

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, June 3, 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; Donna Morley; Fred Salsburg, Scott Harter

OTHERS: Sue Stehling, 930 Raccoon Run; Paul & Cindy English, 6266 Murphy Drive; Paul Zweers, 7272 Gillis Road, Victor; Barbara Snyder, 304 High Street; George Snyder, 304 High Street; Bridget Twaits, 6 Preston Circle, Pittsford; Fred Rainaldi, Rainaldi Brothers; James Cretekos, BME Associates; Danny Porosoff, 31 Brickston Drive; Lane Moyer, 31 Brickston Drive; Kevin Caggiano, Town of Victor; Connor Knapf, 50 Saddle Brook; Joe Hurley, Kettle Ridge Farm; Chris Hurley, Kettle Ridge Farm; Colin Byrne, 8 East Jefferson Road; Soren Eriksson, 7710 Victor-Mendon Road; Al Benedict, Town of Victor Code Enforcement Officer; Dave Tantillo, Town Board Liaison; Kim Reese, Secretary

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

APPROVAL OF MINUTES:

On a motion by Mr. Scott Harter, seconded by Ms. Donna Morley,

RESOLVED that the minutes of May 20, 2019, be approved as submitted:

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

Approved: 4 Ayes, 0 Nays

PUBLIC HEARINGS

- 1. RAND MANAGEMENT – SPRINKLER WAIVER 8-Z-19  
7710 State Route 251

Carried over from May 6, 2019 mtg

The applicant requests a Sprinkler Waiver for a 2,000 square foot addition at the northeast corner of the existing building. The building is required to have a sprinkler system per Section 83-4F(2)(a) of the Town of Victor Code which states that all structures shall be required to have an approved fire sprinkler system installed and operational, however, §83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Lt Industrial.

Chairman Reinhardt – Good evening. So as a refresher, what we have is a request for a sprinkler waiver. You had a little homework and you were going to check in with Bob Graham and it seems that you have and I'm looking at Bob Graham's email May 17, 2019 and there's basically discussion about power needed for a control box and I think based on looking at the minutes there's no electricity there, there's no heat, it's just for storage, no workers are going to be inside. I'm a little confused though, I think in an email that to install what Mr. Graham is suggesting it's a \$200-\$500 per month fee? Can you elaborate on that a little bit?

Mr. Soren Eriksson, Rand Management – I did extensive research on that and I actually didn't know anything about it, did talk to Bob about it quickly. There are a number of systems out there and they go anywhere from a couple hundred dollars to \$500 depending how many sensors you have, what kind of connections you have. And, I think you actually have to have, if it's a phone service connection it has to be a dedicated phone service, which means you need another phone line, but the biggest obstacle that I can see is the false alarms. I mean, I cannot deal with false alarms, at all. That is not going to work.

Chairman Reinhardt – Can you elaborate that a little bit? Why is that not going to work?

Mr. Eriksson – You know what, that's just too much stress. To not know that that alarm is going to go off when there's no fire. Also, we're not really carrying a lot of value in this building to have an ongoing expense.

Chairman Reinhardt – As we talked about last time, it's two-fold. Its protection of the materials and what have you inside, but more importantly its life. It's workers, people that are there and also the fire fighters that are there. That the sooner that they can get there, especially if the fire is starting to be suppressed the safer those fire fighters are. Put their lives in danger and that's when things get crazy.

Mr. Eriksson – There's not going to be anyone working in there, so that's not going to be an issue.

Chairman Reinhardt – So you don't have any trouble if this board decides to grant this waiver is as a condition there will be no workers in there, no electricity, no heat, no combustible materials in there, outside of what you said there's going to be cardboard boxes and things, but we're not talking about fertilizers and gas and things like that.

Mr. Eriksson – We only handle natural products, so actually it makes it easy for us to be organized. It will be easier for us to have employees. We are really cramped right now, so if we can spread out, we can have better organization. So there will be an offloading in this extra space.

Chairman Reinhardt – Fred, do you have any questions?

Mr. Salsburg – The building, is it 15 feet from the existing building?

Mr. Eriksson – Approximately, yes.

Mr. Salsburg – I think the separation is a plus and I sort of agree with the prices being pretty high. That's all.

Chairman Reinhardt – Scott?

Mr. Harter – So, I just want to confirm, it's not going to be used for any employees, just dry storage? No people are going to be in there.

Mr. Eriksson – No.

Mr. Harter – I don't have any more questions.

Chairman Reinhardt – Matt?

Mr. Nearpass – Your concern again with the heat detection system, you were worried about it falsely?

Mr. Eriksson – It doesn't seem to be something that would be appropriate for this. It sounds overkill. If you had people there, multiple levels, it would be a totally different ball game. This is one story, ground level. They'll be an entry door at each corner of the building, three corners. I really don't see the need for that. And, looking at the expense, especially the monthly expense.

Mr. Nearpass – Do you have any idea how much per month?

Mr. Eriksson – There are so many different versions of it. It's actually quite extensive to get a price because they have to see the drawings. They almost have to see the finished building and so with the ranges between \$200 -\$500 a month.

Mr. Nearpass – Is the challenge that because there is no power in the building, trying to figure that out?

Mr. Eriksson – There would have to be power for a system like that.

Mr. Nearpass – What is your ultimate recommendation? Would you go with general smoke alarms and fire extinguishers?

Mr. Eriksson – Yes. Absolutely.

Mr. Nearpass – I think it was, Al, within every 75 feet?

Mr. Benedict – Correct.

Mr. Eriksson – We would have fire extinguishers at each entry.

Mr. Nearpass – And you're ok with the conditions we've been talking about, no flammable materials. Ok, I'm all set.

Mr. Eriksson – Right. Right. Absolutely.

Chairman Reinhardt – Donna?

Ms. Morley – My question to you is, you're saying no one is going to be in the building, how are you going to get those supplies in there, who's going to do it?

Mr. Eriksson – Well, we are a small business. I only have two part timers. I run the business myself, pretty much with my wife. So, we don't really have a lot of people that would go in and out, so it's primarily myself.

Ms. Morley – How many times per day approximately do you think you'd be in and out of that building?

Mr. Eriksson – Well we ship Monday, Tuesday, Wednesday, so those are the days we'd be in and out of there. The other days of the week, there's basically not activity at all. So, that'd be a few times a day. We're in coding, so the season is now. And, during six months in the winter time, there's not a lot of stuff going on.

Ms. Morley – Thank you.

Chairman Reinhardt – So for clarification, the only employees or workers that would be in there for loading and unloading, however long that takes.

Mr. Eriksson – Right.

Chairman Reinhardt – Anyone from the public want to speak for or against this application? So, let's walk through the criteria, first being undue the economic hardship. Looking at the email that we've received from the applicant June 2, 2019 there's a range of \$200-500 per month just for clarification, that's the price for the heat detection system that was recommended or is that something different?

Mr. Eriksson – That's the heat detecting, it detects the variance in the air, basically. It's quite sophisticated system.

Chairman Reinhardt – And the \$75,000 number, that's if you put a full sprinkler in there?

Mr. Eriksson – Well the \$75,000 is just to bring the water main to the building, not what goes into the building, so I assume that once I get the final quote it is going to be past \$100,000.

Chairman Reinhardt – So, that I think that adds to the undue economic hardship as being cost prohibitive. Anyone want to add anything else on the first criteria of undue economic hardship? Second being, physical or legal impossibility. It's possible, there isn't anything stopping you from doing it, but it's more the economic hardship element of it. Anyone want to add anything else to the second criteria? Third being impediment to the intended objective of this section. I think it does because you have described this as being for cold storage, there's no heat, there's no electricity. The only workers or employees that will be in there is for loading and unloading and the Fire Marshal seems to be ok with that especially if there's no electricity in there, he seems to indicate that there wouldn't be a need for a heat detection system. Anyone want to add anything else to the third criteria? Fourth being the necessity in light of other viable alternatives which

meet the objectives of the code section. I think we're encouraged to hear you say that there will be a fire extinguisher at the entrance, and battery operated smoke detector systems installed?

Mr. Eriksson – Yes. Correct.

Chairman Reinhardt – Anyone want to add anything else to the fourth criteria? Fifth the recommendations and comments submitted by the Coordinated Review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal. We have the email as noted and the summary of it is that Mr. Graham believes that as long as there's no electricity in there that there wouldn't be a need for heat detection system. And, the conditions that we're looking at that that you agree to construct the building as an independent building with no attachments to the existing building?

Mr. Eriksson – Correct. Yes.

Chairman Reinhardt – Second is that you're going to build the building with metal siding and roof, or drywall interior? Is that correct?

Mr. Eriksson – Yes, it would be a metal exterior and a metal roof, yes.

Chairman Reinhardt – Third, remove excessive growth that is limiting access on the driveway, to allow for better fire equipment access.

Mr. Eriksson – Yes, I spoke to Bob about that and he said he hadn't actually been there, he's only seen it through Google earth, so I think when he went back he realized that the driveway is 40 feet wide.

Chairman Reinhardt – So, what we're looking for is you're going to ensure that there will be no excessive growth that is going to inhibit or impede a fire truck getting down that driveway?

Mr. Eriksson – There really isn't anything, it's a very large driveway.

Chairman Reinhardt – I think what we're looking for is yes, I will.

Mr. Eriksson – Yes.

Chairman Reinhardt – There we go. The fourth, the heat detection system, we're not going to put that in there because there's going to be no electricity, that's another one of the conditions, no electricity, no heat, no workers will be in there except for loading and unloading. Correct?

Mr. Eriksson – Correct.

Chairman Reinhardt – The last is the applicant shall be required to seek site plan approval from the Planning Board for the proposed structure as well as the outdoor storage that is currently on

site and the shipping containers that are in the northeast corner of the property and appear to be trespassing on the neighboring property. You know what that's about? Ok, you're going to take care of that?

Mr. Eriksson – Yes. I think we went through that about 10 years ago. That was all settled at that time.

Chairman Reinhardt – We're creating a record, we're going to be all on the same page with it. Beautiful. Anybody else want to add anything else to the conditions?

Mr. Salsburg – I think the condition that they have a fire extinguisher by each entry door should be in place.

Chairman Reinhardt – Didn't we say that? Alright, we can do it, we're going to have a fire extinguisher by each entrance. Anything else? Good to go, can I have a motion to approve the waiver with the stated conditions?

Mr. Harter – So moved.

Chairman Reinhardt – Second?

Mr. Nearpass – Second.

Chairman Reinhardt – All in favor? Opposed? Carried. Good, congratulations, good luck. Stay well.

#### RESOLUTION

Rand Management - Sprinkler Waiver  
7710 State Route 251

DATE: 06-03-19  
Appl. No. 08-Z-2019

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on April 4, 2019 from Rand Management LLC, 7710 State Route 251, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2)(a)) for a new addition to an existing structure at their address; and,

WHEREAS, said application was referred by Martin Avila, Town of Victor Code Enforcement Officer, on the basis that the structure is required to have an approved fire sprinkler system installed and operational; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on April 28, 2019, and whereby all property owners within 500 ft of the application were notified by U.S. Mail; and,

WHEREAS, Robert Graham, Town of Victor Fire Marshall, reviewed the application. In a coordinated fire service sprinkler waiver review with the Victor and Fishers Fire Services, Mr.

Graham commented on April 10, 2019, that the proposed is an unoccupied, cold storage facility, storing noncombustible materials, the fire services does not oppose granting this waiver if the following fire safety conditions listed below are implemented;

WHEREAS, Public Hearings were held on May 6, 2019, and June 3, 2019 at which time no residents spoke against/for the application; 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 considered the following:

1. Undue economic hardship.

Final quote expected to be over \$100,000 for the sprinkler system, which is cost prohibitive.

2. Physical or legal impossibility.

Although a possibility, it is cost prohibitive.

3. Impediment to the intended objectives of this section.

Space will only be used for cold storage, with no heat or no electricity. No employees will be in the building except to load and unload.

4. Necessity in light of other viable alternatives which meet the objectives of the code section.

There will be a fire extinguisher at all entrances and battery operated smoke detector systems installed.

5. Recommendations and comments submitted by the Coordinated Review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal. In a coordinated fire service sprinkler waiver review dated April 10, 2019, Mr. Graham commented that the proposed is an unoccupied, cold storage facility, storing noncombustible materials, thus the fire services does not oppose granting this waiver if the following fire safety conditions listed below are implemented;

DECISION:

On motion made by Mr. Scott Harter, and seconded by Mr. Matt Nearpass:

NOW, THEREFORE BE IT RESOLVED that the application of Rand Management LLC, 7710 State Route 251, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2) (a)) for an addition to an existing structure at their address; and, without a sprinkler system BE APPROVED; and,

HOWEVER, IT IS FURTHER RESOLVED that the following conditions are imposed to minimize any adverse impact such waiver may have on the neighborhood or community:

1. Construct the building as an independent building, with no attachments to the existing building.
2. Build the building with metal siding and roof, or drywall interior.

- 3. Ensure no excessive growth on the driveway, which could inhibit or impede fire equipment access.
- 4. No heat detection system needed, as long as applicant ensures there will be no electricity, no heat, no workers except for loading and unloading and fire extinguishers placed by each entrance.
- 5. Applicant shall be required to seek site plan approval from the Planning Board for the proposed structure as well as the outdoor storage that is currently on site and the shipping containers that are in the northeast corner of the property and appear to be trespassing on the neighboring property.

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

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

Adopted: 5 Ayes, 0 Nays

2. KETTLE RIDGE FARM – SPRINKLER WAIVER

10-Z-19

515 Log Cabin Road

Carried over from May 6, 2019 mtg

The applicant requests a Sprinkler Waiver for three new farm buildings being constructed on the property at 515 Log Cabin Road. The buildings will be utilized for agricultural and ag-tourism purposes. Under Section 83-4 F(2)(a) of the Town of Victor Code which states that all structures shall be required to have an approved fire sprinkler system installed and operational, however, §83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Residential 2 and owned by Joe Hurley.

Mr. Joe Hurley - Good evening, Kettle Ridge Farm, this is my son, Chris, my partner in the farm. I have a prepared statement that I'd like to read.

Thank you for the opportunity to return to the Zoning Board to request waiver from the Town's sprinkler requirements for our proposed farm buildings. Since the last meeting, there have been a few changes that impact this request. For one thing, we have put off plans to build the honey processing building that was labeled as the Honey House. So we no longer seek a sprinkler waiver for that building.

Secondly, the proposed horse barn is no longer subject to the sprinkler requirement since it qualifies for exemption under Section 83-F4(2)(c)(2) as a detached accessory structure. It will be less than 1000 sq ft, no more than one story, at least 100 feet away from other structures, and have no installed electric service, fuel or heat sources.

So this leaves only the Sugarhouse under consideration for the sprinkler waiver.

However, the first issue is whether the Sugarhouse even needs a waiver, or can it be made exempt from the sprinkler requirement under the exemption contained in Section 83-F4(2)(c)(3). This exemption was mentioned in the April 12, 2019 comment letter from Al Benedict. The exemption states that “where the discharge of water would be hazardous or damaging to equipment or occupants, a fire-sprinkler system shall not be required to be installed. In lieu of a fire-sprinkler system, such spaces shall require other approved fire-extinguishing equipment.” I submit that the discharge of water from a sprinkler system would indeed be hazardous or damaging to equipment or occupants. The Sugarhouse will contain several expensive pieces of high-voltage electrical equipment, including an innovative maple evaporator using electric heating elements along with other electrical appliances for the processing of maple and honey products. Water discharge from a sprinkler system could cause severe damage to this equipment and perhaps even a higher risk of electric shock.

If determined not to be exempt, the second issue becomes the waiver of the sprinkler requirement under Section 83-F4(2)(d). At least three of the considerations listed in that Section strongly support the waiver. The first is undue economic hardship. Since my last appearance here I have reached out to two companies regarding the installation of a sprinkler system, one of which has responded with an email that convinces me such system would be prohibitively expensive. Davis-Ulmer Sprinkler System told me by phone that the residential water supply on the property is insufficient to operate a sprinkler system and that a new water connection to the street would be necessary. Utility connection fees, a meter and piping, and digging costs would likely add up to between \$75,000 and \$100,000. It doesn't help that the water line is on the far side of Log Cabin Road, and that a sizable hill with steep embankment is situated between the road and the proposed barn. On top of this would be the cost of the actual sprinkler installation in the building, with an estimated cost of \$20-30,000. The building installation cost alone would create a severe economic hardship, never mind bringing in the water from the road.

Please note that Kettle Ridge Farm is a small family farm that simply does not generate enough revenue or profits to be able to spend over \$100,000 on a sprinkler system. The farm has had nine years of steady business growth but has yet to show a profit. Fortunately, we are on track to break even this year. All capital investments and operating losses have been funded by my personal retirement savings.

At the same time, the proposed barn is key to becoming financially sustainable in the future, not so much for me but rather for my son who will be taking over ownership of the farm and for my one other employee who depends on this job to support his family. The only feasible

way we can make a go of it is with ag-tourism. We must attract tour groups and other visitors to the farm. There simply aren't enough maple trees left in the entire Town of Victor for us to operate by simply producing and selling maple products on a wholesale or bulk basis.

We need a safe, comfortable, and accessible Sugarhouse to accommodate visitors. Visitors come because they want to learn about our farm here in Victor; they want to see how maple syrup is made and how honey bees are kept; they want to support a locally-made and chemical free food product; and they want to enjoy the beautiful natural environment at Kettle Ridge Farm. Many of our requests for tours come from facilities providing services or housing to disabled and elderly individuals. We are not well-equipped to handle these requests with our current facilities. The new Sugarhouse will be handicapped-accessible with an accessible restroom.

If we are not able to build the new Sugarhouse for cost reasons or any other reason, I'm not sure what we would have to do to continue on as a full-time farm here in the Town of Victor. It really isn't something I want to think about. I will note that the Town of Victor has been very supportive of Kettle Ridge Farm in all our interactions and discussions thus far and I thank the many employees in the Planning Department and other departments at the Town who we have dealt with along the way. I was gratified to see the importance placed on agriculture in the Town's comprehensive plan, and I know that efforts are underway to better facilitate ag-tourism in Victor with a proposed ag-tourism code. The State of New York is also very active in promoting the maple industry in this state.

The second consideration supporting a waiver is the sprinkler waiver review by the Victor Fire Marshall Bob Graham. His letter dated April 12 clearly states that he is not opposed to the sprinkler waiver.

The third consideration supporting a waiver concerns "necessity in light of other viable alternatives." The Fire Marshall's letter states "While not required, we do suggest a heat detection system be installed tied to an automatic dialer to notify the Fire Department in the event of a fire." This suggestion is echoed in the email response I received from the Davis Ulmer Sprinkler Company. However, the cost of such a system would still impose an economic hardship. In addition, whenever we are using the maple evaporator to boil sap, the room goes from being very cold to very warm in a matter of minutes and a detection system based on temperature changes would presumably result in many false alarms.

Two other considerations listed in Section 83-F4(2)(d) may also provide some support for the waiver. Consideration D2 states physical or legal impossibility. While I suppose just about anything is physically possible if you have enough money to spend, I will note that in its review of the proposed Sugarhouse the Conservation Board expressed a desire to conserve as many of the trees and shrubs on the steep embankment leading down to the building site as possible. The installation of a new water service from Log Cabin Road would undoubtedly cause the loss of several trees that are either directly in the path of digging or that would have their root systems severely damaged. This could impact the stability of the embankment itself.

Consideration D6 concerns any conflicts with other state or federal regulations. This may have relevance since Kettle Ridge Farm operates as a farm within the designated agricultural district and thus has certain rights under New York State Agriculture and Markets Law that protects farming from overly restrictive local laws and regulations. This consideration is clearly mentioned in the April 12 comment letter from Al Benedict.

Thank you for your time.

Chairman Reinhardt – Al, before we go further, right at the beginning of the presentation, there's a request, I'd say position, from Mr. Hurley, that Building 1, the Honey House, you're taking that off, so we don't have to talk about that. But the third, the animal barn your position is that it's exempt, is that right? Al, do you have any thoughts on that piece?

Mr. Benedict – I believe that you stated that it was less than 1,000 square feet, no electricity, no heat, at least 100 feet from any other structure?

Mr. Hurley – Correct.

Mr. Benedict – Then it's exempt.

Chairman Reinhardt – Ok, so we're not going to deal with the third building, the horse and animal barn, so the only one we're really talking about then is the building number 2, the Sugar House.

Mr. Hurley – Right.

Chairman Reinhardt – And, in a nutshell you're concern that not only is it cost prohibitive, and also that the fire marshal doesn't oppose it, but with his recommendation with the heat detection system in there that that's going to be a problem. But you are willing to do is comply with the uniform prevention and building code and all the requirements that are along with it, specifically the part, 1228.

Mr. Hurley – Absolutely, yes.

Chairman Reinhardt – So, that's a good, at least, nutshell version of it. Fred, do you have any questions, comments?

Mr. Salsburg – You were sent home to do some homework and you came back with a well done job. I have no comments, I'd be embarrassed to ask anything more.

Chairman Reinhardt – Scott?

Mr. Harter – What will you do as part 1228 then, what is it that you will do?

Mr. Hurley – The requirements are extensive. Concerning fire extinguishers, placement of doors in the building, there has to be a permit, an inspection by the fire marshal, so it's quite extensive. That part of the law itself is probably 15 pages long and I think I described most of this in my original letter of intent to the zoning board. So, it falls in several different categories. But it's extensive.

Mr. Harter – I have no more questions.

Chairman Reinhardt – Just so I understand, there's two parts you are looking at, uniform prevention and building code section 1219 and then 1228 specifically addresses sugar houses? Is that correct?

Mr. Hurley - Yes.

Chairman Reinhardt - And, you're going to comply with both of them?

Mr. Hurly – Oh yes.

Chairman Reinhardt – Questions?

Mr. Nearpass – Great job with the presentation and coming back with the information we asked for. No further questions

Chairman Reinhardt – Donna?

Ms. Morley – Nothing. Thank you.

Chairman Reinhardt – Anyone from the audience for or against the application? Alright, very good. So, we're going to go through the criteria. First being undue economic hardship and it's presented both in his oral presentation and in his application. It appears to be cost prohibitive. In the neighborhood of \$75-\$100,000 would be an estimate on what it would cost to put a water sprinkler system in place, is that right?

Mr. Hurley – Plus, \$20-\$30,000 for the structure itself.

Chairman Reinhardt – That would I believe qualify for it being an undue economic hardship, especially due to the nature of the business, as well as being in the agriculture district. Anyone want to add anything else on any undue economic hardship? Second being physical or legal impossibility. Not so much physical, but legally like I stated earlier, being in the AG district, you do have lesser standards, the bar is lower, so I would think that qualifies as being a legal impossibility. Anyone want to add anything else on the second criteria? The third, impediment to the intended objectives of this section. While, as you heard earlier on the prior application for sprinklers, it's not only the safety of people, workers and product that's inside, but it's also for the firefighters that are coming to the scene. Which you have also as an element is that it could be rather destructive to your equipment inside. And, I don't think that's really what the intended

purpose of the section was. Anyone want to add anything else on the third criteria? Fourth, the necessity in light of other viable alternatives which meet the objectives of the code section. I think we're all very encouraged that you're willing to comply with the uniform prevention and building codes section 1219 and 1228. 1228 specifically addresses the sugar house alternative activity provisions. Anyone want to add anything else on the fourth criteria? Fifth, the recommendations and comments submitted by the Coordinated Review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal. While Mr. Graham's email April 12, 2019 didn't oppose he did recommend that there be heat detection system in there. But as you pointed out due to the nature of your business, due to the spikes in heat, could trigger false alarms and certainly I don't think anyone wants that. And again as stated earlier, you're willing to comply to the uniform fire prevention and building codes section 1219 and in part, 1228.

And, the condition would be that you will comply with those sections of uniform prevention and building codes section 1219 and in part 1228. Is that correct? Anything else to the conditions?

Motion to grant the waiver with the stated conditions?

Mr. Salsburg – I so move.

Ms. Morley – Second.

Chairman Reinhardt – All in favor. Opposed. Carried. Good. Congratulations. Good luck to you.

#### RESOLUTION

Kettle Ridge Farm – Sprinkler Waiver  
515 Log Cabin Road

DATE: 06-03-19  
Appl. No. 10-Z-2019

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on April 11, 2019 from Kettle Ridge Farm, 515 Log Cabin Road, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2) (a)) for a new agricultural building being constructed at their address; and,

WHEREAS, said application was referred by Al Benedict, Town of Victor Code Enforcement Officer, on the basis that the structure is required to have an approved fire sprinkler system installed and operational; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on April 28, 2019, and whereby all property owners within 500 ft of the application were notified by U.S. Mail; and,

WHEREAS, Robert Graham, Town of Victor Fire Marshall, reviewed the application. In a coordinated fire service sprinkler waiver review with the Victor Fire Services, Mr. Graham

commented on April 12, 2019, that the proposed is a small operational farm and considering the small size and limited use of the buildings, the Fire Services would not be opposed to the Sprinkler waiver with the conditions listed below; and,

WHEREAS, Public Hearings were held on May 06, 2019 and June 3, 2019, at which time no residents spoke against/for the application; 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 considered the following:

1. Undue economic hardship.

Presented in the applicant's oral presentation and application, the installation of a sprinkler system is cost prohibitive, especially due to the nature of the business, as well as being in an agricultural district. Cost is approximately \$95,000 - \$130,000.

2. Physical or legal impossibility.

Legally, the standards are lowered for agricultural districts.

3. Impediment to the intended objectives of this section.

A sprinkler system could be rather destructive to equipment inside the building.

4. Necessity in light of other viable alternatives which meet the objectives of the code section.

Applicant is willing to comply with the uniform prevention and building codes section 1219 and 1228. 1228 specifically addresses the sugar house activity provision.

5. Recommendations and comments submitted by the Coordinated Review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal.

Although, Mr. Graham's Review dated April 12, 2019 did suggest that there be a heat detection system, due to the nature of the business, spikes in heat that could trigger false alarms and the applicant's willingness to comply to the uniform prevention and building codes section 1219 and 1228, the ZBA determined a waiver is warranted.

DECISION:

On motion made by Mr. Fred Salsburg, and seconded by Ms. Donna Morley:

NOW, THEREFORE BE IT RESOLVED that the application of Kettle Ridge Farm, 515 Log Cabin Road, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2) (a)) for a new agricultural building being constructed at their address; BE APPROVED; and,

HOWEVER, IT IS FURTHER RESOLVED that the following conditions are imposed to

minimize any adverse impact such waiver may have on the neighborhood or community:

1. Applicant will comply with sections 1219 and 1228.of the uniform prevention and building codes.

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, 0 Nays

Chairman Reinhardt – The La-Z-Boy application has been tabled until June 17 because we are waiting, is that by their doing?

Ms. Reese – Yes.

Chairman Reinhardt – Ok. So that will be back on June 17.

Mr. Salsburg – Has there been any communication on that at all?

Ms. Reese – They said they are still working on the getting their material.

3. ZWEERS SHED & FENCE – AREA VARIANCE 13-Z-19  
7272 Gillis Road

Carried over from May 20, 2019 mtg

The applicant is requesting an area variance for a shed that is located closer than 15 feet to the side lot line and for a fence that extends beyond the front line of the house. Code requires a 15 foot side setback and more specifically §211-20C states that accessory structures, such as storage sheds, must observe a 15 foot property line setback on residentially zoned property.

Mr. Paul Zweers – Good evening. Paul Zweers, 7272 Gillis Road.

Chairman Reinhardt – I think the last time we were here, you were going to check in with your neighbor.

Mr. Paul Zweers – That’s correct. You requested a letter from the neighbor to the west side, if he was in approval of the position of the shed and a forward of the fence and he has approved that the same evening and you should a copy of his letter.

Chairman Reinhardt – That’s Mr. ZM Brooks? Is that right?

Mr. Zweers – That’s correct, Zach Brooks.

Chairman Reinhardt – Ok. Dated May 20, 2019. He says, “I have no issue with the fence being between our properties being positioned forward of the house of the road, I have no issue with the current location of the shed on my neighbor’s lot.” So there were two pieces to that. Certainly we were concerned about the shed and also the fence being forward of the principal property. Do you have anything else you want to add or tell us?

Mr. Zweers – Know that I’ve followed instruction on the turning of the fence panels on the east side, that has been done and I’ll await your outcome on the other two points and I think Al has taken measurements that you required.

Mr. Benedict – That’s correct. I did write on the instrument survey that you should have gotten, that the fence was 73.6 feet forward of the front line of the house.

Chairman Reinhardt – 73.6 feet?

Mr. Benedict – That’s correct.

Chairman Reinhardt – Donna, any questions? For both variances?

Mr. Morley – No.

Chairman Reinhardt – Matt?

Mr. Nearpass – I think I’m all set. I wasn’t here the last time. This to me it looks like it’s a case of the way the house is skewed, where the front of the house really isn’t what the code thinks the front of the house is.

Chairman Reinhardt – Well I think when you look at it I think what we discussed at the last meeting, was that the houses are in a bit of a row and his reasoning for the fence, both on the east and west side more so on the west was to inhibit, if not stop the leaves from blowing on your neighbor’s property onto yours. We talked about at least the potential safety concern that anytime a fence or obstructions are forward of the house it could cause a problem both for whether it be traffic on Gillis Road being able to observe cars coming in and out of your driveway and vice versa. If you don’t have any questions for now we can certainly come back with a little more discussion. Scott?

Mr. Harter – I guess the only question I have at this point in looking at your survey map is given the adjustments that were necessary to the fence, how did you establish the position of the fence? Did you have a surveyor stake out the boundaries?

Mr. Zweers – The actual stakes are visible on the property those are metal rods at the beginning, in the middle and at the end marked with red flags. So, those actually show and I showed the

positions to Al, when he surveyed the fence, where they were.

Mr. Harter – And, he produced a letter from the neighbor to the west indicating that the neighbor is ok with the fence and its current condition. Is that correct?

Mr. Zweers – That's correct. That's the last letter I provided and provided of all three neighbors. And the last one I provided as requested who approved of the fence position and the extension.

Mr. Harter – No more questions for me.

Chairman Reinhardt – Fred?

Mr. Salsburg – Well the good side of the fence has to face outward from this property. Is that recorded?

Chairman Reinhardt – I think we've addressed that already. That was the last time.

Mr. Salsburg – Right, how was that recorded? A denial of another variance? So there was two parts to this.

Mr. Zweers – I received the outcome of that already that I had to reverse the fence.

Chairman Reinhardt – Three. So there's the fence facing the wrong direction, the shed that was too close to the property line, which is today and the fence on the west side being forward of the principal property, so we're looking at today is the shed and the fence being forward of the home.

Mr. Harter – So the good side issue has been. . .

Chairman Reinhardt – The good side/bad side issue of the fence we're done with that.

Mr. Salsburg – And, the shed is what size again? 24 x 36? Sound familiar?

Mr. Zweers – You have a copy in your documentation. I believe it to be 8 feet x 12 feet.

Chairman Reinhardt – Anyone from the public want to speak for or against? I think the easier one is going to be the shed. I think we need to separate them. Especially since the neighbor to the west doesn't have any issue with it and it is guarded by a fence that is permissible to be there. I don't think that there's a lot that we should be concerned about looking at the criteria. We're just talking about the shed now, Fred are you ok with the shed, grant the variance? And, looking at the criteria that there wouldn't be an undesirable change...

Mr. Salsburg – And the neighbor mentions the shed, yes?

Chairman Reinhardt – Right.

Mr. Salsburg – Yes.

Chairman Reinhardt – Ok, so you're fine with the shed. Scott?

Mr. Harter – Yep.

Chairman Reinhardt – Matt?

Mr. Nearpass – Yes.

Chairman Reinhardt – Donna?

Ms. Morley – Yes.

Chairman Reinhardt – So I think we can walk through the criteria in a moment, but let's take a straw poll on the fence being forward of the principal property. Fred, do you have any thoughts on that?

Mr. Salsburg – I drove by and I don't see a big impact with this fence, so I have no objections.

Chairman Reinhardt – Scott?

Mr. Harter – I think it's neighborhood driven like we said last time, I think with his work in contacting the neighbors and not seeing an objection in the neighborhood, I don't have an objection.

Chairman Reinhardt – Ok. Matt?

Mr. Nearpass – Agree. No objection.

Chairman Reinhardt – Donna?

Ms. Morley – I don't have any objections. I drove by and there is a hill on the side there, it's not blocking the other driveway from backing out. I'm ok with it.

Chairman Reinhardt – So are we ok, then with bundling or grouping these two together and using the same criteria both for the shed and the fence.

Mr. Salsburg – Sure, great idea.

Chairman Reinhardt – Let's walk through the criteria then. The undesirable change would not be produced in the character of the neighborhood, specific to the shed, the neighbor to the west doesn't have any objection to the shed being there and also the fence that is there that separates the shed and the neighbor guards it and doesn't appear to have any difficulty with it and also I

think you said the last time you were here that due to the lay of the land, your land is a little bit lower than your neighbor to the west which then puts that shed a little bit lower, so he really can't see that with the fence being there.

Mr. Zweers – Roughly, the top of the shed is about the same height as the fundament of his house.

Chairman Reinhardt – Ok. Great. Anyone want to add anything else to the first criteria? Alright, the second, the benefits sought by the applicant can be achieved by some other method however as far as the shed goes you'd have to pick up and move it to some other place and there's not a lot of places you can move it due to the slope of the land and as far as the fence goes you could take the fence out, but as far as the purpose of it we're not really detecting any kind of hazard or danger for road or traffic on Gillis as well as the driveway, you coming in and out of it. Does anyone want to add anything to the second criteria? Third, I think the variance is substantial, technically it is on or pretty darn close to the shed being the property line and seeing the fence is 73.5 feet forward of the principal property I would consider that to be substantial. Does the board agree with that?

Mr. Salsburg and Mr. Harter – Yes.

Chairman Reinhardt – Ok. Fourth, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Much like what we talked about before the shed is in the rear of the property, it does seem to be guarded by some vegetation and as Scott had pointed out that that area, that neighborhood seems to have certainly more room and it doesn't have any physical and environmental conditions on a negative impact. Agree with that? Fifth the alleged difficulty is self-created. Although, this consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance. Anyone else want to add conditions to the variances that we're going to grant?

Ok, then I would like a motion to approve the variances, both for the shed and the fence being forward of the principal property.

Mr. Nearpass, motion to approve. Seconded by Ms. Morley.

Chairman Reinhardt – All in favor. Opposed (none). Carried. Good luck to you.

RESOLUTION

Zweers Shed & Fence – Area Variance  
7272 Gillis Road

DATE: June 3, 2019  
Appl. No. 13-Z-19

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on May 3, 2019 from Paul Zweers requesting an area variance for a shed that is located closer than 15 feet to the side lot line and for a fence that extends beyond the front line of the house. Code §211-20C states accessory structures, such as sheds, must observe a 15 foot property line setback

on residentially zoned property and §211-41.H states fences higher than two feet shall not be erected forward of the front line of the principal structure; and,

WHEREAS, said application was referred by Martin Avila, 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 May 12, 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 May 20, 2019 and June 3, 2019 at which time no resident(s) spoke for/against the application and three letters 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 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:

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 neighbor to the west has no objection to the shed's location. The fence separates the shed and the neighbor and due to the lay of the land, the top of the shed is about the same height as the fundament of the neighbor's house. The neighbors also have no objection to the fence.

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance

Justification: The shed would have to be moved and there are not many locations due to the slope of the land. The fence position is for a specific purpose and there does not appear to be any hazard or danger for traffic on the road and those coming in and out of the driveway.

3. The requested area variance is substantial.

Justification: The shed is almost on the property line and the fence is 73.5 feet forward of the principal property.

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

Justification: The shed is in the rear of the property. It is guarded by some vegetation and the neighborhood is spacious.

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 a motion by Mr. Nearpass, seconded by Ms. Morley.

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Paul Zweers requesting an area variance for a shed that is located closer than 15 feet to the side lot line and for a fence that extends beyond the front line of the house. Code §211-20C states accessory structures, such as sheds, must observe a 15 foot property line setback on residentially zoned property and §211-41.H states fences higher than two feet shall not be erected forward of the front line of the principal structure BE APPROVED.

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

Michael Reinhardt     Aye  
Matt Nearpass         Aye  
Scott Harter           Aye  
Donna Morley         Aye  
Fred Salsburg         Aye  
Approved: 5 Ayes,     0 Nays

4. ENGLISH DECK/PORCH – AREA VARIANCE  
6266 Murphy Drive

14-Z-19

Carried over from May 20, 2019 mtg

The applicant is requesting removal of a handicap ramp and proposes replacing it with a 6' x 12' open porch/deck. §138-6(A) states there shall be 20 feet from the road right-of-way, but no less than 25 feet from the edge of the road pavement. On a corner lot, there shall only be one front setback, which shall be measured from the driveway side of the manufactured home unit.

Chairman Reinhardt – Alright, you had some homework. How'd you do with it?

Mr. & Mrs. Paul and Cindy English – Yes, good. Some of it, you've got.

Chairman Reinhardt – Ok, I see the one piece I noted was you had a C of O and there was a drawing and with the measurement of the now existing wheelchair ramp being four feet forward of your home and you're asking the width of it, help me out, what did you ask for?

Mr. English – It juts out 12 feet from the house.

Chairman Reinhardt – I'm sorry, I asked a bad question, as it exists the wheelchair ramp is forward of the property by four feet and your proposed porch/deck is going to be how wide?

Mr. English – Six.

Chairman Reinhardt – So you want two more feet?

Mr. English – Less.

Chairman Reinhardt – Less?

Mr. & Mrs. Paul and Cindy English – It juts out eight feet and we're going for a six by twelve foot deck.

Chairman Reinhardt – That's not what this drawing shows.

Mr. English – That's not mine.

Chairman Reinhardt – So, I'm a little confused then on what the current width of that wheelchair ramp is.

Mr. Nearpass – This drawing looks like it shows a four feet wide sidewalk once upon a time that was there prior to, that's the way I think I read that.

Chairman Reinhardt – Ok. Alright, do we have anything that verifies how wide?

Mr. Salsburg – Well, I had a sketch the last meeting and I didn't bring it.

Chairman Reinhardt – Al, do you know how wide that current wheelchair ramp is that goes forward of the house?

Mrs. English – It comes out eight feet from the house or to the road. We're proposing six feet out.

Mr. Salsburg – Two feet less.

Chairman Reinhardt – Your drawing shows the new deck, but what I want to know if there's measurement for the existing. So you measured the width, right those are your measurements, what I was looking for, is I thought there'd be a C of O or somebody that approved the wheelchair ramp and had on file with the town how wide that wheelchair ramp is.

Mr. English – I called the office here and they said they found the approval, a variance. They said that they would bring it to the meeting.

Mr. Benedict – According to the drawing, the handicap ramp, at least the platform coming off the dwelling unit extends out four feet towards the road.

Mr. Harter – So, this drawing, Al where it says four foot wide sidewalk.

Mr. Benedict – I think what they are trying to indicate is that the sidewalk runs along the front side of the building and underneath the handicap ramp to the driveway.

Mr. Harter - So the handicap ramp went on top of the sidewalk?

Mr. Benedict – Went over top of it, yes.

Chairman Reinhardt – So the building permit that I'm looking at shows that the width is four feet wide, so either he built a bigger deck. I need to go on something that is recorded with the Town and what it should have been and how the variance was granted.

Mr. English – Well it was questioned last time we were here, whether a variance was given to the handicap ramp and to the deck that comes out and it was.

Chairman Reinhardt – I don't think we're quite on the same page yet. I think we can agree that a variance was granted, but where we're having a little trouble is you think it was granted for eight feet wide.

Mr. English – Yes.

Chairman Reinhardt – And this is showing. . .

Mrs. English – This from here, the entrance of the porch to here is eight feet.

Chairman Reinhardt – I understand that. I understand how it exists, the problem I have is it shouldn't be like that. It says on this variance it only should be four feet wide, so something isn't right either Mr. DeRose who asked for the building permit, who asked for four feet, he couldn't measure very well and put something larger.

Mr. English – The ramp comes out along side of the house onto the driveway, four feet. That's four feet wide, the ramp is. So maybe that's what he's doing.

Mr. Nearpass – To me it looks like, if this drawing right here was part of the variance application from last time.

Chairman Reinhardt – That's what we asked for last time. That's part of the prior variance back in. . . .

Mr. Nearpass – If you look at it, to me, visually it's not an engineering drawing, but at least you've got on the north side where it says four feet and the other one where it says four feet here along the side, it should have said eight or six or something. If you even just look proportionally that four feet is almost double the other four feet. Where it says four feet here and four feet here.

Mr. Nearpass – What was actually written in the variance? The variance is for what?

Mr. Harter – Is it actually a variance or is it a building permit?

Mr. Benedict – I think it's just a building permit.

Mr. Nearpass – So there was no variance granted.

Mr. Harter – Correct. From what I can tell.

Chairman Reinhardt – Ok, so we have the building permit for four feet and you have eight feet and you want 12 feet. Is that what you're looking for?

Mr. and Mrs. English – Along the house. I want to dismantle the handicap ramp. I don't need the deck that comes out from the house, so once that's gone I want to put a 6' x 12' deck.

Mr. Salsburg – The only part of the dimensions here is the distance that the porch sticks out toward the road from the house and you're saying its eight feet now and it would be six feet when you get done. How it got to be eight feet is the question, but it was there when they showed up.

Mr. and Mrs. English – Yes.

Chairman Reinhardt – And, I'm going to take a wild guess that your realtor, your attorney, nobody told you that it was out of compliance. Because that's what it appears now that it's out of compliance which at least you're here and you're looking for a variance for a 6' x 12' uncovered porch. So, let's see if we have some questions. Donna?

Ms. Morley – I don't have any from the last time.

Chairman Reinhardt – Matt?

Mr. Nearpass – The way I think I'm looking at this, correct me if I'm wrong, is that if I just assume what's here doesn't exist anymore and you're asking for a 6' x 12' uncovered porch, of which 6 feet of it is going to extend.

Chairman Reinhardt – That wheelchair ramp is currently there.

Mr. Nearpass – No, no, I understand that, but there's no variance for it, there's nothing for it, so if this was an application for the home as it sits today and you wanted a 6' x 12' porch to go off of the side?

Mr. & Mrs. English – It would face the front.

Mr. Nearpass – So, it would encroach by 6 feet and the 12 is going down the side of the house. And you don't need a ramp. The ramp is coming out.

Mr. English – It's all going, yes.

Mr. Nearpass – I'm ok for now.

Chairman Reinhardt – Scott?

Mr. Harter – I don't think I have any questions.

Chairman Reinhardt – Fred?

Mr. Salsburg – You've done a good job getting the community manager and the neighbors to think that this is an ok idea. One of the other things you were supposed to do is see if there were other decks that would resemble this or not. How'd you make out with that?

Chairman Reinhardt – You all set?

Mr. Salsburg – They are looking at their documents. Were there some?

Mr. English – Yes, I've got a couple here.

Chairman Reinhardt – Do you know where these are located?

Mr. English – Yes. This is across the street, faces to the north. This one is directly across.

Mrs. English – 6259 Murphy, 6255 Murphy, 6263, 6268. This one is on our street.

Chairman Reinhardt – One with no address on it, is in your neighborhood?

Mrs. English – Yes, it's one of the people who signed our petition.

Chairman Reinhardt – Do you want these back? We can.

Mrs. English – No you can have these, fine.

Chairman Reinhardt – You've provided us with five color photographs. Thank you for the homework. On the back of four of the photographs, one indicates 6263 Murphy, another on is 6259 Murphy, another one is 6255 on Murphy and two of them do not have addresses on the back of the photo, but do you know where these are on Murphy? Or can we say they are in the neighborhood?

Mrs. English – One is right on the house.

Chairman Reinhardt – They both have addresses on the front. 6268 is on the front of one and 6265. So, we have a number of photographs with examples of porches on the front of the homes. You've allowed us to have those as exhibits. Thank you so much.

Mr. Harter – Were those porches additions to the original structure or were they part of the original structure?

Mr. English – Part of the original. The only thing that was added on to these are steps coming off these porches.

Mr. Harter – We're not exactly talking apples to apples then, correct.

Mr. and Mrs. English – We're not.

Chairman Reinhardt – Fred, you're done with your questions?

Mr. Salsburg – You could have had a circle with an arrow and a paragraph under each one, but no I'm good. Good job.

Chairman Reinhardt – Matt?

Mr. Nearpass – I think I'm ok.

Chairman Reinhardt – Donna?

Ms. Morley – No.

Chairman Reinhardt – Anyone from the public want to speak for or against? (None) So, walking through the criteria, first being an undesirable change would not be produced in the character of the neighborhood. Part of the justification being in the photographs you provided for us at least give us some indication that there are porches and decks on the front of these homes. Also, that there is an existing wheelchair ramp that is four feet in front of the existing home although there is a question on whether or not it's in compliance as it exists. What you're looking for is another two feet wider to make it be six feet and 12 feet long in front of the building. Correct? Anyone want to add anything else to our first criteria?

Mrs. English – Except it is, I'm sorry, it is eight feet. It now is eight feet wide that handicap ramp. We want to make it six.

Chairman Reinhardt – You're looking for a six feet by twelve foot deck, right? Anyone want to add? When I mean anyone else, we're talking about the board here. So, if you have any other comments that you want to add then we should know about them now before we walk through the criteria.

Mrs. English – As long as we have that clear that we're talking about eight foot.

Mr. Nearpass – I think the point what we're trying to make is that based on the documentation we have, that eight foot section shouldn't even exist today so we're just looking at the property as if your just asking for a 6' x 12' deck. That makes it cleaner. Correct me if I'm wrong.

Chairman Reinhardt – No, that's it. Second the benefit sought by the applicant can be achieved by some other method, feasible to pursue, however as a condition or a consideration the back of the house is to the west and I think the last time we were here we discussed it. You would have to at least to use it, you'd need umbrellas, and awnings, more materials and it would probably be more costly to put the deck/porch whatever you want to call it off to the back of the house. But in the front, especially seeing that there are other decks and porches on the front of the homes and since that home does face the east you'd probably get some more use out of that. Anyone want to add anything else to our second criteria?

Third, that the requested area variance *is not* substantial.

Justification: Partly due to that there is an existing wheelchair ramp there and you're looking to make it wider in the front. 6' x 12' so technically it's going to be shorter than what is actually is. Anyone want to add anything else to the third criteria?

Fourth, the proposed variance will not have an adverse impact on the physical or environmental conditions in the neighborhood or district.

Justification: We have photographs we can look at. I don't think there is anything that that proposed deck would have a physical or environmental impact.

Fifth, the alleged difficulty is not self-created.

Justification – You purchased the home with that wheelchair ramp in there. It doesn't appear that you were informed by it, so you're actually making it narrower. Anyone want to add anything else to the proposed criteria that we've walked through?

No one opposed so with that, can I have a motion to approve the proposed area variance for a 6' x 12' deck as indicated by the applicant's application?

Ms. Morley – I'll make that motion.

Mr. Salsburg – I second.

Chairman Reinhardt – All in favor?

Mr. Harter – I'm a nay.

Chairman Reinhardt – One nay. Granted. Good luck.

Mr. & Mrs. English – Thank you.

#### RESOLUTION

English Deck/Porch - Area Variance  
6266 Murphy Drive

DATE: June 3, 2019  
Appl. No. 14-Z-19

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on May 6, 2019 from Paul & Cindy English requesting removal of a handicap ramp and proposes replacing it with a 6' x 12' open porch/deck. §138-6(A) states there shall be 20 feet from the road right-of-way, but no less than 25 feet from the edge of the road pavement. (On a corner lot, there shall only be one front setback, which shall be measured from the driveway side of the manufactured home unit); and,

WHEREAS, said application was referred by Martin Avila, 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 May 12, 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 May 20, 2019 and June 3, 2019 at which time no resident(s) spoke for/against the application. A letter from the Gypsum Mills Community Manager and seven signatures 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 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:

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: Photographs provided by the applicant give some indication that there are porches and decks on the front of these homes. Also, there is an existing wheelchair ramp that is four feet in front of the home.

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: The back of the house is to the west; a deck/porch would have to be shaded with umbrellas, awnings, trees, and it would most likely be more costly. It is more useful to build deck/porch in the front.

3. The requested area variance is not substantial.

Justification: There is already an existing wheelchair ramp. The proposed 6' x 12' porch/deck will be narrower.

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

Justification: Photographs provided by the applicant show homes with similar deck/porches.

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

Justification: The home was purchased with the wheelchair ramp.

On a motion by Mrs. Morley, seconded by Mr. Salsburg.

#### DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Paul & Cindy English requesting removal of a handicap ramp and proposes replacing it with a 6' x 12' open porch/deck. §138-6(A) states there shall be 20 feet from the road right-of-way, but no less than 25 feet from the edge of the road pavement, BE APPROVED.

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

Michael Reinhardt	Aye
Matt Nearpass	Aye
Scott Harter	Nay
Donna Morley	Aye
Fred Salsburg	Aye

Approved: 4 Ayes, 1 Nay

5. VALENTOWN PLAZA – PARKING  
300 High Street

15-Z-19

The applicant is requesting a modification to an existing variance to reduce the front parking setback from 35' to 30' from NYS Route 96. The original variance was approved by the Zoning Board of Appeals on June 23, 1976, to allow a reduction of the front setback from 80' to 35' to allow construction of a parking area to support the proposed plaza. The property is currently zoned (C) Commercial and is within the Route 96/251 Overlay District. §211-32A(2)(c)[1][a] states no vehicular parking shall be permitted within 80 feet of the road right-of-way. The Planning Board may reduce the front setback if there is no need for a future service road or road widening.

Mr. James Cretekos – Good evening everybody. My name is James Cretekos and I'm with BME Associates. Here will me this evening is Fred Rainaldi, he's the applicant and they own all lots out at Valentown Plaza. We're here this evening to request a front parking setback from Route 96 on Lot 2 which is the current lot that houses Longhorn. Due to the success of the other businesses in the plaza we're looking to add some additional parking above what the code requires just to help with some of the congestion that's been experienced out there during some of the peak restaurant hours. So, what we're asking for is a reduction from the existing 35 foot front setback that was granted in 1976 for the plaza. We're asking for a 30 feet allowance which is only 14.5 % from what it is now. If you look on the exhibit up here, the six spaces that would be impacted or be able to be constructed are highlighted or outlined in red. Right in the front of Longhorn. We did look at some options for additional parking on the site besides these locations, we explored moving further to the south toward the residential properties, but we really wanted to respect the 100 foot residential buffer between commercial, so we found that these were going to be both the most economically viable as well as help to meet the needs of the site. There is existing vegetation in the 96 corridor between the property line and route 96 there's still about 30 or so feet of trees, brush during the summer months you can't see through there, they're pretty heavily vegetated and we are going to proposing small hedgerow in front of those parking to help with screening for anything that would shine onto 96. We don't really feel that these are going to make any undesirable change. If we don't think the variance, it's just those six spaces that we won't be able to be constructed. We are going to the Planning Board. We're going to be there in two weeks for site plan improvements and then we are going to be at County Planning as well for this application next week. There's really no environmental impact with this. The existing storm water management facility out on the site was sized to handle more impervious area and more drainage area than what's currently being contributed to the facility now. So, we'll just be able to basically collect runoff from these small little impervious pavement areas we'll be proposing, direct it right into the existing facility. This is a little bit of a self-created difficulty really just from the business success out there. It's a little bit higher than what was anticipated, but otherwise if you have any questions regarding the site plan design and the variance that we are requesting, we'd be happy to answer them.

Chairman Reinhardt – You understand that we are going to need to hear from the County Planning Board. We can't make a decision today.

Mr. Cretekos – Correct. We are aware, so, we'll be back in two weeks.

Chairman Reinhardt – OK, correct. Fred, do you have any questions?

Mr. Salsburg – Well you could park some cars without the variance and then more with only 5 more feet. What's the difference in the number of cars?

Mr. Cretekos – We'll lose six spaces by not getting the variance. Which is just, these spaces in the front, so we'll still be able to do the other parking that we're planning on expanding. Like I said these are pretty much the spaces that are furthest away from the residents, so we didn't really feel it was very applicable. What ended up happening is there is a small jog in the property it's in bounds, right at this corner right here, so that's kind of where we need to request the variance.

Mr. Salsburg – There's a difference of six spaces. How many without it?

Mr. Cretekos – We're proposing 33 additional spaces, so we'd be at 27. That we'd be proposing if we don't get it.

Chairman Reinhardt – Scott?

Mr. Harter – So, the variance is allowing you to gain six additional stalls, is that what you're saying? Ok. I live nearby. I drive past the site. I was one of the original engineers when Pizzeria Uno went in there under Larry Stoltz Development, so I'm quite familiar with the property. I did read some of the correspondence. I'm looking at the drawing. It looks like the shaded areas are your areas of interest. It looks like you don't have much more room beyond what you're currently showing here, is my interpretation correct?

Mr. Cretekos – Correct, we did explore some options like I said, pushing some parking further south, but if you've been out to the site, you know there's a pretty sizable retaining wall, so we were looking at basically having to reconstruct that and push it out to get more parking. But, then we run into economic viability issues with building a 14 foot retaining wall a couple hundred feet as well as again, we'd be asking for a bigger variance from the residential buffer.

Mr. Harter – Currently Pizzeria Uno is not functioning, it's just vacant over there. Or maybe someone's coming in. Do you have any information?

Mr. Cretekos – Yes, it's actually approved as a Chase Bank. We went through the Planning Board process in December and earlier this year. That's all approved.

Mr. Harter – So that's going to be coming ahead, but at least it won't be another restaurant then.

Mr. Cretekos – Correct. The uses are going to fit a lot better with the rest of the plaza, so the whole reason why we went through Planning before, we knew we were taking out the restaurant which is why the New York Beer Project is here now.

Mr. Harter – With respect to the success of the latest development here and I can't help but notice how popular it is as I drive by. Is there any consideration to using some of the parking across the street that I think the developer owns and having some cross pollination or whatever you'd like to call it in terms of parking or valet or something along those lines?

Mr. Fred Rainaldi – Good evening. My name is Fred Rainaldi of Rainaldi Brothers in High Point. If you remember, you've seen me for a long time presenting to these boards now, the four phases of retail especially the Phase 2 and Phase 3. Phase 2 being the Northface and Phase 3 being the spa and the construction that's going on now. The beauty behind those two phases is the ability to start to capture and build what we would like to be enjoyed as a village or village-like setting. Both in retaining the on street parking of High Street Extension and also in the orientation of the park facilities that are a part of Phase 2 and Phase 3. I'd always expected that the four phases work together and each of the patrons that enjoy either the businesses in any of the four could cross park, use, walk. The hope is that it's a completely walkable environment when we're through.

Mr. Harter – Is that doable now then?

Mr. Fred Rainaldi – It's happening now, both with valet and a lot of the employees will park in Phase 2 and Phase 3.

Mr. Harter – Ok. I don't have any more.

Mr. Fred Rainaldi – We also have as part of subsequent phases we've made accommodations for a trolley which were part of the original approvals in 2005.

Mr. Harter – Thank you.

Mr. Nearpass – I'm ok. Scott captured most of my questions. I was curious as to if Uno was going to be another significant draw. But, I think with the extra six spaces, kind of fully build out as many spaces as you need, I totally agree you need as many spaces as you can get. I don't see that there are going to be many major impacts in my mind as I walk through the criteria. So, I'm ok with it.

Mr. Fred Rainaldi – And just so you know, with the Uno's which will be demolished and we'll start construction on Chase in the next couple months. Chase is half the size as the existing Uno's and we'll be able to capture a lot of the parking and this is really programmed to start functioning as one comprehensive environment and a lot of thought has gone not only into the (inaudible) mix, but the application of the physical structures that exists on there. And, what we want to happen and what we're already watching happen with the prior phase is that when people come and they hang out there a little bit longer. We like that. There are miles and miles of hiking trails that will continue to be built on the whole campus and really cool things to come to see and the parking allows for that to happen naturally and be enjoyed more. So, this is also future planning for what we expect for how this project will be used.

Chairman Reinhardt – Donna?

Ms. Morley – No questions.

Chairman Reinhardt – So, if I understand right I think we've touched on it, but I'm going to make sure I understand at issue what you're looking for if the variance is granted you're gaining six spaces. If it's denied, what are you doing?

Mr. Cretekos – We're still going to be pursuing the 27 spaces that we can construct without the variance. We'll still be going through the site plan process with the Planning Board.

Chairman Reinhardt – Ok. Understand. Anyone from the audience want to speak for or against?

Mr. Martin Snyder – Good evening, my name is Martin Snyder and I'm one of the owners of the 304 High Street which is a residential property on the south side of this commercially zoned property. First I have a concern just about the notification that went out, I'm not convinced that the required neighbor notifications went out to all the appropriate parties. The project engineer submitted a list of all the properties within 500 feet and it was signed by him and notarized and there is a separate sheet behind that that included the addresses. Our address was not on that list, Valentown Museum was not on that list. They are within 500 feet of that property and I'm concerned that all these places that I've highlighted on this map did not receive proper notification being that they are within 500 feet of that lot, so that's my first concern. I know that we had coordinated review. Feel free to interrupt.

Ms. Reese – Can I just say, Marty, we didn't use that list, we ran a list and its right here, of 500 feet. You can look at it.

Mr. Snyder – I knew somebody did something different something was corrected by the town along the way.

Ms. Reese – Yes.

Chairman Reinhardt – You're good?

Mr. Snyder – I wouldn't be able to cross reference all of them, but that looks like a much more extensive list, a correct list than that short one.

Chairman Reinhardt – Well what we can do, as you heard, we have to wait for the County Planning Board for a review, so if you'd like to either get a copy tonight or touch base with Kim that she can provide this for you and take a look at it and cross reference it and then in two weeks when we come back you want to renew your concern, you can certainly do so.

Mr. Snyder – That would be great. I'd appreciate that.

Chairman Reinhardt – We're scheduled then for June 17, two weeks when we should have heard from the County Planning Board and certainly people can come back and express more concerns,

agree or disagree with the County Planning Board, but we can't get it all done today.

Mr. Snyder – Right, exactly. I'm glad that you acknowledged that. That was one thing I noticed that it was on the County Planning Board agenda for their upcoming meeting. Beyond just a notification, there were a few things that I had concerns as far as the five test questions that have to be answered. First of all the first question is whether or not the alleged difficulty was self-created. I know there is some acknowledgement of that and I think it is most definitely self-created. The parking problem was created because of overdeveloping. And, I have a letter here which I talked to the Planning Board about and both of their meetings for the Chase Bank, they had two, I believe, one in October and one in January when that was approved. This whole project is gone back years and years. This is a letter from the Town of Victor on April 9, 2014 talking about their findings of fact from their meeting on the previous night and I'd like to read point 10 on that. They say in here, that the applicant is asserted that the previous site plan approval from May 2007 contain 357 parking spaces and that due to the specialty retail use proposed in the new building and they are referring to the brewery building in this case, fewer parking spaces are needed in comparison to restaurant or other commercial uses. So they are acknowledging we're not going to put a restaurant in there, it's going to be specialty retail. We don't need those parking spaces. Allow us to decrease the number. So for that reason I'd like to argue that this was definitely self-created and one of my problems is, is just because there are three parcels in that Valentown Plaza doesn't mean that they need to have three buildings there, especially now that one is 25,000 square feet in size. If the applicant wants to be good neighbor as he asserted before they would pull the proposal to build a new bank on the Pizzeria Uno site and use that lot for parking. By previously requesting to diminish that number of parking spaces and proposing to construct a new bank with even fewer parking spaces the parking problem is self-created. A second point that you need to consider is whether the benefit sought can be achieved by some other method and I think definitely it can mainly for those reasons just stated. They have the choice to not redevelop that Pizzeria Uno site and use it for parking, there are vacant store front options, so between the brewery and the never occupied store front in the spa building on High Street extension those are both potential sites to allow for development of a bank while gaining that much needed parking and finally whether or not the requested area variances is substantial, yes it's substantial. The applicant claims they are seeking on only 5 extra feet, but you have to remember that they are really asking for a 50 foot variance once prescribed in zoning as 80 feet, they already have a variance that has been granted, so they are asking for a 50 foot variance, which is a 62.5 % reduction. That's quite substantial and that would make for an already significant variance even greater and would limit any congestion relieving options for the corridor in the future if the state DOT needed to do that, because we all know that that's a very highly traveled corridor. In closing any additional concessions such as the zoning variance are not needed for this development and should not need be granted, the applicant created the problem, they have the ability to remedy the problem without being granted a variance. They have a simple way to solve it through their own actions and without remedy from the ZBA. Thank you.

Chairman Reinhardt – Ok, thank you. Anyone else want to speak for or against the application? Ok. Any other comments from the board? Questions, concerns?

Mr. Harter – I think we have an email from one of the neighbors, Tammy VanBuren.

Chairman Reinhardt – We do. That would be dated June 3, 2019. I'm not going to read it into the record, but certainly we can take a moment to review it, ask some questions. I think the global view of the email is that she is opposed to the variance as well. Marty, just for clarification, you're opposed, right?

Mr. Snyder – I'm opposed. Yes.

Chairman Reinhardt – Right. Got it. Anyone else want to speak for or against or any questions from the board?

Mr. Harter – I have a question for the applicant, maybe Jim. Jim, to the information that came forward and on your drawing it says existing retail building, it doesn't seem like it is really a retail building. It seems like it's more of a restaurant at this point in time. Is it to be a retail building or was there a switch in how this building was to be used?

Mr. Cretekos – I think it was always designed/approved as a specialty retail. I believe the stance is that the Beer Project is a specialty retail.

Mr. Harter – Specialty retail.

Mr. Cretekos – Specialty retail use.

Mr. Harter – Ok.

Mr. Rainaldi – The local brewery which was operated by a family that stems out of Lockport, NY is by definition a specialty retailer. Not only by mine, I'm a practicing real estate professional and have been for over a decade and a half, but also by your own county of Ontario Economic Development team. The 25,000 square feet is occupied only in portion by the brewery, the balance of it Spokes Cycle opened up this week or opens up, they had a soft opening and open up formally in a week and a half. And the balance of tenancies will be consistent with that. Unique programs that you can't find everywhere else within the market. So, the building is by definition specialty retail. There has been no change.

Chairman Reinhardt – Before we go any further and go down a rabbit hole. Do we have a definition in the code book for specialty retail?

Mr. Benedict – I don't believe so.

Chairman Reinhardt – Ok. So, first order is when you look for definitions and I appreciate your definition, but anytime at least what we go by and by statute, by law and I think Jim would agree with it, that you look to definitions within the code itself. It doesn't matter what Webster thinks and all the respect, it doesn't matter what you think. What we look to is the definition of code. We can't find it in the code, we can make reasonable efforts to look elsewhere and take into consideration whether your definition or the County's definition and try and figure out how where going to work with that if you you'll term of art. OK? You agree with that, Jim? There's

a stepping or at least a process that we're going through and we're you find definitions from.

Mr. Cretkos – It's just not the defined in the codes.

Chairman Reinhardt – Ok, great. I just wanted to clarify that and confirm it with Al. Go ahead.

Mr. Harter – I just have a couple more questions. When the building here was first envisioned and when the parking calculations were done relative to that, was it understood that there was a certain amount of parking stalls needed and now based on how the building is being used is there kind of a rethinking of that that's going on? Are you seeing more parking need than you anticipated originally?

Mr. Cretkos – So part of the function of the plaza when the building was originally approved there was no intention of Uno's being gone. There is cross access parking access easements between all of the lots in the plaza. So there is some information in the code about parking within a plaza for those types. And, that's how the parking tabulation was completed and reviewed with planning board as well as when we went through the approval process.

Mr. Rainaldi – But to your point specifically, no. The curation of tenants is a, I won't call it a fluid exercise, but our vision was for there to be less prime national brand and healthier mix of local, regional and national. That formula allows for these businesses to be more healthy in perpetuity. They support one another. They also have different type of empathetic relationship with the community and that's what we have fought to bring to the project.

So, the orientation, I knew that Uno's wasn't my, I wouldn't have brought them in had I owned it when that deal was consummated. So, the way that we qualify the existence of a unique operating restaurant and brewery was that I knew that if I was able to take back the Uno's I could have the feature and function of that hospitality element, because that's really important for communities and neighborhoods. And, I'd be able to put in a different form that was a little more unique or special and I'm excited that we had the opportunity to reprogram that corner with a very beautiful building that the largest bank in America allowed us to design for them so that it looks like it's part of the High Point project and reduce significantly the density and parking demand on that corner.

Mr. Harter – Relative to the 25,000 sf building that we're kind of looking at here, on the specialty retail or retail or whatever it is, what portion of it is the specialty retail restaurant and what part of it is just regular retail? In other words you said Spokes was another.

Mr. Rainaldi – So, Spokes Cycle opened up just south, so this the brewery.

Mr. Harter – Ok. Ok.

Mr. Rainaldi – Spoke opened up right here.

Chairman Reinhardt – Slow down a little, use some compass directions. You're pointing.

Mr. Rainaldi – I'm sorry. So, the brewery restaurant is the northern endcap of the building on lot three, Spoke is one space just south and I would say it's almost center of the building and then each subsequent tenant (inaudible) in that direction.

Mr. Harter – Alright I think you've answered my questions. Thank you.

Chairman Reinhardt – A few curious things that are happening here and I just want to make sure I understand it. When this project was presented which came first, did you know that the brewery was going to come in? Because you call it a specialty retail. Let me ask it a better way. When was the idea that the brewery was going to go in that building?

Mr. Rainaldi – A year and a half ago.

Chairman Reinhardt – Alright so when the proposed variance, at least the variance in 2014 you didn't have any idea that the brewery was going to go in there. That hadn't happened yet, the thought hadn't occurred yet. Is that right?

Mr. Rainaldi – Correct.

Chairman Reinhardt – Then you talk about Uno's no longer being there. Was that by their choice or did you, if you will, close that down knowing that the brewery was going to go in there? Or at least could they have both existed in the same location?

Mr. Rainaldi – Not under my ownership.

Chairman Reinhardt – So that was somewhat by you're doing?

Mr. Rainaldi – It was a coordinated exit between myself and the equity firm that purchased Uno's.

Chairman Reinhardt – And, was the cause of that or partial cause because the brewery was going in?

Mr. Rainaldi – It was an effort to approve the quality of programming here. I knew that Uno's, Uno's has a very limited lifespan left and we do a lot to make these buildings more beautiful and we want them to feel like they are indigenous to this environment and the way that we can qualify those efforts is to have tenants to stay with us for a long time and Uno's was not a tenant that was going to stay with the Town of Victor for a long time. I knew that for a fact.

Chairman Reinhardt – It's not fair to say that the brewery and Uno's could co-exist in that location.

Mr. Rainaldi – I would never usher that in under my ownership.

Chairman Reinhardt – So, you're agreeing with me that the brewery and Uno's was not going to exist under your leadership/ownership of that property.

Mr. Rainaldi – Correct. 100%. That’s correct.

Chairman Reinhardt – Ok. Good, thanks. Any questions, any other? We’re good, we’re good? Everybody good? Anyone else? Ok, great. Thanks so much. We’re going to wait for the County Planning Board. We’ll see you in a couple of weeks.

Mr. Cretekos – Yes, two weeks.

Chairman Reinhardt – Good. Thanks.

Mr. Cretekos – Have a great night.

Chairman Reinhardt – You, too. Before we adjourn the meeting. I’m going to be really tight on time in two weeks. I’m flying back in from Portland, my flight believe lands at 5:30pm. If I’m not here at 7pm, just start without me. As far as this one goes, how heavy is our agenda, do you know?

Ms. Reese – Five, in addition.

Chairman Reinhardt – We might push this back and I’ll get here as soon as I can get here. Or, if I’m just not going to make it, I’ll shoot you a text. Do the best you can. You’ll live without me.

Mr. Nearpass – OK.

Chairman Reinhardt – You guys want something over there, don’t you? (Addressing students in the audience.)

Mr. Harter – They want a variance.

Chairman Reinhardt – I think we’re good. We can move to adjourn the meeting and take care of the paperwork. Unless are there any questions you want to ask or you just want us to sign something that you were here?

Pittsford Mendon students in attendance because they have paper due Friday and Town of Pittsford cancelled their meetings this week. There was discussion about what they learned at the meeting and their future plans.

Meeting adjourned approximately 8:35 PM.