

**A regular meeting of the Village of Victor Planning Board was held on Wednesday, May 25, 2022, at the Village Hall, 60 East Main Street.**

**MEMBERS PRESENT:** Chairperson Meg CHaides  
Member Charles Criss  
Member Steven Van Dyke  
Planning Clerk Roseanne Turner-Adams

**MEMBERS ABSENT:** Vice Chairperson Peter Kowal  
Member Jeffrey Swan

**OTHERS PRESENT:** Gary Hadden, Todd Smith, Victoria Adams, Steve Dieffenbacher, Al Turner, Paul Brooker, Jerry Ryan, Deborah Bugbee, Bruce Bugbee, Chris Thomas, Ashley Marion, Matthew Marion, Gail Marion, Mike Marion

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

Salute to the flag.

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**Resolution #11-22PB**  
**Acceptance of Minutes**

On a motion made by Steve Van Dyke, seconded by Charles Criss, the following resolution was ADOPTED 3 AYES 0 NAYS

**Resolved,** to accept the minutes dated April 27, 2022.

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**Amend resolution #21-21PB**  
**75 Coville St. / Twin Elder Brewery Site Plan Modification**

Ms. CHaides explained that this will be a public hearing and it is for an amendment to the site plan modification that was approved in November of 2021. Ms. CHaides stated that it has come to her attention from the Village Attorney that the Planning Board did not have the authority to put restrictions on outdoor music and the decibels. Ms. CHaides stated that the reason for that is because the Village does not have a noise ordinance. Ms. CHaides stated that she was asked to make a resolution at last months meeting to make that change and she told them "No," that she did not feel comfortable doing that without letting the public know so that the people that would be affected by it would know about it.

Ms. CHaides read the special meeting notice of the public hearing into the record:

"On November 17, 2021, the Planning Board approved the site plan application of Twin Elder Brewery/Chris Thomas at 75 Coville Street. That approval was subject to specific conditions, including that there be no outdoor music. The issue of the authority of the Planning Board to impose this condition on site plan approval has been raised and will be addressed at the meeting on Wednesday, May 25, 2022.

Notice is hereby given that a public hearing will be held before the Village of Victor Planning Board with respect to the following matter at the time and place set forth below:

**TIME & PLACE:** Wednesday, May 25, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York

**APPLICANT:** The application of Chris Thomas/Twin Elder Brewery, for a site plan modification at 75 Coville Street. To amend the following conditions:

- The level for the outdoor seating area should not exceed 80 decibels and it should not exceed 52 decibels at the property line. On neighboring properties, the level at any residence should not exceed 47 decibels.
- No music outside of the building.

All persons affected by the proposed action will be given an opportunity to be heard. If you have any questions regarding the above application, please call:  
(585) 924-3311

Meg CHaides, Chairperson  
Village of Victor Planning Board"

*On a motion by Charles Criss and seconded by Steven Van Dyke, Ms. CHaides opened the Public Hearing*

**Debbie Bugbee-16 Woodworth Street**

Ms. Bugbee stated that she has more of a question; as it stands right now there is no noise ordinance in place, correct? Ms. CHaides replied "correct." Ms. Bugbee explained that the Village needs to adopt an ordinance before the public can be sure that there will not be an abundance of music coming into our homes.

Ms. CHaides stated that a noise ordinance would have to be in place in order for any enforcement to occur.

Ms. Bugbee stated that a noise ordinance is needed before going further.

Ms. CHaides explained that a noise ordinance is needed first, but it doesn't preclude the Planning Board from making the change to the site plan modification right now because the Planning Board doesn't have the authority to put that condition in the resolution.

Ms. Bugbee asked what Ms. CHaides was referring to when she says the Planning Board doesn't have the authority to put conditions on the site plan modification.

Ms. CHaides stated that she is referring to the conditions referring to decibels and no outside music.

Ms. Bugbee stated that by changing the condition referring to decibels, there is no way to enforce the noise. Ms. CHaides stated that the Planning Board is going to modify the resolution to remove the two conditions and hope the Village Board puts together a noise ordinance that the Planning Board can measure against. Ms. CHaides explained that at this point the application has already been approved and the two conditions regarding decibels and no outside music will be removed from the resolution. Ms. CHaides explained that with a noise ordinance in place, if the noise is in violation, it would be up to neighbors to speak to the Code Enforcement Officer to enforce the noise ordinance.

Code Enforcement Officer Mr. Todd Smith agreed. Ms. Bugbee asked who determines what 80 decibels means. Mr. Smith stated, "I have no idea," Ms. Bugbee replied, "well that is encouraging." Mr. Smith stated that he believes that the average person talking is about 65-70 decibels. Mr. Smith stated that the Planning Board is removing the decibels from the resolution.

Ms. CHaides stated that the Planning Board is removing the two conditions from the resolution that refer to decibels and outside music and it is up to the Village Board to create a noise ordinance which would be enforced by Code Enforcement.

Mayor Gary Hadden stated that the Village does not have a noise ordinance, a local law to deal with these things. Mr. Hadden stated that they have had debate on the board about whether a noise ordinance is needed. Mr. Hadden explained that some board members think a noise ordinance is needed and some do not. Mr. Hadden explained that Trustee Bob Kelly offered to collaborate with him on a noise ordinance, but they have not gotten very far with it, but they will be looking at ordinances from other communities. Mr. Hadden stated that the goal is to not make the noise ordinance so complicated that nobody can understand it. Mr. Hadden stated that referring to decibels, there are decibel meters that can be purchased that the Code Enforcement Officer can use to determine if the noise level is within the limits of the law, if that is what is put into the law. Mr. Hadden stated that the Village Board is working on a noise ordinance but do not have one in place now and that the Village Attorney, himself and Code Enforcement met and asked how the Planning Board can place these kinds of restrictions on Twin Elder's business when there is no way to enforce it. Mr. Hadden

explained that he had a discussion with Ms. CHaides and asked her if she would ask the Planning Board if they would be willing to remove those noise concerns. Mr. Hadden explained that right away Ms. CHaides said she would not do that without inviting the public and Ms. CHaides is about as stand up a person as there is and Mr. Hadden stated that he totally agrees with her decision.

Mr. Hadden stated that the Village Board doesn't want to see the neighborhood overrun with noise and concerns that get out of hand either. Mr. Hadden stated that he doesn't believe Mr. Thomas of Twin Elder wants that either.

Mr. Criss stated that the Town of Victor has a noise ordinance. Mr. Hadden stated that the Village Board has been looking at the Town of Victor's ordinance.

Mr. Smith stated that the Town of Victor is much more spread out and, in the Village, you can probably hear the person in the next house talking. Mr. Smith stated that it is so much harder in the Village than it is in the Town, so the Village Board is looking at smaller Towns and Villages noise ordinances to grasp what they are doing and try to bring something similar to the Village of Victor.

Mr. Hadden stated that when and if the Village Board creates a noise ordinance there will be a public hearing process to create a local law, so the public gets a chance to speak on that prior to a Village Board vote on whether or not to adopt the ordinance that is proposed.

### **Paul Brooker-20 Woodworth Street**

Mr. Brooker stated that he would like to hear from Chris Thomas, the owner of Twin Elder Brewery on his plans.

Mr. Thomas stated that he addressed his plans at the first meeting, and nothing has really changed. Mr. Thomas asked Mr. Brooker what he would like to know.

Mr. Brooker stated that Mr. Thomas wants the noise restrictions reversed so he wants to know what he is going to do and what he has planned.

Mr. Thomas stated that it is not a matter of him wanting the restrictions reversed, it was his understanding at the initial meeting that he could have outside music. Mr. Thomas explained that he called Code Enforcement to be able to have outside music.

Mr. Brooker stated, "outside music just at the car shows, right." Mr. Thomas stated "no, it had nothing to do with any specific event, the resolution said, "no outside music."

Mr. Brooker stated, "yes, that's what the conditions of the resolution said but after that you said you only wanted outside music at the car show."

Mr. Thomas stated that it was his understanding that he could have outside music with stipulations. Mr. Thomas stated that the Village Attorney got involved and said that there is no ordinance in the Village so that Planning Board cannot ask him to not have outside music.

Mr. Smith stated that what Mr. Brooker might be asking is what are your plans for outside music, will there be a band, speakers, acoustic. Mr. Thomas stated that he will have a little of each. Mr. Thomas stated that this is near and dear to him, and he wants to be a good neighbor and wants to make sure he is doing the right thing in being a good neighbor. Mr. Thomas stated that he has had music outside and as far as he knows, nobody has complained. Mr. Thomas stated that there will be occasions when there will be full bands which will be a little louder and in most areas noise ordinances go until 11pm and that he will not play music until 11pm. Mr. Thomas explained that there will be bands but most of the time it will be acoustic or some sort of outdoor speaker that people will be able to hear when they are enjoying food or drink on the patio or porch and that it will not be turning into a concert venue.

### **Al Turner-78 Coville Street**

Mr. Turner stated that so far Chris Thomas has been a good neighbor, but he can remember when he was on the Village Board whenever Clem McGhan was going to have a St. Patrick's Day party he had to come to the Village Board and get permission, plus the board told him when he had to shut down and which way to face the band so it wouldn't bother people. Mr. Turner asked why the Village Board had the authority to do that then but doesn't now.

Mayor Hadden stated that the difference is between his everyday business versus a special event. Mr. Hadden explained that Mr. Thomas came to the Village Board for a special event permit to have a car show every Wednesday and that is probably what Clem McGhan had to do for his St. Patrick's Day special event. Mr. Hadden explained that typically when you have a special event on your own property or if you are going to use Village property you have to come before the Village Board for a special event permit. Mr. Hadden explained that Mr. Thomas doesn't need a special event permit for everyday music in the evening.

Mr. Turner stated that he sure hopes the Village Board is working hard on the noise ordinance because it is getting to be a concern as it is already starting to screw up our neighborhood. Mr. Turner stated that he hates to say it that way, but it is true. Mr. Turner stated that he wants something done about it now and doesn't want Mayor Hadden and Bob Kelly to sit on it because we are paying you guys' pretty good money, lets do something about a noise ordinance. Mr. Turner stated that he doesn't want to be woken up by loud music, and he is sure Mr. Thomas isn't going to do that, but Mr. Turner wants to make sure that if he does, Mr. Turner can call Mayor Hadden or Code Enforcement to do something about it. Mr. Turner stated that Mr. Thomas has been a great neighbor so far and has no complaints, but he doesn't want to hear music all

night long. Mr. Turner explained that the car shows only go until 8pm and that he enjoys the car shows but doesn't want it to get out of control but if it does he wants it to be controlled by the Code Enforcement Officer.

Mr. Smith stated that he thinks part of the reason the Planning Board is being asked to rescind the conditions put on the resolution is that they put a decibel reading on it. Mr. Smith asked Mr. Thomas what time he closes. Mr. Thomas stated that they are not open any later than 10pm but if there is a wedding or something it may be 11pm. Mr. Smith stated that maybe there is something that can be put into code regarding the time the music has to end. Ms. CHaides stated that it would be part of the noise ordinance and asked the public to get after the Village Board to put a noise ordinance in place.

*On a motion by Steve Van Dyke and seconded by Charles Criss, Ms. CHaides closed the Public Hearing*

**Resolution #12-22PB**

**Amend resolution #21-21PB**

**75 Coville St. / Twin Elder Brewery Site Plan Modification**

On a motion made by Steve Van Dyke, seconded by Charles Criss, the following resolution was APPROVED 3 AYES 0 NAYS

**WHEREAS**, on November 17, 2021, the Planning Board adopted resolution #21-21PB to approve the site plan modification for Twin Elder Brewery

**WHEREAS**, the following conditions were placed on the approval:

1. The level for the outdoor seating area should not exceed 80 decibels and it should not exceed 52 decibels at the property line. On neighboring properties, the level at any residence should not exceed 47 decibels.
2. No music outside of the building.

**Resolved**, that the Village Planning Board amend resolution #21-21PB to remove the two conditions stated above.

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**9 Somerset Lane/Gail A. Marion  
Special Use Permit for Third Dog**

**PUBLIC HEARING**

Ms. Marion stated that her son Matt shows dogs and sometimes he will show for other people so there could be a period of time that there may be a third dog on their property for over thirty days. Ms. Marion stated that they wanted to get a special use permit to be sure that they were not going against any Village laws.

Ms. CHaides stated that it sounds like the third dog would not be another pet. Ms. Marion's son Matt stated that at some point he would like to have another pet. Mr. Marion stated that he is very heavily involved in all canine activities such as confirmation and agility, which is where they run around the ring. Mr. Marion explained that he has done obedience rallies with his dogs, and he was asked if he would be able to show another person's dog so he wanted to get a special use permit to be safe but at some point, would like to own another dog that he can take to events, a third pet. Ms. CHaides stated that if you get a third pet you are not going to be able to show the other persons dog as it would be considered a fourth dog. Mr. Marion agreed.

Chairperson CHaides read the legal notice into the record:

"A public hearing will be held before the Village of Victor Planning Board on Wednesday May 25, 2022, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of Gail A. Marion, for a special use permit at 9 Somerset Lane based on the Village of Victor Planning and Building Department's requirements and referral. The applicant proposes to add a third dog to their household where the harboring of three or more dogs over the age of four months on any lot or structure in the Village of a continuous period in excess of 30 days shall require a special use permit from the Village of Victor Planning Board in accordance with §69-13 of the Village of Victor code. The property is situated in the R-2 (One Family Residential) District.

Meg CHaides, Chairperson  
Village of Victor Planning Board"

*On a motion by Charles Criss and seconded by Steven Van Dyke, Ms. CHaides opened the Public Hearing*

### **Steve Dieffenbacher-11 Somerset Lane**

Mr. Dieffenbacher stated that he loves dogs and gets his dogs from shelters. Mr. Dieffenbacher stated that the only problem now is that the applicant has a dog that bites, and he has been bitten three times and another neighbor has been bitten. Mr. Dieffenbacher explained that both neighbors put up privacy fences and what they say about fences is so true. Mr. Dieffenbacher stated that he has pictures of the bites, and he has witnesses, but he didn't report it because he didn't want the dog to be put down because he loves animals. Mr. Dieffenbacher explained that if the applicant is a dog trainer and has a dog that bites people, other than that he doesn't have a problem with it. Mr. Dieffenbacher stated that they do not get along right now and that is why they put up a privacy fence. Mr. Dieffenbacher stated that if Mr. Marion is a dog trainer maybe he can provide some documentation because right now he has a dog that bites and is not very well trained.

### **Ashley Marion-9 Somerset Lane**

Ms. Marion stated that she is the daughter of the applicant, and she no longer lives at her Parents house but when the bite incident occurred, she was at her Parents house

visiting. Ms. Marion stated that when Mr. Dieffenbacher was building the privacy fence her Parents told him to close the front gate when he was finished. Ms. Marion explained that when she arrived the front gate was closed so she let the dogs out because the yard was empty. Ms. Marion explained that when she was outside Mr. Dieffenbacher and a couple other gentlemen plus a neighbor and her son came over through the gate into her parents' property without announcing themselves. Ms. Marion then called her mom and asked if the neighbors were supposed to be over there, and her mom said to ask them to leave. Ms. Marion stated that she asked them to leave, and Mr. Dieffenbacher refused because he was working on the fence. Ms. Marion explained that her parents returned, and that Mr. Dieffenbacher pointed a drill at the dog's head, so she called the police because of Mr. Dieffenbacher and other neighbors trespassing. Ms. Marion stated that she would like to get the police report to show the Planning Board. Ms. Marion showed the survey map and showed that the fence was being built on the property line so they were working on their property to build it so would need permission from the Marion's to work on it.

Mr. Dieffenbacher stated that most of what Ms. Marion said was not true and that he went over and asked her father if he could work on the fence, and he said he could. Mr. Dieffenbacher explained that he had 90% of the fence done when the daughter let all of the dogs out and he asked if she could bring the dogs in until he is finished but she refused. Mr. Dieffenbacher explained that the dog bit him three times and when he was finished with the fence the police officer came.

Ms. CHaides stated that she is uncomfortable making a decision tonight until the police report can be reviewed. Mr. Van Dyke agreed.

Mr. Dieffenbacher stated that he never made a police report when the dog bit him because he didn't want to have the dog put down. Mr. Dieffenbacher stated that the police took everyone's statements, and he has two witnesses and pictures of the dog bites.

Ms. CHaides stated that the more evidence you bring to the Planning Board, the better. Mr. Van Dyke asked how big the dogs are. Mr. Dieffenbacher stated that one dog, named Coco is the issue but that he has never seen or heard the other dog.

Ms. Marion stated that Coco is an Australian Shepherd.

Ms. CHaides stated that an email was received from a neighbor but they have asked to be kept anonymous.

Ms. CHaides stated that any additional information can be submitted to the Planning Board and the application will be tabled until the police report and additional information is received.

*On a motion by Charles Criss and seconded by Steven Van Dyke, Ms. CHaides closed the Public Hearing*

**Resolution #13-22PB**

**9 Somerset Lane/Gail A. Marion**

**Special Use Permit for Third Dog- TABLED**

On a motion made by Charles Criss, seconded by Steven Van Dyke, the following resolution was APPROVED to table the application 3 AYES 0 NAYS

**WHEREAS**, an application was received on April 27, 2022, by the Secretary of the Planning Board requesting a special use permit to add a third dog to their household at the property at 9 Somerset Lane; and,

**WHEREAS**, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 69-13 of the Village Code; and,

**WHEREAS**, a Public Hearing was duly called for and was published in "The Daily Messenger" on May 10, 2022; and,

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

**WHEREAS**, a Public Hearing was held on May 25, 2022, at which time all those who desired to be heard were heard and 1 person spoke in favor of the application (Daughter of applicant); 1 person spoke against the application; 1 letter was received against the application; and,

**WHEREAS**, the special use permit was tabled.

**NOW, THEREFORE BE IT RESOLVED** to table the application until the next meeting to allow the applicant to provide more information.

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*Discussion regarding past special use permits and cases in the past regarding more than 2 dogs and fence requirements*

**ADJOURNMENT** Meeting adjourned on a motion at 7:45 pm

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Roseanne Turner-Adams, Planning Clerk