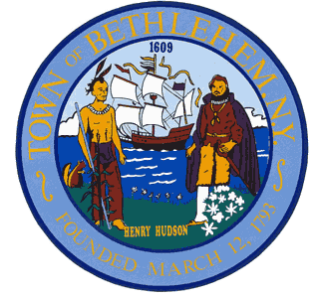


TOWN OF BETHLEHEM



John Clarkson
Town Supervisor

Zoning Board of Appeals Minutes

Daniel W. Coffey
Chairman

Wednesday, May 3, 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	Present	
Jeremy Martelle	Board Member	Absent	
Daniel Coffey	Chairman	Absent	
Holly Nelson Lutz	Board Member	Present	
Dave Devaprasad	Board Member	Present	
Michael Moore	Planning/Zoning Board Counsel	Present	
Kathleen Reid	Assistant to the Zoning Board of Appeals	Present	
Mark Platel	Assistant Building Inspector	Present	

II. Public Hearings

- A. 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 under Article V, Section 128-40, G. (17-01000011)

The Applicant is proposing to construct an 808 square foot addition to the back of the existing main structure which will be setback 35.2' from the boundary setback line which is 14.8' of the 50' required. The lot occupancy will be 22.99% which is 2.99 over the 20% lot coverage allowed.

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

A motion to indent the Public Hearing into the minutes was offered by Ms. Barnes, Seconded by Ms. Lutz with all present in favor.

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, May 3, 2017 at 7:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application

submitted by Chris and Dawn Garabedian for an area variance located at 43 Rotterdam Drive, Glenmont. The Applicant is proposing an addition to the existing house that does not meet the Town's Zoning Code requirement under Article V, Section 128-40 (G).

Allen Packard of Al Packard Drafting Services spoke on behalf of the Applicant, Chris and Dawn Garabedian who were also present to present and answer questions. The pool, deck and enclosure will be utilized mainly for the purpose of year round "in-put" therapy for their son who is handicapped. Mr. Garabedian expressed the hardship of traveling to a local pool compared to having a pool located in the home. He gave a detailed explanation for the size of the enclosure they are proposing. David Bernacki, General Contractor for the project was also available to answer questions regarding specifications of the proposed project.

There was no one present to speak in opposition to the variance.

The following residents spoke in favor of the variance:

Annette Jordan - 39 Rotterdam Drive, Delmar

The Board voted to close the Public Hearing as follows:

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

- B.** Public Hearing continuation for an application submitted by Sandra L. Zelka on behalf of Curtis Lumber-12 Grove Street, Delmar. The Applicant is proposing signage to an existing non-conforming freestanding sign located at 363 Delaware Avenue, Delmar. (17-01000004)

The Application was originally before the Board for a Public Hearing on March 15, 2017 at that time the Board encouraged the Applicant to talk with the Chamber of Commerce for a new freestanding sign that would be in conformance for all businesses in the vicinity. Sandra Zelka spoke on behalf of Curtis Lumber, after reaching out to the Chamber of Commerce and other businesses in the vicinity the Applicant found that neither could provide assistance with new signage at this time, therefore, Curtis Lumber proposed a new sign that would be in compliance for height, size and illumination. Lesser variances would still be required for an off premise sign and approximately a small setback from the property line.

Lyle Maddock Sr. - Employee of Curtis Lumber spoke in favor of the application.

There was no one present to speak in opposition the application.

The Application was submitted to Albany County Planning Board on March 2, 2017, to date there has been no response from the County, the pertinent statute of the NYS General Permissible Law contains language to allow the Board to proceed without response from the County after 30 days from the submission date.

The Public Hearing was closed as follows:

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

- C. Public Hearing for an application submitted by James Fitzgerald for an area variance located at 70 Darroch Road, Delmar. Applicant is proposing an addition that does not meet the Town Zoning Code requirements under Article XIII, Section 128-100(A).(17-01-000012)

The Applicant is proposing a lot line revision to the existing parcel which will create a rear yard setback of 13' which is 12' shy of the 25' required.

The property is located in a Core Residential Zoning District and the use of the property is as a single family dwelling. Previous owners of the property, revised the property lines prior to the sale that was not included in the Deed when the Fitzgeralds purchased the home. The Fitzgeralds obtained a building permit for an addition using the survey with the original property lines.

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, May 3, 2017 at 7:20 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by Roby George and James Fitzgerald for an Area Variance located at 70 Darroch Road, Delmar. The Applicant is proposing an addition to the existing house that does not meet the Town's Zoning Code requirement under Article XIII, Section 128-100, A.

James Fitzgerald was present to speak on his own behalf. Lynne and James King, previous owners of 70 Darroch Road and current neighbor to the project were also present to support the variance and answer questions from the Board. To rectify the error Mr. Fitzgerald would like to adjust the property lines as the King's intended, therefore requiring a variance for the addition currently being constructed. If the variance is granted the project will go before the Planning Board for a lot line revision.

There was no one present to speak in favor or in oppositon to the variance.

The Public Hearing was closed as follows:

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

III. Applications - Review and Possible Public Hearing Scheduling

IV. Resolutions

- GARY AND NANCY HALLOCK - 22 ALDEN COURT, DELMAR

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 (Core Residential District, minimum side yard) requested by Gary and Nancy Hallock (“Applicants”) for property at 22 Alden Court, 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 April 19, 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 propose to construct an addition to their single-family dwelling in the Core Residential District which would encroach two (2) feet into the required eight (8) foot side yard setback. All other area requirements of the Town Code would be met.

Applicant Gary Hallock testified in support of the application.

The proposed addition will add space to the living room at the home. There are no other feasible locations on the property for this addition. The opposite side of the property is occupied by a driveway and garage. In the rear of the dwelling is an addition to the kitchen and dining area previously constructed. The proposed side yard addition would be 102 square feet in size (17' x 6'). Reducing it in size to eliminate or reduce the requested variance would significantly diminish its utility.

There will be no windows on the side of the proposed addition facing the adjoining house (north side). There is a row of shrubbery at the property line on this side of the house. The adjoining neighbor on the north side of the property (20 Alden Court) provided the Board with a letter supporting the proposed addition.

The Board received no testimony or evidence in opposition to 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 side yard) 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 property owners, and the owner of the immediately adjoining property testified in support of the variance.

The benefit sought by the Applicants, additional first floor living space, cannot be achieved by some method other than a variance. The proposed addition is modest in size, and cannot be located elsewhere on the property.

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

The requested variance is the minimum variance that is necessary and adequate to the Applicants' 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 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 side 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 April 19, 2017 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.

May 3, 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 May____, 2017.

Kathleen Reid, Secretary

Zoning Board of Appeals

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

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

V. Discussion/Possible Action

- **CHRIS AND DAWN - GARABEDIAN - 43 ROTTERDAM DRIVE, GLENMONT**

The Board voted to APPROVE the variance as follows:

Ms. Lutz -

The proposed design is most feasible for this applicant and lot

Deck coverage increased lot occupancy which is not substantial

No other feasible location on property

Not an undesirable change to neighborhood

No neighbors came to speak out in opposition

Ms. Barnes -

Mature trees located in the back of the lot will provide privacy to the neighbors located behind the lot

No neighbors came to speak out in opposition

Mr. Devaprasad -

For all reasons previously stated

Weighing all factors benefits for Applicants son unique to this request

The variance(s) were approved as follows:

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

- **CURTIS LUMBER - 363 DELAWARE AVENUE, DELMAR**

The Board voted to APPROVE the variance as follows:

Mr. Devaprasad - Noted that he was not present for the Public Hearing on March 15th but watched the video via the Town's website.

Applicant came back to the Board requesting a lesser variance for new signage proposed

The proposed signage would be an added benefit to Delaware Avenue

Request is not substantial

Ms. Lutz - Noted she was not present for the Public Hearing on March 15th but watched the video via the Town's website.

Request is not substantial

Business is not visible from Delaware Avenue - creating a unique situation

Applicant was cooperative in reducing the nature of the initial variance sought

Ms. Barnes -

For all reasons previously stated

Not an unreasonable request

The variance(s) were approved as follows:

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

- **JIM FITZGERALD - 70 DARROCH ROAD, DELMAR**

The Board voted to APPROVE the variance application as follows:

Ms. Lutz -

The alleged difficulty was not self-created

A building permit was issued with no wrong doing from the Applicant

Previous owner is adjacent neighbor

It is not feasible to remove the current construction or reduce it in size

Not an environmental impact

Will not impact neighborhood

Mr. Devaprasad -

The situation is unique as project was issued a permit and structure is almost finished

Will not cause an undesirable change to the neighborhood

No other feasible or practical options to achieve compliance

Ms. Barnes -

Will not impact the neighborhood

All parties involved submitted necessary paperwork to comply with the Towns requirements.

The variance was approved as follows:

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

VI. New Business

• **WILLIAM DREW - APPLICATION WITHDRAWN**

William Drew sent a letter to the Board of Appeals withdrawing his application for a use variance located at 52 Euclid Aveune, Delmar.

VII. Minutes Approval

A. Wednesday, April 19, 2017

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

VIII. Adjournment

Motion To: Adjourn

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

The Meeting was adjourned at 8:10 PM

Next Regular Meeting May 17, 2017