A regular meeting of the Town of Victor Zoning Board of Appeals was held on April 18, 2016 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

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

OTHERS: Al Benedict, Code Enforcement Officer; Dave Tantillo, Town Board Liaison; Jess Sudol, Passero; Mike Tascione, City Tavern; Alan Russell, City Grill; Chuck Smith; Glen Thon; Joyce Thon; Debby Trillaud, Secretary

The meeting was opened and the Flag was saluted.

CODE ENFORCEMENT QUESTIONS

Mr. Harter – Were you able to verify what I brought up at the last meeting?

Mr. Benedict – No.

Mr. Harter – I'll take a picture of it, how is that? I'll email it to you.

APPROVAL OF MINUTES

On a motion by Scott Harter, seconded by Donna Morely,

RESOLVED that the minutes of April 4, 2016 be approved as submitted:

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

Approved: 4 Ayes, 0 Nays, 1 Abstention

PUBLIC HEARING

CITY TAVERN – COVERED PATIO
7635 State Route 96
Appl. No. 3-Z-16

Applicant is requesting a 41 foot front setback to construct a covered outdoor seating area, whereas, Schedule II, Area and Height Requirements for Commercial Districts requires an 80 foot front setback.

The secretary read the legal notice as it was published in The Daily Messenger on April 10, 2016.

Jess Sudol of Passero Associates addressed the Board.

Mr. Sudol – We're the engineers and architects for the City Tavern project. With me here this evening is Mike Tascione and Alan Russel both from City Tavern. They currently own and operate City Grill in Rochester, New York. For those of you who venture up to that area, it's on the corner of East and Alexander. They do have an existing facility there. They would very much like to bring a similar type of feel and similar facility to the Town of Victor. They've been open a couple of years and have done extremely well in Rochester.

This proposed setback and proposed patio really is part of an overall rehabilitation and redecorating of an existing building that's been there over 15 years now. It was originally a TGI Fridays. For those of you who are familiar with the area, it had that red and white awning on the Route 96 frontage for quite some time. Historically there was a front setback area that was actually granted for that building years ago, which actually went to the New York Supreme Court, which was largely based on a lot of things that were going on with the standard façade of TGI Fridays. We're very happy that we are proposing to be completely different from that. I think everyone has gotten a chance to look at some of the elevations that have been presented with the application.

As part of that we are proposing an outdoor patio. It's something that has worked very successfully for these gentlemen in their Rochester location. It's roughly 30 feet deep in the front and approximately 80 to 85 feet wide. Because there is that 80 foot front setback and the majority of the patio is going to be covered that does trigger the need for a front setback variance, because we will be within 41 feet of the New York State Route 96.

We have had a chance to get a number of staff reviews including the architectural board who felt that it was actually very much in character with the Route 96 and Route 251 Overlay District. What I would like to do quickly is touch on the five factors of consideration that we went through and leads to how we ended up the way that we did.

The first one is essentially whether there will be an undesirable change to the neighborhood. To the contrary, we feel that it will be a positive change to the neighborhood and to the corridor as a whole. What we are doing is reconfiguring the area and bringing use back to what is now a vacant building. We are also providing a unique use and a unique facility, which I think is an improvement over what was previously there and previously developed.

One of the things that we looked at after preparing the application was the actual overlay district that is in the Town Zoning Ordinance. Some of the things that it says is that the intent of the District is to improve the quality of development along the corridor. Again, because we are proposing some unique architectural elements that really fit in with some of the other buildings that have either been constructed or rehabilitated in the area, I certainly think that this project accomplishes that goal. I think that the outdoor seating element also will provide more of a Village character which is also one of the goals of the Overlay District. It also really enhances the experience of the patrons that will be using it. Again, all goals of the Overlay District.

The second question on variances that are approved is whether or not the goal of the applicant can be achieved by some other method. As you can see, the existing building is surrounded on three sides by parking areas. Actually on the north side, it's also where our refuse and dumpster enclosure is. For us to put a patio in any other location, it would essentially result in losing a substantial amount of parking and the ability to have a family restaurant. We have been involved in the review of these types of facilities and understand that parking is at a premium. The existing parking is one of the reasons why property is so attractive. We don't have to go out and build the parking. The occupancy of the building is supposed to more or less remain the same to what it is now.

TGI Fridays, the Applebee's of the world, they really try to cram as many seats and people in as they possibly can in these type of buildings. That's not us. We're providing a much more open field. Even though we will have some opportunity for outdoor seating, there won't be as many seats crammed in on the actual interior of the building. The net result is essentially the same amount of people. It will just be a more pleasurable experience, more room, and also the opportunity to go outside to the patio.

It's essentially a three season patio. Depending on how long the seasons are here in Rochester, it is variable but that is the idea. Any other location of the patio would impact traffic flow and also the amount of parking available.

Whether or not the variance is substantial, it is difficult sometimes to answer that question. We tend to look at it as, is it greater than 50% of what is required. An 80 foot setback, we are not under that 50% threshold, which would be 40 feet, we are slightly higher than that. In addition to that, there is additional green space between the right-of-way line and the edge of the pavement on Route 96, which was improved several years ago. If you look up and down the corridor, to our neighbors to the north and across the street; you will see that there is essentially from edge of pavement to infrastructure, whether that be parking, building, or what have you, there is essentially a 50 foot tree lawn which is well landscaped along that berm. We're still able to maintain that. We are really not projecting into that tree lawn which has been already established on both sides of the right-of-way. We are maintaining that same setback as other, primarily parking areas, have.

Will it have an adverse impact on the neighbors? We don't believe that it will have any impact on the neighbors. Fortunately, we've done outdoor patios before and they can really be a challenge when your next door neighbor are single family homes and people worry about how long the patrons are going to be outside, but in this case we do not have that situation. We really don't feel that we are negatively impacting our neighbors. We feel that we are positively impacting our neighbors because again, we are bringing this facility into the building.

Why it would not have an adverse impact on the environment; we really minimized it. We're minimizing the amount of disturbance to the area so we are not creating the need for additional stormwater management. We are not really impacting the landscaping. We are adding additional landscaping because of the review by the Town's landscape consultant. So we are continuing to improve that frontage.

Whether or not the variance is self-created: I think all variances are self-created just by the fact that you have to put an application together. I would argue that by inheriting this existing site, and the existing building, it really only leaves one opportunity to provide the programmatic needs that City Tavern has with the outdoor seating area. It really did make sense to utilize that front area for the proposed patio.

One of the things that was asked of us as part of the staff review, was to look at the district regulations as they apply to the three requirements in order for the Board to consider a front setback. One of them is that there be no need for a future secondary access road. As this Board well knows, especially in commercial districts, the secondary road really serves to funnel everybody to signalized access points. In this case there is an interior roadway that services our use, a hotel, and others in the area, and moves behind the back of the buildings. So, there would be a need to have another road like that in front of the building. We are very satisfied with the existing infrastructure.

There was a question in terms of building frontage. The building/patio frontage doesn't exceed the 25% threshold for the parcel.

The majority of the frontage is landscaped and/or bermed. In our case we are maintaining the existing growth which is there, much of which is very well established. It's mature growth, it's not six foot, two and a half inch caliper trees that were just put in, but we are going to put some of those types of trees in just to enhance it, around the building itself.

Again it is a covered patio with *inaudible* street type of materials. There will be a knee wall. The knee wall will be designed to actually resist the potential impact from traffic. If someone were to veer off Route 96 and drive through the lawn, over the berm, and through the trees, and come to the patio, it's designed to resist that 12,000 pound impact. It is certainly something that has been taken into consideration.

With that I'd be happy to answer any questions.

Ms. Morley – What are the times that the patio will be open?

Mr. Russell – The patio will be open from 11:30am for lunch, until about 10:00pm at night.

Ms. Morley – Is there going to be any music out there?

Mr. Russell – No.

Mr. Nearpass – It seems like it is going to be close to the road. What do think about being 40, 45 feet away from Route 96 with cars zooming by?

Mr. Sudol – Again, we are 42 feet from the right-of-way line. There is an additional 15 feet or more to the actual shoulder and an additional six to eight feet before you get to the travel lane. So we are actually 60 feet away from where the cars are actually going to be. We are comfortable with that separation. It is also the reason why we are putting the additional landscaping in. We are utilizing the topography that is there now. It actually kind of sits down and creates a separation with the berm in there. Well it appears that it sits down because it is behind the berm. After all that is said and done, we are taking precautions that if anything did happen with a potential vehicle coming off the road, we are taking that into consideration with our design.

Mr. Nearpass – I was thinking in terms of how loud it was going to be. Have you taken a serious look at the other side of the building? You would still need a variance due to parking spaces maybe, or something like that, but it just seems like it would be out of the way of six lanes of traffic zooming by.

Mr. Sudol – In the city, we actually have roads, we have a similar outdoor patio, and there are roads on both sides. Granted it's not Route 96, and it's more of an urban environment, the cars aren't going the same speed, but that type of noise really doesn't tend to bother the people out there at all. Flipping it on the other side of the building, you are not only going to lose parking, but that is where a lot of our circulation is too. You can see there is a main drive aisle. We would essentially be segregating the parking lot into two different lots without continuous access area. That might be problematic for emergency vehicles and coming one per cut right now. …Pull around to the front of the building and then proceed to one and not the other one (parking lot).

Mr. Nearpass – Have there been any other thoughts on what you would do to keep the site in compliance, or minimize the impact of the variance requested.

Mr. Sudol – We looked at it and at the end of the day it's as simple as we really need the parking that is there. Any other way that we looked at it, we are losing over 20 parking spaces. Based on our occupancy level and parking, we really need it at the end of the day. It wouldn't work for us. The only other area we could feasibly put it is on the south side and even then, there is an existing curb cut that would need to be relocated in order to provide access. You are pushing it closer to Route 96 and that is not necessarily desirable.

Mr. Nearpass – I'm not trying to engineer it, but even the existing entrance, if it were in front of that. I'm just trying to go through and see if you really thought through what the implications are if you had the patio on some of the other sides of the building. I am not saying I'm against it and I'm not necessarily 100% for it at this point yet, but, 60 feet is probably from here to that door, and I'm pretty close to it.

Mr. Sudol – Those are two foot tiles (on the ceiling) and there are 17 tiles, that's about 35 feet.

Mr. Nearpass – That's 35 feet? From here to that door has got to be more than 35 feet.

Mr. Sudol – It may be 40 feet.

Mr. Nearpass – It just feels like it will be close to the road for me. Your patrons will tell you if it is or not after you build it. I'm not trying to architect it, I'm familiar with your establishment on East Avenue, it's great. I certainly want to welcome you into the community but I also just really want to make sure that it's the right site or the right place to do something like this here. That's my opinion at the moment. I'm on the fence and looking forward to what some of the other Board members have to say. Right now it feels like it's going to be pretty darn close to the road.

Mr. Sudol – To answer your question, we did think about it. We didn't just say let's go with the front setback and be done with it. We did vet it and go around. I don't want to go into the specifics of it but the way it works on the inside with where the impressions are, where the kitchen is, where the bar is going to be; it also works best. *Inaudible*

Mr. Reinhardt – I have a couple of questions for Al before I ask the applicant questions, because I just want to make sure I'm clear on what is happening here. The prior variance that was granted, is the math, the 41 feet that they are asking, is it calculated from the 72 feet or from the

80 feet? What I'm trying to get at is, I think it's going to drive whether or not this is substantial. If it's from the 72 feet mark, the property has already received a variance and they are asking for 41 feet from that 72 feet mark?

Mr. Benedict – They are asking for 41 feet from the right of way, whereas 80 feet is required.

Mr. Nearpass – Just to understand, the map that we have here showing the site; It's 72.8 feet to the right-of-way and you need 42.7 back from that?

Mr. Sudol – An additional 30 foot variance which would result in an approximately 42 foot setback. We asked for 41 feet just in case the column is six inches wider. When the architects finalize the design we're not coming back here for a six inch variance.

Mr. Reinhardt – The other question I have for you, is the reason why we are here for the variance is because that is a hard structure? If there wasn't a structure attached to the original building, they could have a concrete pad out there with the knee wall fence, and there would be no need for a variance?

Mr. Benedict – That's correct.

Mr. Sudol – It's really the roof.

Mr. Nearpass – I thought that once you put a pylon into the ground…

Mr. Benedict – It's the structure that they are building to cover part of the patio.

Mr. Reinhardt – As far as the thought on whether or not you have alternative means, I've seen patios, been to restaurants, bars, what have you, and there are tables with awnings. Is that not an alternative means?

Mr. Sudol – Yes, I mean…

Mr. Reinhardt – Now it's between needs and wants. You want to have a hard roof structure, pylons, esthetics, whatever the case may be, but you still could have outside seating, a patio atmosphere, with café type tables and awnings.

Mr. Sudol – There is a downside to that when they get blown away. When it is inclement weather, which obviously we have a lot here in Rochester, that setting doesn't really work.

Mr. Reinhardt – I'm glad you brought that up, because this is seasonal. You might get four or five months out of it, we've had some nice stretches of weather, but I've lived in the western New York area practically all of my life and when it rains, it goes in all different directions. I don't honestly think anybody is going to want to sit outside when that rain is coming in sideways or the napkins are blowing around. The weather has to be at least cooperating. Putting together that it is seasonal and that you have to have the cooperation of Mother Nature, you are not going to use it for a straight five months.

Mr. Sudol – Our usage and desire to have this is largely found on a similar situation at their other facility. I think it is used a lot more than five months, probably closer to eight months. If it's a monsoon sideways rain, no one is going outside. If it is misting out and the grass is wet and the pavement is wet, it's not necessarily going to be wet under the patio, so you could still go out there and use it as opposed to if you just had umbrellas which you would see in a more urban environment. When you start walking between them it is just not as comfortable.

Mr. Reinhardt – Let's do some comparisons. The current restaurant, on East Avenue, what is the seating capacity on the inside?

Mr. Russel – 125.

Mr. Reinhardt – What about the patio?

Mr. Russel – 100. When I say 125, that's the restaurant itself. We also have in fact, private dining and a ballroom. When I say 125, that's the restaurant and another 100 for the outside.

Mr. Reinhardt – For the restaurant area in Victor, inside, how many?

Mr. Sudol – About 180.

Mr. Reinhardt – And what about the patio seating?

Mr. Sudol – Outside is about 100.

Mr. Reinhardt – Looking for alternative means, by no means am I trying to re-engineer the project, but we're looking for alternatives. Umbrellas, I think we covered that. What about awnings, have you explored awnings?

Mr. Sudol - In terms of coming off the building?

Mr. Reinhardt – Right, if you are looking for some type of shelter, whether it be from the sun or light misting rain, we're not talking about hail or monsoons.

Mr. Sudol – We considered that. There were awnings out there previously, although they weren't functional, they were decorative. They wanted round tables in order to seat four people; about four feet on either side so people can have room to sit down. By the time you are all said and done, it's four, four and four, you need about a fifteen foot awning. Even if we did propose a 15 foot awning, we'd also be in front of this Board. Granted we felt it would be more appropriate to devise a structure where we get the seating that we want and not have an awning cover the whole thing. We really didn't see how a roof that is 30 foot wide opposed to an awning that is 15feet wide is a more negative impact. So it seemed to make sense to cover the whole thing so that it really can be functional more often.

Mr. Reinhardt – The other concern or comment that I had is Panera has been in here many times. Their primary beef, if I can put it in a nutshell, is nobody knows where they are. I'm not buying it because the place is packed all the time. They want a sign, they want exposure. My concern would be, and I don't have any solid statistics, but potentially that structure may inhibit a site view for, or further hide Panera. Quite possibly, it could alter the character of the neighborhood. You neighbor to the north may have issue with a structure further out than what the existing building already is.

Chairman Maier – What is the existing seating for Fridays?

Mr. Sudol – I'm not sure exactly. Roughly 250 I believe.

Chairman Maier – Al, I'm going to ask you to do it. Give us a reference for parking requirements. Is there a difference if it is outside and inside?

Mr. Benedict – I would say no.

Chairman Maier – So with the number of parking spaces that they have now, you've done the calculation? How many parking spaces have you calculated that you need for what you are proposing?

Mr. Sudol – Roughly 150 which is what is there now. We more or less worked back into it. We were stuck with what we had for parking. We couldn't build anymore. Our occupancy level and the way that we engineered both the patio and the interior space is really working backwards from the parking that's available. As opposed to a new build where you find out the parking needed and design the lot accordingly, we had to work backwards in this case.

Chairman Reinhardt – So you could handle 250 tables worth of patrons without the awning. As it is configured now. You are going to reconfigure it a bit.

Mr. Sudol – For that building you could, for our business model, not necessarily.

Chairman Maier – How many 41or 42 foot setbacks are there on Route 96?

Mr. Sudol – I had looked down the whole corridor, I was more or less looking to the setbacks to parking areas which there are a lot of in that 40 to 50 foot range. Specifically on our site already and also directly across the street. We didn't go up and down the entire corridor.

Chairman Maier – So we don't know if it's substantial based on what's already on Route 96.

Mr. Sudol – That is something that Mr. Benedict would have that information.

Chairman Maier – I'm just asking the question. How many patios are there on Route 96?

Mr. Sudol – There are a lot more when you get into the Village. There are not too many patios north of Highway 490. Even though it is encouraged throughout the Town Planning and Zoning

documents. We are really the first to follow the formula that was recommended. Everything else is not really patio type uses. Even Olive Garden, up on the hill, they don't really have a patio. Everything else is more retail, so they wouldn't really have a patio. The first real eateries that you get to I think are further down here near the Village.

Chairman Maier – Where I'm getting at is the substantial piece. If we had a lot of patios along Route 96, then it might not be as substantial as not having any.

Mr. Reinhardt – I like your point. I believe Panera has outdoor seating with umbrellas and Distillery has….

Chairman Maier – Yes they do, but it's not on Route 96. Panera's is on the other side. Isn't it on the West side?

Mr. Nearpass and Mr. Reinhardt – No, it's just north.

Chairman Maier – That's not the point, there is not a patio.

Mr. Reinhardt – When you say patio,….

Chairman Maier – Yes, I'm sorry, the covered patio, which makes it unique. What I'm getting at is to determine whether or not it is substantial based on what currently exists and what has been done in the past. What would the impact be if you did not do this?

Mr. Sudol – Well, we would not build the roof structure. It would be a patio with knee wall. We wouldn't have the type of protection at the architect level.

Chairman Maier – So financially there would not be much impact.

Mr. Sudol – It would save us money if we wouldn't be building roof but actually *inaudible*…

Chairman Maier – So it might be advantageous not putting the roof covered area out there.

Mr. Sudol – Not necessarily, I think the benefit to the overall use of the City Tavern Bar exceeds the money that we would save. That's why we are building in the first place. If that were true we would have never purchased it.

Chairman Maier – I've got to ask the question again. Why not do it to the south where the entrance is? I don't know where your entrance is with your existing restaurant but a lot of restaurants you walk in and you've got a nice covered patio. It makes winter maintenance a little easier out there because you don't have to get out and shovel it and take care of that. Why can't we put it there aside from parking?

Mr. Sudol – I don't have a floor plan for you to review. Because this is an existing building that we are inheriting, there are certain firewalls, there is current existing seating that's already set up. The way it works is right now there is a center bar area and behind that is where we have

designed these large glass doors so that when it is really nice out, a day like today, you can really open them up and have a 12 foot opening that will lead up to the patio. So that it really becomes one experience whether you're inside or outside. That same type of opportunity doesn't exist on the south side of the building. Programmatically the way the food is served, the way that people work inside the building, it is nowhere near as efficient and doesn't really work well to the south side. Can we force it to make it work? Yes, we have to move walls, but would it work as well, no and we would lose parking. Again, you are still, whether you have that covered patio area there or where we are proposing it, we don't feel it's a substantial difference aside from the setback requirement in terms of the ambience of it, how it works in the neighborhood, or the corridor district. Similar to the potential awning; is that an alternative? Sure it is, but is it really better than what we are proposing, I don't think so.

Chairman Maier – How many parking spaces would you lose if you put it to the south?

Mr. Sudol – Roughly 20. (*Pointing on an image*) See the curb cut right here? It designed so that you come in and you have this peripheral parking. Our patio would essentially come out in this area. So when you pulled in there would be the patio right there so this would deserve some reconfiguring to get more efficient traffic flow. Right now with the patio here, it's totally separated from any of the internal traffic; it has the security on Route 96 component, but you don't necessarily have cars right here parking next to it or driving by it.

Chairman Maier – Will there be lighting? Down-lighting?

Mr. Sudol – Yes, there will be some lighting. It would be under the roof. That's one of the advantages of a roof. A roof is dark sky compliant because the lights are inside them. If we are trying to light an outdoor patio that doesn't have a roof on it, then we have to do up-lighting and we are lighting up a building. I would think it's more of a negative effect. If you are coming down Route 96 I would rather see a patio area that you could tell it was lit and could see but you don't have big lights coming off of a building trying to light it from there.

Chairman Maier – You had mentioned that you made a presentation to the Architectural Review Board, is that correct?

Mr. Sudol – No, we received a letter back from the Architectural Review Board who essentially said, it's on file with the Town, that they didn't have any comment and they felt that it fit within the character of the corridor district.

Mr. Harter – I have a couple of questions for Al. Al, is this project subject to site plan approval?

Mr. Benedict – Yes it is.

Mr. Harter – So it will go before them and they will take a look at the landscaping, for example?

Mr. Benedict – Correct, yes.

Mr. Harter – Is a knee wall considered a structure or not?

Mr. Benedict – In my opinion, no.

Mr. Harter – Why is it not considered a structure?

Mr. Benedict – It's not supporting anything other than holding back soil.

Mr. Harter – Is it possible just to do the patio that you are proposing within the same setback as currently exists for the parking. The reason I ask that question is because the corridor study that's referred to here that we've dealt with in other applications is intended to provide a clear area. In as much as you've spoken about the internal road, and that is certainly one of the considerations, the possibility of New York State expanding the right-of-way is always taken into consideration in most corridor comments. When I look at the drawing, it looks to me that the parking area already extends into the 80 foot setback. So it seems to me that if you put your patio out there, and you extend as far as the parking that currently extends out there anyway, you are not obstructing anything more obstructive than that which is already there. I just wondered is that something that could fit in terms of your design.

Mr. Sudal – We actually looked at that. The patio has always been 30 feet wide. When we first started analyzing it we worked our way over to the east side of the building. We actually did not have a roof structure; the whole thing, the structure that includes the roof is 40 feet, was not part of the whole patio. Actually, parts of were pulled back. The parking right now is about 20 feet into that setback, so what we are talking about is an additional ten feet. When we really got into the design of it, the first time around we had portions that were open, we essentially said that this doesn't make a whole lot of sense. We're going to go through making this structure, let's make sure everyone is protected from the elements, so let's make it the whole patio width. I think what we would do if the Board would come back and say we don't want to give you the full 30 feet but it's maybe more appropriate to give you 20 feet, the patio itself would still be 30 foot wide because that's what we needed to get the right amount of circular tables and meet the program needs for the operation. We'd end up pulling the structure back ten feet, and again, I don't know that that really gives a benefit to the project as a whole. Sure it's ten feet less of a variance but, does it really benefit the people that are going there, does it really benefit to have it back ten feet with the last ten feet not having a roof.

Mr. Harter – You're going to be removing some landscaping as part of this project, you'll be putting some back after, and you're going before the Planning Board so I imagine they'll take a closer look.

Mr. Sudol – Mr. Zaretsky, Town landscape consultant, actually included a single comment as part of his review which was just making comments on our species selection.

Mr. Harter – Those are my comments. My opinion is if they could agree with what is already protruding out into the setback as it sets, than I see no real harm in the granting of this variance. If they proceed farther than that is something we can discuss.

Mr. Reinhardt – Help me with the math. I know it's a guesstimate. Current Fridays seats 250 and you told me that the proposed seating is 180 and you want the outdoor seating to be 100. In theory you're making the restaurant area a little bit bigger.

Mr. Sudol – My intention when trying to do the math quickly was that whatever TGI Fridays seating was, whatever Code is/allows us to have based on the existing seating, is what our final seating will be.

Mr. Reinhardt – The problem I have with the math is from 250, the indoor seating now drops to 180. What happened to 70 seats?

Mr. Sudol – Yes, again, TGI Fridays could have been 300, I'm just assuming they were close to compliant with Code. I don't have the means to establish exactly what their Code requirement was. What we did, was all along we did not want to increase what they had, it was hard to figure out what they had, so we found out what we were allowed by Code. That's how we got into one space for every two people, there are 151 spaces, that approximately allows us 302 people, plus you need one for every employee. We figured ten or 20 employees, 20 maximum, now you are down to 280. That's really where the 280 comes from. The 100 seats outside maximum, it's actually 75 – 100, we're being conservative, and that's how you back into the interior seating.

Mr. Reinhardt – I think I understand what you are saying, but it appears to me is that on the inside you're spreading the tables out more and then you're making a claim to say that you would like to make it up to capacity so we need to go outside, we need this space for our business to run, and it goes back to the needs and the wants. You really don't need this covered patio area for the restaurant to work. You want it because that's your business plan. I'm not speaking for the Board, but right now I'm not quite convinced that this is a good reason to grant a variance because there are other ways that you can accomplish your task, your need, for the capacity by putting awnings or umbrellas.

Mr. Sudol – There is. You do what Applebee's does, you do what TGI Fridays does, you put six to eight person booths, and they line the entire restaurant with them. Quite frankly that's not at all what we do. We are not a booth restaurant. We're not Friendly's. So, yes, there are other ways to accomplish it, but this isn't a chain restaurant It's going to have a bar, it's going to have large open spaces. The patio is not necessarily to say we want to cram as many people into this facility as we can, we want to say that people who come to our restaurant when it is 75degrees out in April have an opportunity for lunch or for dinner to dine outside.

Mr. Reinhardt – Those are booths in here, this plan that I see?

Mr. Sudol – Yes, those are booths.

Mr. Reinhardt – Oh, I thought you said there are no booths, I misunderstood you.

Mr. Sudol – No, I said it's not all booths. That might speak well to the consumer *Inaudible* behind the bar *inaudible*.

Mr. Nearpass – Were there other sites that were considered within Victor?

Mr. Sudol – It was a vacant building that had a lot of kitchen facilities.

Chairman Maier – Is this being leased? I don't know if you've leased it or not, you don't need to say anything, but did you know going in to this, before you looked into this, that there was a setback issue? (Yes)

So you did know that.

Mr. Nearpass – It really comes down to how much of the patio are we willing to allow to be covered. Al, they could probably take the patio itself, not covered, out how far?

Mr. Benedict – Pretty much right out to the right-of-way.

Mr. Nearpass – They wouldn't do that but the real debate here is over the awning. I thought it was a good point Scott had mentioned about if you didn't go out farther than 20 feet because you would align with the previous intrusion into the setback. You also had a good counter which was what is the difference to a certain extent? The difference is ten feet but the benefit to the applicant versus the community. It's an interesting application, a very balanced needs versus wants kind of discussion. If you want to come up and say a little more about the project?

Mr. Tascione – I'm not good a speaking, but it's a very good experience. We seem to open that patio, we've stretched that out until almost November in downtown Rochester with heaters. We wanted to keep that concrete and we wanted to have heaters built in. With it covered, you will be able to extend the time outdoors longer. The first year we didn't have a cover in Rochester. Every time there is a little rain, then we have to seat 20 or 30 tables inside.

Mr. Nearpass – Was there any hardship on TGI Fridays part for pulling out? Are there any details on it, is it something to do with the site, the size of the building, the market that will tell us it's really tough to get a restaurant at this location of this size or caliber without being differentiated in some manner. Is there any other data?

Mr. Tascione – I think they were just having a branding problem. That's just a dying brand.

Mr. Sudol – When you are one of 10,000 you can be erased pretty quickly if the numbers per month you are getting are not just right.

Ms. Morley – Have you ever sat out on Route 96 and thought about having a drink or eating and thought about how dirty it is up there? It's not a pretty thing to sit out there, I don't believe, but maybe I'm wrong.

Chairman Maier – I have a question for Al. We've got the corridor restrictions for Routes 251 and 96, the berming and the landscaping. The patio would be allowed even if it erased the landscaping and berming.

Mr. Benedict – It would be up to the Planning Board to put that back if that's what they want.

Chairman Maier – OK, but that was most likely a requirement when it was approved back in 2001 or whatever.

Mr. Benedict – Probably, yes.

Chairman Maier – So that berm and that landscaping was there, it's not a….

Mr. Benedict – It is something for this Board to consider if you are going to grant a reduction of that front setback. I don't know how you would want to word that, whether you would address it here or go back at….

Chairman Maier – The other point was that they really don't have free reign, right now, to just go cut into the berm and take down the landscaping and put the patio in.

Mr. Benedict – Correct, they would have to go through the Planning Board to do that.

Mr. Sudol – There are very few trees or landscaping inside the area. We are not proposing to take the berm down. The berm area, whose top is actually six feet above our patio is all maintained. We are not proposing, by any means, to just put 30 feet in and chop everything out.

Chairman Maier – I just wanted to be clear. There is the covered patio, which you are proposing, and then there is just a regular patio with the umbrella tables. I just wanted to be clear that you can't, without Planning Board approval, just put a patio in.

Mr. Nearpass – But they would need a variance. (Yes)

Chairman Maier opened the discussion up to the public and no one from the public spoke.

Ms. Morley – What is this material that you are talking about that you are using to prevent cars from going through?

Mr. Sudol – It's a mixture of concrete and rebar and built more like a wall than something that is just esthetic. There is reinforcement inside the concrete.

Mr. Nearpass – I like that it's unique. I like that you are willing to come in and invest to improve the property. You are not in front of us asking for six more signs to pepper all over it. I think we have had a really good discussion. I would support it, it's been a good debate, I think that the benefit to the community outweighs anything else. We can debate whether it is in the characteristic of the neighborhood, but again, I like that it's unique and I don't think that it would pose a detriment to the neighborhood. I don't think it would be an environmental issue. It does border on more of a want than a need because of other alternatives that are out there but you also made some good points about being able to use it more when you have a real structure in place. You would be able to keep the heat in a little bit, keep the lighting down and have it more dark sky compliant, so I'm for it and happy with the discussion we had here today. It does teeter on more wants versus needs here but it seems like overall it would be a good project.

Mr. Reinhardt – Being a son of an architect I appreciate the esthetic look to it, it's very pleasing, but that can't drive the train for me. You've made your arguments and you've pointed to the pieces of what is necessary to grant the variance. What I see and in my opinion the variance fails and is primarily because there are other alternatives, reasonable alternative means. I'm not against the patio by any means. I think you could have a patio out there, you could have an awning, you could have seating, you could have umbrellas, and still be in compliance with the Code. I think the discussion that we've had, I don't think there is any other structure up and down Route 96 that's like this, so I think there is an argument to be made that it will be an undesirable change. Given the fact that you are asking for 42 feet for the 80 foot setback,that is substantial. Of those three elements, in my opinion, it does not meet the criteria for granting the variance.

Mr. Sudol – To clarify, 30 additional feet.

Mr. Reinhardt – It's a lot and in my opinion it's substantial.

Ms. Morley – I'm in agreement with Mike.

Mr. Harter – I think if Al had told me that he considered the knee wall a structure then I would be in support of doing something less protruding, but the way that you have it laid out, I think is a good way to lay it out. That's the way that I would lay it out. I think it offers a unique appearance, I think it's different. We may not have something comparable to it on Route 96, but I don't know that I would stretch that out to being a detriment to the environment or a detriment to the neighborhood. I think I'm OK with it.

Chairman Maier – One of the questions I always have is does this set a precedent? You had mentioned a precedent that is across the street where they have a setback….I don't know what the setback is across the street, but the rationale for that setback, if I understand it correctly, was to provide a buffer for the residential area that was behind it. There was a value to the residences by moving that building and the parking closer to Route 96. An esthetic value or a value to the neighborhood. We might be able to find one or two and the reason I asked the question are there others is that if this is approved, most likely someone else will come in and say what you just said – this one was approved because of this. We need to have the justification for that. I think it can be accomplished, you can run your business, you indicated that you can run your business effectively without having a patio. So you can get the seating and you can run the business effectively without the patio. You indicated that there was not a significant economic impact.

Mr. Sudol – Not our business, you could run a business as evidenced by the TGI Fridays.

Chairman Maier – I asked that question. I was looking for specific information, what the economic impact would be of not allowing this. I think the answer was that there wasn't any. You said you would save money by not putting that roof up.

Mr. Sudol – Again, the alternative to not having the structure and the roof is that you just have the patio. I understand it is subject to site plan review, but as long as we are in compliance with

all of the requirements for site plan review then it is a right type use as long as we comply with everything, I'm confident that we can. If we are not granted the patio can we still function, can we still have the 30 foot by 85 foot patio with seating out there? Sure, that's how we would move forward. What I was trying to say was that we are willing to spend the additional money to create a better project in our mind in terms of lighting; heat; protection, in terms of everything that goes along with that. What I was saying is sure, can you cram 280 seats into that building? Yes, you could, but is that the City Tavern, the City Grill experience? No, not at all. We don't cram people in where people are sitting back to back. We have big open tables to move around. We have a large bar area which is not there now. Where that bar will be, now has 60 seats. Can a restaurant function there? Sure, but we wouldn't be able to function like that. We are still going to pursue the outdoor patio, we will still put seating out there, we're just not going to have the elements that we really have demonstrated by their experiences in Rochester. Having to go back and actually retrofit the original building to build it, we just wouldn't have that. Seating is going to be there one way or another whether or not it has the roof, that's for the Board to decide which one is better. Mr. Nearpass said, I think, that is the alternative we are looking at here.

Mr. Harter – I think it all boils down to the roof.

Chairman Maier – It all boils down to the roof and we are looking to change the setback. The question is whether it is substantial. Substantial relative to what's been along that corridor.

Mr. Sudol – One thing I would like to mention quickly in terms of precedent, is that the corridor district has a requirement that basically you can't get a front setback variance if your frontage is less than 25% of the lot width. Almost every commercial parcel up and down Route 96 has building frontage that is greater than 25% of the lot width which automatically disqualifies it. The reason why we don't, if you look at our lot, this is an extremely long lot with a ton of frontage. It's a unique situation, which I would think, in terms of precedent, there is not a lot of land left along Route 96 in this area that hasn't already been utilized, but if somebody else were to come in, I think that 95% of them are going to be thrown out at their first meeting with staff because when you go to this part of the Code, your lot is only 200 feet wide and your building is 60 or 80 feet wide, you're out. I would just like to point out the uniqueness of the lot in terms of the precedent issue.

Chairman Maier – Architecturally I'm fine with it, but I think that what you are proposing can be accomplished in a less significant fashion or not being done at all and not having a negative economic impact.

Mr. Sudol – So if things go the way they are appearing to go, does a 20 foot roof, to what Mr. Harter said earlier, does that change anybody's opinion or a 15 foot roof?

Chairman Maier – Let me give you my perspective and when I read the Code, that's what I'm doing – reading the Code, and making a decision based on whether it's the master plan or whoever has determined this. They have a vision for Route 96 whether it's narrow lots, wide lots or whatever, but I read the Code and that Route 251/96 Corridor indicates that they want it vegetated, they don't want to see parking, they don't want to see buildings, they don't want to see awnings, they don't want to see signs, they'd like to be able to drive down Route 251 and

still be able to have the services that are there but have it more rural in character. I think that what happens is that as you start narrowing those setbacks, taking away the berms and vegetation, you change the vision that whoever drafted this Code had envisioned. Now I could be incorrect, but that's how I'm reading what the Code Enforcement Officer put for us and I believe was available for you to look at. We've held others to that criteria and if you were to say I can't run my business this way or I can't do that or I just can't operate like that. You knew this going into it and you know that there are other alternatives. I believe that you have decided that this is the alternative that you want to have. That's how I'm interpreting what we've been asked to look at on this Board.

Mr. Sudol – We did evaluate all the alternatives and we feel that we want this alternative because we feel it's the best alternative. Not just for the business but for the entire project as a whole, architecturally, esthetically, for the future people. There will be a lot of residents from the Town of Victor using this establishment, hopefully, and we really felt that this was the best project to service them. Mr. Benedict did provide comments that we responded to, the specific Code requirements that demonstrate that we were in compliance with that. I certainly understand what you are saying and respect that but we are compliant with all other aspects of the Code other than the front setback, which comes down to roof or no roof.

Mr. Reinhardt – I have a question for Al. If the variance is granted, will the applicant be permitted to put any kind of windows or enclosures around the patio area and create, for example, a three season room? Would they need another variance for that or could they just go ahead and do that?

Mr. Benedict – I think, in the worst case, they would need to go back to the Planning Board. I'm not even confident of that. Granting a variance to bring a structure out to a certain point, unless you specify some criteria that doesn't allow modification or something to that effect, …

Mr. Reinhardt – I am now even more concerned about, with this discussion, is that if this variance is granted the applicant could take it further than what we are assuming it is going to be.

Mr. Benedict – It's possible.

Mr. Reinhardt – So if it's enclosed with sliders, glass sliders, they wouldn't need a variance.

Mr. Nearpass – We could condition it, I would think we could condition this variance such that it's …

Mr. Reinhardt – We could condition the variance all day long but the farther it goes out, it's a structure. Whether this applicant has that variance or …. I hope you're successful in your business, don't get me wrong, but businesses are closed, restaurants are closed, other things move in, if there is another type of business that moves in there that we are not quite prepared for they can close the whole thing and we've just created that opportunity.

Mr. Sudol – It's very similar to the way variances are granted based on setback, not necessarily specific to the architecture like site plan review. Of course the architecture is taken into

consideration as part of the analysis of the variance. If you were to grant the variance, there is nothing to say that we couldn't go and totally change the architecture, of course we wouldn't from what the Board has seen. What I'm trying to say is the granting of the variance is based on the application that is made with certain elevations and certain documents which are presented as the project. It is not within our right to just go start changing things from what was submitted. That's why approvals reference specific plans, because it's based on those plans. In this case it would be based on the architectural plans that we presented where it would be the patio…..

Mr. Reinhardt – You are familiar with the adage, once the barn doors are open it's hard to get the animals out.

Mr. Sudol – I understand, and I've been on both sides of that. I've gone back to Boards with variances from ten years ago and I was turned away at the door with "as long as you are compliant with this discussion, these minutes, these conditions, and this application that was submitted ten years ago, then you are fine, but if you are not in compliance with that, start over."

Mr. Reinhardt – Ok, thanks.

Chairman Maier read the resolution.

RESOLUTION

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on March 29, 2016 from East Coast Tavern, LLC, 348 East Avenue, Rochester, NY 14607, requesting an area variance to allow a 41 foot front setback at 7635 NYS Route 96, in order to construct a covered outdoor patio whereas, Schedule II, Area and Height Requirements for Commercial Districts, requires an 80 foot front setback; and,

WHEREAS, on September 14, 2001, the New York State Supreme Court reversed the decision of the Town of Victor Zoning Board of Appeals of April 30, 2001 to allow a building setback of 73 feet whereas 80 feet was required and a 70 foot parking space setback whereas 80 feet was required; 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 published in "The Daily Messenger" on April 10, 2016 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, the Ontario County Planning Board referred the application back to the Town of Victor Zoning Board of Appeals on April 13, 2016 assigning the referral as a Class 1 Action; and,

WHEREAS, a Public Hearing was held on April 18, 2016 at which time no resident spoke for or against the application; and,

WHEREAS, after reviewing the file, the testimony given at the April 18, 2016 Public Hearing of the Zoning Board of Appeals, and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings of fact for denying a 41 foot front setback at 7635 State Route 96, Victor, NY 14564:

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: There are no permanent awnings on State Route 96 and there are a limited number of setbacks that are only 41 feet. There may be an impact to the visibility to the property to the North, Panera Bread. There could potentially be an impact cutting into the berm and the requirements stated in the Code for the Route 251/Route 96 Corridor.

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: There is adequate room for seating based on the parking that is already there. The covered patio could be constructed in another location and awnings or umbrellas could be used as opposed to a permanent roof covering.

3. The requested area variance is substantial.

   Justification: What the requirements call for in the Route 251/Route 96 Corridor Section of the Code. The setback is substantial and the setback relative to other properties in that Corridor is substantial. There are also no other covered patios along that Corridor or that close to the corridor.

4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

   Justification: The amount of setback requested, the visual impact of the covered patio, and the fact that there may be a visual impact to the business to the north.

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 Michael Reinhardt:

NOW, THEREFORE BE IT RESOLVED that the application of East Coast Tavern, LLC, 348 East Avenue, Rochester, NY 14607, requesting an area variance to allow a 41 foot front setback at 7635 NYS Route 96, in order to construct a covered outdoor patio whereas, Schedule II, Area and Height Requirements for Commercial Districts requires an 80 foot front setback BE DENIED:

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

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

Adopted: 3 Ayes, 2 Nays

Mr. Sudol - Thank you. Just a quick question, if we were to proceed in a similar fashion but with a scaled down version, whether it is an awning or a roof that isn't as substantial of a variance, off the record, is that an appropriate alternative for us to potentially pursue? To Mr. Harter's point, only being 20 feet out, would that change anyone's mind? I know you can't answer that officially, but is it something that the Board might be interested in reviewing or is it no to the roof? Even an awning off the building would still require a variance.

Mr. Benedict – I would agree with that.

Mr. Nearpass – The awning would require a variance?

Mr. Benedict – If it's attached to the building, it would be part of the building.

Mr. Sudol – If we used an awning we are in the same place.

Chairman Maier – Without looking at it I'm not going to speak one way or another. I've indicated my position and again, looking at the Code, and looking at what the Code is asking us to do on that corridor, whether it's with setback, whether it's with the visual piece, I think that you would have to read that and make a determination based on that.

Mr. Reinhardt – I think your question is dangerously close to asking for legal opinion. My best recommendation for you is to seek legal counsel, review with your counsel, and make your best choice at that point.

Mr. Harter – Just one comment to his question, having been through this before with this Board and other Boards. I think if he were to do that now after the vote went through, he would have to come back as Panera Bread did and ask us if the proposed modifications are ….

Mr. Reinhardt – I'm suggesting he should talk to his attorney and discuss his legal options. We would be making an error if we give you some legal advice and it's not quite accurate. Hopefully you have counsel that has gotten you this far, talk to them some more, ask them what to do next and what your options are. That's the best advice.

Mr. Nearpass – As you proceed with your project a suggestion would be, if you proceed without the awning, just collect data. Collect data on the days you had to bring people in because the weather wasn't permitting. At least if you come in a year or two from now, you can at least *have data*. Sounds like you had a similar situation on East Avenue. You started without the awning, it went down a path and then you decided you needed it. At least if you are collecting the data it would help. I can't say that it would be enough.

Thank you was said all around and the applicants were wished good luck with their business.

SCHOFF OUT BUILDING/GARAGE
7126 Valentown Road
Appl. No. 4-Z-16

Applicant is requesting to construct a an outbuilding / garage to be placed forward of the front line of existing residence, whereas an accessory structure is not allowed forward of the front line of the principal structure per Section 211-31G(2) of the Town of Victor Code.

The secretary read the legal notice as it was published in The Daily Messenger on April 10, 2016.

Mr. Chuck Smith of Design Works Architecture addressed the Board.

Mr. Smith – I'm representing Bill and Sue Schoff tonight. They are out of town. I am here after designing their home on that property. The property is a three lot subdivision off Valentown Road. We have successfully built a nice home for them. We designed a home that has a two car garage and they would like an outbuilding to store other elements of their life. We are proposing to build another building to house tractors and other cars and things for their use. The issue came about when the property was subdivided. Originally the road was going to become a public road. It turned out to not become a public road which then created the address to be Valentown Road. Had it become a public road, this building would have been on a side lot and the front of the property would have been on the west property line and we wouldn't be here today. Because the right-of-way was never deeded to the Town, we now have our perfect spot for this outbuilding is

now considered front lawn, in front of the house, even though it is 600 feet from Valentown Road.

If you take a look at the original subdivision, this was the front line of the property and the front setback and this was the 15 foot side and that's the way it was set up. Now, because of the right-of-way being a private right-of-way this becomes *the parent* (Valentown Rd), so now we are in the front yard. I think that the law was written so that people don't put barns in front of their houses on the street where it would be an awkward situation. This building is tucked into the side of a hill, in the woods, you can't see it from Valentown Road. You can barely see it from the neighbor's property. I gave you some things to consider on the five criteria you have to consider for the variance. I will answer any questions that you have.

Mr. Reinhardt – Help me out here. I can't for the life of me figure out where it is that you want to put this structure.

Mr. Harter and Mr. Smith explained where the outbuilding was on the plan.

Mr. Reinhardt – Where is it on the aerial?

Mr. Smith used the pointer to show where the outbuilding would be placed on the aerial. He pointed out the 600 feet to Valentown Road.

Mr. Reinhardt – The proposed structure is 600 feet from Valentown Road?

Mr. Smith – Right.

Mr. Reinhardt – Humor me, why can't it go behind the structure?

Mr. Smith – It's a very steep hill.

Mr. Reinhardt – I don't want to put words in your mouth, but it sounds like with the lay of the land, this is the best place for it.

Mr. Smith – I didn't go through my arguments, want me to read theses? I did cover that.

Mr. Reinhardt – I think for summing it up, the 30,000 foot view, this is the best place for it largely due to the lay of the land. It is the most level.

Mr. Smith – We analyzed the property. This spot in here still requires a variance and you can tuck a barn in here but it wouldn't solve our issues of why we are here tonight. If we look at building it on the side lot line there is a stream that goes through here and this is all much steeper than *where we want to build it*. This is the property line, so we can't build it back over here. This is the nicest, most accessible, least impact on the land/environment spot.

This is our neighbor who lives next door.

Mr. Glen Thon of 7112 Valentown addressed the Board.

Mr. Thon – The Schoffs own this property here also. (Lot next to Schoff home lot). This is very steep; this is a good driveway going up and then it gets steeper all the way. They put a retaining wall behind their house to give them some backyard there for a patio. This right here is where their septic leach lines are.

Mr. Reinhardt – And you're OK with that?

Mr. Thon – Absolutely. You see these trees here. They are 12 and 14 year old trees. These are five year old trees here. They had room for these trees to grow so that this house won't see the proposed outbuilding. The rendering that Chuck has done, has complimented the house's architecture. He did it very well. These houses right here compliment this one. Craftsman style house, they've done a nice job.

Mr. Harter – Corky, is this the best place to put it in your opinion. You owned the land originally didn't you?

Mr. Thon – I would put it there, yes. I cautioned Chuck tonight that there is a boulder in here somewhere.

Mr. Harter – This was your property originally before it was subdivided?

Mr. Thon – It was Joyce's mother's and father's.

Mr. Harter – I remember you were in here a few years back when it first went in.

Mr. Thon explained how the land was subdivided.

Mr. Reinhardt – If the Board decides as a condition to granting the variance to putting adequate buffers or landscaping to tuck the structure in, would the owners be open to that idea?

Mr. Smith – They would accept that as a condition. The good news about that is that the side of the neighbor's house that faces this barn is actually their garage. They have their compost back in that area, so that is their no look area.

Mr. Nearpass – I have no issues. I think the applicant talked about it that the particular law that talks about no accessory structure forward of the primary structure is generally meant for a more developed neighborhood where the houses are in a row. We've had a number of these cases with unique landscapes in property settings. What's the front of the house what's the back of the house; certainly with this one is well wooded. I have no issue whatsoever with where they propose to put the garage.

Mr. Harter – I have no issue. As I think Matt is saying, we have this regulation in our Zoning Code and from time to time it triggers some value; for this particular application I'm not sure it was anything more than an administrative anomaly. I'm for granting the variance in this particular case.

Ms. Morley – I'm for granting the variance.

Chairman Maier – I have a couple of questions. In my agenda it says outbuilding garage, so it's 600 square feet? How many square feet is it? Is it less than 1,000 square feet Al?

Mr. Benedict – It's less than a 1,000, it's 864 square feet or something like that.

Mr. Smith – We're under the 1,000 square feet that triggers Planning Board review.

Chairman Maier – I'm assuming that you've designed an outbuilding or garage already or has one been designed? (Yes) Can we have a copy of it? (Yes) So if we were to put a restriction on it that it be similar to this…. The design was in the packet. Are there plans for an addition?

Mr. Smith – No, there is not.

Chairman Maier – Ok, you are on the record. Lighting, I'm sure there will be lighting?

Mr. Smith – Yes, it'll be pretty dark trying to get there at night so they will have sconces on the building on the outside of the doors.

Chairman Maier – If we were to put a condition on that the lights be dark sky compliant…

Mr. Smith – We don't have a problem with that.

Chairman Maier – Mike, do you want to talk about landscaping?

Mr. Reinhardt – If the Board doesn't think landscaping is necessary in this situation, I'm fine with it. I just put it on the table for discussion.

Chairman Maier – The impression I'm getting, taking a look at it, is that it looks like they have a very nice view and they've tried to take advantage of that view, but it also appears as though they enjoy the wood lot that is there and they are looking to preserve the woodlot…

Mr. Thon – That's very true. There are 60 and 70 year old cherry trees, maple trees, and so forth. They can put more shrubs or smaller trees in. When everything is blooming and blossoming you won't hardly see anything.

Chairman Maier – So they are going to limit the clearing – as minimal as possible.

Mr. Smith – The clearing that would be needed for access to this building is actually on the north side towards the ….*inaudible*

Chairman Maier – It's neat, there are neat little pockets that you find that are like this that are very pretty. It's a very pretty parcel. I will open this up to the public if anyone else has any comments. Mr. Thon, you've indicated that you were in favor of the application? (Yes)

Chairman Maier read the Resolution.

RESOLUTION

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on April 4, 2016 from Bill and Sue Schoff, 7126 Valentown Road, Victor, NY 14564, requesting an area variance to construct an 836 square foot outbuilding forward of the front line of the existing residence, 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 April 10, 2016 and whereby all property owners within 500 feet of the application were notified by U. S. Mail; and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on April 18, 2016 at which time two residents spoke for 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 forward of the front line of the primary structure at 7126 Valentown Road, Victor, NY 14564:

1. An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

   Justification: The property is heavily wooded. The outbuilding will be buffered from neighbors and Valentown Road. The design of outbuilding is very similar to the construction of the principal residence.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

   Justification: Due to the topography of the property it is the only suitable area to put the outbuilding. The original owner of the property is present in the audience and has deemed that area as the best possible place to put the structure.

3. The requested area variance is not substantial.

   Justification: Relative to the size of the lot the structure is not substantial. The appearance and the fact that it is buffered also makes it less substantial.

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 architecture is the same as the existing home and it will be heavily buffered.

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 Bill and Sue Schoff, 7126 Valentown Road, Victor, New York 14564, for an area variance to construct an 836 square foot outbuilding to be located forward of the front line of the existing principal structure, with the condition that lighting be dark sky compliant BE APPROVED:

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

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

Adopted: 5 Ayes, 0 Nays

Mr. Smith – Thank you for your volunteer efforts tonight.

Mr. Harter – It looks like a nice garage that you've designed there.

On a motion by Keith Maier RESOLVED and unanimously agreed, that the meeting was adjourned at 8:45 PM.

Debby Trillaud, Secretary