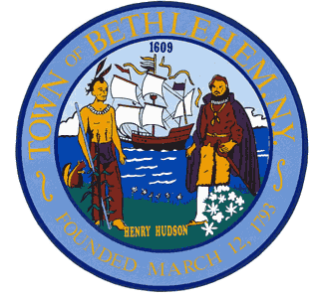


# TOWN OF BETHLEHEM



*John Clarkson*  
Town Supervisor

## Zoning Board of Appeals Minutes

*Daniel W. Coffey*  
Chairman

Wednesday, April 5, 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.

Attendee Name	Title	Status	Arrived
Jane Barnes	Board Member	Absent	
Jeremy Martelle	Board Member	Present	
Daniel Coffey	Chairman	Present	
Holly Nelson Lutz	Board Member	Present	
Dave Devaprasad	Board Member	Present	
Michael Moore	Planning/Zoning Board Counsel	Absent	
Kathleen Reid	Assistant to the Zoning Board of Appeals	Present	
Mark Platel	Assistant Building Inspector	Present	

### II. Public Hearings

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

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY GARY HALLOCK FOR AN AREA VARIANCE LOCATED AT 22 ALDEN COURT, DELMAR. APPLICANT IS PROPOSING TO ADD AN ADDITION TO HIS HOME THAT DOES NOT MEET THE TOWN ZONING CODE REQUIREMENTS UNDER ARTICLE XIII, SECTION 12-100, A.(17-01000008)**

A motion to accept the application and set the Public Hearing for April 19, 2017 at 7:10 PM was offered and approved as follows:

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

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY DYNAMIC ENERGY ON BEHALF OF ALBANY BROADCASTING CO., INC., FOR AREA VARIANCES LOCATED AT 509 WEMPLE ROAD, GLENMONT. THE APPLICANT IS PROPOSING A GROUND MOUNTED 2.6MW SOLAR ARRAY AND SUPPORTING INFRASTRUCTURE THAT**

**DOES NOT MEET THE TOWN CODE REQUIREMENTS UNDER ARTICLE VI, SECTION 128-61.  
(17-0100009)**

A motion to accept the application and set the Public Hearing for April 19, 2017 at 7:20PM was offered and approved as follows:

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

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY JENNIFER HOWARD ON BEHALF OF STEWART'S SHOPS CORPORATION FOR AN AREA VARIANCE LOCATED AT 1344 ROUTE 9W, SELKIRK. APPLICANT IS PROPOSING AN ADDITION TO THE EXISTING STRUCTURE THAT DOES NOT MEET THE TOWNS ZONING REQUIREMENT UNDER ARTICLE XIII, SECTION 128-100 A.(17-01000010)**

A motion to accept the application and set the Public Hearing for April 19, 2017 at 7:30PM was offered and approved as follows:

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

- **ACCEPT APPLICATION AND SET PUBLIC HEARING FOR AN APPLICATION SUBMITTED BY ALLEN PACKARD ON BEHALF OF CHRIS AND DAWN GARABEDIAN FOR AREA VARIANCE(S) LOCATED AT 43 ROTTERDAM DRIVE, GLENMONT. THE APPLICANT IS PROPOSING AN ADDITION TO THE EXISTING HOUSE THAT DOES NOT MEET THE ZONING CODE REQUIREMENT OF TOWN UNDER ARTICLE V, SECTION 128-40, G. (17-01000011)**

A motion to accept the application and set the Public Hearing for May 3, 2017 at 7:00PM was offered and approved as follows:

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

**IV. Resolutions**

- **ELOISE BRIERE- 48 HERRICK AVENUE, DELMAR(17-01000010)**

**RESOLUTION**

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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) requested by Eloise and Jean-Francois Briere (“Applicants”) for property at 48 Herrick 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 March 15, 2017; 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 in the Core Residential District is located at the corner of Herrick Avenue and Park Place, and is occupied by their single-family residence. They propose to construct a covered entryway into the home which would create a setback of 14.2 feet in the “second” front yard (Park Place side), where the Town Code requires a setback of 25 feet (Use and Area Schedules, note 1, corner lots).

Applicant Eloise Briere testified in support of the application.

The principal entrance to the home is through the side door adjacent to the driveway, on the Park Place side of the property. There is an existing deck on this side of the home, built in the 1990s, which was in place when the Applicants

purchased the home in November 2015.

Applicants have discovered that the side door entrance is exposed to the elements year-round. They propose to construct an enclosure outside the side door to protect the interior of the home from rain and snow. The enclosure would be built on top of the existing deck and extend no further into the front yard than the deck.

Applicants' neighbors have expressed their support for the project. There was no testimony in opposition to the project.

#### 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) 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 enclosure will improve the appearance of the home.

The benefit sought by the Applicants (entrance to the home protected from the elements) cannot be achieved by some method other than a variance. The other entrance to the home (front door) is not adjacent to the driveway, and is also not protected from the elements.

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

The requested variance is not insignificant, but is the minimum variance that is necessary and adequate to the Applicants' needs, while still preserving the character of the neighborhood. The covered structure will extend no further into the second front yard setback than the existing deck.

The alleged difficulty necessitating the requested variance has been primarily created by the existing configuration of the house and the deck outside the side door, and not by the Applicants.

The proposed enclosure is a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR 617.5 [c] [10], [12]), and no environmental impact review is required.

The requested variance (Core Residential District, minimum front yard, corner lot) 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 March 15, 2017 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.

April 5, 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 County, New York, on April \_\_\_, 2017.

Kathleen Reid, Secretary

Zoning Board of Appeals

Note - Ms. Lutz watched the proceedings via the Town of Bethlehem website as she was not in attendance for the March 15, 2017 meeting.

A motion to accept the Resolution was offered and approved as follows:

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

- **CARTHON BUILDERS - 133A KENWOOD AVENUE, DELMAR (17-01000006)**

## RESOLUTION

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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 XIII, Use and Area Schedules, Section 128-100, Schedule of Area, Yard and Bulk Requirements (Residential “A” District, minimum rear yard, maximum lot coverage) requested by Carthon Builders (“Applicant”) for property at 133A Kenwood 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 March 15, 2017; 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's property in the Residential "A" District is occupied by a newly-constructed single family residence, built with Town Building Permit numbers 15-1090 and 16-126. The residence was built according to the permits, but the permits were in error regarding the location of the required rear yard setback. As a result, the deck at the rear of the residence extends 1.4 feet into the required rear yard setback and the total lot occupancy of the main structure is 20.81% where the Town Code allows a maximum of 20% (92 square feet over the maximum square footage allowed). The property is under contract of sale, and the certificate of occupancy has been held pending resolution of the variance application.

Michael Caruso of Carthon Builders testified in support of the variance application.

The property at the rear of the residence is wooded and contains wetlands. It is not buildable, and the encroaching deck is not visible from the rear.

Applicant testified that the adjoining neighbor has expressed his support for the proposed variances. There was no testimony in opposition to the application.

Applicant testified that the cost to remove and reconstruct the deck to eliminate the variances would exceed \$3000.

## 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 variances (Residential "A" District, minimum rear yard, maximum lot coverage) 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 encroaching deck is not visible from neighboring properties, and there was no neighborhood opposition.

The benefit sought by the Applicant could be achieved by some method other than a variance; but only if the deck was rebuilt and part of the main structure was demolished. The Board finds the cost of this to be excessive, given the manner in which the hardship arose.

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 the Applicant's needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variances was created by the error in the Town Building Permits, not by the Applicant.

The proposed deck is a "Type II" action under the NY State Environmental Quality Review Act ("SEQRA") (6 NYCRR 617.5 [c] [10], [12]), and no environmental impact review is required.

The requested variances (Residential "A" District, minimum rear yard, maximum lot coverage) are GRANTED, on the following condition:

1. The house and deck now existing on the property shall not be altered from their existing condition/configuration without the approval of the Town Building Department;

April 5, 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 County, New York, on April \_\_\_, 2017.

Kathleen Reid, Secretary

### Zoning Board of Appeals

Note - Ms. Lutz watched the proceedings via the Town of Bethlehem website as she was not in attendance for the March 15, 2017 meeting.

A motion to accept the Resolution was offered and approved as follows:

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

#### V. Discussion/Possible Action

#### VI. New Business

On March 29, 2017 a letter was sent to Mr. Antonio Catalano, Sr. from Chairman Coffey regarding the status of an open application for area variances located at 194 River Road, Glenmont. The Public Hearing was tabled on March 18, 2015 pending additional information from the Applicant.

(14-01000022)

#### VII. Minutes Approval

##### A. Wednesday, March 15, 2017

Note - Ms. Lutz watched the proceedings via the Town of Bethlehem website as she was not in attendance for the March 15, 2017 meeting.

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

#### VIII. Adjournment

##### Motion To: Adjourn

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

Next Regular Meeting April 19, 2017