

**A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, January 17, 2018 at the Village Hall, 60 East Main Street.**

**MEMBERS PRESENT:**

Chairperson	Sean Sanderson
Vice Chairperson	Brian Pancoast
Member	David Chalupa
Member	Brendon Crossing
Member	Tim Stone
Zoning Clerk	Roseanne Turner-Adams

**OTHERS PRESENT:** James Eskildsen, Sarah E. Eck, David R. Soule, Jacob R. Soule, Gary Hadden, Mike Crowley, Doug Scarson

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

Salute to the Flag

**Resolution #01-18ZBA**

**Acceptance of Minutes**

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

**Resolved** to accept the minutes dated September 20, 2017.

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**16 Rawson Road/David Soule**

**Area Variance**

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, January 17, 2018, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of David R. Soule, 16 Rawson Road, for an area variance to the Village of Victor Zoning Code to build a garage at 16 Rawson Road. The property is situated in an R-3 district. The R-3 district regulations for single family homes refer to the regulations in the R-2 district. The applicant is seeking an area variance to have a 16' x 24' two story accessory structure not closer than 3' from the North property line and not closer than 3' from the East property lines, whereas the code requires 10' setbacks. See Section 170-11 G(1b). The height of the garage is shown to be over 20', whereas the code allows a max height of 12'. See section 170-11 G (2).

Sean Sanderson, Chairperson  
Village of Victor Zoning Board of Appeals

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

"I have reviewed the above-mentioned application and the property survey supplied for the proposed 16' x 24' garage addition. There was a variance that was granted previously, but has now expired.

The accessory building as proposed is within the R-3 district. With that said the Zoning code refers us to R-2. These issues I believe are the reasons for the denial of the building permit as submitted:

a. The proposed unattached garage is placed on the lot 20' 2" behind the main home. It is placed to the East approximately 3' from the lot line and 3' from the North lot line (rear). Section 170-11 G (1b) requires a 10' setback for both the rear and side yards. If the building was shifted to the West and the South it would relieve the setback issues.

b. The height of the garage according to the drawings is shown to be over 20'. 170-11 G 2 allows for a max height of 12'.

c. Section 170-11 D allows for a maximum coverage of 30%. With a total lot size of 3350 sq. ft. the main home and proposed garage is only roughly 985 sq. ft. 30% of the total sq. ft. would be 1004 sq. ft. With that said the home and the garage have met the code and are not an issue.

So at this time and for the reasons above in a & b, I am denying the building permit for the construction of an unattached garage at 16 Rawson Road, the Soule residence."

Doug Scarson

Code Enforcement Officer

Mr. Sanderson stated that a variance was granted in 2014 which has now expired and asked Mr. Soule to explain the details of his proposal. Mr. Soule stated that he worked from Spring 2017 into Fall to prepare to build the garage in which the variance was granted. Mr. Soule stated that in discussions with Mr. Scarson (Code Enforcement Officer) it was brought to his attention that the size of the garage was different than the original approved plan by 1/2' and since the original variance expired in November of 2017 it required him re-applying for a new variance. Mr. Soule explained that Mr. Scarson told him that if the direction of the garage were to be changed that a variance would not be necessary as it would be to code. Mr. Soule stated that it would be awkward and not make sense to turn the garage West and East as he would not have enough room to turn.

Mr. Sanderson asked if the proposed garage is a different height than in the previous plans. Mr. Soule stated that the height did not change. Mr. Sanderson stated that how the approved variance was written in 2014 needs to be followed exactly, therefore a different size garage would legally require a new variance. Mr. Soule stated that his original application included an addition which he is not seeking at this time.

Mr. Sanderson stated that two variances are required with the proposed garage; the height of the garage and the placement of the garage.

Mr. Soule stated that he has been maintaining the property next door to him on the right. Mr. Sanderson stated that the property to the right of Mr. Soule is owned by Mr. Traub who owns the warehouse behind Mr. Soule. Mr. Crossing stated that he noticed in the past minutes from 2014 that Mr. Traub spoke against the application and asked if we heard from Mr. Traub this time. Ms. Turner stated that an attorney for Mr. Traub did call the office today with concerns. Mr. Sanderson stated that the entrance to Mr. Traub's warehouse cannot be obstructed.

Mr. Sanderson asked about a shed that was mentioned in the previous application which was going to be removed. Mr. Soule stated that he moved the shed because it was where the garage is proposed to be built. Mr. Soule stated that there is a shed at 20 Rawson Road that is out of code. Mr. Crossing asked Mr. Soule if the current location of his shed is to code. Mr. Soule stated that his shed is not to code.

Mr. Stone asked if Mr. Soule has a shared driveway agreement with the owners of 20 Rawson Road. Mr. Soule stated that he does not and doesn't share a driveway with them. Mr. Stone asked for the purpose of the proposed garage. Mr. Soule stated that he does not have a basement and needs room for storage. Mr. Soule stated that he spoke to Code Enforcement Officer McAdoo in 2014 when he was thinking about adding the garage who told him that according to code every home is entitled to have a garage. Mr. Soule stated that he intends to park his vehicles in the garage to keep them out of the elements as well as storing things on the second floor as he has outgrown his shed.

Mr. Stone asked if this proposed garage will replace the shed that is encroaching on his neighbor's property and out of code. Mr. Soule stated that he could move the shed. Mr. Stone asked Mr. Soule if he plans to move the shed or remove the shed. Mr. Soule stated that he would probably remove it once the garage is built.

Mr. Soule stated that he has done a lot of finishing work on his house such as updating the heating system, adding solar panels and has received compliments from neighbors for improving his lot.

Mr. Crossing asked Mr. Soule for the dimensions of his current shed. Mr. Soule stated that the shed is 8' x10'. Mr. Sanderson asked if that shed were to remain once the garage is built would it put Mr. Soule over the 30%. Mr. Crossing stated that the shed would need to be removed as it would be over 30% lot coverage. Mr. Soule stated that when he proposed his addition it was below 35% lot coverage. Mr. Crossing stated that Mr. Soule did receive a variance for 35% lot coverage which has since expired so the maximum lot coverage is now 30%. Mr. Sanderson stated that he would not need a variance for lot coverage if he removes the shed but needs a variance for height and location of the garage.

Mr. Sanderson stated that if Mr. Soule were to rotate the garage as Mr. Scarson suggested it would take up most of the yard and that he is comfortable with a 3' setback and does not feel that it would be a detriment to the neighborhood.

Mr. Crossing stated that the board has received a letter from a neighbor on School Street who is in full support of the proposed garage but that an adjoining neighbor has emailed concerns regarding the closeness of a number of items on the lot line such as the shed that violates code and a trampoline. Mr. Crossing stated that it is critical that the shed be removed if the garage is approved. Mr. Soule agreed but stated that he also maintains that the neighbor who sent the email is also in violation of the code by

having their shed too close to the lot line. Mr. Soule stated that he would like that to be remedied as well. Mr. Stone stated that the Zoning Board is not here to remedy other violations. Mr. Soule stated that the neighbors should abide by the code. Mr. Sanderson stated that all Village residents should abide by the code and that the neighbor can seek a variance for their shed if necessary.

Chairperson Sanderson read the neighbor's letter received 1/17/18

***Tammy and Lisa Chalifoux- 20 Rawson Road***

*Due to the fact that we received the public notice regarding the meeting tonight only 8 days ago, unfortunately we are not able to attend. We have an appointment tonight that was previously scheduled two months ago and are unable to find childcare. In our absence, we would like to make sure our concerns are heard.*

*Both of us attended the meeting on November 20, 2014 to express our concerns at the time regarding our neighbor, David Soule, building a garage at 16 Rawson Road. We live next door to Dave at 20 Rawson Road. Our understanding at this time, after looking at the minutes from the previous meeting, is that the new (garage) build will adhere to code requiring 10' setback from the property line on our side.*

*The concern at this time is with the fact that Dave has moved three large structures of his onto our shared property line. His clubhouse/ swing set, trampoline with net enclosure, and red shed are all on the property line at this time and have been for months.*

*According to the minutes from the November 2014 meeting, Mr. Sanderson asked if the existing shed would be removed. Dave said yes the shed will be removed. Yet, this past October 8, 2017 Dave moved the shed right next to our existing shed. It has remained there (which is so close that the two sheds are almost touching) since that time. The evening that he moved it, we asked him if he was planning on leaving the shed there or if it was a temporary location. Dave responded that he moved it there for now for his excavator and we'll see after.*

*I guess we are asking the board for a clear-cut answer as to whether the shed will definitely be removed and if so a timeline on when that will be? Having three large structures right at the property line not only looks a bit ridiculous with the close proximity of our houses, but also if left that way could potentially affect us when we go to sell our house in the future. After all, code required setbacks exist for a reason. Thank goodness they do!*

*We do not wish to cause issues with Dave, rather we're just hoping for a definitive answer regarding these three structures, especially the shed, and perhaps a timeline of when it will be moved.*

*If we could have a copy of tonight's meeting minutes mailed to us, that would be greatly appreciated so we will know of the discussion and/or decisions that were made tonight. Thank you so much for your time.*

Chairperson Sanderson stated that he also spoke to Ms. Chalifoux to discuss her concerns and she was very pleasant and said that she voiced her approval of the garage but also voiced her concern of the current location of Mr. Soule's shed. Mr. Sanderson stated that the shed must be removed if the garage is built. Mr. Soule stated that he hopes that Ms. Chalifoux moves her shed and he will move his shed. Mr. Stone stated that Ms. Chalifoux shed location makes a lot of sense to him and that what Mr. Soule proposes also makes sense but that he has concerns with the height of Mr. Soule's proposed garage. Mr. Stone asked what the height of the current residence compared to the proposed garage. Mr. Soule stated that he thinks it would be about the same but did not know the exact height but that both are two story structures. Mr. Stone stated that there is quite a difference in the code with what Mr. Soule is asking for and does not want to see something built larger than the home.

Mr. Crossing stated that it matters what is behind Mr. Soule's property and that if it were a residential neighborhood behind the property obstructing the view he would be less inclined to approve a variance. But if you look behind Mr. Soule's property it is an Industrial park with a treed lot and he does not see a nuisance to the neighborhood or any obstruction.

Mr. Soule stated that since his neighbor has a shed so close to his property he has considered putting up a fence if she doesn't move her shed. Mr. Sanderson asked that we stop talking about the neighbors and try to keep focused on the application. Mr. Sanderson stated that he doesn't think it is helping him personally to hear Mr. Soule say he wants to have a variance to have his garage 3 feet off the property line yet wants his neighbor to have her shed 10 feet off the property line. Mr. Sanderson stated that Code Enforcement deals with those issues. Mr. Crowley stated that the neighbor has a variance to have their shed 3 feet from the property line. Mr. Soule stated that he does not mean to open up other issues but thinks it's something to look into.

Mr. Pancoast stated that three years and two months ago the ZBA met to discuss Mr. Soule's garage. An area variance was granted allowing Mr. Soule three years to build his garage in which he said it could be built in one year therefore Mr. Pancoast questioned the need for three years in the variance. Mr. Pancoast stated that Mr. Soule is being wishy-washy about whether he would remove the shed from his property that is out of code. Mr. Pancoast asked Mr. Soule what the unforeseen tragedy was that after three years and two months that now he is finally ready to build this garage. Mr. Soule stated that there are many reasons such as he has some financial commitments that came up and that he wanted to explore other builders for the structure. Mr. Soule stated that he thought that he had five years to get the approval.

Mr. Sanderson asked Mr. Soule if he has a timeline for the proposed project. Mr. Soule stated that everything is paid for and the contractor is waiting to build. Mr. Sanderson asked Mr. Soule for a realistic timeframe in which the garage can be built. Mr. Soule stated that he can build the garage within the year. Mr. Pancoast stated that he is baffled by the fact that Mr. Soule brought in plans three years and two months ago with the expectation that the ZBA would grant a variance and now is returning with larger square footage and height. Mr. Pancoast stated that he needs a definitive answer about whether the shed will be removed or not. Mr. Pancoast asked for black and white and then he will make a decision. Mr. Soule stated that it takes time to build something of this size and that he is the type of person to measure twice and cut once and that he feels that the new plans are better than the previous ones. Mr. Pancoast stated that if you look back at the minutes from 2014 that he was in favor of giving Mr. Soule one year rather than three to get the garage built. Mr. Pancoast explained that if Mr. Soule were given a year that the garage would have been built. Mr. Soule stated that sometimes things happen and asked what the rush is to get the garage built. Mr. Pancoast explained that the ZBA is issuing a variance for the property that stays with the property so if Mr. Soule is going to take the ZBA's time to listen to his plans and decide whether an area variance is necessary that a project should be done.

Chairperson Sanderson read a letter received 1/12/18

**Thomas J. Driscoll-105 School Street**

*Dear Neighbors: I received your recent Public Notice concerning the application of David R. Soule of 16 Rawson Road to construct a garage on his property. Thank you for contacting us. I am writing in support of the application: 1. The homes on Rawson Rd. between School St. and the Town Highway Department are close together. The addition of the proposed garage will not change the view. It will blend in well. 2. Mr. Soule does not have a garage on his property. Garages are standard structures in 21<sup>st</sup> Century residential properties. It appears to me that Mr. Soule is upgrading the value of his property. Zoning exceptions are made regularly to assist developers and individual citizens to improve their properties. Why stand in his way? 3. Have the immediate neighbors-those who live on Rawson Road been asked? Is this public notice the only contact? Given the small number of residents, a personal visit from a Village Official would be hospitable. Those folks are important and their opinions matter. They are the ones most affected. 4. Is the real issue here the height of the proposed garage or the amount of setback or is our code just not in touch with the reality of 21<sup>st</sup> Century Village life? Just look at the lack of uniformity in setbacks, odd-shaped corporation structures and variety of building heights in our little area. What code? Construction in the School Street/Rawson Road is a Zoning hodge-podge, developed in support of people's real needs. Let's not pretend that we are really living in an R-3/R-2 zone. Things here are just not that neat and orderly. In June of this year, Michele and I will have lived at 105 School Street for 40 years. We are very happy here and expect to be here for many more. We enjoy the lack of uniformity and the improvements which our neighbors have made through the years. I urge you to discuss the project with Mr. Soule in a positive light and grant his request.*

Mr. Soule stated that he feels more comfortable with his current proposal and feels that it is better than the first approved project.

Mr. Stone asked if the Zoning Board is obligated to issue a three year timeframe. Mr. Sanderson stated that the Zoning Board can issue any timeframe. Mr. Stone asked what the building permit expiration is. Mr. Scarson stated that it is a year with a renewal subject to code.

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

- 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*

Mr. Stone asked if there are any known easements on the property. Mr. Soule stated that he does not know but it seems that there are wetlands in the forest behind his house. Mr. Scarson stated that the survey only shows Mr. Soule's property and not the adjoining land. Mr. Sanderson stated that there aren't any easements on Mr. Soule's property.

Mayor Hadden stated that the property file can be checked for easements. Mr. Scarson stated that the file will be checked prior to building. Mayor Hadden stated that sometimes drainage issues occur if a building is put up on or near drainage easements. Mr. Sanderson stated that easements are not really a ZBA issue. Mr. Soule stated that he talked to the DPW Director about drainage issues on his property who suggested he install tile to direct water to the drain in the street. Mr. Soule stated that during the time when we had a great deal of rain that the water was up near his house and he realized that the water was right where he intends to build the garage so wants to look at directing the water to the drains. Mr. Hadden stated that drainage does not really apply to the Zoning Board and suggested that Mr. Soule talk to John Turner, DPW Director.

### **Public Hearing**

*Chairperson Sanderson opened the Public Hearing.*

*Chairperson Sanderson closed the Public Hearing.*

1 person spoke in favor of the application via letter and 1 person spoke against the application via email

### **Resolution #02-18ZBA**

**16 Rawson Road/David Soule**

**Area Variance Accessory Building Setback**

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

To grant a variance related to an accessory structure as rendered in (Exhibit A) for 16 Rawson Road. To build a 16' x 24' garage not closer than 3' from the North property line and not closer than 3' from the East property line to be completed within 1 year from January 17, 2018.

**WHEREAS**, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from David Soule; on December 20, 2017, requesting an area variance to build a garage at 16 Rawson Road.

**WHEREAS**, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 170-11 G (1b); and,

**WHEREAS**, the Zoning Board of Appeals has determined this application to be a Type II Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations, and as a Type II Action, no further review under SEQR was required; and,

**WHEREAS**, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 7, 2018; 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 January 17, 2018 at which time all those who desired to be heard were heard and 1 person spoke in favor of the application via letter and 1 person spoke against the application via email; 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:

- That the shed that is out of code on the property must be removed once the garage is built.
- The board was in unanimous agreement that a 3' setback would be the minimum allowable.
- The applicant was in agreement that he could complete the project within 1 year.

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 David Soule; for an area variance to the Village of Victor Zoning Code for a 16' x 24' accessory structure not closer than 3' from the North property line and not closer than 3' from the East property line at 16 Rawson Road, be approved with the following conditions:

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

That all construction shall conform to New York State Building and Fire Codes.

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### **16 Rawson Road/David Soule**

#### **Area Variance- Accessory Building Height**

Mr. Sanderson stated that the code is 12' maximum height where Mr. Soule proposes 20'. Mr. Sanderson stated that he walked around the property today and noticed several accessory buildings higher than 12' on Rawson Road and on School Street which are similar to what Mr. Soule is proposing. Mr. Chalupa stated that Mr. Soule is proposing almost double what the code says and asked if the garage needed to be shorter if he would build it. Mr. Soule stated that 12' would not be what he is looking for. Mr. Stone stated that since the home doesn't have a basement and is on a small lot the garage needs to be higher than 12' rather than wider but not higher than the home.

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

- 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 #03-18ZBA**  
**16 Rawson Road/David Soule**  
**Area Variance- Accessory Building Height**

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

To grant a variance related to architectural drawings from Engel Architects dated October 12, 2017 (Exhibit B) for 16 Rawson Road. To build a 16' x 24' accessory structure where the finished grade to the highest point is not to exceed 20' 2" to be completed within 1 year from January 17, 2018.

**WHEREAS**, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from David Soule; on December 20, 2017, 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 Section 170-11 G (2) and,

**WHEREAS**, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 7, 2018; 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 January 17, 2018 at which time all those who desired to be heard were heard and 1 person spoke in favor of the application via letter and 1 person spoke against the application via email; 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 12' 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 requested variance will not alter the essential character of the neighborhood.

**NOW, THEREFORE BE IT RESOLVED** that the application of David Soule for a variance related to architectural drawings from Engel Architects dated October 12, 2017 (Exhibit B) for 16 Rawson Road. To build a 16' x 24' accessory structure where the finished grade to the highest point is not to exceed 20' 2" to be completed within 1 year from January 17, 2018 **Be Approved.**

**Be It Further Resolved:**

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

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**23 Alpine Way/James Eskildsen  
Area Variance-Accessory Building Setback**

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, January 17, 2018, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of James Eskildsen, 23 Alpine Way, for an area variance to the Village of Victor Zoning Code to build an attached garage measuring 18/24 & 54 feet. The attached garage becomes part of the principal building. The property is located in an R-2 district. In Section 170-11 the code states that the principal building can be no closer than ten (10) feet to the side property line. The applicant is proposing to build the new structure four (4) feet from the lot line. This does not agree with the code. The lot coverage and building height do not present any problems as noted by the applicant, so therefore they are within the perimeters of the code.

Sean Sanderson, Chairperson  
Village of Victor Zoning Board of Appeals

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

I have reviewed the application for the above mentioned address. The applicant proposes building an attached garage building measuring 18/24 & 54 feet. The attached garage becomes part of the principal building. The property is located in an R-2 district. In Section 170-11 the code states that the principal building can be no closer than ten (10) feet to the side property line. The applicant is proposing to build

the new structure four (4) feet from the lot line. This does not agree with the code. The lot coverage and building height do not present any problems as noted by the applicant, so therefore they are within the perimeters of the code.

Doug Scarson  
Code Enforcement Officer

Mr. Eskildsen stated that he currently lives on Church Street and purchased 23 Alpine in order to downsize. Mr. Eskildsen explained that the house on Alpine has been sitting vacant for a year and a half due to mold issues. Mr. Eskildsen stated that he does construction for a living and intends to renovate the house and needs a garage/shop with a work area and proposes an attached garage that is 18' across the front and 24' on the back of the building with a length of 54'. Mr. Eskildsen stated that he proposes to tear down the garage that is currently on the property so the new garage will add 9' to the existing footprint of the building.

Mr. Eskildsen stated that he spoke to his neighbor who is in agreement about pivoting the lot line (Exhibit C) so eventually the variance needed could be less. Mr. Sanderson stated that the Zoning Board has to look at the application before them and cannot consider the proposed lot line adjustment at this time.

Mr. Crossing asked Mr. Eskildsen what he needs a 54' garage for. Mr. Eskildsen stated that he has a lot of stuff that he needs stored such as 4-wheelers and boats which he would not like sitting outside.

Mr. Crossing asked if we have heard from any neighbors. Mr. Sanderson stated that we did not.

Mr. Pancoast stated that he currently lives across the street from Mr. Eskildsen and he is never outside grinding, welding or sawing and that most of the time he sees him he is getting a ladder or putting something that he is storing onto his truck.

Mr. Stone asked Mr. Eskildsen if he has any drawings. Mr. Eskildsen showed a drawing that he did himself. Mr. Scarson stated that this is a win win situation because the property has been abandoned and is in disrepair and that normally he would not deny something like this but he doesn't have any plans to look at.

*Mr. Eskildsen explained his drawings to Mr. Stone & Mr. Pancoast*

Mr. Eskildsen explained that the house is the smallest in the neighborhood at 917 square feet and he is looking to take the staircase out of the interior and bring it to the exterior inside the garage so the front of the garage will be a standard single car garage therefore needs a 4' variance from the front corner of his house. Mr. Eskildsen explained that the back of the house is well within the 10 feet.

*Discussion regarding plans and proposed lot line adjustment*

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

- 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: *no*
- Whether the request will have adverse physical or environmental effects: *no*
- That the alleged hardship was self-created: *yes*

Mr. Stone asked if the home has a basement. Mr. Eskildsen stated that the day he closed on the house he went to the basement and discovered a foot and a half of water which is due to the sump pump not working but that the drainage is fine.

Mayor Hadden stated that in regard to the lot line adjustment if Mr. Eskildsen and his neighbor are in agreement they should put it in writing and get on the agenda for a Village Board meeting. Mayor Hadden stated that it can be discussed as a board and if the board is in agreement it needs to be written up legally.

*Discussion amongst board as to wording of the variance*

#### **Resolution #04-18ZBA**

#### **23 Alpine Way/James Eskildsen**

#### **Area Variance-Accessory Building Setback**

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

To grant a variance to build an attached garage measuring 18' wide at the entrance, 24' wide at the rear & 54' long not closer than 4 feet from the North lot line as rendered in (Exhibit A) for 23 Alpine Way. To be completed within 2 years from January 17, 2018.

**WHEREAS**, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from James Eskildsen; on December 18, 2017, requesting an area variance to build an attached garage 4 feet from the lot line.

**WHEREAS**, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 170-11 and,

**WHEREAS**, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 7, 2018; 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 January 17, 2018 at which time all those who desired to be heard were heard and 0 persons spoke in favor of the application and 0 persons spoke against the application; 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.
- 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 not 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 requested variance will not alter the essential character of the neighborhood.

**NOW, THEREFORE BE IT RESOLVED** that the application of James Eskildsen to grant a variance to build an attached garage measuring 18' wide at the entrance, 24' wide at the rear & 54' long not closer than 4 feet from the North lot line as rendered in (Exhibit A) for 23 Alpine Way. To be completed within 2 years from January 17, 2018.  
**Be Approved.**

**Be It Further Resolved:**

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

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**ADJOURNMENT**

Meeting was adjourned on motion at 9:15 pm.

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Roseanne Turner-Adams, Minutes Clerk