

A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, September 18, 2019 at the Village Hall, 60 East Main Street.

MEMBERS PRESENT: Chairperson Sean Sanderson
Vice Chairperson Brian Pancoast
Member David Chalupa
Member Brendon Crossing
Member Tim Stone
Zoning Clerk Roseanne Turner-Adams

OTHERS PRESENT: Doug Scarson, Heidi Keohane, Casey Keohane, Jeff Brokaw, Kent Godwin

The ZBA meeting was called to order by Chairperson Sean Sanderson at 7:00 pm.

Salute to the Flag

Resolution #08-19ZBA

Acceptance of Minutes

On a motion made by Tim Stone, seconded by David Chalupa, the following resolution was ADOPTED 4 AYES 0 NAYS 1 ABSTAIN (Sean Sanderson was absent)

Resolved to accept the minutes dated August 21, 2019.

55 Latchmere Drive/Kenton Godwin

Area Variance Shed Setback

Chairperson Sanderson read the legal notice into the record:

A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, September 18, 2019, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

- 1.) The application of 55 Latchmere Drive/Kenton Godwin, for an area variance to the Village of Victor Zoning Code section 170-7 A (1) to allow the construction of a shed with a 3 (three) foot side setback where a minimum of a 10 (ten) foot setback is required in an R-1 district.

Sean Sanderson, Chairperson
Village of Victor Zoning Board of Appeals

Chairperson Sanderson then read the letter of referral from Codes and Development into the record:

This office has reviewed a variance application that was submitted by the resident at 55 Latchmere Drive, Kenton Godwin. The building permit application was denied due to the fact that only a 3 (three) foot side setback was proposed by the applicant. Section 170-7A (1) specifies that a minimum of 10 (ten) feet is required in an R-1 district.

Furthermore with the proposed location the applicant is willing to place the shed a distance of 6 (six) feet from the main structure or home which is an ample setback for safety purposes. I have supplied pictures for your reference. One shows the ample amount of trees in the rear yard and the other looks at the pad.

If you need any further assistance or you have any questions please contact my office at 585 924 3311. Thank you.

Mr. Sanderson stated that the applicant has an existing shed that is going to be torn down and the proposed new shed is at the end of the driveway. Mr. Godwin explained that there is an existing stone pad where he would like to place the new shed. Mr. Godwin stated that the existing shed is non-compliant and was there when he purchased the house. Mr. Godwin stated that the existing shed location is not suitable and if he were to build further out 10' from the property line he would be on a slope and under trees. Mr. Godwin stated that the proposed new location is perfectly level. Mr. Sanderson asked Mr. Godwin when he purchased the house. Mr. Godwin stated that he purchased the house in 2006. Mr. Sanderson asked why a new shed is necessary. Mr. Godwin stated that the existing shed is rotted and needs to be replaced. Mr. Sanderson stated that the proposed manufactured shed is 10' x 14'. Mr. Godwin stated that the 14' side will be the front where the door is. Mr. Pancoast asked if the door will face the road. Mr. Godwin stated that the door will face the road and his driveway and the trim and siding will match his home. Mr. Godwin showed a photo of the shed on his phone.

Mr. Stone asked Mr. Godwin if he considered any other dimensions. Mr. Godwin stated that he did shop around and that the existing shed is a 10' x 12' so this shed will be the best configuration for what he wants to do. Mr. Sanderson asked about the possibility of turning the shed the other way. Mr. Godwin stated that he wouldn't be able to get the tractor out.

Mr. Crossing asked about the restriction on how far the shed needs to be from the house. Mr. Scarson stated that the shed needs to be 3' – 5' away for fire safety purposes. Mr. Crossing stated that the applicant is proposing 6' from the house so if the shed were to be moved to a 3' setback from the house rather than 6' the variance would be less substantial. Mr. Godwin stated that he has an existing brick pad so if the shed were moved over it would be partially over the brick pad and partially on the gravel. Mr. Godwin stated that the shed is on pressure treated skids so it does not need a foundation.

Mr. Crossing asked what the cost of the shed will be. Mr. Godwin stated that the proposed shed is \$4,000 from Amish Outlet.

Mr. Stone asked if any positive or negative feedback was received from neighbors. Mr. Godwin stated that his next door neighbor told him that she is fine with his proposed

shed. Mr. Scarson stated that he received an anonymous call from a neighbor who did not want to see the shed encroach on the neighboring property.

Mr. Sanderson opened the public hearing

Mr. Sanderson closed the public hearing

1 persons spoke in favor of the application and 1 person spoke against the application but neither one attended the meeting;

Mr. Sanderson stated that he had a chance the walk to property and that the yard has a gentle slope and many trees which would require serious ground work and tree trimming in order to find another spot for the shed.

Discussion about proposed shed location

Mr. Sanderson then went through the balancing test with the Zoning Board members on the proposed shed

1. CAN THE BENEFIT SOUGHT BY THE APPLICANT BE ACHIEVED BY OTHER FEASIBLE MEANS?

Yes - Unanimous

Mr. Chalupa stated that he could level a spot and prune some trees. Mr. Sanderson stated that there are other feasible means. Mr. Pancoast stated that the other means have to be feasible to the applicant so the Zoning Board may see other feasible means but the cost may not be feasible to the applicant. Mr. Stone stated that the benefit could be achieved by other means. Mr. Crossing asked if it could be moved closer to the house. Mr. Godwin stated that he would prefer his proposed plan but would consider moving it 3' from the screened porch and the shed would be partially on the slab. Mr. Pancoast asked if the shed will lose structural integrity if it is partially on the slab and partially on gravel. Mr. Godwin stated that it is a brick paver slab so he could pull some of the brick pavers out.

Discussion regarding whether to have the shed moved closer to the house or leave it as proposed.

2. WILL GRANTING OF THE VARIANCE PRODUCE AN UNDESIREABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES?

No-unanimous

3. IS THE REQUESTED VARIANCE SUBSTANTIAL?

Yes- Unanimous

4. WILL THE VARIANCE HAVE ANY ADVERSE PHYSICAL OR ENVIRONMENTAL EFFECTS ON THE NEIGHBORHOOD OR DISTRICT?

No-unanimous

Mr. Chalupa stated that it should be noted in the resolution that the pitch of the roof is front to back and not left to right for drainage.

5. WAS THE ALLEGED DIFFICULTY SELF-CREATED?

Yes-unanimous

Mr. Sanderson stated that 3 of the 5 balancing tests were negative so he can't speak for how the board would vote but that the board owes it to the applicant to give some direction as to what would be preferred. Mr. Pancoast asked if there is any rule against a straw pull before the vote. Mr. Sanderson stated that it has been done before. Mr. Crossing stated that it was be very unusual to say yes if there are other feasible means. Mr. Chalupa stated that the shed could be moved to another location. Mr. Stone stated that he would like to see the shed moved over 3' closer to the home or to get a smaller shed. Mr. Pancoast agreed.

Discussion as to whether the resolution should be changed so that it is 6' from the property line rather than 3'

Mr. Sanderson asked the applicant based on the discussion whether he would like to change his proposed variance.

The applicant decided that he would like to move the shed 3' closer to the house so that it is 6' from the property line.

Discussion as to wording of resolution

Resolution #09-19ZBA

55 Latchmere Drive/Kenton Godwin

Area Variance Shed Setback

On a motion made by Brian Pancoast, seconded by Tim Stone, the following resolution was APPROVED 4 AYES 1 NAY (David Chalupa)

To issue an area variance for a 10' by 14' shed at 55 Latchmere Drive as proposed to be constructed no closer than 6' from the South property line and no closer than 3' from the house with roof orientation perpendicular to South location detailed in the application. Subject to removal of old shed. To be completed within one year from resolution.

WHEREAS, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from Kenton Godwin; on August 23, 2019, requesting an area variance to allow the construction of a shed with a 3 (three) foot side setback where a minimum of a 10 (ten) foot setback is required in an R-1 district.

WHEREAS, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 170-7 A (1) and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on September 4, 2019; and,

WHEREAS, all adjacent property owners were timely notified of the hearing and the purpose of the hearing by mail; and,

WHEREAS, a Public Hearing was held on September 18, 2019 at which time all those who desired to be heard were heard and 1 persons spoke in favor of the application and 1 persons spoke against the application but neither were in attendance; and,

WHEREAS, after viewing the premises and after reviewing the file and after due deliberation, the Village of Victor Zoning Board of Appeals made the following findings of fact:

- That the board felt more comfortable with the variance if the shed were moved 3' from the house rather than 6' creating a less substantial variance.

NOW, THEREFORE BE IT RESOLVED that the application of Kenton Godwin, 55 Latchmere Drive to issue an area variance for a 10' by 14' shed as proposed to be constructed no closer than 6' from the South property line and no closer than 3' from the house with roof orientation perpendicular to South location detailed in the application. Subject to removal of old shed. To be completed within one year from the resolution **Be Approved.**

**100 Maple Ave./Heidi Keohane
Area Variance Shed Height**

Chairperson Sanderson read the legal notice into the record:

A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, September 18, 2019, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of 100 Maple Ave./Heidi Keohane, for an area variance to the Village of Victor Zoning Code to allow the construction of a 22' x 22' detached garage with a height of 21' in an R-1 district. The proposed garage is to be built with a second floor that is going to be used for storage space. Per section 170-7 (A2) the construction of any accessory building shall not exceed 12 (twelve) feet in height or be installed in violation of any Village code provisions.

Sean Sanderson, Chairperson
Village of Victor Zoning Board of Appeals

Chairperson Sanderson then read the letter of referral from Codes and Development into the record:

An application has been reviewed by my office to build a detached garage, 22' x 22' at the above address in an R-1 district with a total height of 21 (twenty-one) feet. The proposed garage is to be built with a second floor that is going to be used as storage space.

Per section 170-7 (A2) the construction of any accessory building shall not exceed 12 (twelve) feet in height or be installed in violation of any Village code provisions.

If you have any further questions please contact my office at any time at 585 924 3311. Thank you.

Mr. Jeff Brokaw stated that he is in attendance with Heidi Keohane, the homeowner and her son Casey and that he is a builder who is looking to build the garage for them. Mr. Brokaw stated that it came about due to their need for more space as they do not have a basement or an attic. Mr. Brokaw stated that there is an existing concrete pad that was put in by the previous owner back in 2013-2014 which would be a perfect fit for a garage.

Mr. Pancoast asked what the size of the concrete pad is. Mr. Brokaw stated that it is 23' x 23'. Mr. Brokaw stated that the 21' height of the proposed garage would create space upstairs for storage and the first floor would be for cars. Mr. Scarson and Mr. Brokaw showed drawings of the proposed garage. Mr. Sanderson stated that the only variance required would be the height. Mr. Scarson agreed.

Discussion regarding presented drawings

Mr. Chalupa asked if the pine trees shown on the drawing are as tall as the proposed garage. Mr. Brokaw stated that the pine trees are much taller. Mr. Sanderson asked if the pine trees are on the property. Mr. Brokaw stated that the pine trees are on the property.

Discussion regarding surrounding driveway and access road

Mr. Crossing stated that what matters most to him as far as the impact on the neighborhood is the fact that many of the homes on Maple Ave. have either a barn, garage or two-story accessory structure on their property. Mr. Chalupa asked if the shed is going to remain next to the concrete slab. Ms. Keohane stated that she would like to keep the shed for her space. Ms. Keohane stated that the garage is going to be donated and built by Morrell Builders for her sons so that they have a place for their things and their Dads things.

Mr. Chalupa asked if a three bay garage was considered with one bay reserved for storage. Mr. Brokaw stated that they did not for a couple of reasons, one being that the shed and concrete slab are already in place. Mr. Brokaw stated that there were plans for an 18.5' garage to be built on the slab back in 2013. Mr. Chalupa stated that it is fair to say that it would be cost prohibitive. Mr. Brokaw agreed. Mr. Sanderson stated that he does not believe that a variance was issued back in 2013 for an 18.5' garage. Mr.

Brokaw presented paperwork for a Building permit for a 24' x 24' garage. Mr. Scarson stated that the garage was never built.

Mr. Sanderson opened the public hearing
Mr. Sanderson closed the public hearing

0 persons spoke in favor of the application and 0 persons spoke against the application;

Mr. Sanderson then went through the balancing test with the Zoning Board members on the proposed garage

1. CAN THE BENEFIT SOUGHT BY THE APPLICANT BE ACHIEVED BY OTHER FEASIBLE MEANS?

No - Unanimous

Mr. Crossing stated that the benefit is second floor storage and a three bay garage didn't seem financially feasible. Mr. Sanderson stated that since the concrete pad is already there that would be extremely expensive to change. Mr. Stone stated that it makes sense to put the garage on the existing slab. Mr. Pancoast agreed.

2. WILL GRANTING OF THE VARIANCE PRODUCE AN UNDESIREABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES?

No-unanimous

Mr. Sanderson stated that most of the properties on that street have accessory buildings like the proposed garage so there would not be an undesirable change in the character of the neighborhood. Mr. Sanderson explained that as far as a detriment to nearby properties, even though the proposed garage is taller than what is allowed by code it is not looming over neighboring properties so he would argue that there is not an undesirable change.

3. IS THE REQUESTED VARIANCE SUBSTANTIAL?

Yes- Unanimous

4. WILL THE VARIANCE HAVE ANY ADVERSE PHYSICAL OR ENVIRONMENTAL EFFECTS ON THE NEIGHBORHOOD OR DISTRICT?

No-unanimous

5. WAS THE ALLEGED DIFFICULTY SELF-CREATED?

Yes-unanimous

Discussion as to wording of resolution

Resolution #10-19ZBA
100 Maple Ave./Heidi Keohane
Area Variance Shed Height

On a motion made by Tim Stone, seconded by Brian Pancoast, the following resolution was APPROVED 5 AYES 0 NAYS

To approve the area variance for 100 Maple Ave. to construct a 22' x 22' two-story detached garage with a height not to exceed 21' as proposed on existing concrete slab and depicted in the submitted map drawings. To be completed within one year from the date of this resolution.

WHEREAS, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from Heidi Keohane; on August 23, 2019, requesting an area variance to the Village of Victor Zoning Code to allow the construction of a 22' x 22' detached garage with a height of 21' in an R-1 district. The proposed garage is to be built with a second floor that is going to be used for storage space. Per section 170-7 (A2) the construction of any accessory building shall not exceed 12 (twelve) feet in height or be installed in violation of any Village code provisions.

WHEREAS, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 170-7 (A2) and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on September 4, 2019; and,

WHEREAS, all adjacent property owners were timely notified of the hearing and the purpose of the hearing by mail; and,

WHEREAS, a Public Hearing was held on September 18, 2019 at which time all those who desired to be heard were heard and 0 persons spoke in favor of the application and 0 persons spoke against the application; and,

WHEREAS, after viewing the premises and after reviewing the file and after due deliberation, the Village of Victor Zoning Board of Appeals made the following findings of fact:

- Many of the homes on Maple Ave. have either a barn, garage or two-story accessory structure on their property therefore the garage will not be out of character.

NOW, THEREFORE BE IT RESOLVED that the application of Heidi Keohane for an area variance for 100 Maple Ave. to construct a 22' x 22' two-story detached garage with a height not to exceed 21' as proposed on existing concrete slab and depicted in the submitted map drawings. To be completed within one year from the date of this resolution **Be Approved.**

ADJOURNMENT

Meeting was adjourned on motion at 8:08 pm.

Roseanne Turner-Adams, Minutes Clerk