

A regular meeting of the Town of Victor Zoning Board of Appeals was held on February 5, 2018 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Michael Reinhardt, Chairman; Matthew Nearpass, Vice-Chairman; Donna Morley; Scott Harter

OTHERS: Ed Kahovec, Town Board Liaison; Alan Benedict, Code Enforcement Officer; James Cretekos; Zac Holtz; MarySue Hartz-Holtz; Chris Holtz; Katie Schneckenburger; Ann Norwood; Karen Bodine; Nick Bodine; Debby Trillaud, Secretary

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

APPROVAL OF MINUTES:

On a motion by Scott Harter, seconded by Mathew Nearpass,

RESOLVED that the minutes of November 20, 2017 be approved as submitted:

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

Approved: 4 Ayes, 0 Nays

On a motion by Mathew Nearpass, seconded by Donna Morley,

RESOLVED that the minutes of December 4, 2017 be approved as submitted:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Scott Harter	Abstention
Donna Morley	Aye

Approved: 3 Ayes, 0 Nays 1 Abstention

Chairman Reinhardt – Before we open the public hear I'd like to go over a few ground rules for how the Zoning Board of Appeals works. Today we have two area variances so what I'm going to say applies to both of those applications. The reason why you are here is because our Code

Enforcement Officer has pointed out that what you are asking for on your property isn't in direct line with the Code. What you are looking for is a variance, in other words an exception. For an area variance there are five criteria. I'll get to those in a moment.

You have already submitted written proof and we appreciate that. You will be provided an opportunity to submit more evidence if you'd like after which the Board will be asking some pointed questions relative to the five criteria that we must look at. When you are presenting your evidence I ask that the speaker identify themselves and speak one at a time. Let's not talk over each other because we are recording and it will be difficult to identify who is speaking if we talk over each other. The other thing we would appreciate is if you are using exhibits, whether something that has been submitted or is brand new, point to the exhibit and do your best to identify what compass direction you are looking at and use objects like trees and roads so that when we review our minutes we know which exhibit you are talking about and what it is specifically that you are trying to tell us.

Everybody is going to have an opportunity to speak and that also includes the public. When everyone has an opportunity to be heard we will close the hearing. We will then make an evaluation on the facts that we have. We are going to look at five criteria and hopefully when you looked at your application you saw these criteria:

1. Is an undesirable change being produced in the neighborhood? You as the applicant are in essence saying no, there is not going to be an undesirable change, but just saying no isn't enough. You have to explain why it is that you think that an undesirable change would not occur.
2. Whether or not you can achieve this by some other feasible means?
3. Whether or not the variance is substantial?
4. Whether or not there is going to be an adverse impact on the physical environmental conditions in the area?
5. Is the situation self-created?

For an area variance you don't need them all so it is a bit of a balancing task. We weigh one against the other. That's what we will be looking at. Certainly if there are any questions as we are going along, by all means, ask.

One thing I would ask is that if you put your cell phones on vibrate, that would be appreciated.

We will open the public hearing and read the legal notice.

The secretary read the legal notice as it was published in The Daily Messenger on January 28, 2018.

PUBLIC HEARINGS

1. 7210 DRYER ROAD – ADDITION
Area Variance

1-Z-2018

Applicant would like to build an addition to their house. The addition is proposed to be 22 feet by 18 feet. The requested rear setback is less than required by the Town Code which states that the minimum rear yard setback is 40 feet in a residential district.

Mr. Dave Lathrop addressed the Board.

Mr. Lathrop – The addition we want to put on the house is off of the east side of the house. The northeast corner of that addition, which would be a first floor master bedroom, is within the distance of the variance requirements.

Do you want me to speak to each of the criterion?

Chairman Reinhardt – I'm hopeful that the Board has read your application. If you think there is anything you want to add, touch on, maybe highlight that would be appreciated.

Mr. Lathrop – The one thing I can highlight is there are woods between our house and our neighbor's house that in the summertime, I know from standing in our backyard, you can't see each other's houses because of the trees and leaves. That might help with any change in the view of our house from the neighboring property.

Chairman Reinhardt – So you are talking about the woods to the north?

Mr. Lathrop – It would be the northeast.

Mr. Lathrop pointed out on a screen image his shed, the woods, and the neighbor's house. The addition would take the place of the shed.

Mr. Lathrop – There is a wood tree line here that basically blocks our house from the neighbor's. I also have a copy of where it would lay out, where the shed is, that I can give you. It wasn't part of what I submitted, but they are pictures of where the structure is going to go in relation to what I just showed you.

I also have a signed statement from my neighbors on both sides of the house that they don't mind the addition.

Chairman Reinhardt – Whatever you have we'll take a look at.

Mr. Lathrop brought the documents (signed statement and three pictures) to the front dais.

Mr. Lathrop – The buckets in the picture layout where the outmost corners of the addition would go. Those buckets in relationship to the house are just off the back corner of the shed on each side. When you look at the top picture you can see the shed and then when you compare it to where the shed is and those buckets it kind of gives you a reference point.

Chairman Reinhardt – It's a little digitized. Can you circle the buckets for me so we are on the same page with that?

Mr. Lathrop came up to the dais and circled the buckets in the photo and the Chairman passed it around.

Mr. Lathrop – Also where the structure is going to go it won't block any drainage behind the house. Our yard drops from the back corner down to the trees but we won't get close to that at all. Even in the heaviest storms, I wrote about it in the information I submitted, we see about two inches of water right after a downpour and then that's gone.

We did talk to the builder and architect about going up or to the left side which would be off the garage, the other side of the house. That would put us right on the lot line. The problem is the house is a split level so getting any mechanicals over to that side of the house would cost a fortune. We'd have to tear up our downstairs family room and/or go out the back of the house and trench through and put some sort of raceway in there for the hot water baseboard or put separate mechanicals over there. In either case it would be more money.

Chairman Reinhardt – Do you have a cost for that, an estimate for how much more it would cost?

Mr. Lathrop – No, we didn't ask for estimates on it. When we asked him while doing the walk through he said we didn't even want to go there when we asked him about the price.

I think we got something in the mail regarding the shed. That we didn't have a permit for the shed. The shed was there when I bought the house. That shed would either be removed during this process or we would move it to the end of the driveway. I don't know if I need a permit for that. The driveway comes in on the left side of the house and we would put it behind the trees there. If that is not approved I would remove it completely if I had to.

Mr. Benedict – It would definitely need a permit. Until you show me a specific location it is to be determined whether you would need a variance or not. The Code is 15 feet from the lot line.

Mr. Lathrop – So would that be something that you would want me to do separate from this project or at the same time?

Chairman Reinhardt – The short answer is yes. To move it you are going to need a permit. In order to request a variance there needs to be public notice. The public doesn't know about any variance you are looking for moving the shed. Consult with Al or somebody. The room across the way here will at least give you some idea if you tell them where you want to put your shed. I think Al could give you some better guidance on yes you need a variance or no you don't. The short answer is you are going to need a permit to move the shed. Is that accurate?

Mr. Benedict – That's correct.

Mr. Nearpass – It sounds like he needs a permit regardless.

Ms. Morley – Yes, because he doesn't have one.

Chairman Reinhardt – We are just talking about the shed if I understand your question.

Mr. Lathrop – Yes.

Chairman Reinhardt – You need a permit for the addition, that's separate. Just for the issue of the shed, to move it you'll need a permit and depending on where it is located will drive whether or not you need a variance.

Mr. Lathrop – I also need a permit because there is none for it, it's never been filed for where it is now.

Mr. Nearpass – Regardless if this project doesn't go forward, he still needs a permit.

Chairman Reinhardt – If you move the shed you're going to need a permit.

Mr. Nearpass – Even if he doesn't move the shed he needs a permit.

Ms. Morley – He doesn't have one, if you look at the Code comments.

Mr. Lathrop – The owner before me put that shed in and never got a permit so it's not on record. I was unaware of that.

Chairman Reinhardt – Yes you need a permit.

Mr. Lathrop – It gets better though, because then there is the deck which I built. I was under the impression that I didn't need a permit to build that deck because it's freestanding. That deck is on 14 footers on 2" by 12"s. If you looked under it that is well anchored. That deck is never going to move but I didn't know I needed a permit so that is another problem, one that I have to take care of now that I know that.

Jennifer Forrester addressed the Board.

Ms. Forrester – Hi. So the deck would be removed with the addition which we didn't need a variance for. It's going out six feet from our dining and kitchen area, which is where the deck is. The deck is going to be gone anyway because it is where the kitchen will be.

Mr. Lathrop – If this is approved. If this is not approved then we would still need to get a permit for the deck because I don't have one.

Mr. Benedict – Correct.

Chairman Reinhardt – Is there anything else?

Ms. Forrester – Just that we need first floor living, which is in the application. Between my mother staying for summers and carrying Labs up and down three flights of stairs. We want to stay in Victor. We looked around and we want to stay here. As we get older all those stairs are not convenient and not conducive to staying there for the next 20 or 30 years.

Ms. Morley did not have any questions.

Mr. Harter – I just want to make sure that I understand the request minus the things that needed permits that didn't have permits.

You are seeking approximately a 10 foot relief from a 40 foot setback requirement. You want it to be approximately 30 feet is that right?

Mr. Lathrop – Yes.

Mr. Harter – How are you coming up with the 30 foot dimension?

Mr. Lathrop – Two ways. I used the property drawings that I have now that were to scale. I scaled the addition based on the information that the builder gave me and then I measured it to come up with the 31 feet. Then I also went out and we marked off, in the yard, where the addition would be and I measured it down to as close to the lot line that I could tell. I think it's pretty close.

Mr. Harter – You feel it's pretty close? (Yes) The reason I ask is because if your variance is granted and we agree with that dimension, that dimension is a hard dimension so to speak. It's locking you into a value. You feel comfortable with that value, you feel comfortable with that number, 30 feet.

Mr. Lathrop – I do but I know how things go when you build and it could be off by two or three inches.

Mr. Nearpass – For example, we also don't measure from the footers, I believe all measures from the awning or overhang.

Mr. Harter – I suggest that if the Board decides to grant this variance that perhaps we make it a little bit less restrictive than a 10 foot deviation, perhaps 12 or 15 feet in my opinion.

Mr. Nearpass – You've pretty much answered all of my questions. I was going to ask you about the shed and where that was going. It seems like you have a plan for that. Have you considered what it would look like if you were to be in compliance? What would that do to the size of the design if you had to adhere to the Code? How would that change, alter the design?

Mr. Lathrop – I'm not sure I understand the question.

Mr. Nearpass – If you had to stick to the 40 foot setback, for example, how would the project change? Would it not be feasible, would it be a smaller addition?

Mr. Lathrop – It would end up being a smaller addition. I think that the point Scott made is a really good point and we would be able to determine the exact distance, even with the overhang, once we have the architectural drawings. I don't know if it would be an option either to ask for a little bit more of a variance, which I think he was suggesting, just to cover that an extra foot. After the architectural drawing are done, we could make sure at that point that it is within the

approved distance. We are going forward with full architectural drawings so at that time we would have exact dimensions down to the inch.

Mr. Nearpass – Part of this is to at least give us an understanding. We are charged with minimizing any impact of the variance so in your opinion is this the smallest that the extension can be without being not feasible? Meaning you could have gone bigger, you could have gone smaller but the size here represents what you can minimally do.

Mr. Lathrop – That’s a good point. Any bigger would be a problem with the side hill. The hill drops off and we wanted to leave enough space there. We can’t go any farther forward because of the chimney, so really, that’s the footprint.

Mr. Nearpass – I don’t feel that the variance is necessarily substantial; it’s within character of the neighborhood, so I’m OK. To Scott’s point we can work something out with the number. I’d like to hear the opinions from the neighbors.

Chairman Reinhardt – Your application and explanations are well done. Al, when we chatted before at our meeting there was a potential issue with the new demolition Code and the Historical aspect of the application. Do you have any feedback from either one of those?

Mr. Benedict – I spoke with Babette and she had spoken to the owners. She felt comfortable with the design of the addition and that it would fit in with the existing house. The house was low impact for historic value. She was OK with them moving forward.

Chairman Reinhardt – OK, great. Is there anyone from the public who would like to speak for or against the application?

Dan Ryan, 1288 School Road addressed the Board.

Mr. Ryan – I’m the neighbor to the north. My lot line is the one that abuts the Lathrop residence. Truly I believe that I am the neighbor that is impacted the greatest with regard to that variance. The tree line is fully covered in the spring and the summer. From what I saw, the drawings that he has, I think it’s an awesome addition to the neighborhood in terms of architecture and impact. From a neighbor’s perspective I have no issue with it. That’s about it.

Mr. Reinhardt – From what I see here things are spelled out pretty well with the application. I see it’s a corner lot so it is a bit more of challenge for you on how to position the addition and I think that’s a factor. It’s helpful too from what Al was telling us that Babette, the Town Historian, said the historical impact was low. That also goes into whether or not it’s going to have a negative impact on the neighborhood. We are working with the first justification. Are there any other comments on the first criterion? (No)

So it sounds like we are in agreement on the first evaluation here.

Second, whether or not it can be achieved by some other means. I would suggest not. I think the fact that it’s a corner lot has a pretty big impact here.

Mr. Harter – I would say the addition is modest in size. It's not so great that it's encroaching more than 10 feet into a 40 foot setback.

Chairman Reinhardt – The third criterion as far as being substantial, I would suggest it's not as Scott was saying. I think on the 30 feet that's a bit of a concern. You being our engineer, an extra foot, instead of 30 should it be 29 feet?

Mr. Harter – I think without the benefit of an instrument survey showing where that is going to fall, I would try to be generous and give them an additional three feet or so.

Ms. Morley – What is usually the width of an overhang? When Al says they measure from the overhang.

Mr. Benedict – Overhangs are usually one foot.

Mr. Nearpass – So the drawing we have in front of use shows 31 feet.

Chairman Reinhardt – So we're down to 27 feet? Is that the math?

Mr. Harter – I would go to 27 feet.

Chairman Reinhardt – What's the Board's comfort level on that.

The Board was OK with giving the applicant 27 feet.

Mr. Lathrop – I'm a lot more comfortable with 27 feet.

Mr. Harter – That's a 10% error, how's that? (That's great).

Chairman Reinhardt – The fourth criterion, I would suggest it does not have a negative impact on the physical condition of the neighborhood. I think what you were addressing before on the drainage issue, it sounds like it shouldn't be a problem.

Scott, do you have any other thoughts on the lay of the land?

Mr. Harter – No, I think he explained it correctly, it does look like it falls off in that area. I think it justifies the location and not going any farther. I was also going to mention in item number one that we started out with, perhaps we should add into item one that there were two neighbors, one who spoke publicly tonight, that gave us statement of support for the project. I think that dovetails into item number one.

Chairman Reinhardt – The fifth being whether or not it's self-created. That is a bit of a challenge even though it's not the be all, end all and does not preclude the granting of the variance, it is self-created, this is what you want to do.

Any thoughts from the Board on any restrictions relative to the requested variance? I don't see any need to put restrictions on this.

I'd like to ask you before I put the resolution before the Board, have you had an opportunity to read the proposed resolution?

Mr. Lathrop – I have not.

Chairman Reinhardt – What I have to do then is read the entire resolution. There are a bunch of whereas's. In this instance what I think we're going to do is modify the resolution to 27 feet and after I'm done reading it, then I'm going to ask for a motion for approval.

RESOLUTION – Area Variance:

WHEREAS, an area variance application was received by the Secretary of the Zoning Board of Appeals on January 18, 2018 from Jennifer Forrester & Dave Lathrop, 7210 Dryer Road, Victor, NY 14564 to construct an addition to their house with a rear setback of 27 feet whereas Schedule II Area and Height Requirements requires a 40 foot rear setback for a district zoned Residential 2 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 January 28, 2018 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 per Section 617.5(c)(12) and therefore does not require further action; and,

WHEREAS, the house at 7210 Dryer Road is on the Town of Victor Historical Inventory with a low historical value and on January 29, 2018 Babette Huber, Town Historian, wrote an email stating that she had no concerns about the addition proposed as the applicant assured it would complement the rest of the house; and,

WHEREAS, a Public Hearing was held on February 5, 2018 at which time one resident spoke for the application and one letter was received with two signatures in favor of 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 construction of an addition to 7210 Dryer Road, Victor, NY 14564 with a 27 foot rear setback, whereas Schedule II, Area and Height Requirements for Residential 2 Districts requires a 40 foot rear setback making the request for a 13 foot variance:

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 Town Historian provided feedback stating the addition would be of low historical impact. Two neighbors supported the plan for the addition and as the property is a corner lot it is more difficult to meet setbacks. The applicant also provided written justification along with the application.

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: A corner lot does not offer many options for the location of an addition and the addition is modest in size. The mechanicals of putting the addition with utilities on the west side of the house would be cost prohibitive.

3. The requested area variance is not substantial.

Justification: The request is for 27 feet to take the overhang into account in lieu of the required 40 feet.

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 applicant has given information that there shouldn't be any drainage issues and that there is a drainage ditch close to where the addition will be constructed.

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 a motion made by Mathew Nearpass, and seconded by Scott Harter:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Jennifer Forrester and Dave Lathrop, to construct an addition with a 27 foot rear property line setback at 7210 Dryer Road, Victor, NY 14564, whereas Schedule II, Area and Height Requirements for Residential 2 Districts requires a 40 foot rear setback BE APPROVED:

FURTHER RESOLVED that the following conditions are imposed:

Building permits are required for work including, but not limited to, erecting structures, placing signs, pools, fences, mechanical systems, etc. No person shall commence any work for

which a building permit is required without first having obtained a building permit from the Planning and Building Department.

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

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

Adopted: 4 Ayes, 0 Nays

Thanks were given all around.

2. HOLTZ PROPERTY –Area Variance

Richardson Road & Blazey Road – 7.00-1-93.110

2-Z-2018

Applicant requests an area variance to construct an accessory structure forward of a proposed single-family home on a proposed residential building lot whereas Section 211-31G(2) states that no accessory structure shall be forward of the front line of the primary building.

The Chairman opened the public hearing and the secretary read the legal notice as it was published in The Daily Messenger on January 28, 2018.

James Cretokos with BME Associates addressed the Board.

Mr. Cretokos – Good evening. I'm here this evening on behalf of Zac Holtz and the Holtz Revocable trust. The current proposal is to subdivide an existing 52 acre parcel into two lots. One will be approximately 7.2 acres and will be the site of new single family home and accessory structure. The reason we are here this evening is because we submitted an application to your Board requesting an area variance to Section 211.31-G(Parts 1 & 2).

Part 1 and 2 which would allow us to construct an accessory structure forward of the front line of the house. The other portion of the Code that I referenced requires us to go to the Planning Board due to the size of the proposed accessory structure which is approximately 1,300 square feet.

We did have a pre-application meeting for this project with some of the other Town staff. Due to the previous history of the property this property has been subdivided enough times in the past for us to trigger a major subdivision application to create these two lots. As such one of the requirements from the Town Planning Board is that we will be providing a 50% open space within a Conservation Easement. That is partly how we started a design for the site. We wanted to make sure that we left ourselves ample room to position the house an accessory structure while still being able to provide the 50% open space requirement.

Some of the exhibits I have here in front of you this evening were all submitted with the application. A couple things I'd like to point out without going through everything verbatim. We

do have some existing wetlands and a tributary that runs through the front portion of the Holtz property. We had the wetland consultant in our office go out and flag those locations. We have no intention of disturbing any of that vegetation in the front of the property. We plan to leave it all so that it will continue to screen a majority of the property from all views along Richardson Road to the west. As such we will be proposing to construct the driveway along the eastern portion of the property limits. It will follow the existing topography up into the side which generally slopes approximately 5% toward the road. There is an existing natural ridge line that runs slightly to the east on the property. It's where we have identified the best location for the house to be constructed for view sheds and based on maintaining the vegetation in the front and to the western portion of the property.

Going through some of the application criteria starting with the first one, the undesirable change. We don't feel that this is a detrimental change in any sense to any of the surrounding neighbors. A lot of the other residential properties in the area have accessory structures of similar size. One thing I would like to point out in that regard is that based on the size of the property, the open space, and the proposed primary and accessory structure, the setbacks we will be looking at will be significantly greater than the required 40 foot front setback. Currently we made reference to 300 feet from the front line in our letter of intent. The plans current show the accessory structure approximately 380 feet from the front right-of way.

Because this is a Code requirement there is no other way for us to go about achieving this without coming and asking for a variance. Some of the other driving engineering factors with where we have located this is because the grade of the property slopes from the rear to the road we are looking to do a gravity fed septic system. There is public water available for the property but no public sewer. As such we will be locating the septic field in this front area so that we can meet our setbacks from the wetland area and the tributary running through the front portion of the property while still being able to be allow to serve the basement for the proposed single family house. The accessory structure will be a slab on grade and like I just mentioned the single family home will be a full depth basement.

Based on that we located where the best location for the house would be with still giving enough room to construct the septic field in front of the house. If we start to position the barn behind the house we start to encompass a few other challenges such as additional length of utility services extending to the barn as well as some challenges with constructing the driveway while keeping it on the east side of the house which is preferable. One of the other things we'd like to achieve is keeping the parking in front of the house for some security reasons. Obviously if you are driving along the road and you see a car parked in the driveway you know somebody is there. Some of the people that are less nice that see cars aren't there, they may be more proactive to go into the property if they want to poke around illegally.

Like I mentioned we don't think this variance is substantial giving the context of the surrounding property. The remaining area after the subdivision will remain in control of the Holtz Revocable Trust and it will continue to be utilized as primarily an agricultural property. In terms of any adverse environmental effects on the neighborhood, there are none. This is a pretty straight forward single house construction. Stormwater for the property typically is divided along the ridge line with some of the water flowing to the east toward an existing culvert under Richardson Road with the remaining getting to the northwest corner of the property into the wetland through another existing culvert under Richardson Road. We will be designing this according to the State required erosion control measures for single family lot construction. We

will be protecting all the existing vegetation to the greatest extent possible and maintaining all the existing buffers around the property.

We have submitted the application to the Board for your review. Debby was kind enough to provide me with the Ontario County Planning review comments today which I had a chance to briefly read through and I don't have any reservation with those. We've also had a chance to read through the memo prepared by the Code Enforcement Officer and we agree with all of his statements. I have also had a chance to read through the draft resolution that was prepared tonight for us. If you have any questions I would be happy to entertain them. Also Zac Holtz is here with me today and would also be happy to answer any questions.

Mr. Nearpass – After all that, the only variance you are seeking is to put an accessory structure forward of the principle residence?

Mr. Cretekos – Correct, and we provided photo simulations for your use so you can see what we are going to do.

Mr. Nearpass – I'm OK with that. Generally where we see this Code apply is in residential neighborhoods that are more of a development where you have all the houses lined up in a row. The concern there is having one or two in the neighborhood putting a shed or something forward of a home where all the homes are normally in a line. If you look at the neighborhood here it's not a development type neighborhood. I have no concerns personally for the placement of that structure. Is the use of the barn for a farming activity or is it just for personal use?

Mr. Cretekos – It's primarily going to be like a detached garage. Zac Holtz is an avid woodworker.

Mr. Holtz – I'm a woodworker at heart. It won't be for any business purposes, I just build and design furniture. Since we are not planning on building an attached garage. It is something my wife would prefer so we are parking cars in it.

Mr. Harter – Why not just flip what you are showing here on the plan? Why not put the house up front and the barn in back? Why is that not a possibility?

Mr. Cretekos – Like I mentioned one of the primary objectives is to have a shared parking between the two facilities and also keeping the parking in front of the single family residence. We do understand it could be as simple as flipping those. The one thing that would be difficult is that if we do want to continue to serve the basement by a gravity septic system, we would have to push the whole development farther up into the property based on the grading, while still maintaining the separation from the wooded area. We're trying to minimize that.

Mr. Harter – Did you say the lot was going to be 50% open space and restricted by a Conservation Easement?

Mr. Cretekos – Correct. That is required with the major subdivision regulations.

Mr. Harter – Where is the 50% coming from?

Mr. Cretekos – We are looking at placing a portion in the front and circling the exterior limits of the property so we would maintain all the vegetation in the front and an area in the rear of the property. Essentially the Conservation Easement will serve as a natural buffer area on the property.

Mr. Harter – OK. What is the actual dimension that you are seeking from the right-of-way to the corner of the structure.

Mr. Cretekos – We had indicated 300 feet in the letter of intent. As I mentioned the plan currently is showing about 380 feet. We are leaving ourselves a little bit of flexibility for the septic system design. We do need to do our final percolation tests and get them approved with LaBella Associates as a witness. We don't want to constrain ourselves with not leaving enough room or making it so that we have to push ourselves to far back either.

Mr. Harter – So 300 feet is the number you are seeking from us tonight? Is that the number?

Mr. Cretekos – Yes, somewhere between 300 and 350 feet.

Chairman Reinhardt – You have to pin a number down, we can't do the what ifs. Pick a number.

Mr. Cretekos – 325 feet, we'll go right for the middle.

Mr. Harter – So the reason you prefer to have the residence in the back is so that someone can drive by and see that there is parking in the front of the residence and that has a benefit of some sort. You are also saying because there is more gravity fall from the house to the proposed leach field area that you could potentially sewer the basement of the house. Is that what you are saying?

Mr. Cretekos – Correct.

Mr. Holtz – After outlining our goals with James as far as what the lot allowed and the grading, we mapped out the ideal location of the house. My goal is to have it on high ground due to the grading. I knew we were going to have a full basement and through early discussion on where it might be ideal to have the leach field as you described and so after that in combination with the Conservation Easement it seems like it is the best placement for the structures.

Mr. Harter – So a third benefit as you see it, is that that is the location that you feel is optimal and it's on a higher ground elevation than the barn elevation that is being proposed.

Mr. Holtz – Correct, yes, we tried to prioritize for the location of the house.

Mr. Harter – A final questions is are there other homes in the neighborhood that have structures ahead of the primary structure like this on Richardson Road?

Mr. Cretekos – There are no other structures that have accessory structures forward of the front house line on Richardson Road but I would like to point out that the 325 feet that we are requesting to be back is typically farther than all of the single family homes and other accessory structures for all the other properties from the right-of-way.

Ms. Morley did not have any other questions, they had been answered.

Chairman Reinhardt – I'm not an engineer so you have to forgive me. I'm not following the septic issue. It seems to me if I see this topo map that where the single family residence is, it's running downhill. (Correct) And the barn is farther downhill. So if the house is where the barn is why wouldn't the septic system work if you put the house where the barn is.

Mr. Cretekos – So if we are looking at doing the standard 8.5 foot depth basement from finished grade, if we put the house up where the proposed barn elevation is we'd be at around 550 feet. If we drop ourselves approximately eight to nine feet we'll be at 542 feet which puts us kind of right along the tree ridge line. We don't want to limit ourselves with the ability because we don't have final percolation tests completed yet. That would give us only a small area to construct that septic field. We're trying to avoid pumping up the hill.

Chairman Reinhardt – When are the perc tests going to be done?

Mr. Cretekos – We are waiting for the weather to break.

Chairman Reinhardt – It's a bit of a head scratcher to me on why that isn't going to work. Oftentimes when we see things like this, when the applicant is asking for the structure to be in front of the primary residence, whether it be the topography or whatever the case, they are offering us something to show us that it just doesn't fit and here is the engineer's report or here are the perc test. There is something to go on instead of just guessing on it and saying it would be kind of nice if we did. With all due respect to your client, that's what it sounds like right now.

Any thought of putting the barn at the same level or next to the house, either to the east or west of it? Pulling the barn up closer to where you want the house. I see how you have the driveway and I understand the purpose of the parking situation, but if you pull the barn up to the southeast of where you would like to be it would seem that you don't have to have the barn so far in front of the house.

Mr. Cretekos – I understand what you are saying. We're trying to respect basically respect the existing topography ridge line that runs through the property. We are bringing the driveway up following on the higher part of that. If we start to locate the house to the east there is an eight foot grade drop off across this.

Mr. Reinhardt – Not the house, the barn, leave the house where you have it proposed but pull the barn to the south and east. Why can't it go next to the house or not so substantially in front of the house?

Mr. Cretekos – Because there are some topography challenges with this existing ridge line. I know we are obviously trying to keep the barn at a little bit of a lower elevation but once we start

the work activities and disturb the existing ground in this area to level out the area between these two and create a shared walkway or parking area, this configuration ends up working very nicely being able to maintain the existing topography on the site. We are placing the structures without having to do extensive earth work.

Chairman Reinhardt – What is the proposed distance in front of the residence? I think that is the substantial piece. It's important on how far the barn is away from the road, but you want to put the barn in front of the house and that's the variance you are asking for.

Mr. Cretekos – The front corner of the barn is approximately 140 feet north of the front corner of the house.

Chairman Reinhardt – Like you hear in the previous application, we're going to pin you down to that number. If it's 142 feet, you are not going to be in compliance if this Board grants the variance. What number do you want to work with?

Mr. Cretekos – We would prefer to go with 150 feet.

Chairman Reinhardt – 150 feet in front of the primary structure. The barn is going up first or is the house going up first?

Mr. Cretekos – The house is going up first.

Chairman Reinhardt – When is the house going up?

Mr. Cretekos – We would be submitted all our applications to the Town to go through the approval process. The intent is to be able to construct this late summer.

Chairman Reinhardt – So you'd like to get it finished summer, late fall of 2018?

Mr. Cretekos – If possible, yes.

Chairman Reinhardt – What about the barn? When are you looking to finish that? We've had these before where the barn is to go in front of the house but there is no real set plan on when that is going to happen and it appears then that you are just going to have a structure in no man's land and that is a different problem. After you complete the house, how long until you complete the barn? Six months, a year, five years?

Mr. Holtz – Within five years, as soon as we can afford it. I mean this probably doesn't hold much weight but a lot of Katie's and my consideration is the fact that the property is directly across from my parents and a few neighbors. We didn't want to push our house back too far but our goal was to get it on high ground but strike a balance as far as not getting it too far back to incur high utility costs. Placing the structure closer to the house, it seems like it would have been a more visual obstruction to the view to my parents and neighbors as well.

Chairman Reinhardt – If I understand you right, you asking for a variance that you are not going to utilize until about five years from now or am I missing the whole thing?

Mr. Holtz – Knowing that we had to apply for a site plan, the goal was to include it in the site plan.

Katie Schneckenburger, the wife of Zac Holtz, addressed the Board.

Ms. Schneckenburger – Part of the reason we are trying to be as thorough with this as possible is because we are working on the Conservation Easement and we want to make the plan set for that property before we go far forward and then we run into something down the road.

Chairman Reinhardt – The use of the property is just going to be residential, you're not going to farm on it?

Mr. Holtz – Correct.

Mr. Benedict – When you grant a variance, it's only good for one year. You have one year to pull a building permit and get a Certificate of Compliance, otherwise the variance becomes null and void.

Chairman Reinhardt – So that's going to be a problem.

Mr. Holtz – One year to the start of construction?

Chairman Reinhardt – One year from the granting of the variance.

Mr. Harter – In order to grant the variance tonight they would have to start construction on the barn within a year from now.

Mr. Benedict – It is possible that this Board can extend that period.

Chairman Reinhardt – But we would have to review it before the variance expires. In other words, if the Board grants the variance tonight, by January of 2019 you have to come back in and ask for an extension and keep doing that until you put the shovel in the ground and start building the barn.

Mr. Nearpass – Unless we allow them more time. We could give the two, four, or five years. In my opinion this Code is new, it's only been within the last year that we've put those time limits on the variances. I'm applying a much heavier weight on the criteria that has to do with the impact on the local neighborhood. Whether it would be in character of the neighborhood and to me it is. There are two homes to the northwest that are forward of the structure than you are asking of the structure to be put forward of your own home. I really see no issue with the placement of the barn. My opinion is to put it where it is optimal for the applicant given that there are structures that are forward of both of those structures along that road. It's not a development. I live in a Ryan development and all of our homes are plus or minus a foot of each

other in line from the road. If someone were to ask to put a barn or a shed in front, it wouldn't look right. I would be against something like that in a neighborhood like that. It's also pretty common to see barns on other residences between the road and the structure, largely more for easier access to farming. We often have applicants that come in front of us that have barns that are 10 or 15 feet from the road because that was how they were constructed based on their use. I'm OK with putting it where it is. I would be OK with giving them four or five years with something like this, knowing we are in the first year of this new sunset clause. It doesn't make sense to me to give them something that they have to come in front of us every year for the next four or five years. At the same time they are going to be asked to put a Conservation Easement surrounding their property. I can feel for where they are because I personally wouldn't give that up unless I had some assurances on the part that I want. It's all about negotiation.

Chairman Reinhardt – Donna what do think about if it's granted, extending it?

Ms. Morley – Is there a fee if they have to come in front of us each year?

Mr. Benedict – There is not a fee. They have to come back every six months.

Chairman Reinhardt – So it's even shorter. So six months from now is going to be August.

Mr. Benedict – They have one year on the initial variance. They have to come back to this Board prior to the expiration of that and then every six months after that.

Mr. Harter – I think if they have their timeline somewhat understood and they think they are going to take longer than a year or two I think it might be unnecessary to reappear before us. I'd be in favor of a two year renewal. On that, I think the justification is so-so on this application but I also agree with Matt that on these types of rural locales versus the conventional residential subdivisions that he and I live in; I think it's less impactful. I think Matt has indicated that there are homes nearby that are similar with accessory structures in the front.

Chairman Reinhardt – Where, the only one I know of...

Mr. Nearpass – I didn't say with accessory structures in the front, I said where the homes themselves are forward of the proposed accessory structure. If you look at 6645 Richardson Road, tax map parcel #7.00-1-25.112, that house right there is completely forward of the proposed barn. If you look at all of those homes they are almost half the distance between the barn and the road. I know they are all wooded, it's great; no one will be able to see anybody else. If I look at that as the neighborhood, to me it's within character.

Mr. Holtz – I don't know how much this weighs in but we are working with an architect and tying both the buildings in. Our goal is to esthetically match up with the building architecturally.

Chairman Reinhardt – What does the Board feel about waiting for the perc tests to see if that is the prime location? If the perc tests come back to say that the house can go where the barn is, how much of a difference is that going to make to the Board?

Mr. Nearpass – In my opinion I'm not looking at the perc tests to drive where the home goes.

Ms. Morley – Me neither, I'm good.

Mr. Harter – I think it's largely where the owner wants the buildings to be, which is kind of light on the justification.

Chairman Reinhardt – Right, we have to have the justifications. I have a concern that where the justifications are, aren't as solid as I'd like them to be to grant a variance; so before we go any further I'd like to hear from the public. Does anyone want to speak for or against the application?

MarySue Hartz-Holtz addressed the Board.

Ms. Hartz-Holtz – I own the land that this is going on. I do think it might be pertinent to know that the reason it is a major sub-development is because this land has been in my family since 1802. The parcels that have been divided off of it have been mostly after the subdivision Code came into effect in the 1970's. The other subdivisions have been for my siblings residences. It's still largely family. It's still an agricultural area that is being farmed primarily by three farmers and has horse farms on it. As far as the character goes, I think that it absolutely works with the land. The other thing that I thought to note was the driveway is coming up...if you looked at the design of the house, yes, the barn is in front of the house according to the road, but honestly the way the house is positioned when you drive in it would be to the left side of it. The entrance to the home is more or less on the east side. I don't know if that helps or not.

I have absolutely no objection. In fact, I really want it to happen. I'm thrilled that one of my sons wants to stay on our farm. The land, honestly we walked that land, and I know that the engineers have done their thing. I've walked that land my whole life and it does slope up from the road a bit. Also to the east it slopes down a bit. It is all being farmed at this time so we are dealing with that. We've walked it many times and talked about where the best place to build would be. My brother is a builder also. My Dad would have just built the barn and not even asked but we're trying to do the right thing. We are going to do the right thing.

Karen Bodine, 234 Blazey Road addressed the Board.

Ms. Bodine – Good evening. I would just like to say we have no objection and we would love to have them build and keep it our small little community there. We are all in favor.

Chairman Reinhardt – A quick question for you as you live in the neighborhood. As far as I can tell on the aerial map, your property is the only one that has an accessory structure in front of the primary structure. You're on Blazey Road right?

Ms. Bodine – Oh, you're talking about my neighbors, 244 Blazey. They have a shed and then it's a ranch house there.

Chairman Reinhardt – That's the only accessory structure that is before a house. It's a shed, it's very small.

Chairman Reinhardt – Anything else the Board wants to add or comment on? If I understand right, the proposed drawing for the shed, the maximum it will be is 28 feet high? (Correct) Because there is a height limit on it.

Kudos to whoever made these photographs giving us an idea of what it would look like with the structures on the property. That's very helpful.

Mr. Cretelos you know the County Planning Board took a look at this and they made no formal recommendation to deny or approve.

The part that I am stuck on is this extension. I understand the rest of the piece. It's a large piece of land and those pictures are helpful. What concerns me is the delay, and I understand money, the delay on when that barn is going to go up and that is what the variance is for. Five years is uncomfortable for me. I'm not quite prepared to go that way. What I propose, and I'd like to ask the Board, we're going to do the variance for a year, you come back and let us know how you are doing. Some of what is going to drive the train here is how well this whole project is progressing along. If it looks like it is progressing I think the Board will be more likely to give you some more time to get that barn up. Giving you five years right now is too long.

Mr. Cretelos – That's perfectly understandable.

Chairman Reinhardt – How does that sound to the Board?

Mr. Nearpass – My only concern is that the other side of that coin is that they are going to be asked to put 50% of their land into a Conservation Easement as a tit for tat.

Mr. Harter – They are doing that because the parent parcel has been subdivided a maximum amount of times. I don't see how that is relevant to the application before us. They are complying with the subdivision regulations.

Mr. Nearpass – So you see it as completely separate?

Mr. Harter – Completely separate. (OK)

Chairman Reinhardt – I would like to think too, by that time when you come back in a year, I would like to think the house is up, the septic system is up, things are working, and you can tell us why you still want that barn where it needs to be. Right here, right now it sounds like the Board certainly on the front end is comfortable in granting the variance. The bit of angst is the amount of time we're going to give you for it.

Mr. Cretelos – Absolutely, it doesn't seem like there is any issue with that at all.

Chairman Reinhardt – As far as pinning your client down on some numbers, what you are looking for is 325 feet from the right-of-way.

Mr. Cretelos – A minimum, yes.

Chairman Reinhardt – Then the distance between the proposed residence, corner to corner, to the barn is 150 feet.

Mr. Cretekos – Yes, up to, please.

Chairman Reinhardt – Do those numbers make sense Scott, as far as looking at the map?

Mr. Harter – I think using 325 feet as a minimum is acceptable and I think I understand the state of the application that this is a conceptual plan that we are looking at, not a final site plan. Yes, I think that is reasonable.

Chairman Reinhardt – You said you have reviewed the proposed resolution?

Mr. Cretekos – Yes, I have read through it already.

Chairman Reinhardt – Great, do you have any objections on waiving the reading of the whereas'? (No) Great, the only piece we're going to add in there is that two people spoke for the application. Then we can jump down to the justifications. We do want to include in there that County Planning Board returned a no formal recommendation.

The Chairman read the justifications of the resolution.

RESOLUTION – Area Variance

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on January 22, 2018 from Zac Holtz requesting an area variance to construct an accessory structure which is forward of the front line of a proposed house in a proposed building lot on Richardson Road, tax parcel # 7.00-1-93.110, 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 Martin Avila, 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 January 28, 2018 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 per Section 617.5(c)(10) and therefore does not require further action; and,

WHEREAS, the Ontario County Planning Board assigned the referral as an Administrative Review Class 1, referral no. 21-2018, and returned it to the local board on February 5, 2018 stating they would make no formal recommendation; and,

WHEREAS, a Public Hearing was held on February 5, 2018 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 an accessory structure to be allowed forward of the front line of the proposed primary structure:

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: Two neighbors were in favor of the application. It is a rural area and the proposed distance of the accessory structure will be a minimum of 325 feet from the Road right-of-way. The photo simulations show a minimal visual impact to the neighborhood.

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: The topography of the land, and the proposed Conservation Easement area make the location of the proposed placement of the house and accessory structure the optimal location per the applicant. The placement is also beneficial for the location of the septic system and if the accessory structure was placed behind the house it would cost more to run the utilities to it.

3. The requested area variance is substantial.

Justification: The distance for the proposed accessory structure is up to 150 feet forward of the house location.

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

Justification: It is a rural setting that is part of a farm. It appears from the engineer's map and the topography map that the proposed locations are the best for the residence and the barn.

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 a motion made by Scott Harter, and seconded by Donna Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application of Zac Holtz, 250 Blazey Road, Victor, NY 14564, for an area variance to construct an approximately 1,350 square foot accessory structure up to 150 feet forward of the front line of the proposed residence and a minimum of 325 feet from the road right-of-way on a proposed building lot on tax map parcel # 7.00-1-93.110 BE APPROVED.

FURTHER RESOLVED that the following conditions are imposed:

Building permits are required for work including, but not limited to, erecting structures, placing signs, pools, fences, mechanical systems, etc. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Planning and Building Department.

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

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

Adopted: 4 Ayes, 0 Nays

Before voting on the resolution the Board determined that the Code does not require a sprinkler system for residential structures and that any lights on the barn need to be dark sky compliant but as this is mentioned in the Code for residential buildings it was not needed as a condition and the Code would speak for itself.

On a motion by Michael Reinhardt, seconded by Scott Harter, it was unanimously agreed and RESOLVED, that the meeting was adjourned at 8:20 PM.

Debby Trillaud, Secretary