

TOWN OF VICTOR ZONING BOARD OF APPEALS, April 19, 2021

A regular meeting of the Town of Victor Zoning Board of Appeals was held on April 19, 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: Linda and Tim Robins, 630 Burke Hollow; Paul Colucci, The DiMarco Group; Emily Chen, Brooks & Harlow Salon; Ginny Schaeffer and Jen Egger, United Refining Company; Al Benedict, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Kim Reese, ZBA secretary

Chairman Reinhardt called the April 19, 2021 Zoning Board of Appeals meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

PAST MINUTES:

On motion of Donna Morley, seconded by Sarah Mitchell:

RESOLVED, that the corrected minutes of the meeting held on April 5, 2021 BE APPROVED.

Adopted: Ayes 4, Nays 0, Abstain 1

PUBLIC HEARING:

ROBINS PERGOLA AREA VARIANCE – 05-Z-2021

Linda Robins, 630 Burke Hollow, is 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 – So we have three continuations. First is the Robins pergola. I want to thank you Linda for resubmitting that drawing. It's much clearer and I think everything is in order just as you said, so thanks for submitting that. So Matt, just to get you up to speed at the last meeting Fred had picked up on there was I guess, a glitch in the drawing and it wasn't matching up to what the proposal was so to make sure that everything was clear and on point, Linda went back to the designer and got the main glitch cleared up, so they are requesting the five feet from the property line, so to me it all makes sense. Let's just circle around, Fred, do you have any other questions?

Mr. Salsburg – Well there's still a 4.6 gap between the steps and the start of the pergola. If the pergola moved over to the edge of the steps the request for a variance would be about half. It would be 9.6.

Chairman Reinhardt – Alright, so you're still concerned that there is. . .

Mr. Salsburg – There's 4 foot six in there that could come out of the variance. I guess it's going to be a little sidewalk or grass or pavers or something between the steps and the pergola.

Chairman Reinhardt – Linda, the surface are that he's referring to, the four foot six, what is that?

Ms. Morley – I think she's muted.

Mrs. Robins – Can you hear me? Did I disappear? So, what we did since the last time the board met and it was actually helpful for me because I don't look at plans very often and I need to kind of move in the

space or set it out and pretend I'm in it. So, that's exactly what we did. We did call back and meet with the contractor and we remeasured it, we walked out here and tried to walk up those pretend steps and all of that just to make sure that what he was envisioning, we were envisioning and all of that. And we did clear up that other line that was on the drawing. That's not to worry, it's not there. But the landing that you see there at the top of the steps with is four feet six inches, it's right there (referencing drawing). So what that represents and I understand it better now, too as a result of talking to him and clarifying. So when you go up your steps to your upstairs or down the steps from your upstairs there's a landing there. If you'll notice there's a post for the pergola, I don't want that. We have two goals, there's going to be a patio there or there's going to be a pergola there, but there's going to be something there because there's a retaining wall. My goal is to make it because it makes sense to use that space and add shade there and make that the space for our pergola, so we've identified that. Secondly, my priority and Tim's priority is to make it functional and make it fit with what we've done with the rest of the property and do it justice because we're spending a lot of money and we want the house to look right. That said, those are our two goals. So what you see there that four foot six inch landing I cannot envision coming up stairs and not having a landing and having furniture or having a post there, at all. To me that is not functional. I can't imagine coming down the steps and not having a landing and just having furniture right there. So, in our minds there's two ways we can do this. We can do it as drawn with the landing and have our pergola go back no farther than the five foot from that property line, keeping that four foot six inch landing so that the post isn't encroaching so we've got area to move around or and have the permanent structure that we feel is solidly constructed, safe there all the time or, honestly just scrap it and say we're just going to have a surface patio, we're going to go to Home Depot or Wayfair and put up a pop up temporary and we'll take that surface patio to the lot line, to one inch to the fence that's not there yet, but will be there and just put up a pop up. It's not our preference, but we've gone back and forth so much on what she's to be disproportionate for a shade pergola at this point that we feel we can either do it as drawn there and do it so it's functional and is there and enhances the house and property or we will do the surface patio and put something up temporarily. Which is not our preference, I don't want to be difficult, it's just got to be functional if we are going to spend this money and do it.

Chairman Reinhardt – Any other questions, Fred?

Mrs. Robins – Does the landing there make sense to you, Fred?

Mr. Salsburg – I don't see why the stairs wouldn't lead right to the pergola without a landing. The pergola would be a landing.

Mrs. Robins – Say that again.

Mr. Salsburg – The steps could lead right up to the floor of the pergola, so there wouldn't be any need for a landing.

Mrs. Robins – Well you see there's a support post, right at the top of those steps. In addition you're going to have chairs there, I can't imagine it being a very workable solution to come up those steps and a post is there and furniture. I don't see it. It's not functional and it won't work.

Mr. Salsburg – I wondered what that square was. Does it go on up above the floor level of the pergola?

Mrs. Robins – So when you see a pergola there's footers there. Those are support beams that hold the roof part of the structure, the shade part. So, I don't want that blocking my stairs. I mean you've got potentially grandkids and everything else going up. I wouldn't want a post in front of my steps. I also wouldn't want be coming right up to where the chairs are.

Mr. Salsburg – It makes it kinds of sound like the stairs are too close to the house, if they were back 2-3

feet away from the post, it would be clear.

Mrs. Robins – That’s exactly why we’ve got the steps and the four foot six space there is to give you some room. Do you see what I’m saying? There’s not a post, the post is four feet six inches back. So yeah, that’s our point. If you move everything forward you’re going to have a support post right next to the steps. And that is not functional. It’s not safe, it might be code. I don’t think it’s safe. So those are our options, I think?

Chairman Reinhardt – You okay for now, Fred.

Mr. Salsburg – Yep.

Chairman Reinhardt – Matt, you got questions on this?

Mr. Nearpass – No, I think I’m okay. I agree with the applicant. Also, I know the code considers a pergola a structure because it’s a footer in the ground, but we’re not necessarily talking about a shed or something with a solid wall. I, too wouldn’t want to have the base of that, I’d want it as far away from the steps as possible. So, I think they’ve made some good tradeoffs here.

Chairman Reinhardt – Donna, any other questions you have on this?

Mrs. Morley – No, I was happy with what she did. Thank you.

Chairman Reinhardt – Sarah, any questions?

Ms. Mitchell – Nope.

Chairman Reinhardt – Okay, great. Fred, you’re all set on this for now?

Mr. Salsburg – Yeah.

Chairman Reinhardt – Okay. And again, Linda, thank you so much for cleaning up that drawing. It makes sense. And, I understand the landing piece. We’re not trying to micromanage it. But I think also, to the applicant’s benefit to the east, it’s an open, with lots of vegetation so I think that plays into this with at least having it as close to the lot line as the applicant is requesting. For hypothetical, if these were different properties and I think if the house, 6020 was to the east, I think this might be a different situation but we already heard from the applicant they are going to keep as much of that vegetation there as possible. So that plays into it. So what I’d like to do is walk through the criteria.

Mrs. Robins – And, honestly just to interject, if we could actually, if I had the power to go next door and plant additional, I would. That’s why we bought this property. It was because it had a natural boundary from everything. You know, it feeds the birds all during the winter. We love it. That was the whole selling point for the property.

Chairman Reinhardt – So let’s walk through the criteria here. Certainly this is open for discussion to the board members.

First one being 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.

As indicated, the property to the east is, I wouldn’t say it’s vacant, but there’s a lot of vegetation there. And that plays in to the applicant’s request to be within five feet of the lot line. Also, the slope of the

land, the topo makes it difficult to place a pergola, as well as, there's a septic system on this property right? And with the proposed pool. So given all those factors, that the applicant has done their due diligence on placing the proposed pergola in the best place suited on the property.

Would anyone else like to add anything else for 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.

Same factors as before, while there is room on the west side of the property, it's impractical. It doesn't seem to make sense or fit with what the applicant is looking for; to be close to the pool and close to the house.

Would anyone else like to add anything else for the second criteria?

The third is the requested area variance is substantial.

Five feet to the lot line is substantial, however the buffering and again a lot of vegetation to the east I think mitigates the fact that it is substantial.

Would anyone else like to add anything else for the third criteria?

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

There isn't anything that we've seen that there'd be any indication that it will have any kind of environmental or physical detriment to the neighbor or district, especially with the applicant wanting and desiring to keep as much of the vegetation on their property as possible.

Anything else on the fourth criteria?

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.

I don't see that there is, before we go on, Linda is there any lighting on this? On the pergola at all?

Mrs. Robins – No, this really intended to just be a shade pergola.

Chairman Reinhardt – It there was it would have to be dark sky compliant, but that's per code, so if you were to consider adding any kind of lighting to it, to illuminate the sitting area, it would have to be dark sky compliant, but that's code, so I don't think we need to put that in there as far as.

Mrs. Robins – As of now, we're not looking at anything like that. The pool has lights, by code, so no.

Chairman Reinhardt – Okay, great. Does anyone want to add anything else to the factors that I've put in for the five criteria? Alright, hearing none I would entertain a motion for approval.

Ms. Mitchell – I'll make the motion.

Chairman Reinhardt – Thank you, Sarah. Second?

Ms. Morley – I'll second it.

Chairman Reinhardt – Thank you, Donna. All in favor (Aye) Opposed?

Mr. Salsburg – One.

Chairman Reinhardt – Okay. Fred opposed.

Mr. Salsburg – I'm glad it passed.

Chairman Reinhardt – Good luck, Linda. Thank you so much for your patience. Hopefully it was well worth it, but it helps us keep order at least for zoning applications making sure everything is, if you will, spot on for what the applicant is asking for.

Mrs. Robins – I completely understand. I do have a question though. So what has to transpire at this point for either the pool or the pergola? What is my next step for you guys?

Chairman Reinhardt – As far as moving forward?

Mrs. Robins – Is there anything I need to do after this point?

Chairman Reinhardt – As far as building permits? Marty, do you want to help with the building permit process?

Mr. Avila – So, Linda at this point our office, if we already have the permits in process, we'll finish the review, now that you've gotten your approval for the variance and then Kim or Lisa will be in touch with you to let you know those permits are ready. If you haven't submitted yet for a permit, then you need to do that. But that would be the next step obtaining the permits for both the pool and the patio.

Mrs. Robins – I believe, but I am not certain that the contractor for the pool did submit. He said he didn't hear back from anybody so he wasn't sure.

Mr. Avila – I can follow up on that tomorrow first thing when I get in the office and I'll double check. It would either be Al or myself that has the permits if they were submitted and then we'll have either one of us or Kim contact you and let you know what needs to be done next.

Chairman Reinhardt – As far as the variance goes, usually it takes a day or two to at least finalize, Kim puts together the resolution, plugs in all the criteria we just talked about tonight, I'll sign it and then it's a formal resolution granting the variance you're requesting.

Mrs. Robins – That's perfect. I just didn't know what steps I needed to take.

Chairman Reinhardt – Okay, other questions?

Mrs. Robins – Not from me.

Chairman Reinhardt – Hopefully you're going to enjoy the summer with your pergola and pool.

Mrs. Robins – Thank you so much. Have a good night.

Chairman Reinhardt – You, too. Thanks so much.

RESOLUTION:

TOWN OF VICTOR ZONING BOARD OF APPEALS, April 19, 2021

Re: 630 Burke Hollow, Area Variance  
Appl: 5-Z-2021

At a regular meeting of the Town of Victor Zoning Board of Appeals held on April 19, 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 Linda Robins, 630 Burke Hollow, Victor, NY requesting an area variance resulting in a five foot setback to construct a pergola, whereas per Schedule II, Area and Height Requirements, of Chapter 211 of the Town of Victor Code, a 15 foot setback is required;

WHEREAS, said application was referred by Martin Avila, 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, the Ontario County Planning Board assigned the referral as a Class AR 1, referral no. 42-2021 and returned it to the local board on March 10, 2021 with comments; and,

WHEREAS, a Public Hearing was held on March 1, April 5 and April 19, 2021 at which time two residents sent letters in favor of 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 property to the east has a lot of vegetation, which aids in the applicant's request to be within five feet of the lot line. The slope of the land and the topography, as well as the septic system leach field and proposed pool make it difficult to place a pergola. The applicant has done her due diligence on placing the proposed pergola in the best place suited on the property.

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 justification of the first criteria, the slope of the property, the leach field and the proposed pool make it difficult to place the pergola. While there is room on the west side of the property, it's impractical. It doesn't fit with what the applicant is looking for; to be close to the pool and close to the house.

3. The requested area variance is substantial.

Justification: Five feet to the lot line is substantial, however the buffering and the amount of vegetation to the east mitigates the fact that it is substantial.

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

Justification: There wasn't any indication from the materials presented that there will be any kind of environmental impact, especially with the applicant wanting to keep as much of the vegetation on their property as possible.

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 Ms. Mitchell and seconded by Ms. Morley:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application received on February 16, 2021 from Linda Robins, 630 Burke Hollow, Victor, NY requesting an area variance resulting in a five foot setback to construct a pergola, 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.

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

If you have any questions, please do not hesitate to contact the Planning/Building Office at (585) 742-5040.

Respectfully,

Michael Reinhardt, Chairman  
Town of Victor Zoning Board of Appeals

2. BROOKS & HARLOW SIGN AREA VARIANCE – 7-Z-2021 (AMENDED)

The DiMarco Family LLC on behalf of BHS Enterprises is requesting to install a sign at Fisher's Landing Plaza, 7387 State Route 96, suite 500 for Brooks & Harlow Salon totaling 57.55 sf whereas per 165-5B(3), 34 sf is allowed. The property is zoned Commercial/Light Industrial and owned by the applicant.

Chairman Reinhardt – Okay, I thought I saw Paul someplace. There you are.

Mr. Colucci – How are you, Mike?

Chairman Reinhardt – I'm well, thank you. I noted that the application has been amended to 50 square feet. Is that right?

Mr. Colucci – That is correct.

Chairman Reinhardt – I think still in play is the county planning board recommending a denial and I think as you know in order to get a variance for this what needs to be done is a majority plus one. And you had requested at the last meeting that since there were just four members is to hold it over and present this today, so we have all five here today and I appreciate at least the willingness to reduce the signage. I also, I don't think it was Marty, it might have been Al, did some homework and followed up. The only sign that is not in compliance is the Sherwin Williams sign. All the other signs are in compliance on the plaza. So, with that, anything else you want to add before we circle around and ask the board if they have any questions?

Mr. Colucci – Yeah, just real quickly we spoke last time about the temporary banner and the question was what is the size of the font on that temporary banner? It was viewed I think by many of the members so we went to the sign vendor and Emily who's with me tonight asked the vendor to share that graphics of the font with us and it's actually a 20" font on the upper Brooks & Harlow piece and then Salon is 15 inches. And, given what I thought was the board's temperature relative to the visibility and the view ability of that temp banner, we reduced the square footage to match that and we were last time presenting 60 square feet, we brought that down to what now the request 49.2 or what we call 50 square foot option and all the reasons still apply. I think we had a good healthy dialogue about how it would look in the renovated façade. I did present the façade renovations to the planning board last week. They were received very favorably. They just could not render a decision given the county referral, but I will be back before planning board next Tuesday and I anticipate an approval and we would go forward with constructing the façade renovations as you see them. So, that's all I just wanted to add, Mike and we're open to any questions and whatever Emily or I can answer, we're happy to do so.

Chairman Reinhardt – So the rendering that's being shared now when it says 50 square foot option, is that to scale?

Mr. Colucci – Yes, it is.

Chairman Reinhardt – Okay, so what I'm looking at it as I scan across from left to right the signage that's there if it's to scale and matching it to the proposed 50 square feet for your applicant I think it's helpful on what it looks like as you go right across the plaza.

Mr. Colucci – Yes, it is drawn to proportion.

Chairman Reinhardt – Sarah, do you have any follow-up questions, concerns?

Ms. Mitchell – Nope, I have nothing further on the application.

Chairman Reinhardt – Donna, questions, concerns?

Ms. Morley – None, thank you.

Chairman Reinhardt – Fred?

Mr. Salsburg – Paul, how high are the smaller letters, not the leading ones, but the trailing letters?

Mr. Colucci – The upper font, Brooks & Harlow is 20 inches and the lower is 15 inches, Fred.

Mr. Salsburg – The landing is 18 inches and so is the Victor Vet Care, so Brooks & Harlow will be slightly smaller than those. That's good. Very readable. I think even 15 inches would be very readable, but 18 is fine, with me. Kind of goes with the rest of them.

Chairman Reinhardt – Matt, questions?

Mr. Nearpass – Quick question, in each of the three is the Fisher's Landing lettering the same in each of the pictures?

Mr. Colucci – Yes, that's been consistent.

Mr. Nearpass – Okay. It comes down to me the purpose of the sign. I just still don't really see it as something that from the road, people are really going to catch. I'm much more in favor of if you came here and said maybe the Fisher's Landing sign or letters needed to be a little bigger or something as everybody in the plaza would benefit from that being associated with Fisher's Plaza and not just granting one of the looks like 8 or 9 other applicants larger signage to be visible. I really don't see too much, I know it's hard to tell here, too much difference between what's allowable by code and the extra 16 square feet overall. Again, I kind of look at it like I was maybe hoping that there was going to be an option that said what if we increased the Fisher's Landing signage a little bit so either everybody benefits, it's higher it'd be easily more visible and everyone obviously associates with Fisher's Landing. Kind of like what the code is intended to do. I agree in the renderings here, Fisher's Landing is about the same size, it just looks like it now obviously it probably isn't, but in the picture that you're showing here I'm on the third, I'm on slide number 15.

Ms. Chen – Do you have the slide where it depicted the 34 square foot sign? I feel like when I look at that picture, it just doesn't look very proportionate to the area that it's on. That was part of it as well. Knowing that my unit extends from that one pillar to the other pillar and that my business would be the only one in that middle portion that one looked almost like disproportionately small to me whereas the 50 or the 60 square foot sign I felt looked a lot more proportionate for the new façade.

Mr. Nearpass – Everybody has the same calculation that are using. Based on the frontage that they have. Honestly, when I look at it the only place I really see is out of place is the Fisher's Landing sign. To me, that should probably be larger than the subordinate signs underneath it. That's kind of where I'm at with it. I just don't see the, I don't think you are going to get the benefit from going from 34 to 50. And, again, it's really not intended to be a sign that you read flying down 96 looking down the hill at whatever the speed limit is there, 45-50 miles per hour.

Mr. Colucci – And, I think the big thing with Emily's sign is that it's on two lines, so as we calculate signage as you know it's the polygon that goes around the four sides, so in that what is being calculated as 49.2 square feet is a lot of dead space. It's not truly actually 49.2 square feet of signage. It's just that the copy is on two lines and we have to calculate that polygon around so I think had we not had the name the way that it is, the way her business is identified we're forced to use the way the calculation is required. So, I get it, you get it, we're trying to make it proportional with that new façade and we felt pretty strongly that it looks nicer and balances out that space, otherwise it's going to be a lot of dead space. We'd prefer to have that 50 square foot option and we've continually reduced it knowing the board's sensitivity to this and trying to represent that we want to find a healthy balance here.

Mr. Nearpass – I'm with you. I look at all the other signs, they are just as difficult to read as others. They all have their own unique thing about them, geometrically. Again, I would be much more supporting of a larger Fisher's Landing sign again something that everybody benefits from. I'm only one vote, but in a

situation like this to me where each of the businesses are really anchored to Fisher's Landing, I think it would be a good, a compromise I guess I would say that I support. I'm good for now.

Mr. Colucci – Thanks.

Chairman Reinhardt – The concern that I have I'll just review it's much that I said the last meeting, is the argument of filling the space. That's really not what the code requires or how it analyzes it. It's the squares around the letters and I think you touched on that Paul and that's how it's calculated. If you were to move that sign, that same sign and put it a façade, let's say over by where enterprise is or anything else other than where that A-frame peak is there's not as much space there so argument is to say, well gee there's more space there so we should be able to have bigger letters. That doesn't sit well with me, just because it's there doesn't mean you get more space for your letters. And, the other concern is on how these letters fit. The variance is going to run with the land and so while we hope your tenant stays there a long time and is prosperous and has great business, there's no guarantee that it's going to be there. She may grow her business and move elsewhere, but then on the new tenant is going to be permitted to have that same, if this board grants it, 50 square feet. And, the lettering certainly could look different and maybe take up a look to be more ominous, larger than what these current letters are.

Mr. Colucci – We did talk about having the sunset with this tenant as a condition for the granting of the variance. And, we'd be agreeable to that as a landlord.

Chairman Reinhardt – So, let's touch on that a little bit. I'd like to hear what the board thinks about that. Matt, what do you think, if this board grants the variance at 50 square feet and as a condition it's a sunset provision meaning it's just for this tenant? If she were to move or grow they would have to start over and the variance goes away.

Mr. Nearpass – Are we allowed to do that? I know over the 15 years I think I've almost been on the board we've talked about it and I'm never quite sure if we've gotten a clear yes we can do that or not. They're ways to make it maybe sunset in the code saying it has to read B R O O K S and no other sign is allowable. I guess I'm just kind of lukewarm on it. I'm open to everyone else's opinion on it. I just don't really see the benefit. I know maybe aesthetically when someone is walking up to it, it might look a little better if the space is filled out a little more, but again I really just don't see the benefit. I think everybody else in that area is the same situation. Monroe Muffler's got some letters underneath it, that I have no idea what it says and others have different size things that every time I've gone there for various different businesses I think Lattimore is over there, I've always had to find them by the internet or those aren't businesses that you can just kind of drive by and look for signage. I really just don't see the benefit and I also don't see anything really unique about this application that almost every single company has come in front of us and said. I just don't think it's unique enough.

Chairman Reinhardt – Okay. Fred, what do you think? With the sunset provision or not?

Mr. Salsburg – I don't really think it's necessary because if this tenant moves out and another one comes in occupies the same space and has the same frontage they can have the same sign. If it's lesser, if it's cut in half, the signs will have to be adjusted per code. Kind of taken care of.

Chairman Reinhardt – Donna, what do you think?

Ms. Morley – I don't have a problem with it, the way they are presenting it right now.

Chairman Reinhardt – You're okay with the request at 50 square feet and you don't think it needs a sunset provision on this? Do I understand you right or not?

Ms. Morley – Yes. Exactly.

Chairman Reinhardt – Sarah, what do you think?

Ms. Mitchell – So, I am still opposed of the sign being 50 square feet. Even if it did have that provision of if she were to move out then someone else would have to ask for variance, I think that's putting an incredible burden on our building department staff to make sure that that is handled going forward. It might not be for 10 or 15 years and we're banking on the fact that everyone remembers that there was a variance for this particular sign.

Chairman Reinhardt – Okay. I am probably closer to Matt and Sarah's camp. The signage and looking from the county planning board and you know, Paul, we've gone through this before, and any kind of signage they are going to deny it. And I just can't get my arms around, if you will accepting the argument just because there's that space there it should be filled up with letters. And, touching on before on the previous, I think it was the last meeting. Advertising, signage, I don't want to use the word useless, the effectiveness doesn't seem to be there as where it used to be, especially with as I envision salons and its referrals and people coming in by word of mouth, so I don't think if you're driving down 96 that you'll say oh gee there's a salon and that's where my destination is. They know because they've been there, appointments have been made. So I think I'm in Matt and Sarah's camp on this. If there's something else you want to add or talk about before we take a look at the resolution, I'd be happy to listen to it.

Mr. Colucci – I think all I would say is, I understand and I appreciate you taking a hard look at this being principally in the real estate business, the one thing that I hear from every single tenant in every one of our properties is the need for adequate signage and Victor is a little unique in the amount of signage that they do allow at one square foot per lineal foot. Penfield, Brighton, Perinton is one and half to two square feet per lineal foot, so right out of the gate my allowable square footage is larger. As you know Fisher's Landing, the speed at which people are passing by, the fact that we're about 16 feet below the drivers' eye level at the road, this isn't the first time I've been before you for signage. We would love to have a tenant directory. We think the tenants who are investing in Victor and this plaza feel very strongly about that and Emily's case is not unique. Like I hear from any other tenant, that signage is very important to them. They are making a significant investment. She's not a national corporation. She's a single proprietor and we think that we tried to achieve what the zoning board should be looking at, which is a balance. The benefit to the applicant versus whatever detriment and/or negative impacts could be perceived. I just don't see any negative impacts with going for a 50 square foot versus 34 so I don't want to belabor it. We understand where your concerns lie, but I think we've demonstrated a willingness to compromise and try to strike that balance, which is I think what the goal always is with the zoning board.

Chairman Reinhardt – I appreciate that. And, we've told other applicants that when there is, what again sounds like trying to address the codes in other municipalities allow different things. Well if you believe that the code need to be modified, changed it really shouldn't be changed at the zoning board, it should be changed at the town board level and you make your petitions or you contact your board members and say look the code needs to be changed, it's not fair to businesses for example. And you're right that there is latitude that is given to the zoning board and addresses the benefit to the applicant and compares it to the community of itself, but also you know that 96 is the corridor. It's protected. It's a sensitive area. There's lots of businesses there and the town wants businesses there, but it can't be overridden with signs, so that's usually what we've been looking at up and down the corridor when you look at signs and seeing really is there any type of unique situation that warrants something beyond what the code allows. So with that,

Ms. Morley – Can I ask a question, Mike?

Chairman Reinhardt – Sure, go ahead.

Ms. Morley – Paul or Emily, could you just have Brooks and Harlow on the sign? Because if I'm coming to you I already know it's a salon? Or is that part of your name?

Ms. Chen – That is part of the name.

Ms. Morley – Okay.

Ms. Chen – I have thought about that. Just trying anything to get the sign more visible in that amount of square footage, but that's definitely a part of our branding.

Ms. Morley – That's fine. I wasn't sure. It's just something that hit me and I thought well, I'm coming there, I'd know already it's a salon would it need to be in there? Okay, thank you very much.

Chairman Reinhardt – Anyone else have any questions?

Mr. Salsburg – I have a thought with the 50 square foot proposal, the letters are the same size as the neighboring business. Why wouldn't this tenant be able to have the same sign size, letter size as the neighbors?

Chairman Reinhardt – They have more frontage.

Mr. Colucci – And, it goes by the copy's on two lines, so that's why we start to push above the, if we were able to do it on one line, we would be likely within that square footage. We wouldn't have any of the dead space.

Mr. Nearpass – Have you tried all three on one line? Just the entire name on one line? See what that does?

Mr. Colucci – I think Emily would have to answer that. I think her brand and everything they do on social media and everything on all of their marketing collateral is as represented on the rendering.

Chairman Reinhardt – Okay.

Ms. Chen – Then I'd have to change my whole logo and branding.

Mr. Nearpass – Just to make it all on one line? Brooks & Harlow Salon on one line instead of two that all? Does that increase your letter size? Does the dead space that you eliminate help increase your letter size to what you were looking for?

Ms. Chen – I think it would, right?

Mr. Colucci – It would. We did look at that Matt, and but as Emily kind of invested in all of her social media marketing and all of her other collateral.

Mr. Nearpass – Okay, I don't want to change anybody's branding.

Mr. Colucci – That copy is on two lines.

Mr. Nearpass – Okay.

Chairman Reinhardt – Other questions, concerns? Okay, so let's run through the criteria.

First being an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

First is that the county planning board reviewed this and recommended a denial. Also, being in the 96 corridor, the board has taken a close and careful look at all the signage and looked for anything that would be unique and it doesn't find that this particular parcel or area creates any kind of unique situation that would allow a variance for greater than what the code allows.

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

Second, the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

It has to do with how the code is written and the lettering which causes I think the applicant. It's the size of the box creates a larger space than if it were on one line. There are some alternatives and the applicant has chosen that they want it to look like this, it's a name brand. I think we understand it.

Anyone want to add anything else to the second criteria?

Third, the requested area variance is substantial.

It has been amended to 50 square feet, but the code allows 34 (31.25) square feet, and the board considers to be a substantial request.

Anything more on the third criteria?

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

There isn't anything that signage would have on the physical or environmental conditions in the neighborhood or district.

Anything on the fourth criteria?

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.

Would anyone like to add anything to the five criteria?

Then I would entertain a motion for denial.

Mr. Nearpass – I'll motion for the denial.

Chairman Reinhardt – Sarah, would you like to do the second?

Ms. Mitchell – I'll second.

Chairman Reinhardt – Thank you. All in favor of the denial say aye. (Aye) Opposed to the denial?

Mr. Salsburg – Aye.

Chairman Reinhardt – One opposed, okay.

Thank you. I wish you luck. I know you wanted different news but that's the decision of the board. Good luck to you.

Mr. Colucci – Thanks folks.

RESOLUTION:

Re: Brooks & Harlow, 7387 State Route 96, Sign Area Variance  
Appl: 7-Z-2021

At a regular meeting of the Town of Victor Zoning Board of Appeals held on April 19, 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 the DiMarco Family LLC on behalf of Brooks & Harlow Salon requesting to install a sign at Fisher's Landing Plaza, 7387 State Route 96, suite 500 totaling 49.2 sf whereas per 165-5B(3), the code officer's review states the tenant space frontage is 31.25 sf;

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, the Ontario County Planning Board assigned the referral as a Class AR 2, referral no. 43-2021 and returned it to the local board on March 10, 2021 with a final recommendation of denial; and,

WHEREAS, a Public Hearing was held on March 1, April 5 and April 19, 2021 at which time no one spoke for or 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 be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: The Ontario County Planning Board reviewed the application and recommended a denial. With this applicant being in the 96 corridor, the Zoning Board has taken a careful look at all the signage for anything unique to this application and it doesn't find that this particular parcel creates any kind of unique situation that would allow a variance for greater than what the code allows.

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: This has to do with how the code is written and that the sign lettering is on two lines which increases the square footage of the sign. There are some alternatives, but the applicant would like to keep the logo (and branding) as designed.

3. The requested area variance is substantial.

Justification: The application has been amended to 50 square feet, but the code allows 31.25 square feet, which the board considers to be a substantial request.

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

Justification: There isn't anything to suggest that signage would have any impact on the physical or environmental conditions.

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 Mr. Nearpass and seconded by Ms. Mitchell:

DECISION:

NOW, THEREFORE BE IT RESOLVED that an application received on February 16, 2021 from the DiMarco Family LLC on behalf of Brooks & Harlow Salon requesting to install a sign at Fisher's Landing Plaza, 7387 State Route 96, suite 500 totaling 49.2 sf whereas per 165-5B(3), the code officer's review states the tenant space frontage is 31.25 sf; BE DENIED.

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.

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

If you have any questions, please do not hesitate to contact the Planning/Building Office at (585) 742-5040.

Respectfully,

Michael Reinhardt, Chairman  
Town of Victor Zoning Board of Appeals

3. UNITED REFINING HOLDINGS (KWIK FILL) SHED AREA VARIANCE – 8-Z-2021  
& SPRINKLER WAIVER – 9-Z-2021

United Refining Holdings, Inc. (Kwik Fill, 7453 State Route 96) is requesting an area variance to §211-22C(3) for construction of a shed at Kwik Fill, 7453 State Route 96, Victor that will reduce green space. Applicant is requesting a sprinkler waiver per §83-4F(2)(a)[2] as the shed will not be 100 feet from the

principal structure. The property is zoned Commercial/Lt Industrial and owned by the applicant.

Chairman Reinhardt – Ginny and Jen, you're here for Kwik Fill?

Ms. Schaeffer – Yes.

Chairman Reinhardt – The county planning board submitted its recommendation as a Class 1 and I think the only comment that that had was the sprinkler. Is there going to be a sprinkler connected to the shed?

Ms. Schaeffer – No.

Chairman Reinhardt – No electricity, there isn't anything. Is that right?

Ms. Schaeffer – That's right.

Chairman Reinhardt – Alright. And, there never will be?

Ms. Schaeffer – Right.

Chairman Reinhardt – And, I think there was a comment about isn't there a mature shade tree or something here?

Mr. Salsburg – Didn't they speak about the green space?

Chairman Reinhardt – I think that's the point. Variances have already been granted on this parcel and green space is already limited, so it's going to be further reduced. But you're not considering taking any kind of vegetation out? There's isn't any trees that you need to take down?

Ms. Schaeffer – No. That mature tree will stay where it is.

Mr. Salsburg – I don't have it in front of me, but I think they said it would be something like 1% less green space than there is now.

Chairman Reinhardt – Let's start with Matt. We touched on a few things. Actually two things that were in consideration. One is taking up more green space and also that the shed was arguably forward of the store structure itself. But, Al made a comment there was some discussion about the canopy, the pump canopy is actually forward of everything. That canopy wouldn't be there if the convenient store front wasn't there, so I think the issue of the shed being forward of the store front doesn't exist anymore.

Mr. Nearpass – Yeah that makes sense to me. I follow that.

Chairman Reinhardt – And, there was some discussion too about how much. . .

Ms. Morley – Can I ask Marty what he feels about that?

Chairman Reinhardt – Sure, Marty, what do you feel about that?

Mr. Avila – I'm in agreement with Al on that. If the gas canopy wasn't there, the convenience store would not be there and so therefore the primary use of the property is gas canopy, so as long as that shed is not forward of the canopy, which it's not, then that request for a variance would no longer be applicable.

Chairman Reinhardt – So the open space, there was a variance that was granted back in 2013. And, it was from 35% to 29% and I think Fred what you're alluding to is with that shed being there it's going to knock it down another percent.

Mr. Salsburg – That's what I read, too.

Chairman Reinhardt – To 28%. And I remember doing this variance, I think it used to be Charlie's Hamburger or something? It's a very tight spot, there. So variances need to be granted in order for a business to go in there.

Mr. Salsburg – It used to be a rotary gas station.

Chairman Reinhardt – Before the hamburger joint?

Mr. Salsburg – I don't remember the hamburg joint being there.

Chairman Reinhardt – I think for what the applicant is asking for dry storage, shovels and things that they just don't have the storage space for, I think it's in line. I would hesitate though and you're not putting any demands out there. After this one if the board grants it, I don't think you can ask for anymore variances. You're maxing out and then some. So, Matt go ahead if you have questions on this.

Mr. Nearpass – No, I'm all set. I was just agreeing with what you said. I'm okay with the request, it is a difficult site. I don't think that the shed is going to have any negative impact in regard to the criterias as we walk through them. I think the only other thing we have to talk about I think is does it need a sprinkler waiver?

Chairman Reinhardt – Go ahead, Marty. If you want to comment on that.

Mr. Avila – Yes.

Chairman Reinhardt – It does?

Mr. Avila – It would require a sprinkler waiver as it is considered a commercial structure and with the town's more prohibitive local law then, yes it would require a waiver.

Chairman Reinhardt – The applicant is going to have to resubmit it's not before the board, currently?

Ms. Reese – They did submit for a sprinkler waiver.

Mr. Avila – It was part of my comments. And I believe the fire marshal also submitted comments based on that on March 31<sup>st</sup>.

Mr. Schaeffer – The fire marshal seemed to be on board as long as there was no electricity or any type of heat installed. There was no mulch surrounding the shed and that we had no smoking signs posted.

Chairman Reinhardt – Alright, that's helpful, thank you. Who's leading, Ginny or Jen? Who's presenting, just so I know who to ask? Jen, are you okay with the fire marshal's request that no electric, no heat, no smoking signs, no mulch.

Ms. Schaeffer – No heat.

Ms. Egger – We are on board with all the fire marshal's comments.

Chairman Reinhardt – Great. Okay then. Donna, any questions?

Ms. Morley – None.

Chairman Reinhardt – Sarah questions?

Ms. Mitchell – No, I have none.

Chairman Reinhardt – Fred?

Mr. Salsburg – If a hundred people when through there, they couldn't tell you if the shed was there or not. So I don't think it's going to make much difference in the appearance of the building.

Chairman Reinhardt – Okay, so I'm taking it from that that you're okay with the application, Fred? Donna, you're okay with it?

Ms. Morley – No.

Chairman Reinhardt – You're not? What concerns do you have?

Ms. Morley – I just think we're cutting out more of that green space and we don't let anybody else. So, I'm a no.

Chairman Reinhardt – Okay. Sarah?

Ms. Mitchell – I think the green space is just a very miniscule amount that will be affecting it at this point. But I'm in agreement, Mike when you say, going forward granting more variances would be even more difficult at this point, but with the shed I'm okay with it.

Chairman Reinhardt – Matt?

Mr. Nearpass – I agree. I'm okay with it as proposed.

Chairman Reinhardt – Okay, great. Before we entertain a motion and go through the criteria, Ginny or Jen anything else you want to add?

So, we're going to walk through the criteria. Marty, anything you want to touch on before I go through the criteria?

Mr. Avila – No, I would just request that because there's already an existing variance and it could get confusing as it was mentioned before 10, 15 years down the line that however the resolution is written, it's very clear as to exactly what's being allowed. That's all.

Chairman Reinhardt – So, I think we're going to do this in two parts, because we need a waiver and variance.

This is the variance for the shed. First criteria, 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.

While there was I believe multiple variances that were granted in 2013 specific to the reduction of the open space from 35% to 29%, a 120 square foot shed although would further reduce open space the

amount of space that would be reduced by is approximately 1%. And, on that note that while this board would entertain any request for variances going forward, it's going to be harder and harder to convince this board I believe that more variances are needed.

Anyone like to add anything 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.

The applicant indicated that due to the size of the indoor store space that they are significantly limited to storing things like shovels and cups and dry storage things. They really don't have any other feasible option other than storing their equipment and goods off-site.

Would anyone like to add anything to the second criteria?

Third, the requested area variance is not substantial.

Again, while they have had prior variances at this parcel, the 120 square foot shed is only going to take away approximately 1% of open space.

Anyone want to add anything to the third criteria?

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

There wasn't anything presented or of concern that this the board feels that the shed will create a physical or environmental condition in the neighborhood or district.

Anyone like to add anything to the fourth criteria?

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.

Also, as a condition, while it is going to be tied in to the sprinkler issue, the applicant has indicated that there will be no heat, no electric and only dry goods will be stored in the shed.

Would anyone like to add anything to the conditions to the variance?

We're all set. I would entertain a motion for approval with the conditions presented.

Mr. Salsburg – I make that motion.

Chairman Reinhardt – Thank you, Fred. A second?

Mr. Nearpass – I'll second.

Chairman Reinhardt – Thank you, Matt. All in favor? (Aye) Opposed? Okay great.

Now we're going to take a look at the sprinkler waiver.

Looking at the sprinkler waiver, we have found that the fire marshal has commented on the request for a waiver and has indicated that it would be acceptable provided that there was no electricity in the shed, no

heat of any type, use in the shed, no mulch in proximity of the shed and no smoking signs to be placed on and in the shed itself. And, this board has taken a review and looked at an economic hardship. And primarily the reason for the shed again is for dry storage goods and in order for them to store those types of goods and equipment they would have to be done off-site.

As far as physical or legal impossibility. For what they are going to use the shed for it doesn't seem practical for them to be required to put a sprinkler in the shed itself.

The intended objectives of this section again is for safety both to the owners of the property and for the fire fighters. We're not hearing anything that there would be any danger to the fire fighters or the property owners.

The necessity in light of other viable alternatives which meet the objectives of the code section.

It goes back to the safety and the applicant's willingness to adhere to the fire marshal's request for conditions for the sprinkler waiver.

Again, we have the comments of the fire marshal in place here.

Would anyone like to add anything else to the request for the waiver?

Mr. Salsburg – Did the fire marshal say anything about a fire extinguisher?

Chairman Reinhardt – I did not see that.

Ms. Schaeffer – We could put one in place, that's not a problem.

Chairman Reinhardt – So as a condition, you would have an available fire extinguisher in the shed itself?

Ms. Schaeffer – Yes, if that's what you want, sure. We would do that.

Mr. Salsburg – Per the recommendation of the fire marshal, as to the size and type.

Chairman Reinhardt – Okay, you're okay with that, Ginny?

Ms. Schaeffer – Yes, very much so.

Chairman Reinhardt – That's good, Fred. Anything else?

I would entertain a motion for a sprinkler waiver on this parcel, for the shed.

Mr. Salsburg – I'll make that motion.

Chairman Reinhardt – Thank you, Fred. Second?

Ms. Mitchell – I'll second.

Chairman Reinhardt – Thank you, Sarah. All in favor. (Aye) Opposed? Carried.

I wish you the best of luck. Thanks for your patience.

Ms. Egger – Thank you. Can I ask Marty a question? I just wanted to make sure. Is our application for the building permit still in your office?

Mr. Avila – If you applied, than yes. As soon as we process the variance and the waiver, we'll be able to issue the permit.

Ms. Egger – Perfect. Thank you.

Ms. Schaeffer – Thank you.

RESOLUTION:

Re: Kwik Fill, 7453 State Route 96, Shed Area Variance  
Appl: 8-Z-2021

At a regular meeting of the Town of Victor Zoning Board of Appeals held on April 19, 2021 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on March 24, 2021 from United Refining Holdings, Inc. requesting an area variance to §211-22C(3) for construction of a shed at Kwik Fill, 7453 State Route 96, Victor that will reduce green space;

WHEREAS, said application was referred by Martin Avila, 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 March 28, 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. 76-2021 and returned it to the local board on April 19, 2021 with comments; and,

WHEREAS, a Public Hearing was held on April 5 and April 19, 2021 at which time no one 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: Although there were multiple variances granted in 2013 specific to the reduction of the open space from 35% to 29%, a 120 square foot shed would reduce the amount of open space by approximately 1%. The board would entertain any future variances, but it would be harder to convince this board that more variances are needed.

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 applicant indicated that due to the size of the store's indoor space they are significantly limited with storage. There is no other feasible option other than storing their equipment and goods off-site.

3. The requested area variance is not substantial.

Justification: While the applicant has had prior variances on this parcel, the 120 square foot shed will only take away approximately 1% of open space.

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 was presented of concern to the board that the shed will create a physical or environmental condition in the neighborhood or district.

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 Mr. Salsburg and seconded by Mr. Nearpass:

DECISION:

NOW, THEREFORE BE IT RESOLVED that the application received on March 24, 2021 from United Refining Holdings, Inc. requesting an area variance to §211-22C(3) for construction of a shed at Kwik Fill, 7453 State Route 96, Victor that will reduce green space; 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 applicant has indicated that there will be no heat, no electric and only dry goods will be stored in the shed.

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

If you have any questions, please do not hesitate to contact the Planning/Building Office at (585) 742-5040.

Respectfully,

Michael Reinhardt, Chairman  
Town of Victor Zoning Board of Appeals

SPRINKLER WAIVER RESOLUTION:

Re: Kwik Fill, 7453 State Route 96, Sprinkler Waiver  
Appl: 9-Z-2021

At a regular meeting of the Town of Victor Zoning Board of Appeals held on April 19, 2021 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on March 24, 2021 from United Refining Holdings, Inc. requesting a sprinkler waiver per §83-4F(2)(a)[2] for a proposed shed at Kwik Fill, 7453 State Route 96. The shed does not meet the criteria for exemptions as indicated in §83-4F(2)(c). A waiver from the sprinkler requirement may be requested from the Zoning Board of Appeals per §83-4F(2)(d).

WHEREAS, said application was referred by Martin Avila, Town of Victor Code Enforcement Officer, on the basis that the structure is required to have an approved fire sprinkler system installed and operational; and,

WHEREAS, a Public Hearing was duly called for and was published in “The Daily Messenger” on March 28, 2021, and whereby all property owners within 500 ft of the application were notified by U.S. Mail; and,

WHEREAS, Robert Graham, Town of Victor Fire Marshal, reviewed the application. In a coordinated fire service sprinkler waiver review with the Victor Fire Services, Mr. Graham commented on March 31, 2021, that the Fire Service supports the installation and use of fire sprinkler systems in all commercial buildings in accordance with local law. The Fire Service does understand however that there are some situations that make installation of a sprinkler system impractical. In this case, understanding the hardships presented, the fire service will not argue against the waiver, however, if the waiver is to be granted, would request the provisions listed below be required:

WHEREAS, Public Hearings were held on April 5 & 19, 2021, at which time no residents(s) one spoke against/for the application; and,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals considered the following:

1. Undue economic hardship.

Shed will primarily store dry goods, because only other storage option is off-site.

2. Physical or legal impossibility.

It is not practical for the applicant to put sprinkler in the shed.

3. Impediment to the intended objectives of this section.

Nothing presented indicated that there would be any danger to the property owners or fire fighters.

4. Necessity in light of other viable alternatives which meet the objectives of the code section.

The applicant's willingness to adhere to the fire marshal's request for conditions for the sprinkler waiver.

5. Recommendations and comments submitted by the Coordinated review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal.

In a coordinated fire service sprinkler waiver review with the Victor Fire Services, Fire Marshal, Robert Graham commented on March 31, 2021, that the Fire Service supports the installation and use of fire sprinkler systems in all commercial buildings in accordance with local law. The Fire Service does understand however that there are some situations that make installation of a sprinkler system impractical. In this case, understanding the hardships presented, the fire service will not argue against the waiver, however, if the waiver is to be granted, if the conditions listed below are implemented:

DECISION:

On motion made by Mr. Salsburg, and seconded by Ms. Mitchell:

NOW, THEREFORE BE IT RESOLVED that the application was received by the Secretary of the Zoning Board of Appeals on March 24, 2021 from United Refining Holdings, Inc. requesting a sprinkler waiver per §83-4F(2)(a)[2] for a proposed shed at Kwik Fill, 7453 State Route 96; BE APPROVED; and,

HOWEVER, IT IS FURTHER RESOLVED that the following conditions are imposed to minimize any adverse impact such waiver may have on the neighborhood or community:

1. No electricity in or on the shed.
2. No heat of any type installed or used in the shed.
3. No mulch used in proximity of the shed.
4. No smoking signs be placed on and in the shed.
5. A 10 lb. ABC fire extinguisher would be in place.

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

If you have any questions, please do not hesitate to contact the Planning/Building Office at (585) 742-5040.

Respectfully,

TOWN OF VICTOR ZONING BOARD OF APPEALS, April 19, 2021

Michael Reinhardt, Chairman  
Town of Victor Zoning Board of Appeals

Chairman Reinhardt – Alright, a motion to adjourn?

On a motion by Ms. Morley and seconded by Mr. Salsburg, it was unanimously decided to adjourn the meeting at 8:08pm.