

A regular meeting of the Village of Victor Planning Board was held on Wednesday, April 26, 2023, at the Village Hall, 60 East Main Street.

MEMBERS PRESENT: Chairperson Meg CHaides
Vice Chairperson Peter Kowal
Member Charles Criss
Member Steven Van Dyke
Member Jeffrey Swan
Planning Clerk Roseanne Turner-Adams

OTHERS PRESENT: Bob Kelly, Todd Smith, Don Corcoran, Tim McGuinness, Kevin Bruckner, Lisa Verdi, Patricia DeClercq, Tahir Bhatt, Fatima Tahir, Randy Bebout, Adam Proctor, Al Turner, L.G. Ryan, Janet Harvey, Michele Harris, Toni Kiddie, David Kiddie, Peter Muench, Ashley Muench, Christina Muench, Brendon Mahalo, Jerry Oley

Meeting called to order at 7:00 PM by Chairperson CHaides.

Salute to the flag.

Resolution #08-23PB
Acceptance of Minutes

On a motion made by Peter Kowal, seconded by Steven Van Dyke, the following resolution was ADOPTED 5 AYES 0 NAYS

Resolved, to accept the minutes dated March 22, 2023.

Bare Beauty & Wellness/Lisa Verdi – 27 Maple Ave.
Sign Program

Ms. Lisa Verdi stated that she owns Bare Beauty and Wellness, and she would like to have some signage to promote shopping hours. Ms. Verdi explained that she is the sole proprietor who performs facials and waxing in her studio. Ms. CHaides stated that according to the Code Enforcement Officer the proposed signage is in compliance. Ms. CHaides discussed the sign review from Code Enforcement which reads:

The Planning and Building Department has received an application for sign review. The property is located at 27 Maple Ave. The applicant is proposing three signs – two window decals measuring 12” x 12” and 8” x 8”, a yard sign measuring 24” x 18”, and a portable sandwich board measuring 28” x 22”. The parcel is located in the Village Center Business zoning district. I have reviewed the plans and have the following comments:

- I. *The proposed window signs do not exceed the 30% allowable area per Village code §130-5 B(8)(c). Any sign, which is painted or mounted onto a windowpane, shall not exceed 30% of window area and must be on the interior surface of the windowpane. **These signs will meet code.***

- II. *The applicant is proposing one 24" x 18" yard sign to be installed in rear of building only. This sign meets code.*

- III. *The applicant is proposing a portable sign measuring 28' 'x 22". The applicant must meet the following conditions set forth in §130-5 B(5), as conditions of approval for said portable sign.*
 - a. *Only displayed during business hours.*
 - b. *Situated on the property of the business.*
 - c. *Shall not obstruct pedestrian traffic.*
 - d. *Shall be consistent in form, color, lettering, and design with existing signs on building.*
 - e. *One portable sign per tax parcel, regardless of number of businesses.*
 - f. *Shall keep on file with the Village a certificate of liability insurance with limits of at least \$500,000. Additionally, a hold harmless agreement shall be executed with the Village.*

Ms. CHaides asked Ms. Verdi where the yard sign would be placed. Ms. Verdi explained that it would be in the back near the entrance. Ms. Verdi stated that the signage would be used very sparingly since she is very busy during treatments and that she would only utilize them once or twice a month.

Resolution #09-23PB

Bare Beauty & Wellness/Lisa Verdi – 27 Maple Ave.

Sign Program

On a motion made by Jeff Swan, seconded by Charles Criss, the following resolution was ADOPTED 5 AYES 0 NAYS

WHEREAS, the Planning Board made the following findings of fact:

1. A sign application was received on March 27, 2023, by the Secretary of the Planning Board for a sign program. The applicant is proposing three signs – two window decals measuring 12" x12" and 8" x 8", a yard sign measuring 24" x 18", and a portable sandwich board measuring 28" x 22". The parcel is located in the Village Center Business zoning district.

2. It is the intent of the applicant to advertise Bare Beauty & Wellness.

3. The signs shall be as illustrated in the color renderings submitted with the application.

4. The sign colors will be white, yellow & black.

NOW, THEREFORE BE IT RESOLVED that the application of Bare Beauty & Wellness/Lisa Verdi for a sign program at 27 Maple Ave., **BE APPROVED WITH THE FOLLOWING CONDITIONS:**

1. That the signs require a permit from the Building Department, prior to installation.
2. That the portable sign shall follow the code requirements set forth in 130-5 B(5)
 - a. Only displayed during Business hours.
 - b. Situated on the property of the business.
 - c. Shall not obstruct pedestrian traffic.
 - d. Shall be consistent in form, color, lettering, and design with existing signs on building.
 - e. One portable sign per tax parcel, regardless of number of businesses.
 - f. Shall keep on file with the village, a certificate of liability insurance with limits of at least \$500,000. Additionally, a hold harmless agreement shall be executed with the village.

**Victor Landing Townhomes
47 East Street
Continuation**

Ms. CHaides stated that at the last meeting the public hearing was closed, and she would now like to go over responses to individual comments that were made at the public hearing.

Response to concerns raised at Public Hearing:

What is the process that the Planning Board follows? Normal site plan approval consists of three meetings and votes – concept review, public hearing/preliminary approval and final approval.

Was the process shortened at all for Victor Landing? No, Ms. CHaides had a sketch meeting with the applicant first, concept review was January 25, 2023, Public Hearing was March 22, 2023 and the final review will be April 26, 2023.

Where does SEQR come in and does it apply in this case? SEQR resolutions were prepared by our engineer and will be voted on at the April 26, 2023 meeting.

Notification for a public hearing appears in Messenger Post newspaper, the legal notice is posted on the website, library, village hall, town hall and post office, public notice is sent to everyone within 500 feet of the project address per Oncor.

Code Enforcement and Department of Public Works Comments:

The DPW is going to install a lighted stop sign like the one on School St. at the intersection of Coville St. and East St. The DPW will also be installing a stop sign at the corner of Ellis St. and East St. The DPW also mentioned the possibility of installing some speed humps during the summer and will test them out in the Village Hall parking lot to see how they work first.

The Park sign is not located on Proctor's property. It is located on Village property.

The water problem that occurred at Coville St. years ago occurred because the ponds up the hill were not done properly and have since been fixed by the town. The state inspects them once a year, so they have been properly kept up to code. DPW is willing to meet any of the concerned neighbors and talk to them about the water problem.

Construction Environment

Randy Bebout, Bohler Engineering – The project will have bi-weekly inspections to monitor site runoff, so roads are not getting dirty and creating a lot of dust. He will look into the recycling of construction materials. The project will follow the Village's Department of Public Works guidelines.

Mr. Bebout has submitted an updated landscape plan that shows the addition of screening on the southern portion of the project.

Background for zoning:

Re-zoned to Senior Citizen Multiple Dwelling (SCR-3) in 2007, then re-zoned back to R-3 in 2013.

When was Great Brook developed? - Concept approval in 1985, started building in 1990, zoned multiple family.

Who was the original owner of Great Brook? - Proctor Enterprises and they still own it.

When Jacobs Landing was developed was there a request for rezoning to approve it? - Re-zoned from Industrial + Multiple Dwelling to HR-2 in 1995, started building right after that.

When did the owner of Great Brook seek to put in apartments but withdrew the application because the planning board insisted on covered parking per code? Withdrew January of 2022 because ZBA denied variance on January 19, 2022.

Neighbors mentioned that they were informed that the property was considered forever wild.

What does forever-wild mean, exactly? Forever-wild is the highest available protection for land in the United States. To be forever-wild, a piece of land is legally and permanently protected, often through a conservation easement. This conservation easement was never applied to this piece of property.

Ms. CHaides explained that at the April 26, 2023 meeting the public hearing was closed, so will not be taking any additional information from the public. Ms. CHaides asked Mr. Bebout to respond to comments that he received from the Fire Marshal, Code Enforcement Officer, Village Engineer, Village DPW, Village Tree Board and Ontario County Planning Board.

Mr. Randy Bebout read the responses on behalf of 47 East Street, LLC from letters dated February 21, 2023 and March 17, 2023 which are now on file. Mr. Bebout explained that all comments have been addressed.

Mr. Bebout handed out a revised landscape plan and trip generation memo. Mr. Bebout explained that the memo summarizes the comparison of the three main traffic generators that utilize East Street, which are Jacob's Landing (JL), Great Brook (GB) & Victor Landing (VL)(future). The JL development generates 95am/127pm trips compared to 46am/52pm for GB and 23m/29pm for VL. The GB & VL project combined are a total of 69am/81pm trips, compared to 95am/127pm for JL. The Victor Landing development consists of all 2-bedroom townhomes while the Great Brook project consists of (62) 2-bedroom and (12) 1-bedroom apartments.

In summary, the neighbors are concerned about traffic, but Jacob's Landing traffic has the biggest impact on East Street and its level of service.

Mr. Bebout explained that the landscape plan has been updated to include evergreen trees and arborvitaes. Mr. Kowal stated that the plan shows two rows of screening. Mr. Bebout agreed and explained that the existing vegetation that is in good condition will remain.

Ms. CHaides read a letter from Village Engineer J.P. Schepp into the record: *"On your behalf, I have prepared Parts 2 and 3 of the Short Environmental Assessment Form (SEAF). The Planning Board will need to take the following steps to complete the SEQR Process. The first step is to identify whether the proposed action is Type I, Unlisted or Type II as defined by SEQR. Based upon my review the project does not fall into a Type I or Type II action. Therefore, it is an Unlisted Action and does not require the completion of a Full Environmental Assessment Form and the completion of a Coordinated Review. Therefore, I have completed SEAF Part 2. The second step is to make a determination of significance."*

Resolution #10-23PB
Victor Landing Townhomes/47 East Street
SEQR Declaring Lead Agency

On a motion made by Peter Kowal, seconded by Steve Van Dyke, the following resolution was **ADOPTED** 5 AYES 0 NAYS

WHEREAS, the Village of Victor Planning Board is considering approval of the Victor Landing Townhomes Project; and

WHEREAS, based upon review sections 617.4 and 617.5 of the SEQR Regulations the project is considered an Unlisted Action; and

WHEREAS, the Applicant has prepared Part 1 of the SEAF and Village Engineer (MRB Group) has prepared Part 2 of the SEAF; and

WHEREAS, the Planning Board determines that said Action is not subject to a coordinated review; and

WHEREAS, the Planning Board determines that it is the most appropriate agency making the determination of significance thereon under the SEQR Regulation and that the Village understands that by completing an Uncoordinated Review that another agency may supersede the Planning Board's decisions.

Now therefore be it resolved that the Planning Board does hereby declare its intent to be designated as the lead agency for the Action; and that a Coordinated Review will not be completed.

Resolution #11-23PB
Victor Landing Townhomes/47 East Street
SEQR Determination of Significance

On a motion made by Charles Criss, seconded by Jeff Swan, the following resolution was **ADOPTED** 5 AYES 0 NAYS

WHEREAS, the Planning Board has reviewed and accepted the completed Short Environmental Assessment Form Part 1 prepared by the applicant and Parts, 2, and 3 on the Action prepared by the MRB Group; and

WHEREAS, the Planning Board has completed an uncoordinated review; and

WHEREAS, the Planning Board has designated itself as lead agency under the SEQR Regulations for making the determination of significance upon said action; and

WHEREAS, the Planning Board has considered the criteria for determining significance as set forth in Section 617.7(c)(1) of the SEQR Regulations and the information contained in Short Environmental Assessment Form Parts 1, 2, and 3.

NOW THEREFORE BE IT RESOLVED, that said Action **WILL NOT** result in any significant adverse environmental impacts based on the review of the Environmental Assessment Form; and

BE IT FINALLY RESOLVED that the Planning Board does hereby make a Determination of Non-Significance on said Action, and the Chairperson is hereby

directed issue the Negative Declaration as evidence of the Planning Board determination of environmental non-significance.

Resolution #12-23PB
Victor Landing Townhomes/47 East Street
Final Site Plan

On a motion made by Steve Van Dyke, seconded by Peter Kowal, the following resolution was ADOPTED 5 AYES 0 NAYS

WHEREAS, the Planning Board made the following findings of fact:

1. An application was received March 17, 2023, by the Secretary of the Planning Board for a final site plan for Victor Landing Townhomes-47 East Street.
2. The applicant proposes to construct a 55 unit townhome rental complex consisting of 11 individual buildings and a separate office/maintenance building. Each townhome building will have 5, 2-story units with a single-car garage. The parcel is located in the R-3 multiple residence zoning district adjacent to the existing Great Brook Apartments complex. Improvements will include site grading, storm water mitigation, utilities, asphalt roads and parking, concrete sidewalks, garbage totes, an office, site lighting, landscaping, and a new monument sign;
3. The applicant presented to the Planning Board a rendering of the proposed final site plan. Rendering is now on file.
4. A Public Hearing was duly called for and was published in "The Daily Messenger" on March 5, 2023 and; all adjacent property owners (all property owners within 500 feet of the application) were timely notified of the hearing and the purpose of the hearing by mail and; a Public Hearing was held on April 26, 2023 at which time all those who desired to be heard were heard and 0 persons spoke in favor of the application and 12 persons spoke against the application.

NOW, THEREFORE BE IT RESOLVED that the application of Victor Landing Townhomes for a final site plan for a 55 unit townhome complex at 47 East Street **BE APPROVED** with the following conditions:

1. That the applicant will comply with all requirements of the Village Engineer, DPW, Code Enforcement, Tree Board and Fire Marshal.
2. That a building permit will be required prior to the commencement of any interior/exterior demolition and/or building.

Resolution #13-23PB
Victor Landing Townhomes/47 East Street
Ground Sign

On a motion made by Jeff Swan, seconded by Charles Criss, the following resolution was ADOPTED 5 AYES 0 NAYS

WHEREAS, the Planning Board made the following findings of fact:

1. A sign application was received on February 21, 2023, by the Secretary of the Planning Board for a freestanding ground sign that measures 38" x 76" at 47 East Street.
2. It is the intent of the applicant to advertise Victor Landing Townhomes.
3. The sign shall be as illustrated in the color renderings submitted with the application.
4. The sign colors will be Devoe Burgundy, Cranberry & Gold.

NOW, THEREFORE BE IT RESOLVED that the application of 47 East Street, LLC for a freestanding ground sign at 47 East St., **BE APPROVED WITH THE FOLLOWING CONDITIONS:**

1. That the signs require a permit from the Building Department, prior to installation.

Tahir Bhatt/Smokers Studio – 49 West Main St.
Change of Use
PUBLIC HEARING

Mr. Tahir Bhatt stated that he will be opening a smoke shop at 49 West Main Street selling cigarettes, tobacco, cigars and some snacks. Ms. CHaides asked what kind of snacks he would like to sell. Mr. Bhatt explained that he proposes to sell candy, drinks and water.

Chairperson CHaides read the legal notice into the record:

"A public hearing will be held before the Village of Victor Planning Board on Wednesday, April 26, 2023, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

- 1.) *The application of Tahir Bhatt/Smokers Studio, for a change of use at*

49 W. Main St. The applicant is proposing to change the use from a business to a mercantile selling tobacco and snacks. The property is situated in the Village Center Business Zoning District.

*Meg CHaides, Chairperson
Village of Victor Planning Board"*

Chairperson CHaides read the code enforcement referral into the record:

"The Planning and Building Department has received an application for a Change of Use. The property is located at, 49 West Main St. The applicant is proposing to change the use from a business to a mercantile. The parcel is located in the Village Center Business zoning district. I have reviewed the plans and have the following comments:

- I. Pursuant to **§ 170-16.A(1)(c)**, the Planning Board review and approval is required for any changes of use or intensity of use which will affect the characteristics of the site in terms of parking, loading, access, drainage, landscaping, or utilities.*
- II. Pursuant to **§170-42.B** the number of parking spots needed for the new mercantile business is 2.5 per 1,000 square feet. They meet all necessary requirements for parking.*

The Village will need to make sure they comply with the new zoning code that prohibits any sale of cannabis related products.

Todd Smith, Code Enforcement Officer NYS-CEO, CFM"

On a motion by Charles Criss and seconded by Jeff Swan, Ms. CHaides opened the Public Hearing

Patricia DeClercq -17 Coville Street

Ms. DeClercq stated that she would like to voice a concern that in today's society there is a definite issue with nicotine and tobacco use and vaping products. Ms. DeClercq explained that on hearing Mr. Bhatt say that he will be selling candy, snacks and tobacco it to her is like marketing to kids. Ms. DeClercq stated that she is not comfortable with that, and she doesn't think that the Village needs that type of business.

Kevin Bruckner-1397 Ashwood Lane (owns 49 W. Main St.)

Mr. Bruckner stated that he would like to say a couple of things for the record. Mr. Bruckner stated that a mercantile can be any business engaged in the buying and selling of products and these businesses can range from restaurants, department stores and convenience stores. Mr. Bruckner explained that in this particular space there was a wine bar there at one time which was technically a mercantile use, so he doesn't understand why this application had to come before the Planning Board for a change of use. Mr. Bruckner stated that Mr. Bhatt explained that he would be selling tobacco

products, candy, water and soda to provide a small convenience store for the people of the community. Mr. Bruckner stated that he does not see an issue with the proposed use. Mr. Bruckner stated that parking should not be an issue because it is adjacent to a Village parking lot.

On a motion by Jeff Swan and seconded by Steven Van Dyke, Ms. CHaides closed the Public Hearing

Mr. Kowal asked if the proposed use is more of a convenience store. Mr. Bhatt explained that it would be more of a small convenience store that people can walk to.

Mr. Van Dyke asked Mr. Bhatt if he will be selling bread and milk. Mr. Bhatt answered "no."

Mr. Kowal asked what the hours would be. Mr. Bhatt explained that the hours would be 10:30am to 8pm.

Mr. Van Dyke stated that there should not be any cannabis related products sold. Mr. Bhatt stated that he will not be selling any cannabis related products. Mr. Bhatt explained that he owns other businesses in Canandaigua, a gas station and a smoke shop, so he knows the guidelines.

Mr. Criss asked Mr. Bhatt if he would sell vape products. Mr. Bhatt explained that he proposes to sell e-cigarettes, no vape products.

Mr. Van Dyke asked Mr. Bhatt if he would be selling pipes or bongs. Mr. Bhatt explained that he will be selling pipes and bongs for smoking tobacco.

Mr. Smith explained that a lot of middle eastern people use bongs to smoke tobacco. Mr. Bhatt explained that he would sell the bongs for people to smoke tobacco.

Mr. Kowal asked Mr. Bhatt if he would be selling Victor hats, T-shirts or gloves. Mr. Bhatt stated that he can do that.

Mr. Swan stated that he thinks it is a safe location so people can get in or out and there is adequate parking.

Ms. CHaides stated that you have to be 21 years old to buy cigarettes. Mr. Bhatt stated that he knows and will stick with the requirements.

Mr. Van Dyke stated that as long as there is no marijuana involved and is just traditional tobacco that he doesn't have a problem with it. Mr. Kowal agreed.

Mr. Criss stated that tobacco is a killer and his attitude about smoking is that we are voting for people to commit suicide. Mr. Criss explained that every one of his friends who smoked is dead.

Resolution #14-23PB
Tahir Bhatt/Smokers Studio – 49 West Main St.
Change of Use

On a motion made by Peter Kowal, seconded by Jeff Swan, the following resolution was ADOPTED 4 AYES 1 NAYS (Charles Criss)

WHEREAS, an application was received on March 20, 2023, by the Secretary of the Planning Board requesting a change of use at the property at 49 West Main St.; and,

WHEREAS, the applicant is proposing to open a retail business selling cigarettes, tobacco products, e-cigarettes, cigars, pipes, non-alcoholic drinks, chips and candy. The property is situated in the Village Center Business Zoning District.

WHEREAS, a Public Hearing was duly called for and was published in “The Daily Messenger” on April 7, 2023; and,

WHEREAS, all adjacent property owners within 500 feet of the location were timely notified of the hearing and the purpose of the hearing by mail; and,

WHEREAS, a Public Hearing was held on April 26, 2023, at which time all those who desired to be heard were heard 1 person spoke against the application and 1 person spoke in support of the application; and,

NOW, THEREFORE BE IT RESOLVED that the application of Tahir Bhatt/ Smokers Studio for a change of use at 49 West Main St., **BE APPROVED WITH THE FOLLOWING CONDITIONS:**

1. That the applicant will comply with all requirements of the Code Enforcement Officer.
2. That a building permit will be required prior to the commencement of any interior/exterior demolition and/or building.
3. The applicant must comply with new zoning codes that prohibit any cannabis related products.

Resolution #15-23PB

Tahir Bhatt/Smokers Studio – 49 West Main St.

Sign Program

On a motion made by Steve Van Dyke, seconded by Jeff Swan, the following resolution was ADOPTED 4 AYES 0 NAYS 1 ABSTAIN (Charles Criss)

WHEREAS, the Planning Board made the following findings of fact:

2. A sign application was received on March 15, 2023, by the Secretary of the Planning Board for a sign program. The applicant is proposing two wall signs, one sign is 156" x 22.77" and the other 48" x 23". The parcel is located in the Village Center Business zoning district.
2. It is the intent of the applicant to advertise Smokers Studio.
3. The signs shall be as illustrated in the color renderings submitted with the application.
4. The sign colors will be Devoe Deep Pool, and Palmyra.

NOW, THEREFORE BE IT RESOLVED that the application of Tahir Bhatt/Smokers Studio for a sign program at – 49 West Main St., **BE APPROVED WITH THE FOLLOWING CONDITIONS:**

3. That the signs require a permit from the Building Department, prior to installation.

Resolution #16-23PB

84 Maple Ave./Victor Fire Dept., Inc.

Extend Public Hearing 62 days for Special Use Permit

On a motion made by Steven Van Dyke, seconded by Charles Criss, the following resolution was ADOPTED 5 AYES 0 NAYS

WHEREAS, an application was received on January 25, 2023, by the Secretary of the Planning Board requesting a special use permit to operate the Firemen’s Field as a limited access historical site and limited use recreational area at the property at 84 Maple Ave.; and,

WHEREAS, a Public Hearing was duly called for and was published in “The Daily Messenger” on February 10, 2023; and,

WHEREAS, all adjacent property owners within 500 feet of the location were timely notified of the hearing and the purpose of the hearing by mail; and,

WHEREAS, a Public Hearing was held on February 22, 2023, at which time all those who desired to be heard were heard and 1 person spoke in favor of the application and 0 persons spoke against the application; and,

WHEREAS, the Public Hearing was left open; and,

WHEREAS, the Public Hearing will continue at the May 24, 2023 Planning Board meeting; and,

NOW, THEREFORE BE IT RESOLVED to extend the public hearing 62 days from the date of this resolution.

ADJOURNMENT Meeting adjourned on a motion at 8:17 pm

Roseanne Turner-Adams, Planning Clerk