

A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, September 21, 2016 at the Village Hall, 60 East Main Street.

MEMBERS PRESENT:

Chairperson	Sean Sanderson
Member	Brian Pancoast
Member	Brendon Crossing
Member	Kate Gruenfelder
Member	David Chalupa
Zoning Clerk	Roseanne Turner-Adams

OTHERS PRESENT: Mike Crowley, Michael Mack, Kate Farney, Sarah Mack

The ZBA meeting was called to order by Chairperson Sean Sanderson at 7:00 pm.

Salute to the Flag

Resolution #10-16ZBA

Acceptance of Minutes

On a motion made by Kate Gruenfelder, seconded by Brian Pancoast, the following resolution was ADOPTED 4 AYES 0 NAYS 1 ABSTAIN (Brendon Crossing-New Member)

Resolved to accept the minutes dated June 15, 2016.

245 East Main Street/Michael & Sarah Mack

Area Variance- Accessory Building Height

Chairperson Sanderson read the legal notice into the record:

“A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, September 21, 2016, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of Michael & Sarah Mack, for a variance to the Village of Victor Zoning Code to build a 32’ x 44’ garage 19 feet in height. Section 170-11 G(2) of the Village Code limits the height to 12 feet. The property is located at 245 East Main Street and is zoned R-2.”

Chairperson Sanderson then read the letter of referral from Codes and Development into the record:

“I have denied the building permit for a garage @ 245 East Main Street due to the proposed finished roof height of nineteen (19) feet.

The R-2 district regulation in 170-11 is such that:

Detached accessory buildings shall observe the following restrictions:

[Added 5-7-2012 by L.L. No. 5-2012]

(1) Setbacks.

- (a) Front: 30 feet and behind the front line of the principal building.
- (b) Rear and side: three feet when less than 120 square feet; five feet when between 120 square feet and 180 square feet; 10 feet when greater than 180 square feet.
- (2) Detached accessory buildings shall not exceed 12 feet in height.
- (3) Detached accessory buildings shall not be installed in violation of restrictions on real property.
- (4) Detached accessory buildings shall not be used for a business, occupation or service.

170-11 G (2) limits the height to 12 feet and so therefore a variance is needed“

Mr. Sanderson asked Mr. Mack to explain his proposal. Mr. Mack stated that he would like to build a 32 x 44 pole barn similar to one he had at his previous home in Farmington. Mr. Mack explained that he needs the height to be 19 feet in order to install a lift for his antique car hobby. Mr. Mack stated that the home at 245 East Main Street has a single car garage on the property that will not serve the purpose he needs. Mr. Mack explained that the proposed structure would have a concrete floor and a gravel driveway and that no trees would need to be removed.

Mr. Sanderson stated that the paperwork provided by the contractor suggests that the interior walls will be 12 feet tall and asked if the structure will be 19 feet at the peak. Mr. Mack stated that the height at the peak will be about 18.4 feet. Mr. Sanderson stated that it would be better to word the variance as 19 feet maximum. Ms. Gruenfelder asked Mr. Mack if he has a picture of his previous pole barn. Mr. Mack provided photos of his previous pole barn and two photos of the site where he proposes to place the new barn at 245 East Main Street. (Exhibits A, B & C). Mr. Mack stated that the pole barn will look similar to his old barn and blend in with the surroundings so that nobody will even know the barn is there. Mr. Mack stated that he looked at neighboring two story barns and stated that there are at least 6 or 7 that are over 12 feet. Mr. Sanderson stated that a lot of the homes on Main Street have detached accessory buildings that are two stories and taller than the allowed 12 feet which would help keep the proposed barn in the character of the neighborhood. Mr. Mack stated that the barn will be professionally built and have two garage doors in the front. Mr. Pancoast asked if the 19 feet is measured to the peak. Mr. Mack stated that the 19 feet is measured to the peak.

Mr. Crossing asked what height is needed to accommodate the lift. Mr. Mack stated that he had a 12 foot ceiling in his other pole barn with a drop ceiling that brought it down about 4 inches. Mr. Mack explained that his antique cars are small Triumph sports cars but with a hood open could just about touch the ceiling so he wouldn't want to build the structure any smaller. Mr. Mack stated that the lift would raise enough so he could walk under it. Mr. Crossing asked Mr. Mack what he does with the antique cars. Mr. Mack stated that the antique cars are a hobby and that he belongs to the Greater Rochester Triumph Club. Mr. Mack stated that only one of his cars is on the road right now and the other two need work.

Mr. Sanderson asked Mr. Crowley and Mr. Pancoast what the difference is as far as an accessory building in R2 vs. R1. Mr. Pancoast stated that there is no restriction in R1 for an accessory building but that any building in R1 cannot exceed 35 feet. Mr. Crowley stated that he firmly believed that the north side of East Main Street was in R1 and that the height restriction that you are dealing with now is a recent change. Mr. Crowley stated that the code states that the property sits in R2 but that the reasonably prudent person is going to believe that it is in R1 which is the other side of the street. Mr. Crowley stated that it certainly blends in with the other houses on the street and that the accessory buildings that were referenced were built prior to the code. Mr. Crowley stated that if this were in R1 it wouldn't need a variance so the question is if it is upsetting anything in the neighboring district even though it says it's R2. Mr. Pancoast agreed with Mr. Crowley and stated that there is no definition of how to calculate building height in 170-11 but that in 170-14 (Industrial) it talks about calculating building height with the vertical distance measured from grade level to the highest level of a flat roof or to the average height of a pitched gabled roof. Mr. Pancoast questioned whether this proposed structure needs a variance because it is 19 feet to the peak vs. going to the average height. Mr. Crossing stated that it would still be over 12 feet. Mr. Sanderson stated that when it comes to residential that it is usually measured to the peak. Mr. Pancoast stated that he is not ok with measuring to the peak. Ms. Gruenfelder asked Mr. Pancoast how he thinks that it should be measured. Mr. Pancoast stated that he thinks it should be measured like it is in Industrial. Mr. Chalupa stated that it is not in the Industrial district. Mr. Crowley stated that if it is defined in light Industrial a specific way that it was defined that way for a reason specific to that section of the code most likely to accommodate what is inside the Industrial buildings.

Mr. Chalupa asked Mr. Mack if he plans on putting in more than one lift and wondered how many cars could fit in the structure. Mr. Mack stated that there will be one lift and room for about 6 cars in the structure. Mr. Chalupa stated that he is concerned that this is being permitted as a garage in a residential area. Mr. Sanderson stated that by code a business could not be run from this structure and that it is just a garage for personal use. Mr. Mack agreed that the structure is for his car hobby and household storage.

Discussion amongst board as to how to define the height of the variance

Mr. Sanderson stated that the majority of the Zoning Board members agreed to measure the height of the building to the peak.

Public Hearing

Chairperson Sanderson opened the Public Hearing.

Muriel Nado-261 East Main Street

Ms. Nado called Village Hall on September 7, 2016 at 9am to go on record that she is "ok" with the garage going up at 245 East Main Street.

Chairperson Sanderson closed the Public Hearing.

The ZBA then went through the Area Variance Criteria balancing test:

- Whether the benefit can be achieved by other means feasible: *no*
- Will the variance create an undesirable change in the neighborhood: *no*
- That the request is substantial: *yes*
- Whether the request will have adverse physical or environmental effects: *no*
- That the alleged hardship was self-created: *yes*

Resolution #11-16ZBA

245 East Main Street/Michael & Sarah Mack

Area Variance- Accessory Building Height

On a motion made by Brian Pancoast, seconded by Brendon Crossing, the following resolution was APPROVED 5 AYES 0 NAYS

To grant an area variance to allow a maximum height of 19 feet at the peak for an accessory building at 245 East Main Street.

WHEREAS, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from Michael & Sarah Mack; on August 25, 2016, requesting an area variance for the height of a proposed accessory building.

WHEREAS, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Sections 170-11 G (2) and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on August 31, 2016; and,

WHEREAS, all adjacent property owners were timely notified of the hearing and the purpose of the hearing by mail; and,

WHEREAS, a Public Hearing was held on September 21, 2016 at which time all those who desired to be heard were heard; and,

WHEREAS, after viewing the premises and after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Village of Victor Zoning Board of Appeals made the following findings of fact:

- The variance would benefit the applicant and outweigh any negative effect to the community.
- The board determined that there are numerous structures in the Village over the 19' height limit.

- Through much discussion the board felt that this potential project would not alter the character of the neighborhood.

The Board determined that strict application of the code in this case will not serve any valid public purpose which outweighs the injuries to the applicant.

That an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of this variance.

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

That the requested variance is substantial.

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

That the alleged difficulty was self-created.

That the variance proposed is the minimum variance necessary.

That the requested variance will not alter the essential character of the neighborhood.

NOW, THEREFORE BE IT RESOLVED that the application of Michael and Sarah Mack for an area variance to allow the maximum height of 19 feet at the peak for an accessory building at 245 East Main Street **Be Approved.**

Be It Further Resolved:

- That the applicant obtains the proper building permit(s) from the Building Department.

Chairperson Report

Mr. Sanderson stated that Ms. Gruenfelder is leaving the Zoning Board and thanked her for serving on the Board.

ADJOURNMENT

Meeting was adjourned on motion at 7:40 pm.

Roseanne Turner-Adams, Minutes Clerk