

A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, April 18, 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: Ken Shares, Karen Shares, Deb Woodard, Jim Woodard, Gary Hadden, Joyce Thon, Glen Thon, Bernie Gaudieri, Mitch Donovan, Meg CHaides, Bruce W. Jones

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

Salute to the Flag

Resolution #07-18ZBA

Acceptance of Minutes

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

Resolved to accept the minutes dated March 21, 2018.

Ferris Terrace

Area Variances

Chairperson Sanderson stated that the Ferris Terrace variance application has been withdrawn and read a letter from Doug Eldred into the record:

"Sean, On behalf of Dr. Bill Ferris, please accept this email as his formal withdrawal of the 4 variance requests made for Ferris Terrace. In accordance with the email below the new Code takes effect immediately. Since the plans comply with the new code, the variances are no longer needed. Thank you for all of your efforts in this regard. Doug"

Mr. Sanderson stated that he assumes that a large number of attendees are here to find out about Ferris Terrace but with the application being withdrawn there are no actions or motions that the Zoning Board can make. Mr. Sanderson stated that if anyone has any questions he would be happy to answer them. Mr. Sanderson stated that there will be a Planning Board meeting on April 25th where Ferris Terrace will be discussed and encouraged people to attend as there will be a public hearing at that time.

Mr. Corky Thon of Valentown Road stated that he owns the property behind Rapid Printing and is concerned about drainage for the Ferris Terrace project. Mr. Thon stated that his property has an 8' wide by 8' deep cavern where the soil has been washed away. Mr. Thon stated that the School may be the problem for his loss of soil. Mr. Thon explained that he has been to the School Board twice to raise his concern about the runoff of water from the School that is washing away his property. Mr. Thon stated that there is going to be another addition at the school as well as the Ferris Terrace project adding more water runoff and doesn't know where the additional water will go. Mr. Sanderson stated that Ferris Terrace has a stormwater management plan that addresses such issues and encourages Mr. Thon to attend the Planning Board meeting with his concerns. Mr. Sanderson also suggested that Mr. Thon attend a Village Board meeting to address his concerns. Mr. Sanderson asked Mayor Hadden for his recommendation as there is nothing that the Zoning Board can do. Mr. Hadden stated that he is not only the Mayor of the Village but a resident at 70 Latchmere Drive and that he has known the Thon's for over 40 years. Mayor Hadden stated that the Ferris Terrace project doesn't have anything to do with the School other than the fact that gravity will naturally take the water downhill. Mayor Hadden stated that the Ferris Terrace project does have a stormwater management plan that they have to follow and is confident that enough experts will look at the drainage plan to make sure that it is done right. Mayor Hadden went into detail about the drainage at the School and how over the years they have engineered the water via pipes to drain to different catch basins and the storm drain. Mayor Hadden also discussed the efforts that the Village DPW put in to assist in mitigating the drainage issues at the School.

Discussion regarding School drainage and ongoing concerns with runoff onto the Thon property

Mr. Thon stated that he invites anyone to walk his property but to be very careful. Mr. Thon is concerned about kids playing on his property and doesn't want anyone to get hurt. Mr. Thon stated that the Village DPW has been helpful but that the School doesn't seem to care.

Mr. Sanderson stated that it sounds like the School Board is very aware of the situation and suggested that the Thon's go to the Village Board.

4 Salem Circle/Bruce W. Jones
Area Variance-Attached Carport 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, April 18, 2018, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of Bruce W. Jones, for a variance to the Village of Victor Zoning Code to build a 10' x 24' attached carport on the East end of his garage. Section 170-11 E(2) of the Village Code limits the side setback to 10' where the applicant is requesting 1'. The property is located at 4 Salem Circle and is zoned R-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:

The above resident has applied to construct a 10' x 24' car-port in an R-2 district in the Village of Victor. It is an attached structure which he intends on placing over an existing driveway as shown on the referenced map and photo. The Village code Section 170-11 E (2) specifically states that for a building greater than 180 square feet, the side setback shall be 10 feet. The resident currently has 11.2 feet according to the certified copy of his property survey. That would mean a variance is needed for almost 9 feet. The alleged difficulty is being created by Mr. Jones as he is the one constructing the car-port.

There are two things to look at. When snow or drainage comes off the new roof it will all go onto the neighbor's property unless he mitigates this issue somehow. This would create a violation of the Property Maintenance code for NYS. Also a comfortable width for parking a car is 9' wide. If the structure is built 10' wide with a 6' x 6' post you roughly have 6" to spare. Opening the door of your car to get in and out means you are always on your neighbor's property when you get in or out of your vehicle.
Doug Scarson
Code Enforcement Officer

Mr. Jones stated that he has a 1 car garage where his Wife parks her car and a double wide driveway with an existing asphalt pad where he parks his second vehicle, a truck, Mr. Jones stated that he would like to put a roof over the asphalt pad so that he won't have to scrape ice and snow in the Winter.

Mr. Crossing asked if any feedback was received from neighbors of Mr. Jones. Ms. Turner stated that nothing was received. Mr. Stone asked Mr. Jones if he has had any discussions with his neighbors regarding the proposed carport. Mr. Jones stated that he has talked to some of his neighbors and none of them seemed to have an issue.

Mr. Stone stated that he pulled up an aerial map and it looks like the neighbor is situated tilted on the corner so it makes it even closer to the proposed carport. Mr. Stone explained that if the carport were proposed next to an open field he might be able to get behind the proposed project.

Mr. Pancoast asked Mr. Jones if the outside wall will be enclosed. Mr. Jones stated that the carport would be open and that nothing would be stored in it. Mr. Jones explained that he does not intend to use it for anything other than what it is being used for now.

Mr. Crossing stated that to hear the explanation for the proposed carport it makes sense but that he having difficulty justifying to himself that it is not substantial to go from a 10' setback to 1'.

Mr. Sanderson asked Mr. Jones how he plans to address Code Enforcement concerns about water runoff. Mr. Jones stated that he would put on a metal roof and add a gutter to have the water dump in his driveway. Mr. Pancoast stated that he has a gutter on his property that dumps to his driveway and he would suggest a different plan as the water erodes the asphalt quickly. Mr. Chalupa stated that if the water situation is not mitigated the driveway on the right seems much lower and that is where all of the water is going to go creating a mud pit.

Mr. Sanderson stated that the Zoning Board will go through the balancing test to debate the proposal but the fact that the carport is proposed to be open is a lot less imposing and appealing but the water drainage would need to be addressed.

Mr. Jones stated that he would not be using the carport to store anything. Mr. Sanderson stated that some people collect junk in carports. Mr. Jones stated that he is not a scrapper and would not store tires or tools in the carport. Mr. Pancoast stated that the issue is that someday Mr. Jones may sell his house and the person who buys it may be a scrapper and put things in the carport. Mr. Pancoast explained to Mr. Jones that when the ZBA looks at his needs they also have to consider future issues that might arise.

Mr. Stone stated that there are reasons for setbacks one of which is being able to maintain a property. Mr. Stone explained that with a 1' setback if you put a ladder up you are on your neighbors' property and that makes it more challenging to approve the proposal.

Mr. Sanderson asked the public if they would like to say anything for or against this project.

Mr. Sanderson opened the public hearing

Meg CHaides – 40 Kent Drive

Ms. CHaides stated that she lives around the corner from 4 Salem Circle stated that if the water would be drained to the storm sewer it becomes a non-issue. Mr. Jones stated that he would be willing to work with the DPW to put a 4" drainpipe in that ties into the storm sewer.

Mr. Crossing stated that if Mr. Jones were to erect a temporary moveable structure that he would not need a variance. Mr. Jones stated that the type of tent Mr. Crossing is talking about would not work well in the winter which is his main concern. Mr. Stone asked if Mr. Jones has considered expanding his garage. Mr. Pancoast stated that he would still require a variance. Mr. Stone stated that he may have less of an issue with drainage. Mr. Jones stated that an addition to his garage would be more of an expense than a carport and is not worth the reward in his mind.

Mayor Hadden asked if there are any other carports in the neighborhood. Mr. Jones stated that 6 Alpine Way has a carport. Mr. Stone looked at the carport online at 6 Alpine Way and stated that it looks like it has quite a bit of space around it.

Mr. Sanderson closed the public hearing

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, not economically*
- Will the variance create an undesirable change in the neighborhood: *yes without water mitigation, no if water is mitigated*
- That the request is substantial: *yes*
- Whether the request will have adverse physical or environmental effects: *yes without water mitigation, no if water mitigated*
- That the alleged hardship was self-created: *yes*

Mr. Stone asked if any vegetation would need to be removed to build the carport. Mr. Jones stated that he would just trim back the hedge on the fence that is common between he and his neighbor. Mr. Jones stated that visually the hedge creates privacy. Mr. Crossing asked if the fence is on the property line. Mr. Jones stated that the fence is on the property line and belongs to the neighbor.

Discussion amongst board as to wording of the variance

Resolution #08-18ZBA

4 Salem Circle/Bruce W. Jones

Area Variance-Attached Carport Setback

On a motion made by Brendon Crossing, seconded by Brian Pancoast, the following resolution was DENIED 1 AYE (Sean Sanderson) 4 NAYS

To grant a variance to allow Mr. Jones of 4 Salem Circle to build a 10' wide by 24' long carport on the east end of his garage no closer than 12" to the property line as proposed in the drawings. The structure must remain open. The carport must include a gutter system to mitigate runoff. Discharge must be contained on the property or into the storm sewer.

WHEREAS, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from Bruce W. Jones; on March 19, 2018, requesting an area variance to build an attached carport 1' 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 E (2) and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on March 30, 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 April 18, 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:

- Through much discussion the board felt that this potential project would not alter the character of the neighborhood or be a detriment to nearby properties as long as the water drainage is mitigated.

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 not 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 Bruce W. Jones To grant a variance to allow Mr. Jones of 4 Salem Circle to build a 10' wide by 24' long carport on the east end of his garage no closer than 12" to the property line as proposed in the drawings. The structure must remain open. The carport must include a gutter system to mitigate runoff. Discharge must be contained on the property or into the storm sewer **Be Denied.**

ADJOURNMENT

Meeting was adjourned on motion at 8:23 pm.

Roseanne Turner-Adams, Minutes Clerk