

A regular meeting of the Town of Victor Zoning Board of Appeals was held on December 5, 2016 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Keith Maier, Chairman; Scott Harter, Vice-Chairman; Michael Reinhardt; Mathew Nearpass; Donna Morley

OTHERS: Al Benedict, Code Enforcement Officer; Dan Crowley, Town Board Liaison; Greg McMahon; Mark Hamilton; Gene Gebhard; Cathy Tantillo; Debby Trillaud, Secretary

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

CODE ENFORCEMENT QUESTIONS

Chairman Maier – Does anyone have anything for Al?

Mr. Harter – I have a couple of things. The other day I was driving down Route 96 and Motovate, across from the former Advent Auto, they've got wall packs that they've put on the building and there is no way they can be dark sky compliant. They broadcast all over the place. I wanted to mention that to you.

One other thing I noticed was Victor Chevrolet installed their new lights in the remaining portion of the property to finish off their site. This may be a lighting Code issue with us, but when I compare the lighting of Victor Chevrolet versus the lighting of the RAILSIDE Café, there is a huge difference in the glare that you get. I would invite all the Board members....

Chairman Maier – I've talked to Al about it and Katie. It's significant.

Mr. Harter – I'm not sure if it's because we have too many foot candles we are allowing in our Code or if the fixtures really aren't dark sky compliant or if it's the topography and we're looking up versus looking down. I just wanted to throw that out there as an item for thought and consideration with respect to that observation. If it is intensity then maybe we should take a look at our Code and turn our foot candles downward.

I also noticed a really big difference over in the Super Walmart area. The controlled lighting there is very obvious in contrast to say Eastview and elsewhere. If you choose to look at that area as well, those lights are trying to achieve the same purpose but they are much more controlled than what we are seeing....

Chairman Maier – And we've talked about Auction Direct; you look at the lights at Auction Direct versus somebody else and they are much more subdued and they are able to accomplish the same thing. I think it's a function of the flood lights which are permitted. Is that correct Al?

Mr. Benedict – Yes. Under certain circumstances and if it's what I'm thinking of, I remember the other section of Victor Chevrolet had flood lights and I specifically called that out to the Planning Board and they reviewed it and approved it that way.

Mr. Harter – I think they call those the bumper lights?

Mr. Benedict – Yes.

Mr. Harter – I think that the bumper lights do add more glare but the ones that I see are focused to the hillside. In that my office is right across the street from Victor Chevrolet, I noticed a really stark difference when they fired those up recently. I really think it's....

Chairman Maier – I can see them from the top of Boughton Hill. They are that noticeable.

Mr. Harter – I just thought I'd take the advantage of the opportunity to bring this up. Certainly Motovate has installed those fixtures very recently and there is no way they can be dark sky compliant. Some of the things that have been done recently like the Mark's Pizzeria, which I'm familiar with, those flood lights came down and their lights have gone in. I've noticed that that lighting is subdued, I guess that is a good word for it. I guess that is the goal here with everyone.

Mr. Benedict – I'll look at it.

APPROVAL OF MINUTES

On a motion by Keith Maier, seconded by Donna Morley,

RESOLVED that the minutes of November 7, 2016 be approved as submitted:

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

Approved: 5 Ayes, 0 Nays

Chairman Maier opened the Public Hearing and the secretary read the legal notice as it was published in The Daily Messenger on November 27, 2016.

1. INTEGRATED SYSTEMS – BUILDING SETBACKS
7588 Main Street Fishers (County Road #42)
Appl. No. 24-Z-2016

The applicant requests permission for the expansion of a light industrial use on an existing corner lot containing a pre-existing, non-conforming structure, whereas a non-conforming structure cannot be enlarged.

Proposed is the construction of two additions to the existing structure and construction of a new building to the north on the same property. The new additions and the new building would not meet the 80 foot front setback requirements on both frontages, Fishers Run and County Road #42. Also proposed is parking that is less than 80 feet from Fishers run, whereas the Code indicates that parking is not allowed less than 80 feet from the road right-of-way.

Applicant has been before the ZBA in 2014 and 2015 with a similar application. The Ontario County Planning Board has not yet met to prepare comments, therefore the Board cannot make a decision tonight. The OCPB meeting is on December 14, 2016.

Greg McMahon from McMahon LaRue Associates addressed the Board.

Mr. McMahon – Also here tonight is Mark Hamilton who is the owner of Integrated Systems.

We're here tonight because Mark would like to expand his business; he's in need of additional space. As you know the property is located on the corner of Main Street Fishers and Fishers Run. It's a one acre parcel. It's approximately 151 feet wide and about 273 feet deep. There is very little expansion that is possible on this parcel without variances. We looked at a lot of the different options and felt that this option kept us limited on what we were requesting as far as variances. As the public notice indicated there a couple of additions they'd like to make to the existing building.

The existing building is about 1355 square feet and they are proposing approximately 624 square feet of additions to that. Besides that they are proposing the construction of a 4,900 square foot warehouse at the rear of the property. If you have any questions regarding the use, I think Mark is the best person to address that. We've located that where we feel is the best location to serve the site to provide the parking necessary to the business. An additional benefit to this project is that we are going to take an exit out onto Fishers Run. Some of the discussion has been that the Main Street Fishers entrance would become an entrance only, a right in only. That would allow the vehicles going out onto Fishers Run to leave the site at a traffic light as opposed to trying to make the left hand turn out of the current entrance. At certain hours you can sit there trying to make that turn for quite some time.

With this plan we've maintained areas where we will be proposing stormwater mitigation; disturbance is less than an acre.

As a result of all of this, the current building is in violation of the front setback requirements, pre-existing nonconforming. As your notice indicates, with the additions on that building we are still closer than the 80 foot setbacks to both Main Street Fishers and to Fishers Run. In addition, the parking that is shown between the two buildings is closer than 80 feet to Fishers Run. I was unsure as I was looking at the Code, the Code also refers to the Planning

Board having the ability to grant some relief on the parking, and I don't know whether this falls under the Zoning Board or the Planning Board, but with that Mark can talk a little bit about what he is proposing and why the business needs this expansion.

Mr. Hamilton – I'm not sure how many of you were on the Board before when I've come before you over the last couple of years. This is kind of a rework of the original plan. The need hasn't changed. The business is expanding, our needs are expanding; we need a new data center. We also need an area to load our trucks. We have two portions of our business.

One is an infrastructure part of our business where we build metro based wireless environments for cities, towns and villages. In that we have needs to store steel; load our bucket trucks and the equipment, the electronics and whatnot. That new building would satisfy that need. Currently we load the trucks, especially in the winter time, without any enclosure to help in that harsher environment. The new building would also provide the other side of our business which is our data center services which would be supporting our hosted environment for again, mainly for municipalities. We do private enterprise environments also but probably 80% of our business is municipal oriented. We house our client's data in our hosting center and that would become our primary data center with a secondary data center remaining at the original building at that point in time on that particular site. Then there is a third, tertiary backup data center that is currently our secondary data center right now.

Ms. Morley – The parking lot that you are doing in between the current building and the proposed building, is that where you are saying you want the road to go out or is it down at the bottom of the property? Can you show me that on the plan?

Mr. McMahon – The road will exit on to Fishers Run at the very north end of the property.

Chairman Maier – You might have a pointer on the podium.

Mr. McMahon showed on the projected plan where the proposed entrance would be and explained the plan. If one came out on Fishers Run, one could come out to the traffic light at the intersection of Fishers Run and Main Street Fishers.

Ms. Morley – What exactly is going to be stored in that proposed building that you don't want a sprinkler system in?

Mr. McMahon – That we don't want a sprinkler system in? Al, in his review comments brought up the fact that as far as the existing building, the new additions to that would require sprinklers. The additions to the existing building as long as they are less than 50% of the existing area would require sprinkling and the existing building would not require retrofitting.

Now the new building I think would come under the building Code and would require sprinklers or again, that's kind of in the area of the architects when they work on this as far as the Code and the classification of the building. Certainly.... Al can answer that.

Mr. Benedict – The Town has a more restrictive Code that is approved that requires sprinklers in all commercial buildings.

Mr. McMahon – So the new building and the addition portions of the existing building would be sprinklered.

Ms. Morely – Go ahead Scott because I'm going to find what I just read that I must have misread.

Mr. Nearpass – You're probably referring to item six of Al's letter where he says all new commercial construction, including additions, are required to have a sprinkler system per §83-4F(2)(a).

Mr. Harter – I was here for a couple of the other appearances that you made, so I think you're making progress. I remember we started out with a sketch from Victor Mellon if I remember right, if my memory serves me. (yes) I think we are getting there.

A couple of questions I have relative to the project itself, you've shown graphically a strip in the center of the parcel that is the only area that is really compliant with the setbacks. I think that is a good graphical representation to say this project warrants a zoning variance. That's established. I think the question before us is what extent. Pursing that, the entrance that you mentioned, Greg, going in one way, is that really necessary to have at all? Can traffic flow from the north side of the site, can we eliminate that entrance?

Mr. McMahon – Eliminate the entrance on...?

Mr. Harter – County Road 42 , Main Street Fishers.

Mr. McMahon – I may have to turn that over to Mark. From an engineering standpoint the answer is yes, you could bring all the traffic in and out on Fishers Run, but from a business standpoint it's up to Mark.

Mr. Hamilton – I think we discussed this before.

Mr. Harter – I think we did too.

Mr. Hamilton – I really wasn't opposed to closing it up completely if it was a deal breaker. We're not retail oriented where we need that frontage on Route 96 or on Main Street Fishers.

The only reason why I thought about leaving it open was for possibly trucks to make it in easier and out easier, that's all.

Mr. Harter – When I see projects like this that come in and if there is a way to eliminate a curb cut close to an intersection it's always kind of a rule of thumb to try to achieve that if you possibly can.

Another question I have is the way the layout goes as you head to the north you have a 14.5 foot setback from the building corner to the right-of-way of Fishers Run and I understand how that is there based on the layout. If there is a little more ability in the site design to head toward the 60 foot setback from the easterly boundary line to give that 14.5 feet a little more room. It's seems like you have more room on the east side although you do have slope there. I wondered if you had any thoughts about that?

Mr. McMahon – Physically, yes it could. We were trying to maintain an area on the east side of the proposed warehouse building where, there are going to be overhead doors on that side, where the trucks, the bucket trucks and so forth would be able to maneuver and back into or pull into the warehouse and pull out. We are also trying to preserve some green space along that easterly property line where we can do some..... the northeast corner is the low point on the property and we are probably, when we get into site plan, looking at bio-swales or some kind of infiltration system over there to address stormwater. Leaving some greenspace along there was a priority.

Could we maybe do five feet or something like that? I think maybe that's in the realm of possibilities, but if we are talking 15 feet then things become more difficult.

Mr. Harter – I guess that tied into another comment that I had. You're adding more impervious area so you have to come up with some sort of drainage plan and where you are going to put it and you kind of just answered that, which I think is the northeast corner.

If I look at the 21.19 feet as the existing condition, 14.5 is the proposed, and I see the 60 feet on the easterly side, in my opinion if you could bump it over to at least agree with at least 20 feet, I think that may be a good thing. I understand this is a tight site and this is not easy and there is no right answer.

Mr. McMahon – I'd be glad to look at that. We're not looking to have a resolution tonight because of the Ontario County, so I think that will give me a couple of weeks to take a look at that and run it by Mark. If that is something he can live with then we can make that offer at your next meeting.

Mr. Harter – That was my next question, as to whether we had received any comments from the County and I guess you answered it and the answer is no.

Mr. McMahon – I believe that is scheduled for the 14th, to go before the County Planning Board.

Mr. Nearpass – My only comment was have you looked at making it one building? Either having the proposed building really only be one building on the site and foregoing the 1,300 square foot building that you have and really condensing it all to where you have obviously less impact and less variances required on the site.

Mr. Hamilton – We actually discussed a couple of different plans but this plan, for I can't remember the exact reasons, seemed to fit better.

Mr. McMahon – We did look at a building which basically attached to the rear of the existing building. There were some issues. The building that is being proposed is a steel building. From an architectural standpoint mating the two together....

Mr. Nearpass – I was thinking more, you've got really what I think used to be a house, a 1,300 square foot house. If you're going to put a steel building behind it what's the trade off in knocking down the house and starting from scratch with the site. It feels like at least you'd get rid of the previously existing nonconforming issue and be able to be at least past the first 80 foot setback from County Road 42.

Mr. Hamilton – Even though the house is a converted house, there is a fair investment in that at this point in time. There is a data center in there. There is also the need for a backup data center on the same site that I would like separated by two individual buildings.

Mr. McMahon – The advantage that we saw to this over connected buildings was that since most of the parking is for employees working in the house, it gets them a little bit closer to the house as far as location as opposed to parking which would be at the very north end of the lot under the connected scenario. For his needs, it worked out a little better.

Mr. Nearpass – Similar questions but for the additions. If you left the current structure as is, didn't expand it, what does that look like? The expansion for the existing structure is for additional data center capacity?

Mr. Hamilton – Correct.

Mr. McMahon – I believe the knockout in the back is for the data center and then the other addition is some additional general office space.

Mr. Nearpass – It is a tight site. Are there any other options or alternatives that you have considered with the site itself?

Mr. McMahon – We looked at a lot of different layouts and a lot of different scenarios with buildings, strictly from an engineering standpoint and this was the one that seemed to us *the best*. In this scenario we are not requesting a side setback or a rear setback. Even though it is a lengthy list of front setbacks we're dealing strictly with front setbacks. The other part of this is that the site falls from the west to the east. I think with some landscaping and actually putting this new building in the ground a bit with some slope down to it, so that you are not going to have a full faced building on Fishers Run, there can be some mitigation provided from a visual standpoint for the new building. It gave us the opportunity to do that.

Mr. Hamilton – We actually discussed about three different plans in the beginning and then after the surveying was done this is what was recommended.

Mr. Nearpass – OK. Again, regarding the sprinklers, you are both not seeking a variance for the sprinklers for the addition, correct?

Mr. Hamilton – The only thing I would have to understand is the data center portion would not be water sprinkled, it would have to be some sort of....

Mr. McMahon – It's allowed in the Code that you can do a halon or whatever is required for that.

Mr. Reinhardt – Some points of clarification; you said that the proposed building, the 4,900 square foot building is going to be used for some type of truck loading?

Mr. Hamilton – There will be multiple uses in that building. Part of it would be two large overhead doors to load trucks. One would be an active bay to load trucks, the other would be more of a storage bay where some of our steel tower equipment would be housed. In the other portion we would build a primary data center that would be what we would consider a fire proof data center.

Mr. Reinhardt – So how are you getting along now without that type of process?

Mr. Hamilton – We don't store much of the steel right now, we deliver it to the site which is somewhat a problem. We load the trucks in the weather, the elements, currently. We've made do for quite a long time and the business is growing to where it's gotten to be an issue.

Mr. Reinhardt – Any of your proposed buildings, anything going to be used for personal storage or is it all business?

Mr. Hamilton – All business.

Mr. Reinhardt – What does your neighbor to the east think of this?

Mr. Hamilton – He's supportive, in fact he's offered to write letters of support actually. You mean Trammel, right?

Mr. Reinhardt – This is a comment and it rings loud to me. What I'm seeing is, there is a lot of structure that you are asking for in a small parcel of land. The question I have for you first is, is there ever going to be a time when you think that you've just outgrown the facility and need to move where you have more room to do what you need to do? A time when you think that the parcel will not meet your needs anymore?

Mr. Hamilton – It's certainly possible, I can't predict the future. Currently, we have two different business units. We would probably move one business unit away from there and keep one business unit there if that were the case.

Mr. Reinhardt – What I'm thinking of, I know I'm probably outdating some of you, but when I was young my Mom would give me pants and they would have a hem in them. As you grow, the hem would come out a little bit and a little bit and there would come a point in time, as good as those pants were, the pants were outgrown. It was just time to move on to a different pair of pants. My math is, it looks like it is three to four times the amount of square footage that you currently have. To me it sounds like you have just completely outgrown that property. You need a variance, but to ask for a variance for some 5,500 square feet on a parcel of land that really shouldn't hold that; it might be time to look elsewhere and use a piece of land that can fit your needs. That's my concern.

I think, rightfully so, you've pointed out that the area variance request is substantial. It's big.

Mr. McMahon – From a coverage standpoint, I can only relate to the Code. The Code permits 40% coverage and with this work we are at about 15.5, almost 16%. So we are less than half of the coverage that is permitted by Code.

Mr. Reinhardt – You are not even close to the 80 feet. You're 14.5...

Mr. McMahon – No, no, I'm talking coverage.

Mr. Reinhardt – I understand that, but to some degree we're talking a bit of an apples and oranges thing. You have a parcel of land and the Code does allow you to have some structures

and it is pre-existing, nonconforming. We understand that piece. It seems it would make some sense, you're growing and you need more square footage, even if you say two or four and a quarter, that might be conceivable on a business that is growing at a good pace, but God bless you for having your business grow as well as it is, all thumbs up and kudos to that, but to me it sounds like you are just busting out of that property and you just may not fit.

If it turns out that the area variance is granted and there comes a time in the future where you say we just can't do this in this property, we have to leave; now the new owners are going to have that benefit that you so desperately needed and the Town is going to be stuck with that. That is my concern.

Chairman Maier – We will not be voting on this tonight. We need to get the input from the County. Is it my understanding that you are also going to the Planning Board in between? No, you are not going to the Planning Board?

Mr. McMahon – No, to put anymore engineering into this at this point in time, we would need to have the variances. The next step from the engineering standpoint is a little more costly.

Chairman Maier – I misunderstood then. You did go to the Planning Board in 2012. They did discuss their concerns with you which were drainage; the number of parking spaces, etc. I think they were looking at the same things we are looking at. How to mitigate the extent of the request you're asking and drainage. Drainage came up, parking came up, and the access off County Road 42, Main Street Fishers, came up. In a perfect world I think they would like that eliminated. I don't know what Ontario County is going to say, but I think you get a sense from the Board what we're looking at is an attempt to mitigate the impact on the parcel if you can do that. If there are ways of shuffling the buildings; optimizing parking spaces. The traffic for Main Street could potentially get significantly worse. I don't know if you are aware that there is a proposal down the road. Is your proposed entrance off Fishers Run, is that directly across from the entrance on the other side?

Mr. McMahon – I don't believe it is.

Chairman Maier – I couldn't figure out where the property line ended when I went out there, they're close.

Mr. McMahon – I could take a look at an aerial photo and see, it could very well be close.

Chairman Maier – The Planning Board came up with the same issues that we are coming up with and I agree with what Scott brought up, the issue of the drainage which certainly would need to be addressed. The problem that I have with granting approval without some reassurance that drainage will not be a problem. I don't like creating a situation that is difficult for someone else

to work with, particularly the Planning Board. That would be a question. I don't know when you want to do the engineering for that or how you address that. I don't know how you keep the water on that lot.

Mr. McMahon – What we need to do is limit the flow off the lot, the existing flow. We are basically handling the increase in impervious area. Again, we haven't gone to that step yet, but the soils in this area are very sandy soils. I've done other developments on Main Street Fishers and it's quite possible with some infiltration that we could almost eliminate any discharge from this site. Stormwater is an issue but I think based on the soils. I know it seems significant to you, but from a stormwater standpoint the increase in impervious is not overly significant. I'm not concerned that we can't handle that.

Chairman Maier – I just took a quick look at it, I didn't walk it but I know that northeast it goes downhill once you get off the property line. It's pretty significant. Into Trammel's it's not so bad.

Mr. McMahon – Yes, I think again, if we can infiltrate a lot in this area we can possibly eliminate what is going off on there. That's the next step.

Chairman Maier – I think the notes from the 2012 Planning Board meeting are consistent with what the Board has reiterated tonight and in previous meetings. We'll take a look at any attempt that you can to mitigate the impact on this parcel. I think you understand that we are granting a permanent variance for you or whoever owns this property and we'd like to make sure that you're minimizing the impact as much as possible, whether it's moving a building or doing a shift or taking the entrance way off of Route 42 and utilizing that area in some other way.

This is certainly an improvement over what we have seen before.

We don't have any letters from anyone, no feedback, and I don't see anyone in the audience that has any comments. I'll leave the public hearing open for the next time that you come in.

Mr. McMahon – We'll plan on returning at your next meeting after the Ontario County Planning Board meets.

Mr. Harter – I had one more question regarding the lot coverage. There is lot coverage and building coverage. The building coverage is indicated to be a maximum of 40% and you are indicating that you covering 15.8%. Maybe Al knows the answer to this better than the applicant; what is the maximum lot coverage that they can have with parking and buildings?

Mr. Benedict – Parking and buildings would be 65% if they have 35% green space.

Mr. Harter – OK, I was just curious, I think you're OK.

Mr. McMahon – Yes.

Thanks were given all around.

2. PEARLE VISION

100-1020 Eastview Mall Drive
Appl. No. 25-Z-2016

The applicant requests to install a sign on the outside wall of the mall whereas, Section 165-5B(3) states that each tenant of a building with a separate entrance to a public right-of-way or parking area shall be entitled to an individual sign, the total sign area for the tenant signs shall not exceed one square foot for each foot of building frontage belonging to the particular tenant. Furthermore, Section 165-2, Definitions states that where a mall exists, “building frontage” shall mean that portion of the building perimeter facing a street or designated parking area.

Pearle Vision does not have a separate entrance nor building frontage for its store location, therefore a variance is required.

The secretary read the legal notice as it was published in The Daily Messenger on November 27, 2016.

Gene Gebhard, the franchisee of Pearle Vision, addressed the Board. Cathy Tantillo was also present and addressed the Board.

Chairman Maier – Welcome. Go ahead and give us a presentation of what you are proposing.

Mr. Gebhard – Basically what we want to do, as you can see, is put up a sign so we can have outside exposure. We moved to the location on this hall in 2011 and it has really kind of been detrimental to our business. The hall is an entrance hall essentially. At the time we were expecting a lot more retail to expand in that area. We were kind of given that indication that that would happen by Wilmorite. They certainly expected that to happen too, but nothing really has happened. They put in a Mann’s Jeweler whose entrance basically did not face us. So we are isolated by ourselves and they (Mann’s Jewelers) since went out of business and another place took over there. We have a couple windows from their store facing us, so we have very little exposure.

It’s not a main entrance. It really has taken away from our business. Our sales have suffered as a result of it.

Ms. Tantillo – People just don't know where we are located anymore. Once they moved us out of the main hall and put us down there, we have nothing.

Mr. Gebhard – It's a dead end hall and it's interesting because today I was walking through the mall and all the Christmas decorations are up in the main part of the mall and the music playing, it's lively and everything and you walk in our hall and there is nothing. There are grey walls. We're there, we're kind of a benefit to Eastview and Wilmore by us being there because we at least give some life to the hallway, but we're it. There is a small Allstate office next to us where the bank used to be. That's the only reason we are not touching the outside wall because of that small office. That's why we are hoping to get this extra exposure to just try and help us.

We would have more exposure if we were in a strip plaza where people drive by.

A lot of our clients have trouble finding us and this way if they drive around the mall they would be able to see that this is our entrance. That would make that part easier. That's why we are hoping that we are able to do this just to help our cause and get that exposure.

Mr. Reinhardt – It's a quick question for Al. The Allstate sign that's on the outside of the mall, they get that because they are touching an outside wall?

Mr. Benedict – That's correct.

Mr. Reinhardt – How many other businesses in the mall have the same situation as you do? Any idea?

Mr. Gebhard – I can't think of any to be honest with you.

Mr. Reinhardt – You're it?

Chairman Maier – There are about 50. I counted them, there are about 50 interior retail stores that don't have exterior wall space.

Mr. Gebhard – Oh sure, absolutely as far as that.

Mr. Reinhardt – That was my question. Allstate gets the sign, but how many other businesses.

Chairman Maier – Minimum of 50, 50 plus.

Mr. Reinhardt – That's not counting kiosks and things that are in the middle.

Chairman Maier – No, that's actually physical structure.

Mr. Reinhardt – Therein lies the rub I think. If one area variance is granted here then you'll have 49 signs all over the side of that mall.

Mr. Gebhard – Right, but we're not a retail business. We're a medical business. There is a bit of a difference there.

Mr. Reinhardt – How is that different in the Code?

Mr. Gebhard – Well that's why we were hoping that that could be looked at a little bit differently. We have a little different twist than a lot of the other places that are in there since we are medical retail.

Ms. Tantilillo – We understand completely what the zoning is for. We don't want a cluttered looking area, nobody does.

Mr. Reinhardt – I don't go to the mall a lot, I'm not a big shopper, but in my stereotypical mind when you go to the mall it is for clothing, Christmas shopping, etc. I don't think of going to the mall for medical needs. I go to either the strip mall, where you might see it predominantly or it's a separate building. It's kind of like swimming upstream here. I don't think of a medical facility of being in a mall.

Mr. Gebhard – Which is part of our problem. The reason why we are different too, yes there are 50 other stores or more who do not touch the outside wall. When I said none, I meant that there were none that have our predicament in terms of being on an isolated hall. I might be incorrect, but I can't think of anyone there who has our predicament about being alone; the only retail on the hallway. Everyone else has active entrances with a number of stores. There is just more traffic.

Mr. Reinhardt – How did you land there? How did you pick that spot?

Mr. Gebhard – It was right around the corner from where we were before. At that time they were planning on expanding that area and having other retail areas. We were thinking, we have a lot of older clientele and people who come for us and we were hoping that by being by the entrance it would be more convenient for them. In our mind those were the positives of going down towards that end.

Mr. Reinhardt – Prior to moving you didn't have the outside signage, the frontage, that you are asking for now?

Mr. Gebhard – That's correct.

Ms. Tantillo – We didn't need it.

Mr. Reinhardt – But you're still in the mall, you moved by your own doing, right, no one forced you to do it.

Ms. Tantillo – They were restructuring all through there.

Mr. Reinhardt – No one forced you to do it and I don't run a business, but it's that real estate business thing, location, location, location.

Ms. Tantillo – I agree.

Mr. Reinhardt – You kind of stepped in that one, didn't you?

Ms. Tantillo – Well, especially when we thought other retail stores were coming with us, but that didn't come to fruition, in fact, they moved things out. They moved everybody out of there so it's just us and Allstate right now. There is no room for anyone coming anymore.

Mr. Gebhard – Allstate is very low traffic, it's not a factor.

Mr. Reinhardt – I'd like to hear what the rest of the Board has to say.

Mr. Nearpass – I echo a lot of what Mike said. It's great that you've given us a lot of data. You've provided the sales numbers and things. You are kind of climbing out of it, right. Your low was 2013. I think everyone's business was in a very similar situation or a lot of them were.

I mean there is also more competition in the area. There is an America's Best that opened up right about that time across the way where Walmart is. Completely, honestly, if you put that sign there, I don't know how you measure the incremental revenue you associate with a sign that big on that side of the mall. In my opinion there are other ways of marketing. Have you tried to use the digital marketing signage that's in the middle of the mall?

Ms. Tantillo – We do that, all of that, yes.

Mr. Nearpass – Other ways of maybe working with Eastview to put something some other way. I don't really see how this is really going to have any impact on your business.

Mr. Gebhard – Well Wilmorite and Eastview agreed that this would be something that would be helpful. They understand the predicament because it really is an isolated case in the mall. No one else has quite the situation that we do. We just weren't expecting to have this lack of exposure.

Mr. Nearpass – I just don't think that with that sign you are going to find \$200,000 worth of business as the result of it.

Ms. Tantillo – Well, to have people find us instead of being like Horton Hears a Who.

Mr. Nearpass – You know how everybody finds a store these days; you go on your phone, you go to Google Earth, you go here and there and that's how people find places, right? To Mike's point I don't really see anyone driving around the Mall looking for a Vision store or a Book store or a whatever.

Mr. Gebhard – It's just to help us get that exposure.

Ms. Tantillo – And to recoup some of the...

Mr. Nearpass – It just seems like there would be a much better way than putting the sign up on there.

Ms. Tantillo – Do you not like the sign? It's a nice sign.

Mr. Nearpass – It's nothing against the sign or Pearle Vision but that whole area is all signs.

Ms. Tantillo – This area? No, there is just..... Oh, you're not talking about the mall corridor.

Mr. Nearpass – The Route 96 corridor from Target all the way..... so we're trying to reduce and keep the signage at bay. To Mike's point, setting precedence for other vendors that are within the mall because trust me, you would be shocked at how many..., almost half of the cases we deal with are signs. It is somewhat of a sensitive topic because everyone will want one. Trust me, there are people who come in and say the Code only lets me have it this big but I want it twice as big because if I don't have it twice as big I'm going to go out of business. It's always a good debate like this, how much incremental business is associated with doubling the square footage of the sign.

Chairman Maier – Since I've been here I don't think we've heard anyone establish a relationship between larger signs or a sign and definitive improvement in visibility or business. We would like to see your business do very well, I think we all would, that's not it. To Matt's point, the other thing we hear all the time is that these people did it, these people did it, and the concern is setting a precedent for the number of other stores there.

Mr. Nearpass – I appreciate you jumping in. To me, I think this feels like you're starting to grow back a little bit. It really doesn't feel to me like there is a case here that says because you didn't have the sign your sales went down. I do agree that your position in the mall, absolutely, probably had an impact. Location, location, location like Mike said. To me to fix it you should go back to Wilmorite and get a better location or a better deal and not come to us and ask for a variance. I really don't think this is going to help you.

Mr. Gebhard – We were hoping that the difference between us and the other retailers might be enough. I understand that if you give it to one, everyone is going to want it, but our difference being medical retail instead of just your normal retail. Also we are in an isolated corridor and no one else can make that claim like we can and give that situation.

Mr. Nearpass – I hope you got a deal on the rent, that's all I can say.

Ms. Morley – How long is your lease?

Mr. Gebhard – We have seven more years.

Mr. Nearpass – So even signs within the mall or digital signage or having Wilmorite put an A-frame somewhere.

Mr. Gebhard – They've done that at the end of the hall and it's just not that much exposure.

Chairman Maier – Let me expand on that. I drive there at least every other week I go that route. I did stop and take a look at it. One of the concerns that I have is that you really are a long way from the access road. That there is the dilemma. One is a safety issue. If you want people looking at that, imagine putting 25 signs and the speed limit is 15mph, but I don't know that anybody does 15mph through there. What I thought would be optimum and I don't know if you would consider this or Wilmorite would consider this, and I don't know how others feel, but driving around through there I don't go to the mall either but certainly if I were going it would be nice to know what section everyone was in. A monument sign or something like that along the access road, I think would be very helpful. I don't want to start anything that the Board doesn't agree with but I'm looking at it and I'm thinking wouldn't it be nice to know that in this section of the mall. .. and you can put little slips in and it's right next to the access road. I take a left here, I'm at Pearle Vision, I'm at Allstate; it's a safer option, I think it's a more visible option. I don't know how the Board feels, Mike doesn't like it, but again it's

In looking at it I can appreciate the fact that somebody may come out there and start looking for Pearle Vision and say gee this isn't working and not come in. I don't think it's substantial personally, but putting the sign up and granting that type of permanent variance and

then having to deal with the others, I don't know as it's going to be what the taxpayer, the residents of the Town want.

OK, Mike, you can tell me why you don't like that.

Mr. Reinhardt – Ok, a couple of points. I think the people that go there are repeat clients. You are not the, oh I'm in the area I think I'll go here because there is a sign there. You have continuing clients that come back again and again and they know where you are. They are going to find you. On the other occasion is when, let's say I was looking for Eddie Bauer, I don't go to the mall, I had to buy my kid some sneakers, and I'm going to do a couple of things. Hon, where is Eddie Bauer and where should I park? Great resource, she'll tell me exactly where to park or I'm going to go online, just like Matt said, I'm going to find where it is. Where is the parking area that I should be going to? I go in, I look, there are many maps, big maps, right in the middle of the mall. It's great, I didn't know they had that, you can push the button you are here and it shows you the map; it's like a little Google map and it will tell you right where to go. I was in Eddie Bauer in no time and I was out of there in ten minutes.

Chairman Maier – Actually Eastview is reasonably user friendly. You put in health, medical, Pearle Vision, and it will pull it up.

Mr. Harter – I really don't think I have much more to add to this conversation. You've covered all the bases I think. I am like Keith, I'm not using my Smartphone as effectively as others to the extent that when I drive around that ring road I could use a sign too, pointing me in the right direction to tell me which entrance to go in. That's all I have to say.

Mr. Nearpass – I guess I'm more of a free spirit, I just park and try to find my way.

Ms. Tantilillo – Wait until you get to be 80, you're not going to want to do that.

Ms. Morley – I don't have any comments, you guys said it all.

Chairman Maier – Am I sensing that we are not in favor of this sign.

Mr. Reinhardt – I'm not.

Ms. Morley – I'm not either.

Mr. Harter – I don't think so for a number of the reasons that came up in this debate, as Matt calls it. I think it opens Pandora's Box.

Chairman Maier – Just from our experience, it happens. Even if we didn't open Pandora's Box, signs are a big deal. I don't know why, but signs are a big deal.

Mr. Nearpass – If we were to keep it to the criteria, it's substantial, physical impact to the area, those things just work against it. Especially again that corridor; we're all very sensitive as a Board and the Code is very sensitive about the Pandora's Box thing and peppering the walls with signs. We feel for the situation you are in. We all agree with what you are saying in terms of the location had negative impact to your business. I also believe, if I apply some common sense to it, I don't think that investment is going to get it back for you. It's not part of the Code but there has to be something else to help.

Chairman Maier – This is a public hearing so we do have comments back from Ontario County; I don't know if you've seen them. I think it is one of the first that we ever submitted for a sign where they didn't have any issues with it.

I'll open the meeting to the public if the public has any comments.

There were no comments and the public hearing was closed.

Chairman Maier – You've got three options. We can vote, so we can go through it and vote and I think I have a sense how it will turn out. You can table this discussion and if you want to think about it and come back in at a later date, you have the option of doing that; or you can withdraw your application. Withdrawing your application is basically the same thing as tabling it. If we vote and it's denied it kind of closes that door for a while. If you table it or withdraw your application it gives you time to maybe come up with a plan B or take a look at what other options may be out there, whether it's Keith and Scott, or maybe there isn't another one. Then come back in. The fees, I'm not going speak for what the Town would do, but they might cooperate with you. I have no idea what they do or how they handle that. It's now up to you.

Mr. Gebhard – It sounds like we're probably better off tabling it because it's not going to pass. At least that would leave a window open.

Chairman Maier – What the tabling is, the tabling would be this particular application and as it is submitted.

Mr. Reinhardt – It's going to be time limited, it can't be tabled forever.

Chairman Maier – There is going to be a time limit, or withdraw it. Withdrawing it you can come back in fresh, you can do whatever you want with it. There is no time limit, there are no restrictions. The only thing is the payment for the application and I won't speak to that. That may be the only barrier.

Mr. Gebhard – It probably sounds like withdrawal would be best.

Chairman Maier – I would go back to Wilmorite and some of your neighbors. I really don't know what they would do for you but that would be where I would invest in and see what Wilmorite.....

Mr. Reinhardt – Keith is right, you go back to Wilmorite and say you made your presentation, you made your best pitch and it wasn't going well, so we need to come up with a plan B.

Chairman Maier – Or is there something they can do to help everyone.

Mr. Nearpass – It might be even better to go to Wilmorite with a denial. However you want to negotiate, but you might be better off going to Wilmorite with a denial.

Mr. Reinhardt – Or you could table it and seek legal counsel and tell them here's what we got, here's what is going on and what is our best option. We really can't give anything that sounds like legal advice. You have to make your own decision and weigh the options as to what is best for you. We can't do that, we're not you.

Mr. Gebhard – So maybe we are better off having the denial and then going to Wilmorite, because, under the circumstances, what I'm feeling is that this probably isn't going to fly. It's not like we'll come back in six months.

Chairman Maier – What is the time limit to resubmit.

Mr. Benedict – If he's denied they have to wait a year unless they have a substantial change of information and this Board elects to hear it. If it's tabled, it's 62 days unless this Board agrees with the applicant for an extension. If there is no agreement in 62 days it becomes a denial.

Mr. Gebhard – We are probably better off if you just vote and we can take that to Wilmorite.

Chairman Maier – I think it's the first time anyone has ever asked, that I can remember....

Let me give you a plan B. The other thing you can do is table it and as Mike said, get some information, whoever you need to talk to, your landlord or whoever, and you could come back for a vote if you wanted to do that. You can still leave it open, you can table it, get information. If you don't like the information you're getting you could withdraw it or come back and ask for an extension.

Mr. Gebhard – I'm not sure what information we could get from Wilmorite to change course, because we still won't be touching an outside wall. I mean I would do whatever I could because we do feel strongly that this would give us a nice exposure that we don't have now. I don't see where I could go to get a better case for it. I think just the fact that we are a different type of retail than other places and no one else has our situation.

Mr. Reinhardt – I think what the Chairman is trying to tell you is that we can't give you legal advice. I have pretty good knowledge that there are attorneys out there who do this day in and day out, much like in your profession. You understand it, it's in your wheelhouse, and it's not the kind of thing that any Joe should be opening up the hood and saying I know how to fix that. When you deal with variances, both area and use variances, attorneys know the rules. Hopefully you have one that you can lean on and say, here is what we have, here's the pitch, can you help us weigh the options here and what is best. We can't tell you what those options are, we aren't you again.

Chairman Maier – The minutes will be approved most likely at the next meeting so they are available to you. I think it will be clear in the minutes that it appears as though the Board was not in favor of approving the variance.

Mr. Gebhard – That would seem to be the best so at least we would have that option if we did want to seek professional advice.

Chairman Maier – Tabling it just leaves the door open for another two months or longer if you need it. After the 62 days it's automatically denied. So you understand what your options are and I believe the secretary will put a tickler and notify you when the clock is running out.

So your request tonight is to...

Ms. Tantillo – Table.

Good luck and thanks were given all around.

The secretary and Code Enforcement officer mentioned which applications were going to come before the Board at the December 19, 2016 meeting.

On a motion by Keith Maier, seconded by Scott Harter, it was unanimously agreed and RESOLVED, that the meeting was adjourned at 8:10 PM.

Debby Trillaud, Secretary