

**A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, March 21, 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:** John Baker, Ryan Destro, Bill Ferris

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

Salute to the Flag

**Resolution #06-18ZBA**

**Acceptance of Minutes**

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

**Resolved** to accept the minutes dated February 21, 2018.

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**Ferris Terrace**

**Area Variance- Height (continued)**

Chairperson Sanderson stated that a lot has been going on behind the scenes and it is his understanding that the height variance will be officially tabled again until April. Mr. Sanderson stated that the plan for tonight is to give the applicant privilege of the floor to get a review of the project as it is proposed now.

Mr. Sanderson stated that the applicant will be starting fresh with three variances, potentially four, which is whether the elimination of a grocery needs a variance. Mr. Sanderson stated that the only application that is in front of the ZBA right now is for the 50' height and it looks like the code will be changed to allow for 50' height but if they withdraw the application and the code doesn't get changed they would have to start all over again so they might as well just table the application. Mr. Baker stated that the Village Board plans to approve the 50' height code change prior to the next meeting so the variance would now change to asking for 4 stories. Mr. Sanderson agreed and stated that the 50' variance is still necessary at this point so it should be tabled and not withdrawn.

Mr. Baker stated that the homes involved in this project are under contract until May 10<sup>th</sup> and the goal is to get the variances accepted at the next meeting on April 17<sup>th</sup>.

Mr. Sanderson stated that he would like to keep the public hearing for the height variance open and withdraw it at the next meeting if necessary.

Mr. Sanderson stated that we cannot go into too much detail tonight because the applicant has filed an application for three variances for the April meeting.

Mr. Sanderson stated that there are no procedures that the Zoning Board needs to follow tonight.

Mr. Stone asked if there have been any public comments since the last meeting regarding the height variance. Mr. Sanderson stated that there have not been any in relation to the height variance application. Mr. Sanderson explained that the new application that will be heard at the April meeting was submitted with some written comments but they do not pertain to the current application.

Mr. Sanderson asked the board if they are comfortable with tabling the application. The board unanimously agreed to make a motion to table the height variance application.

Mr. Destro stated that the project has a long history and is within the Village's (B) Business district and also lies within the Central Business overlay district. Mr. Destro stated that three variances were previously granted 1.) A height variance to allow a 44' high building where 35' was required by code 2.) A building setback variance of 4.5' front setback where 15' was required by code 3.) A variance to seek relief from the bulk requirements of the R-3 multiple resident Zoning district.

Mr. Destro stated that at the time the variances were granted the building was a three-story mixed-use building that included approximately 28,600 sq. ft. of gross retail/grocery space on the first floor, and 44 upscale apartments on the second and third floors. *Mr. Destro showed a color rendering of the building that was previously approved.* Mr. Destro stated that the proposed building has now been revised to be more financially viable and now includes a four-story flat roofed building that will be stepped back to three-stories along the Rt. 96 corridor. Mr. Destro explained that the current proposal includes 11,000 sq. ft. of retail space on the first floor and approximately 76 studio, 1-bedroom and 2-bedroom apartment units in the remainder of the building. *Mr. Destro showed a color rendering of the current proposed building.* Mr. Destro stated that the third floor flat roof will be used as a patio area.

Mr. Destro stated that last week he attended a meeting that included the Village Attorney, the Mayor, the ZBA Chair and the Code Enforcement Officer in which a determination was made that re-approvals were necessary for the previously granted front setback variance as well as the variance for relief from the bulk requirements of the R-3 Zoning District. Mr. Destro explained that the building footprint remains the same as the originally approved plans but it was determined that the variances be associated with the new building and the current site plan, therefore, today a variance application was submitted for re-approval of the front setback and the bulk

requirements of the R-3 Zoning District to be considered at the April Zoning Board meeting. Mr. Destro stated that they also submitted a new height variance application to allow a 50', 4-story building where a maximum of 3-stories will be allowed with the upcoming code change.

Mr. Sanderson stated that the Village Board agreed that the code should allow 50' high buildings with 3-stories so it looks like the building would not need a variance for the height any longer but would need a variance to go from 3-stories to 4-stories.

Mr. Baker stated that it would be very difficult to build a 50' high building with only 3-stories. Mr. Pancoast agreed. Mr. Sanderson stated that it sounds like the Village Board wants to allow a 3-story 50' high building including a peaked roof. Mr. Sanderson stated that there has been a healthy debate about whether you build a 50' high building and 4-stories fits in it how does that affect the community. Mr. Sanderson stated that if it is about density than the code should state that.

Mr. Sanderson stated that the Zoning Board will hear the three variances needed for the new proposal in April. (Height, setback & relief from the R-3 requirements) but that the applicant is under the assumption that the Planning Board can waive the grocery requirement. Mr. Sanderson stated that he would like some clarification from the Attorney as to whether a variance is needed to waive the grocery requirement.

Mr. Destro stated that the new building will be 4 stories in height but only 3 stories will be along the corridor of Route 96 which will present a less imposing presence through the corridor than the previously approved building. Mr. Destro explained that while the previous building was 3 stories it did include a gabled roof along the corridor which was 52' to the peak. Mr. Destro explained that the current proposal includes a flat roof with a 3 story 36' high roof top patio at Route 96 which is about 15' lower than the previously approved gabled building. Mr. Destro stated that it will fit within the character of the desired Village streetscape.

Mr. Stone asked for comparison of retail vs. residential from the original proposal to the current proposal. Mr. Baker stated that the original proposal included 56,000 sf residential and 28,000 sf retail and the new proposal includes 101,000 sf residential and 11,000 sf retail.

Mr. Baker stated that he would like to go through some of the hot points of the project. Mr. Baker stated that first and foremost when this project starts, if I was you I would want it to be finished. Mr. Baker stated that he got a letter from DGA who is one of the major investors/partners in the project. Mr. Baker stated that he is a partner and so it Dr. Ferris. Mr. Baker stated that DGA will be signing on the loan. Mr. Baker explained that DGA has been around for 40 years and have built 6,000 multi-residential units and not one that they started, they didn't finish. Mr. Baker stated that it speaks to the quality of their work and their reputation for finishing what they start.

Mr. Baker stated that the largest portion of the building is residential so he got the GAR Associates out of Buffalo to do a non-biased, extremely conservative marketing study to see if they feel the apartments will be rentable. Mr. Baker stated that the results were that there is a strong likelihood that the project will succeed.

Mr. Baker stated that he also got letters of support from Kathy Rayburn (Director of Economic Development), Jack Marren (Town Supervisor) and Michael Manikowski (Executive Director Ontario County Industrial Development Agency). Mr. Sanderson stated that the letters that Mr. Baker is referring to are all part of the application that the Zoning Board members will get prior to the April meeting.

*Mr. Baker went into some detail about the letters of support that will be discussed at the April meeting*

*Mr. Baker showed various color renderings of the previous building and the new building and explained the differences and how the new proposal is better*

Mr. Baker stated that the project would bring about 100 people who make approximately \$60,000 annually (\$1,200 - \$1,800/month rent) into the Village which means 6 million dollars of influx into the Village. Mr. Baker explained that those people would be able to walk to Village services and restaurants. Mr. Baker stated that when there is a walking environment, things change when you drive residency.

Mr. Baker stated that every resident will have a parking space inside the underground garage and there will be a swimming pool and gazebo in the back creating a lifestyle. Mr. Baker explained that this will be unique as there is not another Village that has a 17 million dollar investment that can be rented.

Mr. Stone asked if this is a single phase or a multi-phase project. Mr. Baker stated that it is one building with one phase. Mr. Baker stated that he would like to sprawl if possible in the future and that he wouldn't be a part of the project if he didn't think it was exciting. Mr. Baker stated that he wouldn't be surprised if there were a waiting list for rentals. Dr. Ferris stated that the GAR report found extremely favorable support for success.

Mr. Sanderson asked about the bypass. Mr. Baker showed a color rendering of the proposed bypass road to get relief from the Rt. 96 jam.

*Discussion about the proposed bypass, lot line and parking*

Mr. Crossing asked how the project will impact traffic. Mr. Baker stated that the project will not impact traffic as people will drive home and use the amenities that they can walk to.

Mr. Baker stated that Dr. Ferris did a great job getting the project started. Dr. Ferris stated that the design/build team that he has is about the best team that there is in Rochester.

Mr. Chalupa stated that the front setback had a pole in it before and asked if it will be moved. Mr. Baker stated that the pole does not need to be moved. Mr. Chalupa stated that they will still need a setback variance. Mr. Baker stated that the front of the building remains where it was previously and that it would cost \$175,000 to move the pole. Mr. Chalupa stated that the pole is not shown in the color rendering.

*Discussion regarding pole that was in the original variance*

Mr. Sanderson stated that the pole was referenced in the original variance. Mr. Pancoast stated that the pole is going to be right in front of the building and when the original variance was written it was based on how far back that pole was sitting. Dr. Ferris stated that the pole will be in the courtyard near the restaurant. Mr. Chalupa explained that relief of 4' was given at the pole but the rest of the area was given 10' with code being 15'. Mr. Baker stated that he will look into it to make sure it makes sense to keep the pole.

Mr. Baker stated that ultimately he would like to collaborate with neighbors to create more apartments and retail to create an amazing center Village.

Mr. Stone asked if the project is contingent on the support of the IDA and if there is a backup plan if you don't get what you requested. Mr. Baker stated that Mr. Manikowski of the IDA said that if a certain percentage of return on investment is not met that the IDA will step in and give the full amount. Mr. Baker explained that the project does not even come close to needing that but it would be very difficult to complete the project without the support of the IDA. Mr. Baker stated that he is 100% confident and that is why he had Mr. Manikowski supply a letter of support. Mr. Pancoast asked if Mr. Manikowski has the authority to do that or does he need to go to the Board of Supervisors. Mr. Baker stated that the IDA would sit down as a committee and review the plan as well as the numbers and vote. Mr. Stone asked if this would hinge on job growth and economic injection. Mr. Baker stated that the IDA wants people that are working in technical fields to have residency in the area. Mr. Baker explained that this means that the project will have to use local materials to build it which he thinks is totally reasonable.

Mr. Sanderson stated that the applicant has put in a new application for three variances: the front setback, a fourth floor & relief from the R-3 requirements and may need another variance for the elimination of the grocery portion of the project. Mr. Sanderson stated that the code says that the building can only be 10,000 square feet unless it includes grocery. Mr. Sanderson stated that he is not sure how the project has

gotten this far without it being addressed and that he would find out if the Planning or Zoning Board should address it.

Mr. Baker stated that it is very important to get Zoning Board and Planning Board approvals prior to the May 10<sup>th</sup> deadline. Mr. Stone asked what the ramifications are if the deadline was not met. Dr. Ferris stated that the homeowners fell out of contract in the first go around and it was extremely difficult to get everyone back under contract and it would be very expensive for an extension. Mr. Sanderson stated that the ZBA is sensitive to the deadline but that the process cannot be rushed. Mr. Sanderson explained that he would like to have the question whether a fourth variance is needed by the end of the week so that there is still time to put a legal notice in the newspaper.

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**ADJOURNMENT**

Meeting was adjourned on motion at 8:15 pm.

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Roseanne Turner-Adams, Minutes Clerk