

A regular meeting of the Town of Victor Zoning Board of Appeals was held on March 1, 2021 at 7:00 p.m. There was no public gathering based on the recommended precautions for limiting exposure to COVID-19. The following members were present virtually via ZOOM and the meeting was live streamed via YouTube:

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Fred Salsburg; Sarah Mitchell

OTHERS: Martin Avila, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Kim Reese, ZBA secretary

Chairman Reinhardt called the March 1, 2021 Zoning Board of Appeals meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

PAST MINUTES:

On motion of Fred Salsburg, seconded by Donna Morley:

RESOLVED, that the minutes of the meeting held on February 1, 2021 BE APPROVED.

Adopted: Ayes 5, Nays 0

PUBLIC HEARING:

**Brett Jones and Laci Paluck – 04-Z-2021**

Applicants are requesting an area variance to construct a house on 6485 Break of Day 18.5 feet from the Right of Way line of Break of Day Road. The front yard setback per Town of Victor code Schedule II Area and Height Requirements is 40 feet. The property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – We have four applications. One is a carry-over, three are new. For our new applicants, just to give you a quick overview; the general path that we're going to follow is I will give the applicant an opportunity to make the presentation, and the board will be asking questions. If there are exhibits that you're pointing to or like to discuss feel free, take your time. But when you're looking at an exhibit and referring to them especially since we're doing this virtual, do the very best you can to describe as far as compass directions or locations, so that when we create the record it's as clear as we can possibly be that we all know what you're talking about. And, then if there are public comments, we'll take those. There are two of the applicants that need to go to the county planning board for referral. We'll get to that once we get to those particular applications.

Also, when we're creating a record it's going to be important especially since we have so many here is to do our very best not to talk over each other so if you would wait for the question to be asked and we won't interrupt you and talk over you so that the record is as clear as we possibly can make it.

Alright, so first we will be talking about the carry-over. This is the 6485 Break of Day application. Brent Jones and Laci Paluck. I see Al is here. You moved your box on me!

Mr. LaRue – I don't know how to do that.

Chairman Reinhardt – I don't either. Okay, so just a quick review here, where we were the last

application. There is a septic system hurdle that we are dealing with. Apparently there were some perc tests that were made. The lot is relatively small. There's also the issues of the topographical issues and the placement of that. There's a trail that runs behind the property. It's not, at least where your proposed house is going to be. It's not encroaching on an easement. There was some discussion about the trees would buffer the house. There is no sewer on that road and I believe Al, you indicated that it has been staked out. It went to the county planning board and there was some notation and comments that they had about requesting three suitable perc tests that would be recommended and a municipal engineer would have to review it, but it's my understanding that Al had indicated that since it's a raised bed that it's really not going to be a concern and, are you with us, yet Marty?

Ms. Reese – He was having some computer issues. He said just a second.

Ms. Mandrino – I'm just letting him in now.

Chairman Reinhardt – Marty, there you are. We were just going over the Break of Day application and talking about the county planning board comments and the issue about them requesting three suitable perc tests and there was some discussion I think that you and Al, had or if you would get us up to speed that since it's a raised bed the need for the three perc test really wouldn't be necessary. So could you touch on that a little bit, so we're not spinning our wheels?

Mr. Avila – Sure. So a conventional septic system would typically require at least three perc holes and that's why there was something of 40 or upward that were on this job. None of which passed but I think two, so that actually necessitates a raised bed system. All systems would need to be engineered, designed by a design professional standpoint, a PE. And, then that would be inspected and witnessed by the town engineer as well. So for this particular system, it's a raised bed system because they couldn't pass three perc holes and by definition will be an engineered system which will be looked at by two separate engineering firms, the town engineer and then whoever the applicant's engineer is.

Mr. LaRue – The Ontario County Health Department will also be looking at this. State health is requiring that they sign off on it.

Chairman Reinhardt – So, Al would you be comfortable if the Zoning Board decided to grant the variance is to have a condition that the town engineer's would review the raised bed, as well as verification that the county health department approved it.

Mr. LaRue – No, not a problem at all. We expect that. The next step is to go for planning, site planning, site engineering and approvals of the site plan. So comes with it, the approvals of the town engineer.

Chairman Reinhardt – Marty would that satisfy the town then, if the town engineer approved it as well as the county health department approved it as a condition to this variance if it were granted?

Mr. Avila – Yes, absolutely. Typically if it's something outside of the normal scope, we'll refer it on to the town engineer. In this case we would, so yes, that would.

Chairman Reinhardt – Okay, great. Alright Al, is there anything else that you want to add to the application to help the board understand what this is about?

Mr. LaRue – No, I think you've got a pretty good understanding of it. But it's a very difficult lot to say the least. We talked about that the first time, so and we've got everything where it's got to be if we're going to go forward. We're pretty much where we are and I think has everybody had a chance to go out and take a look at the location of the house? Because I know we put the front corners in and

Mr. Salsburg – I saw one stake. Were there more than one? I was there a couple times.

Mr. LaRue – Two, there were two stakes that we set.

Mr. Salsburg – I guess I didn't see the second one. I think I probably saw the eastern-most one.

Mr. LaRue – Yeah, probably. Mitigating this a little bit is that group of trees to the east side that are in red. You'll see there. So and we're back from the road 31-35 feet from the pavement. You know, set back is what it is. We're as far back with the house as we can go and still put that septic in an area that can be approved and will be approved by the state health.

Chairman Reinhardt – Fred, do you have any other questions?

Mr. Salsburg – No, I don't. I've read all the documents and I've been there twice and each time I wish it wasn't so close to the road. I don't know.

Mr. LaRue – And, we agree with that. That's not a question.

Mr. Salsburg – And, I'm afraid that there will be others and we'll have to grant setback if we give it to this applicant and the next one. We have to treat everybody the same. It kind of pains me because it's a nice lot, but that's all for me now.

Mr. LaRue – It's a nice lot and if we could have gotten some perc tests that in a little different area, but boy this one. I never failed perc tests yet, but this one almost got me. And, to get two was I wasn't sure we were going to be able to get it to perc at all and it's some tough soil right there, so we feel we'd rather not have the house that close, but everything is determining where that house has got to go, unfortunately.

Mr. Salsburg – I know.

Chairman Reinhardt – Donna, any questions?

Ms. Morley – None, thank you.

Chairman Reinhardt – Sarah?

Ms. Mitchell – No. I'm actually fine with the way that it's been presented. If you add the condition for the septic approval then I'm good with the way it is.

Chairman Reinhardt – Matt, any questions?

Mr. Nearpass – No I agree with Fred. I feel though like the applicant's tried everything they can. There isn't really any much else they can do to make this work, so I'm okay with it.

Chairman Reinhardt – Okay. Alright. Suzy, is there anybody that they can tell that want to make any comments on this particular application for public comment?

Ms. Mandrino – There are no comments.

Chairman Reinhardt – Okay, great. Alright then. Then let's run through the criteria.

First, whether an undesirable change will be produced in the character of the neighborhood or a detriment

to nearby properties will be created by the granting of the area variance.

It appears not. That the both February 1<sup>st</sup> and today's discussion that the engineer has done everything that they can do at least to try and figure out where to put that septic system as well as to try and put the house there. There is no water, at least present that they can use. It's a small lot. There's topo issues that give the place, with the septic system a bit of a problem. There is a trail that runs behind the house that it's a town easement. However both the septic system is not encroaching on the easement. There are trees that will buffer the location of the proposed house. Applicant has staked out the location. While the county planning board had initially commented and indicated that three perc tests would be required or should be required and reviewed by the engineer, after discussion with our code enforcement officers that since it's a raised bed that it would be satisfactory as a condition to this variance that the town engineer would approve it as well as the approval of the health department.

Does anyone else like to add anything else to the first criteria?

Hearing nothing, we'll proceed on to the second is whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

As previously discussed the size of the lot gives this a bit of a problem, so the short answer is going to be is no, there really isn't any other feasible way to do this. There needs to be a septic system there. The location of the septic system is primary and then the house would go in front of it.

Mr. Salsburg – Can I say something here, while we're on this? I wish I would have brought it up earlier.

Chairman Reinhardt – Okay, what'd do you have, Fred?

Mr. Salsburg – Thirty years ago I fixed over a single house into a double and there was no space. It was a tiny little lot and at that time I put in two pits. They were about 10, 11, 12 feet deep and six or eight feet in diameter, concrete blocks laid up sideways with stone on the outside. Because they were small. Al and Marty is that an outside possibility anymore?

Mr. LaRue – Seepage beds, that's what you're talking about and you need good underlying soil for seepage beds.

Mr. Salsburg – Yeah, I had that there.

Mr. LaRue – It's not good here, at all.

Mr. Salsburg – It goes that deep then, huh?

Mr. LaRue – No, it's very difficult soil all the way down. To about 7 feet I think we went and so it's, no, no possibility here.

Mr. Salsburg – My conscience is clear then.

Chairman Reinhardt – Okay, you all set, Fred?

Mr. Salsburg – Yep.

Chairman Reinhardt – Alright then continuing on with the second criteria. As discussed further there is

not a feasible approach for this particular applicant to pursue other than an area variance. Would anyone else like to add anything else to the second criteria?

The third being the requested area variance is substantial. The requested area variance – forty feet of a front setback is required and they're requesting 18 ½ feet. By just numbers itself more than 20 feet, I would consider that to be substantial.

Mr. Salsburg – So do I.

Chairman Reinhardt – Anyone like to comment or add anything on the third criteria?

Fourth, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

I think it should be noted that it's not. I think the engineer has conveyed and presented it to this board that everything has been done that's feasibly possible to place that septic system in the most logical, if you will strategic area.

Anyone else want to add anything to the fourth criteria?

Fifth being whether the alleged difficulty was self-created. The consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

In this instance it is self-created. It is what you're asking for, but it doesn't necessarily preclude the granting of the variance.

As a proposed condition, will be that the town engineer will approve the raised bed septic system as well as the health department will need to approve it in writing and on file with the town clerk.

Would anyone else like to add any other conditions or comments to the proposed variance?

Alright, hearing none, I would entertain a motion for approval with the noted conditions.

Chairman Reinhardt – Sarah, that was you? So Sarah made a motion, Matt seconded it. Any further discussion? Very good. All in favor? Aye. Any opposed?

Mr. Salsburg – I'm opposed. I'm sorry.

Chairman Reinhardt – It's okay. The variance has been granted with the proposed conditions. Okay?

Mr. LaRue – Thank you very much.

Chairman Reinhardt – You're very welcome, Al. Good luck to you. Stay safe out there.

Mr. LaRue – Take care.

RESOLUTION:

March 10, 2021

Brett Jones and Laci Paluck  
1053 Fairdale Glen  
Farmington, NY 14425

Re: 6485 Break of Day, Area Variance  
Appl: 4-Z-2021

At a regular meeting of the Town of Victor Zoning Board of Appeals held on March 1, 2021 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on January 19, 2021 from Brett Jones and Laci Paluck, 1053 Fairdale Glen Farmington, NY requesting an area variance to construct a house on 6485 Break of Day with an 18.5 foot front setback whereas Town of Victor code Schedule II Area and Height Requirements states 40 feet is required.

WHEREAS, said application was referred by Al 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 24, 2021 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 and therefore does not require further action; and,

WHEREAS, the Ontario County Planning Board assigned the referral as a Class 1, referral no. 20-2021 and returned it to the local board on February 10, 2021 with comments; and,

WHEREAS, a Public Hearing was held on February 1 and March 1, 2021 at which time no residents spoke for/against the application,

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:

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: At both the February 1<sup>st</sup> and March 1<sup>st</sup> Zoning Board of Appeals meetings it was discussed that the engineer has done everything to figure out where to put the septic system in order to put a home on this lot. It is a small lot. There is no water presently. There are topographical issues. There is a trail that runs behind the house that is in a town easement, however the septic system or home is not encroaching on the easement.

There are trees that will buffer the location of the proposed house. Applicant has staked out the location. While the county planning board had initially commented that three perc tests should be required and reviewed by the engineer, after discussion with our code enforcement officers it was confirmed that since it is a raised bed that it would be satisfactory as a condition to this variance to receive approval from the town engineer and the health department.

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: As stated in the first criteria, the size of the lot and other factors, preclude there from being any other feasible method to pursue. The location of the septic system is primary and then the house would go in front of it.

3. The requested area variance is substantial.

Justification: Forty feet of a front setback is required and the applicants are requesting 18.5 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 engineer has conveyed and presented to this board that everything feasibly possible has been done to place that septic system in the most logical, strategic area.

5. The alleged difficulty is self-created. The 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 Sarah Mitchell and seconded by Matt Nearpass:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application was received by the Secretary of the Zoning Board of Appeals from Brett Jones and Laci Paluck, 1053 Fairdale Glen, Farmington, NY requesting an area variance to construct a house on 6485 Break of Day with an 18.5 foot front setback whereas Town of Victor code Schedule II Area and Height Requirements states 40 feet is required, BE APPROVED.

AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.
2. The town engineer and the health department will need to approve the raised bed septic system, in writing and on file with the Town of Victor.

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

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Sarah Mitchell	Aye
Donna Morley	Aye
Fred Salsburg	Nay

Adopted: 4 Ayes, 1 Nay

**Linda Robins – 05-Z-2021**

630 Burke Hollow, requesting an area variance to the set-back to construct a pergola, whereas per

Schedule II, Area and Height Requirements, of Chapter 211 of the Town of Victor Code, a 15' setback is required. The property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – Alright next is 630 Burke Hollow. This would be Linda Robins. There you are. Hi.

Ms. Robins – Hello.

Chairman Reinhardt – Bear with me a second. This is for a pergola, 15 feet side setback is required and you're requesting 10 feet?

Ms. Robins – That's right.

Chairman Reinhardt – The application seemed to indicate that you're looking for some privacy. It's going to be on the east side of the lot. There's an existing septic system and the leach field that you don't want to encroach on that. There's also some (inaudible) vegetation that you don't want to disturb. And, I think there's also a note that there's an existing pool.

Ms. Robins – There is not an existing pool. It's to be built.

Chairman Reinhardt – It's to be built? Okay. I know that there was a survey that indicated and that would be my mistake. I thought the pool was already in place. So, when it says there a 16 x 40 pool, that's proposed pool, correct?

Ms. Robins – That is a proposed pool and the pool contractor would be the one doing the prep work for the pergola for the footers in the area being requested.

Chairman Reinhardt – Great. Okay, just a quick question here. What's the acreage on the property?

Ms. Robins – 1.4 I believe.

Chairman Reinhardt – Alright. Very good. So other than what's on your application you if want to summarize that that's fine, if you want to touch on a few other things that's fine, too.

Ms. Robins – Just basically that we looked at it from various different angles and the primary concern was putting the pool and the pergola for the most privacy without affecting the natural barrier that exists around our property. We like it. And there is to the southern edge of our property is the Auburn Trail, to the eastern side is for the most part a vacant field. The only thing within the sightline of the pool and the pergola is a like a utility barn on the neighboring property, but no other neighboring properties would have a site line to either the pool or the pergola.

And, so preventing us from moving farther west is the septic and leach field that we don't want to disturb. We did have the contractor out, the original contractor who installed that system five years ago. You should have a photo in your documents that is taken facing the house from the rear of the yard that shows where he designated would be a no dig zone. So looking at the house there (referencing photo) left is going to be west and that is where the leach field is that is what we're considering a no dig zones, so we have that 20 foot setback from that. And, to the east of that or to the right on that photo is going to be the proposed pool and then to the east of that is the pergola, if that makes sense.

Mr. Salsburg – I wondered what that picture was supposed to be.

Mrs. Robins – I didn't label it very well. I think I had talked with Alan Benedict about it, but that's what that is.

Chairman Reinhardt – Okay, Fred do you have any questions?

Mr. Salsburg – No, I don't. I think it's okay with me, the way it is.

Chairman Reinhardt – Sarah, do you have any questions?

Ms. Mitchell – I just want to verify the side setback that you're going for is that five or 10 feet from your property line?

Mrs. Robins – We are requesting 10 feet. And, if you need I can clarify as to why. Under the pergola if we have any kind of a lounge chair, those are typically six to seven feet, depending and we want that safe area around the pool.

Chairman Reinhardt – So for clarification, are you wanting the pergola to be built 10 feet from the property line or five feet?

Mrs. Robins – We're asking for ten, yes.

Chairman Reinhardt – You're asking for 10, but does that mean the pergola, you'd like it within five feet of the side property line or ten feet?

Mrs. Robins – Let me see how he has it built, the contractor. I think it's five feet. Yes.

Mr. Nearpass – A ten foot variance, but you need five feet.

Mrs. Robins – Exactly.

Chairman Reinhardt – I didn't want to cut somebody off. Sarah, were you asking questions?

Ms. Mitchell – I'm all set. That's all I needed. Thank you.

Chairman Reinhardt – Donna, questions?

Ms. Morley – None, thank you.

Chairman Reinhardt – Matt, questions?

Mr. Nearpass – Is there an existing fence, or do you expect any variances associated with the pool? You think this is all you need for your project?

Mrs. Robins – Yeah, there's no variance needed for the fence or the pool.

Mr. Nearpass – Have you looked at, considered a smaller area for the pergola?

Mrs. Robins – Well if you go any smaller than that, you're not going to have the area to safely traverse around, like chairs and such before you get to the pool. Just trying to look at that so it's safe.

Mr. Nearpass – Have you talked to any of your neighbors about it? Is there any concern in the neighborhood?

Mrs. Robins – We have not gotten any concern. I did call Ed Lysien the one neighbor send something to Kimberly via email I believe saying he had no issues. The other neighbor which is on our street is Mr. Buffen also expressed no concern. Nobody else responded with any concern. We let them know and invited feedback.

Mr. Nearpass – I'm okay. Thank you.

Chairman Reinhardt – I'm curious on where the proposed pool is going to go and where the proposed pergola, I'm at a loss as to why you need it be so far to the east. Why you can't move it five feet, 10 feet closer to the pool without encroaching the pool and not needing a variance? Or for that matter, in the other direction going in a southerly direction and not encroaching on the septic system? Can you explain that a little more on why it needs to be so far?

Mrs. Robins – Sure. We can't move it farther south. There's a tree there. I mean we'd really like to not move any of the trees. If you want to pull up the instrument survey with the sketch, maybe I can help and be more clear. So, talking about to the southern, I lost my bearing here. So looking at southerly, we've got the Auburn Trail there and we've got a tree line there. We'd like to make it so that nothing is visible to that trail, first of all. And, to maintain privacy and between the trail, there's an upward bank to our yard and then there's a tree. A nice size ornamental tree that we don't want to move if we don't have to. So that's to the south and if you're looking at the eastern side you can see where the pool contractor has. Okay, so you see where the leach field is and we're right there at 20 feet, which is where we need to be but on the other side of it and I don't know how to explain this maybe you can help me. There's going to be a set, I think he shows it on there. There's an upward bank, how do I say this?

Mr. Robins – Let me try to explain it a little better. So where we started from actually was a leach field, which is the diagonal lines up in the upper part of the document. From there we had to work twenty feet from the leach field to make sure that the pool had the correct distance from the leach field, based on what we were advised. Once the pool goes in, on the other side of the pool, there's actually some topography where the side of the property actually goes up a little bit by about 2-3 feet, so it'd be very difficult to build a kind of a flat surface over that topography because it varies probably by about 3-4 feet and so by setting it back it's on a level surface, closer to the property, or closer to the lot line.

Chairman Reinhardt – Could we do this? There was an aerial shot that you had and the survey really doesn't show the topography of it. Right now I'm on, honestly I don't know if it's Bing or Zillow, it's a better, with all due respect, aerial of what you have because it shows the tree and the vegetations and all. So what I'm trying to get at here is if you could use the cursor, right you don't have the cursor. I'm trying to figure out which trees that you're talking about and why the Auburn trail is coming in any kind of consideration for where you want that pergola to be.

Let's do one at a time. The Auburn Trail looking at that map is right where that arrow is, right? Going up and down, can you see that? Your pergola is going to be anywhere near the Auburn Trail, so why is that important?

Mrs. Robins – The only reason we put a note on the application was that we want to maintain the buffer and the privacy. We wouldn't want to put a pool or a pergola back in the back part of our property. Does that make sense? Because you can hear people walking up and down that trail and you can see them.

You wouldn't want it near there. That's the only reason.

Chairman Reinhardt – Sure I'm not trying to micromanage the thing, but where the proposed pergola is going are you telling me then it can't go five feet further west or away from the property, it's just not possible?

Mrs. Robins – No, because there is a slope right there and so when you look at that yellow, the line that your cursor was just on. So, right along there that is higher than as you go west, so there's actually going to be a couple steps going down, so you're hitting level land. Does that make sense?

Chairman Reinhardt – I think so. So hopefully with our snow melt that we've been having. I can see some of my grass, hopefully you can see some of yours.

Mrs. Robins – Very little.

Chairman Reinhardt – So, this application has to go to the county planning board for referral. While they are doing what they need to do, we'll see you again April 1<sup>st</sup> (5<sup>th</sup>) but in the meantime, if you could help us. Hopefully there's going to be a nice day. Today would not be a good day. A little warmer if you could go back maybe and take some color photos and stake it out. Just so you can tell us this is where the proposed pool is going to be, here's the proposed pergola and there's the slope of the land, so now we can see it more of a 3-D type of image on what it is that you're talking about because the photographs and aerial that you have make it a little hard for us to figure out with all that land, why can't you move that pergola. Because I think you heard in the prior application, there's a feasibility issue. Is it feasible for you to put the pergola some other place. It comes down to the needs and wants. But maybe those photographs will help us and you'll show the slope of the land, and location of the pool that's really the best place for the pergola to go. Does that make sense?

Mrs. Robins – My concern is I don't know if I can capture the gradual sloping of that part of the yard because I didn't even after living here realize that that would be an issue until we spoke to the pool contractor and we was like you see that there's a slope here and we need to work with that. So what I might ask instead, I mean I will take the photos, but maybe, and I don't know it's he's willing or he has an answer to this if he can describe it to you and/or if he has some photo evidence. I know that he's employed drones, I don't know if that works.

Chairman Reinhardt – Alright how about with the photos, maybe if you write a little something up to say the location is the best place because... And if he puts in some information for us, the topography is difficult if it moves south, whatever the direction might be, so these are as we're building that record as I indicated on the front end of the meeting that's how this board really functions is weighing all the facts and how does it fit into the criteria. Well if we see you've done your homework and it really doesn't make a lot of sense, we know you don't want encroach on the leach field that makes no sense at all. And, you don't want to go too close to the Auburn Trail, we get that, but trying to hone in on it, can that pergola be moved any further, I think the direction would be west, or approximately west, the trees and things like that. Anything that you can do in the meantime, I think would help us understand what your application is all about.

Mrs. Robins – Okay. I think we can do that for you.

Chairman Reinhardt – Great. We'll just circle around a little bit. Donna, any other questions that you have?

Ms. Morley – No, thank you.

Chairman Reinhardt – Fred, any other questions?

Mr. Salsburg – Can the drawn survey map come back up? There's something in between the pool and the pergola I'd like to ask about. At the corner of the pool, that would be the northeast corner, it's a box and then there's another box. It looks like a set of steps going down. What is the bigger of those boxes?

Mrs. Robins – That might actually help us with showing the other previous question. See those steps he has just sketched in there? That's showing you the elevation going up to where that pergola going to be, so we can get the even elevation.

Mr. Salsburg – The steps are the smaller box? Right where the cursor is now?

Mrs. Robins – That is a spa and that is 15 feet from the main residence, so that's the back corner of our house.

Mr. Robins – The larger rectangle is the pool and there's a spa situated in the corner on the upper left.

Mr. Salsburg – What is it just to the east of that? It's got an enclosed line, right there. It steps down, what is that?

Ms. Mitchell – It looks like it's a patio. It's labeled patio.

Mrs. Robins – That is a patio surface area.

Mr. Salsburg – The pergola couldn't go over next to that?

Mrs. Robins – That would be right smack dab in the middle of our yard so aesthetically we would be kind of dividing the yard into two. So looking out of the house, you would have something almost blocking, dividing the two sides of your yard. Does that make sense? Aesthetically, it would be

Mr. Salsburg – I'll say yes, but it looks to me like where it is is kind of splitting the yard up anyway.

Mr. Robins – The question he's asking is why you wouldn't put it right here. But, I think that dimension is too small and it's right next to the pool.

Mrs. Robins – I think what you're looking at if I'm understanding it, you're saying why can't we move that whole thing right there?

Mr. Salsburg – Right, if there can be a deck, why can't there be a pergola?

Mrs. Robins – That's where the pergola will be is up on that elevated portion. So where you see those little steps, there's like a landing right there. And, right there, exactly right there is where we wanted to put the pergola.

Mr. Salsburg – Isn't the pergola the larger rectangle to the east of that? Right there?

Mrs. Robins – That is the pergola and see the steps going up to that? That's because there's a hill there. A slope.

Mr. Salsburg – And, there's some reason that can't come off the deck? You wouldn't need the variance then, maybe.

Mrs. Robins – I don't understand.

Mr. Robins – He's saying why the pergola wouldn't go right here. Right next to the pool.

Mrs. Robins – Well then you're going to be having the edge of the pool... I don't know if we can do that even.

Mr. Salsburg – The pergola would be the distance of the deck away from the pool. In an east direction.

Mrs. Robins – Can we do that, with the slope?

Mr. Robins – I'm not sure.

Mrs. Robins – Let me get with the pool contractor to see if that's feasible. I don't know that it is because of the steps there.

Mr. Salsburg – You know what would bring that home, to me. Is an elevation sketch, looking to the north with the pool elevation, the deck elevation and the pergola elevation?

Mrs. Robins – Showing all, okay.

Mr. Salsburg – Just do it by hand if you can make a scale sketch.

Mrs. Robins – Okay. I will have the pool contractor do that.

Mr. Salsburg – Since you've got to come back anyway.

Mr. Robins – It may be hard to see, we'll figure out.

Mrs. Robins – I don't think I can get you a photo, but I think I can have him do something with the narrative and maybe even, I don't know what he can do.

Mr. Salsburg – I'm basically asking the same question that the chairman asked.

Chairman Reinhardt – Just curious can you looking out your window that would be then the south window where the pergola and pool are going to go. Do you have a bedroom or some room with a photo or a couple of photos would that help us out to see that that lay of the land and how it slopes? I'm just trying to think of some other ways to help us understand where the land slopes and the trees and maybe that would help us for the next time around. As many photographs as you want to present to us and when we come back April 1<sup>st</sup> (5<sup>th</sup>), we'll see what the county planning board has to say then hopefully we can figure out what we can do for you for the variance.

Mrs. Robins – So the process going forward is they are meeting on the 10<sup>th</sup>. I don't know if we attend that or not or how we know if they have questions. I'm not sure what that process is. And, then we'll meet back with you on the 1<sup>st</sup> between the 10<sup>th</sup> and the 1<sup>st</sup> is there some sort of communication between you and them, or us and them or?

Ms. Reese – When their comments come back I will send them to the board and to you.

(Technical difficulty)

Chairman Reinhardt – Was I the one frozen or was everyone else? So, I missed about maybe sixty seconds of it.

Mr. Nearpass – Kim just finished outlining the next steps with the county and the questions and answers.

Chairman Reinhardt – Okay, so you know what's going on with the county and how all that works. We will see you for the next meeting, which would be April 5<sup>th</sup>.

Mr. Nearpass – I do have one question, just to help me visualize it a little better. So, you're expanding the patio and then you're going to have steps that go up a little bit. Obviously the pergolas there, but under the pergola is it stone pavers, is it poured concrete?

Mr. Robins – It's going to be either pavers or stamped concrete. We're not (inaudible) yet.

Mr. Nearpass – Okay, so I think what Fred and Mike were alluding to is why wouldn't you just take the pergola and put it over the extension and forget the stairs, why not just have the pergola over the new part of the patio that you have there. So I was trying to figure out do you just want more square footage from a patio perspective and you've got this hill that you're trying to figure out what to do with, so you had to get creative and make the stairs and the landing and the pergola?

Mr. Robins – It was more of a safety issue to try to have the pergola away from the pool so there's spacing right around the pool. That was the main reason for having the pergola farther away.

Mr. Nearpass – Okay. Is the pool above ground or in-ground?

Mr. Robins – It should be in-ground.

Mr. Nearpass – So where's the fence going to go around? Is the pergola inside the fence? Is it outside the fence?

Mrs. Robins – Inside the fence. And the fencing is the perimeter of the back yard. Not just the pool itself.

Mr. Nearpass – Okay. I understand it now. Thank you.

Chairman Reinhardt – Alright. Everyone else good on the questions? Awesome. Very good. Linda, thank you so much.

Mrs. Robins – Thank you.

Chairman Reinhardt – And that nice guy next to you?

Mrs. Robins – This is Tim.

Chairman Reinhardt – Hi Tim. So hopefully if you do have any questions, don't hesitate to reach out, but

in the meantime wait to hear from the county planning board and then we will see you on April 1<sup>st</sup> (5<sup>th</sup>).

Thanks so much.

**Thomas & Amanda Delaney – 6-Z-2021**

71 Barchan Dune Rise, requesting an area variance to the set-back to build a garage addition, whereas per Schedule II, Area and Height Requirements, of Chapter 211 of the Town of Victor Code, a 15' setback is required. The property is zoned Residential 2 and owned by the applicant.

Chairman Reinhardt – Next is the Delaney application. This would be the garage addition. And, I see Tom and next to you is Amanda? Hi, welcome. You would like to put a garage addition. You know that 15 feet is required. You want a two car garage with a laundry extension. I note there it's a bit of a pie shaped lot. So, if you would you want to go through your application and tell us what's it about?

Mr. Delaney – Sure. We're new owners to the home. We closed on the house in October and were a little surprised when we purchased the home that the house does not have a laundry room in the house. The previous owner had a washer and dryer in one of their closets in one of the bedrooms and were using that as their laundry. We have pets and are accustomed to having typical laundry space, not inside a closet in a bedroom, so we're proposing to add a 10 foot by 14 foot laundry room on the north end of the house, half way back. If you've seen the property and pictures of the property there's a side entry door just past the garage doors we have a side entry garage on the current home and then there's a side entry door and we're looking to start the laundry room just beyond that side entry door. That would come off the side of the house by 10 feet and then next to that add a two car garage.

We currently have a three bay garage. We have six automobiles between our kids and ourselves. Currently don't have space to store the vehicles inside and look into accommodating storage for the automobiles we have in the house along with the laundry room that we would like to add.

Chairman Reinhardt – Currently it's a three bay garage?

Mr. Delaney – Yes, there are three single doors off the, as a side entry.

Chairman Reinhardt – And, you're looking to add two more with the laundry extension.

Mr. Delaney – Correct.

Chairman Reinhardt – Okay. Alright, Donna, do you have any questions?

Ms. Morley – None at the moment.

Chairman Reinhardt – Fred, any questions?

Mr. Salsburg – Can we bring up the map that shows the foundation and the wall lines? It's kind of my opinion that you overstepped with the laundry room. And, what is it 3 ½ feet now? Side? What's the side setback as drawn here?

Mr. Delaney – So the back left corner of the garage would be within 3 ½ feet to the property line.

Mr. Salsburg – That's what I thought. I think that you haven't made any effort to reduce the request for the variance down to really a small set back and my question is, isn't there some way you could

incorporate either a lesser than 10 feet extension or partially put the laundry room in one of the three bays or something to reduce that?

Mr. Delaney – Then that defeats the purpose. We have six automobiles and currently have a three bay and looking to add a two bay.

Mr. Salsburg – Well that kind of don't know how long the garage is, but do they fill the end bay, will the car fill it right up?

Mr. Delaney – I also have a cub cadet with a snow plow on the front of it that is currently sitting underneath the deck in my back yard because I can't fit it in the garage. We have our average household goods that also are stored in the garage.

Mr. Salsburg – One good thing is the neighbor on that side is further away.

Mr. Delaney – From the back corner of the garage to the corner of his house, it would be 44 feet in distance. And, if you've driven through the community and see the houses, there are several homes in the neighborhood that are much closer than 44 feet. The neighbor immediately to my right. You can see in on the map is very close. You could see it in the picture.

Mr. Salsburg – You couldn't do it on that side. Well that was my only comment. I think you're asking quite a bit is all. I won't belabor the topic, that's it.

Chairman Reinhardt – Sarah, do you have any questions?

Ms. Mitchell – No. I echo the same as what Fred is saying. Three and half feet distance from the side property line there is very substantial and I think it's a little too close to the property lines.

Chairman Reinhardt – Matt, questions?

Mr. Nearpass – What again were the dimensions of the addition?

Mr. Delaney – The laundry room was 10 x 14, so 10 foot wide, 14 deep and the garage portion being 22 x 24.

Mr. Nearpass – The garage portion, what do you mean by that? You're going to push the laundry room out by 14 feet, right?

Mr. Delaney – Coming off the side of the house, the laundry room would be 10 feet in width and then the garage width is 22 feet.

Mr. Nearpass – Okay. And, the 10 feet of course includes the overhang and includes quite a bit, right, so you're not going to get 10 feet inside. You're going to end up with probably something like eight or nine, which to me is reasonable. 10 x 14 gets small very quickly. From the exterior of the house. That's just the point I was trying to make.

Mr. Salsburg – Well I don't know about that, the washer, there's a counter and a washer and a dryer and a third thing across the 10 feet. If they were turned around to the longer wall it would save some space. It seems like 10 could reduce and the roofline wouldn't become a factor with this because it's sort of like a breezeway. There's a door on each side and it would be the foundation line, this 10 feet.

Chairman Reinhardt – You all set Matt, for now?

Mr. Nearpass – I'm all set for now.

Chairman Reinhardt – A couple of concerns I had and I understand a first floor laundry is important. We're not going to force you in saying, you gotta have your laundry in the basement or some other place. The whole idea I think is first floor laundries are nice. But, I'm not sure if Matt was alluding to it or not, but a 10 x 14 space, that's a decent size laundry room.

Mr. Delaney – And, I should point out, it's not just being used as a laundry. The bank is a closet, cabinets for storage, so it's not just a laundry room, itself it's also a mud room entry part into the home, so our jackets and boots and other items that are used are going to be stored in that area.

Mr. Nearpass – What I was getting at Mike was my laundry room was about half that size and I wish it were twice as big. Maybe I feel for the applicant.

Chairman Reinhardt – I know. Mine is half that size and we're doing alright. We downsized and for what it's worth, we have a blended family. I had three kids, and she had three kids and we had cars around and some of the ways that we solved the problem is because the lot restrictions we were under we had a three car garage, but one of those bays was piggy-backed behind it. So that we could store our snow blower and bikes and other cars in the driveway. Because we couldn't go any wider, but we needed to go a little bit deeper. I'm just concerned that you are completely maxing out this property and well beyond. If there were a couple of feet to get closer to the lot line. You're going to be 3 ½ feet to the property line, do I understand that right?

Mr. Delaney – Correct.

Mr. Salsburg – And, I think probably that's to the foundation.

Mr. Delaney – Correct.

Chairman Reinhardt – You've got to count the eaves, too.

Mr. Salsburg – Is there any opportunity to go out the back a little bit?

Mr. Delaney – It's a walk-out basement site, so the topography on the side of the house when you stop at the current, where the driveway ends currently, that drops off by 10 feet.

Mr. Salsburg – Well that's not a show stopper. It's an inconvenience, but it's not a show stopper.

Mr. Delaney – How pushing it further back, I get closer to the line because it's a reverse pie.

Mr. Salsburg – Not if it's behind the house. More laundry room behind the garage and have an entry for the boots and stuff between the existing house and the garage and then the laundry room to the rear. Not taking frontage.

Mr. Delaney – How would you connect the laundry room to the current house? You'd have to go out of your house through the garage to get to your laundry room? That makes no sense.

Chairman Reinhardt – Let me ask you this, I see that the width of it is 10 feet, is that right? That attaches to the garage? Is it possible to make that, just throwing a number, just possibilities, if you make that eight feet wide and make it two feet or four feet deeper to get you still the same square footage and maybe even more, but without being so close to that lot line. Is that being considered at all?

Mr. Delaney – So, if I'm understanding, if I were to reduce the overall width of the combined garage and laundry room by two feet that something that would be more appealing to the town?

Chairman Reinhardt – Well what I'm trying to figure out is and I think you've heard. Are there other feasible methods to help you accomplish what you're trying to accomplish here?

Mr. Delaney – I would be willing to, I would look at taking two feet off of the width of the garage to narrow that from 22 wide to 20 because of our pets, that's where we're hoping to keep our pets in the house when we're not at home with the cabinets that we want to build in there for clothing, boots and those materials. The washer and dryer are 29" deep, so you're close to three feet once you get your pipes and vents behind the washer and dryer coming off a wall so taking up three feet off of that width and having two foot of width of cabinets on the other side, you're not really getting the functionality that we're looking to try to get out of that wall. I'd be more willing to lose two feet in width off the garage and take that down to a 20 foot wide and still be able to get the cars in there. It's still going to make it a little tighter to open the doors while both are in there, but it's still doable.

Chairman Reinhardt – Your proposed addition, that's a secondary garage is that fair to say? That's not your primary garage, right?

Mr. Delaney – Correct.

Chairman Reinhardt – As I'm looking at your three bay garage I don't see any dimensions to it, but it appears to be deep and should be deep enough, not only for vehicles, but also for snow blowers or whatever the case may be.

Mr. Delaney – Yes, that's true. We have our bikes and snow blowers in there now.

Chairman Reinhardt – Alright, so if I hear you and I'm not speaking for the entire board, but it's possible that you'd consider reducing, instead of a 22 foot wide garage going down to 20 feet and you could still accomplish what you're trying to accomplish with the vehicles parked in there as well as not encroaching or really trying to redesign that laundry room.

Mr. Delaney – Correct.

Mr. Salsburg – If there's a one foot overhang, we should be actually talking about a 2 and ½ foot side setback.

Chairman Reinhardt – Right. If it's reduced to a 20 foot wide garage and then considering the eave, I might need to do the math on this so that would be. You don't know what your eaves are?

Mr. Nearpass – I think if we just let the applicant know we measured from the farthest thing that sticks out from the house, whether it's the eave or the

Mr. Delaney – It's a one foot eave, so you're talking four and a half feet from the eave. The foundation would be five off the property line, but the eave would be four and a half feet with a 12" over hang.

Chairman Reinhardt – As proposed as the design has it that eave would be almost on the property line, if you take two feet. You're shaking your head no.

Mr. Delaney – It's a one foot overhang off the foundation wall so (inaudible).

Chairman Reinhardt – So you'd be two, two and half feet to the property line.

Mr. Salsburg – With a twenty two foot garage.

Mr. Delaney – As proposed it would be three and half feet right, oh I'm sorry, two and a half feet. Yes, it's three and a half feet currently, yes.

Chairman Reinhardt – Alright if you take it down to twenty feet now you're five and half feet to the property line and then one foot, is going to make it about four, four and a half feet with the eave to the property line.

Mr. Delaney – Correct.

Chairman Reinhardt – And, I know what you're going to try to do, I have a better comfort level, at least having that four, four and a half feet instead of you being one to two feet on that property line, with the eave.

Mr. Nearpass – I think that's a good compromise, I'm okay with it. I was trying to get at that earlier, but I don't think the words were coming out right. Now that I'm finally fully visualize what's going on. I think having something as close to five as humanly possibly would be optimal. But I'm good with what you just talked about.

Mr. Salsburg – A foot could come out of the laundry room.

Mr. Nearpass – I'm not here to architect the laundry room, or anything to that point. I just want to make sure that the buffer between whatever they are going to put there whether it's a garage or laundry room or a solarium has enough buffer between that and the property line of the neighbors, so now that we know it could potentially be about four with the overhang, that kind of gives you the five feet from the foundation to the property line. I'm more comfortable with that.

Chairman Reinhardt – Donna, what do you think?

Ms. Morley – Exactly what Matt's saying. Was there any public comment?

Chairman Reinhardt – We're getting there. Hold that thought a second.

Ms. Morley – I'm at the same thought Matt is. With the five, or close to five I'm good.

Chairman Reinhardt – Sarah, questions, concerns, comments?

Ms. Mitchell – If it were five, then I would be okay. And, that's with the overhang. That's all I have.

Chairman Reinhardt – Okay, I'm just trying to think how that can be. Suzy, do we have any comments, public comments?

Ms. Mandrino – No, there are no comments.

Ms. Reese – The Delaney's did have a letter submitted from 81 Barchan Dune, the Hamburgs and they have no objections.

Mr. Avila – Mike, if I could?

Chairman Reinhardt – Yes, go ahead.

Mr. Avila – Just a suggestion. I don't know if you either slid the garage towards the front of the house or shortened the garage to 24 foot section you'd gain another, I mean depending on far you slid it because it's a reverse pie, you'd end up gaining a little bit more there, too.

Mr. Delaney – Yeah, sliding it forward really is not an option because it blocks the side entry door that's currently on the house which is the entry.

Mr. Avila – I wasn't sure how far that was, just a thought.

Mr. Delaney – As the property is a reverse pie, if we were to cut length off the depth of the garage that would increase the side dimension, so if I had to cut it to 23 feet to pick up. The engineer would have to plot it out and see what I'm able to pick up on that distance because the property goes back inward and if I'm bringing that garage forward I'm going to pick up some inches by reducing the depth of the garage.

Chairman Reinhardt – Alright, so I'm sensing the board, I think we're on the same page and I appreciate your willingness to make this fit by shaving some of the width of the garage off. Let me ask you think do you think it's possible that you can make this work if the board granted the variance, with however you're going to put it in there, with five feet?

Mr. Delaney – Five feet total from the foundation wall or from the overhang?

Chairman Reinhardt – From the eave. So from the overhang to the property line, however you want to do it. If you want to take it off the garage or take it half a foot off the laundry, however you want to do it, you can do it, but five feet I think would work with the entire board.

Mr. Delaney – Yeah, I'll obviously have to adjust with my engineer to get that in there. And with him plotting it out, maybe I take a half a foot off the depth or whatever it is. We'll work with the town and accommodate that change to get that back corner at five feet. Because it's only that back left corner that's going to come into play because once you come forward I'm picking up space because it's a little bit wider. So as long as I can get that back corner to five feet whatever that dimension is, in our scenario I think we'll look to probably shorten the depth of the garage because the laundry room size is extremely important for what we're trying to accommodate. And, like you said, I have storage space in the current garage, so it's not like. I just need to get two cars in that garage, I don't really need additional storage space for other items, so by shortening it up and shortening the width, I can accommodate the town's request.

Chairman Reinhardt – Alright, so we can do it two ways, that's certainly up to you. We could move forward going through the criteria and have the variance be five feet or if you want us to circle back and wait for you to talk to your architect/engineer/designer, if that can work? We'd certainly be willing to do that.

Mr. Delaney – Yeah, I know it can work, it's just going to be a matter of shortening it up. So, I don't need to wait.

Chairman Reinhardt – Alright, good. Anyone else have any other comments, concerns before we press forward with the criteria?

Did I hear anyone? No. Let's go through the criteria.

First, 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.

And these conditions are going to be premised on the variance being granted for a five foot, which includes the overhang. Again an undesirable change would not be produced in the character of the neighborhood. The applicant has presented drawings and is willing to reduce the size of the proposed two car garage to accommodate a maximum of five feet with the overhang eave. Anyone want to add anything else to the first criteria?

Second, the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

As the applicant pointed out part of the problem was when they purchased the house, there was no laundry room so they are adding a laundry room and also since they have six vehicles that they'd like to park them in the garage and I think that would also apply to the character of the neighborhood having vehicles inside I think is far better off than outside in the driveway.

Anyone want to add anything else to the second criteria?

Mr. Salsburg – It might be five vehicles, instead of six.

Chairman Reinhardt – Did you say six vehicles or five, Tom?

Mr. Delaney – We have six. I currently have to turn one sideways in the deep garage that we have, so I can get four vehicles in that main garage attached to the house and then the other two would go in the other two bays.

Chairman Reinhardt – Okay. That answer that, Fred?

Mr. Salsburg – Yep.

Chairman Reinhardt – Good. The third, the requested area variance is substantial. Fifteen feet is required and we're now looking for five feet.

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

I'm not hearing anything that would create an environmental or physical condition problem in that district or neighborhood.

Fifth, the alleged difficulty is self-created. The consideration is relevant to the decision of the board, but

shall not necessarily preclude the granting of the area variance.

Anyone want to add any other pieces to the first criteria or conditions to the variance for five feet which includes the overhang eave?

We're all good? Alright, I would entertain a motion for approval.

Mr. Salsburg – I'll make the motion we approve it as read.

Chairman Reinhardt – Thank you, Fred. Second?

Ms. Morley – I'll second it.

Chairman Reinhardt – Thank you, Donna. Any further discussion? All in favor? (Aye) Any opposed? Carried.

Thanks so much, Tom and Amanda. Good luck to you.

Mr. and Mrs. Delaney – Thank you. We appreciate the board's time. Thank you.

#### RESOLUTION

March 10, 2021

Mr. & Mrs. Thomas Delaney  
71 Barchan Dune Rise  
Victor, NY 14564

Re: 71 Barchan Dune Rise, Area Variance  
Appl: 6-Z-2021

Dear Mr. & Mrs. Delaney:

At a regular meeting of the Town of Victor Zoning Board of Appeals held on March 1, 2021 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on February 16, 2021 from Tom & Amanda Delaney, 71 Barchan Dune Rise, Victor, NY requesting an area variance to the set-back to build a garage addition, whereas per Schedule II, Area and Height Requirements, of Chapter 211 of the Town of Victor Code, a 15' setback is required;

WHEREAS, said application was referred by Sean McAdoo, 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 February 21, 2021 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 and therefore does not require further action; and,

WHEREAS, a Public Hearing was held on March 1, 2021 at which time one letter was submitted for the application,

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:

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 applicant has presented drawings and is willing to reduce the size of the proposed two car garage to accommodate a five foot set-back to the property line, including the overhang eave. Also, being able to park vehicles inside is more desirable to the character of the neighborhood than parking them in the driveway.

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 applicants stated they are adding a laundry room since there is not one in the home, currently. Also, they have six vehicles that they would like to park in the garage.

3. The requested area variance is substantial.

Justification: Fifteen feet is required and applicant is now looking for five 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: Nothing presented would create an environmental or physical condition in that district or neighborhood.

5. The alleged difficulty is self-created. The 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 Fred Salsburg and seconded by Donna Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application was received by the Secretary of the Zoning Board of Appeals from Tom & Amanda Delaney, 71 Barchan Dune Rise, Victor, NY requesting a 10 foot area variance for a five foot set-back to build a garage addition, whereas per Schedule II, Area and Height Requirements, of Chapter 211 of the Town of Victor Code, a 15 foot setback is required, BE APPROVED.

AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. Per Town of Victor Code §211-8C(5)(a, b) this variance expires if a permit or extension is not granted within one year from the approval of subject variance.
2. The variance is being granted for a five foot set-back, which includes the overhang.

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

Michael Reinhardt Aye  
Mathew Nearpass Aye  
Sarah Mitchell Aye  
Donna Morley Aye  
Fred Salsburg Aye

Adopted: 5 Ayes, 0 Nays

**The DiMarco Family LLC on behalf of BHS Enterprises – 7-Z-2021**

Requesting to install a sign at Fisher's Landing Plaza, 7387 State Route 96, suite 500 for Brooks & Harlow Salon totaling 90.125 sf whereas per 165-5B(3), 34 sf is allowed. The property is zoned Commercial/Light Industrial and owned by the applicant.

Chairman Reinhardt – Paul, how are you?

Mr. Colucci – Good. Good to see you, Mr. Chairman. How are you?

Chairman Reinhardt – Good. Hopefully everyone is staying safe.

Mr. Colucci – Thanks for hosting these meetings in this format. Keeping things moving.

Chairman Reinhardt – I see Emily, you are also presenting for this case?

Ms. Chen – Yes, I'm the owner of Brooks & Harlow Salon. Thank you guys for your time.

Chairman Reinhardt – Very good. So, there is a sign proposal. The applicant's looking for a little more than 90 square feet when the code allows 31.25 square feet and it has to do with the linear frontage. Paul, I think you know the drill. Why don't you, are you making the application?

Mr. Colucci – Yeah, I'll get it started, Mike and then let Emily weigh in where she feels the request is warranted. So, on behalf of DiMarco Family Victor, Brooks & Harlow, Emily is joining me tonight. She just introduced herself. We are currently the landlord for Brooks & Harlow. They are in the building at 7375 State Route 96. They share space with the Elizabeth Wende mammography clinic and the Wendy Marshall dental office. So we're very fortunate that Emily has decided to grow her business. She's basically doubling in size. She's been very successful and she's chosen to stay with us and grow within the plaza. She's taking a currently vacant space that is represented here in this photo. She's going to be occupying approximately 2200 square feet adjacent to Victor Vet Care. The application and the request is for signage in excess of that which is allowed by code. Her space measures approximately 34 feet wide so she would be allowed 1 square foot per lineal foot of frontage as we looked at the compliance with code, the copy of the font tends to get very small when she tries to represent the business Brooks & Harlow Salon on two lines. The font would actually be approximately 15 ½ inches high for the main font and 12.4 inches high for the secondary font, so almost about half of the copy height that Victor Vet Care has adjacent to her. And, that's kind of when she wanted to move into this space and had the idea of growing her business and having a more prominent location she was looking to have her signage represent the investment that she's making in the business and we had prepared an exhibit that showed how the copy would read on that architectural feature that is a center element of the plaza and it's dwarfed. It's very, very small. I didn't submit that exhibit. I have it and could screen share it if that was something that you were interested in seeing. We ultimately chose to match the font height for Victor Vet

Care which is a 25 inch font and the main copy in the exhibit that you see before you is the upper line is a 25 inch font and the lower line is 20 inch font and as you know the square footage is measured by that rectangle around the sign so that's what brings us to that 90 square feet. Understand it's a significant increase but we look at how does it present on the building and how does it present on that architectural feature that is going to be the backdrop for this sign. We really feel that the Brooks & Harlow copy on the two lines fits well within that feature. We are going to be presenting, actually I'm submitting at the end of this week façade renovations for this building. We are going to be redoing the façades to the entire frontage of the plaza and one of the features that we're going to redo is the central element, that backdrop where Emily's sign, where Brooks & Harlow will be displayed is going to stay relatively the same. We're just going to turn the existing three sided hip roof into a gable end, so that this feature has a little bit more of a modern look to it. We're getting rid of the green standing seam and we're going to do a black or a dark bronze standing seam roof and then redo the facades on the right and left sides. So we know that this sign will fit well with the future ultimate disposition of this, but as we render this in here, I just want to make that point that beyond Emily's investment in to this space, we're investing significantly into redoing the façade of this building which we're pretty excited about doing here in the near future.

Chairman Reinhardt – Thanks Paul. Let me ask you this before I turn it over to the board for questions. The proposed sign is going to replace the current sign Fisher's Landing, is that right?

Mr. Colucci – So, I had removed that when we redo the gable end, we are going to propose putting Fisher's Landing up higher into that gable end, so it would be well above the Brooks & Harlow Salon sign, so we do want to keep Fisher's Landing as a sign feature on this building.

Chairman Reinhardt – As I'm looking currently, I'm not paying attention, I have another screen. I'm looking at the other signs that are in that plaza and they're some notable ones that maybe we can address. I know you're pointing to the Victor Vet for comparison, but I think a comparable sign would be the Enterprise Rental Car. The frontage, is it fair to say it about 30-35 feet of frontage?

Mr. Colucci – I can get you that figure, Mike. I think Enterprise is a little bit narrower than Emily's space and certainly Enterprise benefits from brand recognition and national advertising. So their sign, just simple Enterprise if Emily's business was so fortunate as to be nationally recognized, and then maybe it could be BHS and be a signature logo, but given that she's more of a local presence we're trying to help support the recognition and the identity, that she's a signature tenant to this plaza.

Chairman Reinhardt – Let's go left to right then, Lattimore Physical Therapy. Size of that sign that they have is much smaller than what you're asking for and they have I didn't count spaces, but I think the letters there are 26, 27 letters and they seem to make it work and they have more frontage.

Mr. Colucci – Yep, they're and again, I can get you the figures on them. They again another very large franchise with offices throughout Ontario County, Monroe County, another tenant that's fortunate enough to have a lot more advertising and media splash than what we're able to do with some of our local.

Chairman Reinhardt – And, I can look at Sherwin Williams, and Monroe and I think you know and if not we'll put it on the record the town, the board I think is sensitive to over signage, especially on 96. If we start allowing bigger letters, bigger signage because people can't find the location, we're going to have a signage problem up and down 96 and I don't think that's the theme, the plan for the town and I think the code reflects that to try and minimize signage that goes up and down 96 and I think you know it's got to go to the county planning board. But as I look at that plaza in general the size of the letters I think are different and the ask of what you have is more than three times what's permitted. I have a concern on the overall sign, especially if you're going to put Fisher's Landing and incorporate on that same façade there

along with, and I'm all for business, but just because she's not a national chain yet, hope to be someday, that's all great, but I think signage just needs to be taken very carefully and with some scrutiny.

Mr. Colucci – I concur and understand that. When Emily first looked at signage. First I should also state the sign that we're proposing they'll be individually mounted letters. It won't be on a raceway or any other feature to the sign. The proposed signage would be reverse illuminated so it would actually be kind of back lit. When we talk about signs, Mike, reverse illumination means that during at night if you see the negative of the Brooks and Harlow it would be during the day, it would be a black sign. At night you'd see that halo illumination around it so you get the negative illumination.

Chairman Reinhardt – I think you know, too that a variance that's granted runs with the land, so I'm sure you and Emily you're hoping you're going to be there a long time, but at some time that you grow your business and this square footage is too small for you well the new tenant is going to be reaping the benefits of a 90 square foot sign. I think the town would have some concerns over that.

Mr. Colucci – I've always looked at that Mike, as the variance runs with the particular sign. I wish I could take that interpretation in some of the other towns that I present applications in front of because I know in Brighton and other towns if I tried to take that position they'd say no, it went this that particular sign, that particular application. But certainly we try to look at them on a case by case basis. What is the aesthetics of the sign, how does it fit with the back drop for which is going to be presented on. I know we can't take action tonight, so maybe what I can do while this is going to county planning, we can send in the renderings where we have shown what's allowed by code which would be that 34 sf and it really just gets lost in that field for which the sign is going to be placed. And, then I'll also have the façade renovation renderings done that show how we're going to incorporate Fisher's Landing into the gable end when we do the improvements. We're going to really do a nice job bringing this building into a little bit more current architecture and maybe a little bit more relevant theme.

Chairman Reinhardt – That would be helpful. Matt, do you have any questions?

Mr. Nearpass – Not necessarily. I echo everything that you said. I think it's a definite improvement for the applicant looking moving into the new location. I think it's a more visible space obviously it's larger. She's done obviously extremely well at the location she was at before. Can you even comment about the size of your previous sign on the business that you outgrew? It can't be anywhere near 35 sf.

Ms. Chen – It's not. If this helps at all, if it's okay that I show this. I have that rendering of the sign at 34 square feet and it's just seems to get lost and my concern is as a business, as a small business that's growing I know that cars are driving by that plaza at 50 miles an hour and when I look at the sign I just feel like it's very hard to see and as a small business it's so important that I'm visible so that people know that I'm there.

Mr. Nearpass – You bet. And, I think the intent of the code is to obviously come up with a formula that makes it fair for everybody. One thing that what you showed, didn't show was the Fisher's Landing logo that's also going to be above that and I think it's going to be wise to also identify with being in Fisher's Landing. Obviously the draw from people flying by on 96 yes, they may see it, they may catch a glimpse of it, but most of the draw especially for the other businesses there and just the nature of how business is conducted today is your online presence, your word of mouth and a lot of other things and the quality of your product and obviously is superior because you're growing, so I think there's more than just the size of the sign. As you can imagine, we get a lot of businesses that come in front of us and they all want their signs to be two, three, four, five times larger than what the code allows. If there is some kind of unique circumstance here? We're open minded to it, but I think just by saying is it because of the number of

letters I have in my logo or the orientation of it. You're here as part of a business success story right not as a *nobody can find my business*. I've got this 34 square foot sign. It hasn't worked for me for the last two years. I need it to be bigger and here's some feedback from the community and the public and here's the financials that are showing my business isn't doing very well. You're in the exact opposite situation, where it's great that you're a growth story. I too, would like to see the full rendering of where Fisher's Landing is going to be. How big that would be. Your sign compliant to the code and make a decision based on that, but I just wanted to give you some feedback on kind of what my opinion was on that we see a lot of this and I don't think most of those businesses on 96, there are very few of them that rely on people flying by on 96 to know that they are there. But you obviously want to know from a marketing prospective utilizing Fisher's Landing. Utilizing online media to get people there is critical too.

Ms. Chen – Even if it were a little bigger. I think, I'm not like you're saying that I'm special I deserve an exception to the rule. I totally understand why you have these codes in place. When I look at this rendering I feel like in particular the background ratio compared to the lettering in front of it, is significantly different than the neighboring tenants and it just seems disproportionate. It doesn't have to be that 90 something square foot sign. That was just something that we drew up that seemed more proportionate for the size of the background, but I'm willing to definitely work with that and create something that works for both the town and for me.

Mr. Nearpass – Sure. I think I can speak as one board member, I'm open to seeing other alternatives that you're willing to put forth, but I think it's essential for us to see the big picture of where's the Fisher's Landing sign and the size of that in reference to your sign as well because trust me if your sign is twice the size than it should be then there's going to be a line of people that also want the same thing. And, I hope you can also understand that, too. I'm open to suggestions.

Chairman Reinhardt – So Matt, you touched on something that triggers a thought here that I hope I'm not hearing that the reason why this sign is being proposed as large as it is is because there's sufficient façade to put the sign there. So to put it a little further that I know it's a bit ifs and buts, if you were leasing the space that Enterprise is in, I don't think you'd be asking for a 90 square foot sign. It wouldn't fit in there. It would be enormous. So just because there's enough space there doesn't mean that a sign should go there and the other thought that I had is I feel a little embarrassed, but I don't get my nails done, so I don't know, but I'm going to assume your business is run mostly by appointment is that right?

Ms. Chen – Correct.

Chairman Reinhardt – The need, if you will, to have people see your sign going up and down 96 I don't think it is quite there. Once you have that clientele built up and it's solid clientele, once they've been to your place once I don't necessarily think they are looking at the sign. And the clients you already have and I think that like what Matt was alluding too, you're probably building your business not by the signage, but by the customers and the clients that you have and then spreading the word, this is a good place to go and your appointment book is filled up. Is that kind of a fair way to put how your business is run?

Ms. Chen – Yeah for the most part. It's still nice to have that presence and know that my sign is visible when someone is driving by to know that, to have it so that people know that there's a salon there. I know that a lot of my business is based on word of mouth and our online presence, but we do get people even today that have come in just by driving by. Or they go to the dentist next door. I guess when we made the rendering with the sign that was within the allotted square footage, it seemed so incredibly small compared to the other signs next to it.

Chairman Reinhardt – Okay, I don't want to take up too much more time. Sarah, do you have any questions?

Ms. Mitchell – No. No, I don't.

Chairman Reinhardt – Donna, any questions?

Ms. Morley – No, I'm all set.

Chairman Reinhardt – Good thanks. Fred, any questions?

Mr. Salsburg – There's so much room to work on the front of this. It's a real luxury, compared to most of the businesses. I think you should come back with the Fisher's Landing sign. The new design and as small of a lettering as you think might work. Okay, that's all.

Chairman Reinhardt – Paul, anything else you want to add, comments?

Mr. Colucci – No, I appreciate the feedback. We knew that tonight it was an opportunity to gauge the reaction to the application. I've shared with Emily I know what the county referrals going to come back as, as they do with every signage application. It's going to come back as a denial, recommendation of denial. That's of no shock to me. I informed Emily of that. But, we want to find a balance. I think is what I'd like to and I would have submitted the elevations for this application, but then you would have seen them before anyone else in the town, so those will be going in the end of this week and then next time that we meet with you folks, I'll have some additional materials that we can review and as what I think Matt was suggesting and Fred, see if we can find a balance. Something that Emily thinks is going to meet her needs and that is less than what we're showing you here tonight.

Chairman Reinhardt – When does the lease start?

Mr. Colucci – As soon as we're done with her construction. Don't put me under too much pressure, Mike.

Chairman Reinhardt – April? May? About.

Mr. Colucci – She's looking to take occupancy this month. The month of March. So she knows we're going to have some type of a temporary banner and then ultimately look to get the permanent signage installed once we conclude the request with you folks.

Chairman Reinhardt – Okay. I think we're good. Before we let you go, anyone else before we let this applicant go for today.

Great, okay. Thanks so much for your time. We will circle back and see you on April 1<sup>st</sup> (5<sup>th</sup>).

Mr. Colucci – Thanks everyone. Have a great night.

Mr. Nearpass – Thank you. You, too.

Chairman Reinhardt – I would like to make a suggestion now that Donna, and I think Sarah too, has been going to training sessions. We won't put you on the spot tonight, but I think it's valuable if you share with us something, a point or two that you learned during your training, so that we all could benefit from

it. So, maybe at the next meeting. If you could take a couple of notes, Donna and same thing with Sarah. Did you say you've gone to them? Or are going to them?

Ms. Mitchell – I've gone to two. I use them for work, so fortunately I'm able to use them for the board as well.

Chairman Reinhardt – If there's something you'd like to share again. It doesn't have to be anything lengthy, I'm not looking for a power point, but a point or two. But we can all benefit if you say this was interesting and it can help us as a whole. I think that would be very beneficial for the board.

Ms. Morley – I can handle that.

Chairman Reinhardt – Anyone else have anything else they want to chat about or discuss before we entertain a motion to adjourn. (None) Alright, a motion to adjourn?

On a motion by and seconded by Ms. Morley, it was unanimously decided to adjourn the meeting at 8:40pm.