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 6:00 PM.

<table>
<thead>
<tr>
<th>Attendee Name</th>
<th>Title</th>
<th>Status</th>
<th>Arrived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dave Devaprasad</td>
<td>Chairman</td>
<td>Excused</td>
<td></td>
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<tr>
<td>Jane Barnes</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>Joshua Beams</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>Donna Giliberto</td>
<td>Board Member</td>
<td>Present</td>
<td></td>
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<tr>
<td>Jeremy Martelle</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>Mark Platel</td>
<td>Assistant Building Inspector</td>
<td>Present</td>
<td></td>
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<tr>
<td>Craig Yaiser</td>
<td>Assistant Building Inspector</td>
<td>Excused</td>
<td></td>
</tr>
<tr>
<td>Kathleen Reid</td>
<td>Assistant to the Zoning Board of Appeals</td>
<td>Present</td>
<td></td>
</tr>
</tbody>
</table>

II. Public Hearings

A. Public Hearing for an application submitted by Glenn Contreras-8 Googas Road, Slingerlands for an Area Variance, under Article VI, Section 128-47, Fences and freestanding walls, B, (1). (18-01000014)

The Applicant received a permit for the installation of a 6 foot fence which was not installed as approved. The fence was installed in the front yard of the property where only a fence of four feet or less in height is permitted. The fence is encroaching 22 feet into the front yard of the property. The property is located in a residential A District and the use of the property is as a single family dwelling.

A motion to indent the Public Hearing notice into the minutes was offered by Mr. Beams, Seconded by Ms. Barnes.

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, September 19, 2018 at 6:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by Glenn Contreras, 8 Googas Road, Slingerlands
for an area variance under Article VI, Section 128-47, Fences and freestanding walls, B (1).

Glenn and Chiara Contreras spoke on their behalf, they hired a contractor to erect a six foot fence on their property which is located on the corner of Googas and Krumkill Road. The side yard of the property, facing Krumkill functions as the Owners' back yard. The Applicant wanted a fence to enclose the area for privacy and safety of his two small children. The Applicant testified that the contractor erected a six foot fence inconsistent with the Town approved building permit and provided the contractors estimate of over $1400 to replace the existing fence in the front yard with a four foot fence.

Two adjacent neighbors submitted written statements in support of the application, John Googas Jr., 333 Krumkill Road and James Googas, 12 Googas Road.

There was no one present to speak in favor or against the application.

The Board voted to close the Public Hearing as follows:

RESULT: CLOSED [UNANIMOUS]
MOVER: Donna Giliberto, Board Member
SECONDER: Joshua Beams, Board Member
AYES: Jane Barnes, Joshua Beams, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

III. Applications - Review and Possible Public Hearing Scheduling

No new applications

IV. Resolutions

• ALAN POIRIER-48 DOUGLAS ROAD, DELMAR

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 XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements, Note 1 (Core Residential District, Minimum front yard, corner lot must meet front yard setback at both the “front” and “side” yards) requested by Alan and Jessica Poirier (“Applicants”) for property at 48 Douglas 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 September 5, 2018; 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

Applicants’ property is located at the corner of Douglas Road and Palmer Avenue in the Core Residential District and is occupied by a single-family residence. Applicants propose to construct an addition to the home consisting of a two-car garage and master bedroom suite on the second floor. The proposed addition would create a front/side yard setback on the Palmer Avenue side of 17 feet; 8 feet less than the 25’ required by the Town Code.

Applicants Alan and Jessica Poirier testified in support of the application.

By Resolution dated June 1, 2005 this Board granted an identical variance to the prior owners of the property (Farbent) for an addition to the home. The applicable front/side yard setback in the Town Code at that time was 20 feet. Applicants testified that their plans for the addition are essentially the same as those proposed by the prior owner in 2005.

Applicants are seeking additional living space as their family has grown, and
prefer to remain in the home rather than relocate. There is no garage at the property at present. The existing driveway on the property would be removed and relocated to the Palmer Avenue side of the property.

The front/side yard of the property facing Palmer Avenue is largely unused at present. There are no other residences immediately adjoining the area where the proposed addition would be built; the nearest neighbors are across the two streets.

Applicants submitted to the Board photographs showing other similar additions and garages in the neighborhood.

Applicants testified that they have spoken with their neighbors about the proposed addition, and none expressed any opposition or concerns.

The Board received no other written or oral testimony concerning 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, Minimum front yard, corner lot must meet front yard setback at both the “front” and “side” yards) will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants in the use and enjoyment of their home and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood. The Board determines that the addition will be a benefit to the neighborhood by improving the property’s appearance and utility. As noted, a virtually identical variance at the property, for the same purpose, was approved by the Board in 2005.

The benefit sought by the Applicants, sufficient additional living and garage space, 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 insubstantial, but the Board determines that it 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 desire to expand their living space, but this factor is outweighed by the above Findings and Conclusions.

The proposed addition is a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR 617.5 [c] [9] and [10]), and no environmental impact review is required.

The requested variance (Core Residential District, Minimum front yard, corner lot must meet front yard setback at both the “front” and “side” yards) 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 September 5, 2018 hearing except as the same may be modified by the Town Building Department;

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

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

September 19, 2018

S. David Devaprasad
Chairman
Zoning Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany
Zoning Board of Appeals

The Board voted to approve the resolution drafted by Counsel as follows:

RESULT: APPROVED [UNANIMOUS]
MOVER: Joshua Beams, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Joshua Beams, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

V. Discussion/Possible Action

• GLENN CONTRERAS-8 GOOGAS ROAD, SLINGERLANDS

The Board Voted to APPROVE the variance request as follows:

Mr. Martelle-
• Not an undesirable change to the neighborhood
• Variance request is not substantial
• Not an adverse effect to the surrounding neighborhood
• Not self-created

Ms. Barnes-
• Variance is substantial but mitigated by other factors listed below:
• Unique in that the house is situated on a corner lot with side yard of the property facing Krumkill Road
• Located on busy street near bus stop and intersection
• County building across the street from fenced area
• Krumkill Road is a well traveled route to Crossgates Mall
• Safety concern for children
• Legal recourse with contractor

Ms. Giliberto-
• Was self-created but mitigated by other factors listed below:
• Significant cost for any other feasible means
• For all reasons previously stated

Mr. Beams -
• For all reasons previously stated

VI. New Business

• STEWARTS SHOPS- 1344 ROUTE 9W AND 309 DELAWARE AVE-, TIME EXTENSION

Donald Bauer was present on behalf of Stewart's Shops for locations at 309 Delaware
Avenue and 1344 Route 9W. The Applicant is requesting time extension(s) under 128-89 R (2) of the Town Code.

The Board voted to approve the time extension requests for Stewart's Shops follows:

RESULT: APPROVED [UNANIMOUS]
MOVER: Joshua Beams, Board Member
SECONDER: Jane Barnes, Board Member
AYES: Jane Barnes, Joshua Beams, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

VII. Minutes Approval

A. Wednesday, September 05, 2018

The Board to APPROVE the September 5th minutes as follows:

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Joshua Beams, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Joshua Beams, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

VIII. Motion To:

RESULT: ADJOURN [UNANIMOUS]
MOVER: Jane Barnes, Board Member
SECONDER: Donna Giliberto, Board Member
AYES: Jane Barnes, Joshua Beams, Donna Giliberto, Jeremy Martelle
EXCUSED: Dave Devaprasad

The Meeting was adjourned at 6:57 PM.

Next Regular Meeting October 3, 2018