

TOWN OF BETHLEHEM



David VanLuven
Town Supervisor

Zoning Board of Appeals Agenda

David Devaprasad
Chairman

Wednesday, February 6, 2019
6:00 PM

I. Call to Order

II. Public Hearings

- A. South Albany Airport-6 Old School Road, Selkirk for an Area Variance under Article V, Section 128-39, D(4)(18-01000021)

III. Applications - Review and Possible Public Hearing Scheduling

- A. International Union of Operating Engineers-27 Hannay Lane, Glenmont for an Area Variance under Article VI, Section 128-59 (19-01000001)

IV. Resolutions

V. Discussion/Possible Action

VI. New Business

VII. Minutes Approval

- A. Wednesday, January 16, 2019

VIII. Adjournment

Next Regular Meeting February 20, 2019

TOWN OF BETHLEHEM



Zoning Board of Appeals Minutes

David VanLuven
Town Supervisor

David Devaprasad
Chairman

Wednesday, January 16, 2019
6:00 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 6:00 PM.

Attendee Name	Title	Status	Arrived
Dave Devaprasad	Chairman	Present	
Jane Barnes	Board Member	Present	
Joshua Beams	Board Member	Present	
Donna Giliberto	Board Member	Present	
Jeremy Martelle	Board Member	Present	
Mark Sweeney	Planning/Zoning Board Counsel	Present	
Mark Platel	Assistant Building Inspector	Present	
Craig Yaiser	Assistant Building Inspector	Present	
Kathleen Reid	Assistant to the Zoning Board of Appeals	Present	

II. Public Hearings

III. Applications - Review and Possible Public Hearing Scheduling

- SOUTH ALBANY AIRPORT-6 OLD SCHOOL ROAD, SELKIRK FOR AN AREA VARIANCE UNDER ARTICLE V, SECTION 128-39, D(4)(18-0100021)**

The Board voted to accept the application and set the Public Hearing for February 6, 2019 at 6:00 PM.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Chairman
SECONDER: Joshua Beams, Board Member
AYES: Devaprasad, Barnes, Beams, Giliberto, Martelle

IV. Resolutions

- LEE KABACK-405 ORCHARD STREET, DELMAR**

RESOLUTION

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Minutes Acceptance: Minutes of Jan 16, 2019 6:00 PM (Minutes Approval)

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“Board”) seeking an Area Variance under Code of the Town of Bethlehem (“Town Code”), Article V, District Regulation, Section 128-27 Residential “A” District, (C) Accessory Uses (1) Location (No accessory buildings allowed in Front Yard) requested by Lee and Tracy Kaback (“Applicants”) for property at 405 Orchard Street, Delmar, New York (“Property”); 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 Property and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on January 2, 2019; and,

WHEREAS, Members of the Board are familiar with the area of the Property and 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 on Orchard Street in the Residential “A” District and is occupied by a single-family residence. Applicants propose to construct a \pm 16’x30’ pool shed near the pool and house for storage, pool equipment and dressing areas. The proposed shed as proposed would be located 16’ into the front yard on the Orchard Street side which is not permitted under the Town Code.

Applicant Lee Kaback testified in support of the application.

Applicants chose the proposed location due to the unique features of the parcel (totaling 6.1 acres). First, the rear of the house actually faces Orchard Street and is located over 200 feet from the property line. Other areas outside the front yard could encroach upon wetlands, surface waters and known archeological sites on the Property. Mr. Kaback further testified that this location minimizes the cost of extending electrical and gas lines to the shed but still are expected to be over \$10,000.00. Further extension would be necessary for both gas and electric raising costs even further were the shed to be located to the rear of the pool or in the back or side yards.

Applicants submitted to the Board photographs of the Property and elevation drawings of the shed which will match the color, siding and roofing of the home.

Applicants testified that they have not spoken with their neighbors about the proposed shed, but have sited the shed away from neighboring residences to minimize any visual impacts.

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 Applicant, the Board determines that the proposed variance (§ 128-27 Residential “A” District, (C) Accessory Uses, (1) Location - placement of accessory building in front yard) 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 shed will be a benefit to the neighborhood by improving the Property’s appearance and utility.

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

The requested variance is not insubstantial, but the Board determines that the large size of the parcel mitigates any impact of the shed and that the requested variance is the minimum variance necessary and adequate to the Applicant’s needs and, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has been created by the Applicants desire to add an accessory building, 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 (§ 128-27 Residential “A” District, C. Accessory Uses, (1) Location - placement of accessory building in the front yard) 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 January 2, 2019 hearing except as the same may be modified by the Town Building Department;
2. The project shall be completed within the time required by section 128-89 (R) of the Town Code.

January 2, 2019

S. David Devaprasad

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 January ____, 2019.

Kathleen Reid, Secretary

Zoning Board of Appeals

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

RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Chairman
SECONDER: Joshua Beams, Board Member
AYES: Devaprasad, Barnes, Beams, Giliberto, Martelle

- **COMFORT INN-37 ROUTE 9W, GLENMONT**

AV-1902

Comfort Inn Route 9W Glenmont

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("Board") seeking a Variance under the Code of the Town of Bethlehem ("Town Code"), Article VI, Supplementary Regulations, Section 128-59 (G) and (K) (Non-Conforming Signs, General Commercial District), requested by Mukesh Faniswala ("Applicant") for property at 37 Route 9W, Glenmont, New York commonly known as the "Comfort Inn"; 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 19, 2018 and January 2, 2019; 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 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:

Applicant's motel operation at the property has two existing non-conforming freestanding 2 sided signs 28 feet tall, with each side being 198 square feet in area and bearing the logo of "Comfort Inn", and near the base of the existing sign is a reader board (which is proposed to be removed); putting the total size of the existing signage at 78 square feet. Applicant proposes to replace the current freestanding "Comfort Inn" signs and replace each with an updated logo for the "Comfort Inn" sign, in accordance with Applicant's current franchise agreement.

Per an amendment to the Town Code effective February 8, 2012 (Section 128-59 [K]) existing nonconforming signs which are "redesigned or altered in any way" must conform to the requirements of the Town Code. The applicable requirements are found in Section 128-59 (G) which limits the size of freestanding signs in the General Commercial District to 15 feet in height and 40 square feet per side and requires a setback of ten (10) feet from the property line. Variances to allow two freestanding signs, of 8.5 feet and 0.5 feet for the height of the signs along Route 9W and the NYS Thruway respectively and 38 square feet for the area of the sign are thus required.

Mr. Faniswala and Ricky Narang testified in support of the application and submitted renderings depicting the proposed freestanding signs as compared to conforming freestanding signs as well as renderings showing the visibility of each sign from southbound traffic on Route 9W.

Mr. Faniswala must replace the "Comfort Inn" logo sign with the updated "Comfort Inn" sign pursuant to his present motel franchise. He proposes to remove one building mounted sign and replace the existing freestanding signage with new sign faces with the updated "Comfort Inn" logo.

By Recommendation dated December 20, 2018 (Case No.04-181203174) the Albany County Planning Board deferred to local consideration on the application, with an advisory note that the Board should contact the New York State Thruway Authority (“NYSTA”) regarding the rear freestanding sign along the NYSTA right-of-way. At the January 2, 2019 meeting, Board Chair Devaprasad noted that a nearby freestanding motel sign appears to be taller than the signs proposed by the Applicant and that the proposal will reduce the overall size of the signs and therefore reduce the degree of non-conformity of the signs.

Craig and Doris Jensen spoke regarding concerns for the size of the sign and site lighting. Other than as noted above, the Board received no oral or written testimony related to the application.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches, renderings and plans submitted, testimony at the hearing, and other documents submitted by the Applicant, the Board determines that the proposed variances (nonconforming freestanding sign, two freestanding signs, height and area) 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 existing nonconforming signs have been in place for many years and the only changes involved in the present application would be to replace the current logo with an updated “Comfort Inn” logo the name of the motel franchisor and in fact, the new signs will be smaller and shorter than the existing freestanding signs.

The benefit sought by the Applicant could be achieved by some method other

than a variance, but only at considerable cost and significantly reduced visibility from Route 9W in particular which the Board concludes is not warranted due to the absence of any impact to the community or neighborhood. The Applicant has already invested significant sums of money renovating and improving the motel facility to meet Town Code standards as authorized by this Board's prior Resolutions.

The Board finds and determines that because of the limited nature of the change to the existing signs, coupled with the unique situation where visibility would be negatively impact due the topography and existing foliage were the Applicant to erect a conforming sign, this Resolution should have no precedent setting nature.

The requested variance 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 meet the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances has not been created by the Applicant.

The proposed changes to the existing sign are a "Type II" action under the NY State Environmental Quality Review Act ("SEQRA") (6 NYCRR 617.5 [c][2]), and no environmental impact review is required.

The requested variances (nonconforming freestanding sign, height and area) 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 December 19, 2018 and January 2, 2019 hearings except as the same may be modified by the Town Building Department;

- 2. The Applicant must obtain a permit from the NYSTA for the placement, size and design of the freestanding sign to be located in the rear of the property along the NYSTA right-of-way and provide proof of said permit to the Town Building Department before a building permit may be issued.
- 3. The project shall be completed within the time required by section 128-89 (R) of the Town Code.

S. David Devaprasad Chairman
 Zoning Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on January 17, 2019.

Kathleen Reid, Secretary Zoning Board of Appeals

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

RESULT: APPROVED [UNANIMOUS]
MOVER: Dave Devaprasad, Chairman
SECONDER: Donna Giliberto, Board Member
AYES: Devaprasad, Barnes, Beams, Giliberto, Martelle

V. Discussion/Possible Action

VI. New Business

VII. Minutes Approval

A. Wednesday, December 19, 2018

RESULT: ACCEPTED AS AMENDED [UNANIMOUS]
MOVER: Dave Devaprasad, Chairman
SECONDER: Jane Barnes, Board Member
AYES: Devaprasad, Barnes, Beams, Giliberto, Martelle

B. Wednesday, January 02, 2019

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Dave Devaprasad, Chairman
SECONDER: Joshua Beams, Board Member
AYES: Devaprasad, Barnes, Beams, Giliberto, Martelle

VIII. Adjournment

Motion To: Adjourn

Minutes Acceptance: Minutes of Jan 16, 2019 6:00 PM (Minutes Approval)

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

7.A

The Meeting was adjourned at 6:03 PM

Regular Meeting February 6, 2019

Minutes Acceptance: Minutes of Jan 16, 2019 6:00 PM (Minutes Approval)