

A regular meeting of the Town of Victor Zoning Board of Appeals was held on February 6, 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; John Butler; Victor Historic Advisory Committee Liaison; Brent Barkman; Diane Hett; Fred Rainaldi; Joe Hurley; Mauro Polidori; Matthew Moore; Adam Rooney; Cathy Templar, Secretary

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

### APPROVAL OF MINUTES

On a motion by Keith Maier, seconded by Michael Reinhardt,

RESOLVED that the minutes of January 23, 2017 be approved as submitted:

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

Approved: 4 Ayes, 0 Nays

### EXTENSION OF TIME FOR BUILDING PERMIT

1. VALENTOWN PLAZA, LOT#3

300 High Street

Appl. No. 04-Z-2017

Applicant requests an extension of time for a building permit issued for Valentown Plaza, Lot #3. Construction did not begin within six months for three successive issuances of a building permit. The Zoning Board of Appeals may extend the building permit on a year-to-year basis.

Mr. Fred Rainaldi of Rainaldi Brothers addressed the Board and distributed renderings for the proposed building.

Mr. Rainaldi – Good evening. I'm with Valentown Plaza and High Point. I'm here tonight to discuss and request of the Board an extension, a 12 month extension, to our permits for the proposed building that is depicted by the rendering in front of you. I have the same view facing

the public and I can leave these (*renderings*) here if there are any questions after my presentation.

The proposal that makes up the application and permit for the Valentown Plaza represents the fourth phase of retail at the High Point project. We have gone through many phases of restoration and development on Route 96 which has incredible responsibilities with regards to its proximity to a lot of very important historical assets and buildings that are our immediate neighbors. As such we have been proposing architecture that is of a true period style design and quality to respect, add to the environment, add value to the community and also attract and engage a series of businesses and tenants that will enjoy and live in these buildings for a long period of time. Because of that the interplay between these tenants design; the buildouts, the way that they live in these buildings, they have a heightened responsibility in the way that we execute their construction. Because of that, sometimes, the process takes a little longer than in a traditional retail environment, especially in our market. It's because of that that I've asked the Board to consider a 12 month extension of the permits which would allow me enough time to complete the process with my tenants and commence construction and get the building up so that we can all enjoy the new addition to Valentown Plaza.

Ms. Morley did not have any questions.

Mr. Harter – What I gather from this is that you must have been issued a building permit to proceed and you are just not ready?

Mr. Rainaldi – Correct, what's cool about the building, so this is a derivative of the woman's suffrage museum down in Seneca Falls. It has beautiful 70 plus foot vaulted ceilings; very technical mechanical systems. We've designed the systems so that everything is inside the building so people can walk 360 degrees around the building. The visual that I had handed out to the Board allows for people to walk uninterrupted to the Seneca Trail. So people use it. I spent a lot of time on the project, even on the weekends. If you are up there you will see that people are running and training on our hiking trails and we hope that we can continue to improve the entrance ways and the parking facilities and continue to promote utilization. We pulled the permit; this building is such that there is a very intimate relationship between the businesses and their buildouts. We don't allow for exterior manipulations. We want to follow the architecture that was approved and because of that there are special things that happen inside the building. We play a little more involved role in the tenant buildout than would be traditional with this type of product. The coordination just takes a little bit longer. You would be providing me with enough time so that wasn't a fire drill and we would be able to complete the process comfortably.

Mr. Harter – And is the permit, is the duration a year AI?

Mr. Benedict – Typically a building permit would last for one year, however, there is something in the Code that states if construction doesn't begin within six months the permit becomes null and void. So one of my questions for this Board is if you choose to give an extension is it going to expire in six months or you can just give him a year.

Chairman Maier – That's a good question.

Mr. Reinhardt – I'm going through the packet and it looks like you've already had an extension. The building permit was originally issued in September of 2015 and you asked for an extension in February of 2016 and now you want another 12 months. It begs the question what's taking so long?

Mr. Rainaldi – The building is 25,000 square feet and my goal has been, as was requested and encouraged by the Town and the community, to introduce smaller format retailers. When you take a building like this that has vaulted ceilings and beautiful exterior/interior detail; lots of glass; coordination with mechanical systems; retail entry; so that you are respecting the building façade. I want to introduce new retailers, unique retailers, create a unique footprint for existing retailers to grow. This is an environment that is going to have a lot of unique features and because of that it takes extra time.

Mr. Reinhardt – Your original building permit back in September of 2015, how is different then than it is now with your mind set and all your ideas of what you say you want to do? It seems to me those kinds of things should have been thought and ready to go when you got a building permit back in September 2015. I see what your vision is now. I don't know what is taking so long.

Mr. Rainaldi – The vision hasn't changed. We pulled the permit to preserve the integrity of the approvals. My request tonight is just further extending the permit so it doesn't expire. Nothing has changed except for intense coordination with tenants and getting the building ready to be ground broken. I can't break ground on this building with one small portion of it leased. A majority of it has to be leased. We're there, bringing tenants in that create new jobs that are not new to the market, that are of a smaller scale. It's not an easy task. Anybody can tell you and you can probably see in our landscape that I have a heightened responsibility here because of how unique the product is; the type of architecture; its relationship to a lot of historical features like the Valentown Museum and the Cobblestone Schoolhouse and the Bonesteele House. I'm closer to the community, I'm a little set off from Route 96 so I want to make sure that it is very special, that's it of a pedestrian scale. Nothing has changed except that it has taken longer to bring this to life than I would have liked.

Mr. Reinhardt – Maybe I misheard you. It sounds like you are close to breaking ground or not?

Mr. Rainaldi – We are close to breaking ground.

Mr. Reinhardt – So why do you need 12 more months? Why not six months?

Mr. Rainaldi – Because I prefer not to have to come back to the Board multiple times. My business is very unpredictable. The 12 months is a conservative time frame and it wouldn't create an environment where I would have to come back and ask for relief again. I know that within the 12 months I can accomplish my goal and have ground broken and give you guys something very special to look at coming out of the ground. It's a conservative window. It's a window that allows me to have a contingency if for some reason things don't go as planned.

Mr. Reinhardt – I have a question for Al then. Do you know what the intent of the Code is when it says the six and then the 12 month parameters once you are issued a building permit then to break ground.

Mr. Benedict – I suspect the idea is to encourage the applicant to start his project and then complete it in a reasonable time frame. I think the reason he pulled the original permit was that there is also an item in the Code that states that you lose your site plan approval if you don't pull a permit within one year. That is part of the reason why he is doing this I believe.

Mr. Reinhardt – OK, thanks, that's all I have.

Chairman Maier – I appreciate what you are going through in terms of tenants and getting it somewhat occupied before you build it. I really don't have any more questions other than to pull the Board. Al has an extension ever gone on this long to the best of your knowledge?

Mr. Benedict – I can say there have probably been some permits that have gone on without extensions. I think this is maybe the second one that I know of that's come before this Board for an extension.

Chairman Maier – So if the extension is not granted what does this do to the applicant Al?

Mr. Benedict – He would have to go back to the Planning Board to get reapproved for the site plan. He would then have to reapply for the building permit with all the associated fees.

Chairman Maier – The building permit has not been applied for yet, has it?

Mr. Benedict – The building permit has been applied for, that's what we are extending.

Chairman Maier – But the building permit has not been granted?

Mr. Benedict – It has been granted.

Chairman Maier – So you got a set of plans and you reviewed the plans. (Correct) When did you review the last set of plans?

Mr. Benedict – It would have been prior to the last one being issued which was this September, 2015.

Chairman Maier – So if we grant it again, you'll get a new set of plans.

Mr. Benedict – No.

Chairman Maier – So one of the questions I have is that there have been changes in Building Code recently. How does that impact this project?

Mr. Benedict – My understanding is, from what the State has said previously, you get an application in prior to the Code changing it goes with the previous Code. I have sent out a message to the State asking if this has any bearing and I haven't gotten a response at this point.

Chairman Maier – With this particular application?

Mr. Benedict – Right.

Chairman Maier – Is the architect here tonight.

Mr. Rainaldi – By proxy.

Chairman Maier – That's one of my concerns. There have been changes in the Building Code. I'm not familiar with all of them but they are somewhat more substantial for 2017, AI?

Mr. Benedict – Certainly the Energy Code is.

Chairman Maier – Some structural?

Mr. Benedict – There is some.

Chairman Maier – But nothing substantial. (Right). What you are proposing, what we have a picture of right here, is that what was submitted to the Town and is that what you are going to go with? Have there been any changes?

Mr. Rainaldi – There haven't been any changes. These are actually the original renderings that I used for the approvals. There are no proposed changes. To that extent, we build quality product, we're very proud of our product. I have no problem with AI having a right to review according to...

Chairman Maier – That's where I'm going with it, I'm trying to figure out how to put the pieces together because I want to make it fair to you, but also make it fair for somebody that is just coming in. If we decide to head in that direction that you are being treated the same way as somebody else that would come in and is getting a new permit issued. Again, to make sure we're doing things the way they should be done. If it were to be approved, I'm going to put some conditions on it that would ensure that that's all taken care of.

Mr. Rainaldi – And that is completely fair. 99% of these updates that are applied to the Code have to do with life safety and that is an issue that is as important to us as it is to the municipality. I have no problem with that at all.

Chairman Maire – Donna, how do you feel?

Ms. Morley – I'm fine with the 12 months.

Mr. Harter – I think the extension makes sense. They have already been through Planning Board for site plan. I don't imagine it would be that enjoyable or productive to go back through that again. But I think with respect to the Code, Al do you have another opportunity before they start construction to review the plans for compliance or do you already feel they have been reviewed?

Chairman Maier – Depending on what he hears from the State. If the State comes back and says that it falls under the new Building Code requirements I'd like to make sure that that is followed.

Mr. Harter – Ok, so subject to what he hears back. Sounds good to me.

Mr. Reinhardt – I like your questions. Al do you know of any current Code that is new that wasn't in existence when he applied that could change, especially for safety, which you are aware of?

Mr. Benedict – We went to the new version of the Building Code in October. I don't know anything off the top of my head. I can tell you that the Energy Code has changed significantly for commercial buildings.

Mr. Reinhardt – As far as safety goes there isn't anything that is raising a red flag to you to say that there is a difference in current Code as compared to Code back in 2015?

Mr. Benedict – I'm kind of guessing, but I'd say with this size of building, probably not. The Town requires sprinklers which he has already agreed to put them in. That would cover most any safety issues that would come up.

Mr. Reinhardt – Then I think I'd be OK.

Chairman Maier – What is the cost to submit for a building permit Al?

Mr. Benedict – It's 20 cents a square foot.

Chairman Maier – OK, what I think I'm hearing and what I'm proposing is that we grant the extension for 12 months and we put in there the condition that should New York State reply that this would fall under the new Building Code requirements, that you resubmit up-to-date plans along with the fees for reviewing the application. That you comply with current Building Code if that's what the State says. The other thing I'm going to ask is a requirement, I believe I can put this in there if we have the ability to do it, is charge another \$300 for renewing the 12 month extension. The reason is that it compensates, a little bit, the residents for the resources that have been taken up with this process. Is that acceptable? OK.

## RESOLUTION

WHEREAS, in a letter dated January 23, 2017 from BME Associates, on behalf of 46 North Ave. Associates, an extension of time was requested for a building permit for Valentown Plaza, Lot #3; and,

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

WHEREAS, two extensions have been granted by the Code Enforcement Officer; and,

DECISION:

On motion made by Keith Maier, and seconded by Scott Harter:

NOW THEREFORE BE IT RESOLVED that the Town of Victor Zoning Board of Appeals grants an extension of time until 12 months from the expiration from the previous building permit BP2015-0442, which is March 15, 2018, with a fee of \$300 for the construction of a 24,704 square foot building shell at Valentown Plaza, Lot#3, 300 High Street, Victor, NY 14564.

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

1. That the renewal fee for the permit be paid prior to the issuance of said permit extension.
2. Should New York State deem that this application would fall under the new Building Code Requirements (10/2016) that up-to-date plans be resubmitted along with the appropriate permit fees at the time of application.

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

Mr. Rainaldi – Thank you for your time tonight, I appreciate it.

INTERPRETATION

2. BARKMAN HONEY FARM  
788 Old Dutch Road

Appl. No. 03-Z-2017

Applicant requests an interpretation of whether their intended business use at 788 Old Dutch Road, processing & packaging honey and less than .5% sales is compatible with Code §211-24A, permitted uses in a Light Industrial zoned District.

The secretary read the legal notice as it was published in The Daily Messenger on January 219, 2017.

Brent Barkman, the owner of Barkman Honey LLC addressed the Board.

Mr. Barkman – I appreciate this opportunity to get together with the Board tonight and the opportunity to visit Victor for the first time. I'm very impressed with your Town. It's a great little Town and looks like a great extension place for Barkman Honey LLC. We're extending our footprint and would like to be a part of your Town.

Tonight we have with us Adam Rooney. He's with Moore Corporate Real Estate in Rochester. He's our broker. We also have Diane Hett. She's our industrial engineer from Barkman Honey LLC. I'm just here to do the introductions and these guys have the information. If you have questions they'd be glad to answer them. If they can't I'll see what I can do to help answer them also. It's a pleasure to be here and we will be happy to answer the questions that you have.

Chairman Maier – Why don't you give us a description. The size of the facility, what the plans are, how it's set up, everything.

Ms. Hett – You can see on the map that we want to lease this property. We'll be doing processing and packaging honey; raw honey from New York, local honey. We'll store it in our warehouse for distribution to customers here in the New York area.

Our main purpose is really processing and packaging honey. We like to have, maybe it's more of show room; you might want to call it instead of a retail store. A show room where we are going to have some hives on the property and we will be doing some classes for taking care of bees and the hives. We thought it would be nice to have a place after the classes to come in and buy some educational material and some local honey and maybe T-shirts or something. Our sales of honey would be very minimal, less than half a percent of our total business here in New York.

Chairman Maier – Mr. Rooney do you have anything to say?

Mr. Rooney – No, I just wanted to be present and introduce myself. I would also ask if there is another meeting if I could speak on their behalf so that they don't have to fly out from Kansas. I would be happy to do that. I'm not sure what the rules are regarding that. Essentially she hit the nail on the head. It's going to be a showroom where the community can access the business and

see what's going on and learn about the process of making honey. It's very low volume in terms of their total sales.

Mr. Barkman – I think the intention tonight is to get an interpretation of your Code to see if the retail space is applicable in the Industrial Code. That's basically what we are asking for tonight.

Chairman Maier – I understand you're also going to the Planning Board, is that correct? Do you have an application submitted?

Ms. Hett – We do. We're still working through the lease agreement and we're also looking at some other properties as well that are also zoned light industrial. We're kind of waiting for all that to come together before we take that next step to the Planning Board.

Ms. Morley – On the information that you are giving us you say you expect to have less than 12 customers per week. How did you come up with that?

Ms. Hett – That's a really good question. It's really tough to really know what that might be and so we looked at what an average sell is at one of our typical stores that we sell to. A lot of times a store can sell one to two bottles in a week. We figured maybe we would get a customer a day and they might buy two bottles or two customers a day and we figured it that way.

Ms. Morley – And you have a facility now that is all set up doing this somewhere else? You said you were coming back and forth from Kansas.

Ms. Hett – We have a packaging and processing plant, but it's high commercial, and so we focus just on packaging. We don't currently have a little store, we sure don't.

Mr. Barkman – That's our best guess.

Ms. Hett – Yes, that's our best guess, by looking at our units per store, per week and then trying to figure out what our foot traffic would be.

Mr. Harter – Has the building been built?

Ms. Hett – It is an existing building.

Mr. Harter – I was just looking at one photograph here that didn't have it. I'm quite familiar with that site. Victor Excavation is right next door, I think?

Ms. Hett – Yes, there is a landscaping company.

Mr. Harter – I don't think I have any questions for the applicant. I think it all boils down to what we, the Board, think about this proposed use versus what we are supposed to allow.

The only comment I would make is that I'm very familiar with that site because I designed it about ten years ago. I think it would fit well where you are proposing it. That being said I think that is a side bar to whether it fits or not based on the Code. Thank you for your response.

Mr. Reinhardt – So if I got this right, the issue is you have such a small amount of product that you are going to sell, you think you are under the radar when it comes to a permitted use in the light industrial zone.

Ms. Hett – Yes, what is your interpretation of retail, your definition of retail. Would that be considered retail?

Mr. Reinhardt – Well to me, I don't see a lot of wiggle room in the Code. There aren't any percentages, it's not kind of sort of, either it is or it isn't. Once you start selling a product, even if it is one, to a customer, that's retail. The .5 percent, that's relative, is it two bottles, is it 10,000 bottles, it depends what your total volume is to determine what that small amount is. I'm leery, if you will, of letting the barn doors open, once the animals are out, they are gone, and you can't go get them. Why aren't you doing a kiosk or something else, why are you trying to put the square peg in the round hole? Why not go out to Eastview Mall or some other place to get your product out to some place that is permitted that allows you to sell your product and do the manufacturing, the packaging at the facility?

Ms. Hett – We will be looking at kiosks in the area as well and we also have customers in this area as well that will have our product on their shelves. We just thought it would be a nice compliment when we are doing a bee keeping class. People want to come in, they've learned about bees, how honey is made, and now they might want to buy a jar of honey.

Mr. Barkman – The way I look at it is it's not really a retail play from a profit standpoint. It's more of like if you've ever been to a brewery and a brew tour and they teach you how to make a beer and then you can buy merchandise if you'd like. It's kind of how I look at it.

Mr. Reinhardt – It's funny you say that. I was just in Nashville and I was in something similar to what you have in an area and it was Jack Daniels. You can't buy liquor there. You can buy everything else there. There are some rules and regulations in that town that must be that you can't sell the liquor there. I guess for the time being, I'd like to hear other comments and questions, I don't see a lot of wiggle room in this Code that allows you to even sell one bottle as far as retail goes. For now that's all I have.

Chairman Maier – This is not a public hearing, but we have more people in the audience than we have applications and so if anyone has any brief comments that might help, I'll briefly open it up for comments.

There were no comments made.

Chairman Maier – I'm looking at the floor plan that you have. Is the floor plan changing at all?

Ms. Hett – No, we don't. Not for this building, however, we're not committed to this building yet either. So there may be other buildings we might be looking at as well, but we thought we would at least bring this in front of you to get the interpretation to see what is allowed.

Chairman Maier – I think that is prudent. One of the things that I think makes it easier sometimes is if we knew the square footage to be allocated to retail space.

Ms. Hett – We were thinking 300 to 400 square feet.

Mr. Rooney – The space that would be leased is about 12,800 square feet.

Chairman Maier – What's that percentage? Is that less than five percent?

Ms. Morley – In your letter you say 200 to 300.

Ms. Hett – Oh, I'm sorry, 200 to 300 square feet.

Chairman Maier – What does that come out to Scott?

Mr. Rooney – So ten percent would be 1,200, five percent would be 600 square feet.

Chairman Maier – So about two or three percent. There are offices in the front.

Ms. Hett – It would just be in that open area. It wouldn't be in the offices.

Ms. Hett went to the projected image to indicate where the retail portion would be.

Mr. Barkman – So our intention right now would not be to remodel at all. Just to use the building in the existence the way it is because of the fact that we don't want to expand that retail space. That's not the focus of our business at all. As Diane stated, we have customers in the area that

we're going to be supplying with most of the product that is produced in that building. It's just a side bar.

Mr. Reinhardt – Do you have other facilities like this, where by design you have packaging, warehouse, and it sounds like you were going to offer some type of tours of some sort.

Mr. Barkman – We are sticking our toes in the water here. You are our first attempt at trying this.

Ms. Hett – It's a new adventure.

Mr. Reinhardt – You were going to say Guinea Pig weren't you?

Mr. Barkman – Yes, a little bit, I was getting there. We don't know if the retail store is even going to attract anything. It's just part of our vision that might make it a destination place for people to go.

Chairman Maier– I appreciate the fact that you are coming in now. It's my understanding, and I'm going to test your memories Scott and Mike, that there are a couple of operations in that light industrial district that do have a retail component to them that have been previously approved. I don't know if you remember.

Mr. Reinhardt – I don't, we bumped one not too long ago.

Chairman Maier – I'm talking about the Apple Store. Mac Ave I believe.

Mr. Harter – What is in existence now, what are you referring too? Oh, the Apple Computer Store.

Chairman Maier – Right, and then I think there were one or two others.

Mr. Benedict – Lester Sports.

Chairman Maier – Under the criteria, and I'm thinking out loud, is that it is an agricultural operation. It is a food preparation business. I think we could probably say that that fits those guidelines. One of the things that we can do is, they have to go to the Planning Board, and we can give them guidelines in terms of what we perceive to be a percentage allocated to retail. Even if it's internet or whatever. The other thing is that the Planning Board can issue a special use permit also.

Mr. Harter – That was one of my questions.

Chairman Maier – We can request that the Planning Board consider a special use permit. I don't know how the rest of the Board feels. Right now we are looking at about two percent of the total space that would be perhaps retail, perhaps not depending on how it goes. The question to the members of the Board is does that kick you out of the light industrial district. I'm not going to answer that right now, but the other tool that we have available to us is we could say that above a certain percentage would not be allowed in terms of square footage. Also that the Planning Board could consider issuing a special use permit for this application. What that would do is make sure that you have adequate parking, hours are correct, that there is a way to check to make sure that what is supposed to be done is being done there. Your special use permit can be denied. That's why I'm asking some of the questions I'm asking but that is an option too if we wanted to consider something like that.

Mr. Reinhardt – Those are all good ideas but I would be concerned at least at this point. Our job here is to interpret and it's either yes it is or no it's not. We can't, I don't think, be as creative as we might be able to be with variances. At least that is my understanding of what our job is here. We certainly could make recommendations to the Planning Board on this is our thought process.

Chairman Maier – That's what I'm saying and put it in the minutes. Is there a threshold that we believe would make it not appropriate for this district?

Mr. Reinhardt – You triggered a thought as far as hours go. Surely your hours of operation for your wholesaling, your packaging, that's a completely different animal. When you are talking about retail, and I don't necessarily want to say you said you are limiting it to tours, but if it turned out to be that you only wanted to do it on Saturdays, that would help minimize or solidify your arguments that it's a small, small operation. Our main business is to process and package but if someone wanted to see how we run the business, and we sell a bottle of honey here and there. Again, those are just thoughts, and I don't think we can put that in the (*resolution*).

Chairman Maier – But I'd think that we'd want it in the minutes, a threshold, let's say it's five percent. Ultimately, what are you going to do with the honey when you are done processing it?

Ms. Hett – We're going to package it and sell it to our customers. It will be distributed to our local customers.

Chairman Maier – I understand. That's the dilemma that we have and I think there may be a threshold that we can agree on in terms of square footage. Number of customers is hard to do, hard to enforce. Hours of operation, again if it's not that significant the Planning Board, should they choose to do that, could put restrictions on the hours of operation. Like Mike says, we don't want to open up a can of worms but we do have other businesses that do some retail that are in

the light industrial district, but the major component of what they do fits the light industrial definition.

Mr. Barkman – There is an educational component to this too. Again, we don't know where this is going to go but educating school kids could be another opportunity. Giving tours and things like that and that would change the whole....

Chairman Maier – I think we want to stick with the discussion that we have here in front of us and the majority of what you are doing right now.

Mr. Barkman – That's the interest that they have too, to take something home with them.

Chairman Maier – I think a lot of businesses give tours.

Mr. Harter – So to Mike's point, if we were to take a look at this and establish a number, say a maximum percentage for this particular use within the light industrial use, would we have the ability to do that along with a recommendation to the Planning Board?

Mr. Reinhardt – I think if we put in the minutes (*it's fine*). The fundamental problem that we have is we could be creating some other issues that once we say yes, if we do say yes to this, and then you decide, you're expanding or move out, somebody else moves in and says this is allowed to happen at five percent, but then their units are five billion. You're at a much smaller scale but now we're stuck with a percentage. Can you give us an educated guess? How many units do you think you're talking about when you say five percent?

Ms. Hett – Maybe a one pound unit, so a pound of honey, that's our normal unit size. So if you look at our stores, some of our smaller stores sell a unit per store per week. We were using those numbers.

Mr. Reinhardt – I'm trying create here, in the minutes, what we're going to base our decision on is what your five percent looks like and it's going to be based on the number of units.

Ms. Hett – It's the number of units we sell of honey. We might also sell educational books or trinkets.

Mr. Harter – Were you looking at a percentage of floor space?

Mr. Barkman – Yes, I think there are two different discussion going on, right?

Chairman Maier – I like square footage just because it's easy to keep track of. Again, it's small enough, we're looking at two percent, two and a half percent, but we are looking at a very, very small percentage of your total operation to potentially be retail.

Mr. Reinhardt – I'm OK with that.

Chairman Maier – So we know what your threshold is. What you have proposed to us is that you have 300 square feet out of 12,500 square feet. Is that correct?

Mr. Barkman – That's in this property here, yes.

Chairman Maier – So you get the idea of where we are going with our interpretation. So if it changes significantly you are going to have to make some adjustments.

Ms. Hett – As we get farther down the road in this process and we decide this is a good building for us or we found another building we want to lease, do we come back and get the interpretation or do we just go through the Planning Board?

Chairman Maier – That is a good question. If we want to approve it, the use in a light industrial district with a certain percentage allocated to retail space, or no more than a certain percentage allocated to retail, then if you went over that you'd have to come back.

Ms. Hett – That would be helpful because there are some other properties that we are looking at that are in the light industrial district but if I can't then I have to start looking somewhere else. It would be helpful to us if you could tell us.

Mr. Harter – What you are saying is that this may not be your final building?

Ms. Hett – Yes, that's correct.

Mr. Barkman – We're still in the negotiation stage.

Mr. Harter – It's interesting that you mention that because I'm trying to visualize how you would use that building since part of it looks like it's restricted to the owner and the other part, for warehousing and packaging tractor-trailers...and then if you do educational retail; it looks a little conflicting to me.

Ms. Hett – It's not our best option but it was our first option, however we have found maybe some other options too, so we are still tossing it around trying to see what would best fit us. We

keep running into these properties in the light industrial district and we also want to be able to do the retail.

Mr. Barkman – The light industrial is in an area that we feel would be very good for what we are proposing to do. It's right along the rails and trails; the Lehigh Trail. We think that would just enhance that trail appeal if we had some kind of business that had to do with nature right along that trail. That's the intriguing part of it for me as the owner.

Mr. Reinhardt – I think we're on the right path with this.

Mr. Harter – If we did an interpretation where we thought a five percent maximum would create a situation that was tolerable, and within the bounds of the zoning as we see it.

Chairman Maier – Right, the intent is still light industrial.

Mr. Harter – That would not lock them in, necessarily, to this building it would be something that they could use at another building that might fit their needs better.

Mr. Reinhardt – So our interpretation is based on the information they provided for their business.

Mr. Barkman – So does the Code actually say no retail in the light industrial area? Is that correct?

Chairman Maier – No, it says it's not one of the permitted uses.

Mr. Barkman – It's not a permitted use. So this would just put a five percent permitted use ....

Chairman Maier – So our interpretation is what is the threshold where it becomes not appropriate for what was intended in that district.

Mr. Barkman – Would it add to the Code a five percent...

Chairman Maier – The motion that I'm going to make is that our interpretation is that this does fit within the light industrial district as long as the space allocated to retail does not exceed five percent of the total space. The retail component is not significant enough to change that interpretation as long as the retail space does not exceed five percent of the total space.

Mr. Barkman – And that applies to any light industrial property, not just this specific property?

Chairman Maier – That’s correct.

Mr. Harter – Relative to your business.

Chairman Maier – I’m also going to suggest that when the Planning Board, and this will be in the minutes, that the Planning Board when they review this application consider issuing a special use permit to establish some control over that retail component and to ensure there is adequate parking and that it maintains the integrity of what the intent is.

Mr. Barkman – Thank you.

### RESOLUTION

WHEREAS, an interpretation request by Daniel Jost of Barkman Honey, LLC, was received by the Secretary of the Zoning Board of Appeals on January 23, 2017, to determine if a small retail area within a honey processing and packaging building is a permitted use under the Victor Town Code §211-24 at 788 Old Dutch Road, which is in a light industrial zoned district.

WHEREAS, a Public Hearing was duly called for and published in “The Daily Messenger” on January 29, 2017, and whereby all property owners within 500 feet of the subject property were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act per Sections 617.5(c)(31) and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on February 6, 2017, at which time no one spoke for or against the requested use as being a permitted use; and,

WHEREAS, after reviewing the file, all of the testimony given at the February 6, 2017 Public Hearing of the Zoning Board of Appeals, and any and all evidence submitted by interested parties, after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings:

### FINDINGS

The Board determined that the Barkman Honey business does fit the definition of a permitted use and the intent of the light industrial zoned districts and that the retail component of their business is not significant enough to change that interpretation.

### DECISION:

On motion made by Keith Maier, and seconded by Scott Harter:

NOW, THEREFORE BE IT RESOLVED, that the Town of Victor Zoning Board of Appeals determines that as long as the retail space does not exceed 5% of the total space the Barkman Honey, LLC business of honey processing and packaging, as presented to the Board with this application, will be permitted use at 788 Old Dutch Road or any Light Industrial zoned property;

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

### NEW PUBLIC HEARINGS

#### 3. 6405 ERICA TRAIL (Lot #22)

*Two side setback area variances*

Appl. No. 02-Z-2017

Applicant is requesting two lot line side setbacks of eight feet each in order to build a 50 foot wide house with one foot overhangs in a 70 foot wide lot, whereas the Planning Board Chairman signed the Ballerina Court Final Subdivision Plans, Phase Two, (*Town of Victor, County of Ontario, State of New York*) on July 28, 2016, and the Drawing Titles, Overall Plan and Plat Plan - Phase Two, each indicate a minimum lot side setback of ten feet.

The Chairman opened the public meeting and the secretary read the legal notice as it was published in The Daily Messenger on January 29, 2017.

Mr. Matthew Moore from Passero Associates addressed the Board.

Mr. Moore – Good evening, I’m here on behalf of Ryan Homes. I wanted to come before you today and talk a little bit about the setback we’re requesting. As part of the planned unit development, the side setbacks that were established were 10 feet and during the design of the home and these are modular homes so they are manufactured off site and brought in and put together. The interpretation of the code was that the side setbacks were to the foundation walls of the house. It was later discovered, obviously, that the code said that *any part of the structure*, overhangs included needed to be accounted for in the setback.

Our issue comes to the fact that that wasn’t accounted for and we are looking at a 50 foot house from foundation wall to foundation wall with a 1 foot overhang on each side and a 2 foot gas fireplace. That brings the total width to 53 feet. So we are coming before you today to request the 8 foot variance to allow for the house when it’s centered, the 53 foot house to have approximately 6 inches of wiggle room so if there is any error in the stake out or anything we don’t have to come before the Board again and request an additional variance.

Additionally, this is Lot 22 of the subdivision. There are 71 lots total and this is the only one that we are requesting a variance for.

Ms. Morley – Are all of these homes going to be pretty much the same that are going in there? You're saying they are pretty much pre-made.

Mr. Moore – No to my understanding a homeowner will come to Ryan and say they'd like to buy a house. They have their selection of model houses that they choose from and they can play with them and tweak the designs a little bit, then they can build the house that they'd like. So it's not going to be the same cookie cutter house, they will all be a little different.

Ms. Morley – Are most of these lots 70 feet?

Mr. Moore – Yes I believe so, at least in Phase 2 which is the portion that I'm familiar with.

Mr. Harter – How many remaining lots do you have in this phase?

Mr. Moore – I cannot speak to that, I'm not sure. We actually didn't do the design on this, we've just been brought in. We work with Ryan Homes often and they asked us to come before you and speak on the variance. I'm not sure how many lots are in this subdivision phase unfortunately.

Mr. Harter – Is this like a one-time thing for you guys? We're not going to see you again with another lot?

Mr. Moore – No, out of the 71 lots, this is the one and only that we're coming for the variance for. The home is already being designed and constructed and it was actually the customer's request to have the fireplace as well on the one side of the house. It's just one lot.

Mr. Harter – So out of the 71 lots, you just don't have a number of how many lots remain, is that correct?

Mr. Moore – That's correct. I can supply that information though.

Mr. Harter – It's my opinion that this is kind of minor but we have seen you folks here before on another venture so I'd just like to make sure that if we do grant the variance that this isn't a repetitious thing.

Mr. Reinhardt – I agree with Scott that it seems that builders fall in the “sort of/I didn't know/I didn't read it right” and now we're looking for the excuse. That's your business, that's your bread and butter. Reading these drawings and making sure they fit into the piece of land is mission critical and to me that's a failure, it's just a flat out failing to come in for an excuse to say that we didn't know. I don't buy that.

The other part that I have trouble with is the fireplace. Why can't you push it in? I've seen it all the time. I've had 3 houses built and I've had them done 3 different ways; all the way out, all the way in and half way in and if you ask a builder to do it, they're going to do it. For that matter, if you want it wider, you want it deeper, they are more than happy to put more square footage on all day long for you. So I'm not quite buying that this is the puzzle piece that we

have, it's built back at the factory and we're kind of stuck with it and we have to put it there. So why can't you push the fireplace in on this one?

Mr. Moore – We could, it's not like we can't push the fireplace in, it's just the design has already been completed, fabrication has already been started. They would have to essentially take a couple of steps back instead of essentially pursuing what we believe is to be a relatively minor variance on one lot of this 71 lot subdivision. So to your point....

Ms. Morley – Why don't you put it on a different lot?

Mr. Moore – This is the lot that was available that the homeowner.....there is already a homeowner in the works of buying this lot.

Mr. Al Benedict – I think every lot is about 70 feet wide.

Mr. Reinhart – How do we know this isn't going to happen again?

Mr. Moore – It's not. This is an isolated incident in this subdivision and if it would please the Board, you could make it a stipulation that this is the one variance for Lot 22 and we won't come before the Board for anything else.

Mr. Reinhart – Who made the error? Somebody had to make it.

Mr. Moore – The home designer. I'm not exactly sure who is on the hook for that but I agree with you off the record that it was an error.

Ms. Morley asked Mr. Benedict approximately how many houses had C of O's in this subdivision.

Mr. Benedict – Between 20 and 24 and there are 15 to 20 in the queue right now in a state of construction or plans approved.

Ms. Morley – So there are about 40 that don't have a variance? (Correct)

Mr. Maier – Al, have you had a chance to take a look at the plans that were submitted? (I did) Do you have any questions or concerns?

Mr. Benedict – I've verified what they are asking for.

Mr. Maier – I think the Board realizes that you didn't participate in the size of the home on the lot. Where in the process is this home? First of all, I'm assuming the abatement will be taken out of the inventory for homes to choose?

Mr. Moore – Yes, this is an isolated incident.

Mr. Maier – The plans that I show here were revised; added a 2 car entry in 2015, November 2016 added the cricket detail. Then there was another change in the plans in December 2016. So where does this stand in terms of having an owner or someone interested in the lot and so we don't close, the builders still owns the lot and so the transfer does not take place until the home is finished and the funds have been transferred. Where in the process are we right now? Have the homeowners put a deposit down?

Mr. Moore – I'm not sure if they have put a deposit down, I just know that it's in the works, they've had their say in the design that they're going for with this house. That's to the best of my knowledge where they are at.

Mr. Maier – So they work with an architect from Ryan Homes and they make the adjustments. Does Ryan charge the customers to make those adjustments in the plans?

Mr. Moore – I'm not sure if they charge it out right, I'm sure it's incorporated in the cost.

Mr. Maier – So we have someone who is interested in the lot. Someone has sat down with Ryan Homes and designed their home, where are we now? The plans that we have are the plans that they have pretty much signed off on? (Yes) So you don't know if any money has changed hands at this point?

Mr. Moore – Personally, I do not know.

Mr. Maier – So we don't know the status of where that home is. We don't know if it's ready to submit to be built, whether they have started cutting walls....

Mr. Moore - ...I can't speak to that. I know that they have started pre-manufacturing of some of the pieces of the home. That would lead me to assume that money has changed hands, I just don't want to say yes when I'm not 100% sure.

Mr. Maier – I don't know how the Board feels about this. We have a public hearing, would we want to request additional information from the builder to see where we stand with this?

Mr. Reinhardt – I agree with you. I've seen situations before when the house is already there, the foundation is in and it would be cost prohibited to start moving things all over the place. There are too many "ifs" and "buts" and moving targets here in my opinion. I don't even know if one stick has been cut yet.

Mr. Maier – We're not picking on you but I think there are some good questions that you don't have answers for and I don't think that you're at fault here. What I'm proposing and I don't know how the rest of the Board feels, is that we leave the public hearing open and request additional information perhaps from the builder or whoever is responsible for this whole process.

Mr. Harter – I think you have a good case when you look at the architectural and you take a look at the number of revisions the architectural shows and it does kind of beg the question of how this might have been overlooked so that we're at this point today.

I have a question for Al....are there other homes of the 20 C of O's that you've granted that you have this bump out for the fireplaces?

Mr. Benedict – I'm pretty sure there are.

Mr. Harter – Is this common with the number of homes there?

Mr. Benedict – Yes.

Mr. Harter – So for those particular homes that were built on those particular lots, there was some intelligence that occurred in the architectural planning to agree with the lot. But for some reason, this one is not happening.

Mr. Reinhardt – I can tell you from personal experience that you can push that fireplace in and put built-ins around the fireplace. It's a doable process.

Mr. Harter – I think I agree with you and sometimes in these particular occasions, I've seen this before, I think sometimes there's a desire to see if a variance can be obtained because it's more economical to obtain the variance.

Mr. Maier – The position that I'm taking, just so you're clear, you're representing the builder or someone here tonight and you're requesting relief. You are requesting this Board grant relief for this particular situation and I think the Board's position is that we want proof that relief is required. I appreciate all that was done. I appreciate this information but it doesn't show me that it can't be changed. So for all we know, somebody may back out of this, if you follow what I'm saying. So what I'm going to request, I'll leave the public hearing open and request more information. If the builder or the property owner or the developer can come in and show along the lines of this is where we stand in the process and this is what happened on these dates and why we are granting relief for this particular building. Do you understand - specifics? (Yes) It's very easy for us to say yes, here we are and we can understand that and it's not something I'd like but something I really need. So we can support a decision one way or another.

Mr. Reinhardt – Put some teeth if you will into the specifics only because I have experience with building houses. The builder that I worked with would not dig a shovel in the ground until every door knob, every mirror, every light, everything had to be pinned down to a "T". Where are the specifics, what wood has been cut, what lamps, everything. What has been picked out and what still needs to be done as of February 2, 2017? Don't keep working on the project and say how far we've gone.

Mr. Maier – What I want it up to is January 23, 2017. When was the first contact we had relative to this, do you remember the date?

Mr. Benedict – I do not. My first knowledge to it would have been when it was submitted for application.

Mr. Maier – We could say that we want a time line of specifics up to the date of the ....

Mr. Benedict - ....It looks like we received it January 23<sup>rd</sup>.

Mr. Maier – So what happens after that, I don't know how the Board feels, but I personally don't care what happens after January 23<sup>rd</sup>. You guys ran into a jam January 23<sup>rd</sup> and then requested relief so I want to know what the status was specifically with the potential owners, the building, the whole thing up until January 23<sup>rd</sup>.

So we'll put you on the agenda for the next meeting. I think we can put you first and if you need additional time to put that together, we can do that too.

Mr. Reinhardt – Has the foundation been dug yet?

Mr. Moore – I'm not sure. I have a list of questions and I'll come back to the next meeting a little bit better prepared for you guys.

Mr. Harter – I have one more question. If the fireplace issue was to be resolved, would you still need a variance?

Mr. Moore – We would. We'd come in for 1.5 feet on either side instead of 2 ft.

Mr. Maier – I don't think the fireplace impacts the setbacks, does it? Does the fireplace go out farther than the overhang?

Mr. Moore – An additional foot. On the side with the fireplace would be 2 feet and then the other side would be just the 1 foot overhang. So we're coming for the 4 feet; we have 6 inches of wiggle room on either side once you center the house.

Mr. Maier – So are you clear what we're looking for? (Yes) January 23<sup>rd</sup>, exactly where you were, deposits, proofs, the whole thing.

Mr. Moore – It's out there, I just need to go get it. I unfortunately came unprepared tonight and I apologize for that.

Mr. Benedict – To answer Mike's question, they have not dug the foundation yet. They have not even submitted plans.

Mr. Maier – Give us the widest and the narrowest, if you want to give us a plat or copy just to give us a rough idea of what we're looking for.

Mr. Moore – Thank you very much, I appreciate your time.

Chairman Maier – Thanks for coming in.

## 4. SIX 50 MONUMENT SIGN

7217 State Route 96

Appl. No. 05-Z-2017

Applicant is requesting a 21 foot front setback for a monument sign, whereas §165-4B(6) indicates that the sign shall not be closer than 35 feet from the pavement of the public right-of-way.

The secretary read the legal notice as it was published in The Daily Messenger on January 29, 2017.

Mr. Mauro Polidori addressed the Board.

Mr. Polidori – Good evening. I was here last time because I put up some signs that didn't conform. I've taken those down. I put up the conforming signs and haven't had a chance to get together with Al to go review everything, but they are outside of the right-of-way. I took care of those issues.

Now we are looking to put up that monument sign. As you can see on the map the 35 foot setback goes into the parking area. What we are asking for is 22 feet. That's in line with our neighbor's sign. I think you have a packet of pictures. I've taken a bunch of pictures along Route 96. They (*signs*) are all around 22 feet (*front the pavement of the right-of-way*).

The character of the neighborhood is not affected. I think it would be more affected if the sign was down in the parking area. And I haven't put the sign up yet.

Ms. Morley – On the image you have two red spots. Are you talking about two signs?

Mr. Polidori – No, no, the first 35 foot on the left, that is where the sign would be by Code.

Mr. Harter – I think you're trying to show us where it's supposed to go versus where you think it should go.

Mr. Polidori – Yes. That right there is per Code, 35 feet. This one is 22 feet and this conforms with all the existing signs along Route 96. Really to show that the 35 feet takes away parking spots, it's in the parking spot, it would look pretty bad.

Our biggest problem is people coming from the Mall area. The entrance comes up fast on you. If that was way back in that hole, down low, Trammels sign will block it and it really wouldn't be as useful to us. The 22 feet, with the variance would be beneficial to us.

On the right is what it's going to look like: fixture; sign; elevation. Thank you.

Mr. Harter – The entrance and exit signs that are there, are those compatible and OK or are they part of what we are talking about tonight or not.

Mr. Benedict – I don't believe we are talking about that tonight. He removed the ones that were originally there for his last variance. We had talked about putting in signs that just said enter and exit.

Mr. Polidori – I have two of them up. I just got two more because they didn't make them up the first time. I was going to call you. We can go and review all that.

Mr. Benedict – As long as they just say enter, exit and they are two square feet, it doesn't require a permit.

Mr. Polidori – That's all they say. That's exactly what they are. They are one foot by two feet.

Mr. Harter – When it was first brought up it was saying enter and exit but it had the logo in there and that has been changed. One of them is illuminated now, one of them has lights on it.

Mr. Polidori – There were lights there before. Enter/Exit can be lit.

Mr. Harter – I just want to check with Al. Is what they are showing compatible then with illumination as well, the entrance and exit signs?

Mr. Benedict – I haven't seen the new signs. I don't know.

Mr. Harter – That may be something to take a look at. (Yes)

So we are just dealing with the monument sign tonight. We're not dealing with those other signs?

Mr. Benedict – Correct.

Mr. Harter – And the lighting associated with it. I just want to make sure we have our table set properly.

I would tend to agree that the monument sign, where proposed, is in a better location. I think the topography, the fall off, the drop coming down...

Mr. Polidori – It's still, even at 22 feet, it's still lower.

Mr. Harter – I would also agree it tends to match in with your neighbor who was in for a sign variance as well not too long ago.

Did you field measure this? Were those measurements taken by you? How were those measurements derived?

Mr. Polidori – From Landtech. It's on the edge of the paper.

Mr. Harter – We're not in the right-of-way, OK. So these dimensions were done by a professional engineer or land surveyor, right?

Mr. Polidori – Yes.

Mr. Reinhardt – Why 22 feet, why not 26 feet, or 28 feet? I get that per Code it's going to throw you right into the parking lot but you have a distance between the 37 feet and the 20 feet.

Mr. Polidori – I drove up and down Route 96 and they are all 20 feet, 21 feet. I don't know why we have to be the odd ball. If anything it would look out of place. I'm trying to keep the character of the neighborhood. If they are 20, one is 19, one is 21, one is 22...

Mr. Reinhardt – It has nothing to do with trimming as close as you can to that right-of-way?

Mr. Polidori – No, it conforms with all the other signs.

Mr. Reinhardt – So DOT comes along and decides to widen Route 96, widen up that right-of-way, you've got to move that, right?

Mr. Polidori – I think we're pretty far off that right-of-way. We've got to be four feet beyond the right-of-way.

Mr. Reinhardt – As far as relative.

Mr. Polidori – Well, right. Like I said, it's not that we wanted to be closer or anything, it just that it conforms. It conforms to every other sign on Route 96. I mean you do have pictures, correct?

The Board were all in agreement that they had pictures.

Mr. Polidori – That's the only reason I came up with that and Keith's (Trammel property sign) is 21.6 feet. We are six inches behind them.

Mr. Reinhardt – My concern is how close you are, you say you are pretty far away, it looks to me like it's close to the right-of-way. The problems that come in then, because DOT has a habit of now changing their tune every once in a while and they widen things and start getting into the right-of way and then you have a problem.

Mr. Polidori – So will the other eight signs that I took a picture of.

Mr. Reinhardt – I don't know if theirs are, as far as the right-of-way. I can see based on your drawings and we're assuming....

Mr. Polidori – I thought I put a measurement on each one.

Mr. Reinhardt – For yours, but what I don't know is, if those signs are in the right-of-way.

Mr. Polidori – The other signs? (Right) I submitted a packet with all the pictures.

Mr. Reinhardt – Right, these are pictures, unlike drawings. You provided a drawing for yours that shows that you are not in the right-of-way, but there is really nothing here to tell me definitively...

Mr. Polidori – I measured off the right-of-way.

Mr. Harter – You measured off the pavement.

Mr. Polidori – I'm sorry, you're right. That's how I determined...

Mr. Harter – That assumes that the right-of-way is constant which may or may not be *inaudible*.

Mr. Reinhardt – Are you an engineer?

Mr. Polidori – I guess I'm not, but I've been out in the field my whole life.

Mr. Reinhardt – OK, if you want to go down that road I'm going to press the question then, this is an engineered drawing, we can rely on that. This is your writing and you took a ruler out and we are going to have some faith that you made the measurements. So my point being is, I can't speak for the Board, I don't know that these pictures, whether or not these signs are in the right-of-way. I can tell over here that your sign isn't in the right-of-way, but it's relatively close.

Mr. Polidori – I agree. Keith Trammel's signs 21.6 feet. The right-of-way can't vary that much at that point so we went 22 feet. I guess I cannot speak for the other signs, how the right-of-way falls to the edge of curb.

Chairman Maier – Do you know why the other signs, if they are not up to Code, do you know why they are not?

Mr. Polidori – No.

Chairman Maier – But you are making the assumption that we approved those or that they're being in line.

Mr. Polidori – Oh no, I hope not no.

Chairman Maier – No, no I'm going to go on the record because you are saying that you are in line with all the signs on Route 96. That's what you said. That's OK, I'm going to go on the record and say to my knowledge you are not. So what happens with some of these signs, some of these signs are pre-existing, they have been there for a long time. Keith Trammel's, there is a reason why that is where it is. Here is the big issue, and I'm not saying how things are going to go, but I want you to understand our perspective. You came in with an application, with an engineer, to build this, put your signs up and you weren't happy with that. You are coming back and asking again. The reason you are asking for this sign is what? Why is it important to put that sign there?

Mr. Polidori – Because the small signs showed people that that entrance is for Six50.

Chairman Maier – I have never had trouble finding your place. Have you had complaints?

Mr. Polidori – I'm not going to argue. Yes (*We've had complaints*). Do you want proof?

Chairman Maier – Do you have proof?

Mr. Polidori – No, I don't have proof.

Chairman Maier – As Mike was getting to, we have to rely on facts. Do you know why the setback is the way it is? Do you know why the Town has required the setback? How long has that been in the Code A1, 20 years?

Mr. Benedict – Probably at least.

Chairman Maier – Do you know why it's in the Code? (No) People don't want to look at signs. I'm speculating, but I'm guessing if it wasn't in the Code, guess what every business owner would do?

Mr. Polidori – Put up a million signs I guess.

Mr. Reinhardt – There are also liability consequences.

Chairman Maier – Well, there are. Then there is also the traffic issue which we discussed at the last meeting. What happens is as you create more conflict, and again I'm not an expert in it, but I know a little bit to know if we have 100 different distractions for people to look at versus 10 or 15, we add conflict to an already busy area. There is an esthetic component and there is also a practical component to it.

Why couldn't you build up a spot and put a sign 30 feet back? It drops off, but is there a reason you couldn't maybe landscape a spot and move it 26 or 28 feet back?

Mr. Polidori – We can do anything. The thing is, what is going to look the best. That's going to stand out like a sore thumb in relation to everything else.

Chairman Maier – The residents have asked us to protect their interests through the Code. You are coming in and saying these are my interests and so we are weighing the two to try and determine what is prudent.

Mr. Polidori – The County gave a thumbs up on it I think.

Chairman Maier – They did not. I will read it, it's part of the public hearing and I'll read it into the minutes.

Mr. Polidori – I got an email from Debby and it says that we don't need a super majority because the County said thumbs up on it.

Chairman Maier – Let me read it to you because it follows exactly what I was saying if they said what I think they said.

Mr. Harter – They said they would make no formal recommendation.

Chairman Maier – However, they normally put notes along with it.

Mr. Polidori – Do we need a super majority tonight?

Chairman Maier – No. So here are their comments. The County Planning Board has long taken an interest in supporting local efforts to limit an excess of signage. The Board has identified the following roads as primary travel corridors for tourists visiting Ontario County. Route 96 happens to be one. The intent is to protect the character of development along these corridors by encouraging local Boards to adhere to their adopted laws as much as possible. Their final recommendation is the County Planning Board will make no formal recommendation to deny or approve applications for signs that comply with local limits on size and or number. I didn't take that as a thumbs up.

Mr. Polidori – All I'm saying is that Debby sent me an email saying that I'm in better shape because a super majority is not needed. That's all I know.

Mr. Harter – I think the County has changed gears a little bit in the last few months. I think there have been some personnel changes. They used to just categorically deny sign variances on these corridors, but what they say is that signs that comply with local dimensional requirements will have the minimal practical level of impact on community character. So what they are saying is that if the sign complies with our regulations then the impact is lower and I think that's what you are saying as well. Then they say they make no formal recommendation to deny or approve applications for signs that comply with local limits on size and or numbers. That would infer if it doesn't comply that it would maybe go in a different direction. I think what you said is exactly correct that the purpose of the regulations, and why we're having this discussion, is based on the directives that we've received in our Comprehensive Plan that translates into our Zoning Regulations. Then we balance that with needs of the owner.

Chairman Maier – So Scott I'm going to ask the question because you are most familiar with that. Where do you think would be most appropriate?

Mr. Harter – Well my office is just a stone's throw away and I have a sign probably somewhere near this dimension from the edge of pavement myself because the topography does fall off. You are also effectively in the toothpick corridor of Victor with wetlands and a railroad that have pretty much pushed you to the highway. I think that although the measurements may be a little fuzzy in terms of where the right-of-way is for other properties, I think that by agreeing relatively close to the neighbor that we gave a sign variance to not too long ago...

Chairman Maier – For an existing sign.

Mr. Harter – For an existing sign, but in terms of definition of the neighborhood and uniformity; I think knowing the signs that are in farther in the other direction because my office is there, I would say that this is in agreement with the neighborhood. Which I think is a point that is being made. You're right, some of those signs are preexisting. They may have had an entirely different history.

Chairman Maier – Or may have gone up without any approval whatsoever.

Mr. Polidori – The only good thing you've got is there aren't many parcels left, right?

Mr. Harter – Not if you keep building on them, no.

Chairman Maier – So you think the 22 feet is reasonable?

Mr. Harter – I think it's reasonable.

Ms. Morley – I think the same thing as Scott.

Mr. Reinhardt – This picture here, the one that says 23 feet from the pavement, how tall is that sign?

Mr. Polidori – Actually, I don't know.

Mr. Reinhardt – Alright, we'll take your guess for now. How tall is that sign in question? (Looking at photographs provided).

Mr. Polidori – It's probably 25 feet.

Mr. Reinhardt – Ok, that's the 25 foot. (There was another photograph of a sign 21 feet tall).

Mr. Polidori – Our grade falls, you showed me all flat grades.

Mr. Reinhardt – Ten feet.

Mr. Polidori – Yes, that's Code.

Mr. Reinhardt – Ok, that's Code. Ten feet is a big sign. That's where basketball hoops are. Even tall guys like me, I can't reach ten feet. I have to jump.

Mr. Polidori – I didn't make the Code, but you showed me all flat land or uphill.

Mr. Reinhardt – So we have some different situations here don't we?

Mr. Polidori – Life is different. That's why I'm here, otherwise I wouldn't be here.

Mr. Reinhardt – A few minutes ago you said these signs were similar, now they are different.

Mr. Polidori – Well you looked at it a different way. I'm answering your questions, so we have to argue every time?

Mr. Reinhardt – It's fact finding. My concern is that you are asking for a ten foot sign and that's relatively high and you're pushing it as close to the road as you possibly can. There is room, there is another 14 feet that you could go farther back without going into the parking lot. So there is room here. Just as the County is asking us to do, even the Code is, is to grant the minimal

variance as possible. So we have 14 feet I think we can work with. I'm not quite convinced that the 22 feet that you are looking for is the right number.

Mr. Polidori – The grade drops four feet right there. So it is a six foot tall sign from the road.

Chairman Maier – Is that what the contours look like Scott?

Mr. Harter – Yes, that's about right. I would say that is reasonably accurate.

Mr. Polidori – I do agree Michael, that ten feet is an excessively tall sign, but not where we are going to put it.

Mr. Reinhardt – I did not say it was excessively tall.

Mr. Polidori – But ten feet is tall, but where it is going it's going to look like those small signs. That's my opinion.

Mr. Harter – Al, is the ten foot tall sign that is shown here, is that conforming? We're just dealing with the position, we're not dealing with anything else relative to the sign, right?

Mr. Benedict – Yes, *it is conforming*, correct, *we are just dealing with the position*.

Mr. Harter - So the ten feet is OK.

Mr. Reinhardt – My concern is if you are going to max out on the Code and go ten feet, and you are maxing out on the variance to go far as you can to the right of way, we are not serving the Code, we're not serving granting a variance like we should, and we're not serving the County's request as we should. There are 14 feet we have to work with.

I've heard a bunch of guesses, that it's about four feet. When I start hearing abouts and ifs and buts that concerns me.

Mr. Polidori – I don't know how far you want us to go.

Chairman Maier – What do think is the maximum it could be moved?

Mr. Polidori - I can go as far as you want.

Mr. Harter – I think if you really want to have confidence in the proposed location, and if Mauro feels that 22 feet is the way to go, we're looking at this drawing that was done by his engineer/surveyor so it is dimensionally correct in plan view. But I think this may be an application for which we may want to ask the applicant to give us a photo simulation, not unlike what we received, it doesn't have to be to that caliber, the first application tonight. That was a really good photo simulation.

Chairman Maier – Or stake out.

Mr. Harter – We've also done mock-ups in the field.

Mr. Polidori – I can do a mock-up. I'd rather do a mock up. Ply wood and a couple of 2" x 4"s.

Chairman Maier – So what we want to see is staggered.

Mr. Polidori – I'll put it at the 22 feet template.

Chairman Maier – Maybe at 26 feet.

Mr. Polidori – Well, let's look at it like that, it's going to look fine. Let's look at it like that. Then you can go right by there and scale it down if you need to.

Chairman Maier – I want you to understand we're not saying no. We're tasked with minimizing the impact. I think it would be helpful for the Board.

Mr. Polidori – I don't want it to be a stop sign.

Mr. Harter – Just for the applicants benefit, we have done this before for very similar applications. One that come to mind that we did recently was the Pink Silhouette next to the gas station. We had them do a mock-up as well because we had some of the same issues. It was very hard for the Board to visualize. Yes, you can do a photo simulation like we saw tonight, but it's probably geared more for the shock and awe type of thing. From a practical standpoint you can do a piece of plywood and two by fours.

Chairman Maier – For everyone's benefit, yours also.

Mr. Polidori – I agree, I'm good with that. Who is going to look at the mock-up?

Chairman Maier – So we will leave the public hearing open. What I'd like you to do, once the mock-up is there is notify Debby or Cathy, whoever is available and she'll contact the Board and we'll take a look at it.

Mr. Polidori – It won't be until the weekend.

Chairman Maier – Give us a few days' notice.

Mr. Polidori – So you just want to drive by it? If you want to meet there, you can call me and we can meet there.

Mr. Harter – If you contact Debby or Cathy when it's done then they can just shoot as an email or something.

Mr. Polidori – Any questions, I can meet somebody there. Fair enough, are we good?

Chairman Maier – Yes we are.

On a motion by Keith Maier, seconded by Scott Harter, it was unanimously agreed and RESOLVED, that the meeting was adjourned at 8:55 PM.

Debby Trillaud, Secretary