

TOWN OF VICTOR ZONING BOARD OF APPEALS, May 2, 2022

A regular meeting of the Town of Victor Zoning Board of Appeals was held on May 2, 2022, at 7:00 p.m.

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman

Donna Morley; Sarah Mitchell; Fred Salsburg

OTHERS: Christina Cassiris, Corey Schultz, Ted Rund, Daniel Haskell, Timothy McGill, Drew Cusimano, Adam Ryczek, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Chairman Reinhardt called the May 2, 2022, Zoning Board of Appeals meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

Chairman Reinhardt welcomed everyone. He gave the meeting announcements; location of emergency exits and restroom. The chairman asked that guests please sign the attendance sheet. Agendas and business cards are at front entrance. He asked to silence cell phones and that applicants use compass directions and descriptions to create a complete meeting record. Applicants will have opportunity to be heard with as few interruptions as possible. We'll talk one at a time, not over each other. Also, to let the board know if there are additional exhibits.

PAST MINUTES:

On motion of Fred Salsburg, seconded by Sarah Mitchell:

RESOLVED, that the minutes of the meeting held on April 18, 2022, BE APPROVED.

Adopted: Ayes 4, Nays 0, 1 Abstained

PUBLIC HEARING

Chairman Reinhardt- Alright, first on the agenda KASSIS SUPERIOR SIGNS, come on up.

Ms. Cassiris- close.

Chairman Reinhardt- I still didn't do it right did I?

Ms. Cassiris- that's okay.

Chairman Reinhardt- say it for me.

Ms. Cassiris- its KA-SEISE.

Chairman Reinhardt- Kassis. Okay.

Ms. Cassiris- yes, I'm Christina, from Kassis Signs.

Mr. Schultz- and I'm Corey from Kohls where the sign would be.

Chairman Reinhardt- Okay, so, last time you were here, an issue was brought up with regard to how we distinguish between the CVS sign that's on Target and what you're asking for for Kohls and the Sephora sign. So we looked into that a little bit, or code enforcement officer gave us some thoughts and comments

and I think there some potential distinctions and that's going to go I think to the intent of the code, I think we've talked about this before, but just a quick review, looking at the code in the purpose of the signage in and of itself is not to have so many, if you will business sign and brand names sprayed, especially all about, if you will, in this development as well as over by the mall, so it's, the thought is CVS, certainly if we understand it, it was permitted under the current sign code back in 2016. Before I go any further, Did you read Al's comments? Okay, so in a nutshell what he's concerned about is that the CVS pharmacy leased, its not a sperate brand name, its, CVS is a separate in and of itself, a separate company and we've talked about this in I think the first meeting in trying to figure out what is Sephora? Is it a separate brand name is it a separate company, is it leasing a piece from Kohls, so can you shed some light on that? On how that relationship with Sephora is specific to whether or not, are they leasing it from Kohls, is it just a brand name, how does that work?

Mr. Schultz- okay, so they're not leasing the space from us, it's a partnership, and I mean, I think, our biggest thing is that its not advertising a brand that we sell, its advertising a shop within the store so it is a brand in the same way that Kohls is a brand but not necessarily in the way that, you know, under armor is or iPhone, that's been brought up in the past are. It's a brand that's the store, like we're not selling Sephora product, if that makes sense, its more the brand of the store, not of, I think the code is a brand that you sell.

Chairman Reinhardt- but is it, we keep, we talk about Dicks for a moment, Nike and Adidas and all those, their not intermixed together, there is, my recollection is when you go into Dicks, there is a Nike section, there is a Champion section, and they're carved out, and I think, it's intentional, I think its on purpose that they do that.

Ms. Cassiris- mhm.

Chairman Reinhardt- and I'm, I'm –

Mr. Schultz- but I, guess the thing is---

Chairman Reinhardt- I'm struggling with, how is that different. How is it different with Sephora?

Mr. Shultz- we don't sell Sephora, Sephora is not the brand that we sell, there's hundred of brands that are in the shop, like we don't sell, Sephora.

Ms. Cassiris- Just like CVS doesn't sell, well CVS has their own brand of pills however they sell Advil, they sell Tylenol, they're not going to put the Tylenol sign on their ---

Chairman Reinhardt- my understanding though is that CVS leases from Target. Sephora is not leasing from Kohls, so it's ---

Ms. Cassiris- they're partnering—

Chairman Reinhardt- its not a fair—

Ms. Cassiris- together as, merging together as a brand, that's why—

Mr. Nearpass- but the code follows the, the leasee- or leaser? The person leasing the space. Or the entities leasing the space, so in this particular case, there's one entity and there's a partnership with Sephora, but it really isn't much different, at least from my view of again Dick's having a partnership with Nike or whatever to exclusively hold the particular clothing line or something ---

Mr. Shultz- I guess that's where I see the difference, is the code, you know that was up there before, says you can't display a brand that you sell, that's not what we're doing, it's a shop within, you know what I mean, its not Nike or Under Armor, like that's not a apples-to-apples comparison to me.

Mr. Nearpass- but the code wants the name of the organization leasing the space, the sign on the wall, right, so, if you're Dicks you're not going to put Nike, if you're, that kind of thing, and I think also in the case of CVS, CVS I think has a, not a dedicated entrance but there's also an entrance there to the right of the entrance of Target, so if you're looking at the main entrance of Target on the right CVS has its own entrance and again the code talks about how you get one sign per entrance, for, so, so it's not too much of a stretch if you're leasing space within an organization and you have an entrance and an exit, it pretty much falls in line with it, did they need a variance for that?

Mr. Ryczek- I wasn't here to comment on it—

Mr. Nearpass- Because I don't remember a variance given---

Mr. Ryczek- I did read through it, I'm not sure CVS does have its own entrance---

Mr. Nearpass- yea, if you---

Mr. Ryczek- but the code, you're right with what you're quoting—

Ms. Morely- its recycling—

Mr. Nearpass- if you're, facing Target on the right, it has its own cross walk.

Mr. Ryczek- okay.

Mr. Shultz- they have a bottle redemption center.

Mr. Nearpass- is that what that is, okay, I stand corrected then.

Mr. Ryczek- you're citing the code right in that a sun-tenant has their own entrance, they're allowed to have a sign, any sub-tenant is allowed to have a sign as well, but you're trying to differentiate something else here because Sephora is not going to be a tenant.

Mr. Nearpass- sure, I, but I think the guidance is if Sephora were a sub tenant, they would be allowed a sign, but the sum of the signs have to still meet the square footage of the code at least, variance, right, so if Sephora was a sun-tenant you wouldn't need to be in front of us, like, again, I don't believe CVS every came in front of us, because I think today as CVS exists within Target it meets the code. That's the difference.

Mr. Shultz- yea and I, I totally get that, and I get the point of it, I guess I'm just going by the wording of the code as a brand you sell and that's not what –

Ms. Cassiris- Sephora is—

Mr. Shultz- we're trying to put out—

Chairman Reinhardt- right, so there's, looking at it, globally, and part, one of the criteria is, is it going to

change the character of the neighborhood and potentially it would.

Ms. Cassiris- okay.

Chairman Reinhardt- because when you look at all those businesses that are out there and if this particular variance is granted, its going to be that dollars to doughnuts, the Stickley and Aurhaus and every other retailer is going to come in there and say well, you know, we want Certa on the building, we want La-Z-Boy on the building, we want Nike on the building, it's like, and then where does it go, where does that line—go ahead—

Ms. Cassiris- I think that yes, but I understand where you're coming from, you don't want to open the can of worms, however, the reason why this is happening is because Kohls and Sephora are partnering together and that's why Kohls is changing all their signage, I understand this is, not just in the town of Victor but across the entire nation, they're changing all their signage to show that they are partnering together as one, even though they are not technically leasing from them, there is some way, somehow that they're getting compensated for the fact that they're putting their name together.

Chairman Reinhardt- they're not, partnering, because I thought we had asked that question before, is there a partnership, a legal partnership between Kohls and Sephora.

Mr. Shults- yea, they're not leasing the space from us but, I mean, we can't—

Mr. Nearpass- it's a partnership, the debate we had was, was it a partnership or like an acquisition--

Mr. Shultz- it is not an acquisition. We're 2 separate---

Mr. Nearpass- so you're just partners, a strategic partnership, 2 companies coming together ---

Ms. Cassiris- mhm.

Mr. Nearpass- and again I, I'm hearing, I can google Dicks sporting goods and Nike, and there's Dicks Sporting Goods announces partnership with Nike connects to do this, and you know, Kohls and Sephora very similar announced long term strategic partnership, you know companies do that all the time, you know its, that's what they're out there trying to do, I just struggle to see, like again, if you could list the number of partnerships that a Walmart or a Nike or whoever have to Mike's point, there would be a lot of them.

Mr. Shultz- so, but the I guess that's, and I keep repeating myself, I guess we just view it differently, because if someone came and said I want to put an Under Armor sign in, you know, the point is well that's not what Kohls did, we didn't put an Under Armor, Champion, we sell all those brands, you know, we're not putting a brand we sell on it, we're putting—

Ms. Cassiris- another company—

Mr. Shultz- another company that's within us, you know, and I think, that's the differentiation is somebody comes in, you know, with the can of worms' part, you know—

Chairman Reinhardt- mhm.

Mr. Shultz- if they come in with that, that's, well Kohls was allowed to do it because it's a separate shop, I mean, its 3 walls, it's a, it's not just like a section, you know of a brand we sell, it's a, 100s of brands,

it's a shop.

Chairman Reinhardt- is there an instance when Sephora is going to stand on its own? You know what I mean? For example, CVS, you can find a CVS all by itself.

Mr. Shultz- they have, there's a Sephora store in the mall, Sephora has, they have thousands of stores.

Chairman Reinhardt- okay, that again, goes back to the well, if CVS can stand on its own, but, yet if it wants to it may lease from Target, and I don't know if it leases exclusively with Target or if they go, or would do Walmart or a Kmart or any of the, I don't know if Kmart even still exists but –okay, but a kind of department store like that.

Ms. Cassiris- mhm, well they used to be obviously with JCPenney. And then JCPenney went to bankruptcy, so that's why they dropped JCPenney and they got out of that deal, and then they became, they got into a partnership with Kohls, I don't believe that, the fact that they're doing all of this, is going to be a short term partnership, it's a long-term partnership, and if, yes, down the road if something happens to Kohls, they're going to still alone in their mall store. Nothing else will change to the neighborhood. The sign will come down, everything will go back to the way it was.

Chairman Reinhardt- okay.

Ms. Morely- was Sephora ever listed on JCPenney's? At the mall?

Mr. Shultz- they have, I don't think it is anything permanent, they have window, like above all their doors, they've got, but I think its on glass, so I don't think it'd be considered permanent.

Ms. Mitchell- but Sephora is a brand name, correct? You sell, they sell, Sephora products.

Mr. Shultz- they sell Sephora collection.

Ms. Mitchell- that has Sephora's name on it?

Mr. Shultz- Sephora collection is their brand, yea.

Ms. Mitchell- so, it is like a Champion or a Nike.

Mr. Shultz- their brand is Sephora collection; Sephora is their store where they sell—

Ms. Cassiris- just like---

Mr. Shultz- all sorts of stuff.

Ms. Cassiris- CVS has their—

Mr. Shultz- right, like that type of thing.

Ms. Mitchell- you keep trying to differentiate between the 2, but Sephora is still a brand.

Ms. Cassiris- they have their own brand of—

Ms. Mitchell- right—

Ms. Cassiris- but they are a company—

Ms. Mitchell- but you keep saying that it's a partnership and you're not selling a specific brand, but Sephora is a brand---

Mr. Shultz- Sephora collection is the brand that they sell, yes.

Ms. Mitchell- correct.

Chairman Reinhardt- Fred, you got questions?

Mr. Salsburg- well I think the most telling difference is that CVS rents a clearly defined space in the store and they have frontage, there's no window on there that's not really apparently a requirement but they do have frontage, so they can have the sign, just based on the amount of frontage that the tenant has and they're clearly a tenant, what money they take in CVS keeps, it's not Targets money, so, they would not need a variance they have every right to have a sign on the wall. That's certainly a fundamental difference in the business operation. The Penney's store has a Sephora that looks a lot like that one on the right there as you get close enough to the door to look in, you see the Sephora sign, I don't know if that's a sign on the building or not but that's what Penney's has.

Chairman Reinhardt- right, so when you walk through the door on the right, right it says Sephora—

Ms. Cassiris- mhm.

Chairman Reinhardt- you're not walking into the Sephora space, your fist walking into Kohls and then you have to get to Sephora.

Mr. Shultz- yes.

Chairman Reinhardt- that correct?

Mr. Shultz- yea, that's correct.

Chairman Reinhardt- so it is, again, I'm trying to figure out where the line is here on the difference between, again in CVS you do walk through Target and however many steps over to get where CVS is but once you are, once you're in there, in that space, you are in CVS, it's a leased premises, where here it's, it is still Kohls.

Mr. Shultz- right

Chairman Reinhardt- all the way through the store.

Mr. Shultz- yea.

Chairman Reinhardt- I'm trying, I'm trying to find where that line is, and I'm having a hard time.

Mr. Nearpass- I think the line is the lease, to be completely honest, if Sephora was leasing space, a portion of the space from Sephora, I think it'd be just like CVS, I don't, so they were a subtenant.

Mr. Ryczek- the way that its different, is that CVS is a pharmacy, they are their own store within Target, CVS has its own registers, you're not purchasing medicine from Target, you're purchasing the medicine

from CVS.

Chairman Reinhardt- by law Target cannot sell pharmaceuticals.

Mr. Nearpass- but I don't think the code gets that specific, I think its much more of a, sub-tenant, regardless of how the books are made, I think a sub-tenant would be allowed to have signage, now again the square footage of that signage is going to force you to have a smaller Kohls sign maybe, there's still those restrictions, unless you come for a variance but, I think, the code doesn't get as specific as, again the books, its really a sub-tenant, so if Nike was a sub-tenant of Dick's, I think Nike would be entitled to signage, again, meeting the total square footage requirements, but I, that's the line I'm drawing here—

Chairman Reinhardt- so even if, and to CVS's example, you take a generic, say CVS has vitamins, I think in theory you could take that bottle of CVS vitamins and not go to the CVS cashier, you can go to the main cashier scan it out, but I'm going to take a pretty good guess, I think I'm right, is even though it's the Target scanner or cashier, that money goes to CVS. It doesn't go to Target. Target gets it's own piece from the lease premises. Where Sephora, you take that item of Sephora and you go to Kohls, does it go to Sephora, or does it go to Kohls?

Mr. Shultz- it goes to Kohls.

Chairman Reinhardt- okay.

Mr. Nearpass- but I don't see the code getting into any of that—

Chairman Reinhardt- No, I, it's the intent of the code, I think the intent of the code –

Mr. Ryczek- the lease is what's important on this—

Chairman Reinhardt- the intent of the code—

Mr. Ryczek- I was just helping differentiate how, because CVS leases they're like a store within a store because they're—

Mr. Nearpass- sure, and if Sephora leased to us, they would be like a store within a store, even though they may be a supplier or a subcontractor to Sephora and Sephora's, I personally don't care how the, who buys from who or whatever, but the way I think it is, is the sub, the lease agreement, and it doesn't, and we don't specify that the lease agreement has to have, you know some type of, all the financial transactions are made or not, I think it's ---

Chairman Reinhardt- we're just looking a little more globally is the board can look to the intent of the code, there isn't a, we have the code we look at it, and it's, when you look at it, the code as a whole, is what is the intent of the code, the board doesn't write it, the Zoning Board doesn't write, the town board does, all the time that we have experienced sign questions, it has come down to store front, you get a name, a business name, if you have multiple businesses, you want a monument, you don't get, the current code I'm talking about, you don't get every brand that that store sells, you get one. And the purpose of it is, is so you don't have, or this town doesn't have sprayed all over the place, advertising signs, you limit it. Within reason, so to try and find why it is that Sephora needs that sign, that is really the, it requires a variance, and it's, it won't change the character of the neighborhood, and I think that, and it being significant, I'm not, I'm not seeing it. I'm not seeing why that sign needs to be there when other stores and other brands are being sold can survive and the message that I'm seeing that you wrote in the first place was, to let everybody knows that Sephora is here. That Sephora is in Kohls.

Ms. Cassiris- mhm.

Chairman Reinhardt- well, whether it be Country Max or anything you see advertising, Iams is on sale, let's me know, if I want to go buy Iams, I can go to Country Max, right? There isn't an Iams sign all over Country Max or Nike is on sale this week, I'm going to go get some Nike golf shoes at Dick's, there doesn't need to be signage on Dick's, so I'm not understanding your message that the public needs to know that Sephora is in Kohls, and it needs a sign.

Ms. Cassiris- well Sephora is a store within a store, even though they are technically not leasing, because they are going to have registers and I'm walking into Sephora through Kohls, through that entrance I'm going to go straight to buy my eyeliner or my mascara or whatever and there's registers right there, I'm not going to walk and waste my time unless I absolutely need something in the rest of the store, that's why they're doing what they're doing. And because everything failed before and because of the way that everything is going with the malls and how they're not really probably doing great, that's why they decided to do this business element where they, even though they are technically not on paper leasing from them, but they are doing a business partnership.

Chairman Reinhardt- if we're understanding, I've heard you say a few times that Kohls and Sephora are doing this everywhere else, codes are different everywhere else, we really cannot, should not be looking at whether Pittsford or whatever is being done in Arizona, it's, the code we look at is Victor's code. That's what we need to go by. Okay, and I understand, what you're telling me, that Kohls and Sephora elsewhere are in this relationship and elsewhere its like that, but we're in Victor and we have to deal with Victor's code.

Mr. Salsburg- did the Sephora sign on Penney's get a variance or should have got a variance? Or is that okay?

Mr. Shultz- not to hurt my own argument, but I don't think theirs is permanent. Because it's on glass. So my guess is that it's a decal or---

Mr. Ryczek- its not on the building.

Mr. Nearpass- yea, it's, you said it was an inside---

Mr. Salsburg- but you could do the same---

Mr. Shultz- they have it on the outer entrances because I went and checked, to see if they had one. But it's on top, like glass above the door---

Mr. Ryczek- like a window decal.

Mr. Shultz- right, so I don't think it's, I don't think its permanent.

Mr. Salsburg- you could do the same thing.

Mr. Shultz- that would be an option, yea.

Mr. Salsburg- not as big as you'd like to have but it would at least be outside. Right?

Mr. Nearpass- as is, I concur with Mike and I think everyone else is saying is that, it doesn't meet the bar

for it's own sign, but I think the remediation is either something like they're talking about a decal an a-frame or whatever which probably isn't as appealing as they want, or, work with Sephora and get a lease agreement, and again, a lease agreement doesn't mean you get an extra sign, so I don't want anyone to quote me and say, oh, Matt Nearpass said if we get a lease agreement we get all these signs, it'll have to be complaint with the code, it'll have to replace the sign or make one sign smaller or one bigger or whatever, but I think if they would have just, if you would have just went to the code enforcement officer and you had a lease agreement for space, again similar to CVS, this would look just like the CVS deal, right, I don't see how---

Mr. Ryczek- the building is big enough where the sign that they're proposing would still meet the frontage requirements and yea.

Mr. Nearpass- my recommendation is to have those conversations between Sephora and Kohls and see if there's some type of lease agreement, because that's the model that works here in Victor, it may not work somewhere else, or wherever but, the model here in Victor is based off of lease agreements and company's that lease space are entitled to signage, or again, you can get creative and do decals and A-frame and those other things but—

Chairman Reinhardt- okay, I think you're probably you're sensing what direction that the board is feeling on this right now, and when that's happened in the past, we've given applicants some choices because, while we certainly can't give you legal advice with it, but there are consequences to a board denying a variance. There's a period of time that you have to wait and re-apply or there's other recourses certainly you can take, sometimes though an applicant will say, well gee, do I have any other choices, and a choice certainly could be, you withdraw the application, which gives you more latitude to figure out what it is that you want to do, whether it be re-apply in a different mechanism, get some legal advice on what your options are, there's a whole host of other things to do and you could do, the other thing you could do is say look could we have a little bit more time, can we come back and you know, the next time and talk about it some more, we would certainly be willing to do that, the whole idea here is to give you those options so that when you go forward with at least eyes wide open with what you want to do, would you like the board to make a decision, we can certainly go through it and do it, if you want to withdraw it, that's your option, you can do it, if you want to come back in a couple weeks, you can certainly do that too or if you have anything else you want to add or talk about, absolutely. Just let us know. What would you like to do?

Ms. Cassiris- okay, alright, we're going to withdraw our application.

Chairman Reinhardt- alright so all I ask then is if you would send an e-mail confirming that, the minutes are here, if you could do it tomorrow. Something in the nature of, pursuant to the board meeting on May 2, we've decided to withdraw.

Ms. Cassiris- now if, just before we're 100%

Chairman Reinhardt- sure, sure.

Ms. Cassiris- so when we, if we do that, then we just have to re-apply for a sign permit if we do, for example, if we do decide to go with a lease agreement and they do decide to lease, you know, an example.

Chairman Reinhardt- if there are changes to your current application, for example if a lease agreement were to have been developed, that's something new, again—

Mr. Nearpass- I think she's saying if they withdrew completely, the normal process would just be a

signed permit. If the had a lease agreement.

Ms. Cassiris- correct, yea, that's what I'm asking—

Mr. Nearpass- they wouldn't come in front of the board—

Chairman Reinhardt- okay, okay understand.

Mr. Ryczek- so if you change your sign permit application, or you know, if you give me the same application, I'm going to recommend you to the Zoning Board, like we just did, unless you present me with a lease.

Chairman Reinhardt- right

Ms. Cassiris- well that's what I'm saying, if I do present you with a lease, then all I have to do is submit a new sign permit for this same application with the lease agreement?

Mr. Ryczek- you can keep the permit application you have—

Ms. Cassiris- okay

Mr. Ryczek- just present a lease, so that we can review that and move forward.

Ms. Cassiris- and then I don't have to come back to the board? Just goes through you.

Mr. Ryczek- or if you wanted to change your idea of how you're going to try to display the sign—

Ms. Cassiris- right, I understand.

Mr. Ryczek- that would be a new permit.

Ms. Cassiris- okay, okay. Alright then we withdraw.

Chairman Reinhardt- sound good—okay, then just formalize it tomorrow.

Ms. Cassiris- will do.

Chairman Reinhardt- sounds good.

Ms. Cassiris- okay.

Chairman Reinhardt- thanks so much.

Ms. Cassiris- thank you for your time.

Chairman Reinhardt- alright, good luck. Have a good night.

Chairman Reinhardt- THIRSY TURTLE

Mr. Rund- yup, how are you doing?

Chairman Reinhardt-good, how are you?

Mr. Rund- I'm doing well, thank you.

Chairman Reinhardt- we have a little more information.

Mr. Rund- yup.

Chairman Reinhardt- Robert Graham reviewed the drawings and we have those now.

Mr. Rund- okay.

Chairman Reinhardt-so now we have a much better idea of what your thoughts are—

Mr. Rund- I apologize about that.

Chairman Reinhardt-so we have the front elevations, so now that makes sense. Okay—so to put a little more detail into it then, the enclosure that you're talking about would be used when the business is closed.

Mr. Rund- mhm.

Chairman Reinhardt- that's the primary purpose?

Mr. Rund- yea, for security, yup.

Chairman Reinhardt- okay, so now that makes much more sense, as opposed to, where I was thinking originally that you wanted to enclose it while customers and what not are in there, this is more of security.

Mr. Rund- yea, we'll take as much sun as we can get, we want to get burnt out on the patio out there.

Chairman Reinhardt- got it.

Mr. Rund- but, yea, no.

Chairman Reinhardt- okay great. Now that that's cleared up, Matt any questions/concerns/thoughts about this.

Mr. Nearpass- I don't, I wasn't here for the last meeting, so I'm some what up to speed. But---

Chairman Reinhardt- okay well let's circle around then, Sarah questions/comments/concerns?

Ms. Mitchell- nope, I have nothing.

Chairman Reinhardt-great. Donna?

Ms. Morley- I just have a question on what Robert Graham wrote on his last paragraph, that it did not

appear that the planning board had approved the covered roof at this time.

Ms. Downs- so we've spoken to the Planning Board, they've okayed everything, they don't want to review it or see it again.

Ms. Morley- okay, that's fine with me. My only question. Thank you.

Chairman Reinhardt- good, Fred questions?

Mr. Salsburg- no.

Chairman Reinhardt- okay. Any questions from the public? For or against? Concerns?

Mr. Ryczek- I just have a comment if I could.

Chairman Reinhardt- yup go ahead.

Mr. Ryczek- I would just request that the resolution states that no heating elements were approved as part of this sprinkler waiver, and that any use of or installation of heating elements would render the waiver null and void.

Chairman Reinhardt- you okay with that, or, do you want, are you thinking about having heating elements in there?

Mr. Rund- I mean, I was not, I don't know, is thermal, I've heard of thermal, which is a little more, like –

Mr. Ryczek- in some previous conversation, I believe from the planning board meetings, I believe you stated that there would be no heating elements, and there's none submitted in the permit.

Mr. Rund- okay, well then, we won't.

Chairman Reinhardt- I think the concern is, anytime we've looked at waivers, is the combustibles, and it goes back to the fire fighters that go in there, and if they don't know what's in there, it creates another hazard on top of that.

Mr. Rund- sure.

Chairman Reinhardt- so, if this is just a security, once you're done for the night, you shut it down, I think you described it as, like garage doors or some type of, again security to keep the merchandise safe.

Mr. Rund- right, correct. I guess just to ask a question, if I were, I mean we, it does get, in September, it starts to get a little bit cold as soon as the sun goes down so I think one question that I would have just to ask is if I ever wanted to put some small heaters, just for the people that were around the bar, do I have to apply again or how would that work?

Chairman Reinhardt- so, alright, lets explore that a minute, so if the heaters, are you talking about heaters, the propane heaters or those heaters that are plugged in with 220 lines, something different?

Mr. Rund- well, I guess, I have a couple of mushroom heaters that run on a propane tank, you know that we've used in the past but I, you know, I was curious if something was, because the idea that we saw this on was down south they had fans and thermal heaters, not necessarily an electric heater but, I'm not too

familiar with thermal but I guess it like, it gives, it radiates heat, it makes you feel warm but there's, its not like—

Mr. Nearpass- it's like IR almost.

Mr. Rund- yea, right.

Mr. Nearpass- like a heat lamp.

Mr. Rund- right, so I, we were, that's kind of the idea we thought, you know obviously we're not in construction, so we're not, we weren't aware of all of this process to go through all of this, so we're just kind of knocking things down as they come across our plan here.

Mr. Ryczek- well if you were to install anything like that it'd require a permit.

Mr. Rund- Okay.

Mr. Ryczek- so then we could review it—

Mr. Rund- review it then—yea.

Mr. Ryczek- and we would have to determine whether or not the building could continue to be non-sprinklered.

Mr. Rund- okay, not a problem. I mean—

Mr. Nearpass- I have a question, this is to cover the exterior where people are eating and drinking or are, because I heard security –

Mr. Rund- yea, so basically, I think I can use this part, so you'll kind of see, like you'll have a chair here, people would be sitting facing this direction, they would be facing this wall, because this is a side view, and I know I'm not supposed to be saying side, I guess if you're at the road and you're looking north at the building, this is, people would have their backs and they would be like this, so what I'm saying is that we've, where we have these chairs we put some tile down to just, so that somebody didn't fall if they were pulling a chair out on the turf, because the turf is very grippy.

Chairman Reinhardt- hold on, let me stop you just for a quick second.

Mr. Rund- yup, sure.

Chairman Reinhardt- what you're pointing to is the south elevation and describing—

Mr. Rund- yup, I'm sorry. Yup pointing to the south elevation and so, somebody would be sitting here, but above their head would be a small roof, it only extends out, I think on the other diagram it shows how far it comes out, but it comes out only about 4 feet, maybe, 3 ½, maybe, I'm not sure, but, so it just overhangs your head a little bit, we wanted to keep the sun, we wanted to keep it opened air as much as possible. So, it was really just, you know and sometimes unfortunately we get some nasty storms that come in from bad angels, so I think we were just trying to make sure that if we had a storm coming in this way that we would be able to try and keep it protected. You know at least until we got the garage doors down. Out of the rain –

Chairman Reinhardt- I understand, those, in stormy type weather, you're still open for business, right? So

you're just trying to protect again the merchandise. During business hours, potentially customers would be in that patio area?

Mr. Rund- yea, we learned a lot over COVID, we were out in the parking lot and we had a tent and the we had, you know, tables, in the coned area, and some of these storms, we're watching the radar almost every night, the storms affect our business very much with, as far as golf leagues coming in, if it rains, etc. etc. so, sometimes these storms come in and they just miss us and nothing changes or sometimes they come in and they graze us, and sometimes its just a complete wash out, so obviously we wouldn't be out there but we've had some, you know, every day is just kind of different out there with how the weather treats us so we kind of just are ---

Chairman Reinhardt- would there ever be an occasion that at, on the patio ---

Mr. Rund- sure

Chairman Reinhardt- completely enclosed with customers still in it?

Mr. Rund- No---

Chairman Reinhardt- that's a good answer.

Mr. Rund- yea, no, no.

Chairman Reinhardt-right so this is, your, its sounds like its 2 purposes, one, if that in climate weather comes in, just to shield that wayward -

Mr. Rund- sure

Chairman Reinhardt- the only time it would be completely enclosed is business is done, you're closed up for the night and you're locking it down, nobody is in it.

Mr. Rund-yup and it's something that we plan on not staffing the whole entire time, you know we see it as, and were noticing it right now, even just how we're waiting on people, it's taking us a very long time to get them service because we are, our distance is so far from either the point-of-sale machine or alcoholic beverages or non-alcoholic beverages, ice, food, etc. So, we're just trying to maximize our efficiency and give better service out there, that's one of the main, the second main reason to having this covered area.

Chairman Reinhardt- okay, Fred questions?

Mr. Salsburg- no, I think putting a permanently mounted heater is a pretty big deal. If you could use those portable ones, slide them over. Would be easier for me to vote for it.

Mr. Rund- sure.

Mr. Nearpass- I don't think we have; I don't think there's heaters on the table as part of this right yet. I think you made it clear that, if there are heaters, he's going to have to, they're going to have to re-apply for a permit---

Mr. Rund- I totally understand.

Mr. Ryczek- We're not talking about the whole patio, were just talking about underneath the structure.

Mr. Rund- I get it, and I will tell you this, my plan is to be there for a very long time, so if I do ever put it back, or if I ever come to the board and want to put those in, I plan on putting in a sprinkler system within that little area already. I tried to get the empire fire department, I tried to get a quote, and they were like, kind of confused because I have no heating elements out there, so they were like, wait why do you need this, and I was like, well, I need to get a quote so can you just write me a quote and then, the fire Marshall I was in contact with him trying to make sure that my ducks were in a row and they had responded to me and said, that hey, we understand this more now, its not a problem, you know, etc. etc. So, I just kind of backed off of that quote although they told me that it was going to be north of \$5,000.00 So I was like, okay, I guess I'll just wait to get something official if I have to.

Chairman Reinhardt- okay, that it Fred?

Mr. Salsburg- yup.

Chairman Reinhardt-Donna questions?

Ms. Morley- is there any electric out in this part?

Mr. Rund- yea, so we have, everything will be GFI rated and really we'll have just 2 TV's on the back wall, and then some coolers, just to hold canned beer or, if we don't do, if we don't run the system where we have the soda guns and all that stuff, depending on how we want to winterize it at night and all that's stuff, it might be, you know, once we get this up and running we really want to kind of feel it out and understand how to operate out there before we keep throwing money into this patio, so, but, there is just plugs , and no, everything will just be standard, I'm not an electrician but, maybe 120 volt, like pretty normal stuff plugged in.

Ms. Morley- thank you.

Chairman Reinhardt-Sarah?

Ms. Mitchell- nope, I'm good, so.

Chairman Reinhardt- question for Fred—you having Fire Fighting experience, want some fire extinguishers in there? Don't need them, just for, how he's describing what he's doing, with no heat—

Mr. Salsburg- if it were –

Chairman Reinhardt-If it were heated that he certainly would, got to go back and talk to Adam but ---

Mr. Salsburg- when it's been, for instance the shed at the quick fill gas station that was approved, had a fire extinguisher just inside the door. And I don't see anything more than that here. So—

Chairman Reinhardt-right—

Mr. Rund- I'd be more than willing to put it on our list, that's fine.

Mr. Ryczek- that may be covered under building code, we're still reviewing the permit.

Chairman Reinhardt- okay, alright.

Mr. Ryczek-if building code requires it, it'll be required.

Chairman Reinhardt- alright, any other questions, concerns from anyone else? Anyone from the public? Alright, lets walk through this. First criteria—undo economic hardship? Although the applicant doesn't have any specific numbers, he did provider us with, I think reliable information that north of \$5,000 for the structure, we've seen this stuff before, I can be expensive, and how he's described what he's going to use it for, again it's either completely closed in once the restaurant and bar has been closed and the only time any of those door would be dropped down would be during temporary in climate weather, would anyone like to add anything to the first criteria? ---

Second criteria—a physical or legal impossibility, can't really see it being a physical or legal impossibility, you can do it, the bigger piece of it is, its expensive, and I think the biggest piece we're looking at is, the comments from the Fire Marshall.

Third- the impediment to the intended objectives of this section. It's not, because again, the Fire Marshall has indicated that due to how you're going to use the building, for security purposes and as well as some temporary protection from weather, as well as an understanding that if there were any heating units, or heating elements that you would have to discuss that with the enforcement officer.

Fourth, necessity in light of other viable alternatives which meet the objectives of the code of the section, in this case its really not any other alternatives, it was also indicated, we'll add in here that you're going to have all the electrical will be GFI protected, so that's good.

Fifth- we have the recommendations and comments submitted from the fire chiefs as indicted they have no objection to it and also, it's the understanding that if there's any type of heating elements to be used, you're going to talk to the code enforcement officer. Would anyone like to add anything else to the criteria for the waiver? --- take a motion to approve the waiver ---

On a motion made by Fred Salsburg seconded by Donna Morley the waiver has been approved.

5 Ayes and 0 Nays.

Carried.

Chairman Reinhardt- good luck. Thank you so much for your patience.

Mr. Rund- Thank you guys very much for your time. Feel free to come down and see me sometime in the summer when it's done.

Chairman Reinhardt- One second, go ahead Mr. HASKELL, you have an application for a shed.

Mr. Haskell- yes sir. Oh I, yea, yes, so, if we could return back to that a little bit later, yes, the shed is, which one is easier for me to point to? I'll do it over here, it's roughly over there, this is the neighbors shed right over there, I tried to initially place it so that it was equidistant between the 2 properties, and if we could return back to the original picture that was up there. The flags, yes, so, the flags that you're looking at over there are where the wire for the invisible fence lies, we inherited this property from the people, oh sorry, we inherited the invisible fence from the people prior to us and apparently they ten years prior inherited it from them, so, that for 2 years plus was the understanding of where the property line between us and our neighbor was, so when I initially placed this shed there, like I said I attempted to make it equidistant between their shed and our shed, single family house hold we needed an immediate

solution, we have, right now, a 4 month old and a 6 year old and a 4 year old, so we needed a place to store things, there's a single shed, sorry a single garage, we needed a place to park both cars, we need to get things out and put them someplace else, I have no interest in keeping the shed, it is, to my knowledge when I bought it, it was \$380.00 from home depot, its being held together by 287 screws, nothing more, there's nothing that's breaking the ground, our intent was and is to build a permanent shed, unfortunately I can't, this picture is a bit askew, but may I approach –

Chairman Reinhardt- yea, go ahead.

Mr. Haskell- *inaudible* -- I spoke with Al about this when he was still here, the property for quite a bit amount of time, even today if we were able to travel there, is marsh like, I know that its not designated as marsh like, but it is marsh like so, in the letter that I wrote to you, and I apologize for the hysterical typo where I wrote fauna instead of flora, so you're thinking bones are holding it up instead of roots, the placement was chosen because there were plants on that location, so there's a root system underneath that's able to hold it up, as I mentioned before there's nothing breaking the ground, so the only thing that's holding the shed steady is plywood, that's it. Unfortunately, we're not able to actually buy a shed now, which was the intent, the intent was to have it permanent shed, between all the kids' toys and all of my wood working, tools and everything else, we need a proper shed, but we had a water main break in the garage this year, which required a significant amount of remediation and during the process of remediation they found that there was an issue with the roof, so on top of the \$12,000.00 that I spent to date on the remediation inside of the garage, I'm now spending an additional \$20,000.00 to get a new roof, so as a single family household, single income household, I just don't have the budget to build a proper shed this year. The intent is, like I said to get a proper shed built as soon as, as soon as plausible. I'm hoping next year, it depends, no longer than 2 years, and that would be right around there, and that would not require a variance.

Mr. Nearpass- in that drawing is that the shed? Right there?

Mr. Haskell- that's to my knowledge, I drew that in with Al, when I sat down with him to review the application, that's to my knowledge, close enough to my best knowledge, where the shed is right now, a request for there to be a 10' rather than 15' setback, because initially there was a 10' setback when, where you saw the flags were, unfortunately our neighbor had an issue with, I think the west –

Mr. Nearpass- when you say there was a 10' setback ---

Mr. Haskell- neighbor, it was 10' from where you saw those white flags.

Mr. Nearpass- oaky, but the property itself didn't have a 10', it had a 15' setback.

Mr. Haskell- the, the, what I've learned is that there's a 15' setback, correct, when I initially did this, it, even on the application it says city of Pittsford, my address is 7940 Oak Brook Circle, Pittsford, NY. My mistake that, you know, I understand from speaking with Al that its Victor, Pittsford has an allowance of a 5' setback for a structure, they said, because its literally structurally no different than one of my kids play houses, its, and Alan told me that there's actually, allowances for playhouses like that which is why we don't need to submit an application,, when we need to build a kids playhouse, so yes, my request for a 10' setback is simply because it is quite literally not feasible for me to move it anywhere else unless its going to sink into the ground and I don't even mind if there's a time limit placed on this variance because, I have, if this shed lasts another year, I'm lucky. It was purchased last minute. So – there was like I said, what happened with the property line was the neighbor which I believe is to the west, *turns* is it to the west, that the other neighbor ---

Chairman Reinhardt- you, no wait, hold on ---

Mr. Haskell- oh, I'm sorry.

Chairman Reinhardt- that's going to confuse the record, talk to us, if there's questions to the public, we'll ask the public so --

Mr. Haskell- oh, oh, okay, so. The other neighbor had cut down trees, which caused my neighbor to have a survey run and apparently the survey came back showing that the property line is actually where the fence is now, rather than what was the operating property line from what I have on record, 20 more, or more years. Now I have not had a secondary survey done, and that's --

Mr. Salsburg- how many feet --

Mr. Haskell- we will do that.

Mr. Salsburg- how many feet are you away from the property line? 5'?

Mr. Haskell- 5', no, well, yea, 5' from the fence, assuming the fence is the property line. So I'm requesting that if that does remain the property line, when we have a survey done, that I would need to move 5' more because when I went over it with Alan an additional 5' is something that do-able anything more than that would sink into the ground.

Chairman Reinhardt- alright, so lets just do a fact check real quick here, when you said assuming that the property line is correct, or assuming that the fence is on the --- unless we hear something otherwise, looking at the survey, going with our code enforcement officer, that is the fact, right now---

Mr. Haskell- right, right, and that's why I'm requesting the variance, sir.

Chairman Reinhardt- okay, yes, so we're right, the working knowledge the board will have is that your current shed, temporary shed is 5' from the property line, unless you have some other information

Mr. Haskell- no, no, no. That's true, that's what I just, its should be in his write up as well, and the assessment if you can go back to the picture with the flooding, yes, is that, I spoke to my landscaper as well, is that we can afford to move it over another 5' without any issue, and its not an issue for me to move the shed --

Mr. Nearpass- closer to the house and then over another 10', I'm looking at your ---

Mr. Haskell- there's, so I, realize that I didn't have anything over there, but closer to the house there's trees, there's, yea, I mean, I, I could, potentially bring it closer to the house, and, but, that would run into another tree. Theres this tree, there's this tree and there's another apple tree right there. I'm happy to bring more pictures if you guys need it.

Chairman Reinhardt- Sarah you have questions?

Ms. Mitchell- I, the lot is over an acre in size, so I have a hard time believing that there's nowhere else where this shed can go to meet the code requirements.

Mr. Haskell- that's why I said I'm happy to bring more pictures. I mean if, If I, if you believe a shed should be in the middle of a property, then you're correct, that we could potentially move it into the

middle of the property, but who would put their shed in the middle of the property? That's why –

Ms. Mitchell- I—

Chairman Reinhardt- its not necessarily, you don't have to move it in the middle but what I think Sarah is point is, is that, you can move that shed any number of places that would be in compliance with the code, we're looking at the criteria, and all these elements that we look to is basically one of them is can you comply with the code –

Mr. Haskell- right, and that's what I discussed with Alan, that's why I'm happy, if need be to bring more picture because unless I bring it into a place that, no one in their right mind would place a shed in a house, then there's no where in the back lot area that I can place it, where it wont be subject to the flooding that this would cause. That would impede the placement essentially.

Chairman Reinhardt- Go ahead Donna, questions?

Ms. Morley- where are you going to place this new shed that you're talking about?

Mr. Haskell- so the new shed will have a foundation built, that's what I was trying to say, the new shed will have, be properly built, it would be properly, have a foundation in the ground and I plan on having it hidden, so that we don't have to see it, because no body wants to see their shed when they're in their house, in the back area over there, which will take –

Mr. Morley- where would it be? Can you bring that map up Suzy?

Mr. Haskell- yea.

Ms. Morley- yes, thank you.

Mr. Haskell- yea, so *inaudible*

Chairman Reinhardt- you're pointing to an area on the survey map, what's the best way to say this, there's a compass, correct, on the survey map?

Board- yup, upper left.

Chairman Reinhardt- right, so you were pointing to an area that is further north of the compass on your property.

Mr. Salsburg- Northwest.

Chairman Reinhardt- I'm just trying to use some words, so our record is ---

Mr. Haskell- yes sir.

Chairman Reinhardt- as accurate as it can be.

Mr. Haskell- right

Chairman Reinhardt- okay

Mr. Haskell- yup.

Chairman Reinhardt- go ahead, go on.

Mr. Haskell- yes, so, despite the flooding we've spoken to some people when we still had, prior to the, having to spend the money on the remediation for the garage this year, we got some quotes and they're able to create a foundation in that area, that won't impede placement. Despite the flooding.

Mr. Nearpass- how are you going to get to it? If it's flooded all around it?

Mr. Haskell- that's part of what the construction is going to be, they're going to remediate the, like the flooding, they're going to--

Mr. Nearpass- I'm just talking about walking to it. Oh, you're saying they'll regrade the back.

Mr. Haskell- right, right, there's going to be some remediation so that the water flows out more, because in the back over there is a hill that goes downward to a stream.

Mr. Nearpass- but you're still asking for a variance, even for the new one.

Mr. Haskell- no, no.

Mr. Nearpass- see, no, you're not asking for--

Mr. Haskell- the new one will not require a variance, no sir. New one is going to be constructed properly.

Chairman Reinhardt- you wanted to move 10'

Mr. Nearpass- yea, that's what I saw. I thought you wanted 10' for the new one?

Mr. Haskell- no, that's what I tried to clarify with you over e-mail, no, the new ones not, absolutely not going to require a variance, its going to be possibly 20' or more, I don't even see it being a problem with code at all, yea, no I wanted hidden out of, I don't want to see, I don't think anyone wants to necessarily see their shed when they look out from their house.

Ms. Mitchell- so this one can't be moved, is that why you're here? Like why can't you move this one now?

Mr. Haskell- ma'am I can move it an additional 5' from where it is --

Ms. Mitchell- okay.

Mr. Haskell- if I move it any more than 5' which is I'm requesting the variance 10' rather than 15' then I run into that flood plane, which goes ---

Ms. Mitchell- so—

Mr. Nearpass- if it's only going to be temporary, why not just move it 15' and --

Ms. Mitchell- right.

Mr. Nearpass- you know what I mean, if it's going to be temporary, I'm just playing devil's advocate here.

Mr. Haskell- No, and I – I—

Mr. Nearpass- if its only temporary.

Mr. Haskell- that's fine and that's why, I'm happy to bring any, any discussion I've had with, trust me, I've run through this with as many people as possible, I'm not trying to be difficult. I, I want this done with, this is, like we have so many things to deal with, if we were to move it over, I can not tell you, given that we're a single income household when I can recover from what is now a \$32,000.00 investment between the remediation and the garage and the roof when I can go and spend what our initial quote was \$11,000.00 for the new shed. I can't, I'm sorry. So, but can I say it's going to be within the next 2 years, yes. If its 2 years from now, then this shed at some point, when you go, if you go back to the flooding is going to sink, it's going to sink.

Mr. Nearpass- what about the North end of the property?

Mr. Haskell- what do you mean? The north end?

Mr. Nearpass- the north end of the property, I think the star, so to the north is to the right, correct?

Mr. Haskell- right.

Mr. Nearpass- what if?

Mr. Haskell- up there?

Mr. Nearpass- the north end, like right –

Mr. Haskell- right where I was just showing?

Mr. Nearpass- the vertical line—

Mr. Haskell- yes, so, this area?

Mr. Nearpass- even farther, even closer to the house. I mean I, I see a lot, I see a small shed and I see a lot of space.

Mr. Haskell- there's, there's a big tree over here, there are trees all over here, there are trees, a line of trees over here, there are trees where I showed you, tree right there, tree right there, tree right there.

Mr. Nearpass- and it can't fit anywhere over there?

Mr. Haskell- there's a, there's a birch tree right there, I, I promise you, we can adjourn if you want more pictures, I'm not trying to be difficult.

Mr. Nearpass- I didn't say you were trying to be difficult ---

Mr. Haskell- I would love to bring more pictures.

Mr. Nearpass- I'm not trying to be either, I'm inquisitive, I mean that's what I get paid to do, right?

Mr. Haskell- if I could place this anywhere else, I would love to do it just so this could be over, I really would, I, I don't want this to—

Mr. Nearpass- I look at the photo that you have here –

Mr. Haskell- right

Mr. Nearpass- and I frankly still see a lot of space, I, I don't, maybe I'm the only one, but I, I don't see –

inaudible

Mr. Haskell- all I can say is if we placed it anywhere else on that side of the house, on that side of the property it would look extremely awkward and I know that one of the requests is that we don't impede the, the way that the town looks, it would be extremely awkward to have anything there, we'd have to have it at an angle

Mr. Nearpass- how would it be awkward?

Mr. Haskell- a strange angle, yea, I –

Mr. Nearpass- why would it be awkward?

Mr. Haskell- why would it be awkward?

Ms. Mitchell- especially if its temporary, if you're only leaving it there for a brief amount of time, why does it matter if it sits in the middle of your back yard for a year at the most?

Mr. Haskell- because the flooding that I'm talking about, which we have runs all the way, it doesn't just, it doesn't just flood here, it floods all the way there, so I would have to have it forward more, like around there, so we'd have, a shed in the middle of our ---

Mr. Nearpass- temporarily

Ms. Mitchell- its temporary

Ms. Morley temporarily

Mr. Nearpass- the variance is going to run with the land, right?

Mr. Haskell- the variance is going to run with what?

Mr. Nearpass- the variance runs, when you—

Chairman Reinhardt- variances are, what he's referring to, runs with the land, so if you were to sell the property tomorrow, if a variance is granted it stays with the property.

Mr. Haskell- oh.

Chairman Reinhardt- forever, alright, unless something else changes, so when you say a temporary

variance, it's, it doesn't quite go together ---

Mr. Haskell- I was inquisitive is all –

Chairman Reinhardt- no, that's okay, that's why we have these conversations.

Mr. Haskell- right.

Chairman Reinhardt- lets go back just a little bit, how long have you lived there?

Mr. Haskell- we moved in; I purchased the house in 2018.

Chairman Reinhardt- was the shed there?

Mr. Haskell- it was not.

Chairman Reinhardt- alright, so you put the shed in?

Mr. Haskell- correct.

Chairman Reinhardt- when did you do that?

Mr. Haskell- a year and change ago—

Chairman Reinhardt- so 20? – 2021? 2020?

Mr. Haskell- I don't recall at this time—I could--- if you give me a moment—

Chairman Reinhardt- okay, so, you're plus or minus a year, that's your recollection?

Mr. Haskell- *sighs*

Mr. Nearpass- there's always a pre or post COVID now with everything ---

laughter

Mr. Haskell- well I'm also dealing with, lack of sleep from being a new parent, like I said, I have a 4-month-old so – 2020, November 2020.

Chairman Reinhardt- how big is the shed?

Mr. Haskell- the shed is 8' x 12', I think. 7'x 12'

Mr. Salsburg- 8'x 10' did I see somewhere?

Mr. Haskell- 8' x 10' sounds right.

Chairman Reinhardt- so 8' x 10', alright, and have you looked into, if you were to move it, how are you going to move it, are you going to ---

Mr. Haskell- I would move it just like I did when mt neighbor first approached me to move it.

Chairman Reinhardt- which is?

Mr. Haskell- pick it up and pull it.

Chairman Reinhardt- okay, so, manpower?

Mr. Haskell- yes, manpower.

Chairman Reinhardt- people power?

Mr. Haskell- yes.

Chairman Reinhardt- okay.

Mr. Haskell- so it's not a matter of like, like, you asked, I could technically place this anywhere, its just a matter of –

Chairman Reinhardt- the problem then becomes, what Matt was talking about, it runs with the land, no body has a crystal ball, so when you say temporary, and we've been down this road before with other people, its like, well we're going to fix it, we're going to take care of it, and 6 months goes by and its still not fixed, 12 months its still not fixed, still not fixed, and it puts this board in a bit of a bind, and its like well now we're –

Mr. Haskell- I understand.

Chairman Reinhardt- so—if it's a small enough shed, and if its going to take some people power, you know, a weekend, and your buddies, or gals, and you pull it away, and if it sits there for 6 weeks, 6 months, 6 years—

Mr. Haskell- no, its going to be, it's going to be—

Chairman Reinhardt- you can decide whenever you want to build it, and then it's off the plate of this board to figure out, well has he done it, and the code enforcement officer really doesn't need to go knocking on your door, did you move the shed yet? Is it complaint? It just puts a bigger onus on the municipality to figure out when it is that you're going to do this, what you say you're going to do.

Mr. Haskell- right.

Chairman Reinhardt- it's a simple enough solution, if you can move it, so you don't need a variance, why not move it, and when your build your permanent shed, wherever you want to build it, in compliance with the code, you're all set and you don't need a variance at all.

Mr. Haskell- if that's the case then I'm not going to be able to move this until at least July when the land hardens enough, and if the board is fine with that, then I'll just withdraw my request.

Chairman Reinhardt- July?

Mr. Haskell- I, I, my landscaper can't even mow the grass back there. So, if we're talking about a shed which with things in it, is going to be heavy enough to push things down, its going to be at least late June, July before I can move it.

Chairman Reinhardt- lets hold that thought a second, any other questions for now?

Mr. Salsburg- well I think that you're over stating the sinking problem, you have a, in my view a relatively minor, drainage problem, which will take longer to fix than moving the shed will, I think you should move it 10' instead of 5' –

Mr. Haskell- I'm, I'm saying if I move that ---

Mr. Salsburg- if its only temporary and you can do that by hand, and put a few bags of stone under it, and it won't sink.

Mr. Haskell- put a few bags of stone? Under it?

Mr. Nearpass- what he's saying is –

Mr. Salsburg- in the length of time you're going to move it –

Mr. Nearpass- Hess saying he'll move it 10'

Mr. Haskell- yea, I'm agreeing –

Mr. Salsburg- you don't need a variance, because I'm not in favor of voting for a variance, I'll tell you that right now---

Mr. Haskell- no, no, I said that I'm happy to withdraw it—I'm happy to move it—

Mr. Salsburg- I just think, you should move it the 10' instead 5'

Mr. Nearpass- what he's saying is –

Mr. Haskell- I'm agreeing—

Chairman Reinhardt- he needs until June/July to do it—

Mr. Salsburg- well I don't think so—

Chairman Reinhardt- okay.

Mr. Salsburg- In my view it isn't necessary because you can move it by hand—

Ms. Morley- take your stuff out of the shed and move the shed.

Chairman Reinhardt- alright, so lets just, hold that thought a second—anyone from the public want to speak for or against --- come on up, why don't you give him a little space, and – thanks so much. And you are?

Mr. McGill- excuse me, I am Timothy McGill, my wife Wendy and I are owners of the adjacent property south of Mr. Haskell's property. –

Mr. Salsburg- you wrote the letter?

Mr. McGill- yes, I, I have Mr. Haskell's statement of the 5 considerations that the board members are supposed to consider in looking at a variance, and he is adding some context, one thing he mentioned, that if I could, and thank you for letting me comment on this, because this is crazy to have an area variance on a setback in a subdivision where all the lots are 1-2 acres, with a movable accessory storage shed, and I appreciate you're letting me comment on it, because you, I don't think you should have to spend your time on something like that, the first reference that I'd like to comment on is those flags for the underground fence for the dogs, we put those there, that's the first I've ever heard of that, we put those flags up, because when we bought our lot in 1996, we've been there a long time, and we had a dog and we tried to use the underground fence and we didn't like it, my wife didn't like it, the way the dog hit it. Those flags—that's not from an instrument survey, from a surveyor, it's an underground fence, when we bought our property, I had it staked, surveyed, I knew where our lot, side lot lines were, and that's not it.

Chairman Reinhardt- those flags are on your property? Correct?

Mr. McGill- yea, yes. So I knew where, if you'd be kind enough to let me tell you, this is 2020, I came home from golfing because it was the first year of the pandemic and I was working mornings, golfing in the afternoon, and then working at night, I came home, my wife said that the neighbor on the other side of our property, and that's further to the south, an accountant, and he had just bought, a young person, like Mr. Haskell, a couple years before. He was cutting down trees in our back yard and expanded his back yard, seeded the grass, and expanded his back yard into our property. My wife went out and said you're cutting down trees on our property, and he said no, and he was waiving the instrument survey, but he didn't have it staked out, I knew that he was on our property, so I had to get a surveyor, pay for that, staked it and he was a good 20-25', expanded his back yard into ours. So, I applied for, Zoning Board gave me a permit to build a split rail fence, otherwise in 10 years or so, I'd lose the property right to that portion of my back yard, that property owner never apologized, never mentioned it, so that cost me thousands of dollars for the split rail, and for landscaping, that's just a lead-in, when I had it staked out, because of that going onto my south, we had a corner stake at Mr., at the lot line, where, and I knew where our lot line was there too, but it turns out that, and he had put it, this movable shed either on our property or right on the line. My wife thought it was on our property. I was golfing again, maybe the golf is the problem, I don't know, so I mentioned, so he had it, she thought on our property, but if it wasn't it was right on the line, I went over and talked to Mr. Haskell, I don't, and I submitted the pictures earlier, here's a number of these--- September of 2020, and the sheds empty, and movable, and as Mr. Haskell just said he moved once, from being on our property to 4' we think its about 4'. So I walked up to his back yard, its still empty as the picture shows—

Chairman Reinhardt- I'm sorry, I'm going to interrupt you real quick, these are all the same?

Mr. McGill- yes, they are.

Chairman Reinhardt- so I'm just going to pass them around. Thanks.

Mr. McGill- this is in 2020, so I walked over to the back yard, and I didn't even know Mr. Haskell, he'd only been there 2 years, and I wasn't in an argument or anything, I was very naïve, I thought that I was just giving him some information, I said, I was aware of what the Zoning requirements are in our subdivision because I just had the split rail on the other side, because of the problems there, so I mentioned to Mr. Haskell, I said, I just want to let you know, there's a setback requirement, even for and accessory storage shed, and I told him it's 15' and the town website says you should contact the town, you're going to need a permit, and you may need, even need to amend your site plan. And I had to get a site plan amendment for my split rail fence, which is fine. So, he didn't say anything, then the next day, or a few hours later, he sends a text to my wife's phone, he must have had hers, and it included the town of

Pittsford Zoning regulation, that had a 5' setback, now when I mentioned it to him, and said it's 15', I didn't say in the town of Victor, I just said its 15' you need to contact the town, So I responded, it said, this is Tim, we don't live in the town of Pittsford, we live in Victor, and that's understandable, because as he said, we have a mailing address that's Pittsford mailing address, so I don't have a problem with that but, and I explained to him again and I said it's 15' and we live in a limited development district, now, I know a lot of you probably have a lot of property and you may be in parts of the town where there isn't even a setback at all, and that's fine, but in this subdivision it's a limited development district with 15' and he responded and said this is no more development than my kids swing set, so now we're arguing whether or not the law is proper, and I had nothing to say other than, that's what the law is, and it is the law, because Zoning regulations have the force and effect of the law. So what, what I mentioned to Mr. Haskell was, he should, he needed to go to the town Zoning and building department to get pre-approval and to get a permit, he said it's temporary, just the little bit of what you heard today, but in September of 2020, temporary was this spring, 2021, and I'm going to have, you know a big shed with pilons and a road, etc. etc.. back in the woods, well when you go in the woods to the west, we don't own the woods all the way to the west, if you go out and look at our property, once you get to the woods, its not our property so, I don't know where it's going to be, but if it can be where he pointed today, why didn't he put the temporary shed there? And he never said anything about, I could do, and if that's the only place why didn't he have it 10' in to start with, so, he said it was temporary until the spring of 2021, and I still said, no, it's 15' I didn't agree that it's temporary, and I said to my wife, we'll see what the temporary is, and now, we're in spring of 2022 and now he's talking 2, up to 2 more years, and as you mentioned a variance runs with the land, the other considerations, you do have, the first one is whether it effects the subdivision or us, something that runs with the land, when I drove today I noticed there's a shed across the street from me, a split rail fence and a shed and its within the setback, now if you look at, I don't know what pictures Mr. Haskell has given you, but, the second one shows side by side now of where my shed is 16' and his is 4'. The second picture shows the land if he moves in 10' more, and you can see it's just a normal back yard, there's no swamp or anything. Its just, it's like my back yard.

Mr. Nearpass- are the pictures of the same shed because one looks, unless it was painted—

Mr. McGill- right, the first picture I gave you was how it looked before he put anything in it, in September of 2020.

Chairman Reinhardt- alright, let me ask you to slow down just a little bit, I appreciate what you're telling us, and I want to mark these so that I can, we have a record, I'm going to mark the first one you handed the picture with the shed in it, were going to call that –

Mr. McGill- with it empty—

Chairman Reinhardt- right, we're going to call that Exhibit A, the picture that you gave us with the split rail fence, now were going to call that exhibit B, okay, that's that one, then, last one, we're going to call that exhibit C, and we're going to keep these with the file, so let's talk about exhibit A, just real quick, did you take that picture?

Mr. McGill- yes, I did.

Chairman Reinhardt- you took that in--?

Mr. McGill- September 0f 2020

Chairman Reinhardt -September of 2020, okay.

Mr. McGill- that was when I was viewing, when he was first putting it up and I was giving him a heads up—

Chairman Reinhardt- hold on, hold that thought, just want to identify some of this stuff, Exhibit B. You took that picture?

Mr. McGill- yes!

Chairman Reinhardt-oops, sorry, that better? When did you take it?

Mr. McGill- Saturday, this weekend.

Chairman Reinhardt- and exhibit C, so that one as well?

Mr. McGill- this weekend.

Chairman Reinhardt- right, this week, alright.

Mr. McGill- this past weekend.

Chairman Reinhardt- don't lose those pictures. Alright continue –

Mr. Nearpass- hold on, hold on. Question though, exhibit A has no fence, and the shed is white, exhibit B has a fence and the shed looks blue, I'm just trying to make sure I'm –

Mr. McGill- it's black—

Mr. Nearpass- okay black—

Mr. McGill- the shed initially, there was no fence, and I had had it staked out because of the other neighbor, cutting down trees---

Mr. Nearpass- this isn't the fence on the other side of the house that you were saying? You have a fence on both sides?

Mr. McGill- now I have it on both sides. I, because of this shed thing, I looked—

Mr. Nearpass- the shed's just been painted? I take, I get it, I totally get it—

Mr. McGill- yea, it's been painted, it's the same shed, but you can see it didn't have a fence and this fence cost me a couple thousand dollars, we're worried about his garage, but I mean at some point—

Chairman Reinhardt- in exhibit A, you had that staked out, I'm seeing a stake---

Mr. McGill- I had it staked out because of the other side, but I had the property corner staked by an instrument survey, paid for it, and then I didn't have the string there when he was starting so, he started out on my back yard, then we, I had my landscaper put a string there to the side stake and he moved it to 4' and said nothing about, well I could move it to 10' but in any event I said that its 15' I told him all the things I said, please contact the town, and I actually volunteered, this is the first, before he even put anything in there, I said that if you don't want to contact the town, I will for you if you want me too. I was naive, I'm telling you, I was very naive, I thought he would say, oh, thank you, I didn't realize it was 15'

and he'd move it to 15' now the reason I say that is, I'm old school, and I think one of the great things about our country and this town is we have property rights, constitutionally protected contract rights and the rule of law and all those things separate us from banana republic's from socialist countries and this I know its very minor but its almost to me like, back in the 90's when New York City had the broken windows approached to policing, you have to enforce the minor violations so that there's a respect for the rule of law, I believe in that, and now, I know you have the authority and power to deny a variance like this or to accept it but I believe that if you look at the considerations, the facts, the 5 factors you're supposed to consider, Mr. Haskell says that I should have, cannot possibly impact me because it's on the other side of our fence, well I'm the adjoining neighbor, a setback, I believe is for my benefit, not his, how can you say that because its on the other side of the lot line fence, I couldn't possibly impact me, and he's worried about the how it looks on the other side of his back yard, that I heard today, he can't have it over there because it, or he's got to put it back in the woods because no body wants to look at a fence, but what about us looking at a fence, you know? It's almost like our property interest and property rights are ignored and it's so minor, I just feel awful even, I really hate to object to a neighbor seeking this variance but with that little land use story of mine hopefully you can understand why I brought it to his attention, I thought he'd just move it and I brought it up a couple times since then and he wouldn't and now I'm hearing things about flooding being etc. I haven't seen any professional certification by an engineer some landscaping some real estate person to say that an easily movable, and he already moved it once, to 4' off my property, and he'll move it 5' to 10' but he won't move another 5', and my understanding in the town law is that there has to be a unique hardship, and if you do grant a variance it should be the minimum necessary, its hard to see the necessity on this type of, easily movable accessory, sure it's a storage shed, the, let, him, and then I, saying its temporary, we've already gone, I was told September 2020 and in April he's be doing this other shed and now it's a year later and now he's saying 2 more years, I feel that, he should comply with the law.

Chairman Reinhardt- I appreciate your thoughts and comments, thank you. Would you like to comment?

Mr. Haskell- uh, yes.

Chairman Reinhardt- hold on, hold on, time out---

Mr. Haskell- thank you, sure.

Chairman Reinhardt- have you seen this picture that he offered?

Mr. Haskell- uh, no.

Chairman Reinhardt- okay, so, there's a set for you. Yup, there you go.

Mr. Haskell- so, first, Tim, I ---

Chairman Reinhardt- no, hold on—

Mr. Haskell- I'm sorry—may I ---

Chairman Reinhardt- nope, you ---

Mr. Haskell- I may not, okay.

Chairman Reinhardt- talk to us—

Mr. Haskell- I—

Chairman Reinhardt- hold on, hold on, let's not talk over each other, you have a question that you think that you would like us to ask Mr. McGill, we'll consider it, but we're not going to get into the applicant and a neighbor having a discussion.

Mr. Haskell- sure. Okay, yes. So, yes, I, Tim approached me, when I was putting the shed together and informed me of the setback, now as far as, this is actually a great picture because it shows where the *inaudible*

Chairman Reinhardt- so you're looking at exhibit A.

Mr. Haskell- *inaudible*

Chairman Reinhardt- right, that's B.

Mr. Haskell- so, I put the string up because I wanted to comply with 5', this was when I still was under the impression that we were in Pittsford, there was at no point that he told me about Victor, but I don't want to argue about this, because I just said before that I'm fine with withdrawing this application, as long as I can have time to move it, because I, whether you guys need it or not, I've spoken to my neighbors landscapers, who are there almost every day, I've spoken to my landscaper, and that land will remain that wet and difficult to move things, especially this when I have to take things out and move it at least through the end of June, I know that because he can't mow the lawn until the end of June, now as far as the stakes—

Chairman Reinhardt- can I ask you, before you go any further, you've said that a couple of times, as far as other information, would you be willing to get from your landscaper, who ever is cutting the lawn, in fact he can not cut the lawn until the end of June.

Mr. Haskell- yes, I'd be very happy to, yes. They were just there this weekend, they had to stop, they couldn't do it.

Chairman Reinhardt- hold on—he can't cut the lawn.

Mr. Haskell- they, they used, no, they, what they used was a --- what's it called?

Chairman Reinhardt- weed whacker?

Mr. Haskell- a weed whacker, right! They used the weed whacker to cut the lawn in the back over there, because yes, its stays that wet, it happened to be dry because, when Tim took the pictures, my neighbor, but it is wet now yet again and I'm happy ---

Chairman Reinhardt- I'm trying to, just trying to get some clarification, I thought I asked you if not, I apologize, can your landscaper cut your lawn, the entire lawn, until the end of June, just can't do it.

Mr. Haskell- he can not bring his heavy equipment, because they ride on zero-point tractors or whatever, mowers, he can not bring the zero-point mower back there—

Chairman Reinhardt- let me try to ask again, a very specific question, you have 1.1 acres of land, is that correct?

Mr. Haskell- right. Correct.

Chairman Reinhardt- so, for this season, your landscaper can not mow any of it?

Mr. Haskell- no.

Chairman Reinhardt- none of it?

Mr. Haskell- no, he can, he can mow all of it, except for the portion---

Chairman Reinhardt- okay, now we're getting somewhere.

Mr. Haskell- I apologize if that wasn't clear, yes, he can mow with the zero-point mower up to where you can see the flooding is---

Chairman Reinhardt- if I could then, doesn't it beg the question then, why you can't move it to where he currently mows, and still be in compliance with code?

Mr. Haskell- there's a tree there, I, I can bring, if I bring it forward more and 15' out which I'm saying I'm fine taking it 15' out, I'm going to withdraw the application, but if I were to bring it forward more then I would have that tree blocking the entrance to some capacity, unless I put it---

Chairman Reinhardt- you've indicated that your permanent shed— in your mind is going to be built in 2023/2024.

Mr. Haskell- it was supposed to be built as Tim indicated earlier, but COVID now—yes.

Chairman Reinhardt-I'm not suggesting this board is okay with that, but I'm just trying to figure out is, if you're going to be in compliance with the code where that permanent shed is, why don't you move the shed that you currently own to the spot where its going to be, the permanent shed.

Mr. Haskell- because I cannot, as I mentioned before, I can not speak to when I'm going to be financially able to have that built.

Mr. Nearpass- he's got to get the back re-graded.

Chairman Reinhardt- okay.

Mr. Haskell- and the back, they have to do remediation. Because just off to the side there is some remediation because they knew, the property had some flooding, but I don't know what happened over time, maybe my neighbor does because he knew the neighbors beforehand, it's gotten worse, they need to fix it, there is some kind of land remediation that needs to be done. I'm happy to move it, I'm simply saying that in order for me to move it where I would like to move it, which is simply just adding the extra feet that I need to in order to move it north, I believe that way is north---

Mr. Nearpass- you're going to move it towards the water?

Mr. Haskell- towards the water? Yes.

Mr. Nearpass-you really want to move it towards the water?

Mr. Haskell- no, no. *inaudible*

Mr. Nearpass- but you've got to go 10' right?

Mr. Haskell- correct.

Mr. Nearpass- so, I was—

Mr. Haskell- I can move it forward a little bit here.

Mr. Nearpass- I mean but if you look at exhibit A, I'm just trying to figure out why you couldn't pull it forward and then to the right.

Mr. Haskell- I'm sorry—

Mr. Nearpass- Exhibit A, here's my chicken scratch, right, why couldn't you drag it forward and move it to the right, then you're ---

Mr. Haskell- *inaudible*

Mr. Salsburg- the applicant is willing to move it to comply with the code, we don't have to keep going over it.

Mr. Haskell- if I move it forward, there's a tree there and there's a ---

Mr. Nearpass- yea, and to the right, but yea you're going to move it forward. Not into the tree but then you're going to move it to the right by 10'

Mr. Haskell- right ---

Mr. Nearpass- so the trees not 10'

Mr. Haskell- there's a tree, there's a tree here, there's a tree here.

Mr. Nearpass- I'm just, we're just, we're looking, this one is Exhibit C now, and it just looks ---

Ms. Morley- like there's nothing there.

Ms. Mitchell- right!

Mr. Nearpass- I don't see any trees.

Ms. Mitchell- and it's not wet either.

Mr. Nearpass- so in this case you're going to be moving it forward and then over here—

Mr. Haskell- so this is taken from the front where it's dry—

Mr. Nearpass- right, that's why we're saying that, drag it to where it's dry.

Mr. Haskell- this is where--- fine, I, I will do that, what I'm saying is, this tree is *inaudible* just out of

view. So, yes, which is why I said I'm happy to move it upon the request.

Mr. Salsburg- then move the shed.

Mr. Haskell- yes sir, that's what I said.

Mr. Nearpass- you don't need until July then, if you're going to move it forward to where its dry—

Mr. Haskell- if I can move it forward to where its dry---

Mr. Salsburg- do it this weekend.

Ms. Morley- did you get a permit for this when you did do it or no?

Mr. Haskell- no, because initially when I spoke to Pittsford this is a structure that does not break ground and, like I said essentially meets everything that my kids houses meet. They didn't need it, but then I learned that Victor does.

Chairman Reinhardt- I'd like to make a proposal here, I understand everything that was happening and heard from your neighbor, its important we meet in 2 weeks, we have the opportunity, unless there's some urgency that you want a variance tonight—

Mr. Haskell- no, I said I'm going to withdraw the variance request.

Chairman Reinhardt- and just move the shed?

Mr. Haskell- right, I, I will do my best to see if I can move it forward without hitting into the trees, if I, yes, I will try and do that, I will have my landscaper over and see if we can get that done, in order to just move it where I wanted to, I would've needed at least until the end of June to get that done.

Chairman Reinhardt- you want to withdraw your variance application?

Mr. Haskell- correct.

Chairman Reinhardt- its like you may have heard before, send an e-mail verifying, I want to withdraw the application---

Mr. Haskell- to, to ---

Chairman Reinhardt- yes.

Mr. Haskell- okay.

Chairman Reinhardt- you're going to send it to Amber, by the end of the business day tomorrow.

Mr. Haskell- okay.

Chairman Reinhardt- can you do that?

Mr. Haskell- I can, yes. That's easy I can do it now.

Chairman Reinhardt- okay.

Mr. Haskell- I have her e-mail, I mean we've been in communication over, yea.

Chairman Reinhardt- we're all set, everyone is all set with that then? Good.

Mr. Haskell- are there any other codes that I need to know about? Color? Like are we not allowed to be a specific color?

Mr. Nearpass- Theresa whole book of them.

Chairman Reinhardt- yea, we can't answer that question.

Mr. Haskell- its allowed to be black, right?

Chairman Reinhardt- I don't know what you know or I don't know what you don't know, if you have questions—

Mr. Nearpass- code doesn't dictate color, either--- I mean yes, the code wouldn't.

Chairman Reinhardt- if you have questions certainly, we have a code enforcement officer, I think Adam would be happy to have a shat with you, if you're not sure, if you're looking for legal advise you need to talk to an attorney, we can't give you legal advice.

Mr. Haskell- no, I, I was asking for, as far as code. Just code, yea.

Chairman Reinhardt- he can answer questions about code, okay?

Mr. Haskell- yea.

Chairman Reinhardt- great.

Mr. Haskell- Thank you.

Chairman Reinhardt- thanks so much. Enjoy your evening.

Mr. Haskell- Is there anyone else after me?

Chairman Reinhardt- excuse me?

Mr. Haskell- is there anyone else after me?

Chairman Reinhardt- uh, no, we're good, is there something? No Hold on, we haven't adjourned yet so, if you want to just stick around for, we'll probably be done in about 2 and a half minutes. Just hang on. Alright is there anything else before the board, Drew anything you want to chat about, talk to us, let us know? – Great good--- pardon me?

Mr. Cusimano- I yield my time.

Chairman Reinhardt- alright, Adam, anything?

Mr. Ryczek- not tonight.

Chairman Reinhardt- great, anyone have anything else they want to add, talk about Suzy were good?

Mr. Salsburg- so the Sephora sign on Penny's being a decal or something on the windows, that's still as much of a sign as any other sign, how is that forgiven?

Mr. Ryczek- I'd have to look into it for you, Fred.

Mr. Nearpass- I think it was on an interior window, wasn't it?

Mr. Salsburg- its on the outside, I think. I didn't walk right over to it, but you can see it from some distance.

Chairman Reinhardt - well that's a good question, Adam's going to look into it, and talk about it at the next meeting.

Mr. Salsburg- well with that, I'm completely out of ammo.

Chairman Reinhardt- okay, Fred. Alright then were good, a motion to adjourn please.

On a motion made by Matt Nearpass and seconded by Donna Morley the meeting was adjourned at 8:32.