

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, October 15, 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; Donna Morley; Fred Salsburg

ABSENT: Mathew Nearpass, Vice-Chairman; Scott Harter

OTHERS: Martin Avila, Town of Victor Code Enforcement Officer; Renee Tambe; Douglas Levey; Peter Ellison; Cathy Templar, Secretary

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

APPROVAL OF MINUTES:

On a motion by Fred Salsburg, seconded by Donna Morley,

RESOLVED that the minutes of September 17, 2018, be approved as submitted:

Michael Reinhardt	Aye
Mathew Nearpass	Absent
Scott Harter	Absent
Donna Morley	Aye
Fred Salsburg	Aye

Approved: 3 Ayes, 0 Nays

PUBLIC HEARINGS

TAMBE ENTERPRISES STORAGE UNITS

21-Z-18

7500 County Road 42 (Sprinkler Waiver)

The applicant is requesting a Sprinkler Waiver for a building of storage units. The building is required to have a sprinkler system per Section 83-4F(2)(a) of the Town of Victor Code which states that all structures shall be required to have an approved fire sprinkler system installed and operational, however, §83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Lt Industrial and is owned by Tambe Enterprises.

Douglas Levey of APD Engineering & Architecture addressed the Board.

Mr. Levey – Good evening members of the Board. I am here representing Tambe Enterprises storage and Renee Tambe, owner and operator is here with us.

In the Victor Town Code, subsection D outlines the six items to be considered for a waiver to the Sprinkler System requirements, so I'd like to go over each of the six items.

1. Undue Economic Hardship: We have had some estimates to the Sprinkler System cost. To install just the sprinkler system in the four buildings; (Pointed to plan) the four brown rectangles are the outside storage buildings that we are seeking the waiver for. The large white building is already a pre-existing building that has been converted to storage units and that is fully sprinklered as a pre-existing industrial building that has been converted. So the cost to add the sprinkler system is about \$70,000 and that does not include any trenching: modification to existing systems to connect into; the outside piping and trenching. We feel that the total cost for a sprinkler system for these four buildings can run anywhere from \$150,000 to \$225,000 depending on what we run into.
2. Physical or Legal Impossibility: We don't see anything of note that would limit the physical or legal installation of the sprinkler system at this time.
3. Impediment to the Intended Objectives of this Section: I'm not quite sure what that means because I don't see any objectives other than sprinklering the building in this section.

Chairman Reinhardt – I can check with the Code Enforcement Officer in a minute, but my understanding with the Sprinkler System is two-fold. One is certainly protection of the property but also, and maybe paramount, is protection of the firefighters. The sooner water and a fire retardant gets on to the fire, the safer the firefighters can be. They then have a chance to contain and put out the fire. If it's a raging fire and they have to go in there, it's dangerous to them and also if they don't know what is in the buildings. Those are the two-fold issues that I know.

Marty, do you want to add anything to that?

Mr. Avila – No, that is correct.

Mr. Levey – To that we would say the way the building is designed is to limit the fire areas, per the New York State Building Code, to 2,500 square feet. Each individual unit only has one door from the outside. There is no internal circulation. So each unit is accessible from the exterior. That ties into the fourth item, Necessity in light of other viable alternatives which meet the objectives of this section.

4. Necessity in Light of Other Viable Alternatives which meet the Objectives of the Section: In our opinion, the current design of the 2,500 square foot fire areas does meet the New York State Building Code. In particular the site design also provides for access drives around three of the four buildings and on the fourth building we have access on both

sides. We have a public right of way or the access drive on site. We also have fire hydrants on site in a few locations. (Pointing to plan Mr. Levy showed two hydrants).

Chairman Reinhardt – Before you go any further, this is being recorded so you cannot say here and here. Please give compass directions or something to identify which building you are looking at so that when we review the minutes we know what you are talking about.

Mr. Levey – Along the front entry drive there is a fire hydrant on the west side of the road about a third of the way between the first outdoor building structure and Fishers Station. So about half way between those two locations. The other fire hydrant is located back by the existing building's loading dock area. So that would provide coverage for the back three buildings.

5. Recommendations and Comments submitted by the Fire Chief: we did receive the letter from Robert Graham, Coordinated Fire Services Sprinkler Waiver Review. In that they had two recommendations if the Sprinkler Waiver was granted. One was that each building be equipped with an addressable automatic fire alarm system and the second that each door be labeled with a four inch address number corresponding to the adjustable fire alarm system. We have no issues with those comments or implementing that if we are granted the waiver.
6. Conflict with Other State or Federal Regulations. In no event shall the Zoning Board of Appeals have the authority to interpret, modify, or permit variation from the New York State Uniform Fire Protection and Building Code: As I mentioned earlier, the way all four buildings are designed currently does meet the New York State Uniform Fire Protection and Building Code. The Building Code specifically requires the installation and a group S-1 Storage- Moderate Hazard Occupancy, used for the storage of upholstered furniture or mattresses, when it exceeds 2,500 square feet. Hence the limit of the fire area to 2,500 square feet. It is because of the possibility that any of the storage units could hold upholstered furniture or mattresses; that's the standard. In all other S-1 uses, the Code allows up to 12,000 square feet. In our opinion the NYS Code has already taken steps to minimize the risks and the spread of fire by the reduction of the allowable fire areas without a sprinkler system. It's a significant reduction.

Lastly, we would also like to point out the following in support of our waiver request: The buildings are for storage and there are no occupants. The impact to life, health, and safety are drastically reduced in this situation. We do realize that there are still those concerns in a response to a fire, but for occupants, there are none.

There is somewhat of a precedent set as two other storage facilities within the Town and one in the Village which the fire departments cover, have been built without a sprinkler system with other conditions applied.

Just to recap, we do meet the Building Code, we do have fire access routes, and we do have the access to the fire hydrants.

We'll take any questions you may have.

Ms. Morley – On your picture there, which is the one in which only three sides can be met for fire access by the fire department?

Mr. Levey – The front building, near the main road, has access on all four sides as do the two buildings, one to the far east and the middle building – they have access on all four sides. This last building is against the edge of the property. We have access on three sides but there is the road on the other side. So it does have access on all four sides, it's just not from our site.

Ms. Morley – OK, thank you, I don't have any other questions at this time.

Mr. Salsburg – In another letter from APD, I don't have it right in front of me, but in a couple of spots you agree to go along with the State and Local Codes. A third spot was specifically addressed for the Sprinkler System. I sort of feel you've changed your standing on that because now you don't care much about putting the sprinklers in. Since the Town decided that commercial buildings should be sprinklered and the State agrees with that but they allow for this 2,500, I think that is awfully big. We have a lot a trouble with a house that is 2,500 square feet; that's a pretty good size house, basically empty except for some furniture. I'm concerned that if something got going and nobody would be there, and likely that would get going, you might not even be able to see the buildings as you approach. It depends on the breeze. If it had a lot of plastic or petro chemicals, you can't breathe two breaths without collapsing in a coughing spasm, so you have to have air packs on. I'm not in favor of the waiver for those reasons. I think it's too big.

Now the smallest building has one firewall.

Mr. Levey – Correct.

Mr. Salsburg – I don't feel that the paragraph that speaks to the number on the door and the fire alarm system is adequate. That's my opinion.

Mr. Levey – As far as the storage of petro chemicals, the leases do limit what is allowed to be stored in each unit.

Mr. Salsburg – Well, I don't think there would be barrels of chemicals but there would be materials that are boxed into unknown chemistry inside the boxes. Electrical or...

Mr. Levey – As far as the area being too large, the New York State Uniform Fire Prevention Code is based on a national model.

Mr. Salsburg – I'm kind of familiar with that but I still think it's awfully big.

Mr. Levey – Their limit of 2,500 is drastically reduced from the 12,000 that all other storage uses could have.

Mr. Salsburg – Yes, I agree with that, I understand that.

Chairman Reinhardt – So in your paperwork you talk about a three hour firewall? (Yes) Where are those?

Mr. Levey – They would divide each building to 2,500 square feet. In the front building, the smallest building, it requires one wall. In the other three there are two, I believe, that would separate them roughly into thirds.

Chairman Reinhardt – You indicated that there will be no habitation of humans or animals, correct? What about working in the facility? We've had this issue before where there are individuals that go beyond the use as a storage facility; they are actually doing work inside of the storage facility and calling it their place of business. Is there anything going to be like that.

Ms. Tambe – No, Mr. Reinhardt. We don't allow anyone: There is no electricity in that building; there is no heat source: There is no nothing in any of the exterior buildings. There are no interior hallways whatsoever. It's metal on metal with a metal roof.

Chairman Reinhardt – So that is prohibited, that the tenants are not permitted to work inside of the facility, it's only for storage?

Ms. Tambe – Absolutely.

Chairman Reinhardt – As far as the limit on flammable substances, can you be more specific about that? Limited could mean anything. Let's try and define what you mean by that.

Ms. Tambe – On limiting what they store you mean?

Mr. Levey – There is a lease that is signed by each tenant of a storage unit space. The lease specifically prohibits and bans the storage of those hazardous chemicals.

Chairman Reinhardt – Such as?

Ms. Tambe – Oh gosh, there is a list and nothing flammable.

Chairman Reinhardt – Alright, let's give an example. Is a tenant able to store a gallon of gasoline in the storage facility?

Ms. Tambe – No.

Chairman Reinhardt – Half a gallon? A quart?

Ms. Tambe – No, they can't store anything flammable.

Chairman Reinhardt – This is different, because you said you're limited. What I'm trying to understand for the record...

Ms. Tambe – He's saying the lease is limited. There is a clause in the lease. I have a national company that manages it, Life Storage, and their lease is very strict about what can and cannot be stored in there. The manager has access to anyone's unit. If there is anything suspicious going on, whatsoever...

Mr. Levey – Limited, was limited to what they can store in the unit.

Ms. Tambe – The lease has the limit.

Chairman Reinhardt – Let me give an example: A tenant wants to store a snow blower with gasoline in the container, however much, if it's a pint, half a pint, is that permitted to store in the facility?

Ms. Tambe – It is not and the manager on site is there assisting everybody.

Chairman Reinhardt – So if they are going to store a snow blower, for example, in there, the tank has to be dry. Is that fair to state?

Ms. Tambe – Yes, correct.

Chairman Reinhardt – Are there any other combustible substances that are permitted to be stored in the facility?

Ms. Tambe – No.

Chairman Reinhardt – For clarification, you pointed out that there was a storage facility in the Village. It's important to note here that the Code for the Village is different than the Code for the Town. So we are dealing with apples and oranges.

Mr. Levey – It was just pointed out that the Fire Department does cover that facility so the risks that are present there would be the same as at our facility without the sprinkler system.

Chairman Reinhardt – You mentioned earlier that you had estimates of \$70,000 and you went on to say that the cost could escalate to \$150,000-\$225,000.

Mr. Levey – The quote that we got was received from Colonial Fire Protection Systems. It's limited to the four buildings and has a scope of work of a dry system. The piping within the buildings; the sprinkler heads; and a backflow device.

Chairman Reinhardt – You're reading something, right?

Mr. Levey – Yes, I can turn this over to...

Chairman Reinhardt – A copy of it, because that would be nice to have in our record. (A copy was given) Thanks so much.

Mr. Levey – On top of that, we haven't been able to fully estimate all the costs associated with that, but that's the base line. That's for the system within the building. The system still has to be connected. There are a couple of different ways to engineer that. One is an independent system to each building. The front building could be designed that way because it is closer to the main. That would require the backflow preventer. It might require some heat source within a smaller space just for the stand pipe to come up. You have a valve connection that has the rest of the system dry that has to have a compressor to keep it full of air. So those types of things, depending on where we can locate them, those are all added costs above that quote.

Chairman Reinhardt – Do you know if there is a commercial policy that is going to cover this facility? Are you self-insured? Is there a commercial policy that covers the policy?

Ms. Tambe – Absolutely.

Chairman Reinhardt – Does the carrier know that you are now going to expand and put four other buildings ...?

Ms. Tambe – Absolutely.

Chairman Reinhardt – Have you told them or had some discussion on the difference between having a sprinkler system in place as opposed to not having one and the price of premiums? Do you see what I'm asking?

Ms. Tambe – I do, but I do not have that information. I don't know what the premium cost difference would be.

Chairman Reinhardt – Presently they know this is coming down the pipe, have they given you a quote at all?

Ms. Tambe – Yes.

Chairman Reinhardt – I don't need to know the number, but they've given you a quote and the issue of a sprinkler system hasn't come up in the discussions?

Ms. Tambe – No, not the exterior buildings. It has not come up at all. The big building is fully sprinklered.

Mr. Avila – Earlier today one of the Code Enforcement Officers sent out an email to, I believe Renee, as far as the plans on the buildings go. In order to meet State Code there are a couple of requirements that are listed in the International Building Code. The plans currently have a couple of discrepancies on what is required and what they are calling for. We would like to see that clarified on the plans so that we can verify that it indeed does meet State Code. The only other information from our office is what was sent out in the coordinated fire service review.

Chairman Reinhardt – Would you feel more comfortable then in tabling the matter until they follow through? What is your comfort level then on either putting a condition onto the granting of the waiver or tabling it and letting them follow through with the building code clarifications?

Mr. Avila – Speaking to the Fire Marshall earlier today, the preference was to table it until we get the plans that are set.

Chairman Reinhardt – Doesn't mean we are going to do it, I just want to know what he is thinking.

Mr. Levey – Just for the record, our firm is not the design firm for the outside buildings. We were the design for the conversion of the existing building. We have been in contact with Betco who is providing the design services there. They are aware that the firewall is required to be a three hour rated fire wall and not the two hour indicated on the plans.

The building code also has stipulations as to the design of the firewall. One is a horizontal extension past the face of the building by 18 inches. The other is a vertical expansion of the firewall 30 inches above the roof. However, both sections and both requirements have exemptions depending on how you design the firewall. In our case we can meet an exemption for both cases. For the horizontal extension out for 18 inches, we have an exemption that says if the wall is of a non-combustible material four feet to either side of the firewall, with no openings, we can end the wall inside against that material. That is the plan. We would reduce the doors to those two units to five foot wide so there are no openings within four feet of the firewall. For the vertical, you can terminate at the underside of the roof if the roof is non-combustible and a class B rating I believe. The metal roof that is proposed for the buildings does meet the class B rating. So we meet exemptions for both cases. The firewall would terminate at the interior surface of the exterior surface. We can have the plans updated and resubmitted.

Chairman Reinhardt – I hear what you are saying. All this is going to be in one folder so that if anyone has any questions, we have vetted it, it's thoroughly discussed and all the questions have been answered. Anything else you want to add?

Is there anyone from the public who would like to speak for or against the waiver?

There was no one from the public who wished to speak.

Mr. Salsburg – I think it's a very dense fire load. This property is heavily fire loaded.

Chairman Reinhardt – It's a big ask so I think it's important that we get all the details pinned down and our facts straight. I appreciate you giving us the information and you are going to follow through with the plans.

Mr. Levey – One last comment if I could. We do realize that there is a nature to the storage business. In this facility, the uniqueness of having the existing building, which is sprinklered, which does provide storage for vehicles in a larger area that is protected, that type of use in the outside buildings does go down. We do have management on staff that can kind of direct to inside versus outside if they have a feeling to what is being stored. That type of use can be mitigated to some degree to the outside buildings.

Chairman Reinhardt – I think for what we have on board it's best and my recommendation is to table the matter so that the Code Enforcement Officer sees the updated plans. I don't think we really need anything else. Anybody else think we need anything else with it?

Mr. Salsburg – I would welcome the extra time to think about it and work on this.

Chairman Reinhardt – If we could invite the Fire Marshall here in case there are any follow-up questions and specifics. I think when people have come in here before asking for a waiver, there seems to be a common theme. Property can be replaced but human life can't. Our firefighters are out there doing the very best they can. To minimize the risk for them would be a big thing. I'd like to have him come in and if he has anything to add, I'd certainly like to hear from him.

So we are going to table it, how long do you think it will take?

Mr. Levey – We can have the drawings corrected this week.

Chairman Reinhardt – OK, it'll be the first Monday of November; three weeks.

Mr. Avila – The first Monday in November is the 5th.

Chairman Reinhardt – OK, November 5th, come on back. If we can we will get you first on the list so that we can get you in and out of here as quick as we can.

Mr. Levey – We appreciate that.

Chairman Reinhardt – Great, thanks so much.

On a motion from Fred Salsburg, seconded by Michael Reinhardt, it was unanimously agreed and RESOLVED, that the meeting was adjourned at 7:30 PM.

Debby Trillaud, Secretary