

Town of Victor Zoning Board of Appeals, September 16, 2019

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, September 16, 2019 at 7:00 PM 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; Scott Harter

EXCUSED: Fred Salsburg

OTHERS: Jason Cline, 1308 East Victor Road; Chadi Sarkis, 572 County Road 9; Al Benedict, Town of Victor Code Enforcement Officer; Kim Reese, Secretary

Chairman Mike Reinhardt opened the meeting, the Flag was saluted, and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES:

On a motion by Mr. Scott Harter, seconded by Mr. Matt Nearpass; RESOLVED that the minutes of September 3, 2019, be approved as submitted:

Mike Reinhardt	Aye
Matt Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye

Approved: 4 Ayes, 0 Nays

EXTENSION OF TIME:

Chadi Sarkis – Extension of time for building permit for 6739 State Route 96. Original permit was obtained in 2015.

Chairman Reinhardt – This is an extension of time for a building permit, 6739 State Route 96. You’ve been at it for a while. Going all the way back to 2015.

Mr. Sarkis – I’ve been so busy. I’ve been having not a lot of time to work on it. I did a lot of progress. All the drywall is up, my electrical is done. Plumbing is done.

Chairman Reinhardt – I have a list of permits and activity going back to September 2015. Site inspection, framing, truss review, daily walkthrough. The last one I have is the insulation at November 21<sup>st</sup>, 2018. That was approved. So where are you now with your project?

Mr. Sarkis – All the drywall is up. I want to do some sanding on it. And, try to prime the whole house and the electric is done, too.

Chairman Reinhardt – The electric is done. Is that inspected?

Mr. Sarkis – Not yet.

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Chairman Reinhardt – When's that going to happen?

Mr. Sarkis – Not this month's coming, after. I have family coming over this month.

Chairman Reinhardt – So, since you've been at it since 2015, we have to kind of make it definite. Your electric is going to be inspected by the end of October?

Mr. Sarkis – Let's say the end of October.

Chairman Reinhardt – We'll make it simple then, since we know November 1<sup>st</sup>. Is that a weekday?

Mr. Sarkis – He told me he wants me to put the counter top and he wants electric in the island, but I'm not putting the kitchen by the time he comes, so how will I put the outlet?

Chairman Reinhardt – November 1<sup>st</sup> is a Friday, so you're going to have the electric inspected which means it will be done. The electric will be inspected on or before November 1<sup>st</sup>. Right? Is that enough time for you?

Mr. Sarkis – Oh yeah.

Chairman Reinhardt – You're going to rock and roll on this and get it done. What's after that? What else do you need to get done, after the electrical inspection?

Mr. Sarkis – After the electric, inside? The flooring. All the bathroom tile is done.

Chairman Reinhardt – When do you think you're going to be ready for the CofO?

Mr. Sarkis – CofO?

Chairman Reinhardt – For Al to come in and say here's your CofO. When is that?

Mr. Sarkis – I think it's maybe if I pass all the stuff, maybe in the spring? What do you think?

Chairman Reinhardt – I'm not working on the project. You've been at this for a while.

Mr. Sarkis – I think by the spring should the house be done. CofO, I asked Al last time, what I can do to pass CofO.

Chairman Reinhardt – Well spring is in March, so,

Mr. Sarkis – No! That's the winter.

Chairman Reinhardt – April 1<sup>st</sup> you're going to get the CofO.

Mr. Sarkis – Alright.

Chairman Reinhardt – I think people move better when they have bright deadlines. This is when it has to be done. April 1<sup>st</sup>?

Mr. Sarkis – OK, April 1<sup>st</sup>.

Mr. Harter – What remains to be done?

Mr. Sarkis – I still have to put all the flooring, the kitchen. I bought everything, but it's going to take me a while to work on it. This is the problem. It's going to take me a while. I have the flooring. I'm doing all hard wood on the first floor. I'm trying to make it nice.

Chairman Reinhardt – How about this? Al, would you be willing to go and 30 days from now walk through and find out how much work he has to get done and if he can realistically make, well if he gets an extension he has another year. If you go in within the next 30 days, if we put a condition on it. Al will be there in 30 days to review it and make sure that you can get done everything that needs to be done within a year. Can you do that?

Mr. Benedict – I can do that.

Chairman Reinhardt – Does the board agree with that?

Mr. Nearpass – What's the basis of Al's? I mean he can get it all done in a month if he had enough time, people and money, so what's Al supposed to use as his basis for that?

Chairman Reinhardt – Well he's been in there a few times, so I think that he knows the pace and what needs to be done. I'm not sure of any other ways that we can keep this project moving other than having Al go in there and seeing this is what needs to be done and you need to keep moving on it.

Mr. Sarkis – I know. And, I don't want to hire anyone to work on my place.

Mr. Nearpass – I know I can tell. (laughter) I'm looking at this thing and it dates back to 2015.

Mr. Sarkis – The way I see people work, you try to bring in a contractor there. They want a ton of money and they will not give you the right job. So I say you know what, I will do it myself. No one touching drywall, no one touching painting, flooring, kitchen, everything.

Mr. Nearpass – When are you really going to be done?

Mr. Sarkis – I'm tired from it, too. I need a vacation.

Mr. Nearpass – When are you going to be done?

Mr. Sarkis – This house? Next year, I'm not working on it anymore. I'm done. Do I have to do anything with the driveway?

Mr. Benedict – The driveway is existing, so it has to be passable at least. It can't be ruts or anything like that.

Mr. Sarkis – I don't know what's going on with them. What they want to do to my driveway?

Chairman Reinhardt – I think you're going to be happy; we're going to be happy when we hear Al tell us you got the CofO. You don't have to ask for any more extensions. I'm looking for ways; how does that happen?

Mr. Sarkis – I want to move on it. This is what I would do. I'm trying to make some time for it. I've been working on it, but everything again - time. It's not small projects. It's big. You work in this room, you move to this one. It's too much work.

Mr. Harter – Well we don't want the permit to expire, do we?

Mr. Sarkis – No.

Mr. Harter – Isn't that somewhat of an incentive for you to finish the project?

Mr. Sarkis – I have to. I'm tired from it, too. I have no time to relax.

Mr. Harter – Do you pay taxes on this property?

Mr. Sarkis – Yeah.

Mr. Harter – Then you're not getting much for your taxes. Your taxes are funding all of us and you're not even having the chance to use it.

Mr. Sarkis – What do you want to do?

Mr. Nearpass – This will be the second extension. The third extension?

Chairman Reinhardt – Is this the third time, Al?

Mr. Benedict – This would be four.

Chairman Reinhardt – Fourth extension. I think you get the record. I don't think anybody's had more than two.

Mr. Sarkis – I'm only one guy. One man standing.

Chairman Reinhardt – Alright, what's the board feel about granting him another extension, putting any conditions? Scott, what do you think?

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Mr. Harter – I think a fourth extension is ok, but I think we should identify that we're really not receptive to a fifth. I think we should indicate that there will be no more after this.

Mr. Sarkis – I'm fine.

Mr. Harter – We won't entertain anymore on this.

Chairman Reinhardt – That's it. No more. Matt, agree?

Mr. Nearpass – I know you got a break on the last one, what is it about \$300 for an extension and Jack Marren let him renew it for \$125? So, how much is this renewal?

Chairman Reinhardt – We can do \$300? We can do anything?

Mr. Benedict – Generally when you renew, the first one is \$75. The second one is \$300. Doesn't say what comes after that. Only that this board has the ability to extend it.

Chairman Reinhardt – I think there needs to be some type of fee that attaches to it. What I'm looking for is something that will give you an incentive to finish. And I don't think I have or this board has the authority or the power to say, you finish in six months you get the fee back. I can't do that. It's an all or nothing. The only way we can get people's attention is the fee keeps going up and they don't want to pay the fee anymore.

Mr. Nearpass – That's what I'd be in favor of.

Chairman Reinhardt – So I think we have to impose a higher fee because \$125 didn't work last time.

Mr. Sarkis – That is not about \$125, it's about the time. I couldn't do anything in the winter. Then summer came. I have a lot of bills to pay. This is my problem, too. So, now it's like I got everything there. It took me a long time to get the flooring, the kitchen.

Chairman Reinhardt – I don't think we want to hear any more excuses just get it done.

Mr. Sarkis – I don't want anymore, it's too much for me, too. I'm tired from it. I need to relax.

Chairman Reinhardt – \$300, Matt? What's your thought on it?

Mr. Nearpass – My thought was going to be that it was either going to be \$300 and then the next one is going to have to be \$500. You know what I mean? Every time, I think we're going to have to start making it a little more serious. You've been in front of us four times and it's great that you are investing in the community and you are working on the home and trying to finish it, but you got to get it done.

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Mr. Sarkis – You know in different states, they don't do like what you guys do here. In North Carolina, they give you a permit then you have one, two, three, four, five they don't say anything.

Mr. Harter – Not North Carolina.

Ms. Morley – Welcome to New York.

Mr. Sarkis – In this town here you guys try to make it, like you take money every year, every year, every year. I'm paying taxes.

Mr. Nearpass – The only reason why I said \$500, I just recommended it is because I don't want you to have to pay it. I want you to be incentivized to finish the home.

Mr. Sarkis – We're paying the tax on it. I'm not getting anything from this house. I'm paying tax on it. I'm working on it. I'm trying to make this property a good looking place. Before the house doesn't look good.

Chairman Reinhardt – You're on, front and center Main Street, Victor. I don't know of any other houses that are in your condition for as long as they have been. It's needs to be finished.

Mr. Sarkis – It's a one man standing. I'm working on it. I've got everything now ready for me to go.

Mr. Nearpass – Find an apprentice, whatever. That was my recommendation. I'm obviously ok with whatever fee or structure the board wants to recommend, but I just think at some point it needs to get to a line in the sand where there's some real repercussions. Because it has been since 2015. We want you to finish it. I know you want to finish it.

Mr. Sarkis – I know. I have other things, too. I'm paying taxes on it, it's not like I've been in the place. I'm paying taxes on the house. I just paid that two weeks ago.

Chairman Reinhardt – Donna, do you have any thoughts on it?

Ms. Morley – I'm not going to vote to give another one, I know that. So, if you don't get it done in a year, you're going to be plumb out of luck in my book, if I'm still on the board. Because it looks like an eyesore down there for years. If you'd even pick up all the garbage and stuff that you have laying all over the front and on the porch.

Mr. Sarkis – I have some (inaudible) when I ordered my flooring.

Ms. Morley – It's been there a long time. I go by every day. Every day I go by that house and there's not been a lot of work done in a year. I believe a fee needs to be placed, too.

Mr. Sarkis – Outside I'm not doing anything.

Chairman Reinhardt – Al, do you know if we can do a partial fee? So if we do say \$150 today and in six months from now you go in there and report back to us and if it's not substantially completed we're going to call you back in here and you get dinged for another \$150.

Mr. Sarkis – Deal.

Mr. Benedict – I don't see why you couldn't do that. There's nothing that says you can't.

Chairman Reinhardt – So if you want to save some money. I'm looking for ways to keep this thing moving.

Mr. Sarkis – I know you want the place to get done.

Mr. Nearpass – Does the extension need to be for a year? Can it be for six months?

Mr. Benedict – I think it's pretty much left up to you guys.

Chairman Reinhardt – What do you think about that? Six months, \$150. Al goes in 30 days before the expiration. And, if we're not hearing from Al that it's not substantially completed, we're going to get you back in here, you're going to reapply again and then it's going to be more.

Mr. Sarkis – Alright.

Chairman Reinhardt – And after that, if we're back here in 2020 and you're looking for another extension I don't think you're going to please the board much here.

Mr. Sarkis – I know that. Deal.

Chairman Reinhardt – What do you think, Scott?

Mr. Harter – Yeah, I think so, I don't know how they do it in North Carolina. Although my sister has a place there, but there's also a tool that we use in municipalities. It's called a letter of credit where you post the amount of money that the improvements are worth and if you don't do them within a certain time period, we cash in the letter of credit and get somebody who can. So, that's an option that's available to us as well. So why don't we just end the repetitive debate with you on this particular issue and whatever you're doing on your day job maybe you can cut over and take care of your own property and we won't have to be doing this repetitively.

Mr. Sarkis – That's what I'm trying to work on.

Mr. Harter – Well I think you need to try harder.

Mr. Sarkis – Alright.

Mr. Harter – I think we're all telling you that. Quite directly.

Mr. Sarkis – No problem.

Chairman Reinhardt – Alright I'm proposing then the extension will expire on April 1<sup>st</sup>. And, we're going to ask Al on March 1<sup>st</sup> whichever day that falls on, a business day, to do an inspection. You're ok with that?

Mr. Sarkis – I'm ok.

Chairman Reinhardt – And what we're going to hear from Al is the status of your project. I don't want to hear that Al tells us you got all kinds of excuses and why it's not done. He's going to be fact oriented, objective. This is what's done. This is what needs to be done. And then whatever that board meeting is, if he tells us that you're done and you get the CofO, then great. We're out of here. If he tells us you still have work to do, understand that this extension only lasts until April 1<sup>st</sup> so if you want another extension, you're going to have to reapply for it. And, then I think you might hear some other things from the board on what is or isn't going to happen with the extension.

Mr. Sarkis – No problem.

Chairman Reinhardt – Alright? The board ok with that? That sound good.

Mr. Nearpass – That's sounds fair.

Chairman Reinhardt – And the fee we can either split in it in half, do \$150, do \$200. We do \$150 now. Scott, you good with that. Donna, good with that?

So, then if we walk through the criteria. Need anything else from us, Kim? It's a six month, it's not really six months, it's a little more. So the permit is going to expire on Wednesday, April 1<sup>st</sup>, 2020. March 1<sup>st</sup> it looks like is a Sunday, so we're asking Al to do an inspection during the week of March 2. Certainly to his schedule, your schedule, but it needs to be completed during that first week of March. And the fee is \$150. Anything else the board want to add to that?

(No)

Chairman Reinhardt – Need a motion to approve that?

Mr. Harter – So moved.

Chairman Reinhardt – Second?

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Mr. Nearpass – Second.

Chairman Reinhardt – Any further discussion? All in favor?

(Aye)

Chairman Reinhardt – Opposed? (None) Alright. Good luck.

Mr. Sarkis – Thank you. See you this week.

Chairman Reinhardt – Thanks Al, for helping with that.

Re: 6739 State Route 96 Building Permit Extension of time  
Appl: 33-Z-2019

Dear Mr. Sarkis:

At a regular meeting of the Town of Victor Zoning Board of Appeals held on September 16, 2019 the following resolution was adopted:

WHEREAS, in an email dated August 20, 2019 from Chadi Sarkis who lives at 572 County Road 9, an additional extension of time was requested for the building permit issued to make renovations to 6739 New York State Route 96.

WHEREAS, Section 83-4I, Building Permit Time Limits, indicates that building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder for up to two twelve-month extensions upon payment of the applicable fee and approval of the application by the Code Enforcement Officer. Any extensions thereafter may only be granted by the Zoning Board of Appeals upon application and payment of the applicable fee; and,

WHEREAS, the applicant applied for and received a building permit for renovations at 6739 New York State Route 96 on August 24, 2015. The permit was renewed on August 16, 2016, August 24, 2017, and renewed by the Zoning Board of Appeals on September 4, 2018 until July 31, 2019;

WHEREAS, the structure has not been completed or issued a Certificate of Occupancy; and,

NOW THEREFORE BE IT RESOLVED that the Town of Victor Zoning Board of Appeals grants an extension of time until April 1, 2020 for building permit BP2015-0382, with a fee of \$150, for the cost of granting the extension of the building permit for renovations at 6739 New York State Route 96.

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

1. That the renewal fee for the permit be paid prior to the issuance of said permit extension.
2. There will be an inspection to identify progress the first week in March 2020.
3. Certificate of Occupancy is required by April 1, 2020.

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On motion made by Scott Harter and seconded by Matt Nearpass, this resolution was put to a vote with the following results:

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

Approved: 4 Ayes, 0 Nays

PUBLIC HEARING:

JASON CLINE

32-Z-2019

1308 East Victor Rd

Area variance to allow a 24 foot front setback for a garage, whereas 80 feet are required per Schedule II Part II-Area and Height requirements. The property is zoned Commercial/Lt Industrial and owned by the applicant.

Mr. Cline – Good evening.

Chairman Reinhardt – Good evening. So, you were with us we had a variance October 3, 2016. If I see it, everything else is virtually the same as what you'd asked for before. The reason why you are back here again is that you didn't know that the variance expired and it was a bit of a money issue.

Mr. Cline – Well I built a deck, I graduated two kids from high school, my father passed away.

Chairman Reinhardt – As much as we like to see people.

Mr. Cline – I just didn't know that it ever expired. It doesn't say in the variance that there's any expiration to it.

Mr. Cline – I submitted the application for the permit and then was told it was expired.

Chairman Reinhardt – Presuming the board approves the variance, what's your target to complete the project? Target date?

Mr. Cline – By next summer. I'm kind of running out of weather to finish it this year. I was hoping to have the foundation and the driveway finished before winter. But, I don't think I'm going to get there.

Chairman Reinhardt – Looking at the criteria and the justification on why we granted it back in October of 2016 and if something is different or changed, let us know. But if everything is the same we're just going to mirror this variance to the one we approved.

So the first criteria was an undesirable change would not be produced in the character of the neighborhood. Justification is the garage is behind the front of the house; there are other dwellings on the

road that have similar setbacks or setbacks that are closer to the road. The existing structure has a setback that is less than the proposed garage setback.

Chairman Reinhardt – Is that still accurate? Anything is changed where you want to put it? Everything's the same?

Mr. Cline – Correct

Chairman Reinhardt – Second, 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 impact on the storm water drainage and the existing tree that is in the way hinders other options. Based on the analysis of the options the front setback of 24 feet that was proposed seemed to be the most feasible of the three alternatives presented.

Is that still accurate?

Mr. Cline – Correct.

Chairman Reinhardt – Third, the requested area variance is substantial. The area variance is substantial relative to the required setback, however, the justification is that of the three options proposed for placement of the garage, the 24 foot front setback seemed to be the most feasible option.

Is that still accurate?

Mr. Cline – Yes it is.

Chairman Reinhardt – Fourth, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Justification: The proposed 24 foot front setback versus other alternatives mitigates most of the impacts whether physical or environmental, within the neighborhood or the district.

Is that still accurate?

Mr. Cline – Yes.

Chairman Reinhardt – 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.

There were, the conditions imposed were 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.

Did you get a building permit for the first time? You haven't done that yet?

Mr. Cline – No. That's the problem. I didn't get it within the year.

Chairman Reinhardt – So, when are you going to apply for the building permit?

Mr. Cline – I did, but we put it on hold because the variance was voided.

Chairman Reinhardt – As far as the garage itself, electricity in it?

Mr. Cline – Yes

Chairman Reinhardt – Plumbing?

Mr. Cline – Not yet, but it will.

Chairman Reinhardt – Proposed? So no water, just electric. Heat sources?

Mr. Cline – No.

Chairman Reinhardt – OK, Donna, any questions?

Ms. Morley – None.

Chairman Reinhardt – Matt?

Mr. Nearpass – None.

Chairman Reinhardt – Scott?

Mr. Harter – Nope.

Chairman Reinhardt – Al, anything you want to comment, add on, discuss?

Mr. Benedict – No, I believe the application is the same as it was before he just didn't apply on time.

Chairman Reinhardt – OK. Seems to be pretty straight forward. Anything else you want to add before the board makes a vote?

Mr. Cline – Nothing.

Chairman Reinhardt – Can I get a motion to approve the variance?

Mr. Nearpass – Motion to approve.

Chairman Reinhardt – Second?

Ms. Morley – I'll second it.

Chairman Reinhardt – All in favor. (Aye) Opposed (None). Carried. Good luck.

Mr. Cline – Thank you.

Chairman Reinhardt – Love to see you, but hope we don't. Good luck to you.

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Re: 1308 East Victor Road Garage Front Setback  
Appl. No. 32-Z-19

Dear Mr. Cline:

At a regular meeting of the Town of Victor Zoning Board of Appeals held on September 16, 2019 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on August 8, 2019 from Jason Cline requesting an area variance for his property located at 1308 East Victor Road, Victor, NY 14564, to build an attached garage; and,

WHEREAS, the applicant requests a 24 foot front setback for a garage, whereas 80 feet is required per Schedule II Part II-Area and Height Requirements; and,

WHEREAS, said application was referred by Alan 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 September 8, 2019 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, the Ontario County Planning Board assigned the referral as Class: AR 1, on September 11, 2019, referral number 183-2019, and returned it to the local board with comments; 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, a Public Hearing was held on September 16, 2019 at which time 0 residents spoke for/against 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 made the following findings of fact to allow the construction of a garage with a front setback of 24 feet:

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 garage is behind the front setback of the house; there are other dwellings on the road that have similar setbacks or setbacks that are closer to the road. The existing structure has a setback that is less than the proposed garage setback.

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 impact on the storm water drainage and the existing tree that is in the way hinders other options. Based on the analysis of the options the front setback of 24 feet that was proposed seemed to be the most feasible of the three alternatives presented.

3. The requested area variance is substantial.

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Justification: The area variance is substantial relative to the required setback, however, the justification is that of the three options proposed for placement of the garage, the 24 foot front setback seemed to be the most feasible option.

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 proposed 24 foot front setback versus other alternatives mitigates most of the impacts whether physical or environmental, within the neighborhood or the district.

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.

DECISION:

On motion made by Matt Nearpass, and seconded by Donna Morley:

NOW, THEREFORE BE IT RESOLVED that the application of Jason Cline, requesting an area variance application for a 24 foot front setback for the garage, whereas 80 feet is required per Schedule II Part II- Area and Height Requirements at 1308 East Victor Road, Victor, NY 14564, BE APPROVED:

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

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.

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

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

Adopted: 4 Ayes, 0 Nays

Chairman Reinhardt – Any further business before the board? Hearing none, motion to adjourn.

Motion to adjourn Mr. Harter, seconded by Mr. Nearpass. It was unanimously agreed and RESOLVED that the meeting was adjourned at 7:30 PM.