelling.

The benefit sought by the Applicant cannot be achieved by some method other than a variance. The lot is small and contains the physical constraints noted above, which preclude locating a shed elsewhere on the property.

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

The smaller variance granted by this Resolution 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 been created in part by the Applicant, but in large measure by the size and physical condition of the lot.
The proposed shed is a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR 617.5 [c] [10] and [12]), and no environmental impact review is required.

The requested variance (Residential “A” District, accessory structure, side yard setback) is 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 December 21, 2016 hearing, as conditioned below and except as the same may be modified by the Town Building Department;

2. In the construction of the shed, the Applicant shall match, as nearly as possible, the existing roofing and siding on the home;

3. The shed shall be located not less than three (3) from the side property line (variance of two [2] feet granted), and shall also comply with other applicable code or regulatory requirements regarding separation of the shed (and its contents) from the main dwelling structure. Applicant shall consult with the Town Building Department as to this “separation” requirement; and

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

January 4, 2017

Daniel Coffey
Chairman
Zoning Board of Appeals

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The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany
WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article V, District Regulations, Section 128-30 C (3) (Core Residential District, accessory uses, maximum lot coverage) requested by Michael and Katherine Marra (“Applicants”) for property at 29 Oakwood Place, Delmar, 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 December 21, 2016; 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

Applicants seek to construct an 8’x24’ addition to their existing 480 square foot detached garage. The proposed addition would create a total lot coverage for this accessory structure of 6.98%, in excess of the 5% limit in the Town Code. The proposed addition would still be within the Town Code limit of 20% lot coverage for all structures. The property is located in a Core Residential District and is occupied by a single family dwelling.

Applicant Michael Marra testified in support of the application. The proposed addition to the garage would provide additional storage space.

All possible alternatives to the proposal would also require a variance. The proposed 8’ addition is based on the size and spacing of pre-fabricated roof trusses. A smaller addition of 6’ in width would still require the “lot coverage” variance. Constructing the proposed addition on the rear of the existing garage would be more costly given the location of a well, and accessibility limitations for a concrete truck (concrete foundation planned). A shed as an alternative to the proposed addition would also require a “lot coverage” variance.

The Board received no other written or oral testimony regarding the application.

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 Applicants, the Board determines that the proposed variance (Core Residential District, accessory uses, maximum lot coverage) will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood. There was no opposition from neighboring
As set forth in the above Findings, the additional storage space sought by the Applicants cannot be achieved by some method other than a variance.

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

The requested variance is not substantial, and 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 been created by the Applicants, but this factor is outweighed by the above Findings and Conclusions.

The proposed garage addition is a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR 617.5 [c] [10]), and no environmental impact review is required.

The requested variance (Core Residential District, accessory uses, maximum lot coverage) is GRANTED, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicants at the December 21, 2016 hearing except as the same may be modified by the Town Building Department;

2. In the construction of the garage addition, the Applicants shall match, as nearly as possible, the roofing and siding on the existing garage; and
3. The project shall be completed within the time required by section 128-89 (R) of the Town Code.

January 4, 2017

Daniel Coffey
Chairman
Zoning Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on January___, 2017.

Kathleen Reid, Secretary
Zoning Board of Appeals

RESULT: APPROVED [UNANIMOUS]
MOVER: Holly Nelson Lutz, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Brian Gyory, Daniel Coffey, Holly Nelson Lutz, Dave Devaprasad

**DUNKIN DONUTS SEQR RESOLUTION - 232 DELAWARE AVENUE, DELMAR**

ZONING BOARD OF APPEALS
TOWN OF BETHLEHEM

SEQRA RESOLUTION
CLASSIFICATION OF ACTION AND NEGATIVE DECLARATION
ABD ENGINEERS AND IVO GARCIA
PROPOSED ADDITION OF “DRIVE THROUGH” FACILITIES AT EXISTING “DUNKIN DONUTS” RESTAURANT
232 DELAWARE AVENUE, DELMAR

AREA VARIANCES

WHEREAS, ABD Engineers, LLP and Ivo Garcia have submitted to the Town Zoning Board of Appeals (ZBA) an application for area variances (parking spaces and rear yard setback) needed for the construction of “drive through” facilities at an existing Dunkin Donuts restaurant in the Town’s Commercial Hamlet District (“the Project”); and
WHEREAS, the ZBA has received a short Environmental Assessment Form ("EAF") for the Project with Part I completed by the applicant and owner, and;

WHEREAS, the New York State Environmental Quality Review Act (SEQRA) regulations found at 6 NYCRR Part 617.3(a) require that no agency shall carry out, fund or approve an action until it has complied with the requirements of SEQRA, and;

WHEREAS, 6 NYCRR 617.6(a) requires that when an agency receives an application for approval of an action it must: (1) determine whether the action is subject to SEQRA, (2) determine whether the action involves a federal agency, (3) determine whether other agencies are involved, (4) make a preliminary classification of the action, (5) determine whether a short or full EAF will be used to determine the significance of the action, and (6) determine whether the action is located in an Agricultural District, and;

WHEREAS, this Project is a “Restaurant, with drive through” that will also require a special use permit and site plan approval from the Town of Bethlehem Planning Board (Town Code §128-99[A], Schedule of Uses); and

WHEREAS, this Project is an “unlisted” action under SEQRA; and;

WHEREAS, 6 NYCRR 617.6(b) (4) indicates that when more than one agency is involved in the review and approval of an unlisted action, an agency may conduct an “uncoordinated” review under SEQRA, and

WHEREAS, the ZBA has independently considered the information provided in the EAF and application materials, comments and testimony made during the public hearings held on October 5, 2016, November 2, 2016 and December 21, 2016, the Recommendation and Advisory Note of the Albany County Planning Board on the project dated October 20, 2016, the written comments of the NY Department of Transportation dated November 15, 2016 and December 16, 2016, and has completed Part II of the EAF,

NOW, THEREFORE, BE IT RESOLVED,

that the Zoning Board of Appeals hereby determines that:

1. The Project which is the subject of the proposed variances constitutes an Unlisted action which is subject to SEQRA,

2. The proposed action does not involve a federal agency,
3. The proposed action is not located in, or within 500 feet of, an Agricultural District and, therefore, is not subject to the provisions of the Agriculture and Markets Law, and

4. A short EAF is adequate for determining the significance of the proposed action.

BE IT FURTHER RESOLVED,

That the Zoning Board of Appeals hereby determines to conduct an “uncoordinated” SEQRA review of the variance application, and;

BE IT FURTHER RESOLVED,

that based upon its review of the project and the EAF, review of the comments and testimony made and received during the public hearings held, and comparison with the Criteria for Determining Significance found at 6 NYCRR Section 617.7(c), the Zoning Board of Appeals hereby finds that approval of the area variances for the project constitutes an action which will not have a significant impact on the environment and, therefore, does not require preparation of a Draft Environmental Impact Statement; and,

BE IT FURTHER RESOLVED,

that this determination is based upon the following facts particular to this application and the following conclusions:

1. The project will add one (1) parking space to the existing restaurant. Credible evidence submitted to the Board by the Owner shows that approximately 69% of incoming vehicle traffic can be expected to be absorbed by the “drive through” facilities, reducing the need for on-site parking.

2. Any impacts of the 10-foot rear yard setback variance can be mitigated by landscaping and/or fencing to “buffer” the restaurant from the adjoining residential neighborhood. The Board, in its Resolution approving the variances (adopted herewith), has recommended that the Town Planning Board give careful consideration to this issue during special use permit/site plan review.

3. Applicant’s traffic counts show that the project will have no new or increased impacts on the adjoining Town highway (Lincoln Avenue). The Board, in its Resolution
approving the variances (adopted herewith), has recommended that the Planning Board examine this issue further during special use permit/site plan review.

4. The New York Department of Transportation has indicated its preference for the Owner’s proposed site design, closing an existing curb cut onto Delaware Avenue (State Route 443) and utilizing the existing driveway onto Lincoln Avenue.

5. The project is an allowed use in the Commercial Hamlet District, subject to special use permit and site plan approval. It is presumed to be in harmony with the Town Code and the existing neighborhood character.

6. The County Planning Board’s Advisory Note regarding so-called “cumulative impacts” to traffic and stormwater in the Delaware Avenue corridor will be addressed by the Town Planning Board during its special use permit/site plan review of the project.

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,

BE IT FURTHER RESOLVED,

that this Determination of Significance shall be transmitted to the Town Building Department and Town Department of Economic Development and Planning; and

BE IT FURTHER RESOLVED,

that the Town Department of Economic Development and Planning is hereby authorized to file any and all appropriate notices so that the intent of this Resolution is carried out.

On a motion by _______________, seconded by ________________, and by a vote of ___ for, _____ against and ___ absent, this RESOLUTION was adopted on January 4, 2017.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Brian Gyory, Daniel Coffey, Holly Nelson Lutz, Dave Devaprasad

• DUNKIN DONUTS - 232 DELAWARE AVENUE, DELMAR

RESOLUTION

Meeting of Wednesday, January 4, 2017
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 128-56 (Off-street parking and loading, Schedule of Off-Street Parking, Restaurant with drive-through) and XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements (Commercial Hamlet District, minimum rear yard) requested by Tom Andress, ABD Engineering ("Applicant"), Ivo Garcia ("Owner") for property at 232 Delaware Avenue, Delmar, 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 October 5, November 2 and December 21, 2016; 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

Owner operates a “Dunkin Donuts” store on its property in the Commercial Hamlet District, at the corner of Delaware Avenue and Lincoln Avenue. Owner has
acquired the adjoining property on the south side of the property at 7 Lincoln Avenue (also in the Commercial Hamlet District), and proposes to add a “drive through” window with a “stacking” lane on the south side of the building. The proposed project would create a rear yard setback (south side of property) of 30’, 10’ less than the 40’ required by the Town Code. The modified operation would add one parking space, but would still have only 22 spaces, 13 less than the 35 required by the Schedule of Off-Street Parking in the Town Code. Owner agreed to modify its original plans to increase the size of the proposed parking stalls, and so avoid the need for an additional variance. Owner’s proposed site plan would close one of the two existing curb cuts on Delaware Avenue and modify the existing curb cut onto Lincoln Avenue. If the variances are approved, the project will require special use permit and site plan approval from the Town Planning Board.

Tom Andress of ABD Engineering and Owner Ivo Garcia testified at the public hearings in support of the application. Applicant and Owner testified that the “drive through” window is necessary for the restaurant to remain competitive in the current market. The draft plans presented to the Board show a fence and landscaping on the south side of the property to screen the operation from the adjoining residential neighborhood. This issue will be further addressed by the Town Planning Board during special use permit/site plan review.

At each of the three public hearings on the application, several residential neighbors of the project testified in opposition to the project, citing concerns over: neighborhood character, noise, lighting, parking on Lincoln Avenue by restaurant patrons, increased traffic on Lincoln Avenue and drainage issues. See, the Board’s Conclusions of Law and approval condition #1, below.

Following the October 5, 2016 public hearing, the Board requested Applicant to provide information regarding traffic counts into and out of the property; parking on Lincoln Avenue and confirmation of Applicant’s claim that the “drive through” reduces the need for on-site parking.
By Recommendation dated October 20, 2016 (Case No. 4-16-1002666) the Albany County Planning Board requested the Board to seek the input of the NY Department of Transportation (DOT) on the proposed “site design layout” and “curb cut changes” to Delaware Avenue (State Route 443). There was also an “Advisory Note” regarding possible redesign of the restaurant building to place the “drive through” on the opposite (north) side of the building; and suggesting that the Town consider “cumulative impacts” to traffic and stormwater drainage from all “recently proposed projects” in the Delaware Avenue corridor.

At the November 2, 2016 public hearing, Applicant presented a report and associated data showing: 1) traffic flow into and out of the property during the peak morning hours was consistent with general traffic flow from west to east toward the City of Albany; 2) there was only one period during the measured two-hour period when all parking spaces were utilized, which lasted about one minute; 3) parking did occur on Lincoln Avenue during the measured period, but it was not forced; and 3) utilizing data from another restaurant with similar sales (Oakwood Avenue, Troy), Applicant testified that about 69% of vehicle traffic onto the property will utilize the “drive through,” which reduces the need for on-site parking. In response to the County Planning Board “Advisory,” Applicant testified, and the Board finds, that it is not economically feasible to modify the existing building to allow for a “drive through” on the north side.

By memoranda to the Town Planning Department dated November 15, 2016 and December 16, 2016, the NY DOT commented upon its review of the proposed site plan and “curb cuts,” as requested by the County Planning Board. DOT stated that the Applicant’s proposed site design, closing the eastern curb cut onto Delaware Avenue and modifying the existing driveway onto Lincoln Avenue, was preferable to two “curb cuts” onto the State highway (Delaware Avenue).

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 and Owner, the Board determines that the proposed variances (Off-street parking and loading, Schedule of Off-Street Parking, Restaurant with drive-through; and Commercial Hamlet District, minimum rear yard) will be granted.

The Board has determined that the requested variances will be a benefit to the Owner’s business operation and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood. The restaurant is an existing use, allowed in the Commercial Hamlet District, subject to special use permit and site plan approval. The Board asks the Town Planning Board to look into the issue of screening by landscaping and/or fencing during its review of the project, to mitigate possible impacts of the granted rear yard variance.

The benefit sought by the Owner (“drive through” window) cannot be achieved by some method other than variances. In response to the County Planning Board’s “Advisory Note,” the building would need to be substantially rebuilt to relocate the “drive-through” window; and relocation would not change the need for a rear yard variance. The evidence presented to the Board shows that the proposed parking spaces will be adequate for the operation of the modified restaurant (addition of “drive through”); and there does not appear to be enough property available for 13 additional parking spaces.

The requested variances will have no adverse effect on the physical or environmental conditions in the neighborhood. The County Planning Board’s Advisory Note regarding so-called “cumulative impacts” to traffic and stormwater in the Delaware Avenue corridor will be addressed by the Town Planning Board during its special use permit/site plan review of the project. See, also, the Board’s approval condition #1, below.

The requested variances are the minimum that is necessary and adequate to
the Owner’s needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances has been created by the Owner, but this factor is outweighed by the above Findings and Conclusions.

The proposed project (addition of restaurant “drive through” and changes to site design) is an “Unlisted” action under the NY State Environmental Quality Review Act (“SEQRA”). A SEQRA Classification of Action and Negative Declaration is approved with this Resolution.

The requested variances (Off-street parking and loading, Schedule of Off-Street Parking, Restaurant with drive-through; and Commercial Hamlet District, minimum rear yard) 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 and Owner at the October 5, 2016, November 2, 2016 and December 21, 2016 hearings except as the same may be modified by the Town Planning Board or Building Department. As part of its special use permit and site plan review of the project, the Board urges the Town Planning Board to carefully consider the issues of: a) screening on the south side of the property, for the benefit of adjoining residences; and b) traffic turning onto Lincoln Avenue from the property, and parking on Lincoln Avenue by restaurant users.

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

January 4, 2017

Daniel Coffey
Chairman
The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on January ____, 2017.

Kathleen Reid, Secretary

Zoning Board of Appeals

RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Brian Gyory, Daniel Coffey, Holly Nelson Lutz, Dave Devaprasad

V. Discussion/Possible Action

VI. New Business

Brian Gyory has resigned from the Board of Appeals effective January 5, 2017 and will be continuing to serve the Town on The Planning Board effective January 11, 2017.

VII. Minutes Approval

A. Wednesday, December 21, 2016

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Dave Devaprasad, Board Member
SECONDER: Brian Gyory, Board Member
AYES: Brian Gyory, Daniel Coffey, Holly Nelson Lutz, Dave Devaprasad

VIII. Adjournment

Motion To: Adjourn

RESULT: APPROVED [UNANIMOUS]
MOVER: Brian Gyory, Board Member
SECONDER: Dave Devaprasad, Board Member
AYES: Brian Gyory, Daniel Coffey, Holly Nelson Lutz, Dave Devaprasad

The Meeting was adjourned at 7:48 PM

Next Regular Meeting January 18, 2017