

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, April 1, 2019 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Scott Harter; Donna Morley; Fred Salsburg

OTHERS: Al Benedict, Town of Victor Code Enforcement Officer; Rane Christopher; Felix Christopher; Marianna Gulick; Zack Becker; Cherie Becker; Bethany Miller; Glenn Thornton; Laurie Allan; Carl Herrgesell; Heidi Schlegel; Carl Wheeler; Peter Cass; Debby Trillaud, Secretary

The meeting was opened, the Flag was saluted, and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES:

On a motion by Matthew Nearpass, seconded by Donna Morley,

RESOLVED that the minutes of February 4, 2019, be approved as submitted:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Approved: 5 Ayes, 0 Nays

PUBLIC HEARINGS

1. 1240 HUNTERS RUN – FENCE - Area Variance 4-Z-19
The applicant is requesting an area variance to allow an existing split rail fence between the house and road on a corner lot, whereas §211-41H indicates that fences over two feet high shall not be erected nearer to a road than the front line of the principal building. The property is zoned Residential 2 and is owned by the applicant.

Cherrie and Zack Becker of 1240 Hunters Run

Chariman Reinhardt – What we are looking for, and this is for all the area variances, in your application we are going to be looking at three criteria: First being whether or not an sizeable change would or would not produce a change of character to the neighborhood, second is whether or not the applicant can achieve the method by some other feasible means, third is the

area variance substantial, fourth is will it have adverse impact on physical and environmental conditions and fifth is it self-created.

We are certainly willing to present any which way you would like please hone in which specification you are talking to it will help us make a decision as we go forward.

Ms. Becker – We will start with number one. We believe that this will not create a change in the neighborhood that is undesirable. We provided multiple pictures of homes in the neighborhood of similar style with similar split rail fences. Those split rail fences are in the front of the properties. The style is similar to what you see in those house. I took pictures of homes within half mile to mile of our house.

Chairman Reinhardt – We do appreciate that. For the record, your house is a bit of an unusual type of situation. It is a corner lot and the way the code reads is the front of the house is determined where the driveway is. If you look at the house, especially from the aerial view, it gives almost a false positive that that is really not the front of the house. The front of the house would be more so on Dryer Road. From the aerial that fence really looks to be in the backyard. Its only a matter of a consequence of where that driveway is.

Ms. Becker – Quite frankly for 32 years our address was Dryer Road. When we purchased the house our address was Dryer Road and our survey when we filed with the County identified the front of the property as the side to Dryer Road. We were not aware until this happened that where the driveway hits the road is considered the front of the house, therefore, Hunters Run is considered the front of the house. We also enclosed for you a picture that shows the driveway point of view from the house. Because of where the driveway enters the property what you see when come in the driveway is what we would consider the traditional front of the house.

Chairman Reinhardt – You do not have any intention on changing the style of fence or extending the fence. That the fence exists and you are looking for an area variance for that existing fence?

Ms. Becker – Correct.

Chairman Reinhardt – If there ever were the need to be rehabilitated or changed you are going to put the same type of fence back in there?

Ms. Becker – Correct.

Chairman Reinhardt – Doesn't mean you have too, you can take it out.

Ms. Becker – We appreciate the open view and the sense it maintains some of the deer coming into our fruit trees and we expect to maintain the fence we have.

Chairman Reinhardt – In moving along, it's established it has already been built. Any idea when that fence was built?

Ms. Becker – Spring/early summer of 2018 in one week.

Chairman Reinhardt – Did you get a building permit for that?

Ms. Becker – We applied for the building permit as we were putting it up and it was thru that process that we became aware of this variance.

Chairman Reinhardt – Is there anything you want to let us know about on the other criteria? We can ask you questions if that helps you.

Ms. Becker – I think if you ask questions that is fine. We will get to the point for you.

Mr. Salsburg – I went and looked at it and from what we are calling the front of the house on Hunters. It sticks out forward at most 20 feet. How far does it stick out in that direction? It is not taken right to the highway line. It is not a big impact. It must be 60 or 80 feet off the roadway. It looks nice. I thought if we were doing this before it was built I would approve it. It looks nice.

Chairman Reinhardt – You are saying about 60 feet from Hunters Run?

Mr. Salsburg – Yes. All of that maybe a little more. It wasn't taken right to the lot line.

Chairman Reinhardt – I had asked that question that if you were to replace it would it be a liked type of fence cause I believe part of the intent of the code for this particular situation is obstructing views. Where the house situated and being a split rail fence to some degree you can see thru that and I think anyone would be hard pressed to create an argument that it is obstructing traffic view, whether it be from Hunters or Dryer Road.

Mr. Salsburg – It appeared to be setback from the rear lot line.

Mr. Nearpass – I think in general where we strictly enforce this part of the code has been in developments where the houses are right in a row and oriented the same way. This one to me falls in that category as the front of the house is where the garage is. The only thing I would recommend is if there is a process for homeowners or us to redefine the front of the home on a case by case basis so they are not seeking variances for putting a fence in front of the home where it doesn't belong. It is really on a case by case basis allowing applicants or Code Enforcement Officer to have the front of the home redefined so they do not fall into these types of situations. I am in favor of granting a variance.

- I think it depends on the frequency. You are not going to catch everything but from time to time when these situations happen when the driveway doesn't coincide with the natural frontage of what the house is.

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Ms. Morley – I am in agreeance with Matt.

Chairman Reinhardt – You will get another opportunity to respond to the public's questions and comments. Is there anyone from the public who would like to speak for or against this application?

Marianna Gulick at 757 Dryer Road

Ms. Gulick – It is the house to the left. I have no problem with it. I think it is beautiful and not obstructing anyone's view whatsoever. I am here to support them.

Chairman Reinhardt – We have a letter dated March 29th from Don and Nancy Davis. This will be in the record but they want to support the application of the granting of the variance. We have an email from Jessica and Matthew Hillman, 7480 Surrey Lane, they also approve of the split rail fence and would like this Board to approve the variance. That is a total of three expressing approval for the application. The only condition I would like to see on this, with the Boards approval, is the condition that is if that fence would ever be changed or replace it would be the same style of fence in the same location.

Undesirable change. I don't think it would. I think the Board would agree that it is a corner lot and by circumstance the driveway entering Hunters Run. The front door and the front of the house actually faces Dryer Road. The fence looking at from the aerial view appears to be in the backyard. Their photographs of other split rail fences in the neighborhood. The fence was built in the spring of 2018 and the applicant indicated doing the building process is when they found out about the provision in the Code of when the driveway is really in front of the house. I don't believe we have a situation where it would change the character of the neighborhood. The second would be can they achieve this by some other feasible means. I do not think they can. They would have to rip the whole fence out and they would really change the aesthetics of the neighborhood. Third is not substantial. Fred pointed out that it is 60 feet from Hunters Run. It doesn't appear to have any effect on the physical and environmental conditions. Fifth it is self-created, however, that consideration is relevant to the decision of the Board but not necessarily preclude the granting of the area variance. The only condition we are looking at is that should the fence be replaced it would be the same style of fence as well as in the same physical position.

RESOLUTION:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on February 6, 2019 from Cherie Becker requesting an area variance to allow an existing fence forward of the house, whereas Sections 211-41H states that fences over two feet high shall not be erected nearer to a road than the front line of the principal building; and,

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on March 24, 2019 and whereby all property owners within 500 feet of the application were notified by U. S. Mail; and,

WHEREAS, a Public Hearing was held on April 1, 2019 at which time one resident spoke for the application one letter and one email were received in favor of the application; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act per Sections 617.5(c)(10) and therefore does not require further action; and,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings of fact for the existing fence to be allowed cross over lot lines of a proposed subdivision twice:

1. An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: The lot is a corner lot and by circumstance the driveway enters from Hunter Run. The front door and front of the house appear to face Dryer Road. An aerial view shows the fence appears to be naturally in the backyard. There are other split-rail fences in the neighborhood and the neighbors are in favor of the fence.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: The fence would have to be removed and keeping it would not change the esthetics of the neighborhood.

3. The requested area variance is not substantial.

Justification: It is 60 feet from Hunters Run.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Justification: It is a split-rail fence and creates no visual blockage or other adverse effect.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

On motion made by Scott Harter, and seconded by Donna Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Cherie Becker requesting an area variance to allow an existing fence forward of the house, whereas Sections 211-41H states

that fences over two feet high shall not be erected nearer to a road than the front line of the principal building, BE APPROVED.

AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. Should the fence be replaced it shall be the same style of fence and be placed in the same physical location.
2. Building permits are required for work including, but not limited to, erecting structures, placing signs, pools, fences, mechanical systems, etc. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Planning and Building Department.

This resolution was put to a vote with the following results:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Adopted: 5 Ayes,

2. 7850 ROYAL WOODS - DENSITY – Area Variance 5-Z-19
 The applicant would like to subdivide their 17.18 acre property, and build a home on the created lot with access from Benson Road. The property is in the Limited Development District with Density Overlay District A, meaning one house per three acres. The lot is within the Royal View Subdivision which was pre-existing, non-conforming with a heavier density, before the Density Overlay Districts were codified in §211-27.3.

Chairman Reinhardt – Would like to let the Board know this is being referred to the Ontario County Planning Board. We will not be able to make a decision today however the facts and details you provide are important. We would then have to return at the next meeting April 15th. We should have decision by then.

Glenn Thornton of Thornton Engineering representing Felix and Rane Christopher

Mr. Thornton – Since there are members of the public here I would like to give more than a brief synopsis. Do you mind if I be a little bit more thorough with this to get all the information out? The Christopher's have lived on this property of 17.18 acre parcel on Royal Woods with a lot of frontage along the east side,

along Benson Road. A significant amount of the property is currently under conservation easement which I have shown on the plan here in yellow. Other areas there easements to the Power Authority for the power lines and drainage easements. There is also trail easement thru the property. The conservation easement basically covers the steep slopes on the parcel. Right at the bottom of the conservation easement, along the east side, there is a trail easement, I'm sorry that would be the railroad bed.

Chairman Reinhardt – Can you give us some compass directions. When we are looking at this map it will help us when we look at this record later on as to what you are talking about. If you could use compass direction that would be great.

Mr. Thornton – There is a trail easement that runs from the southern part of the parcel thru the eastern portion of the parcel up to the north. There is also an abandon railroad bed which is really situated along the east side of the conservation easement. With all that being said, there is an area to the east of the conservation easement over to Benson Road which is currently outside the conservation easement and is developable.

The Christopher's, even thou they have lived on this parcel for 17 years have never sought to develop that area outside the conservation easement in any way. Such as an out building or something to board animals, any kind of a work shop space or anything. At this point in time what they would like to do over in that area is to subdivide to create a three acre code compliant parcel. The problem being the density requirements for this subdivision currently is substandard exceeded because of some zoning changes were made after the subdivision was created. Currently the density is .33 dwelling units per acre and that is why we are proposing to create a three acre subdivided lot. The Christopher's would like to construct their new primary residence within this lot. They have reached a point in their lives where they would like to downsize their house and get into a single story structure instead of their current five bedroom, two story colonial house up on top of the hill. Within this three acre parcel we are proposing to provide 1.5 acres of conservation easement in there to be as compliant as we can be. That is shown on the map here in green. That is another area within this 17.18 acre parcel that we would like to deed over to a conservation easement so that the three acre parcel is fully compliant with zoning regulation. That would mean the only portion of this application which would not be compliant would be the density within the subdivision. It should be .46 units per acre instead of the currently allowed .33 dwelling units per acre.

Running thru these other considerations; could the benefit be sought by some other method, since their desire is to live within this neighborhood where they have resided for over 17 years and to live in a downsized one story one floor house, I don't think there is another method other than buy moving out the neighborhood.

Is the requested variance substantial? We do not believe it is even thou the density requirements are being exceeded. Most of the denser development within this subdivision is up on top of the hill. Within this 17 acre portion there would only be two dwelling units within the 17 acres. I know that by Code we are exceeding those standards but I think the development within this area it is not a substantial variance when applied to the Code.

Adverse impact on the neighborhood? That is pretty subjective but in the application we included some photographs of the neighborhood. As you can see I think there is plenty of site distance up and down the street for a driveway into this parcel. It is a vegetative area and there are not many house in the area. There is one across the street and the driveway goes back a long ways and that is on the old railroad bed. It is kind of a unique area where there is not much out there and a house would be noticeable in this area

but remember this area still can be developed. The Christopher's can put a building up in this area if they wish. They would hope that the building would become their house where they could move to.

Lastly, if the difficulty was self-created? In all variance request they are mostly self-created but again the desire to stay within the neighborhood in a smaller home that is the real reason they are in front of you right now.

Chairman Reinhardt – Looking at the proposed acreage so that I understand which lot you are talking about, there is a dotted line. The dotted line I am looking at is just beneath the “d” in road on Benson Road. Then there is further area that goes to the northwest. Is that part of the proposed acreage or is that something different?

Mr. Thornton – The proposed acreage is down in the southeast corner. That would be this there acre parcel in the extreme southeast corner.

Chairman Reinhardt – Then to increase the acreage, I see a line that runs northeast that is further in white in your diagram. Why doesn't the proposed lot extend to there?

Mr. Thornton – Up into this area, it could.

Chairman Reinhardt – Would that solve the density problem?

Mr. Thornton – No it would not. The overall subdivision was created to be compliant at that time was 19 lots within 41 acres. Currently the subdivision requirements in this overlay district would require for 20 lots on 60 acres. There is only 41 acres in the subdivision. What we are proposing to create is a three acre lot in this area, for that lot and the remainder of this parcel, they would both be compliant. It is the overall subdivision with the other 18 properties is where we become non-compliant.

Chairman Reinhardt – What is going to happen to that sliver I am referring to that is in the northwest? That triangle right there.

Mr. Thornton – That would remain with the parent parcel. The parent parcel would remain 14.18 acres.

Chairman Reinhardt – That triangle that I am talking about is 14 acres? What I am a little leery of if we get to a point and the Board decides to grant this variance that your clients, future homeowners, don't get another idea and say “lets subdivide it again”.

Mr. Thornton – I think the applicants would be more than willing to include that acreage in this parcel. This remaining acreage outside the conservation easement.

Chairman Reinhardt – I do not want to give you or your client any ideas that that is what is going to happen. It is just a thought as the wheels are turning in my head is this happens as we go forward. Donna, do you have questions?

Ms. Morley – That was going to be my main question. Why they were not including that in there parcel that they were trying to make. You answered that so thank you.

Mr. Nearpass- Can you walk me thru a scenario that would make this work and be Code compliant?

Mr. Thornton – There is no scenario. Currently the subdivision is not Code compliant it is pre-existing non-compliant subdivision.

Mr. Nearpass – You are saying by adding one more home, of the minimum of three acres, is going from what density to what density again?

Mr. Thornton – It would bring the density up to .46, I believe, it is currently more than 0.33.

Mr. Benedict –Figured out for the 20 lots in the 41 acre must .478 dwelling units per acre.

Mr. Nearpass – Is the variance they are seeking for the subdivision? The new acreage is going to be obviously compliant.

Chairman Reinhardt - I think what makes this application confusing is we normally see a variance come in for the lot but in your particular case this must have been a cluster development once upon a time. Where you have some lots that have a little bit of acreage and you have this particular lot which has a lot of acreage. On average the density came out to whatever that number is. Now you are coming in and saying we have a big lot we can subdivide off apiece here that is three acres and satisfy the current zoning and your clients can build a house there. The kicker for you I guess, is the way the subdivision was originally created and the difference for us as a Zoning Board is that we are looking at a subdivision and not the lot itself.

Mr. Thornton – that is correct.

Chairman Reinhardt– Has the applicant considered that what the triangle portion to northwest that Mike was talking about putting that in the conservation easement? So there is no question in the future.

Mr. Thornton – we have this one we are proposing in the conservation easement. Would you consider adding this to the conservation easement?

Mrs. Christopher – Yes that would be okay.

Chairman Reinhardt – In my opinion, I think it is a very reasonable request. I would like to hear from the public on it. To me it looks far enough and it's not really within the neighborhood or communities and whether it would be within character. Right now is my opinion, is that it would be just by factors plenty of distance and trees and such from the rest of the development.

Ms. Morley – Your driveway would be on Benson Road? It would not be in the development?

Mr. Thornton – No it would be on Benson Road.

Mr. Harter – I do not think I have any questions. I did not quite understand the variance when it first came across the table. Now I understand why you are in this predicament and it is definitely unusual.

Mr. Salsburg - I thought the three acres was the entire triangle of white that goes up to nothing. Now I have begun to think the three acres consist of that diagonal line that goes to the back line. It has four sides.

Chairman Reinhardt – It is still a triangle that the yellow is the conservation easement. Because they are invading the conservation easement they are willing to take the green...they are carving out a piece for more conservation easement and they are also willing to consider the piece to the northwest and create a bigger conservation easement.

Mr. Nearpass - Is encroaching on a conservation easement. Correct? The white area that exist today that triangle isn't a part of that conservation easement. So what they are saying is they would create a three acre triangle that consists of existing non conservation easement and an existing conservation easement and they have added the third green triangle to say , in addition we are willing to make more of this part of the conservation easement. As well as the other triangle they would consider that so there is no question in the future whether, if residents when the start talking, might turn into a more homes or developments down the road.

Mr. Salsburg – Is the dividing line between the yellow and the white the old railroad? On the left side there is a real steep hill and it comes down where that intersection with the yellow and then goes flat. Kind of low compared to where the road is coming down. There is still three acres left taking up that upper part.

Mr. Thornton – A portion of that upper part in the conservation easement would be included in this three acre lot. We will not disturb this area.

Mr. Salsburg – That is what I was wondering, you are then taking out a bit of the yellow.

Chairman Reinhardt – No. On his diagram he actually has in red the proposed area where the house is going to go.

Mr. Salsburg – The yellow triangle is in conservation easement and that is going to stay in conservation easement.

Chairman Reinhardt – Nothing is going in it. That whole triangle, all three colors, are total of three acres.

Mr. Thornton – The yellow and the green areas will amount to 1.5 acres the remaining developable are in white will be 1.5 acres.

Mr. Salsburg – So you are looking at a lot that is 1.5 acres.

Chairman Reinhardt – It just has an easement on it. It still their property. 3 acre lot with 1.5 buildable. If it approved and there is construction, have there been any studies on whether or not there is going to be any environmental impact on that. Drainage, building beginning to end. Any studies?

Mr. Thornton – We have researched online all the available databases and we are not in the flood plan, there is no wetlands in the area. Believe it or not the water table supposedly is 80 inches down, the soils are very conducive to a conventional septic system, and there is public water on the street.

Chairman Reinhardt – Let's explore some of those things you just said. Internet is a great thing but if I see at the end of your name you are a physical engineer. Right? You're the guy they go to. Have there been soil samples yet? *No*. Have you hired any experts or anyone to go in there and look at it, whether soil samples or drainage? Internet is great for kids. They pay you right.

Mr. Thornton – We have done our typical online sight research.

Chairman Reinhardt – How does this Board know or for that matter the County Planning Board know that once a shovel hits that ground that there will be no adverse environmental impact to that area or the wetlands or anything else that surrounds it.

Mr. Thornton – Wouldn't that be a part of the Planning Board review on this project. Obviously there will be erosion and sediment control features built in and that would be shown on the site plan for approval as with the driveway, the grading, drainage concerns. Based upon my experience nothing jumped out at me on this site. Even the trees, I think the home can be placed, the driveway will have minimal impacts on that area.

Chairman Reinhardt – With all due respect, I am going to challenge that a little bit. On the criteria that says whether or not there is going to be adverse environmental impact. We really shouldn't be putting down 'applicant checked the internet' that is really not a good reason. This is a unique situation because you are invading wetlands and you're changing/dealing with density issues. It concerns me a little bit that you are asking for a variance and there really isn't anything we can hang our hat on that you point to with regards to whether or not the environmental impact is going to be changed. I would think either that you have gone out there, you have looked at it, you have surveyed it or some type of soil samples, your plan. How do we know that there is not going to be a change to the environment if you put a shovel in the ground.

Mr. Thornton – I hear what you are saying. You are in a position now where you're asked to make a decision based upon information that you do not have. Typically when we go in front of a Zoning Board we wouldn't be presenting that information at that time. This information will be presented to the Planning Board and be thoroughly reviewed at that time. If a variance was granted for this it could be conditional upon getting Planning Board approval for the property. Maybe all variances are conditional on Planning Board approval. I have been to the property but I have not sampled any soil, we haven't had an excavator out there for the septic system.

Chairman Reinhardt – It is a flag for us right now. We are going to hold that thought.

Mr. Harter – I think that Glenn uses the same resources I use on the internet. I think the resources he uses is typically the Ontario County website that has all kinds of soil data on it. It does come together from soil test that were conducted years ago thru a nationwide study by the US Department of Agricultural. I think the statement that may be lacking here is based on the applicants engineers opinion is nothing is suspect at this time. The best way to describe it. I think that I also need to say that projects like this started in preliminary phase and they grow into final phases as more information is learned. I think the resources we have available to us on the internet such as OnCor thru Ontario County is a tremendous resource for having a reasonably accurate information to work with at this stage of an application.

Chairman Reinhardt – That is valuable information. What I recommend since it is really your burden to prove to us that this criteria is met. Next time you come back if you would show us this is the thing I looked at. Whatever resource, whatever reference you are looking at instead of just the internet. Did you use OnCor and what resources did you look at to help us make an informed decision.

Mr. Nearpass – There are plenty more stages that the applicant has to go thru before a shovel hits the ground on this. I feel like we are getting a little ahead of ourselves. We do not know how big or how small the house is and there is a lot more data required. You are really asking us to assume that the lot is buildable and when you go thru all those wickets are we okay with the density of the subdivision changing by carving out a three acre parcel. That is how I am looking at it. The environmental conditions in my opinion are a bit of a moot point at this stage. Nothing is going to happen at this stage. With the granting of this variance a shovel is still not going to hit the ground.

Chairman Reinhardt – The County Planning Board looks to our fact finding mission. There is some type of information that type look at. They want to know what the municipalities concerns are and if we don't explore this a bit for them and they make a decision on that, they need to know what our concern is. As we are going thru if we don't do our due diligence and walk thru this criteria, at least on the front end of it, how are they to know what we are thinking.

Mr. Nearpass – I am looking at it from the perspective of us and the public okay with a change in the density of this subdivision as a result of these three acres. If it gets approved they still have a process that goes thru all of the environmental considerations and concerns. Even without the data I think it too early. That is my opinion. They are not here with home plans or any of that and it is early in the project and looking to see the public and the Zoning Board okay with the change in density based on this. Not necessarily physical aspects of the home or where it is going to go, is the soil going to percolate. You have to prove all that still to the process.

Chairman Reinhardt – Anything else?

Mr. Salsburg – For what it is worth there are big trees. It is not growing like it's a swamp and wetland area. It really removed from the other development. I think it is a standalone application and we are putting too much weight on prior development.

Chairman Reinhardt – It is important that this Board create a record on each and every criteria so that if the decision, whichever it is, granting or denying the variance if it is ever challenged process of appeal that

court will then look to our record that we create and what we were we thinking. The last thing we want to do is make an arbitrary capricious decision. If we make a thorough decision and explore all the criteria we have done our jobs. That is what we are doing right now. Anything else from the Board right now?

Mr. Nearpass – I think I understand that it has to come back to us from the County. So relative to that experience from the County and from what I have experienced in my work, is quite often the County will comment back to us as a Board as part of that review and they will have people from Ontario County Soils and Water Conservation District that will take a look at the application. If for some reason they see anything vegetation related or soils related or drainage related they will comment back to us and say so. I want to throw that out there as general information so that if this Board is concerned about those types of impacts to know that the Ontario County Planning Board and Soil and Water Conservation District are going to take a look at those items and flag those for us.

Chairman Reinhardt – Anyone from the public would like to speak for or against?

Lori Allen 18 Fishers Road

Ms. Allen – I have lived there for 40 years and have 30 acres of land across the street. My ex-husband Dick Kaiser wrote a letter to this Board opposing the Christopher's application but will be sending you an email tomorrow morning actually in support of it. We in the Fishers area have spent 40 years fighting to keep our neighborhood intact and not turned into Perinton. If you have seen the Monroe County portion of Fishers Road you know it is Perinton. Again one tract after the next. Those of us who live in the Ontario County part of Fishers Road support, at least my husband Carl Herrgesell and I and my ex-husband, support the Christopher's application because quite frankly we are starting to see exemptions to the limited land development 3 acres granted to developers. So whether it is the Smith brothers who along Benson have established a new tract, whether it is Longwell in 1969 submitted his plan Royal View and then part of the response of those of us who live in the neighborhood was to see the limited land development 3 acre parcels. We completely agree with you that an environmental review is important because this is an area that the glaciers left behind. The land is unstable, the soil is unstable and we have had FLCC professors validate that. With that said, quite frankly we would much rather private planned owners like the Christopher's who appreciate the distinct quality and nature of the Fishers area be granted this. The parcel is contiguous with my ex-husbands property. When he heard that, unlike Royal View which is not 3 acre lots, the Christopher's are proposing a 3 acre lot and obviously are in favor of increasing the conservation easement. We were very much in favor of this because quite frankly we would much rather have private land owners making these decisions. They tend to appreciate the neighborhood, the distinctiveness of the neighborhood and we have been in an ongoing conversation at least for 40 years with the Town of Victor to not "Perintonize" Victor. A diversity of land, a diversity of settlement is a beautiful town. Being plannful of that is beautiful and quite frankly we would vote for the private landowners versus the developers who just want to get as many houses built on property as they can. The nature of our neighborhood has significantly changed with the construction of Eastview mall and we no longer have a dark sky at night. That is okay we are willing to do that. We have NYPPA on our west corridor as do the Christopher's so we are accommodating a public utility and now we have the Victor Water Pumping Station as well. We are good citizens of the Town of Victor and we would like to ask you to not turn us into the Town of Perinton with one tract after the next. Which is why the Christopher's proposal to restore land limited

planned use with a three acre lot is something we are very much in favor of. The white tail population is disastrous for our woods. The reason being we have far fewer farm fields, they have nowhere to eat and so they are eating our vegetation.

Chairman Reinhardt – In sum you are in favor of this.

Ms. Allen – Yes and my ex-husband whose land is right contiguous to the Christopher's will be sending you that as well in the morning. David Kaiser. He will be changing his mind when he heard that they in fact they are restoring the three acre limit.

Chairman Reinhardt – All due respect, we need to let him speak for himself. However, whatever he says we will make a record of it. We appreciate all your thoughts and time.

Peter Cass

Mr. Cass – They said there are no other house other than that is way back on the driveway. That is correct. I have approved lot. I own the front side directly across the street from where there house is. My property is the opposite side of Benson Road and I have 8-10 acres around the pond. I have an approved building lot when I purchased the property.

Chairman Reinhardt – Is your house depicted on that?

Mr. Cass – My house will go west of the trolley tracks and east of Benson Road. Eventually I will build.

Chairman Reinhardt – Can you put a circle about where you propose to build a house?

Mr. Cass – I have to be south of the NYPPA lines and between the driveway and Benson Road. In additionally there is a steep hill. The house will go in that general vicinity.

Chairman Reinhardt – Can you initial it for me. Thanks. We are going to call this Exhibit A.

Ms. Morely – What is your address now?

Mr. Cass – My current address is 286 Richards Street in Rochester.

Chairman Reinhardt – So we have an idea of which direction you're going, are you for or against the application?

Mr. Cass- I came here with no opinion. I wanted to understand where exactly this is related to the peak things I know of the land. There is a hydrant on my side of the street someplace. I am not sure where that is. Originally I did not understand what the conservation easement changes were. I thought this yellow triangle on the lower southwest of the triangle for the three acres was going away and being replaced by the green triangle on the southeast. From what I understand now is that the yellow remains and the green gets added.

Chairman Reinhardt – It sounds like you be in favor if they add the conservation easement to that smaller triangle to the northwest you would like to see that as well?

Mr. Cass – I would be in favor of that. The other thing I wanted to understand was this line between the white and the yellow is in fact the trolley bed? My concern was that my driveway is also the trolley bed. I spoke to some of my neighbors and we thought the building was going to be directly at the trolley bed at Benson. I have learned since that it is going to be down this way.

Chairman Reinhardt – So I don't know if you have the benefit of the map that was provided to us with the proposed area.

Mr. Cass – I just wanted to mention that here will be another house in that area. I just haven't done it yet.

Chairman Reinhardt – Appreciate your time. Anyone else want to speak for or against? We have a good start for this particular meeting. It will be referred to County Planning Board and anticipating to hear back from the County Planning Board and we will see you back here on the 15th. We may have a few more questions and whatever other information you have for us to help us make that decision would be appreciated.

3. ACCESSORY STRUCTURE ON NORTH ROAD LOT NEAR STRONG ROAD 6-Z-19 Area Variance

The applicant is requesting to place an accessory structure on an empty building lot of 5.9 acres, whereas §211-20A, R-2 District regulations, indicates the permitted district uses are those permitted in in the R-1 District and §211-19A(3) states that accessory structures which are clearly subordinate to a principal building are permitted. The property is zoned Residential-2 and is owned by the applicant.

Chairman Reinhardt – You are going to build this accessory structure before your plan to build to a house. One of the questions sooner or a later is going to be why are you not building your house first and then the accessory structure?

Ms. Miller – We want to build the accessory structure so we can contain our property maintenance equipment. The property has had nothing done to it for years and a lot of trees down and brush that needs to be taken care of.

Chairman Reinhardt – Do you have a target date for when you would like to construct your home there?

Ms. Miller – The goal will be next spring.

Chairman Reinhardt – Spring of 2020?

Ms. Miller – Correct. We are just in the beginning process of everything. 6 acre lot. How big is the accessory structure?

Ms. Miller – 16x20.

Chairman Reinhardt – We do have some diagrams of what the proposed structure is going to look like. Once the home is built are you proposing to move the structure or is it going to stay put. Pole barn? Foundation? What is your plan on how it sits?

Mr. Miller – On compacted stone.

Chairman Reinhardt – I see your application touching on the criteria. Is there anything else you want to add or comment on? Donna any questions?

Ms. Morely – Nothing at this moment.

Mr. Nearpass – Where is the equipment now?

Ms. Miller – We don't have it yet.

Mr. Nearpass – You are thinking about a year till you break ground. Is where you are planning on putting the shed part of a plan that it is not going to be forward or front or beside the home?

Mr. Miller – It is going to be to the west side of the house.

Mr. Nearpass – Historically I have been involved with a couple of decisions on similar things and the challenges always how to ensure that property isn't like that with just the shed on it for the next 5 years. I am not saying it is going to happen in this particular case but it happens quite a bit. We have had others trying to build barns and then wanted to live in the barns and all of these other things. We always seem to get into the whole timing of it. Someone puts a shed there it is often not as proposed. Would you be okay with some kind of condition that says you have one year to start with a building permit or the shed has to go?

Mr. Miller – We can say 16 months if that is fair enough.

Mr. Nearpass – I do not want to sign something into perpetuity that something happens and we end up with six acres with a shed on it and then we are all trying to figure out what to do. I do not think you have any ill intent. I want to have some kind of condition that I am okay if it is 16 months if everyone else is fine.

Chairman Reinhardt – In theory what I think Matt is describing then is that the variance if it is approved would be conditioned on constructing the house and the house being in front of the shed and the house being completed by September 2020.

Mr. Miller – Can I approach and show you on a survey map real quick. The shed is going to be right there and when we build we want it to go right here.

Chairman Reinhardt – That is too the west of the proposed shed. The driveway will be on what road?

Mr. Miller – We would like the driveway to come in off of North Road up to the house.

Mr. Nearpass – Make sure you're not going to end up in a situation like this first applicant where the front of the home will be North Road.

Chairman Reinhardt – So back to the question. If the house isn't completed by September 2020 you would have to come back in here and reapply for the variance for the shed. There are situations we have had the applicants come in building permits where they have not gotten them done in a timely fashion. As long as the Board sees the project is moving forward or close to completion the likely hood of granting the area variance again would be relatively high. If nothing is going on in September 2020 you are going to have a problem.

Mr. Miller – We are hoping if all goes well we can break ground by April 2020. Thus the difficulties we have encountered so far is just getting an engineer to return your phone call.

Mr. Salsburg – Do you visualize installing the driveway up to the shed?

Mr. Miller – Just coming off of the property going into the east side of the stream where the stream comes thru. Say to the east side of the stream only because of the fact that the stream doesn't really have any definition to it right now. It is more of a lake up in most area of the property right now. That is something we are going to have to address down the road at some point.

Mr. Benedict – While you are that subject. You are not bringing in a driveway at this point. For future reference, when you do decide to build a house the stream that runs thru there considered year round flowing.

Mr. Miller – I have already spoken with the DEC and Ontario County Soil and Water.

Mr. Benedict – The Town of Victor has Code where you have to stay away from 75 feet. That there be no impervious surfaces or construction. The DEC considers crushed stone as being impervious. So you may be back before this Board for another variance.

Mr. Miller – I imagine we will be here several times.

Mr. Harter - First question is to A1. A1 is this trigger any type of site plan review for the accessory structure that is going in.

Mr. Benedict – Mo it does not. It is less than a 1000 sf and I presume it is less than 15 feet in length?

Mr. Harter – That is kind of what I was thinking about. I am familiar with this property because I was one of the engineers that did answer a phone call by some people that were looking at it prior to you. I did research the site quite thoroughly. This is a very difficult site to develop. Because of the tributary that runs thru there, because of what A1 just mentioned. It also on septic, to my recollection. You have to find an area where a leach field can be constructed where the soils were workable and the leach field and expansionary from it would have to be 100 feet away from the tributary that going thru your property. By not having site plan review at this time you kind of shooting in the dark in terms of constructing a structure for which a residence is supposed to make. It has yet to be designed in the way it can agree with the site constraints. It is kind of short circuiting the development process when you do something like this in addition to leaving a structure that's not inhabited. Which is not really a good practice in any of the Towns where I do business. I would be concerned from that standpoint in order to have confidence in what you are putting in the property which you have the entire lot designed so that you know you can put your house here, your leach field there, and your accessory structure there and your driveway there. I think you are segmenting by virtue of starting your application with the Zoning Board. The truth of the matter is you have to design the whole site and take a hard look at as SEQR requires and the n do the individual components as you would like to do them. I think you are out of sync with what you are doing. Once again I was one of the engineers who did answer the phone and did research the property and I did it for potential buyer and I believe it was Mitchell Pearson who was the realtor who was representing the property at that time. I told him exactly what I just told you.

Mr. Miller – Would you be the engineer that actually designed the home and the septic system that was going to be put on that property. When we purchased the property we had a copy of that.

Mr. Harter – I happened to see a map by someone that was done a very long ago. I think it predates some of the rules and regulations that may be in effect today. I looked at that and I

think that what needs to be done in 2019 I indicated that there was quite a bit of design work involved in order to get that property designed and developed. I think you need a joint permit from Army Corp of Engineers and DEC. I think you have some tightness there in respect of a house and a leach fields.

Chairman Reinhardt – Let me clarify what Scott is saying. How much time would an applicant need then to do that due diligence and do the review and can a house be put there.

Mr. Harter – I think timewise it takes some time and probably the telephone calls that have not been answered is a reflection of Spring taking hold and people being busy. It is not a quick process. The gist of the comment that I want to tell the applicant and the Board is that you are really segmenting the process.

Chairman Reinhardt – I think what it sounds like then is you have some options. From especially primarily what Scott is telling us is that the Board at times when we need more information we have tabled it and come back with more information to help us. I don't think if we push it off even a month that you're not going to have enough time. So if the Board decides today on this application the concern we have is how we know if the house is going to go in. If you have all kinds of hurdles and obstacles and the house may not be able to go there and the Board grants a variance we have just set up a situation where a shed is going to be there and no house can be put there. It is not going to coincide with the Code. You can withdraw it. Go get your information and there is that plan to put a house, septic system and shed will go there. Now we have tons of information that we can work with and it makes a whole lot more sense then and evaluating what the variance is. Any thoughts on that in what you would like to do? We can vote now.

Mr. Miller – My though is it's a shed and can be easily taken down r removed if had too.

Chairman Reinhardt – a variance runs with the land. Once the Board grants a variance it stays with the land. Whether you are there or anybody else they can keep putting sheds there. You can take it down. It is awkward for a Board to think to grant a variance conditioned upon a house being there. I don't think it is good practice to do it. I think what Scott is driving at makes a lot more sense to me that get the plan and make sure those pieces fit the way that you would like them too. The new can evaluate that the application and measure against the criteria.

Mr. Harter – In creating that plan you might find one or two other variances and it is always better to come with a package and vision for what you want to do with the property. Kind of selling it.

Mr. Miller – We bought a piece of property with an agreement on a piece of paper that it is approved building lot. If we come to find out that this property cannot be built on then where do we go from there?

Chairman Reinhardt – Seek counsel. Legal

Mr. Miller- It is just hard for us to figure anything out for future. We have already had one quote from engineering firm who quoted us \$10,000 to just put the house on a piece of paper which to me is astronomical.

Mr. Harter – I will give you a little hint that is probably market value. The cost of doing business and getting a site approved from the Town of Victor.

Mr. Salsburg – If the house does not get built it is a bad thing to give the variance.

Mr. Nearpass – I get that you are in a spot. I am not qualified to comment on the architectural engineering.

Ms. Morley – I agree with that.

Chairman Reinhardt – The consequences is if the Board decides, the likelihood I believe is going to happen, that the variance is going to be denied. You are going to be stuck with the denial for 12 months. If you withdraw it and reapply in 6 months you can move your process along a little quicker. If you want to think about it and come back or back on the 15th and let us know. It's your application and just giving you some options on how you would like to proceed.

Mr. Miller – Would we have to go thru and file the whole process all over again?

Chairman Reinhardt – Right, on a withdrawl you do not have to pay an application fee. If you reapply in 12 months you will not have to pay that fee again.

Mr. Miller – We will withdrawl.

Ms. Trilluad – Can you send me a written email that says that?

Chairman Reinhardt – Thank you.

It was unanimously agreed and RESOLVED, that the meeting was adjourned at 8:50 PM.

Lisa Boughton, Secretary