

A regular meeting of the Village of Victor Zoning Board of Appeals (ZBA) was held on Wednesday, January 15, 2019 at the Village Hall, 60 East Main Street.

MEMBERS PRESENT: Chairperson Sean Sanderson
Vice Chairperson Brian Pancoast
Member David Chalupa
Member Brendon Crossing
Zoning Clerk Roseanne Turner-Adams

MEMBERS ABSENT: Member Tim Stone

OTHERS PRESENT: David Ogden JEC Construction

The ZBA meeting was called to order by Chairperson Sean Sanderson at 7:03 pm.

Salute to the Flag

Resolution #01-20ZBA

Acceptance of Minutes

On a motion made by Brendon Crossing, seconded by Brian Pancoast, the following resolution was ADOPTED 4 AYES 0 NAYS

Resolved to accept the minutes dated November 13, 2019.

30 Woodworth Street/Dominic Salamida

Area Variance Escape Window & Well

Chairperson Sanderson read the legal notice into the record:

A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, January 15, 2020, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of 30 Woodworth Street/Dominic Salamida, for an area variance to the Village of Victor Zoning Code to allow the construction of an escape window and well. The proposed structure is approximately 3.5 feet from the foundation into the side yard. A variance of 3.5 feet is needed to comply with the 10' R4 zoning setbacks.

Sean Sanderson, Chairperson
Village of Victor Zoning Board of Appeals

Chairperson Sanderson then read the letter of referral from Codes and Development into the record:

This office has reviewed a variance application that was submitted by the resident at 30 Woodworth Street, Dominic Salamida. The building permit application was denied due to the fact that a structure is proposed in the ten (10) foot side setback as required by R 4 zoning. The resident wishes to install an escape window and well which will extend 40 ¼" from the home. FYI, an alternative location was recommended by this office by not accepted by applicant.

In the end with the proposed location of the home and with the addition of the new window/well assembly a variance of 3 1/3 feet is needed to comply with the zoning setbacks.

If you need any further assistance or you have any questions please contact my office at 585 924 3311. Thank you.

Mr. Dave Ogden stated that he is the owner of JEC Construction and has been hired to install the window and well if it is approved. Mr. Ogden stated that he has installed over 200 of these in the last 7 or 8 years.

Mr. Sanderson stated that he spoke to the homeowner who said that Mr. Ogden would be speaking on behalf of them as they were unable to attend the meeting.

Mr. Ogden stated that he is a local contractor who has worked in Victor multiple times in the last 20 to 25 years. Mr. Ogden stated that he requested that the homeowner ask the neighbors if they were in acceptance of the proposed window and the neighbor on the side that the proposed window is on wrote a letter in support of the proposal which Mr. Ogden presented to the Zoning board members.

Mr. Sanderson read the letter from Nate & Kay Driscoll of 28 Woodworth Street into the record.

Letter dated January 14, 2020 "To Whom It May Concern, We, Nate & Kay Driscoll, who live at 28 Woodworth Street in Victor, support Dominic and Ginger Salamida, who live at 30 Woodworth Street, in their application for a variance which would allow them to build an egress window on the side of their house between our two houses."

Mr. Ogden stated that the Building Inspector discussed another location option which wouldn't require a variance but it is on a concrete patio and would not lead to the proper room that needs the access. Mr. Ogden explained that the alternate location would lead to a mechanical room and the egress needs to lead to the bedroom so the proposed window is where it needs to be.

Mr. Ogden explained the procedure for installing the egress window which begins with a stakeout that takes a few days then an excavator is brought in and the lawn is supported with plywood as not to damage it. Then they dig 5 feet, take the spoil away and put approximately 1 foot of stone at the bottom. Mr. Ogden then showed a rendering of the system he proposes to be installed which is a stakWEL system by Bilco. (On file). Mr. Ogden stated that once the system is installed a code compliant window is put in and trimmed out and the interior is then finished. Mr. Ogden explained that the Village Building Inspector is involved throughout the process and once everything is code compliant it gets a dome on it which is the only thing that is visible once complete.

Mr. Ogden stated that unfortunately the code says that the window would be within the setback. Mr. Sanderson stated that in this particular neighborhood the code was designed specifically to allow the homes to be built close together. Mr. Sanderson stated that it is an uphill battle with things like this such as shed locations.

Mr. Sanderson explained that the homeowner also has a shed that needs to be moved and the homeowner said that they would be moving it. Mr. Ogden stated that he will be moving the shed for them. Mr. Crossing asked if the shed violates the setback. Mr. Sanderson stated that there is a new shed sitting in front of an old shed that is out of compliance but the owner told him that the old shed will be removed.

Mr. Sanderson stated that when he visited the property he saw the back patio location that has potential but it leads to a mechanical room so there is not a good space on the back of the house to put this. Mr. Sanderson stated that there is no option to put it on the other side of the house because it is garage space and it would still be in the setback. Mr. Sanderson stated that it makes a lot of sense to install it where it is proposed and it would be hidden behind some landscaping. Mr. Sanderson explained that the house is nicely manicured.

Mr. Crossing stated that he is trying to figure out what needs to be approved as the legal notice says 3½ feet and the Code Enforcement letter says 3 1/3 feet but when he does the math he comes up with something different. Ogden stated that it is actually 37". Mr. Crossing stated that the house is 10' 8" from the lot line. Mr. Pancoast stated that the variance would be 3.08 feet. Mr. Pancoast stated that the side setback for a house is 10' but not for an auxiliary structure and the window would be part of the house. Mr. Chalupa stated that in this location there is a 10' side setback for a house. Mr. Pancoast stated that the referral doesn't state what point of the zoning code it infringes upon. Mr. Crossing stated that the code should be sited. Mr. Pancoast stated that if it was a shed it would make sense. Mr. Crossing looked at the code and stated that he believes that it is code 170-12.1 (R4 district 1 family residential each side yard width 10 feet). Mr. Pancoast asked if the bedrooms in the basement are already in place. Mr. Ogden stated that the bedrooms are already in place and the egress window code is less than 10 years old. Mr. Chalupa stated that according to code 170-19, living quarters in a cellar, basement, garage or other accessory building is prohibited in any district. Mr. Sanderson stated that the Code Enforcement Officer would handle that type of issue and that the Zoning Board is here to deal with the side setback issue.

Mr. Sanderson then went through the balancing test with the Zoning Board members

1. CAN THE BENEFIT SOUGHT BY THE APPLICANT BE ACHIEVED BY OTHER FEASIBLE MEANS?

No- Unanimous

2. WILL GRANTING OF THE VARIANCE PRODUCE AN UNDESIREABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES?

No- Unanimous

3. IS THE REQUESTED VARIANCE SUBSTANTIAL?

No- Unanimous

4. WILL THE VARIANCE HAVE ANY ADVERSE PHYSICAL OR ENVIRONMENTAL EFFECTS ON THE NEIGHBORHOOD OR DISTRICT?

No-unanimous

5. WAS THE ALLEGED DIFFICULTY SELF-CREATED?

Yes-unanimous

Mr. Sanderson opened the public hearing

Mr. Sanderson closed the public hearing

0 persons spoke in favor of the application and 0 persons spoke against the application; 1 letter in favor of the application was received.

Discussion as to wording of the resolution

Resolution #02-20ZBA

30 Woodworth Street/Dominic Salamida

Area Variance Escape Window & Well

On a motion made by Brendon Crossing, seconded by David Chalupa, the following resolution was **APPROVED** 4 AYES 0 NAYS

To allow the construction of an escape window and well as proposed in attached survey to be located on the west side of the house located at 30 Woodworth Street. The well shall be located no closer than 6.5 feet from the lot line. Construction should be complete no later than 6 months from today's date.

WHEREAS, an application was received by Roseanne Turner-Adams, Zoning Clerk, for the Zoning Board of Appeals, from Dominic Salamida; on December 10, 2019, requesting an area variance to allow the installation of a basement egress window 6.5 feet from the lot line where 10' is required by code.

WHEREAS, said application was denied by the Code Enforcement Officer for the Village of Victor on the basis of Section 170-12.1 E-2 and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on December 18, 2019; 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 January 15, 2020 at which time all those who desired to be heard were heard and 0 persons spoke in favor of the application and 0 persons spoke against the application, 1 letter in favor of the application was received; and,

WHEREAS, after viewing the premises and after reviewing the file and after due deliberation, the Village of Victor Zoning Board of Appeals made the following findings of fact:

- That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than an area variance.
- That an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of this variance.
- That the requested variance is not substantial.
- That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- That the alleged difficulty was self-created.

NOW, THEREFORE BE IT RESOLVED that the application of Dominic Salamida, To allow the construction of an escape window and well as proposed in attached survey to be located on the west side of the house located at 30 Woodworth Street. The well shall be located no closer than 6.5 feet from the lot line. Construction should be complete no later than 6 months from today's date **Be Approved.**

ADJOURNMENT

Meeting was adjourned on motion at 7:37 pm.

Roseanne Turner-Adams, Minutes Clerk