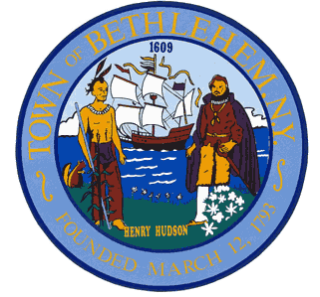


TOWN OF BETHLEHEM



John Clarkson
Town Supervisor

Zoning Board of Appeals Minutes

David Devaprasad
Chairman

Wednesday, October 4, 2017
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	Absent	
Jane Barnes	Board Member	Present	
Joshua Beams	Board Member	Present	
Donna Giliberto	Board Member	Present	
Jeremy Martelle	Board Member	Present	
Michael Moore	Planning/Zoning Board Counsel	Absent	
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

No Public Hearing(s) at this time

III. Applications - Review and Possible Public Hearing Scheduling

- **PAUL KLEIN-312 BENDER LANE, GLENMONT FOR AN AREA VARIANCE UNDER ARTICLE XIII, SECTION 128-100, SCHEDULE OF AREA, YARD AND BULK REQUIREMENTS, A. (17-01000023)**

A motion to accept the application and set the Public Hearing for October 18, 2017 at 6:00 PM was offered and approved as follows:

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

IV. Resolutions

- **DAVID SHANLEY-11 CLARKSON ROAD, DELMAR**

RESOLUTION

David Shanley

11 Clarkson Road, Delmar, New York 12054

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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 128-100A (Minimum side yard, Core Residential District) requested by David Shanley (“Applicant”) for property at 11 Clarkson 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 20, 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 is proposing a garage addition to the main structure at the property which will encroach into the required side yard setback of 8 feet by 2.6 feet (5.4’

setback proposed). The property is occupied by a single-family dwelling and is located in the Core Residential (CR) District.

Applicant David Shanley testified in support of the application. He proposes to expand the attached one-car garage on the dwelling to a two-car garage (exterior extension approximately 8.5'). The expanded garage would be used as work and storage area for a sports car, Applicant's hobby.

The property has an "angled" configuration, becoming narrower towards the rear of the lot. The setback encroachment at the front corner of the proposed garage is .7, which is minimal'. The side yard encroachment at the rear corner of the garage is less visible, being set back some distance from the street.

Expanding the garage to the rear of the lot is not possible, as there is an existing enclosed porch and deck in this area.

Applicant submitted to the Board written statements from five of his neighbors in support of the proposed garage project.

There was no testimony 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 Applicant, the Board determines that the proposed variance (Minimum side yard, Core Residential District) will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant in his use and enjoyment of the property, and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood. Applicant has lived at the property for 16 years and wishes to remain in the neighborhood. As noted, his project is supported by neighboring property owners.

The benefit sought by the Applicant (extra 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 minimal, and is the minimum variance that is necessary and adequate to the Applicant's needs, while still preserving the character of the neighborhood. There are other two-car garages in the neighborhood.

The alleged difficulty necessitating the requested variance has been created in part by the Applicant and in part by the configuration of the lot, 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] [7], [10]), and no environmental impact review is required.

The requested variance (Minimum side yard, Core Residential District) 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 September 20, 2017 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 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.

October 4, 2017

S. David Devaprasad

Chairman

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The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on October 4, 2017.

Kathleen Reid, Secretary

Zoning Board of Appeals

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

- **DANIEL LUCARELLI-44 MCCORMACK ROAD, SLINGERLANDS**

RESOLUTION

AV-1724

Daniel Lucarelli

44 McCormack Road, Slingerlands, New York

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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 V, District Regulations, Section 128-30 C (1) (Core Residential District, no “accessory structure” in “front yard”) requested by Daniel Lucarelli (“Applicant”) for property at 44 McCormack Road, Slingerlands, 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 6, 2017 and September 20, 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 proposes to erect an accessory structure (detached garage) in the “front yard” of his property in the Core Residential District (see, Town Code section 128-22, “YARD, FRONT”). District regulations for the Core Residential District prohibit such a structure in the “front yard.” The property is occupied by a single-family dwelling.

Applicant’s property is a large “flag lot” (see, Town Code section 128-22, “LOT, FLAG”). The dwelling on the property is configured such that the property has a very large front yard (southeastern side of property), but this area is functionally a side yard, situated adjacent to the long access driveway from McCormack Road, and the driveway leading to the Applicants’ attached garages. Applicant proposes to construct a new accessory structure in this area.

Applicant Daniel Lucarelli testified in support of the application.

At the proposed location of the accessory structure, it would be adjacent to a shed on a neighboring property, and screened from view on McCormack Road by a neighboring property.

At the Board’s request, Applicant supplied with Board with additional factual information (aerial photographs and a contractor’s estimate) to support his claim that alternative locations on the property, where a variance would not be needed, were not feasible. The “side/rear” yard of the property (northeastern side) is not level. The “rear/side” yard of the property (northwestern side) is wet, with a utility line and a drainage area, and would require a full foundation for the proposed accessory structure (as opposed to a “slab” floor). The increased cost to the Applicant to construct a full foundation for the proposed structure would be about \$6700.

At the September 6, 2017 hearing, one of Applicant's neighbors objected to the size of the proposed accessory structure, but not its location.

At the September 20, 2017 hearing, two of Applicant's neighbors provided written statements of support for 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 Applicant, the Board determines that the proposed variance (Core Residential District, accessory structure, location) will be granted.

The Board has determined that the requested variance will be a benefit to the Applicant in his use and enjoyment of the property and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood. There was no testimony from neighboring owners objecting to the proposed "front yard" location. The "front yard" of Applicant's "flag lot" with its long driveway is sufficiently screened from the view of McCormack Road and neighboring properties. The Board agrees with Applicant's testimony and photographic evidence that the proposed location of the accessory structure will not be out of character with other homes in the neighborhood.

The benefit sought by the Applicant (additional storage space) cannot be achieved by some method other than a variance. As noted, the two alternative locations on the property for the accessory structure are not feasible either physically or economically.

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

The requested variance is minimal 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 Applicant, but this factor is outweighed by the above Findings and Conclusions.

The proposed accessory structure is a "Type II" action under the NY State Environmental Quality Review Act ("SEQRA") (6 NYCRR 617.5 [c] [7], [10]), and no environmental impact review is required.

The requested variance (Core Residential District, accessory structure, location) 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 September 6, 2017 and September 20, 2017 hearings except as the same may be modified by the Town Building Department;
2. In the construction of the accessory structure, the Applicant 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.

October 4, 2017

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 October 4, 2017.

Kathleen Reid, Secretary

Zoning Board of Appeals

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

V. Discussion/Possible Action

There is no action items at this time

VI. New Business

There is no business at this time

VII. Minutes Approval

A. Wednesday, September 20, 2017

RESULT: **ACCEPTED [3 TO 0]**
MOVER: Joshua Beams, Board Member
SECONDER: Jane Barnes, Board Member
AYES: Jane Barnes, Joshua Beams, Jeremy Martelle
ABSTAIN: Donna Giliberto
ABSENT: Dave Devaprasad

VIII.

Motion To:

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

The Meeting was adjourned at 6:08 PM

Next Regular Meeting October 18, 2017