

**A regular meeting of the Village of Victor Planning Board was held on Wednesday, June 22, 2022, 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:** Todd Smith, Ashley Marion, Matthew Marion, Gail Marion, Mike Marion, Robert Perrilleon, Michael Perrilleon, Ray Raimondi, Josh Judkins, Rafael Barreto

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

Salute to the flag.

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**Resolution #14-22PB**  
**Acceptance of Minutes**

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

**Resolved,** to accept the minutes dated May 25, 2022.

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

Ms. CHaides stated that we left off with asking the parties involved to supply the Planning Board with additional information in which Ms. CHaides went over.

Ms. CHaides stated that the first item is an incident report from the police department dated April 10, 2017. Ms. CHaides read the narrative into the record:

*"I was dispatched to 9 Somerset Lane in the Town of Victor for a trespass complaint. Caller Ashley Marion stated that she was involved in a verbal argument with her neighbor Steve Dieffenbacher who was given permission to enter her property to conduct repairs on the fence. Marion stated that she let her dog out into the yard and was not aware that Dieffenbacher was still in her yard. The dogs were barking at Dieffenbacher, and he became upset and was exchanging words with Marion. Arrived on scene and spoke with both parties who were advised to communicate better with the fence project. No offense committed and both parties agreed to call it a night with the fence work."*

Ms. CHaides stated that the next are emails that were received from various people the first one from Steve Dieffenbacher at 11 Somerset Lane which she read into the record:

*"I live at 11 Somerset Lane; I was at the Planning board meeting this past Wednesday to voice my concern of the Marion family request for a third dog. I am attaching the photos of the dog bite I received from their current dog Coco. I also would like to add that I called my doctor right after and she had me call the dogs Vet to see if the dog was up to date with vaccines, we were concerned about Rabies. The vaccines where up to date. Thank you, Steve Dieffenbacher."*  
Ms. CHaides stated that he has attached a picture of the fence and of the dog bites which are now on file.

Ms. CHaides read another email into the record:

*"Regarding Resolution #13-22PB to provide a statement on the care and condition of his dogs. His dogs are his life, he goes all over the country to dog shows. Please help him. It appears his neighbor was trespassing and was unannounced. Matt is a good man. Can that be said about his neighbor? Mike Caswell"*

Ms. CHaides stated that she will not read the next email because the person asked to remain anonymous.

Ms. CHaides read another email into the record:

*"Dear Members of the Village Planning Board; I'm writing today to support Matt, Michael and Gail Marion. I've known Matt and his parents since 2018. The AKC breed standard states, "Official Standard of the Australian Shepherd General Appearance: The Australian Shepherd is an intelligent working dog of strong herding and guarding instincts." An Australian Shepherd will protect its property, as it is bred to do in the absence of its owner. Over the years, I've gotten to know them and their dogs. They are devoted pet owners, not only to just the care of their dogs but also to their training. I'm an approved judge with Australian Shepherd club of America and have judged the Marion's dogs' various times over the past 4 years. They are well mannered, obedient and a pleasure to be around. The dogs are also physically fit, well exercised and in excellent muscle tone. I've also trusted Matt and Gail with my own dog to travel with to Virginia to be shown. She was well taken care of and returned to me safely. They are wonderful owners, and I would trust them with any of my dogs. Thank you for your time. Sincerely, Maren Smith"*

Ms. CHaides read the final email into the record:

*"Dear members of the Village of Victor Planning Board: My name is J Kelsey Jones and I have known Matthew Marion and his family for several years. Matthew and his family are very active in supporting the Australian Shepherd breed. He is Vice President of the Pennsylvania-New York Australian Shepherd Club. I had the pleasure of interacting with Matthew and his family and their two dogs again this weekend at a two-day conformation event in Horseheads, New York. I myself have been involved in the breed for over thirty years and a judge for many years. I have evaluated Matthew's dogs in the conformation ring. I have also witnessed his dogs in the herding ring as well as interacting with other owners and handlers at dog shows. Never, has either of his dogs shown any aggression or hesitation in environments which can be stressful to dogs. I have confidence and faith that Mr. Marion and his family having a third dog does not pose a concern to the community. Sincerely, J. Kelsey Jones ASCA Senior Breeder Judge President, Pennsylvania-New York Australian Shepherd Club"*

Ms. CHaides stated that she has done a lot of research on the dog breed on the website for the association called runway Aussies. Ms. CHaides read part of an article from the website written by Nannette Newbury. Ms. CHaides read the following highlights into the record: *"The Aussie is an energetic bundle of enthusiasm with the stamina and desire to work all day long. Many of the traits that made the Aussie a highly desirable ranch hand, crossover to the modern-day owner's appreciation and regard for the breed. The Australian Shepherd is highly intelligent, attentive, and intuitive, has common sense and is capable of independent judgment with an inherent sense of right and wrong. Versatility is another hallmark of the breed. Aussies are used today as search and rescue dogs, compete in agility, herding, obedience events, dock diving, barn hunts, scentwork, are used as guide, service and therapy dogs. Aussies make good retrievers and have even competed in hunt tests and trials. The Australian Shepherd has a happy disposition, is affectionate and playful. The Aussie is astoundingly communicative and literally can take your breath away with their ability to tell you exactly what is wanted. Nose bumps in the back of the leg, or a cool nose slipping under your forearm and flipping your arm into the air, leaves no doubt that this dog wants your attention."*

Ms. CHaides stated that there is also an article that says an Aussie is not for everyone and it explains the history of how the dog was developed and one of the articles stated that *"it is a highly intelligent breed, with tremendous abilities to think on their own or intuitively. This could include re-arranging the landscaping in your backyard, stripping the vinyl siding off of your house, jumping out of the yard to join in the fun elsewhere in the neighborhood, digging deep and numerous holes in the lawn, barking incessantly at squirrels and cats running the fence line. This is a breed that does not do well out in a back yard while the family is at work. The breed is one that does well integrated as a member of the family including daily chores, running errands and living in the house with their people. A strong guardian instinct inherent in this breed."*

Ms. CHaides stated that the articles go on to say that it is not a breed to be a first dog in the family if you are not used to having dogs but that it gives great reviews of the breeds loyalty and intelligence.

*On a motion by Steven Van Dyke and seconded by Peter Kowal, Ms. CHaides opened the Public Hearing as a continuation of last month's meeting*

### **Matt Marion-9 Somerset Lane**

Mr. Marion stated that he is the dog owner and that the dog bite incident happened five years ago while he was living in Texas and that when Mr. Dieffenbacher got upset the dogs started barking and reacted to the stress. Mr. Marion stated that since he has moved back, he has worked with training the dog and has taken her to dog shows where she recently won a second place ribbon. Mr. Marion explained that after the last meeting he took the dog on a 2.5 hour car ride to have her reevaluated with the AKC good citizen test which she passed. Mr. Marion stated that it feels unfair to have a dog be persecuted for something that happened five years ago. Mr. Marion explained that Mr. Dieffenbacher has not been a friendly neighbor.

Ms. CHaides asked Mr. Marion what qualifications he has as a trainer. Mr. Marion stated that he is not a registered trainer, but he takes the dogs to classes and works with them continually.

Ms. CHaides asked Mr. Marion how many shows he participates in per year. Mr. Marion stated that there are approximately 12 shows he participates in per year.

Ms. CHaides asked what the ages of his current dogs are. Mr. Marion stated that Coco is going to turn 10 in November and Snap will be 7 in January. Mr. Marion stated that he is not looking to get a third dog right away and that he wants to find the right one.

Code Enforcement Officer Todd Smith asked Mr. Marion how old the third dog would be if he gets one. Mr. Marion stated that the third dog would be a puppy.

Ms. CHaides asked Mr. Marion how long it takes to train a dog before it can be in a show. Mr. Marion stated that dogs can attend shows as early as two months for exposure and help with training.

Ms. CHaides asked how long you have a dog stay with you to train for a show. Mr. Marion explained that he is looking for a long term pet and not having temporary dogs to train.

Mr. Van Dyke asked if his yard is fenced in. Mr. Marion stated that the yard is fenced in and does some training in the back yard and some inside as well as some classes off site.

Mr. Swan asked Mr. Marion if he takes all of his dogs to the shows at the same time. Mr. Marion stated that sometimes he takes both but if he only takes one his father watches the other dog. Mr. Swan asked if his father is a trainer. Mr. Marion stated that his father is not a trainer. Mr. Swan asked if his father goes to his house to watch the dog. Mr. Marion stated that he lives with his parents, so the home belongs to his father and mother. Mr. Swan stated that his father had this breed of dog and that the breed seems to attach to one individual and can be protective of their owner and will bite. Mr. Swan explained that he once tried to shake his father hand and the dog bit him.

Mr. Criss stated that the concern he has is that all of the positive emails that the Planning Board received are not neighbors. Mr. Criss explained that he is concerned with the neighbors and that he is sensing that he is not getting along with the neighbors and have already had problems with them, and a third dog will create more problems. Mr. Criss stated that the code is very specific that no more than two dogs are allowed in the Village. Mr. Criss stated that a negative email was received which wasn't read and the neighbor relationships are not good, and he does not see this improving with the addition of a third dog. Mr. Criss stated that the code is plain and simple, and he doesn't see why the Marion's can't abide by it.

Ms. Marion stated that Mr. Dieffenbacher is not the homeowner of 11 Somerset Lane and that he moved in with the woman who lives there six years ago and that there weren't any problems until he moved in. Ms. Marion explained that she was yelled at by Mr. Dieffenbacher along with the neighbor across the street because they are buddies. Ms. Marion stated that the neighbor on the other side sold their house and are moving so they shouldn't have any input. Ms. Marion stated that they do not have any problems with anyone else in the neighborhood. Ms. Marion stated that there are many other people in the neighborhood with more than two dogs.

Mr. Kowal asked if the dogs bark. Mr. Marion stated that he called the dog warden and that there have been no reports. Mr. Marion stated that they have cameras in the home and if the dogs are not in their crates, they are laying down most of the day. Mr. Kowal explained that dogs barking in his neighborhood is a problem that needs to be controlled. Ms. Marion stated that if the dogs are outside someone is home and they do not ever let them stay outside and bark.

Mr. Swan asked if someone is always home. Mr. Marion stated that no one is home from about 7am to 3pm. Ms. Marion explained that the dogs do not go outside unless someone is home. Mr. Smith asked if the dogs are in the crate when no one is home. Ms. Marion stated that the dogs are not in the crate unless they know they are getting a delivery.

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

Mr. Swan stated that the property looks to be about ¼ of an acre.

Mr. Swan stated that Gail Marion is the applicant because she is the homeowner but her son Matt who owns the dogs is living in the home. Mr. Swan stated that if Matt moves out and take the dogs, the special use permit is not transferrable. Ms. CHaides explained that the special use permit stays with the property and that if any of the stipulations of the special use permit are violated it would be revoked.

*Discussion among the Planning Board regarding the wording of the special use permit and conditions*

### Village of Victor Code, **§69-13. Special Use Permit**

**A.** No person shall be allowed to harbor three or more dogs within any district in the Village except upon the issuance of a special use permit by the Code Enforcement Officer after approval by the Village Planning Board upon the terms and conditions set forth in this section and in conformity with the procedures provided by § **24-2C**, regarding special use permits of the Code of the Village of Victor ("the Code").

**B.** The property shall be regularly cleaned on a schedule to be determined by the Planning Board so as to keep the property in a safe, sanitary condition and to minimize the potential for offensive odors, flies, or other nuisances which might affect neighboring properties.

**C.** No person shall allow the dogs to create noise or other disturbance which shall seriously annoy or disturb any neighbor. Noise or disturbance which is audible at any neighboring residence for a continuous period of 15 minutes shall be evidence of a violation of this section.

**D.** No special use permit shall be issued except upon payment of the required fee to the Village of Victor which shall be fixed from time to time by resolution of the Village Board. The fee shall be due at the time of application.

**E.** The holder of the special use permit shall be deemed to have given his or her consent to periodic inspections by the Village of the premises to ensure compliance with the conditions of the special use permit.

**F.** The special use permit shall continue to be valid unless revoked by the Planning Board. The special use permit shall not be transferable.

**G.** The special use permit may be revoked by the Planning Board for a violation of any of the conditions of the permit. The holder of the permit shall be served with a written notice of the alleged violations, either personally or by regular mail, and shall be given 15 days from the date of delivery or mailing of the notice to correct the violation(s). Upon the permit holder's failure to correct the violations, the Planning Board shall hold a public hearing upon at least 10 days' notice to the permit holder. The permit holder shall be allowed to appear at the hearing in opposition to the charges. If the allegations of violation are proved to the satisfaction of the Planning Board, the Planning Board may revoke the special use permit or impose such conditions upon the permit holder as the Planning Board determines just and appropriate under the circumstances. If the special use permit is revoked, the owner must immediately remove the dogs from the premises and may not apply for a new permit for a period of one year from the date of revocation.

**H.** In addition to the conditions specifically identified in this section, the Planning Board may attach additional conditions to the special use permit, which, in its discretion, it reasonably believes are necessary to promote and protect the public health, safety, and welfare and to further the objectives of Chapter **69**, Dogs and Other Animals, of the Code.

### **Resolution #15-22PB**

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

#### **Special Use Permit for Third Dog**

On a motion made by Peter Kowal, seconded by Jeff Swan, the following resolution was ADOPTED 3 AYES (Steve Van Dyke, Peter Kowal, Meg CHaides)  
2 NAYS (Charles Criss, Jeff Swan)

**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 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 application was tabled and continued on June 22, 2022 where no one was in attendance to speak against the application and three letters were received in support of the application; and,

**WHEREAS**, the special use permit was granted with conditions.

**NOW, THEREFORE BE IT RESOLVED** to issue the special use permit with the following conditions:

- If one of the three dogs passes away, the special use permit will need to be re-applied for prior to obtaining another dog.
- If the conditions of the special use permit are not met, the permit is null and void.
- If the applicants are to move to another location in the Village, they must re-apply for the special use permit.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

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**Farm Stores Victor/Mike Perrilleon 290 West Main St.**

Mr. Ray Raimondi stated that he is with Marathon Engineering, and he is joined by Raphael Barreto, the owners Michael Perrilleon and his Father Bob as well as general contractor Josh Judkins of Loyal Nine Development. Mr. Raimondi stated that they

presented to the Planning Board in late January and were granted a special use permit and concept approval. Mr. Raimondi explained that they are back with all of the changes that were requested such as DOT issues, layout of the building from a pre-fabricated building to a wood frame building and did a traffic study and believes that they have fulfilled all obligations and are here asking for final approval.

*Discussion regarding changes made to fulfill obligations*

Ms. CHaides asked if the fence between the neighbor and the project will be right on the property line. Mr. Raimondi stated that it will most likely be a foot setback. Mr. Smith stated that the fence can be right on the property line but must be maintained so if it is setback, you would be trespassing on the neighbor's property in order to maintain it. Mr. Raimondi stated that they can move it to the property line.

**Farm Stores Victor/Mike Perrilleon 290 West Main St.  
Public Hearing**

Chairperson CHaides read the legal notice into the record:

"A public hearing will be held before the Village of Victor Planning Board on Wednesday, June 22, 2022, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of Mike Perrilleon/Farm Store Victor located at 290 West Main Street. The proposed project will consist of constructing a 720 square foot drive thru retail convenience store that features grocery staples and baked goods. The parcel is located in the Gateway Corridor Business zoning 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*

**Mike Perrilleon-Owner**

Mr. Perrilleon stated that the project took more time than initially thought but that he wanted to make sure that the project is done right and that it is looking good and a part of the community for years to come.

**Josh Judkins-Contractor**

Mr. Judkins stated that he is working with Mr. Perrilleon as possibly being the general contractor for the company and that Mr. Perrilleon has done an excellent job as far as making sure that the structure meets guidelines.

*On a motion by Charles Criss and seconded by Jeffrey Swan, Ms. CHaides closed the Public Hearing*

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**Resolution #16-22PB**

**Farm Stores Victor/Mike Perrilleon 290 West Main St.**

**SEQR**

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

**WHEREAS**, in accordance with the New York State Environmental Quality Review (SEQR) procedures, the Village of Victor Planning Board hereby expresses its intent to serve as Lead Agency to comply with SEQR.

**WHEREAS**, the purpose of this project is to develop a retail grocery and café at 290 West Main Street.

**RESOLVED**, that the Board hereby accepts Parts 2 and 3 of the Short Environmental Assessment Form for this project, prepared by MRB Group.

**RESOLVED**, that the project is an Unlisted Action, and the Board does not need to complete a Coordinated Review in accordance with Section 617.6 or SEQR.

**RESOLVED**, that the Board declares that based on the Environmental Assessment, it finds that the project will result in no significant adverse impacts to the environment. Therefore, the Board does not anticipate the preparation of an Environmental impact Statement for the project. Further, the Board herewith issues a Negative Declaration under SEQR for the project.

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**Resolution #17-22PB**

**Farm Stores Victor/Mike Perrilleon 290 West Main St.**

**Final Site Plan**

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

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

1. An application was received May 31, 2022 by the Secretary of the Planning Board for a final site plan at 290 West Main Street.
2. The applicant is proposing to build a 720 sq. ft. Farm Store building with a two-lane driveway (one lane drive-thru) employee parking area, site infrastructure, landscaping, signage and site lighting. All of the work and disturbance will be confined to the front area approximately 0.45 acres. All previous existing structures have been demolished.

3. The application was referred to the Ontario County Planning Board on December 29, 2021 whereas, recommendation was made by the Ontario County Planning Board on January 12, 2022 recommending to retain referrals 14-2022 and 15-2022 as class 1s and return to the local board with comments.

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

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

**WHEREAS**, a Public Hearing was held on June 22, 2022, at which time all those who desired to be heard were heard and no one was in attendance to speak for or against the application,

The applicant presented to the Planning Board a rendering of the proposed site plan. Rendering is now on file.

**NOW, THEREFORE BE IT RESOLVED** that the application of Mike Perrilleon for a Farm Store at 290 West Main 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, Planning Board and Fire Marshal.

**ADJOURNMENT** Meeting adjourned on a motion at 8:11 pm

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Roseanne Turner-Adams, Planning Clerk