

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

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

**OTHERS PRESENT:** Ryan MacNamara

The ZBA meeting was called to order by Chairperson Sean Sanderson at 7:00 pm.

Salute to the Flag

**Resolution #03-19ZBA**

**Acceptance of Minutes**

On a motion made by Brendon Crossing, seconded by David Chalupa, the following resolution was ADOPTED 5 AYES 0 NAYS

**Resolved** to accept the minutes dated February 20, 2019.

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**265 West Main Street/Cretekos Properties LLC**

**Area Variance Sign**

Chairperson Sanderson read the legal notice into the record:

"A public hearing will be held before the Village of Victor Zoning Board of Appeals on Wednesday, May 15, 2019, at 7:00 p.m., in the Village Hall, 60 East Main Street, Victor, New York, to consider:

1.) The application of 265 West Main Street/Cretekos Properties LLC, for an area variance to the Village of Victor Zoning Code section 130-5 B 2 (b) to allow the modification of a pre-existing non-conforming ground sign measuring 5' wide by 8.5' tall and exceeding 16 sf of advertising space.

Sean Sanderson, Chairperson  
Village of Victor Zoning Board of Appeals"

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

"To: The Village of Victor Zoning Board  
From: Doug Scarson, Code Enforcement Officer  
Re: Sign Change Application for 265 West Main St.

A sign application has been reviewed by my office for the free standing sign at the above address adjacent to Route 96.

The sign services two different businesses currently and is near the driveway entrance of both of these establishments. The reason for the application is because a new owner is going to be taking over one of the businesses and wishes to change/add to the sign at the road. This is to include wording and colors. A review of the past Village records shows that authorization was given in 2004 to change the sign but no further info is available. Then in 2005 another application was applied for a free standing sign 24" x 6 feet. But no other info can be found as to permits ever being issued. Subsequently the Village Sign code was revised in 2008 and a letter was sent to Papa Jacks Grill stating that one of their sign's was possibly in violation of the new code. No other information can be found.

With that being said it is my finding that the present sign measures 5 feet wide by 8 ½ feet tall (ground to top of sign). The current sign code adopted 12 months ago requires that all nonconforming signs per Section 130-7 be brought into compliance within the year. Section 130-5 B 2 (b) titled signs permitted in multiple-building complexes states that one ground sign may be installed near the primary entrance measuring a maximum of 16 square feet and no more than 5 feet high.

I cannot issue a permit at this time for any changes to the sign for the above reasons. It would be the decision of the ZBA through a variance in order for me to issue any permits. Also I believe the Board may grant any conditions with their decision.

If you have any further questions please contact my office at any time at 585-924-3311. Thank you."

Mr. Sanderson stated that because the sign is located within 500 feet of State Rt. 96 that it has to go to the County for their feedback. Mr. Pancoast stated that if the County says no, the vote would require a super majority. Mr. Sanderson stated that a super majority means that at least 4 positive votes are necessary. Mr. Sanderson stated that the applicant will have to come back next month.

Mr. Sanderson stated that Mr. Ryan MacNamara is renting the building but has bought the diner business which will be called Mac's Philly Steaks Diner. Mr. Sanderson asked if the sign in question is on the property of the diner or of the ice cream shop. Mr. Stone stated that he went to OnCor (Ontario County Records) and printed a site plan which shows the sign in question is on the ice cream shop property at 265 West Main Street. (Exhibit A)

Mr. Crossing read from the prohibited signs part of the code for unrelated signs which says "Business use signs must advertise a bona fide business conducted on the premises where the sign is located unless authorized by a special use permit." Mr. Pancoast stated that he learned at the access management meeting that they do not want too many accesses to Route 96 so the two pieces of property share an access so it makes sense to have both businesses on one sign.

Mr. Crossing stated that you have to look at the code and you cannot have a sign for a business that is not located on that parcel without a special use permit from the Planning Board.

Mr. Sanderson stated that Mr. MacNamara is entitled to have a sign on the building and his own monument sign out front that is no more than 16 square feet and no higher than 5 feet.

Mr. Sanderson stated that there are multiple signs in the Village that are not to code and that Code Enforcement is addressing them on a case by case basis so if a pre-existing, non-conforming sign needs to be updated it needs to be brought into compliance with the code. Mr. Stone stated that in 2008 a letter went out to business owners stating that with the revision of the sign code that all signs without a valid permit be brought into compliance with the new code. Mr. Stone stated that in April of 2018 another letter went out giving business owners with signs that are out of compliance one year to get them to conform to the code.

Mr. MacNamara stated that he has a temporary sign permit and has put up the banners and is waiting to see what happens. Mr. MacNamara stated that if he has to put up his own sign he is fine with it but if this variance was to be granted it would be a lot less expensive.

Mr. Crossing asked what could be done to the current sign to bring it into compliance. Mr. MacNamara stated that the slide letters could be removed and the sign shortened. Mr. Stone stated that they would still need a special use permit. Mr. Stone asked what the slide letters are used for. Mr. MacNamara stated that they use it for messages about sporting events, fundraisers, congratulating classes etc.... Mr. Chalupa stated that in his opinion that they should keep the slide letters. Mr. MacNamara agreed.

*Discussion about how to modify the existing sign so that it would be to code*

Mr. Sanderson stated that he is interested to see the comments from the County regarding consolidating two signs into one. Mr. Sanderson stated that the Zoning Board tries to minimize the number of variances that they give out or how substantial the variance is. Mr. Sanderson asked the board their opinion on whether each business having their own sign would make the problem worse. The board consensus was that it would make the problem worse.

*Discussion regarding access management, shared driveways and signs*

Mr. Crossing stated that he is not sure that the Zoning Board should be so forward thinking to contemplating considering an access plan that has or hasn't been adopted. Mr. Crossing stated that he thinks it is more important that the Zoning Board perform the balancing tests on the request based on the code that is in front of us. Mr. Pancoast stated that the sign code will need to be revisited once the access management plan is put in place.

*Discussion about the access management plan*

Mr. Sanderson read the description of the project from the application which says "we are applying for a marquee sign that was approved in 2004, it is in compliance as long as there are no changes to it." Mr. Sanderson stated that that is not correct. They had a year to address it but it has not been fixed. Mr. Sanderson continued reading the application "since we are in the Gateway District of the Village size allowance should vary in a case by case process and this being a multiple business location it is much better to have one sign than multiple signs." Mr. Crossing stated that each building is on its own parcel so it is not a multiple business location. Mr. Chalupa stated that the simplest thing would be to put one sign on each parcel to avoid having a variance.

*Discussion regarding Planning Board & Zoning Board procedure*

Mr. Sanderson stated that he thinks the Zoning Board needs to start communicating a little better with the applicant and Code Enforcement because some of these questions and issues could have been addressed prior to the meeting.

Mr. Sanderson stated that it would be good if both Mr. Cretekos and Mr. MacNamara could be at the next ZBA meeting.

Mr. Stone asked Mr. Sanderson if the Zoning Board is recommending a path for the applicant to follow and if so is the Zoning Board allowed to discuss concerns so they can have an application that has some strength. Mr. Sanderson answered "absolutely".

Mr. Crossing stated that one of the balancing tests that I always focus on is "is the requested variance substantial?" and Mr. Crossing stated that it is because if you compare 16 sq. ft. to 37 sq. ft., that is substantial, so anything you can do to help us out, we are not going to split hairs or offer guidance but if you can bring it into compliance size wise, that is what the Zoning Board looks for. Mr. Pancoast stated that the applicant could also reduce the amount of variance that is needed. Mr. Chalupa stated that either way a new sign is needed. Mr. MacNamara stated that if that is the case that it makes more sense to put a separate sign up. Mr. Sanderson stated that if that is the case, it would also require Mr. Cretekos putting up a new sign because the existing sign cannot stay there as it is. Mr. Crossing stated that Code Enforcement can enforce the code regarding the existing sign.

*Discussion regarding options for the sign/signs*

Mr. Sanderson talked about the balancing test and explained that the Zoning Board will go over it next month. Mr. Sanderson stated that no one was present for the Public Hearing this evening.

*Sean Sanderson opened the Public Hearing*

0 persons spoke in favor of the application and 0 persons spoke against the application.

*Sean Sanderson closed the Public Hearing*

Mr. Stone stated that he agrees with what Mr. Crossing said about reducing the variance but when he initially looked at the application he had the mindset that he would rather see two conforming signs than one non-conforming. Mr. Stone stated that he also agrees with what Mr. Pancoast is saying and that it makes a lot of sense to have one sign advertising both businesses since they share a driveway. Mr. Pancoast stated that the current sign is set back far enough so that you can see in both directions.

Mr. Sanderson stated that if Mr. MacNamara were to put up his own sign he may lose a parking spot. Mr. MacNamara stated that he may have to cut down a tree as well.

*Discussion regarding Planning Board special use permits*

Mr. Sanderson stated that he will arrange an informal meeting prior to the June 19<sup>th</sup> meeting between himself, Mr. Cretekos, Mr. MacNamara, Code Enforcement, & Ms. CHaides (Planning Board Chair) to discuss options for the sign.

Mr. Crossing stated that generally he likes the sign as it stands but it is too big. Mr. Stone stated that if Mr. MacNamara were to put up his own sign and it was to code that he would just need a sign permit. Mr. Sanderson stated that he would need to go to Planning Board. Mr. Sanderson stated that at least Mr. MacNamara has his temporary sign up now.

Mr. Sanderson asked for a motion to table the meeting until June 19, 2019. Mr. Pancoast made a motion and Mr. Stone seconded it. All agreed.

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**ADJOURNMENT**

Meeting was adjourned on motion at 7:52 pm.

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Roseanne Turner-Adams, Minutes Clerk