

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, May 6, 2019 at 7:00 P.M. at the Victor Town Hall, 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Fred Salsburg, Scott Harter

OTHERS: Soren Eriksson, Rand Management, LLC; Collette You, Rand Management, LLC; Sue Davie, 930 High Street; Rob Kruchten, Eastside Marshall Arts; Jeff Morrell, 1501 Pittsford Victor Road, Victor; Alan Knauf, 2 State Street, Rochester; Joe Hurley, Kettle Ridge Farm LLC; Jon Tantillo, Knauf Shaw; David Schond, 846 High Street; Al Benedict, Town of Victor Code Enforcement Officer; Dave Tantillo, Town Board Liaison; Lisa Boughton, Secretary, Kim Reese, Secretary

The meeting was opened, the Flag was saluted, and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES:

On a motion by Donna Morley, seconded by Scott Harter,

RESOLVED that the minutes of April 1 and April 15, 2019, be approved as submitted:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Approved: 5 Ayes, 0 Nays

PUBLIC HEARINGS

1. RAND MANAGEMENT – SPRINKLER WAIVER

8-Z-19

The applicant requests a Sprinkler Waiver for a 2,000 square foot addition at the northeast corner of the existing building. The building is required to have a sprinkler system per Section 83-4F(2)(a) of the Town of Victor Code which states that all structures shall be required to have an approved fire sprinkler system installed and operational, however, §83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Lt Industrial.

Soren Eriksson, Rand Management LLC, 7710 State Route 251, addressed the Board.

Mr. Eriksson - We are looking for a sprinkler waiver. We'd like to add 2,000 sf, make it possible to continue operating.

Chairman Reinhardt – So, if I understand your application correctly, you run an internet business?

Mr. Eriksson - Yes.

Chairman Reinhardt – And the addition that you want to construct is about 2,000 square feet, it's detached to the main structure?

Mr. Eriksson - Well, I was under the impression that it needed to be an addition and it doesn't really matter it's going to be strictly storage. It's not going to be something we use for anything else really.

Chairman Reinhardt – Alright, so there's no heat, no electricity, its dry storage, no flammable combustibles.

Mr. Eriksson - Exactly

Chairman Reinhardt – No running water. How often are employees going to be working in that?

Mr. Eriksson - Basically not going to be any employees in that building at all. But we are a small business, we only have 2 part time employees.

Chairman Reinhardt – and the fire marshal provided us with some comments and concerns. Did you have a chance to review that?

Mr. Eriksson - Yes I did.

Chairman Reinhardt – That would be April 10, 2019 from Mr. Graham. He outlines four bullet points. It appears that he's not opposed to the waiver, but the constructed building is an independent building with the no attachments to the existing building. On that note, how do you feel about that?

Mr. Eriksson - It doesn't really matter. It's basically a pole barn. So it can be attached or detached.

Chairman Reinhardt – You're ok with it being detached?

Mr. Eriksson - Absolutely.

Chairman Reinhardt – OK, the next is the building with the metal siding and roof or dry wall interior. That ok?

Mr. Eriksson - Yes, that's really no problem. We are in the codings business, natural codings. We had plans to use all those walls as a display, but it doesn't really matter. It's actually a lot less expensive.

Chairman Reinhardt – So, you're ok with that bullet point?

Mr. Eriksson – Yes, sure.

Chairman Reinhardt – Great. The third bullet point is remove the existing growth that it limiting access in the driveway and allow for better fire equipment access.

Mr. Eriksson - So that is a little bit strange because the driveway is 40 feet wide and I don't know if it needs to be wider than that. It's quite wide and I have 55 foot trailers pulling in there all the time. I don't know if he's referring to the branch from one of the trees that sticks in the . .

Chairman Reinhardt – Is there overhang on the driveway?

Mr. Eriksson - No, it's a very large driveway.

Chairman Reinhardt – As far as the width, I think what the fire marshal is trying to get at is for the access for the fire equipment.

Mr. Eriksson - It's a very wide driveway.

Chairman Reinhardt – How high, is there any clearance issues there?

Mr. Eriksson - There's electrical lines.

Mr. Nearpass – He's referring to excessive growth, so he must have seen something.

Mr. Eriksson - I mean if it's branch, it's kind of (inaudible) back there.

Chairman Reinhardt – The branch that you're referring to, is it over the driveway? Is it impeding?

Mr. Eriksson - Maybe right on the side of the driveway, but there is plenty of driveway for any vehicle to come in. I mean we have very large vehicles that comes in almost every day.

Chairman Reinhardt – Ok, so . . .

Mr. Eriksson - I don't think that's a problem.

Chairman Reinhardt – If the fire marshall comes out and says this is the branch or this is the growth I'm talking about, would you cooperate with that?

Mr. Eriksson - Yes, yes, that's no problem.

Chairman Reinhardt – The growth along the driveway doesn't sound like it's going to be a problem.

Mr. Eriksson – No, no.

Chairman Reinhardt – And the install a heat detection system and it tied in automatically, with an automatic dialer, to provide early notification to the fire department.

Mr. Eriksson - I'm not familiar with systems like that. Now there's not going to be any electricity there, so I have to look into that more, how that operates, I really don't know anything about that.

Chairman Reinhardt – So, we've had request for waivers before, the general thought on the intent is twofold, certainly a safety for the occupants and owner of the structure, but also the safety of the emergency team that comes in. And if they can't tell where the fire is or how hot it is, by the time the fire department gets out to the scene, sometimes its minutes after the fire started when they are notified of it. Ideally if the suppression systems is activated, it will control or contain the fire and allow them to put it out quicker, more efficiently. Without any harm to anybody.

Mr. Eriksson - So, I'll like to look more into that and see what it costs and what it entails.

Chairman Reinhardt – So, we'll leave that as a question mark. I can't speak for the board, we'll see what they think on how important it is. Is there anything else you want to add to your application before the board actually asks some questions?

Mr. Eriksson - There is one question I had, it's a shed that is in the location of where the new building, the addition will be. I'd like to submit a site plan for two options. I'm not exactly sure where it will move to. It will sort of depends. So this is actually something that's been around here for many, many years. It's not a permanent structure, it's just a metal shed with three walls, but that will have to be moved. You just lift it up and move it to a new location.

Chairman Reinhardt – If I understand you correctly, you're not exactly sure where this new addition is going.

Mr. Eriksson - It may go behind the new structure or it will go in the front.

Ms. Morley - You're talking about the building that's there, that you are going to move?

Mr. Eriksson - It's a metal shed. Yes. Yep

Mr. Harter - At some point you'll have to decide where your building is going to and go to the planning board to present it to them. This board does not do site plans.

Mr. Eriksson - Right, exactly.

Mrs. Eriksson – I think there's a miscommunication. He knows where the new structure is going. That's on the information you have. There is a shed there now that will be moved. So, he knows where the new structure is, that's not an issue, that's where he wants to have it, but there's a shed there now that will be moved, so the new structure can go there.

Mr. Nearpass – So, it's not going to be eliminated, there will be three structures, two accessory structures?

Mrs. Eriksson: Yes, it's a pole barn that you can just life up and move someplace else, that's what he means.

Mr. Harter - Still planning board decision.

Mrs. Eriksson - I just wanted to, it seemed like, he knows where he wants to put his building, that's all.

Chairman Reinhardt - Understood. Any other concerns, questions before the board asks you some questions?

Donna, any questions?

Ms. Morley - Not at this moment, I'm kind of thrown by this third building. Go ahead.

Mr. Nearpass – What is it again that you are going to be storing?

Mr. Eriksson - We have a lot of packaging and stuff like that that we store indoors now, that we don't need to. We're at the stage now where we have to find alternatives to a small growth that we have had and that we are having. So it's primarily packaging and it takes a lot of space. We have to buy minimum quantities.

Mr. Nearpass – When you say packaging . . .

Mr. Eriksson - Cardboard boxes, rolls of paper. We use a tremendous amount of packaging. Everything is shipped. We don't sell anything locally. There's no local market for us at all.

Mr. Nearpass – I appreciate you adhering to the fire marshal's comments. I really don't have anything further than that. That's obviously important to us that the fire marshal's ok with this.

Mr. Harter - Just to be certain, this building is just for storage, no occupancy.

Mr. Eriksson - No ...

Mr. Harter - That's the only question I had.

Mr. Salsburg – With the packaging, there is a measure of a fire load, there. I wonder if this could be a condition that the heat detection system, a condition of approval could be that you and the fire marshal come to some agreement on what to do with it, how to handle it.

Mr. Eriksson - Ok.

Mr. Salsburg - If you can't come to an agreement then . .

Mr. Nearpass – Sounded like he just did, like he just agreed with the fire marshal.

Chairman Reinhardt – I think the only thing that's up in the air is the last one.

Mr. Salsburg – The heat detector is unresolved, especially with no power in the building.

Mr. Eriksson - Yeah, my question would be how do you power a system like that if you don't have power in the building. You would have to put power in the building, I assume.

Mr. Salsburg – So, it would probably have a battery.

Mr. Eriksson - It must probably communicate through the phone system or I don't know how they operate actually so.

Chairman Reinhardt – Wireless?

Mr. Eriksson - I don't know.

Chairman Reinhardt – Aren't you in the internet business? (laugh)

Mr. Salsburg – I think it would be wireless, you'd make a telephone call, just like as if you were in the main building, with a cell phone.

Mr. Nearpass – Now you're getting into running electrical.

Mr. Salsburg – Some power from something, battery. Uses so little power. I don't know.

Chairman Reinhardt – How close is the structure going to be to another structure?

Mr. Eriksson - I actually measure that, it's 130 feet.

Chairman Reinhardt – 130 feet away from the closest structure?

Mr. Eriksson - Yes.

Chairman Reinhardt – That change your opinion or concern Fred at all?

Mr. Nearpass – Hold on one second.

Mr. Salsburg – I think the heat detection system should be there.

Mr. Nearpass – You said 130 feet away from the existing structure?

Mr. Eriksson - Yes. The south side of the . . .

Mr. Nearpass – I'm looking at the drawing that was submitted and it looks to me like it's 20. Maybe the scale is way off, but where you have it. Actually, if you can just come up here. We're talking about right here, and this is the new structure here. And this is the structure here?

Mr. Eriksson – We're talking about the closest. There's only one structure.

Mr. Nearpass – There's a new structure. This is an existing structure. I think we was asking how far it was going to be away from any structure.

Mr. Eriksson - The new structure is going to be 15-20 feet.

Chairman Reinhardt – 15-20 feet, ok. That's important.

Ms. Morley - I have a question, too. What's stored in the other shed that you want to move?

Mr. Eriksson - Oh, that's just my van. It's a van.

Ms. Morley - And, you sell, on here is says linseed oil. Is that not flammable?

Mr. Eriksson – No.

Ms. Morley - Linseed oil is not flammable?

Mr. Eriksson - Linseed oil in a form that we handle it, is not flammable, at all. Wood burns more than purified linseed oil. We don't deal with any chemicals. No solvents. Any petroleum oil at all. It's all natural products that we do.

Mr. Nearpass – Where would this packaging that you're storing in this building?

Mr. Eriksson - We manufacture something called a silent paint remover, which is an infrared heater, so there's . . . when you buy components you buy relatively large quantities that we may store for several years.

Mr. Nearpass – Ok.

Chairman Reinhardt – Is there ever a time when you close for the day, how close are you or somebody else to those structures?

Mr. Eriksson - I live about 10 minutes away.

Chairman Reinhardt – You're 10 minutes away?

Mr. Eriksson - Yes

Chairman Reinhardt – So if fire happens, to that structure, there's no alarm system, it's only if some neighbor sees it and calls 911.

Mr. Eriksson - If there's any fire, we're out of business overnight. Actually to be real honest, I think I'm more concerned about forest fires, which we've already had this year. That's what really concerns me.

Chairman Reinhardt – That's not the issue here. Forest fires are not the issue, it's the sprinkler system. So, let's walk through this a little bit. The first criteria is an undo economic hardship. Have you priced it out, what it would cost to put a sprinkler system in that structure?

Mr. Eriksson - It would double the cost of the project.

Chairman Reinhardt – I need a number.

Mr. Eriksson - About \$50,000, \$55,000

Chairman Reinhardt – \$55, 000? What are you basing that on?

Mr. Eriksson - Well we had a neighbor that went through this process extensively. And that was the price that actually came out. I can look that up and gets some copies of those.

Chairman Reinhardt – You don't have a professional sprinkler installer that's provided you an itemized.

Mr. Eriksson - That's what I'd come back with.

Chairman Reinhardt – So, right now, that's the question mark. We don't know how much that is going to cost.

Mr. Eriksson - We pretty much know, that's going rate apparently.

Chairman Reinhardt – As a chair of this board, pretty much and kind of and sort of don't work.

Mr. Eriksson - It's a major investment, hook up charge. We are about 300 yards or feet from the water main.

Chairman Reinhardt – So, if this board decides that they want to hold this until the next meeting which is in two weeks, you think you can get an itemized estimate from some contractor that installs sprinklers and how much it would cost?

Chairman Reinhardt – It shouldn't be too hard, so we're going to leave that as a question mark now.

Chairman Reinhardt – So the second is the physical of legal and possibility. That means, you can do it, it's just that it's tied into cost.

Mr. Eriksson – Yes.

Chairman Reinhardt – There's no electricity out there, so it's not that you can't do it, or it's just absolutely impossible to do it.

Mr. Eriksson - It's cost prohibitive. There's no doubt about that. We're a small business. We have looked at other options and actually at this point we have our daughter is being introduced to the business and we need to be slightly larger for her to actually be a part of the business. The other option is to move, she's operating actually out of Philadelphia right now.

Chairman Reinhardt – Are there fire extinguishers in the other structure?

Mr. Eriksson - Yes.

Chairman Reinhardt – How many?

Mr. Eriksson - At least three.

Chairman Reinhardt – Fred, would you have a recommendation on a 2,000 sq ft structure on if the only thing they had was fire extinguishers. How many would they need?

Mr. Salsburg – I wouldn't agree with that. I would hold for the fire detection system.

Chairman Reinhardt – I understand that. If they could not put the fire detection system in there, if the last resort was fire extinguishers, how many?

Mr. Salsburg – The other building is only 15 feet away. I don't know how it could be too much of a problem.

Mr. Benedict - Can I answer that question? Code requires a fire extinguisher within 75 feet of any point. That doesn't help you a whole lot other than.

Chairman Reinhardt – 75 feet?

Mr. Nearpass – You always have to be 75 feet away from a fire extinguisher.

Mr. Benedict – What are the dimensions of the building?

Mr. Eriksson - 40 x 50

Chairman Reinhardt – 40 x 50

Mr. Nearpass – One.

Mr. Salsburg – But with nobody in there, one is enough.

Chairman Reinhardt – Understood, we’re looking for alternatives here on what it’s going to take if the board chooses to grant the waiver.

Mr. Nearpass – How often do you think you are going to be going in and out of this building throughout the course of a day?

Mr. Eriksson - We run three days a week, so we are there Monday, Tuesday and Wednesday. So, those are the days we run in and out of there.

Mr. Nearpass – You go in and out quite a bit. You don’t just go in once. So have you looked at storing it off site and leasing space and using storage somewhere else?

Mr. Eriksson - Actually that’s one of the options, to store off site. But, you need to have it nearby.

Chairman Reinhardt – Alright and we have recommendations from our fire marshal. Anybody from the audience want to speak for or against this application? Right now, I’m inclined to hold this over until the next meeting so we can get some numbers from you on how cost prohibitive it is. I think we have enough facts on the other elements. Unless the board wants to add a comment.

Mr. Nearpass – What do we want to do with the fourth bullet?

Chairman Reinhardt – Well that’s a good idea, during the interim. Actually two pieces, could you touch base with the fire marshal and find out what the concern about the excessive growth? Alright? And finding out what a heat detection system would cost to install there. Ok? Any other question or concerns? Any questions for us?

Mr. Eriksson - I think I’m all set.

Chairman Reinhardt – Ok, great. We’ll see you in a couple of weeks. Ok thanks so much.

Mr. Eriksson - Ok.

2. EASTSIDE MARTIAL ARTS – SIGN

9-Z-19

7263 State Route 96

The applicant is requesting an area variance for a 240 inch by 32 inch wall sign, whereas, §165-5B(3) states a wall sign must be no greater in sign area than half of one square foot for each foot of linear building frontage. The applicant has only 9.5 square feet of wall frontage.

Mr. Robert Kruchten, owner of Eastside Martial Arts – seeking a variance for a wall sign. When we moved into our building about a year and half ago after spending around a little over \$90,000 we got an estimate for roughly \$2,000 for a wall sign and I spoke to Al, one of the code enforcers

in front of the building and he said because we didn't have it in our budget to put up a permanent sign, we could do some temporary signs like banners. So, we were putting those up for a while and we had a monument sign build because we were the only tenant in the building. The building is around 20,000 sq. ft. and we use about 6,000 and so we had about \$500 to have it made and we were about to put it in and then a tenant moved in and so the monument signs can only be 20 sq ft but then have to include everybody so rather than have a new one built we started to look into just putting up a permanent one. We were originally told by Sean, I think back about a year ago that we had about, precisely 60 sq ft that we could use. The total frontage of the one face of the building, the one and only side of the building that faces route 96 and the majority of the traffic is 151 linear feet so that leaves 151 sq ft total for the whole building, but he said that we would have around 60 and then when that tenant moved in, they used about 42. What they didn't tell us was that because the building was in three different suites and we use the center suite, but so does the massage place, Kang Jian that moved in, they used 42 of the 51 leaving us with only 9.5 sq ft. which 80 feet from Route 96, you won't be seen. So, we had originally designed a 20 x 3' sign and its actual 32" rather than 36". So that's what we are asking for today. We were originally asked for 5 colors but we have it down to two now.

Chairman Reinhardt – Did you get a chance to review the County Planning Board's recommendations on this and their thoughts?

Mr. Kruchten - Yes

Chairman Reinhardt – Ok. So they are making no formal recommendation to deny or approve it, but they go through an analysis that there are three tenants in there and you are occupying a third, the total square footage of all the signage, you are asking for 53" according to their calculations. There's already a 25 square foot and a 42 square foot, it's still under the total. The total is 120, but still under the total amount that's permitted. Do we know what the total would be for that building?

Mr. Kruchten - Like 150 sq ft

Chairman Reinhardt – 150.

Mr. Kruchten - 151 to be precise

Chairman Reinhardt – 151, ok.

Mr. Kruchten - And Kang Jian uses 42 right now and that's the only sign. The Monag sign and although they do business in there, that was a previous sign. I don't know if that counts or not.

Chairman Reinhardt – Alright, so instead of giving the house away too soon, if we make it fair for everybody, what we don't want to create is an imbalance over there, so if everybody has a third and a third of 150. So if everybody has an allotment, I'm not speaking for the board here,

it's just a thought, if it's 50/50/50, the max you could use, could you live with 50? I know you're asking for a little more than 52, it's about 53 sq. ft.

Mr. Kruchten - Yeah, we could shorten it on the ends.

Chairman Reinhardt – So, it's a possibility?

Mr. Kruchten - Absolutely.

Mr. Nearpass – Is the building fully built out and that there's no room for a fourth tenant?

Mr. Kruchten - No, there's room for one more. Is what it looks, like, yeah. There's one more pod that's open. Which we might use, might or might not, but that's beside the point, I guess.

Chairman Reinhardt – So that's a good questions. Go ahead Al.

Mr. Benedict – The other space that Rob's talking about would be the same situation where part of their frontage is covered by the suite that's in the very front. I think they've only got 20-30 feet that would be exposed as a front elevation versus 50 feet with the certain of the suite itself

Chairman Reinhardt – So, there's four suites there?

Al Benedict – There's three suites in the back portion of the building and they built like a vestibule or something in the front which has been converted one or two suites depending on how you look at it I guess. That front one covers the frontage of those parts of two of those suites that are more in the back.

Chairman Reinhardt – Alright, well that throws my theory off.

Mr. Nearpass – You're going down the path that I was thinking as well in this situation that I've been in personally as well. In that this whole signage thing and it usually take the square footage that was allowed for signage if its 150 square feet and you have three tenants for example then everyone gets not necessarily a third, a third, a third but whatever is directly proportional to the amount of square footage that's being leased. That's one way that I've just personally seen it done. And, if it was a third, a third, a third then everybody gets 50 square feet.

Mr. Kruchten – We're in the center suite and we use 6,000 square feet and the massage place uses 780.

Mr. Nearpass – But that would be, that was like a tenant/lessee agreement. I don't think it was with the village or the town.

Mr. Kruchten – the landlord has also given us permission to use his percentage or his third and that's why he's allowing us to, I have the email which I forwarded to . . . saying we could use his allotted square footage for the sign because he had no plans for putting up another sign.

When I first went to him and said we only have 9.5' left, he said that well you can just use ours then and he sent an email.

Mr. Nearpass – There's currently a sign there that's taking up 42 square feet.

Mr. Kruchten – Yes, that's the Kang Jian, that's including their window and their sign above. Their one sign is 10 x 3' and I think the circular signs that they have in their windows takes up another 12.

Chairman Reinhardt – So, by the owner saying it's ok for you to use his area, it doesn't fly real well with granting variances. Variances run with the land.

Mr. Kruchten - Ok

Chairman Reinhardt – Which means we grant it, whether you're there or somebody else, that person that has that space is going to be permitted to us it, so we're cautious on not only granting variances, but granting the minimal amount that you need. Ok?

Mr. Nearpass – It's almost as if the building itself is allowed how much signage. We don't care how the landlord and the tenants divvy it up, but the sum of the parts has to equal the whole. Where are we today with those numbers, what, how much is allowed today by the code and what you saying there's only 9.5 sq. ft left for you after the other tenants have consumed

Mr. Kruchten – After the other tenant. There's three suites and the middle suite is 51 or 50 feet, but he used 42, but you see he didn't know that by doing that he was only going to leave us with 9.

Mr. Nearpass – there's 42, so there's 151 total I think allowed, so 42 gets us to 103 something.

Mr. Kruchten – 108

Mr. Nearpass – Where's that?

Mr. Kruchten – How much of that has been used? As far as I know it's just his signs. I don't have any permanent signs up and Monag doesn't.

Mr. Nearpass – So there's 100+ square feet left – signage left to be used.

Mr. Benedict - There's a 25 sq ft sign that Monag being the owner has.

Mr. Nearpass – So there's 25 off of that, so about 80ish.

Chairman Reinhardt – Well there's 120 so 42, 25 and the proposed 53 gets you to 120.

Mr. Kruchten – And that's on the side where he as storage so the side that he actually does his shop on is on the other side of the building. So that's what he's saying.

Chairman Reinhardt – But for any other signs being there, what’s the largest sign you can put there? 9 ½’?

Mr. Kruchten – Of what?

Chairman Reinhardt – I understand what is left is 9.5, but for the other signs being there it almost sounds like because the other signs are there, he’s getting less than what he’s entitled to.

Mr. Nearpass – The building owner is entitled to . . . so, I want to get the math to add up here so we said 42 and 25, I’m at 67.

Chairman Reinhardt – He’s asking for 53 square feet.

Mr. Nearpass – But 151 is allowed for the entire building.

Chairman Reinhardt – That’s the point of the County Planning Board is saying that even if we grant the 53” it’s still under the total amount permitted. But, if we grant it for this applicant then in that I don’t think it necessarily has to tie into that suite, it ties in with that building. But whatever tenant is in there is going to be permitted, one of the tenants is going to be permitted 53’ feet, right?

Mr. Nearpass – So, if he gets his 53, you’re up to 120 sq ft of which 151 is allowed, right? It’s up to, there’s 30 extra for someone else but I’m looking at it is the landlord’s, whatever deal he signs with whoever goes in there, it’s up to him to. . . I don’t think he needs a variance is my opinion. Unless I’m completely missing something.

Mr. Nearpass – They are not going over the 151.

Mr. Benedict – He needs a variance. The code says you’re allowed 1 sq ft per linear foot of frontage that you have on the elevation of the building.

Mr. Nearpass – When you say you is that this applicant or the building?

Mr. Benedict – Each tenant.

Mr. Nearpass – Each tenant, ok

Mr. Benedict – In order to have a sign on a wall, each tenant has to have frontage on that wall.

Mr. Kruchten – Can I read one thing that I sent? Because our building only has one elevation that faces State Route 96 there’s no other place in the building that a sign would be nearly as visible. Due to the configuration of the building we do not believe 9.5 sq ft sign would provide adequate signage as the building sits lower than State Route 96 and is approximately 82 feet from the roadway. Tom from Ewing Graphics in Victor ensures the lettering on our sign would need to be a minimum of 12-15” to be seen from over 80 feet away from a 45 mph zone. Due to these topography and visibility issues we don’t believe 9.5 sq ft sign would be effectively seen

from the road. So that's my . . . the configuration of the building is obviously it's a lot longer than it is wider so that's our dilemma is that there's not much frontage to it. And given that its 20,000 sq ft it's a lot bigger than a lot of the buildings that have, larger, they are wider than that are longer.

Chairman Reinhardt – The maximum amount he can have given his current situation is what?

Mr. Benedict - 9.5 sq ft.

Chairman Reinhardt – Because of the configuration of the parcel he's leased? If he was in a different parcel or different unit it's not the same answer.

Mr. Benedict – Correct.

Ms. Morley – Because it goes by the frontage that he has?

Mr. Benedict – It goes by the frontage that you have on the elevation

Chairman Reinhardt – The variance runs with the land, but it's really not necessarily going to run with that particular unit. So if the unit, if the owner decides to change the configuration of the unit, the numbers change in the frontage. On the sign permitted.

Mr. Benedict – It could, yes.

Chairman Reinhardt – Whatever the owner does inside doesn't matter. If the board grants a variance it's to the building itself, not with owner.

Mr. Benedict – Correct.

Chairman Reinhardt – Any more questions, Matt?

Mr. Nearpass – I'm ok with that.

Chairman Reinhardt – Donna?

Ms. Morley – I'm ok.

Chairman Reinhardt – Scott?

Mr. Harter – Are you saying Mike that we could qualify the variance to say that there's a maximum for that building that's allowed and that this is a portion of that, with the maximum being 151?

Chairman Reinhardt – No, I think the building itself is permitted 151. The interesting part about this is because the configuration of the leased unit restricts him to that (9.5").

Mr. Nearpass – As I read this you're saying that 51 sq ft is allowed by your suite except Kang Jian took 42 of it, by accident.

Mr. Kruchten – Well he's a very close friend of mine, but he said he didn't know in taking 42 he was going to leave me with 9.

Mr. Nearpass – So it's not that the geometry of it is such that he's only left with 9.5 feet, there 151 feet.

Chairman Reinhardt – That's not what I'm hearing Al say, though. It goes to the configuration of the leased premises.

Mr. Nearpass – No, but he's saying his configuration allows.

Mr. Kruchten – If Kang Jian's wasn't there I would have 51 sq ft.

Chairman Reinhardt – I don't think that's what Al's saying

Mr. Kruchten – I have an email from Al or from Sean saying . .

Chairman Reinhardt – I got that but go ahead.

Mr. Kruchten – He says I received the letter about allowing the front of the building to be used for access so as to get more frontage for the wall sign, I attached the original review notes and the diagram I based the calculations on. If I was to look at the frontage of the EMA space to be continuous from Suite C to the side of the main entrance the frontage is 60 feet. This proposed sign must be revised to be no more than 60 sq. ft or seek a variance. This was dated last June, June 11, 2018.

Chairman Reinhardt – From who?

Mr. Kruchten - Sean McAdoo. So he originally gave us 60 and like I said we waited and we did some other types of signs, like temporary ones and then when we went to do this, Kang Jian had already gone in and put in 42.

Chairman Reinhardt – How does that mesh with what you're saying then?

Mr. Benedict – I can see where if there is no business in that front vestibule, that you can make the case for it having its full 50 feet but because then put a business in there that business now has the frontage rather than Eastside Martial Arts.

Chairman Reinhardt - The way that the code is worded if you have a vestibule in the front of the building and the majority of your leased premise is in the back you're stuck with a small amount of permitted sign usage.

Mr. Benedict - I think the code really talks about a vestibule that how much distance you have on the elevation. If it's a vestibule that's just an entry point, the way I interpret it you still have frontage. But in this case, you put a business in there, so now you have a different tenant that has frontage which is then taken away from Eastside Martial Arts.

Chairman Reinhardt – Ok. Scott, I kind of cut you off there.

Mr. Harter – Ok, I'd like to come back to what Matt was saying – is the 151 the max they can have across the frontage there?

Chairman Reinhardt – For the building.

Mr. Harter – And so is there a way to use that as the ceiling, the maximum? And, right now have we used up more than according to our math of 120?

Chairman Reinhardt – Right, I think you also have to take into account the language in the code that speaks to each leased premises area. He's going to need a variance because of the configuration of the leased property. Because it's narrow in the front and deeper in the back, he's only permitted to the portion of the code I was talking is 9.5 sf.

Mr. Harter – Well could we structure a variance such that he could get permission from the owner, the landlord to say whoever arrives here or however the tenants he changes over the years will adhere to 151 maximum signage at any one time? I mean would that be a solution?

Chairman Reinhardt – I don't think so because if the signage whoever in there, if it's three units or 15 units, it's still going to be a total of 151. If they use it up, they are going to have to ask for a variance. Someone's going to have to ask for a variance for more signage and it's probably not going to happen.

Mr. Harter - Not sure I have a solution on this one.

Mr. Nearpass - Is the sign there now? Or that's just a temporary sign?

Mr. Kruchten – There's nothing there now.

Mr. Salsburg – I drove by and I could read the 42 sf sign. It's not bright like yours is. I was wondering if, Al's comment says previously permitted. Was there a variance given for the 42 sf sign in the past? In your first article of your comments on this application, the second sentence says it was previously permitted signs of 42 and 25.

Mr. Benedict – Yes. Those were signs that had permits.

Mr. Salsburg - If it's previously permitted, can we say the most you can have is 42, can you live with that?

Mr. Nearpass – No, he's saying those have permits, they are permitted. They were issued permits for those signs. They didn't need variances.

Mr. Salsburg – From the planning board?

Mr. Nearpass – From Al. They were adhering to the code.

Mr. Salsburg – Because they didn't require a variance.

Chairman Reinhardt - Correct, right.

Mr. Kruchten – Is it up to the landlord to decide, let's say a business moves in later and wants 100 sf and is the landlord can say no or yes to that 100 as long as it stays under the 151, right?

Chairman Reinhardt – The numbers are calculated. One, the total square footage is 151, but you also have to look at the frontage with the leased property will determine how big the sign is. It's a twostep process. So, if you move to another unit your sign might stay exactly where it is or follow where your unit is, but if your unit permits you to have a 42 sf sign and that's what you get. Right now for what you're looking for because again the shape, geometric shape of what you have you're only permitted 9.5 and I think we get it. You need a variance for that. How much that is, to be fair to you and everybody else there is the question.

Mr. Kruchten – Well we use, in that building there's approximately, the landlord uses 6,000 for storage and that's not going to change he says. Then we use 6,000 and there's another 4 that's left. There's only 4,000 total which is like 4,200 sf that's still available to be rented in there. So if you figure 18,000 it's actually 20,000 there's 4,200 left. So, if we were to take 50 or 53 that leaves 30 something sf left for that 4,200 sf that's remaining. Or one pod.

Mr. Nearpass – It's not about the total sf you have in the building it's about on that front that's parallel to Route 96, how much of that 4,200 sf takes up the 151. Right, so it's 151 long frontage how much of your 6,000 sf takes that up. And I think you're saying its 9.5 feet because of the entrance.

Mr. Kruchten – Well it was 50 until . .

Mr. Nearpass – Well that's what I was going to ask you. In here I'm trying to read the wording carefully because you say which we and Kang Jian occupy Suite B. So, Kang Jian doesn't have this own suite? You two are in the same suite.

Mr. Kruchten – Correct.

Mr. Nearpass – So this is what I was trying to get at earlier, your suite is allowed 51 sf but Kang Jian is using 42 of it. So you only 9.5, not because of the code or the layout, it's just because of whatever happened. They put the sign there and they didn't realize. His suite is allowed 51, a third of the frontage, there's two businesses in one suite. That's why I was trying to get at

earlier, I think you and Kang Jian, have to, it's one option to figure something out because he's taking all your room.

Mr. Kruchten – He's already spent \$1,500.

Mr. Nearpass – He's already eaten into what the code would allow.

Chairman Reinhardt – If there's two business in one suite, you just get one sign.

Ms. Morley – We have one other thing from A. He just did a drawing for me, because I couldn't understand what this vestibule thing was. And I will pass that down and that's how he came up with the 9.5 sf. You both share B?

Mr. Kruchten – He uses the front part and I use the back, correct.

Ms. Morley – So this is Al's drawing and that's how he's showing he came up with the 9.5 sf. Because the vestibule is in front of all of this.

Mr. Kruchten – If you look there's four spaces.

Ms. Morley – They really don't even have that much. If you look at it, they should really only have 9.5 sf between the two of them that they share.

Mr. Nearpass – So you're saying Kang Jian shouldn't even have a 42 sf.

Mr. Benedict – Yes, they have 42 sf.

Mr. Nearpass – Are they allowed 42 sf? This drawing here, Exhibit A in a minute here.

Mr. Benedict – What I've labeled is Suite D.

Mr. Nearpass – But what he's saying is Suite D is Suite B.

Mr. Benedict - That's not my understanding.

Mr. Salsburg – There's so many possible combinations in the next couple decades to happen with this rental business. Are we trying to micromanage something that the landlord would be better off doing?

Chairman Reinhardt – That's not how it works.

Mr. Salsburg – But we have control of the total.

Mr. Nearpass – That's what I'm trying to understand. Are there three suites or four, there's A, B & C and you were talking about you and Kang Jian being in Suite B. He's got the front of the suite you have the back of the suite. So are there two leases with the landlord or is it one lease?

Mr. Kruchten – Two leases.

Chairman Reinhardt – Let me try something here. Can you draw it for us? And when you're done, put your initials next to it. Draw who's got where. Who's on first?

Mr. Benedict – I want to reiterate the code talks about tenants not so much suites.

Mr. Nearpass – Indicate which one is the Route 96 side.

Chairman Reinhardt – So we're going to call this Exhibit A and do me a favor and put your initials in the lower left hand corner. So we know you did that.

Mr. Kruchten – The front part is 2,000 and each of those three compartments are approximately 6,000.

Chairman Reinhardt – You're EMA? And how do you enter?

Mr. Kruchten – Through the common area. At the front there is a door to get to everything and there's no wall actually. (Amends Exhibit A).

Chairman Reinhardt – And, you're telling us that where your permitted signage is calculated is this common area.

Mr. Kruchten – Yes, this is actually the storage a little bit further over here.

Mr. Nearpass – The only part that confuses me is in your letter where you say we and Kang Jian occupy Suite B.

Mr. Kruchten – Yeah, that's a little confusing. The storage is actually over here. This is actually like our space. (Updates Exhibit A) There's common area and then there's like a little corner section over here, so I don't know how but this is actually the same suite as ours.

Mr. Nearpass - But to the landlord, Kang Jian has a separate lease, so you're not really sharing a suite.

Mr. Kruchten – So, this is kind of like in between here, Kang Jian, but there's enough space, there's about maybe 10-12 feet wide and about 200 sf is the common area.

Chairman Reinhardt – So you signed the lease with the owner, correct? You signed it, with anyone else?

Mr. Kruchten – Correct. No.

Chairman Reinhardt – If you fail to pay on the lease, is anyone else responsible for it?

Mr. Kruchten – Right.

Chairman Reinhardt – What about Kang Jian?

Mr. Kruchten – Separate lease.

Chairman Reinhardt - It's a separate lease. So if he fails to pay on his lease you're not responsible for his rent.

Mr. Kruchten – Correct

Chairman Reinhardt – Does that clear it up?

Mr. Kruchten – Yes. Trying to find a map here which I know I have.

Mr. Nearpass – So the fact that Kang Jian has his own sign doesn't really subtract from your 51. How we got to this 9.5 is really just Al's calculation for how much frontage you have on that 151 sq ft.

Mr. Kruchten – Here's the building right now. So, if you look, here's the storage. Here's our section, Kang Jian right here, so that's more accurate. Kang Jian is right up here from about that wall over.

Chairman Reinhardt – So, your reshowning a map, where is that from?

Mr. Nearpass – Is it in here somewhere?

Mr. Kruchten – Probably at some point, but not recently.

Chairman Reinhardt – Would you show Donna, Scott and

Mr. Kruchten – So here's the storage, here's us right here, this whole part here and Kang Jian is up here and here's the entrance right here. If you have a printer I can print it.

Mr. Nearpass – So you see where Al's coming up with 9.5 feet.

Ms. Morley – This right here is your only frontage. So, that's how he's coming up with 9.5 feet.

Mr. Nearpass – 151 is from here to here. Since you only occupy that much of the frontage that 9.5 feet of the frontage, that's where Al is getting the 9.5. It doesn't have anything to do with Kang Jian.

Mr. Kruchten – It does actually, because 151 divided by three.

Mr. Nearpass – That's not how we calculate it. That's what he's telling you. He doesn't calculate the square footage. You only have 9.5 linear feet of the side that's parallel to.

Chairman Reinhardt – I have an idea. This photograph, shows your frontage. Where is it?

Mr. Krutchen – It's right here, it's not just here, right here.

Mr. Nearpass – I'll show you. This is where A1 is coming from. This is 9.5 feet. So, this is not him, although he's behind it, that's not his frontage. He's trying to say I should get this if you extrapolate it, but A1 is saying, no, it's only that.

Chairman Reinhardt – So on here if you look on this photograph, that drawing, its right there. Where A1's calculating the 9.5 feet is right here.

Mr. Krutchen – this right here is a separate unit, this is the storage. This doesn't face the road, this faces.

Chairman Reinhardt – Where A1's calculating the 9.5 feet is that spot, right here.

Mr. Nearpass – The non-hatched area. He's saying your frontage, this is a walkway, right, this right here. Where the door is, exactly. That's your frontage on 96. That's it.

Mr. Krutchen – I thought it was 151 minus 9, I mean minus 42.

Mr. Nearpass – Suite D, this suite has, the 151 is linear, right, so if you're looking at it from here. This suite has this amount of square footage, your suite has this amount, this suite has this amount, all the way to here, so technically, this suite across from it has a very similar situation right? Where their frontage is only right here. Who has this suite has the frontage. Does that make sense to you?

Mr. Krutchen – That's 2000 square feet.

Mr. Nearpass – It's the linear, it's not the square footage. How much linear frontage do you have. So out of the 151 feet of linear footage.

Chairman Reinhardt – I don't know if you can see that A1, where I have it notched out. That's what you just calculated. We're going to make this Exhibit B. Where A1 has put two hash marks on where he calculated the 9.5 feet. Thanks for your patience. It takes a little time, but I think we have the problem and now it's just what to do about it.

Mr. Nearpass – We were trying to get to how we get to 9.5 square feet. If we are going to discuss variances, with need to know how to property craft it.

Chairman Reinhardt – Does anyone from the public want to speak for or against this application? Anyone else have any questions? Alright, so Matt, have any thoughts on how to shape a variance for this particular problem? Well it seems inequitable to have a tenant limited to 9.5 sq ft for a sign. It doesn't make a whole lot of sense.

Mr. Nearpass – in the same way A1, I think there are tenants that

Chairman Reinhardt – . . .that have more than their fair share.

Mr. Nearpass – Well how do you determine your fair share, the code gives us a calculation. If he didn't have any frontage, if you were locked in back, you would have 0 frontage on the front per the code. I was thinking along the same lines as Scott in that is there any way we can craft a, as long as the total amount of signage doesn't exceed 151 is there something that we can craft to allow him to have his sign and that the total number of square footage of all signs does not exceed 151?

Chairman Reinhardt - Who has the 42 ft sign?

Mr. Kruchten – Kang Jian, the massage place. They have three signs it totals 42.

Chairman Reinhardt – 42 sq ft and who has a bigger sq footage or is it about the same.

Mr. Kruchten - They occupy about 840 and I occupy 6,046.

Chairman Reinhardt – 840?

Mr. Nearpass – All of theirs happens to be the front of the building. It's not about the square footage, it's about how much of the linear.

Chairman Reinhardt – I know I was just thinking about not exceed 42 sf. There's already a 42 sf sign there. And by putting another 42 sf sign there, there still leaves more room if there's more tenants there they are not going to exceed it.

Mr. Kruchten – And my reasoning with what I read earlier, 12-15" letters from that distance is approximately what I'm asking.

Mr. Nearpass – And what are you asking for, what's the square footage of the sign?

Mr. Kruchten – its 240" x 32". 53 square feet.

Chairman Reinhardt – Could you live with 42 sf, same size as Kang Jian?

Mr. Kruchten – No, it's bigger.

Chairman Reinhardt – I know it's bigger, but can you live with 42 sq?

Mr. Kruchten – Personally that's why I got a sign professional to say how big would the letters need to be as his opinion is that that's not big enough to be seen from 80' away and cars going 45 miles per hour.

Chairman Reinhardt – He's not the tenant, you are. Could you live with a 42" sign? If the board said that's the most you can get, what are you going to do?

Mr. Kruchten – Well, I'll take what I get.

Chairman Reinhardt – Ok then, that's what we got. Just a thought. I'm not saying that's where we're going. Just trying to get a thought. Donna, what do you think? Approve with conditions, how big? Deny?

Ms. Morley - My question is how much is left when the fourth business goes in? Would you say?

Chairman Reinhardt – You don't know, because it depends where they go?

Mr. Nearpass – Is the variance going on Suite B or the entire building?

Chairman Reinhardt – It goes to the building, but the number is calculated to the particular suite.

Mr. Nearpass – No, it's who has frontage on 96. If Suite F has zero frontage on 96, they get zero sf up front. True or False, Al?

Mr. Benedict – That's correct.

Mr. Nearpass – There's only 151 sf, the landlord can only divvy that up so many ways. And so I'm trying to figure out how the language of what we're going to do for this one tenant really has to affect the entire building. It's not just for Eastside Martial Arts, it's for the building.

Chairman Reinhardt – You have to craft the variance so that it addresses the problem in hand. It's how the code calculates. So if you just say, yes, sure we're working with 151 sf then other people come in and say well it has to do with the total sf really it has nothing to do with how it's calculated on my frontage. I don't think we ought to go down that path. We still should have that code language in there and follow the code that says if your frontage is 100 feet, do the math here's what you get on the front of the building.

Mr. Nearpass – So right now it would say he gets 9.5 sf. And so we're, the next thing is if someone comes in and they have zero, they got the place in the back and not they are going to come to us and say oh, wait a minute

Mr. Kruchten – Monag is using their current which is the other side and he's giving me permission to use his.

Mr. Nearpass – Yes and that's today. So we put a variance in place and it runs with the building and it's going to outlive all of us in this room so we're just trying to make sure it's something to the best of what we can do. To stand the test of time.

Ms. Morley – Where is the Monag sign on there?

Mr. Kruchten – You can't see it. It's on the far right over on the Suite C I think it is.

Mr. Harter - Mike can we do something going back to the 151 where we can grant an easement for a reasonable number and we deem reasonable.

Chairman Reinhardt – Variance, not an easement.

Mr. Harter – I'm sorry, variance. But get the landlord, the owner to buy into a restriction that says 151 is the maximum across there as it is and it can be allocated however they want to do it then based on the tenancy?

Chairman Reinhardt – I don't think we need to get the landlord to buy into anything. That's what the code says, it's the max he gets.

Mr. Harter – It just seems like we keep coming back to the 151 and the frontage along there keeps being the controlling element and not really so much the . . .

Mr. Nearpass – Well it's not based on the sf.

Chairman Reinhardt – It's a different situation than what we're used to. Usually there's some sf that the tenant can utilize, but because of the design and make up of this building, pigeon holes this particular tenant into an extraordinary small amount of space.

Mr. Nearpass – So in this case for example if we go the other end where we simplify it, we've got a case where someone's allowed 9.5 sf and we look at that and say how, go through the criteria and how much of an impact is 53 sf and how much of an impact is that across the 151 on the building owner is allowed and maybe that is the condition which that the entire building doesn't exceed 151 and that this tenant although it's not excessive, but a significant request he's asking for 53 which brings the total today, it doesn't get to 151, but a condition would be that the total building space adheres to the code and not have more than 151 sf of frontage. I'm trying to get it to where it's something simpler we can all grasp here. You are allowed 9.5, you're asking if 53.3. The building itself is only allowed 151.

Chairman Reinhardt – And we also know there is a tenant in there that seems to be able to function with a 42 sf sign.

Mr. Nearpass – Sure. So that's based on the geometry of their letters and the graphics. Some might have smaller letters versus Eastside Martial Arts and so based on the geometry of the sign sometimes you need more or less. For example what if you cut off the ends that have the two graphics, there's nerf wars and something else on the right. What if it was just Eastside Martial Arts, the other two seem more advertising than the business name?

Mr. Kruchten – That's a big part of our business at this point.

Chairman Reinhardt – We've had that trouble before on the logo that it stretches out and that's how you've designed and it's your business plan, that's certainly up to you, but it seems there's already a tenant in there that uses 42 sf and seems to be able to function fine and without really caving in on well geez there's 151 so it's available, so I should be able to use it, I'm leery of going down that path. I'd rather look at it and say there's already a tenant there, can you use 42

sf and if the board so chooses, granting a variance for the 42 sf and looking at it, there's already another tenant there with that so that tenant was able to get it so you should be able to get that same amount of space. Irrespective of he could really go more, but without giving the farm away that would be my thought on limiting it to 42. That's my thought on it, it's conservative. Let's see what the rest of the board says. Donna, what do you think?

Ms. Morley – On this picture, do we have that picture in our packet? I can see it very good. So, what's the other sign besides that says Nerf?

Mr. Kruchten – That was a temporary one that's not there anymore.

Ms. Morley – Yes, thank you, ok. I was thinking it was this whole, that's what was throwing me. Ok and that was a temporary sign, this little sign that says Nerf.

Mr. Kruchten – Yes, those were 15 x 3 ft something like that.

Ms. Morley – And how many sf is Kang Jian's?

Chairman Reinhardt – 42.

Ms. Morley – 42?

Mr. Kruchten – If you think about it, the temporary signs I was putting up were 3 x 15, so 45 sf so if I can walk out of here with close to that I guess I would be happy, it's certainly better than 9.5.

Mr. Nearpass – So I'm looking at his right and he's got 42 sf and he's got the two window signs and I'm assuming Al those don't count.

Mr. Benedict – Yes, they do count.

Mr. Nearpass – So all three of these are 42 sf.

Mr. Benedict – Yes that's correct

Chairman Reinhardt – So you had a temporary sign and that was approximately 45 sf.

Mr. Kruchten – Correct. Temporary ones that Al said as long as I didn't leave them up for more than 60 days, I could rotate them, but then under Sean's opinion he said I can't do that.

Chairman Reinhardt – And at some point in time have any of your customers, clients say I couldn't find you?

Mr. Kruchten – We have.

Chairman Reinhardt – Alright, but not due to the sign.

Mr. Kruchten – Maybe that we didn't have a permanent sign.

Chairman Reinhardt – Donna, have any thoughts on if the board decided to grant the variance and limit it to 45 sf which would be the size of its temporary sign. Yes, no?

Ms. Morley – I'm ok with the temporary sign size. I was thinking if we divide it into 4 because of what could be 4 tenants they would each have 38, but the other already has more right, 42?

Mr. Kruchten – The three tenants that are in there now, Yes, Monag has 25 and . .

Ms. Morley – I'm ok with the temporary sign size.

Mr. Nearpass – Al, how could the Kang Jian sign? If you draw a box around those three signs – 2 circles and a square only be 42 sf if the nerf one is 45?

Mr. Benedict – 30 and the other the measurement of the other 2 is . . .

Mr. Nearpass – They are separate? I thought it was one box.

Mr. Benedict – No they are window signs. They are separate.

Mr. Nearpass – So the applicant is ok with the 45 sf sign? I'm fine with that.

Mr. Harter – I guess I'm ok with it. This is kind of a complex one so yeah, to try to get this gentleman on his way.

Chairman Reinhardt – Ok. Fred?

Mr. Salsburg – He would say that 45 sf is allowed with the total of 151 for the whole building?

Chairman Reinhardt – Well, it's not going to exceed, the total amount of the signage will not exceed 151 but we are trying to avoid the situation of conditioning the size of his sign to the maximum amount that's permitted on the building. The situation we have is because of the unique shape and the frontage of that lease premises limits him to 9.5 feet. He already has a temporary sign up 45 sf and he seems to be able to live with it. There's another 42 sf sign so my proposal is to grant the variance and limit it to 45sf.

Mr. Nearpass – Who are we taking 35.5 feet from?

Chairman Reinhardt – Nobody there's . . .

Mr. Nearpass – What suite? There's got to be a suite that it's taking it from? Even if its (inaudible). Just so we all know what we are doing here, 151 is fixed.

Mr. Benedict - The remainder of the front vestibule which means the left.

Mr. Krutchen - Suite A

Mr. Nearpass – Suite A, ok.

Mr. Benedict - And whatever is the back piece on the left.

Mr. Nearpass – So I'm just saying if we can put that in the condition or just document that on the variance, so that the landlord's well aware that this extra 35.5 sf is coming from this suite.

Mr. Kruchten – Yeah, he was fine with . .

Chairman Reinhardt – Why though? Because in your hypothetical if the landlord decides to carve off a piece in the back and there's zero frontage you still have 151 to work with.

Mr. Nearpass – No, but the landlord has another suite that has frontage, they just don't have a sign.

Mr. Kruchten – No he's using . . .

Mr. Nearpass – No, he's using it differently, it just doesn't have a sign, but if you put someone else in there.

Ms. Morley – He doesn't have any frontage.

Mr. Kruchten – He does have frontage. He's using all of suite A right now.

Mr. Nearpass – No, that's what I'm saying, right now he is, but if he puts another tenant in there then all the sudden wants frontage and wants a sign.

Mr. Kruchten – That the back part which they technically don't . .

Chairman Reinhardt – No, no, hold on, where you taking it from, which suite?

Mr. Nearpass - Suite A, you're saying if we grant you the variance, 35.5 sf coming from somebody. You're saying it's Suite A.

Mr. Kruchten – It would be whoever takes that back part of Suite A which has no frontage.

Mr. Nearpass – No, no, if you have no frontage, you have no piece of the 151 pie. We are agree to that?

Mr. Kruchten – That's because Monag is using Suite A's frontage, right now.

Mr. Nearpass – There's 151 linear feet of frontage, Kang Jian has some of it, 42 sf, right now, you have 9.5, someone else has to have the delta. In those drawings you put forward

Mr. Kruchten – It's the storage. Right now Monag is using the storage which is Suite C, Monag has the rest.

Mr. Nearpass – Ok, so it's coming from Suite C?

Mr. Kruchten – Well I guess it would be Suite C and A.

Mr. Nearpass – Al's saying, ok, it's coming from Suite A and C.

Mr. Benedict – The owner has a 25 sf sign on the surface to the far right of that picture which is less than what would be allowed. So, there's part of the sf.

Mr. Nearpass – Ok. Just so you know, in a couple years something else will be different and someone else will say, oh, I got.

Mr. Kruchten – It's going to be me anyways, so I'm going to lose . . .

Mr. Nearpass – We're all going to have amnesia in 6 weeks, if that, not less. I just want to make sure we have it right.

Chairman Reinhardt – So anyone else have any comments, questions? Ok, let's try to go through the criteria then as officially as we can.

1. Undesirable change would not be produced in the character in the neighborhood with the justification being the way that the permitted signage calculated only allows the tenant to have 9.5 sf. And there's a total of 151 sf of total signage that can be placed and that the tenant had a temporary sign of 45 sf and there is space available from Suite A and C.

Anyone else want to add anything to the first justification?

2. Being that the applicant cannot achieve by some method feasible to the applicants pursue.

Again, it's 9.5 sq and again the justification we talked about in number 1 applies.

Anyone want to add anything to number two?

3. The area variance is substantial. Certainly by the nature of the amount he's asking for was permitted I don't know the percentage but it's greater than 9.5 sf.

4. The proposed variance will not an adverse impact on the physical and environmental conditions of the neighborhood.

5. The difficulty is self-created. This condition is relevant to the decision of the board which should not necessarily preclude the granting of the area variance. The condition that we are having is that it's maximum of 45 sf and the space that this particular tenant is going to use is from Suite A and C.

Anything else anyone wants to add to the proposed resolution or condition?

RESOLUTION:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on April 5, 2019 from 7263 State Route 96, Victor, requesting an area variances for a 240 inch by 32 inch wall sign, and,

WHEREAS, the applicant requests the sign identify specific businesses, whereas, Code Section 165-5B(3) states a wall sign must be no greater in sign area than one square foot for each foot of linear building frontage. The applicant has only 9.5 square feet of wall frontage, and,

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor on April 15, 2019 on the basis of the variance requested to the Town of Victor Code; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on April 28, 2019 and whereby all property owners within 500 feet of the application were notified by U. S. Mail; and,

WHEREAS, the Ontario County Planning Board Administrative Review Policy 7B, assigned the referral, 102-2019, as a Class 1, on May 6, 2019 and returned it to the local board with no formal recommendation to deny or approve applications for signs that comply with local limits on size and or number, and,

WHEREAS, a Public Hearing was held on May 6, 2019 at which time 0 residents, spoke for/against the application; and,

WHEREAS, after reviewing the file, the testimony given at the Public Hearing and after due deliberation, the Town of Victor Zoning Board of Appeals made the following findings of fact regarding the proposed sign located at 7263 State Route 96, Victor, NY 14564:

1. An undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the area variance.

Justification: Permitted signage only allows the tenant to have 9.5 square feet. There is a total of 151 square feet of total signage that can be placed, the tenant had a temporary sign of 45 square feet and there is space available from Suite A and C.

2. The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Justification: Permitted signage only allows the tenant to have 9.5 square feet. There is a total of 151 square feet of total signage that can be placed, the tenant had a temporary sign of 45 square feet and there is space available from Suite A and C.

3. The requested area variance is substantial.

Justification: The amount of square footage the owner is asking for is greater than 9.5 square feet.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5. The alleged difficulty is self-created. This consideration is relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

Justification: The condition is that the sign is a maximum of 45 square feet and the space that this particular tenant is going to use is from Suite A and C.

NOW, THEREFORE BE IT RESOLVED that the application of 7263 State Route 96, Victor NY 14564, requesting an area variance for a sign at 7263 State Route 96, Victor, New York to Victor Town Code to §165-5B(3) which states a wall sign must be no greater in sign area than one square foot for each foot of linear building frontage, BE APPROVED.

FURTHER RESOLVED that the following condition is imposed to minimize any adverse impact such variances may have on the neighborhood or community:

The condition is that the sign is a maximum of 45 square feet and the space that this particular tenant is going to use is from Suite A and C.

On a motion by Scott Harter, seconded by Matt Nearpass, this resolution was put to a vote with the following results:

Michael Reinhardt	Aye
Mathew Nearpass	Aye
Scott Harter	Aye
Donna Morley	Aye
Fred Salsburg	Aye

Adopted: 5 Ayes, 0 Nays

3. KETTLE RIDGE FARM – SPRINKLER WAIVER
515 Log Cabin Road

10-Z-19

The applicant requests a Sprinkler Waiver for three new farm buildings being constructed on the property at 515 Log Cabin Road. The buildings will be utilized for agricultural and ag-tourism purposes. Under Section 83-4 F(2)(a) of the Town of Victor Code which states that all structures shall be required to have an approved fire sprinkler system installed and operational, however, §83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Residential 2 and owned by Joe Hurley.

Joseph Hurley, 249 Benson Road, Owner of Kettle Ridge Farm, LLC which owns the property at 515 Log Cabin Road which is where we have maple and honey farm. And our plan is to construct three new buildings subject to obtaining use variances. I'm seeking a sprinkler waiver for these three buildings. These are part of our farming operations.

Chairman Reinhardt – So you have three buildings and they are separate buildings, correct? One is a honey house, second is a sugar house and the third is an animal barn.

Mr. Hurley – Correct.

Chairman Reinhardt – The fire marshal has reviewed it and doesn't oppose it. That would be the nutshell version. Did you have a chance to review the fire marshal opinions?

Mr. Hurley – Yes.

Chairman Reinhardt – Ok. So if you walk through the first one, the honey house, if I understand your application correctly at any one time there will be one or two workers in and that's where you process the honey. Is there electric in that building?

Mr. Hurley - Yes.

Chairman Reinhardt – And what about combustible materials?

Mr. Hurley – Well, the hive boxes are made of wood so, that would be combustible.

Chairman Reinhardt – Alright, so is there anything, you'll have to educate us a little, how do you make honey? Is there any cooking? Or, anything involved that has flames

Mr. Hurley – No, the only thing is that you use a heated knife to cut through the wax on the frame of the honey and then you extract the honey by putting it into a spinner and that spins out the honey. That's the only process that goes on.

Chairman Reinhardt – the sugar house sounds a little more involved there's a commercial kitchen there?

Mr. Hurley – Yes

Chairman Reinhardt – The commercial kitchen, its stoves, propane flames, things like that?

Mr. Hurley – I don't know if there would be propane as opposed to just the electric.

Chairman Reinhardt – Is there going to be open flames?

Mr. Hurley – No, I don't anticipate open flames in there, no.

Chairman Reinhardt – Ok, so the process of making syrup, there's . . . you say a kitchen, when I envision a kitchen there's counter tops, stoves, microwaves, dishwashers, things like that. So, what is in your kitchen?

Mr. Hurley – The kitchen would have all those things, they would be electric appliances.

Chairman Reinhardt – Some type of electric stove?

Mr. Hurley – Yes, we use induction heating, so it's electric induction.

Mr. Nearpass – Is this the building that's propane heating, the radiant? Is this the honey house?

Mr. Hurley – Yes, well they would both have in floor radiant heating that would be fired by propane.

Chairman Reinhardt – So go back to the first one. There's a heating unit. Is it in the building, outside the building? I know what radiant heat is, but where is the heat coming from?

Mr. Hurley – It comes from a hot water heater on the wall that's fired by propane.

Chairman Reinhardt – Ok and that's in the building? And, that's run by electric, circulates the hot water, warm water throughout the building and you said electric, which one is it?

Mr. Hurley – No. Well we're talking about heating it would be propane fired. We're talking about kitchen appliances we're talking electric.

Chairman Reinhardt – Ok. And how about in building number two, the Sugar House. The number of workers that are in that building in any one time?

Mr. Hurley – In any one time? Probably three maybe.

Chairman Reinhardt – And then building number three is an animal barn? Heated, not heated? Electric, water?

Mr. Hurley - There'd be water, probably water outside that, the hydrant.

Chairman Reinhardt – I'm sorry, no electric?

Mr. Hurley - No, I think there'd be electric.

Chairman Reinhardt – Ok, so I think we got the general view of it. Donna, questions?

Ms. Morley – How close are these buildings that are on your drawings, how far apart are they?

Mr. Hurley – How far apart are the buildings?

Ms. Morley – Are these the three buildings on the drawing?

Mr. Hurley – Yes.

Ms. Morley – I can see the sugar house is far away, but how close is the honey and the horse?

Mr. Hurley - Those two buildings would be close to one another. Within a few feet of each other.

Mr. Nearpass – So the fire marshal is aware that the buildings have electric and heat running to them and that there's people inside them working. I was a little surprised that Bob would come back and other than just saying it needed to have a heat detection system even on the applicant earlier today there were conditions and they were just putting cardboard boxes inside the building with no heat, no electricity, no anything to it.

Mr. Hurley – I mean like any farm, we have farm workers.

Mr. Nearpass – Oh yes, but Bob was fully aware that there was . . .

Mr. Hurley – I don't know what Bob was aware of to be honest with you. I didn't have a direct discussion with Bob.

Mr. Nearpass – That's my only concern. I want to make sure Bob is aware, because it seems out of the ordinary that Bob would just come back and say I'm ok with that, with heat, electric, a kitchen, something didn't seem right to me there. Do you also have an estimate for what it would cost to put a sprinkler system in? I think that's something that would help us, right? It would help give us kind of the data that would help make the decision. That's one of the criteria of the getting a waiver to the sprinkler.

Mr. Hurley – I didn't go out and check. I didn't know where to start, but I guess I can figure that out.

Mr. Nearpass – I think that's it. I think from my perspective I just need more information.

Mr. Benedict – If I may remind the board that this is an agricultural district. So they already so called lowered, he's exempt from the overly burdensome local laws, probably partially why Bob didn't provide a whole lot of comment. Also, the New York State building code is exempt from getting permits with the exception for building structures. With the exception if the general public starts going in them then there are requirements.

Mr. Nearpass – I thought I saw Ag tourism purposes.

Mr. Hurley – Part of what Al is referring to is that if the public goes in then there is a fairly new section of the New York State law which relates to alternative uses of a sugar house which anticipates sort of the tourism aspect of maple syrup and the fact that we have tours coming through looking at what you're doing and pancakes and all that sort of stuff.

Mr. Nearpass – So how would that tie to not having a sprinkler system?

Mr. Benedict – Sprinkler system is at least at this point from the local standpoint is that it goes in all commercial structures which includes commercial farms. The quick way to say it is if you have people going in the building if it's a level which the building code requires you have to do that, but we are talking about the local requirement for sprinklers. I probably didn't answer the question very well.

Mr. Nearpass – I'm not sure where, I'm just kind of looking at it as, there's just a couple of things I think I need to know is the cost aspect and to your point, the bar is lower in Ag, but I just don't know where I need to set the bar I don't know where to start from a cost perspective. I also just wanted to make sure Bob fully understood what was going on in each of these buildings and what was going in each building just I've been on the board for almost 10 or 12 years and I never known Bob just to say ok. I'm not sure if Bob has in his mind well the bar is lowered for Ag, I think that something obviously that this board takes in to consideration but I don't think Bon takes that into consideration when he's writing about the safety of his firefighters and be called to potentially go in these buildings. So, I'm not for or against at this point, I just need some more information.

Chairman Reinhardt – Scott?

Mr. Harter – So basically in that discussion will the buildings be occupied by the public?

Mr. Hurley – There will be, yes, there will be events, tours coming through seeing how we make maple syrup.

Mr. Harter – Ok and so with respect to that answer, Al are they subject to the permitting of the buildings and a closer look at this issue.

Mr. Benedict – To state the point of sugar houses, the state has set forth certain deadlines and standards. Things that he has to follow which is all that is wrapped up underneath what is called an operating permit and he's still not required to get the building permits for that level it goes to something different than that aside of the sugar houses then yes, he has to get permits for. So if all of sudden you decide to open up as a commercial kitchen, in bringing in the general public then yes, you have to have permits and you have to meet code, stuff like that.

Mr. Hurley - The commercial kitchen is used to make value added maple and honey products, like candy and cream and maple coated nuts and things like that, so it's pretty standard in sugar houses to have a separate area where you do that type of cooking.

Chairman Reinhardt – I would think that if I understand you correctly, there's no open flames and I've been familiar with at least some of these kinds of operations and they do have open flames and I think that would change the equation of this. So, would you be comfortable with the board grants the variance at some point, one of the conditions is that the kitchen remains electric. There'd be no gas propane, open flames inside the building? Are you willing do to that or not?

Mr. Hurley – I am at this point, yes.

Chairman Reinhardt – OK, you think about that. Fred, do you have any questions?

Mr. Salsburg – Al, would you say that the fire marshal had this letter of intent as he was making his report? It's a pretty thorough description of the buildings.

Mr. Benedict – I would hope so.

Chairman Reinhardt – We get the minutes of the meeting tonight, forward them to the fire marshal, let him review it because what we're going to do unless you're telling me that you really need this project up and running immediately. Is two weeks going to make or break this project?

Mr. Hurley – No, because I'm going forward with the applications for the other processes.

Chairman Reinhardt – Ok, so the equation that we're looking for is the math. The cost of what it would be to put the sprinkler system in those buildings.

Mr. Hurley – I'm not sure I'll have that in two weeks. Because I don't know what the process of trying to get an estimate from some company that knows what they are doing. I just don't know. I don't know if there are local companies or I have to go out of town to find these places or

Chairman Reinhardt – You can have more time if you want it. But that's an important piece of the evaluation is whether or not this is an undo economic hardship, the financials, what's its cost of installing it and we can't guess at it. We need a number.

Mr. Hurley - So it can be kind of a ball park number? Because we haven't designed these buildings yet.

Chairman Reinhardt – If you were here with the first applicant, he gave us a ball park figure and the board told him go find somebody to give you a written estimate on what it would cost to install the sprinkler system. We know, we've seen them.

Mr. Nearpass – It's pretty common, there's local companies.

Chairman Reinhardt - Ok, so we can put it off for two weeks, we could put it off for the first Monday in June, which is the third, you tell us what you need.

Mr. Hurley – I would say two weeks and if I can get it in two weeks.

Chairman Reinhardt – We could keep it moving and if it turns out you can't find it, let us know and we'll put it off until the next meeting which would be June 3 and also find out what it would cost to install a heat detection system in those structures. You got a little bit of homework but it's going to help us understand what you're up against and see if we can evaluate the sprinkler

waiver a little better with those numbers. Questions? Anyone else have any questions, concerns? We're good? Great. Thanks so much.

TWO INTERPRETATION REQUESTS FOR THE SAME CODE SECTION 7-Z-19

The Interpretation Requests are to determine if townhomes are allowed in a Residential-1 zoned district. (§211-19) The regulations/definitions of one and two family dwellings need to be clarified for single and townhouse dwellings per applicant. The requests are in regards to the proposed Piper Meadows subdivision.

Chairman Reinhardt – Who'd like to begin? You are Susan Davie?

Ms. Davie – Yes, I am. I live at 930 High Street here in Victor. I'm one of those who had an interpretation. I'm referencing this from the Town of Victor Zoning Board. It's dated under the staple, 3/11/2019. Ok.

Chairman Reinhardt – Ok, so you're providing a section of the code 211-19 R1 District regulation as well as R2 district regulation.

Ms. Davie – So, I'm just to go briefly and then just ask the question. First, R1 District Regulations are districts created for residential use. (a) - permitted usages shall be as follows #1

Chairman Reinhardt – Ms. Davie can I hold you off for a second, if you're going to read the code, if you are going to comment or your concerns. Ok, Great.

Ms. Davie – I will, but I want to just set the tone here.

Chairman Reinhardt – Ok.

Ms. Davie – So, #1 single family dwellings, this is under the R1 regulations, (a) single family detached residential dwellings. One single family detached living unit is permitted per lot. Then if you flip the page and this of course is R2 district regulations. R2 districts are districts created for general residential use (a) permitted usage shall be those uses permitted in the R1 district plus the following 1. Two family dwellings. Two family dwellings units include duplex units and semi attached single family dwellings.

So my question is, if the property or part of the estate now that Dr. Kyper has passed away and daughter, Dr. Jane Glasgow is deemed R1 residential how can duplexes be built on this property when the zoning regulations state otherwise?

Chairman Reinhardt – Ok so, we have a number of people who I think would like to weigh in on this. So, we may come back to you if that's alright?

Ms. Davie – Sure, may I sit down?

Chairman Reinhardt - You may. Thanks so much. Alright, so there's also paperwork from Dennis Buchovecky. I don't see him. Alright, so we'll move along. Mr. Knauf. You'd like to say something.

Mr. Knauf – Thank you. I would.

Chairman Reinhardt – And you represent Morrell Builders.

Mr. Knauf – Yes, I represent Morrell Builders.

Chairman Reinhardt – You provided us with a memo dated April 12, 2019 outlining your position? Ok.

Mr. Knauf – Yes. I assume you all have that, just briefly the code officer last year advised through Kim Kinsella that the proposal was allowed. Basically there will be 39 parcels, each will have a single family dwelling on it. There will not be two units on any parcel. Also we believe that aspect alone will be permissible. But it really doesn't matter because we're seeking cluster development approval from the planning board under 278 of town law which is discretionary, but state laws the local code is pretty clear that in the discussion with planning board the units can be detached, semidetached, attached or multi source, so basically in a cluster development in order to increase open space, have better environmental aspects, etc. The Planning Board has a lot of discretion and they can do things like cluster all the buildings together. I had a case the Penfield Panorama, my case from years ago where they actually went higher, they have a lot of latitude and it's pretty clear, they can even if you cannot do this otherwise, you can cluster the buildings together and we're here asking if the units be clustered together. One would be on each lot, but they would be touching together basically as a townhouse. So, and if there's any ambiguity in the zoning code goes in favor of the property owner. So if there's any confusion here, then our client would be allowed to go forward. I did raise a couple procedural issues, one is that the ruling you got us last summer, the appeal should have been raised within 60 days and it's a long time after that and now the one appellant, we're not contesting her standing because she's an adjacent property owner, but Mr. Buchevechy does not have standing with regard to at least our client's development I think that's what it's targeted at because he's not a nearby property owner. So, we do think that board should defer, not only defer to the code ruling but in penalty would determine if you reach the merits that this is correct that the planning board has discretion in cluster development to cluster the buildings together and it's really up them. So I think Mr. Morrell wants to say a few words.

Mr. Morrell – Super brief, it's Jeff Morrell for the record with Morrell Builders. Just for the record, we've been developing now since 1976 in the town of Victor, the last twenty years under our stewardship and every one of our projects has been a 278 application under the clustering provisions granting the Planning Board that latitude. And it's a very important latitude to have, very specifically with respect to environmental conditions and protections those environmental conditions. So we've always applauded that flexibility in all our projects and adhere to that

flexibility and the code in 184-23 of the town code is extremely specific with regards to its allowance of this application so those are my only comments and outside of that we're here to hopefully move forward with the project. Thank you.

Chairman Reinhardt – Anyone else want to speak? Ok, so we had an opportunity at my request to meet with council. Gave us an insight about condition situation. Unfortunately due to my error I did not forward to council Mr. Knauf's memo. Chatted briefly with him and he's interested in taking a careful look at it. The other piece we're looking also at is what's permitted in R1, what's permitted in R2, given what you're asking for. R2 it seems that it's allowed, you can do a town home in an R2. The ambiguity, if you will, the clarity in R1 is a little more problematic a little more difficult. What I'm proposing is surely I want to let our attorney know what's happen today, communicate the minutes and also with Mr. Knauf's April 12, 2019 memo, take a careful look at it and meet back here in two weeks with maybe a better though on where we're going, what direction we're going. So if there's any concerns or questions that you have unless there's something that's imminent that you want to get the shovel in the ground today we're asking for a little more time to have our attorney take a look at the legal aspects of it.

Mr. Knauf – Is that Mr. Pavia? Or Mr. Picciotti?

Chairman Reinhardt – That would be, that's an attorney from Harris Beach.

Mr. Morrell – That would be fine. The only thing I would like to do it to submit this paperwork which was sent to the town Planning Board with respect to this application. The application is a 278 application again sent in to the Town in our original application and interpreted by Al. I'll just hand this to you so you have the clustering provisions of what our application's all about.

Chairman Reinhardt – Ok thank you. We'll forward this to our council as well. Does anyone have any questions, concerns at this time? We're good. Scott? Fred? We're all good. Thank you so much for your patience tonight.

It was unanimously agreed and RESOLVED that the meeting was adjourned at 8:50 PM on a motion by Mr. Nearpass, second Ms. Morley.