

## TOWN OF VICTOR ZONING BOARD OF APPEALS

May 18, 2020

A regular meeting of the Town of Victor Zoning Board of Appeals was held on Monday, May 18, 2020 at 7:00 p.m. via video conference. There was no public gathering based on the recommended precautions for limiting exposure to COVID-19. The public had the opportunity to attend, listen and observe this meeting live on YouTube. The link was posted.

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman; Donna Morley; Fred Salsburg; Sarah Mitchell

ABSENT: None

OTHERS: Al Benedict, Town of Victor Code Enforcement Officer; Marty Avila, Town of Victor Code Enforcement Officer; Gary Pooler, Pooler Development; Steve Hastings, Pooler Development; Lisa Boughton, Acting Zoning Board Secretary

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

APPROVAL OF MINUTES:

On motion of Donna Morley, seconded by Matt Nearpass:

RESOLVED, that the minutes of the meeting held on May 4, 2020 BE APPROVED as submitted.

|                    |     |
|--------------------|-----|
| Chairman Reinhardt | Aye |
| Matt Nearpass      | Aye |
| Fred Salsburg      | Aye |
| Donna Morley       | Aye |
| Sarah Mitchell     | Aye |

Adopted Ayes 5, Nays 0.

PUBLIC HEARING:

POOLER PARK

749 Phillips Road

Appl. No. 01-Z-2020

The applicant is requesting a sprinkler system waiver for a proposed approximately 1,456 square foot addition to an existing 8,300 square foot 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, Section 83-4F(2)(d) states that the Zoning Board of Appeals can grant a waiver. The property is zoned Light Industrial and in the Route 96/251 Corridor Overlay District and is owned by Pooler Park, LLC.

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Mr. Pooler appeared before the board.

Mr. Reinhardt – We have your application and your letter of intent. Do you want to walk us through that a little bit and let us know how your problem fits the criteria for a waiver?

Mr. Pooler – The building we've got is an older building that was built in the 1950's and it's been retro-fitted. There was a trucking company in there before I bought it and when I bought it I fixed it up and leased it to several different tenants. Mike Moreland is in there now. I put an addition up for him a couple of years ago. At that time, we asked for a sprinkler system waiver and the cost for running a 6" main, getting everything back in there, was just astronomical. We are adding on to the back of the building so we would have to go all the way around the back to put it in. It adds just so much cost to the building that it's not feasible to do. It is just cost prohibitive to put the sprinkler system in.

The Fire Marshal asked for a heat sensor to be installed which we have no problem on putting that in. I think it makes all the sense in the world. We'll be glad to do that.

Mr. Reinhardt – I think you touched on it...I know it's your building, are you leasing it out or is it for your business?

Mr. Pooler – I'm leasing it out to Mike Moreland Landscaping. He's been over there for about 7 years now.

Mr. Reinhardt – What is in the building?

Mr. Pooler – Mike Moreland Landscaping. He does lawn work and mulch and landscaping, hardscaping stuff. He's been there for quite a while. He just uses it for storage and fixing small equipment like lawn mowers and rototillers and all the things he uses in his business.

Mr. Reinhardt – Do you know if any employees are going to be working inside the addition?

Mr. Pooler – They use it for storage. He's really not adding any employees and he's not changing anything that he's doing. It's all the same materials and everything that he's been doing right along.

Mr. Reinhardt – I'm going to let the Board ask some questions and then I'll circle back. Fred, do you have any questions?

Mr. Salsburg – Gary, that existing building is metal steel siding, it looks like?

Mr. Pooler – Yes, it's metal steel.

Mr. Salsburg – Will that wall stay continuous so that there's a wall between the new and the old section?

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Mr. Pooler – There's a block wall that I think is like 5' tall. We were going to leave that up and we are going to take the steel off the end of that and put on the end of the new addition. It's an expandable wall so we can take that steel off and put it on the end of the new building.

Mr. Salsburg – So, it will be open into the new part?

Mr. Pooler – It would be opened up and to the last addition we put in that he uses for storage also. There is a wall there that would block both of these sections off. They are both 1,456 square feet.

Mr. Salsburg – There would be electric for lighting and to run a 10 volt plug probably?

Mr. Pooler – Yes. It will be just minimal for charges and things like that.

Mr. Salsburg – That's all I have, Mike.

Mr. Reinhardt – Donna, do you have any questions?

Mrs. Morley – Do you have any cost comparison of what it would cost to put the sprinkler system in there?

Mr. Pooler – I've got prices to put the sprinkler system inside of the 1,400 square foot would be around \$5,000 or what I was told and our estimate the last time we put the last addition on, it was \$26,000 to run the feed, the main and everything to get it to the back of the building so we could tie into it.

Mrs. Morley – Thank you. That's the only question I have right now.

Mr. Reinhardt – Sarah, do you have any questions?

Mrs. Mitchell – I don't right now.

Mr. Reinhardt – Matt, do you have any questions?

Mr. Nearpass – Just a couple. So, the other 8,000 square feet is pre-existing, non-conforming or is there a sprinkler waiver for that?

Mr. Pooler – The existing building was pre-existing, non-conforming. We did get a waiver for the last 1,400 square feet we added on.

Mr. Nearpass – So, Mike, the waiver today really is for the entire site then?

Mr. Reinhardt – I understood it to be a waiver for the addition. Al, do you read it that way or are we looking at the whole structure?

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Mr. Nearpass – Usually we try to bring the whole site – ideally, right – you try to bring the whole site into compliance.

Mr. Benedict – The way the code reads is any addition would have to be sprinklered. If the addition is greater than 50% of the whole structure together, then the whole structure has to become sprinklered. So, at this point, we are just going this addition.

Mr. Nearpass – Okay. I did read the Fire Marshal's comments. I thought it made sense. If the applicant is willing to put in the heat sensing system that the Fire Marshal had recommended, I'm all for it.

Mr. Pooler – We have no problem with it. It makes sense.

Mr. Reinhardt – Okay, great. Just to follow up with a couple of questions. You commented that it was for storage so, as far as storage, you mentioned some materials but is there going to be equipment in there that is flammable whether it be lawn mowers or larger equipment? What are we looking at?

Mr. Pooler – It can be fertilizer, block or it could be lawnmowers. There is some lawn mowers, weed whips, hand tools that they use every day. It's mainly all the hand tools, small stuff.

Mr. Reinhardt – Okay. So, forgive me if I repeated myself before but we'll just go through it to make sure everybody is on the same page. When we receive these waivers, there are two concerns. Certainly it's the structure but primarily it's the safety of the fire fighters so that when they are called out to duty that they aren't left in the very precarious situation because of the fire that is out of control. They are well trained and if they can save it, they will. But the whole idea of the sprinkler system is to try and mitigate, if you will, the fire enough so that when they get there, they can handle it. So, by granting the waiver, what ends up happening then is should the Fire Marshal look into it and he's commented on it, it sounds like you are okay with his recommendations. But if the building is going up and especially with no employees being in there, it presents at least a doable situation. We get concerned when employees are working in there and the applicant asks for a waiver. I think that's a difficult ask for us.

I'm okay with it. I think it was well presented. We'll circle around just in case anyone has any other questions. But first what I want to do is ask if anyone from the public has commented.

Mr. Avila indicated that there was no public comment and no one was viewing so the Board could proceed.

Mr. Reinhardt – Fred, any more questions?

Mr. Salsburg – Unlike some of the other requests for waivers, I think this is an undue hardship to try and enforce the sprinkler for 1,400 square feet. I'm comfortable with the waiver.

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Mr. Reinhardt – Donna, anything you want to add?

Mr. Morley – I'm good.

Mr. Reinhardt – Sarah, any other questions?

Mrs. Mitchell – I just want to make sure that I understood correctly that the Zoning Board already issued a waiver for the other addition, is that correct?

Mr. Reinhardt – No, it's a pre-existing, non-conforming structure. We are only looking at the addition and Al's comment was that unless that addition is greater than the structure it's attached to, we are only looking at the sprinkler for the addition.

Mr. Benedict – Sarah was asking, I think, about the previous addition that's on the building.

Mrs. Mitchell – Right.

Mr. Benedict – That also had a waiver.

Mrs. Morley – We gave it a waiver.

Mr. Benedict – The main building is pre-existing and then there was an addition put on about 3 or 4 years ago which had a waiver and now he is back proposing another addition and asking for an additional waiver.

Mrs. Mitchell – I just wanted to make sure I was following along correctly. That was all I had Mike.

Mr. Reinhardt – I'd like to at least make note of that. Gary, that first addition, was it 5 years ago?

Mr. Pooler – 3 or 4 years ago.

Mr. Reinhardt – And there was a waiver with that one?

Mr. Pooler – Yes.

Mr. Reinhardt – Okay. When do you plan on putting up the second addition?

Mr. Pooler – Right now, with the COVID and everything, we are trying to get it done before winter. We are trying to get this done June, July or August.

Mr. Reinhardt – Okay. Matt, do you have anything else you want to add?

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Mr. Nearpass – No further questions from me. I'm good.

Mr. Reinhardt read the draft resolution.

DECISION:

On motion of Donna Morley, seconded by Fred Salsburg:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on February 27, 2020 from Pooler Park LLC, 783 County Road 42, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2) (a)) for a proposed 1,456 square foot addition to an existing 8,300 square foot building on the property at their address; and,

WHEREAS, said application was referred by Al Benedict, Town of Victor Code Enforcement Officer, on the basis that the structure is required to have an approved fire sprinkler system installed and operational; and,

WHEREAS, a Public Hearing was duly called for and was published in "The Daily Messenger" on May 18, 2020, and whereby all property owners within 500 ft of the application were notified by U.S. Mail; and,

WHEREAS, Robert Graham, Town of Victor Fire Marshall, reviewed the application. In a coordinated fire service sprinkler waiver review with the Victor Fire Services, Mr. Graham commented on April 7, 2020, that the Fire Service supports the installation and use of fire sprinkler systems in all commercial buildings in accordance with local law. We do understand however that there are some situations that make installation of a sprinkler system impractical. In this case, the lack of an existing sprinkler system, and the lack of available water at the building, and the relatively small size of the addition in comparison to the whole building may be factors that make this installation impracticable. If the Zoning Board of Appeals decides to grant this waiver, the Fire Service would request an Automatic heat detection system be installed to alert the Fire Service in the event of a fire; and,

WHEREAS, Public Hearings were held on May 18, 2020, at which time no one spoke for or 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 considered the following:

1. Undue economic hardship.

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The cost of tapping the existing 6” service, running a new 2” service to the building and restoring the site would cost approximately \$31,000. The property is leased to a landscape company and will be used for equipment storage in relationship to that business and would create an undue hardship for the applicant to install the sprinkler system.

2. Physical or legal impossibility.

Since there is no existing sprinkler system, to bring the service to the new addition would be cost prohibitive.

3. Impediment to the intended objectives of this section.

The Town of Victor Fire Marshal, Robert Graham, on behalf of the Coordinated Fire Service, reviewed the waiver request and while the Fire Service would prefer a sprinkler system, they have requested an automatic heat detection system be installed to alert the Fire Service in the event of a fire, which the applicant has agreed to install.

4. Necessity in light of other viable alternatives which meet the objectives of the code section.

The applicant has agreed to install a heat detection system in the new addition. This would be the second addition to the existing building. The first addition was granted a sprinkler waiver 4 years ago from the Zoning Board of Appeals.

5. Recommendations and comments submitted by the Coordinated review by the Fire Chiefs of the Victor and Fishers Fire Districts and the Town of Victor Fire Marshal.

NOW, THEREFORE BE IT RESOLVED that the application of Pooler Park LLC, 783 County Road 42, Victor, NY, 14564, requesting a fire sprinkler waiver per the Town of Victor Code (see Chapter 83-4F (2) (a)) for proposed addition being constructed at their address BE APPROVED; and, be it

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FURTHER RESOLVED that the following conditions are imposed to minimize any adverse impact such waiver may have on the neighborhood or community:

1. The Fire Service would request an Automatic heat detection system be installed to alert the Fire Service in the event of a fire.
2. The sprinkler waiver granted is to the Town of Victor Town Code but not the New York State Building Code.

This resolution was put to a vote with the following results:

|                    |     |
|--------------------|-----|
| Chairman Reinhardt | Aye |
| Fred Salsburg      | Aye |
| Matt Nearpass      | Aye |
| Sarah Mitchell     | Aye |
| Donna Morley       | Aye |

Adopted Ayes 5, Nays 0.

On motion of Fred Salsburg, seconded by Sarah Mitchell, the meeting ended at 7:21 p.m.

Lisa Boughton, Acting Secretary

Typed by Kim Kinsella