

A regular meeting of the Town of Victor Zoning Board of Appeals was held on August 15, 2016 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Scott Harter, Vice-Chairman; Mathew Nearpass; Michael Reinhardt;

ABSENT: Keith Maier, Chairman; Donna Morley

OTHERS: Al Benedict, Code Enforcement Officer; Michael Kauffman, Eastview Mall; David Connelly, Eastview Mall; Michael Trippe, PSGI; Debby Trillaud, Secretary

The meeting was opened and the Flag was saluted.

APPROVAL OF MINUTES

The approval of minutes will be postponed until the next meeting on September 6, 2016.

CODE ENFORCEMENT QUESTIONS

Mr. Harter – I had a question on the application we had on East Victor Road where the individual had variance requests. The individual went to the Town Board for enhancement to the definition of what could be done in the specific zoning district the individual was in. What is the status of that application?

Mr. Benedict – The local law was modified to allow for the expansion of residential uses in commercial-light industrial district and others. It's on its way to the State and when the State acknowledges that they have received it, it becomes law and he can come back. A variance for the side setback of the garage is still needed. The setbacks will adhere to whatever the district is.

Mr. Harter – That then may help us with future situations like that.

PUBLIC HEARING

EVM – LIGHT RETROFIT
100-1020 Eastview Mall Drive
Appl. No. 20-Z-2016

Eastview Mall would like to retro fit 67 existing 1000 W site lights with full cut-off LED fixtures, whereas section 131-6B requires that newly installed, replaced, altered or relocated lighting must comply with Chapter 131, the Lighting Code. The Mall parking lot poles are 50 feet high, whereas Section 131-11B(1) requires that parking lot lighting be on poles no higher than 25 feet.

The Eastview Mall property is composed of several lots which join between buildings as well as in the middle of the parking lot. Section 131-9B(7) indicates that light shall not trespass to other properties in amounts greater than .75 foot-candles. Although the lots are all Eastview Mall, a variance is needed as separate lots are considered other properties.

The secretary read the legal notice as it was published in The Daily Messenger on August 7, 2016.

Michael Kauffman, General Manager of Eastview Mall addressed the Board.

Mr. Kauffman – Good evening. I am accompanied by Dave Connelly who is the Wilmorite Energy Manager and Mike Trippe from Point Source Lighting Group.

We've applied for a variance to install LED site lighting in place of existing site lighting on our 50 foot poles. There are 67 remaining poles. We would like to transition to LED over the next several years. At this point would you like me to start addressing the five criteria?

Mr. Harter – Before we get into that I would open it up to questions to you and your team from the Board. Then if you want to go through the five criteria that would be fine.

Mr. Nearpass – What is the main benefit here? Is it cost savings; is it improved lighting distribution; is it all the above? I read through some of the minutes regarding the orange glow.

Mr. Kauffman – I would say those two things and I would say safety. Obviously it's a big concern in our industry now-a-days. The camera system that we have responds much better to the LED lighting than it does to the existing lighting. I would say those three things are probably the critical things for us.

Mr. Nearpass – What you are asking for is to keep the existing height of the poles the same? (Yes) I'm assuming you lower the lights, you need more poles, is that the trade-off?

Mr. Connelly – Two and a half times. (*the amount of poles*).

Mr. Kauffman – Yes, We determined to go to a 25 foot pole we would have to have a total of 227 25 foot poles.

Mr. Nearpass – And today there is a total of 67 poles?

Mr. Kauffman – 67 in addition to the ones that we have right now. There is a total of 85.

Mr. Nearpass – What is the energy savings?

Mr. Connelly – About half the energy.

Mr. Kauffman – I think, if I'm correct, the calculation is that for each pole the energy cost is about \$1,000 per year and the LED's are about \$500. It's just about half.

Mr. Nearpass – Are there any other means that you've looked at? What other options did you have? If you didn't get the variance, what other options are there?

Mr. Kauffman – You know the only other option would be to go to the 25 foot poles. We priced that out and the total cost for that is approximately 3.8 million dollars.

Mr. Nearpass – Are there additional loss of parking spots?

Mr. Connelly – Yes, there are twice as many poles. When you go to plow the parking lot in the winter time...

Mr. Kauffman – I believe it would affect the number of parking spots as well.

Mr. Reinhardt – Matt's covered most of it. Eight years for 67 poles, that's about eight per year? (Correct) Why so long? What takes you so long to retrofit them?

Mr. Kauffman – It's not a matter of time, it's a matter of cost. The cost for this total project is about a half million dollars. The way that we are internally covering that cost is just through our regular operating budget rather than a type of capital expense.

Mr. Reinhardt – What's it going to cost per pole?

Mr. Kauffman – About \$7,000.

Mr. Reinhardt – Each pole retrofitted and correct, OK, I understand everything.

Mr. Harter – I looked at the photo point plot that you have and that's good. In my meeting with the staff last week, it was mentioned that we have another Code item that is relative to property lines. There are various property lines within your facility. Technically some of the light would be going over property lines, but it's all internal to your Mall.

Mr. Kauffman – It's all internal. Our agreements with department stores are just basically that we are responsible for providing appropriate lighting onto the property.

Mr. Harter – Al, are the fixtures they are proposing dark sky compliant, do they meet our Code?

Mr. Benedict – Yes, they are.

Mr. Harter – Are these the same ones that are currently in use around the Von Maur site area?

Mr. Kauffman – Yes, they are.

Mr. Harter – I think, from what I've read, the 25 foot poles versus the 50 foot poles, you have to get more poles and there is not really a huge environmental benefit one way or the other. In my research I didn't see anything that would point in the direction, in this particular situation, and guides my thoughts to insisting on a 25 foot high pole. I also think that Von Maur gave me, when I toured the site, it gave me a feeling of what your final product is going to be as you do this.

Mr. Kauffman – Yes, it's certainly a big improvement.

Mr. Harter – I think so. I look forward to seeing the orange cloud go away. If it works better for your cameras, that's great too.

Mr. Harter asked if there was anyone from the public who would like to speak for or against the application and there was no one.

Mr. Harter – If you would like to go through your responses to the five criteria now we would be happy to hear you.

Mr. Kauffman – I leave that up to you. I think we've probably covered a good portion of it.

RESOLUTION:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on July 21, 2016 from Michael Kauffman, General Manager of Eastview Mall, Victor, NY 14564 proposing to retrofit 67 existing site lights with full cut-off LED fixtures at Eastview Mall, 100-1020 Eastview Mall Drive, Victor, NY, whereas §131-6B requires that newly installed, replaced, altered or relocated lighting must comply with Chapter 131, the Lighting Code.

WHEREAS, the application requires three area variances; §131-6B which requires that newly installed or replaced lighting must comply with Chapter 131, the Lighting Code; and,

WHEREAS, the applicant does not propose to change the height of the 50 feet high existing light poles, whereas §131-11B(1) indicates that the maximum pole height is 25 feet for parking lot areas; and,

WHEREAS, the Eastview Mall property is composed of several lots, some of which join in the middle of the parking lot, whereas, §131-9B(7) indicates that light shall not trespass to other properties in amounts greater than .75 foot-candles.

WHEREAS, said application was referred by Al 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 August 7, 2016 and whereby all property owners within 500 feet of the application were notified by U. S. Mail; and,

WHEREAS, the Ontario County Planning Board referred the application back to the Town of Victor Zoning Board of Appeals on August 10, 2016 with comments, assigning the referral as a Class 1 Action; and,

WHEREAS, a Public Hearing was held on August 15, 2016 at which time no resident spoke for or against 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 to allow the proposed full cut-off LED fixture retrofit of 67 existing site lights located at Eastview Mall :

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 variances.

Justification: Additional light poles would be costly, troublesome, and logistically more difficult for drivers to navigate and the environmental benefit would be the same in terms of lighting impact.

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

Justification: The Code could be complied with but it would be very costly to do so and the benefit would be negligible in terms of the environmental impact on lighting.

3. The requested area variance is substantial.

Justification: It is a large deviation from the Town of Victor Code, but it is a pre-existing nonconforming site. Eastview Mall was constructed before the Lighting Code went into effect.

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

Justification: Additional poles are not going to produce a noticeable benefit and would be costly to achieve in terms of construction. No one from the neighborhood or public spoke against the application.

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

On motion made by Scott Harter, seconded by Mathew Nearpass:

NOW, THEREFORE BE IT RESOLVED that the application of Michael Kauffman, General Manager of Eastview Mall, Victor, NY 14564 proposing to retrofit 67 existing site lights with full cut-off LED fixtures at Eastview Mall, 100-1020 Eastview Mall Drive, Victor, NY, whereas §131-6B requires that newly installed, replaced, altered or relocated lighting must comply with Chapter 131, the Lighting Code; and, whereas, the height of the existing light poles is 50 feet, whereas §131-11B(1) indicates that the maximum pole height is 25 feet for parking lot areas; and, whereas the Eastview Mall property is composed of several lots, some of which join in the middle of the parking lot, whereas, §131-9B(7) indicates that light shall not trespass to other properties in amounts greater than .75 foot-candles BE APPROVED.

FURTHER RESOLVED that the following conditions are imposed to minimize any adverse impact such variances may have on the neighborhood or community:

1. That the lighting retrofit shall be completed in the proposed eight years or sooner.

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

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

Adopted 3 Ayes, 0 Nays

On a motion by Michael Reinhardt, seconded by Matthew Nearpass, it was unanimously agreed and RESOLVED, that the meeting was adjourned at 7:20 PM.

Debby Trillaud, Secretary