

**A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, January 19, 2022, at the Village Hall, 60 East Main Street.**

**MEMBERS PRESENT:**

Chairperson	Sean Sanderson
Vice Chairperson	Brian Pancoast
Member	Brendon Crossing (Arrived 7:22)
Member	David Chalupa
Member	Tim Stone
Zoning Clerk	Roseanne Turner-Adams

**OTHERS PRESENT:** Mike Crowley, Todd Smith, Jerome Oley, Dennis Kennelly, Adam Proctor, Todd Proctor, Kim Goerlich, Julie Bellomo, Michele Harris, Thad Harris, Karen Mahalo, Brendon Mahalo, Patrick Kelly, Julie Kelly

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

Salute to the Flag

**Resolution #01-22ZBA**  
**Acceptance of Minutes**

On a motion made by Tim Stone, seconded by Brian Pancoast, the following resolution was ADOPTED 4 AYES 0 NAYS

**Resolved** to accept the minutes dated November 10, 2021.

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**47 East Street LLC/Victor Landing Apartments/47 East Street**  
**Area Variance**

Chairperson Sanderson read the legal notice into the record:

"A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, January 19, 2022, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.)The application of 47 East Street, LLC/Victor Landing Apartments for an area variance to the Village of Victor Zoning Code section §170-12 (11) (b) [2]. The property is located at 47 East Street. The applicant is proposing a new multiple resident apartment complex with nine apartment buildings. The applicant is requesting an area variance to not to construct or provide enclosed parking for the tenants. The parcel is located in the R-3 Multiple Residence zoning district. Pursuant to §170-12 (11) (b) [2] The applicant is proposing no garages or carports for vehicles whereas 50% of total parking area shall be garages or carports.

Due to Covid-19, masks are required. Please let us know if you plan to attend the public hearing so we can make sure we have enough socially distanced space. Please call 924-3311. Other ways to comment are via email @ ptclerk@villageofvictor.org or via US Mail to 60 East Main Street, Victor, NY 14564. Comments can also be submitted in our mailbox located at Village Hall.

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 Planning and Building Department has received an application for an area variance. The property is located at, 47 East St. The applicant is proposing new Multiple resident apartment complex with nine apartment buildings. The applicant is requesting an area variance to not to construct or provide enclosed parking for the tenants. The parcel is located in the R-3 Multiple Residence zoning district. I have reviewed the plans and have the following comments:

I. Pursuant to §170-12 (11) (b) [2] The applicant is proposing no garages or carports for vehicles whereas 50% of total parking area shall be garages or carports.

Respectfully submitted,  
Todd Smith, NYS-CEO, CFM  
Code Enforcement Officer/Fire Marshal  
Code References

§170-12 (11) (b) Parking.

[2] Enclosed parking, either garage or carport, shall be provided for at least 50% of the total parking area.”

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Mr. Dennis Kennelly stated that he works for T.Y. Lin and is joined by the property owners Todd & Adam Proctor who are requesting an area variance. Mr. Kennelly stated that a preliminary site plan was approved on October 27, 2021 by the Village Planning Board and another application has been submitted for January 26<sup>th</sup>, 2022 for final approval depending on the outcome of the resolution for the requested area variance.

Mr. Kennelly showed a rendering of the proposed project and explained that it is located at 47 East Street, just east of the existing Great Brook Apartments and the site is approximately 8.8 acres of undeveloped property. Mr. Kennelly stated that they propose 70 apartments which are affordable units and background information was submitted to support this variance request to eliminate enclosed parking. Mr. Kennelly explained that the proposal is consistent with Great Brook apartments.

Mr. Kennelly stated that there are 156 parking spaces associated with the 70 proposed units which exceeds the requirement.

Mr. Kennelly stated that this is a brief overview of the project but are just here seeking an area variance to eliminate covered parking.

Mr. Sanderson asked why they want to eliminate the required covered parking. Mr. Kennelly stated that the request is based on being able to have more affordable apartments and additional cost means additional rent and they want to be consistent with the neighboring apartment complex.

Mr. Sanderson asked who owns the property. Mr. Todd Proctor stated that he owns the property and has owned it since his father passed away in 2013. Mr. Proctor explained that his father owned the property with a partner since Great Brook Apartments was built in 1985 so it has been in the family since 1985. Mr. Proctor stated that in 2015 he bought out the other partner that was involved with Great Brook Apartments.

Mr. Sanderson asked what the project cost will be with and without garages. Mr. Proctor explained that they haven't gotten that far yet but that if garages are built the rent would be around \$2,000 per unit and that they would like to stay under \$2,000 per month for a two-bedroom apartment. Mr. Stone asked what Mr. Proctor considers market rate. Mr. Proctor stated that looking at comps he would like to have his rents be based on the construction costs and the target rate would be \$1,200-\$1,300. Mr. Stone asked what the rent increase would be if he had to provide covered parking. Mr. Proctor stated that if he went with covered parking, he would build 2-story units with a one car garage and washer and dryer which would increase rents to approximately \$1,800-\$2,000.

Mr. Chalupa asked if Great Brook Apartments has covered parking. Mr. Proctor stated that they have detached covered parking which tenants use to store things rather than parking their cars there.

Mr. Sanderson explained that the Zoning Board's job is to protect the code and have to balance the benefit to the applicant and the benefit to the code. Mr. Sanderson stated that the Zoning Board needs to be shown reasons why garages won't work for the proposed project. Mr. Proctor explained that it really just comes down to being able to provide affordable units and cut costs for the consumer. Mr. Proctor explained that there are not enough affordable units in Victor.

Mr. Sanderson stated that if the applicant were to provide covered parking, how does it affect the number of buildings that can be built. Mr. Proctor stated that they looked at a premium unit eight years ago and they could make it work but they want to try to offer \$1,200 units rather than \$1,800-\$2,000 units. Mr. Proctor explained that they market to people looking for apartments in the \$1,200 range and are not looking to market premium high cost units.

Mr. Sanderson stated that when Great Brook Apartments were built in 1985, they included detached covered parking and their rent is currently \$950 per month. Mr. Proctor stated that there is an extra cost of \$45 per month to have covered parking. Mr. Pancoast stated that a three bedroom, 2 bath, 1 car garage in Victoria Woods is between \$1,200 and \$1,400.

Mr. Sanderson stated that based on today's dollars, you don't think you could build this and charge that same rent. Mr. Proctor stated that to build anything today, the costs are much greater than they were in 1985.

*Mr. Crossing entered the meeting 7:22pm*

Mr. Sanderson asked if the variance is not granted, what would it change the number of apartments built. Mr. Proctor stated that it would decrease the number of apartments built. Mr. Smith stated that with 70 proposed apartments, 2 cars per apartments, 70 garages would be needed per code.

Mr. Proctor stated that he personally doesn't think a carport in front of each unit would work because they have to be within 200 feet of the apartment. Mr. Sanderson stated that at least one parking space has to be within 200 feet, but the covered parking does not. Mr. Proctor stated that the Zoning Board would like 70 covered parking spaces somewhere on the property. Mr. Sanderson agreed.

Mr. Stone asked Mr. Proctor if he has considered requesting an area variance to reduce setbacks to create more space. Mr. Proctor stated that there is really nowhere to create more space because the wetlands are needed for stormwater mitigation and wouldn't want to sacrifice buffer space up front.

### ***Mr. Sanderson opened the public hearing***

#### **Julie Bellomo-52 Ketchum Street**

Ms. Bellomo stated that the proposed apartments will be facing her back yard and the covered garages or not covered garages do not really matter to her, but she is most concerned with what she is going to see outside her window. Ms. Bellomo stated that she has other thoughts that she will express at the Planning Board public hearing. Ms. Bellomo asked what the need for these lower income apartments are in Victor and if a survey has been done to see if the need is actually there. Ms. Bellomo stated that she would like to know before these are built and possibly left empty. Mr. Sanderson asked Deputy Mayor Mike Crowley if he has any input on that question. Mr. Crowley explained that with part of the community initiative there was a survey in 2016 or 2017 and affordable housing came up as a need. Ms. Bellomo stated that she hopes that the same committee looked at traffic patterns and where that affordable housing would be best suited to be located in the Village or Town. Mr. Sanderson stated everyone has the same opinion that traffic in Victor is an ongoing struggle. Mr. Crowley stated that he doesn't know if this is the time and place for that discourse. Mr. Crowley stated that he lives at 10 Woodworth Street and what needs to be remembered is that this property was zoned R-3 in 1974 so anyone who bought a house in Jacobs Landing, himself included, should have known what they were buying. Ms. Bellomo stated that she was aware of what that land was zoned, however, access to that land has changed several times and she attended a public hearing 15 years ago when something similar was being proposed for that land. Ms. Bellomo explained that the Planning Board listened and worked with neighbors on how the development might be situated and where the access might be and were very happy that they listened to their concerns, and she will bring her concerns with access next week for the Planning Board public hearing.

Mr. Crossing stated that he is hearing affordable housing, but these are market rate apartments, not section 8. Mr. Proctor stated that they are not proposing section 8 but within market rate there are different levels. Mr. Proctor explained that he is looking at affordable amenities, fixtures and finishes for the units.

### **Karen Mahalo-48 Ketchum Street**

Ms. Mahalo stated that her house was built 18 years ago, and the proposed property is right in her back yard, so she echoes some of the things Ms. Bellomo had to say. Ms. Mahalo stated that there is a reason the Zoning Board exists and why there are zoning rules and reasons why covered or enclosed garages are important for a neighborhood in the Village where there are several houses and families living already. Ms. Mahalo explained that if 70 families are added to the area it increases the traffic and safety concerns because of the increased traffic so if the zoning rules stay and they are required to have covered garages it would reduce the number of families that live there and that to her is a benefit.

### **Kim Goerlich-46 Ketchum Street**

Ms. Goerlich stated that she hasn't heard anything today to convince her that there is no need for the garages. Ms. Goerlich stated that garages are not just for cars, and she doesn't want to see bikes, grills and games outside as she looks out her back windows. Ms. Goerlich stated that several years ago she lived in an apartment similar to Great Brook and she rented a covered parking space which wasn't in front of her apartment, but she walked to it, and she didn't have to brush snow off her car, and she kept her bikes in it. Ms. Goerlich explained that she doesn't see a reason the garage requirement should be waived.

Mr. Crowley stated that this same variance was heard in 1986 when Great Brook Apartments was built, and it was denied then. Mr. Crowley stated that he doesn't have any knowledge for or against the need for these apartments in Victor but if they were to be built, he would recommend sticking with the code. Mr. Sanderson stated that the variance was denied at the January 16, 1986 Zoning Board meeting.

Mr. Sanderson stated that two emails were received which he read into the record:

### **Tracey DeBruyn-49 Ketchum Street**

*Good evening, Sean Sanderson and the board,*

*Due to covid numbers I am unable to attend the meeting this evening. Therefore, in my absence I decided to write an email. My main concern relates to the conversation about adding 9 apartment buildings to the Great Brook Apartment complex. I believe this motion should be voted down. I feel this way for many reasons.*

*My first reason is the loss of green space in the village will make a big impact on the ecosystems in our area. When I look out my windows on Ketchum Street, I am met*

*with green space leading into the park. This green space is home to many animals and wildlife. Without this dedicated green space, the wildlife will have nowhere to go except into our neighborhood for food and shelter.*

*My second concern relates to the traffic that will increase. Currently turning out onto Maple Ave is a challenge and can get rather backed up turning and out of East Street.*

*The plan for these apartments does not allow for enough storage for residence due to no garage space. Dwellers always have items to store and where will their items go? My concern is this will be an eye sore and potentially an unhealthy situation down the road.*

*I look forward to a positive outcome to this proposal for all affected neighbors. Thank you for your time and attention to this matter."*

Mr. Sanderson stated that the next two emails were exactly the same and one came from Michelle Lacagnina and the other one came from Andrew Cooney who both reside at 44 Ketchum St. so he will read one of them into the record:

### **John Andrew Cooney, Jr. & Michelle Lacagnina-44 Ketchum Street**

*Our concerns are summarized, below:*

#### *Traffic*

- 1. The entire Route 96 corridor is already experiencing significant traffic congestion and adding 70 apartments within the Village proper will only exacerbate the issue.*
- 2. Turning Left onto East St. while heading South on Maple Ave. is currently a consistent challenge that backs Southbound traffic up, today, as there is no room to navigate around a turning vehicle at that juncture, adding 150 cars that could (potentially) need to turn left will create further congestion to the intersection with Route 96.*
- 3. East St. is not designed to handle the load of this increased traffic into a residential neighborhood, as well.*
- 4. The increase in tenants will likely bring the need for additional school transportation (buses) and will cause issues on School Days as people in the Jacob's Landing Neighborhood are trying to exit the development and can lead to more dangerous incidents with students and vehicles in the area.*

#### *Aesthetics*

- 1. When purchasing our Lot at 44 Ketchum St., the lot was priced at a premium due to the fact that we were backing up to "Forever Wild", per Crosstown Construction.*

*The addition of Nine (9) Buildings from our backyard takes away from the value of our property and the overall natural feel of the area at-large.*

### *Safety*

- 1. The increased number of (likely) transient tenants has the possibility of bringing instances of unwanted foot traffic throughout the Jacob's Landing development.*
- 2. The proximity of the Municipal Park provides a direct avenue for individuals loitering in the park, making it less attractive to the families who use the park regularly and the risk of individuals using the park after-hours, which could put burden on law enforcement to deal with these issues, as well.*

### *Value*

- 1. The development of these apartments will decrease the value of our properties in Jacob's Landing*
- 2. Our tax dollars will be used to manage the increased infrastructure required to support the ingress/egress of the tenants of these apartments due to the increased stress on the roads in the area.*

*Overall, I don't believe the development of an apartment complex within the Village Limits provides any value to the residents of the Village of Victor. The risks and expense far outweigh any value that the developer may present to our community, and I stand adamantly against approving this initiative, as I don't believe it to be in the interest of our community."*

**Mr. Sanderson stated that for the record, 0 persons spoke in favor of the application, 3 persons spoke against the application and 3 persons sent emails against the application**

### ***Mr. Sanderson closed the public hearing***

#### *Discussion regarding ownership history of the property*

Mr. Stone asked what the current occupancy rate is for Great Brook Apartments pertaining to the units and garages. Mr. Proctor stated that the occupancy rate is 100% for units and 70% for the garages. Mr. Proctor explained that in 2018 one of the banks of garages was demolished to create more open air parking. Mr. Proctor stated that there is a difference between covered parking and enclosed parking and with covered parking you will still see people's stuff, so it doesn't eliminate the eyesore. Mr. Stone stated that other projects that he has seen have specific language in their leases that prohibit anything other than vehicles which comes with fines and perhaps eviction. Mr.

Proctor stated that it is illegal to fine anyone as they do not have that authority, but they can make rules and right now it is impossible to evict anyone. Mr. Stone asked Village Code Enforcement Officer Todd Smith if there are ordinances prohibiting tenants for using the covered parking to store anything other than cars. Mr. Smith answered "no."

*Discussion regarding differences between Great Brook Apartments and the proposed Victor Landing Apartments.*

Mr. Pancoast asked how long they anticipate breaking even. Mr. Proctor stated that it depends on how quickly they can fill the units. Mr. Proctor explained that they would like to put the underground in for the whole project and then build half the project and see how they fill up accordingly. Mr. Proctor stated that they believe it will fill up fairly quickly because they have calls daily for interested renters.

Mr. Crossing stated that multi-family is extremely popular and has a lot of demand. Mr. Crossing explained that adding carports to the existing layout isn't the answer and he would like to see multi-family housing with garages.

Mr. Proctor stated that he believes that carports would be an eyesore and is trying to make the development aesthetically pleasing.

Mr. Sanderson asked what the timing is on this project when would it break ground and when would it finish. Mr. Proctor stated that depending on the construction contractor to start this year and finish in 2 years.

Mr. Chalupa asked Mr. Proctor if he has any comps of what other developments charge for garages. Mr. Proctor stated "no" but that there was a time when they rented to outside people because nobody was using the Great Brook garages and have since stopped doing that. Mr. Proctor stated that they charge \$45 per month for a storage unit.

Mr. Sanderson then went through the balancing test with the Zoning Board members

**1. CAN THE BENEFIT SOUGHT BY THE APPLICANT BE ACHIEVED BY OTHER FEASIBLE MEANS?**

***Yes-unanimous***

*Mr. Sanderson stated that there is high demand for multi-family units in Victor and thinks there are other ways to lower costs vs. sacrificing the code.*

**2. WILL GRANTING OF THE VARIANCE PRODUCE AN UNDESIREABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES?**

***Yes- Dave, Brendon, Sean, Brian      No-Tim***

*Mr. Sanderson stated that no garage means that there is nowhere for people to put their stuff. Mr. Stone stated that with proper screening you can avoid the detriment to nearby properties. Mr. Crossing stated that the Village expects covered parking in projects zoned R3 and there is a lot of benefit with covered parking. Mr. Chalupa stated that he thinks people need a place to store things.*

**3. IS THE REQUESTED VARIANCE SUBSTANTIAL?**

***Yes- Unanimous***

**4. WILL THE VARIANCE HAVE ANY ADVERSE PHYSICAL OR ENVIRONMENTAL EFFECTS ON THE NEIGHBORHOOD OR DISTRICT?**

***No-unanimous***

**5. WAS THE ALLEGED DIFFICULTY SELF-CREATED?**

***Yes-unanimous***

*Discussion as to wording of the resolution*

**47 East Street LLC/Victor Landing Apartments/47 East Street  
Area Variance**

**Resolution #02-22ZBA**

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

To grant an area variance for the Victor Landing Apartments located at 47 East Street for relief from the Village of Victor Zoning Code section §170-12 (11) (b) [2] which requires the applicant to construct garages or carports for at least 50% of the total parking area within the R-3 multiple resident zoning district.

**WHEREAS**, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from 47 East Street LLC; on December 7, 2021, requesting an area variance.

**WHEREAS**, said application was referred to the ZBA by the Code Enforcement Officer for the Village of Victor based on Section §170-12 (11) (b) [2] The applicant is proposing no garages or carports for vehicles whereas the code states that 50% of total parking area shall be garages or carports and,

**WHEREAS**, a Public Hearing was duly called for and was published in "The Daily Messenger" on January 5, 2022; and,

**WHEREAS**, all adjacent property owners were timely notified of the hearing and the purpose of the hearing by mail; and,

**WHEREAS,** a Public Hearing was held on January 19, 2022 at which time all those who desired to be heard were heard and, and 0 persons spoke in favor of the application and 3 persons spoke against the application and 3 persons sent emails against the application; and,

**NOW, THEREFORE BE IT RESOLVED** that the application of Victor Landing Apartments located at 47 East Street for relief from the Village of Victor Zoning Code section §170-12 (11) (b) [2] which requires the applicant to construct garages or carports for at least 50% of the total parking area within the R-3 multiple resident zoning district **BE DENIED.**

**ADJOURNMENT** Meeting was adjourned on motion at 8:16 pm.

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Roseanne Turner-Adams, Minutes Clerk