

A regular meeting of the Town of Victor Zoning Board of Appeals was held on January 23, 2017 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; Donna Morley

ABSENT: Mathew Nearpass

OTHERS: Alan Benedict, Code Enforcement Officer; Andrew Torpey; Michael Angell; Jim Woodard; Jean Meyer; Richard D. Cronise; Carol M. O'Neill Smith; Bill O'Neill; Victoria O'Neill; Robert Brostek; Debby Trillaud, Secretary

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

CODE ENFORCEMENT QUESTIONS

Mr. Harter – I have a question from one of our previous meetings when I mentioned the Motovate Building and the wall packs. Have you had a chance to take a look at that?

Mr. Benedict – It has been assigned to a person in the office. I talked to him today so he'll be looking into it further.

Mr. Harter – OK. Just as a general informative comment for the Board, there is an app you can get for your cell phone that has a light meter on it. I had occasion to use it because of Mark's Pizzeria because I was informed by the Town of Victor that they needed a lighting analysis on it to confirm that what we submitted was correct. So I thought to myself my phone must have a light meter on it because it has a camera on it and sure enough there is an app for that. It's called Lux if you're interested.

Mr. Benedict – Is it free?

Mr. Harter – It's free. The free version pops up in add every now and then, but not only will it take the measurement pointing downward but it will flip it around and do it upward and then it will allow you to hold that measurement so that you can record it. I wanted to mention this and get it on the record.

Chairman Maier gave Al a document to check out.

APPROVAL OF MINUTES

On a motion by Michael Reinhardt, seconded by Scott Harter,

RESOLVED that the minutes of December 19, 2016 be approved as submitted:

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

Approved: 4 Ayes, 0 Nays

PUBLIC HEARING

Chairman Maier opened the Public Hearing and the secretary read the legal notice as it was published in The Daily Messenger on January 15, 2017.

1. 7951 COUNTY RD. 41 – BARN
7951 Boughton Hill Road (County Rd. 41)
Appl. No. 1-Z-2017

Applicant is requesting to construct a 1,143 square foot barn forward of the front line of the principal structure, whereas Section 211-31G(2) indicates that an accessory structure is not allowed forward of the front line of the principal structure.

Andrew Torpey of Log and Timber Structures addressed the Board.

Mr. Torpey – I originally built the log home that is on the property in 2015. It was sold in 2016 to Michael Angell and at that time we discussed where we could put a pole barn up. We've been working on trying to find the best location for him to have additional storage.

He and his girlfriend both had separate houses so they have a lot of material. This log home does have a two car garage. You can see the current driveway comes up to it. It's set back up there on top of a knoll and it is woods between the house and the road with the exception of the driveway which kind of peaks along the one side of it.

The septic system is off to the edge, if you look at the image on the screen it's off to the left hand side or what would be west, northwest of the house. So we can't put a barn in that area. The best spot to put it is right where we have the line drawing (*on the projected image*). You can see the darker color blue is what we would have to add to the existing driveway to get up to it. Anywhere else on the property is too hard to get to or the terrain that is there would make it too

tough to get to it. You'd have to take down too many trees to get a driveway there or drive across the existing septic to get back to it.

I do have specific notes regarding the criteria you would like addressed. Would you like me to read them to you?

Chairman Maier – I think we have copies. They have been submitted.

Ms. Morley – This is basically going to be a garage or what is going to be stored there?

Mr. Torpey – It is. It's going to be a single story, two garage doors on it. The doors will be identical in size and color to the current garage. The color schemes and the actual doors are going to closely match the current garage. It will be metal sided with some rock work on it to kind of spruce it up a bit, but it's going to be specifically to store all the stuff that ... if they want to use their current garage as a garage, there needs to be additional storage to take some of the extra household materials that they have. He also has a four-wheeler, a motorcycle, and things that would just crowd the garage that is currently there. There is a two car garage on there now. There are three cars at that house, plus the additional things they need to store. It will not be for any commercial business. There will be power run to it. There will be 220 volt power run out to it and a box inside, but there will literally just be an outlet and a light.

I'm the one who actually pushed for the power to go to it. I said if we're going to be tearing it up a little bit, now is the time to run power out to it. If you ever want to run an air compressor to fill the wheels on your four-wheeler or anything like that in the future, you're going to want 60 amp power out there. It's not a whole lot more to do that now than

Ms. Morley – Is there going to be any outdoor lighting on this?

Mr. Torpey – There will be one outdoor light over the door. That's going to be over simply the people door. No additional lighting.

Ms. Morley showed an image and determined what side of the building would be facing the road.

Mr. Torpey – That's correct. If you come up the hill from Strong Road you'll see the front of the garage and that one side.

Mr. Reinhardt – Your statement is curious to me in that you say you can't really put it anywhere else. How old is that house that you built?

Mr. Torpey – It was sold in 2016.

Mr. Reinhardt – So you constructed a good size house. What is the square footage of that house?

Mr. Torpey – About 2,000 square feet, a little over.

Mr. Reinhardt – You got back there, but now you're telling me you can't get back there anymore.

Mr. Torpey – So it was built as a spec house, so it was built by me without a potential buyer. So I owned it when I built it. So, yes we are back there. If you are looking on the screen image, on the left side, that's where the septic is; between the house and the property line is a septic system. On the right side is where it drops off fairly steeply. There is a walk-out basement in the back corner of the house, the pitch drops it down. It would be difficult to get a driveway around to there. The only way to get a driveway would be to remove a lot of the vegetation and carve out a driveway into the bank because of that fact.

Mr. Reinhardt – Where your diagram is with the septic system it appears that you could put a garage, whether it be a four bay garage or however much more space that you need, why can't you put it on the west side of the house?

Mr. Torpey – Why can't we join on where the current house is? (Right). Potentially you could extend it out but that would take away from the character of the house. The house currently now has an A-frame front structure with symmetrical sides on either side of it. To attach on to the house would take away from the character of that house.

Mr. Reinhardt – It can be done?

Mr. Torpey – It potentially could be done. I mean the septic tank that is there would have to be removed. If you see on the print where the actual septic tank is, that would be where the new drive came in so we would have to remove the septic tank and move that someplace else in order to extend that drive over to service those next two bays on that garage.

Mr. Reinhardt – What is the cost of that?

Mr. Torpey – That is a 1,500 gallon new tank. To move that it's probably in the \$4,500 - \$5,000 range to move it.

Mr. Reinhardt – Where your proposed garage is, 30 feet to the side setback and 40 feet to the front. (Correct) Any other houses or structures along County Road 41 that are that close that you know of?

Mr. Torpey – Within that 40 feet? No, not that I know of. It would be the closest to the road.

Mr. Harter – When I first got our initial information I was confused as to what was 7951 and 7971 Boughton Hill Road. When I did I search using our tools on the internet I didn't find anything so I guess it has to have been recently constructed. Was there a site plan that was done for the project before you built the house? (yes) Because I see on the survey drawing that it is shown as an as-built survey. Where is it proposed that the septic system can be expanded? Where is the 50% expansion area?

Mr. Torpey – Towards the driveway from where it is. You see there are five or six lines there.

Mr. Harter – So even though this photocopy is faint, it's accurate in terms of the location of it.

Mr. Torpey – Correct. The 50% expansion would be parallel to the lines that are currently there adding another three lines towards the driveway.

Mr. Harter – Does the grade fall off to the west then; is that how it goes?

Mr. Torpey – No, so the grade all drains towards the east. The bank is higher on the west side and then runs down to the east. Where the septic is, is currently level and it is lower than the house, but it follows a tap along and underneath the driveway. The water that comes down now is diverted around the grade that is there. That's how it was, we didn't change the grade of where that septic is. That's how it naturally flowed.

Mr. Harter – The proposed barn, although it is ahead of the primary structure, which is the reason you are here for the variance, is it able to comply with the front setback requirement of, is it 40 feet?

Mr. Benedict – Correct.

Mr. Harter – Is that what you are proposing as a dimension?

Mr. Torpey – Yes, the size of the barn is actually based on what we could do with the setbacks, to stay away from the septic, to stay away from the front setback. We could go deeper with it, but if we went deeper with the barn on that 30 foot side then we would have to start playing with the trusses and that would get us up over the 15 feet. We wanted to make the least impact on the variance as possible. We got it down so that the only variance we need is to have it sit in front of the house.

Mr. Harter – How are you going to be able to achieve the position of this so that you know that it is compliant with our front and side setbacks?

Mr. Torpey – There are currently two property pins that are set at that property so we can easily come back 40 feet off of that. Then the septic is fresh in off of that as-built, so we know where that is. We will be able to stake it out. There is a little bit of grade work that needs to be done, but nothing monumental. There are no solid trees or vegetation that need to be ripped out in that area. That spot is already kind of set.

They came through there several years ago and did a big swath of cleaning out for the power lines that run through there. Most of those trees were locust trees that snapped off in an ice storm a few years back. That area is almost more like a scrub area than oak or hickory. Those are more on the east side of the property and in front of the house.

Mr. Harter – This is subject to site plan review because it's over 1,000 square feet, so you'll be going to the Planning Board.

Mr. Torpey – That's right.

Chairman Maier – So this is what you've given us (image of barn/garage) and you've indicated that it is metal siding. Vertical siding? (yes) The colors?

Mr. Torpey – The colors are going to be fairly similar to the print. The current house is a log house. It has a brown trim and it has a green roof and green doors. We are going to use the same doors, although those are shown as white. We are going to use the same doors, same size, same everything. The roof is going to be metal but it is going to be the same color as the existing house. The other two tones, the brown and the tan are going to closely match the natural wood that is there between the trim and the actual logs that are there. So we are trying to match the colors the best we can based on the palette that we have for the metal.

Chairman Maier – So if we put a condition on that the accessory structure colors match the existing structure that might acceptable?

Mr. Torpey – Match the existing structure as close as I can pick off of the chart.

Chairman Maier – Does the applicant understand why the Town has restrictions for accessory structures in front of the dwelling?

Mr. Torpey – I'm not sure, no.

Chairman Maier – The reason is that people driving down the road would prefer... I believe the reason for not putting accessory structures that close to the road is that people don't want to look at them. That's why whether it's in a subdivision or whatever road it is, the residents of the Town

indicated through the Town Code that they would prefer not to look at accessory structures. But again, there are situations where there is no other option available to us. Given that understanding, can you go through the thought process and why you picked this spot, which is as far out towards the road as possible versus, I can see a couple of other spots where you can move it a little bit.

Our job is to mitigate the impact to what you are trying to do. There are reasons we are asking some of these questions. You could move it. I can see that you could move it into certain spots. What I'm asking you to explain is why you picked that particular spot. You could move it to the east and then closer to the house. One of the things you could do is move it here as an example. (Showing where on the overhead image). The septic system is here so it wouldn't interfere with the runoff of the septic system. It's further away from the road. Why not put it here versus where you are proposing it now? Did you examine that?

Mr. Torpey – Sure, yes sir. Where it is currently set, if you take the drive that comes off of there and you bring it straight out, that's kind of where it intersects with the hill. That's a bank that comes down like that. If we were to move it in forward...we can't move it towards the road any closer or toward the back of the property any further because those would interfere with the septic and the road right-of-way. So all we could do is go back or forward. So the reason why it is sitting where it is, is because the driveway comes in and if we shoot straight across the driveway that's where it intersects with the hill. We're not going to be trying to set a building on fill of any sort. We are also going to be leaving that area kind of as a way for the swale way to run its natural course through there. On the road side of it there is a good ditch on either side. Probably from the height of the road to the ground down below is a 10 or 12 foot drop right in that area, so it kind of sits down in that bank. That way, with it sitting there, we don't have to dig, we can set it on virgin territory; we don't have to dig out a lot of the bank and we also don't have to put a lot of fill in to try and pull closer to that driveway and make a tight section.

The other thing is that is I don't know if you are familiar with the house that is there.

Chairman Maier – I was there today.

Mr. Torpey – It's a beautiful nice house sitting there and it shines towards the road so that if you come at it from either direction, it's really nice to look at that house. So we set the garage out of the way of that rather than blocking the view of the house from the road.

Chairman Maier – It's also a nicer view from the house, not having it sit in front of it. I understand.

Mr. Torpey – The majority of the reason why it's there is to make it so that you have a drive that we can pull in; make it easier to get at the same driveway without there being a huge pitch

change. Also setting it to avoid putting it on settling soil or digging it way into a bank to accomplish what we would like.

Chairman Maier – Is it going to be a poured floor or are you going to have gravel?

Mr. Torpey – It's going to be a concrete floor inside the garage.

Chairman Maier – Are there any thoughts to landscaping, making it pretty from the road.

Mr. Michael Angell, owner of the property, addressed the Board.

Mr. Angell – You'll be amazed in couple of years what that place looks like.

Chairman Maier – What are you anticipating that will look so good?

Mr. Angell – There is no landscaping at all besides natural right now. We're going to be putting sod down for a whole yard because we are not happy with the way the yard is now. We'll sod the yard this summer. Then we will start the landscaping. We're going to brick the whole place, all the way around the back to the front and then we'll do the same around the.....everything I do in front of my house, at my actual structure, will be done around the barn.

Chairman Maier – Are you looking at any greenery around the barn?

Mr. Angell – I'll talk to my girlfriend.

Chairman Maier – Where I'm going with this, is if we put a condition on to buffer it a little bit would you be receptive to it?

Mr. Angell – Absolutely.

Mr. Reinhardt – I'm troubled by this quite honestly. We have had these situations before, certainly you are not going to find them closer to the Village, it just makes absolutely no sense, but once you get further out into the rural area, you get acres and acres, and you can't even see the house through the two, three, four hundred foot driveways and they are asking for something like this, you can't tell that there is a garage or structure in front of the house because the woods are so dense, unless you have an aerial view what difference does it make. It does make a difference here. Forty feet is close. I appreciate your honesty that not much is going on like that on County Road 41. I've driven up and down there and it does have that rural look to it. I think that's what people like. We start allowing something like this to happen and more and more,

there are going to be 20, 40, 30 feet, right on top of the road and I don't think that's what people want. It significantly changes the character of the neighborhood and it can be done *elsewhere*.

What also troubles me is that I get a little concerned that the septic system seems to be always right smack in the middle of where the garage wants to go. It's just a matter of convenience. Why did you put the septic there? Why couldn't it be in back or off on the side? I'm not saying you did it maliciously or intentionally but it kind of looks that way. Why does it have to be there? I'm troubled by it that it's really so close to the road and there is not much there to buffer it. I think a couple of two or three foot pine trees aren't going to cut it. I think there are some problems with this.

Mr. Angell – What would you like there, big pine trees?

Mr. Reinhardt – It's not what I would like, what I'm looking at is the criteria. The criteria are telling me that if I'm going to change the character of the neighborhood, which I think it does; if it's feasible to put it some other place, which I think you can; it doesn't get the variance.

Mr. Torpey – I understand, so let's go over a little bit more where the other places are.

As far as the character of the neighborhood, there are three houses that are in close proximity to this house that would be able to view it. All of those three houses, two of the three have a secondary structure closer to the road than their house. It's not going to change the character of the neighborhood there.

Mr. Reinhardt – How close? What is the front setback?

Mr. Torpey – Closer to the road than their house.

Mr. Reinhardt – Right, I get that but are they 40 feet, that structure that is in front of the house is it 40, 50, 80, 100 feet? What kind of distances are we looking at?

Mr. Torpey – Less than 100 feet from the road, more than 40 feet. None of them are as close to 40 feet as that of those three houses that are there.

Of the other possible places to put the garage. If you go to the east side of it it's a very sharp drop going down towards the retention pond on the next property over.

Mr. Reinhardt – That makes sense. You really don't want to cut right across, unless you have a circular driveway. The east side would be problematic.

Mr. Torpey – Yes, so anything to the east of the driveway is out. On the west side of the current driveway, which is kind of a backbone across the property going up to the house. The house sits on the highest spot on the property. Everything else is a little bit lower. The septic was chosen

for where it is because that's where the soil perked. There is no other reason other than that is where the perk test came back acceptable. Because it is lower than the rim floor of the house, it also made for a gravity system which is the best case scenario from a contractor's view and have it perk naturally.

Mr. Reinhardt – To Keith's point there is a tag on that driveway; why is that there? It almost looks like somebody anticipated a garage going there.

Mr. Harter – Oh, the bump out? (Right)

Mr. Torpey – That is there, it's a turn around so when people come in they can turn around and get back out. There is a substantial swale way on either side. Like I said the road versus the bottom drainage there has got to be probably a 10 or 12 foot drop. When the UPS guy comes in, he can turn himself around and get out without having to drive all the way through the wooded area, the narrow driveway. It's still a 15 foot wide driveway going up and then up by the house there is a car turnaround. The reason why the turnaround for the car there isn't bigger than it is, is because, once again, the grade drops off. We're kind of sitting on top of a ridge.

The driveway comes in, is even with the plane of the house, and then you can back up and turn around a car or pickup truck there but you wouldn't want to get a UPS truck all the way up to your house and rely on that turnaround. Out by the road is that larger turnaround. The reason why that's the size that it is, is because when I petitioned the Town to bring me fill, that's where we put it. I just brought out as much as they gave me. It would have been bigger if they brought me more fill for bigger trucks to be able to turn around. The size that it is, is based on how much fill I had and then we graded it all off nice so it maintained its current water flow.

If we went across with the house with an additional two car garage on it. That is feasible, there is a large Black Walnut tree that we saved when we went around it, that would have to come down. The septic system that would have to come down. There is a lot of grading difference. The septic system would have to be moved to something else, maybe a not as reliable pump system to be put in to be able to get it to pump from the septic system back up to its field. Currently it's placed in the hill at the right angle so the water can come into it and then come out of it and still go and feed its lines. It all worked out very well for the septic to sit in that area, which is why the septic sits in that area. I don't want to disturb that area. Anything we do to that area would just make for a worse septic system. Taking down the tree and moving that is a possibility but it's not the least invasive to it especially with the other neighbors having buildings forward of their houses. I know that 40 feet seems like it's closer than what you would like but with it as low as it is in comparison with the road height, it's not like you're driving by a 15 foot wall of building 40 feet off. You're actually above it by 10 feet which means you are only going to be seeing the top peak of that building as you go by.

Other reasons why we chose that area. We actually started off our plan with a 30' x 50' pole barn but we couldn't fit it in the area. The biggest barn that we could fit in the area, I said

let's sit down and figure what is the smallest barn that you can have and fit the things you need in it and he said 30' x 40'. I said well we can't fit a 30' x 40'. Literally when I measure off the distances, we have 40 feet from the one side which is what is required as the setback. I'm not encroaching on the setback. I'm trying to keep it so it's the smallest amount of variance that I need to get to build the barn and stay away from the septic system. The biggest we can get in there is 38 feet. Give it 36 feet in case I drill in the wrong spot by a foot.

Mr. Reinhardt – That's a deep garage.

Torpey – 30 feet deep.

Mr. Reinhardt – What's the depth of a standard garage?

Mr. Torpey – 24 to 26 feet especially if you have a pick-up truck. He has a big pick-up truck.

Mr. Reinhardt – I do too and I don't have a 30 foot deep garage. I can get in. It's relative, it's big.

Mr. Torpey – He has a motorcycle that has to park in front of it and he has a four-wheeler that has to park on the other side. It's three motorcycles, I didn't even know about the other two. I'm saying that a lot of it is storage, not just the garage to park your vehicles in, but it's also they moved to this area *with each having their own house*.

Mr. Reinhardt – You have a two car garage attached as well. That is a lot of toys.

Mr. Torpey – It is but it is also that they had two separate households in different towns and they moved here. Part of what they liked about that particular area is that you do see, I mean up the hill there is the guy with a pole barn that is sitting out closer to the road than his house and some people might complain that there is a broken down car there, a piece of equipment there, but he was drawn to that, they came to that because they knew their neighbors wouldn't be the ones that said, hey you fired up your Harley at 7:00 o'clock in the morning to go for a ride and you woke up my dog, and that woke up my wife and now we're going to have a squabble. It's going to be hey you fired up your Harley at 7:00 o'clock in the morning, next time give me a call. It's the neighborhood that is there, the guys that are there. A couple of the people that live there, in that area are here and I don't believe anyone has a problem from that standpoint.

Now the people driving by, I can't attest to.

Mr. Reinhardt – Looks like there are people from the neighborhood, I'd like to hear from them.

Chairman Maier opened up the meeting to the public.

Mr. Woodard of 7950 Boughton Hill Road addressed the Board.

Mr. Woodard – I live right across the road. I have no problem at all with Mike putting the barn up there. I think it's going to help him clean out his garage so he can put his vehicles inside it. That's all I have to say.

Richard Cronise of 7942 Boughton Hill Road addressed the Board.

Mr. Cronise – I'm not quite directly across the road but I'm right next to Jim. I have no problem. I think it would actually add to the property. When I saw the picture that you have, Mike didn't have any actual visuals to bring around, but in seeing that, it looks like it fits in with the type of the house.

Right about where Rob's driveway is (*7971 Boughton Hill Rd.*) at the far left of the screen, right about here is the top of the hill and anybody coming from the west, if they are watching the road they are hardly even going to see anything that is sitting here. It is down here. Rob's property is up above and it does drop way off. When Mike brought it over I didn't see any problem at all. I don't think it would really detract anybody driving up from the east. Yes, they would come around and they would see a building there but based on the plan that he has there it looks like it would fit in with the house. My wife and I have no problems with this.

Chairman Maier – So you are in favor of the barn where it is?

Mr. Cronise – Yes, I am.

Chairman Maier – We heard back from Ontario County. They didn't have any comments.

Mr. Harter mentioned that there was a letter in the information packet which was signed by three neighbors, two of whom spoke, and all were in favor of the project.

Carol O'Neill Smith of 5555 Centerpoint Blvd. addressed the Board.

Ms. O'Neill Smith – I own the property across the road, but you can't see it (on the overhead image). The address 7951, is that the property that we are speaking of, with Woodard's across the street?

There was unanimous ascension.

Ms. O'Neil Smith asked if a laser could be pointed to the exact area where the garage is proposed to be built. Mr. Torpey showed where it would be. She thanked him.

Chairman Maier asked the other Board members what kind of landscaping would they like to consider to buffer the structure if they were to put a condition on the resolution.

Mr. Torpey – That’s a good question. I don’t think we’ve gotten into it that far.

Mr. Angell – I’m open to anything. Pines or arborvitaes. I have numerous friends with landscaping businesses that were going to come this summer and we were going to work out all the details of the property. Right now the whole frontage is buried with trees. In the Spring you don’t even see my house. You can see it but not much because of all the trees. I’d like to leave if I could.

Chairman Maier – With the house you can but with the accessory structure it would be a little bit different.

Mr. Angell – Right, it would be a little visible but you still have the front trees there.

Mr. Torpey – Part of what’s there now in that scrub area which is just down from this group of trees here; those were juvenile Locusts. A lot of those got snapped over a couple of years ago and have kind of become a tangled maze of a mess.

Chairman Maier – I’m familiar with the area. I live there. In the Spring it looked like snowed.

Mr. Torpey – When the County came through and worked that up, it was kind of left as a work site. They cut down a lot of the trees for their lines and just kind of left it there. So when we put that barn in the biggest thing that is going to happen is we’re going to cut back away from the barn and not take out a lot of greenery that is there but just remove the damaged stuff that has fallen down and is laying in that area. It’s an abandoned area that will get reseeded and graded. That will become part of a lawn now. It’s not like that is going to be graveled all around it, black-topped around it. It’s actually going to become part of their lawn. Their lawn now is pretty much over where the septic field is and we will join that in so that it is now green space lawn, taken care of and manicured like the rest of the house.

Chairman Maier – What’s the Board’s feeling? Are we going to leave it up to the Planning Board or do we want to put the conditions on?

Mr. Reinhardt – On the bottom picture, is that where it’s going to go or am I not in the right spot?

Mr. Torpey – It's going to be closer to the road than that area. That's the expansion for the septic field.

Mr. Reinhardt – So you are going to be down here?

Mr. Torpey – If you look underneath the guardrail, maybe the fourth section in, you can see where the terrain drops off. As the terrain drops off there, we're going to continue along behind that section and set it into the bank right there. You're looking at where the very front of the building would be.

Mr. Reinhardt – You're pointing out my concern. There is a guardrail there. Why is it there?

Mr. Torpey – Because it's a ten foot drop.

Mr. Reinhardt – So highway had a concern, right, and how close is that structure going to be to that guardrail?

Mr. Torpey – It'll be over 40 feet. From the guardrail to where his property actually starts is somewhere around 20 feet. From that 20 foot mark we have the 15 foot setback, about 40 feet with the setback, so we are probably about 60 feet in from that guardrail.

Mr. Reinhardt – What I'm trying to get at is if the Board decides to grant the variance, sometimes we hear later on what I call the dumb bunny card. "Oh I didn't know that that was there.", "Oh I didn't know". You are fully aware that that is a guardrail that is protecting a problem, there is a drop off. I don't want to hear later on that you come back and say that you need something else because we didn't know there was a drop off; we didn't know there was a guardrail; we didn't know there was a problem there. You are fully aware that by putting it there that that's where you want it and you understand the lay of the land; you understand there is a drop off there; you understand there is a guardrail there. If some unfortunate accident happens and a car misses and goes into your property, don't come back to the Town and say I didn't know.

Mr. Angell – I would never do that anyway.

Chairman Maier – Back to a visual buffer, does anyone have any thoughts?

Mr. Reinhardt – I think with the size of the structure, not to be overly burdensome, but a minimum of six feet by four.

Chairman Maier – It's about what I was thinking. With 30 feet, if you were looking at pines.

Mr. Torpey – Are Arborvitae OJ?

Mr. Reinhardt – Deer love those, get something else.

Chairman Maier – I think something that is a little more deer resistant that is a year round buffer. What I'm thinking when I drove up there and took a look at it, it's really what you are seeing when you come out of the east. Let's say that eventually you have a ten foot span that it will take up, so three to cover the one side and then one in front of it to the east.

Mr. Reinhardt – I think you are supposed to plant them eight feet apart.

Chairman Maier – Eight or ten feet apart, yes, I think that would be adequate. Again, it would buffer a little bit. Actually with the snow and the wind it would be a nice little buffer for that too.

Mr. Angell – You are talking up towards the road and then the front.

Chairman Maier – What I'm talking about is you are going to put them right in here (showing the image) one, two, three, alongside it and then one as you come into (*inaudible*). I think visually it would help.

The conditions we've got are the colors are going to match the existing home; do we want to put just the one light or let them do whatever they want? Then the four pines.

Mr. Harter – I would also recommend that if they are going to put the structure right up to 40 feet exact, that they have an as-built and verify it along with what they did here; just to have this map updated so that we know with confidence that they....

Chairman Maier – That it is at least 40 feet, yes.

Mr. Torpey – When the project is done you want *an as-built survey done*?

Mr. Harter asked Mr. Benedict if the measurement was taken from the overhang of the structure and Mr. Benedict replied in the affirmative.

Mr. Harter – You already have a drawing that you submitted that is an as-built of what you did previously.

Mr. Torpey – That was just done last October or November.

Mr. Harter – Yes, so you can merely call these individuals and have them locate the barn and update this survey map and that way we know you hit the numbers.

Mr. Torpey – I'll have him set the pins.

Mr. Harter – Yes, if you're going to take it right up to 40 feet that's what I would advise you to do.

Mr. Torpey – Let me just verify what you are saying. After the barn is built you want to have an as-built update of that current map, of the structure on there as-built.

Mr. Harter – So that it verifies that.....

Mr. Torpey – You don't need anything prior to the construction? I understand that it would be very difficult for me to move six inches after it is built.

Mr. Harter – I think it is your responsibility then, assuming that you get the variance tonight, to put it in the right location. Usually when we get into these situations in terms of a field layout we bump it a foot or two more just for good measure, but if you want to take right up to 40 feet just go for it but verify when you are done.

Mr. Torpey – You've got it.

Chairman Maier – So one as-built....

Mr. Harter – Update the existing as-built drawing to reflect the newly constructed barn with ties to the overhang.

Chairman Maier read the resolution.

RESOLUTION:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on January 6, 2017 from Andrew Torpey requesting an area variance to place a 1,143 square foot barn forward of the front line of the existing residence at 7951 County Road 41, whereas §211-31G(2) indicates that an accessory structure is not allowed forward of the front line of the principal structure; 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 January 15, 2017 and whereby all property owners within 500 feet of the application were notified by U. S. Mail; and,

WHEREAS, a Public Hearing was held on January 23, 2017 at which time three residents spoke for the application and one petition was received which three residents (two of those spoke) signed that accepted and supported the project; and,

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

WHEREAS, the Ontario County Planning Board assigned the referral as a Class 1, AR-1 on January 17, 2017, referral no. 14-2017, and returned it to the local board indicating they will make no formal recommendation to deny or approve the application and indicated that the submitted application is clearly exempted from the County Planning Board review requirements by intermunicipal agreement; and,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings of fact for the accessory structure to be allowed forward of the front line of the primary structure:

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: It was indicated that there are two other accessory structures in the neighborhood that are in front of the building line. There is one in particular just to the west of this property. The applicant has made an attempt to mitigate any undesirable change in character by keeping the colors the same as the existing structure and buffering the structure visually from the road. The neighbors are in support of the project.

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

Justification: It was indicated through testimony that achieving another method would require a significant expense to the applicant.

3. The requested area variance is substantial.

Justification: Again, the applicant has agreed to mitigate the impact of the variance by visually buffering the accessory structure and making an attempt to match the colors to the existing structure.

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

Justification: Trees are not being removed. Grading is not being done. The chosen area appears to be the only spot on the property, which has a unique topography, where the size of the requested structure can be built.

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 Keith Maier, and seconded by Scott Harter:

NOW, THEREFORE BE IT RESOLVED that the application of Andrew Torpey for an area variance to place a 1,143 square foot barn forward of the front line of the existing residence at 7951 County Road 41, Victor, NY 14564, BE APPROVED.

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

1. 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.
2. The applicant will update the as-built drawing to reflect the constructed barn when completed. This drawing should be submitted to Alan Benedict, Code Enforcement Officer, for verification.
3. The applicant will install four pines of their choice. Three to be equally spaced along the northern side of the structure and one to the southeast, just forward of the entrance to the structure.
4. The colors of the barn will as closely as possible match the colors of the existing log home.

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

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

Adopted: 4 Ayes, 0 Nays

2. BROSTEK – ADDITION(S)
7971 Boughton Hill Road (County Rd. 41)
Appl. No. 29-Z-2016

Applicant is requesting to add two 16' x 40' lean-to's on either side of an existing garage that is already forward of the front line of the existing residence, whereas Section 211-31G(2) indicates that an accessory structure is not allowed forward of the front line of the principal structure. Also to allow the enlargement of the mentioned existing garage, whereas §211-3B(2) prohibits the enlargement of a nonconforming structure. There are two area variance requests in total.

Chairman Maier opened the Public Hearing and the secretary read the legal notice as it was published in The Daily Messenger on January 15, 2017.

Chairman Maier – Good evening. Do you want to give us an overview of what you are requesting?

Robert Brostek of 7971 County Road 41 addressed the Board.

Mr. Brostek – As you can see from that picture, the roof on the barn is very ugly; it's all rusty. The barn was built in '78. I just found that out. I'd like to freshen up the whole exterior of the barn and also add two 16 foot lean-tos, just for more storage. I've got a boat; four-wheelers; motorcycles; bikes; I just want to be able to put everything inside.

Ms. Morley – When you are say lean-tos, are they not enclosed?

Mr. Brostek – Enclosed. They will have ten foot doors.

Ms. Morley – Can you show me on that picture, where you are talking about?

Mr. Brostek – Right here there will be a 10' x10' door.

Ms. Morley – And then that where *it has an angled roof* will be enclosed?

Mr. Brostek – Yes, the roof would just keep going to about there and then straight down. So when you would drive by you would see nothing but new roof, new siding, new everything.

Ms. Morley – On both sides?

Mr. Brostek – Yes.

Mr. Reinhardt – So why are you calling it a lean-to as opposed to an addition to the garage?

Mr. Brostek – That's what the builder was calling them, that's what I've always called them.

Mr. Reinhardt – OK, so when it is all done is it going to look like one structure?

Mr. Brostek – Yes.

Mr. Reinhardt – So there will be three bays. Two new bays and one is the existing one. Once you are in the main garage, can you get from the other two garages as well, do you have to go outside or are they interconnected?

Mr. Brostek – I'll probably just have a door over here and over here. (*interior doors*)

Mr. Reinhardt – What is the front setback now for the current garage?

Mr. Brostek – 80 feet for the current one. The house is almost 300 feet from the road.

Mr. Reinhardt – So the addition to the north when it is completed...

Mr. Brostek – About 164 feet.

Mr. Reinhardt – How did you come up with those? The width of the addition, 10 feet, 12 feet, why did you pick the numbers that you did? What is the purpose?

Mr. Brostek – Figured it was as big as you could go. It seemed like a decent number.

Mr. Reinhardt – The depth is going to be consistent with the depth of the garage?

Mr. Brostek – Yes.

Mr. Reinhardt – What's your plan, you say freshen up the garage, what are your ideas?

Mr. Brostek – All in metal; all new metal; the roof; siding; along the front. It'll look like brand new built.

Mr. Reinhardt – The metal is going to be consistent, one color?

Mr. Brostek – It'll be white roof, white trim, with dark forest green siding.

Mr. Harter – I think I have a question for Al before I ask any other questions. Is this structure that is ahead of the primary structure, was a variance granted for that when it was originally built?

Mr. Benedict – I did not find anything in the record that showed there was a variance. I suspect that it was maybe not required back then. In 1978/1979. I did not verify that but that is my speculation.

Mr. Harter – I guess that is the only question I really have. I think given that the neighbors are still here I'd be curious to have comments from the neighbors with respect to character of the neighborhood.

Chairman Maier – So there is a lot of equipment out there right now. Are they working on the garage?

Mr. Brostek – The other garage addition, yes.

Chairman Maier – Is there a reason you couldn't accomplish what you want to accomplish by making the garage larger?

Mr. Brostek – The garage on the house? (Yes) I own three pick-up trucks. My girlfriend has a Volkswagen. She's got a jeep; plus snowmobiles, four-wheelers, the Harley, the boat. It would just be nice for everything to have its own little spot.

Chairman Maier – What's in there right now?

Mr. Brostek – The single car garage on the house?

Chairman Maier – The accessory structure, what's there now?

Mr. Brostek – There are some tools; right now a lawn mower, my old truck. It's packed full of mowers and...everything.

Chairman Maier – I mean I saw a boat. I saw the equipment; I don't know if that was your equipment or somebody else's equipment.

Mr. Brostek – It's the builder that is doing the garage.

Chairman Maier – Again, why couldn't you put a four garage in?

Mr. Brostek – I could have but I figured I'd just go with what I wanted over there just for an everyday garage and that would be my cold storage.

Chairman Maier – OK, is it cheaper to do it this way then to add on to your garage.

Mr. Brostek – Probably by the time you get done with all the footers, blocks, whatever, yes, it would be cheaper to do the pole barn.

Chairman Maier – Is it going to have a concrete floor, the proposed?

Mr. Brostek – Yes, eventually.

Chairman Maier – So you are basically going to go with a pole barn and start with crushed stone?

Mr. Brostek – We'll probably do the concrete this year as long as the weather is not so horrible.

Chairman Maier – Is there a reason you can't extend to the south. So rather than putting the lean-to on both sides, you would extend one side by 32 feet.

Mr. Brostek – If you were to bring it out one way, you'd be basically in the driveway and you would have to pull in,...you would not be able to see the house at all from the road.

Chairman Maier – So you can't go back this way any further?

Mr. Brostek – I didn't want to do a 32 feet because of the roof pitch. It would be too flat. We'd be worried about the snow on the roof. I wouldn't want to go to the south with anything more than what is going to be there now.

Mr. Harter – If he matches the roof line and keeps the same pitch of the roof like is shown in the sketch, then he'd have a four foot high wall.

Chairman Maier – I know, but it could be a little less gradual, a different pitch. I was just asking the questions.

Mr. Brostek – I just didn't want the snow load - the way the wind blows across there.

Chairman Maier – Colors?

Mr. Brostek – Are green and white.

Chairman Maier – The white will be the sides?

Mr. Brostek – The white is going to be the roof and trim and the sides will be dark forest green like the house.

Chairman Maier – Do you operate a business out of the house?

Mr. Brostek – No.

Chairman Maier – So there is no business, no storage for business out of the house? (No)

Mr. Brostek – It's all my toys.

Chairman Maier – Any thoughts about landscaping?

Mr. Brostek – Down the road, yes, Pine trees or something.

Chairman Maier – How far down the road? Spring?

Mr. Brostek – Yes.

Chairman Maier opened the project up to the public for comments.

Richard Cronise of 7942 County Road 41 addressed the Board.

Mr. Cronise – I'm right across from Mike Angell and down the hill a bit from Rob's. Our view of his property, because of the way the topography is, it actually goes up, unless one actually looks off to the side when you are going 55 mph, looking up the driveway, you'd never see his buildings anyway. He has a berm and also the way the road goes through the top of the hill, it actually cuts through a hill so the elevation directly north of his barn is well above the level of the road. We've never had a problem with what he's had there. I think his plan looks better having the symmetry and I have no problem with whatever he wishes to do there.

Chairman Maier – So you are going to change the rust colored exterior?

Mr. Brostek – Yes, make it look a lot nicer. If you stand at his (*indicating someone from the audience*) front door and you look over toward my house that's all you can see is the rusty roof.

Jim Woodard of 7950 County Road 41 addressed the Board.

Mr. Woodard – I live right across the street and I'm in favor of what he is doing because I can see the roof. I'd like him to clean that up.

Mike Angell of 7951 County Road 41 addressed the Board.

Mr. Angell – I can just see the roof of his house from my property. That's really the only thing that I can see is that roof. So anything he does, and I've been in the barn, anything he does is exactly what is going to help the whole neighborhood. The barn needs some work and he's willing to put the money into it. I'm all for it.

Carol O'Neill Smith, 5555 Centerpointe Blvd, Canandaigua, addressed the Board.

Ms. O'Neill Smith – I own the vacant land directly across from *Mr. Brostek*. Because of the bank, my land looks directly onto his. I think it would be a nice addition to the neighborhood to make his barn look presentable. On the other hand I have concerns because I plan on developing that land sometime and I'm not sure about all these recreational vehicles and the noise they are

going to create. I'm not sure that when you build a building that size you are opening up to the future. If there is a business going to go in there that would be detrimental to my land value. I'm not saying I'm against it. Like I said I think the building being made presentable would be a nice addition to the neighborhood. I just have reservations.

Chairman Maier – So at this point you are in favor of it?

Ms. O'Neill Smith – No.

Mr. Harter – She's neutral.

Ms. O'Neill Smith – Yes.

Chairman Maier – Just a quick question for you on the side. Is it a large parcel that you own?

Ms. O'Neill Smith – 19.5 acres.

Chairman Maier – Who used to own the parcel where they did the motocross?

Ms. O'Neill Smith – My father.

Chairman Maier – I used to live around there and used to watch it.

Ms. O'Neill Smith – So you know there is a noise from...

Chairman Maier – Actually there is a lot of noise. There is the Conservation League. The noise carries depending on the wind. Alright, thank you very much.

Ms. Morley – You said you did not have a business in the garage, correct, OK.

Mr. Brostek – No. (*Does not have a business in the garage*)

Bill O'Neill of 1395 Strong Road addressed the Board.

Mr. O'Neill – A question, is the structure going to be heated?

Mr. Brostek – No. The center part is heated, the existing structure is heated, but the other sides are just going to be cold storage for my boat, etc.

Mr. O'Neill – What kind of heat do you have in there?

Chairman Maier – This is something for a later ... if you have a comment relative for us, if you want to let us know if you are favor or not.

Mr. O'Neill – As it stands, I'm not really against it. It seems like there is a lot of wasted space behind it. I'd agree with you that it might be better utilized going south of it. Why get into an

aggravation down the road over center distance or distance away from the right-of way. Other than that it's between him and the Town.

Chairman Maier – So are you neutral?

Mr. O'Neill – Yes, I don't have any real objections to it.

Chairman Maier – OK, two neutrals, three in favor. So it does not have electricity?

Mr. Brostek – It does. The center section does. The outer ones are just going to be cold storage.

Chairman Maier – So there is no change in lighting?

Mr. Brostek – No change in lighting.

Chairman Maier – You still have to go to the Planning Board. (Yes) If we put a condition on for buffering, some pines, would you be....six foot?

Mr. Brostek – I'm fine with that. You really can't see hardly anything unless you're standing right in front of the driveway and looking right down it.

Chairman Maier – I appreciate what you are saying but I could see it.

Mr. Harter – Does this go to the Planning Board?

Mr. Benedict – Yes, it does.

Ms. O'Neill Smith – I have a quick question. Have there been any verbal or written responses to this issue.

Chairman Maier – No, no that I am aware of. The sign has been out a week or two.
I'm going to close the public hearing.

RESOLUTION:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on December 20, 2016 from Robert Brostek requesting an area variance to construct two additions of 16 feet by 40 feet on the north and south sides of a previously existing accessory structure which is forward of the front line of the existing residence at 7971 County Road 41, whereas §211-31G(2) indicates that an accessory structure is not allowed forward of the front line of the principal structure; and,

WHEREAS, the existing accessory structure is preexisting nonconforming, an area variance is also requested to §211-3B(2) which prohibits the enlargement of a nonconforming structure; and,

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

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 15, 2017 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 a Class 1, AR-1 on January 5, 2017, referral no. 8-2017, and returned it to the local board indicating they will make no formal recommendation to deny or approve the application and indicated that the submitted application is clearly exempted from the County Planning Board review requirements by intermunicipal agreement; and,

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

WHEREAS, a Public Hearing was held on January 23, 2017 at which time five residents spoke, three were for the application and two were neutral regarding 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 for the accessory structure to be expanded and additions to it be allowed forward of the front line of the primary structure:

1. An undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: The undesirable change is mitigated by the repairing of the roof; putting siding on; cleaning up the area. The addition of the lean-tos will be more visually acceptable than what exists. The applicant has also offered to plant a visual buffer to mitigate the undesirable change to the character of the neighborhood. The majority of the residents spoke for the additions to the accessory structure.

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

Justification: The applicant indicated that the cost would be substantial to accomplish this by another means.

3. The requested area variance is not substantial.

Justification: There is already an existing structure there which had been there since 1978; it is just being expanded. Again, the applicant has offered to make the accessory structure more attractive by replacing all the metal and creating a visual buffer.

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 topography is not being changed or making any substantial physical changes.

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

On motion made by Keith Maier, and seconded by Michael Reinhardt:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Robert Brostek, 7971 County Road 41, Victor, NY 14564, for two area variances to construct two additions of 16 feet by 40 feet on the north and south sides of a previously existing accessory structure forward of the front line of the existing residence BE APPROVED.

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

5. 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.
6. The applicant will plant a minimum of four six foot pines on the north side of the accessory structure.

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

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

Adopted: 4 Ayes, 0 Nays

It was unanimously agreed and RESOLVED, that the meeting was adjourned at 8:30 PM.

Debby Trillaud, Secretary