

A regular meeting of the Town of Victor Zoning Board of Appeals was held on June 1, 2020 at 7:00 p.m. There was no public gathering based on the recommended precautions for limiting exposure to COVID-19. The following members were present virtually via ZOOM and the meeting was live streamed via YouTube:

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

ABSENT: Michael Reinhardt

OTHERS: Alan Benedict, Code Enforcement Officer; Martin Avila, Code Enforcement Officer; Tim Dion; Andrew Spencer, BME Associates; Andrew Reed; Terry Zappia

PAST MINUTES:

On motion of Fred Salsburg, seconded by Sarah Mitchell:

RESOLVED, that the minutes of the meeting held on May 18, 2020 **BE APPROVED**.

Adopted Ayes 4, Nays 0.

PUBLIC HEARING:

A public hearing was conducted via video conferencing before the Town of Victor Zoning Board of Appeals on Monday, June 1, 2020 at 7:00 p.m. to consider the following applications:

DION FENCE, 342 Fishers Road – The applicant is requesting to replace an existing fence that is forward of the front line of the house. The proposed 5’ fence will be installed parallel with the location of the existing fence and approximately 8 feet forward of the house whereas the existing fence is approximately 16 feet forward of the front line of the house. The applicant requests a variance from Section 211-41H which requires a fence to be constructed behind the front line of the hose. This parcel is in the Limited Development District.

UR MEDICINE @ OMNITECH BUSINESS PARK, 7670 Omnitech Place – Applicant is requesting an area variance to construct a 13.2 sf sign on a parcel currently owned by the State of New York Thruway Authority and within the New York State DOT Route 96 right-of-way, whereas Section 165-4B(5) does not allows a sign within a right-of-way and whereas Section 165-6(D) does not allow a sign to advertise a business not a premises on which the business is located and whereas, Section 165-4B(6) does not allow a sign less than 35 feet from pavement edge on Omnitech Place.

DION FENCE

342 Fishers Road

Appl. No. 04-Z-2020

Mr. Tim Dion appeared before the Board.

Mr. Dion – First, I would like to thank everybody for the opportunity to speak. This is actually a good project for a Zoom meeting because it’s not overly complicated. There is an existing fence – I purchased the house in the fall of last year and there’s an existing fence that pre-dated my purchase and that fence currently lies in the right-of-way in front of my property line but it was grandfathered in because it was there before the right-of-way and property lines – those laws were enforced from a fence standpoint.

My proposal is to move that fence 8' back from the road, which would move it out of the right-of-way and would move it back onto my property line but it would still be in violation of Section 211-41H which is the provision that disallows a fence over 2' to be in front of the front house line.

The reason I'm asking for your consideration of this is because I don't have the opportunity to move the back of the fence back at all due to the wooded area that is behind the yard. So, if I were to move back from its current location to a spot where it is behind the front line of the house, I would lose about 2,000 square feet of yard and I'm trying to find a nice happy medium where maybe we can only take away 1,000 feet of yard but I'm still complying with the right-of-way and front of property line, rules is the best way to put it.

The current fence is very deteriorated. It needs repair and it needs more than that, to be honest with you. It needs to be replaced. Because of when the fence was put in, you can tell that there was no cement for the posts that were put in. The sections of fence are actually disconnecting from the posts themselves and it's starting to lose its purpose as a fence.

The reason that I want to have a fence in the first place is because I have a beautiful side yard that I'd like to utilize for not only my dog but my girlfriend's nephews. They live 5 minutes away and we'd love to be able to have them over and have them be able to play in the yard and not necessarily have to worry about...just having a boarded in area where it's safe – that's the most important part, I think, is just safety.

That's pretty much the long and short of it. To be honest with you, I don't want to overly explain it. I'd love to hear some of your questions you may have.

Mr. Nearpass – Okay. Sounds good. Let's start out with Drew, do you want to start first for us with some questions?

Mr. Cusimano – Thank you. I appreciate you asking. I don't have any questions at this time.

Mr. Nearpass – Okay.

Mr. Salsburg – As it happens, in my opinion, the front fence is really quite imposing, large and it seems to have, to me, I drove by, a strong visual impact. The fence you picked for the rest of it, with the open framing, is a lot easier to look at, for me.

The one section is even with the front of the house. I think that's the way it is now.

Mr. Dion – Yes.

Mr. Salsburg – So, my question is, do you think you need such a stockade looking fence in the front?

Mr. Dion – That's an excellent question and thank you for asking it. Part of the reason that we designed these two styles of fence is fence style "A" was more along the lines of somewhat privacy, it's not a privacy fence because you can see through it but it's a little more private than style "B". Fence style "A" was to go along the front of the property and on the neighbor's side of the property and the fence style "B" was to be on the back of the property that would allow us to still see the wildlife and things along those lines.

The reason we are hoping to go with that is because we just wanted to maintain the level of privacy that we kind of have now with the fence without sacrificing that, I guess is the best way to put it.

Mr. Salsburg – Well, it is a side yard so even though it would stick out in front of the house, I don't think it's a real show stopper to me. So, I guess that's my only question is if you would be able to consider the other style in front and if the answer is no, that's fine. That's my thought. As it is now with the white picket fence, it's real country and this fence doesn't look the same way. I think it has a tendency to take away from the friendliness of the property. I'm done.

Mr. Dion – I understand your concern and I appreciate you airing it. It's definitely something that I will take into consideration. You mentioned that you had driven by the property and taken a look, you would have seen how poor of a state the fence is currently in.

Mr. Salsburg – It appeared to be about a 3' high standard picket fence.

Mr. Dion – It's just under 4' actually. So, I'm really only going about a foot taller than that. As far as the – I think because it's down from the road in elevation, it doesn't necessarily have that closed off feeling that you might think. When you think 5', you think that's pretty tall but it's already down 2' to 3' from the road. It's really for the containment of the animals and children then anything.

Mr. Salsburg – That's exactly my point. A 5' fence pretty close to the road is kind of unusual.

Mr. Nearpass – Donna?

Ms. Morley – Can you show me, on the map, is there a picture of where the existing is and where you want the new one to go?

Mr. Dion – On that survey map, you'll see that there is an "X" – right next to that 313.58' there's a bunch of x's going downward – that is the existing fence. And then the red line is 8' back from that and that is where I would like the fence.

Ms. Morley – Okay.

Mr. Nearpass – And Donna, the one visual that helped me on this is the second page of the letter of intent dated May 4, 2020 where he has kind of the side view and it's got a picture of the current fence and then he kind of drew a line. It looks like it's probably 8' more away from the road and out of the right-of-way than the existing fence.

Ms. Morley – I'm okay with where he wants to put it. I'm not okay with the height for a front yard and side yard but that's just me. That's my only comment. Thank you.

Mr. Nearpass – The height on this again was....?

Mr. Dion – 5' tall.

Mr. Nearpass – Sarah?

Ms. Mitchell – So, I'm kind of along the same lines as everybody else. I have a concern with the height, with the fence being so close to the road. I understand he wants to do a fence to keep his family safe but we also have to keep the people travelling on those roads safe, as well. Just past his house, when I went down there, there is a slight bend there so we do have to make sure that people travelling that road can see and he can also see getting in and out of his driveway. I would say probably the concern as to why the

Town doesn't like fences in the front yard would be for safety issues. I think 5' is too high, too tall, for a front yard. I guess I don't really have questions. Those are just my comments at this point and we just have to keep in mind of safety for everyone, not just the applicant himself. Those are my concerns at this point.

Mr. Dion – Do I have an opportunity to speak to those?

Mr. Nearpass – Absolutely.

Mr. Dion – One of the things you mentioned was pulling out of my driveway. This is on the opposite side of the house. Since it's on the side yard; this is on the south side of my house and my garage is on the north side of my house so my driveway is right in front of the garage. There's a full house distance in between the fence and the driveway.

Ms. Mitchell – It's also a 5' fence that is going to be – I understand that's it's already in your front yard but we just have to keep in mind your safety as well as everybody else's.

Mr. Dion – Absolutely.

Ms. Mitchell – It's not just you travelling in and out of your driveway. I'm sure you have guests, on occasion, so we just have to keep in mind safety for everyone.

Mr. Dion – Absolutely and I 100% agree with you there – I just wanted to point out the location of the fence in comparison to my driveway.

Ms. Mitchell – Thank you.

Mr. Nearpass – So, Tim, if you had to bring the fence itself into compliance so it was even with that front line of the home, is that another 8'? Is that where you are saying you would lose....

Mr. Dion – Right. Right now, currently, it runs off the corner of the house and it goes out – and actually the sections are missing because they are so deteriorated they fell apart – but it goes from the corner of the house in a southward direction then it goes 2 fence sections toward the road and then it continues along parallel with the road. My request is that we just go one fence section towards the road versus the two.

Mr. Nearpass – How long is that fence section?

Mr. Dion – That section – the other map that I put together, the one that looks like an excel spreadsheet, that has accurate numbers on it. I apologize I don't have it in front of me.

Mr. Salsburg – Aren't the fence sections 8' long?

Mr. Dion – Each section is 8' long, yes.

Mr. Nearpass – Al, I know that we get a lot of applications that generally deal with things forward of the front line of the home. A lot of that generally has to do with, I'll say less with safety and more with when homes are in subdivisions, trying to keep a clean look so people aren't putting sheds in their front lawn and those kinds of things. We don't have that similar situation here. Obviously there are homes in the area but they are not part of a formal subdivision where we generally are a little more strict with something like that.

The one thing I like about what the applicant is at least doing is he is doing his best to try and minimize the impact so he is coming back another 8', although it looks like it is another foot taller fence. Tim, are you still going to keep the landscaping or the trees that are there, as well?

Mr. Dion – That was a question that I was going to have for the Planning Board. I meeting with them a wee and a day from today. And I wasn't quite sure about the trees in the right-of-way if I'm allowed to landscape them or what their preference is there. I'm open to any recommendation and any ideas there.

Mr. Nearpass – I would think pulling it back another 8' even though you go up another foot, I think it would still be an improvement in visibility. Al, can you talk to the safety aspects of it from the road versus what it is now. Is it a net improvement to the community in safety of the area versus what's previously existing, non-conforming?

Mr. Benedict – Good question. I think first concern is not having it in the right-of-way because if it's in the right-of-way and someone hits it, the Town becomes liable for it. The other part of it is certainly visibility. If he thinks he can get out of his driveway and people can come in and out of his driveway without that blocking the view, that's even better.

The first foremost thing is that it is out of the right-of-way.

Mr. Salsburg – I think there are other 5' high fences in front of house, but they are set back a little further from the highway.

Mr. Nearpass – So, actually the shot that we just had – the Google Earth side shot there was very telling...even without the fence, there is still quite a bit vegetation that's there anyways. Whether it is there or not, that provides a sense of obstruction and really, the fence, to me, is much less obstructive than what is already there.

How far will is the new location from the road?

Mr. Dion – That is an excellent question and I didn't actually measure from the road to – I can tell you it would be 8' further back. If you'd like I can honestly go grab a tape measure and go measure it and it will take 3 minutes but I don't have the exact number.

Mr. Nearpass – Al, is it something we can derive from the drawings that we have here? To me in the picture even the existing fence doesn't look like it's on top of the road. I know it's in the right-of-way but...

Mr. Benedict – You're right – it is set back some. I do not have the plans with me right now. I couldn't tell you exactly how close it is. Something to keep in mind is that the house is also closer to the road than it normally would be. That adds to the problem, the visual aspect of it.

Mr. Salsburg – The dimension of 24+ feet it's not to the whole fence line, so I can see. . . it's hard to tell.

Mr. Nearpass – Let me just do a quick poll to the members here. Based on what we've seen do we need more information on the distance and the height and obstruction of view or have we been able to see enough in being able to visualize that it will be 8' farther away from the road than the existing fence.

Mr. Salsburg – I'm clear on that with no further information.

Ms. Morley – I'm okay.

Mr. Cusimano – No, I think that the improvement to the overall project and the appearance of the fence styles I think look really good and I think moving it back 8' is very reasonable. And, I think that that fence height as it stands there doesn't appear to be really obstructive to any views along the roadway, so I think that sounds good. Thank you.

Ms. Mitchell – I don't think having that measurement would change my thoughts on the fence itself.

Mr. Nearpass – Okay, let me do this. I'm going walk through each of the criteria and then I'll poll anyone for any additional changes to the comments here and then we'll go from there. Sound good?

Ok so on the undesirable change would not be produced in the character of the neighborhood or detriment to nearby properties is created by the granting of the area variance.

The fence itself has been there and is previously existing, non-conforming. It's been there for quite some time. A new fence would be a net positive I believe for the neighborhood compared to what is there. So, we do not believe it would be out of character for the neighborhood.

Everybody ok with that?

Mr. Salsburg – I think it is out of character, but thanks to this neighborhood being so rural and uncongested and vegetation all over the place it's not going to bother the neighbors I assume. And, I guess I'm happy with going along with it even though I think it's a little too big. Tim, could you live a 4' high fence?

Mr. Dion – The concern that I have with a 4' high fence is containment of the dog, to be frank about it. That is the side that I'm most worried about. If the dog were to get out it's the roads right there and let's be honest it's a 35 mph zone, but most times people aren't driving 35 mph down that section. They drive a little bit faster and . . .

Mr. Nearpass – Al, most fences that we see, I think are 6' plus aren't they?

Mr. Benedict – Yes, the code allows up to 6' for residential neighborhoods.

Mr. Dion – And, part of the reason that I went with 5 instead of 6 is because I didn't want really want it close off that much, I just wanted to save height.

Ms. Morley – So, you're saying the dog isn't in the fence now?

Mr. Dion – No, the dog is on leash at all times when we're outside. Don't want to take a chance.

Ms. Morley – What kind of dog is it?

Mr. Dion – He's a coon hound mix, rescue that we bought back in October. So, he's less than a year old and he's young at heart, too so he's not too aware of what happens

Ms. Morley – The road. Okay.

Mr. Nearpass – We're going to move on to the second – the benefits sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the area variance.

I'm going to say that the applicant has been gracious in moving, obviously the existing fence, tearing down the existing fence, getting it out of the right of way, it will be 8' farther from the road than the existing fence. I believe this is a good compromise between what exists there, bringing the site more into compliance that was existing previously trying to maximize the benefit of the use of the property for the applicant.

Does anybody have anything to add or change to that?

Mr. Salsburg – No, that's good.

Mr. Nearpass – Number three, the requested area variance is substantial. It's still going to be 8' forward of the front line of the home, whereas zero feet is allowed. The criteria are weighted. It's not something that I think is going to be weighted too heavily in this particular application, but with it being 8' I think it is substantial.

Number four, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Again, I think a new fence would be an improvement over what is there and we don't see any negative impacts on the physical or environmental conditions in the neighborhood as a result of that.

Anybody care to comment on that?

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

I also do want to ask the public, is there anybody on line that would like to speak for or against the application?

Mr. Avila – There are not any comments right now, Matt.

Mr. Nearpass – Do we have anybody from the public on line at all?

Mr. Avila – There appears to be one person.

Mr. Nearpass – I see one hand, Andrew. Andrew, are you here for this application or the next? Okay, Andrew's waiting for the next one.

Are there any conditions we would want to put on this? Obviously he's going to go to the planning board. The planning board is going to work with him on the aesthetics. We try not to get into that here too much.

Mr. Salsburg – I don't have any conditions.

Mr. Nearpass – Sarah, Donna, you good? Drew?

Ms. Morley – I'm okay, I just don't like that height, so, for the front yard.

Mr. Nearpass – He’s allowed up to six.

Ms. Mitchell – Is six for the rear yard, though, not the front yard?

Mr. Nearpass – I’ll look to Al, but I believe six is the maximum height allowable by a fence.

Mr. Benedict – Six feet is the maximum allowed and it’s not specific to front or back yard.

Ms. Mitchell – Okay.

Mr. Cusimano – I’m good.

Mr. Nearpass – Okay.

So, now therefore be it resolved whereas the application received of Tim Dion, 342 Fishers Road, requesting to replace an existing fence that is forward of the front line of the house. The proposed 5 foot fence will be installed parallel with the location of the existing fence and approximately 8 feet forward of the house whereas the existing fence is approximately 16 feet forward of the front line of the house. The applicant requests a variance from 211-41H which requires a fence to be constructed behind the front line of the house, AND BE IT FURTHER RESOLVED that the following conditions are imposed:

1. A building permit will be obtained for the fence on the property.

And, I’m motioning that this resolution move forward and be approved. Do I have a second?

Do I have a first?

Mr. Salsburg – I’ll make a motion based on the rural character of the neighborhood and a person should be able to do what he wants to do with his own property, I move to accept the variance.

Mr. Nearpass – Do we have a second?

Ms. Morley – I’ll second it.

Mr. Nearpass – All in favor?

Matt Nearpass – Aye

Mr. Salsburg – Aye

Matt Nearpass – All against?

Sarah Mitchell – I’m opposed.

Donna Morley – Opposed.

Mr. Nearpass – Drew?

Mr. Avila and Mr. Salsburg – Drew doesn’t have a vote, Matt.

Mr. Cusimano – Sorry, Matt.

Mr. Nearpass – I'm used to five. So, the motion does not carry. At this point, Tim, I think your options are to keep the existing fence where it is or to bring the new fence in line with the code, which would be even with the front line of the property.

Mr. Dion – Thank you.

Mr. Nearpass – Okay. Thank you, Tim. Good luck.

RESOLUTION

Re: 342 Fisher Road Fence Area Variance, Appl. No. 04-Z-2020

At a regular meeting of the Town of Victor Zoning Board of Appeals held on June 1, 2020 the following resolution was adopted:

WHEREAS, an application was received by the Secretary of the Zoning Board of Appeals on May 5, 2020 from Tim Dion, 342 Fisher Road, requesting to replace an existing fence that is forward of the front line of the house.

WHEREAS, the proposed 5 foot fence will be installed parallel with the location of the existing fence and approximately 8 feet forward of the house whereas the existing fence is approximately 16 feet forward of the front line of the house. The applicant requests a variance from 211-41H which requires a fence to be constructed behind the front line of the house.

WHEREAS, said application was referred by Al Benedict, Code Enforcement Officer of the Town of Victor 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 May 29, 2020 and whereby all property owners within 500 feet of the application were notified by U.S. Mail; and,

WHEREAS, a Public Hearing was held on June 1, 2020 at which time no residents spoke for/against the application and,

WHEREAS, this application is classified as a Type II action under the State Environmental Quality Review Act and therefore does not require further action; 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: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: The existing, non-conforming fence is in disrepair and was on the property when Mr. Dion purchased the home. A new fence would be a net positive for the neighborhood compared to what is currently there.

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: The applicant's new fence will be moved from the right-of-way and would be 8' farther from the road than the existing fence, bringing the site more into compliance.

3. The requested area variance is substantial.

Justification: The fence will still be 8’ forward of the front line of the home, whereas zero feet is allowed.

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

Justification: The new fence would be an improvement over the current fence. The board found no negative impacts on the physical or environmental conditions in the neighborhood.

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.

On a motion by Mr. Salsburg, seconded by Ms. Morley.

DECISION:

NOW, THEREFORE BE IT RESOLVED WHEREAS, that the application received of Tim Dion, 342 Fisher Road, requesting to replace an existing fence that is forward of the front line of the house. The proposed 5 foot fence will be installed parallel with the location of the existing fence and approximately 8 feet forward of the house whereas the existing fence is approximately 16 feet forward of the front line of the house. The applicant requests a variance from 211-41H which requires a fence to be constructed behind the front line of the house, BE DENIED:

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

Matt Nearpass	Aye
Sarah Mitchell	Nay
Donna Morley	Nay
Fred Salsburg	Aye

Denied: 2 Ayes 2 Nays

UR MEDICINE @ OMNITECH BUSINESS PARK

Up next is the UofR. Can you tell us a little about your project and introduce yourself first?

Andrew Spencer – I’m with BME Associates representing UR Medicine for this application. UR Medicine has now opened up a new medical facility in the Omnitech business park which is on Omnitech Place, actually lot AR#B is right up on top of the hill as you turn into and onto Omnitech Drive, UR Medicine is on the top of the hill. What they would like to do is to position a sign down on the Route 96 frontage to alert motorists of where to turn when they are travelling on Route 96. The sign is being located in an area that is within the right of way and owned by the New York State Thruway Authority. We did go through approval processes with both the Thruway Authority and with the New York State DOT for an occupancy permit to allow the sign on their land. That was provided to the board as part of the application materials. A letter dated May 18 that we provided to the town kind of clarifies a little bit further of what the request is. We are looking for three different variances. One from section 1654B5 to allow a sign within a right-of-way, section 165 6 D to allow a sign to advertise a business that is not on premise and section 165 4B6 to allow a sign less than 35’ from the pavement (inaudible) Omnitech Place. The reason for the first two is as I said, this property is not owned by either the Omnitech business park or UR medicine. It’s owned by the Thruway Authority. We need those first two variances because number one, it’s not their property and number two it’s a sign advertising the business that is not in that area.

The last variance to allow the sign less than 35 feet from the pavement edge at Omnitech Place is done because some of the grade situation and the character of the grade right in that area. I have an exhibit that was forwarded to the board which is the site plan which shows the location of the sign, which is very much in character with some of the other signage on Route 96. I had forwarded Lisa another exhibit today and I wonder if Lisa could pull that up for me.

Ms. Boughton – Just give it a minute and Marty will pull it up. He has it in the slides.

Mr. Spencer – Excellent. This is the UR sign and I'll just describe the sign very briefly. It is a 13.2" sf sign which is within the allowances of the code for sign size. It is 48" in height approximately. And you can see the approximately location. It's a little difficult to see on this plan on the computer, but it's set back roughly 43' from New York State Route 96 and 20' from Omnitech Place. This exhibit I pulled together quickly just to show the relationship of the proposed sign to other signs within this corridor. Right to the north of where this proposed sign is going is the Best Western sign on the north side of Omnitech Place. To the north of that there is a Taco Bell sign and further to the north a Wendy's sign. Which are all relatively close to the right of way and are similar size. They are all small pylon or ground mounted signs. Directly across the street on Route 96 is the Wayside, or I'm sorry the Bristol Garden Center sign which is immediately to the east of the New York State right of way. We did provide in the letter of intent the criteria, but I can get into greater detail with if you would like. But, I might just let it be if you have read that letter. The real reason we are looking to position the sign here is to alert motorists on Route 96 where to turn on Omnitech Place to provide them some type of signifying element so they can make the turn safely from Route 96 on to Omnitech Place. We do believe that it is within character in keeping of the character of the neighborhood because the other signs in close proximity. As I say, it does meet the criteria for Route 96 set back and we're asking for the variance of the 20' to Omnitech Place because the grade change from Omnitech Place and falls as it goes to the south. If we were to pull that another 15' a 4' sign you only see the top 1' of that sign. Is why we're requesting that variance. Other than that I would answer any major questions as it relates to the criteria and how we kind of deemed to what we feel is appropriate for the sign.

Ms. Morley – Can I ask a question? On the view that we were just having, when you have the red circles out on 96 where is exactly was that sign going to go? Can you show me again?

Mr. Spencer – I don't know if you can zoom in on this at all, is that a possibility?

Mr. Avila – No, I can't it's a slide. Powerpoint slides. Sorry.

Mr. Spencer – Okay, that's fine. Let me try to explain it in this fashion. There is the Best Western, actually you can see, your arrow is right on where that sign is. That is correct.

Ms. Morley – On the (inaudible) side, you're not on the Best Western side?

Mr. Spencer – that is correct. That angle point was taken by the New York State DOT of lands that were owned by the Thruway Authority. So the right of way used to carry parallel with Route 96 and that's why that triangle has been created.

Ms. Morley – I was just trying to figure out which one, you had a lot of red circles there you were talking about, where the sign would be. Okay, thank you. That's my only question as to where it was going to be. Thank you.

Ms. Mitchell – I guess just one concern that I had would be confusion. Obviously, this building that people would be travelling to is not by the sign and the sign isn't necessarily close to where this building

is so that could cause confusion. And, it's kind of crowded right there with the Wilkins there and the Best Western and they have their sign. I guess I'm just concerned about everything being crowded right in that area. The signage not necessarily representing what really is in that area, so those are just things I'm thinking at the moment. But that's it, right now.

Mr. Salsburg – I was hoping that that little triangle was big enough so the sign could move back and eliminate the need for this third variance. Is there any change of that at all?

Mr. Spencer – Again, if you can get back to that aerial. I'll try to describe, well actually the black and white might be a little easier. The black and white actually has the grading and contouring on it and I can kind of describe what happens with the black and white plan.

One of the reasons that it's there, if I could to address Sarah's comment is to realize the building is not immediately next to that sign that's why UR Medicine wants to have a sign. So it directs people as they are coming, travelling down Route 96, so they know oh, this is the road I need to turn into to find UofR Medicine. I actually think it will reduce the confusion for motorists. They are coming down looking for Omnitech Place that sign is there that has the typical UR Medicine signature colors and anybody that goes to UofR know that all of their signage has this type of motif now. Actually it will assist motorists trying to find the location.

Fred, to your comment if I may address that real quick. The sign is at a plateau area where is has been located and the grades right in that area are synonyms with the grades at the intersection of Omnitech Place. Omnitech Place actually increases in height as you travel west. When you turn on to Omnitech Place from 96 you start to travel up. From this location where the sign is being proposed down to the Wilkins site there is an 8' differential, I'm sorry a 6' differential in height. So what happens is if we push it further to the south of Omnitech Place we're actually going to be decreasing its height by at least 2' if not more. So, it's a 48" size sign with would be readily visible where it's being proposed now if we push it down that 15' we're going to get into a situation where it's going to be a foot to a foot and a half less in height. It actually too, creates a little bit of, you know driving this road many, many, many times, the Wilkins RV vehicles arrive in that location and that's one of the things that you see as you look down the hill. If we position that sign too far down the hill, you won't see the sign actually.

Mr. Salsburg – Alright. Well said. That was my only point.

Mr. Nearpass – Andrew, I'm only one vote but I personally have an issue with all three of these here. You have an example of where we have a sign for a business that is being allowed that is not on the same property owned by the business?

Mr. Spencer – I do not have an example of that.

Mr. Nearpass – I echo a lot of what Sarah had said, it's a very dense and confusing area. And, part of why the code has changed over the years was to try to not have that level of confusion with monument signs for specific businesses and trying to create an area, like Omnitech and I'm not sure why do you not think that the Omnitech, I guess the location of it, the brand of Omnitech Park is good enough to be able to draw attention to where your location is? Like the other businesses in there.

Mr. Spencer – No, quite honestly no. UR Medicine is an individual entity and they want to be identified through UR Medicine, not through Omnitech Business Park per se.

Mr. Nearpass – they are going to have a sign on the building, correct?

Mr. Spencer – They do have a sign on the building that is correct. But it is not visible as you're travelling down Route 96, so it does not give motorists a chance to know that this is where the entrance, the road you go down to get to the UR Medicine. As it relates to the property ownership, it's interesting because our understanding through and discussion with the Thruway Authority and the DOT, this was a taking that was done a number of years ago. Had it not been a taking then this would have been part of Omnitech Business Park proper. And, then the sign would have been located on the same premise. We have gone through the process, the Thruway Authority and the New York State DOT allows signage within the right-of-way as long as you have permission. We did provide that letter from the DOT which does allow for the sign on that property. In essence nobody knows that it's Thruway Authority or DOT right-of-way without looking at a plan, if you will.

Mr. Nearpass – understood. Question for Al regarding signage for the business in Omnitech, Al, I thought that all monument signs wouldn't be branded with the individual businesses. That they would have to be branded as the monument sign would be for Omnitech Park, like the one on the west side I think near Pinnacle.

Mr. Benedict – Typically, the code says it's supposed to be named after a building or a park however we have allowed typically in the past it to say a business name, in the case of you have a lot with a single building on it, allowed the sign to carry the name of the business rather than if it's a park or an additional park. So we have stretched the code a little bit in allowing it to extend to just a single name.

Mr. Nearpass – Okay. I still have an issue with it being in a right-of-way as well as not being on the premises (inaudible) applicant. We've had other similar instances even within the last couple years where that has come up and we're been very strong in our opinion of that. We don't want to get into allowing other parcels to be advertising other business that aren't on the same parcel. In the case of Al, again, I think it was the monument sign near McDonalds and Panera, that Panera wanted to get onto that same monument sign as McDonalds and it wasn't something that we were willing to bend on.

Mr. Benedict – That's correct. I would say you mentioned the sign being in the right-of-way, I know in the past we required people to get a variance, but I think a few years ago we rethought about it and figured whether a code reads we figured it whoever owns the right-of-way, if they grant permission in this case DOT and the Thruway Authority – the way the code reads, it says you can't install a sign in the right-of-way for an easement in contradiction to the restrictions. In this case they have acquired permission from both of those entities we would only need a variance for being in a right of way.

Ms. Morley – I wanted to know can you bring that map back up with the red circles, please Marty. When I drove up there and looked at it, the Wilkins sign elevation which it's not going to show me, the elevation of the Wilkins sign is way down in, if they put that sign down there, I don't believe the people coming from Eastview towards Victor are going to be able to see the Wilkins sign.

Mr. Spencer – Wilkins also has a sign on their building as well, if I'm not mistaken. That's what you actually see.

Ms. Morley – I'll be in disagreeance a little bit with you, but that's ok. Alright, thank you.

Mr. Nearpass – I think we really ought to take another closer look at that area. Andrew is there anything else that you want to add to that. Al did a good job of explaining to me through the right-of-way but getting through the, it's not on the property the business is on as well as again just in general that is a highly congested area. You are part of Omnitech Park is a well-known area within Victor. I understand UofR also has its desires on this as well and everybody general wants to try to have their own sign and as

big as humanly possible I understand that. Is there anything that you can add to it? Probably on something like this I just want to keep the public hearing open, unless you want us to vote on this tonight. We don't have a full board this evening and I want to give the other members including myself an opportunity to think about it, visit the site, understand the nuances with all the other signs. Because I don't want to rush to a particular conclusion on this. We have also heard from the county and the county has not approved and did not deny on this particular application, so they have allowed us to make whatever decision we see fit.

Mr. Spencer – I saw that letter from Ontario County Planning as well. I would actually, as you were talking, Matt, I would ask that if there is question, I would like to go in front of the full board to get every member's opinion on this and if you were able to table this application until the next meeting. (Inaudible) receive your comments and understand your comments and potentially provide some additional information. Keeping the public hearing open is okay with us as well.

Mr. Nearpass – And maybe this is something else to think about. We love to hear alternatives. If this doesn't go through, what would you do? What can you do on your current site with what's allowed by the code. What other options are available? We'd love to also see them as well.

Mr. Spencer – Very well. Thank you.

Ms. Morley – Is there anybody out in Zoom land that wanted to say anything?

Mr. Avila – No, there's no comments currently.

Mr. Nearpass – Okay, so if we don't have any other comments we will table this.

Mr. Salsburg – I have a comment. I think this kind of relates to the Stickley sign. I think it's a good way to have a sign. This is smaller than the Stickley sign.

Mr. Nearpass – The Stickley sign was on the Stickley property.

Mr. Salsburg – Yeah, that doesn't seem to bother me too much. I just wanted to bring that up that to me it kind of looks like a small version of the Stickley sign, which I kind of like that design.

Mr. Nearpass – Okay. I'm looking at this broader. Anything we do carries with the land and whatever business is there – hopefully UofR is there forever, but if they're not, that sign can change. It runs with the land. So, you know Fred when we make these kind of decisions it really isn't just for how the sign looks today or tomorrow. I think we should all take an opportunity as we drive by it to take a look at it, get a feel for it. We know kind of exactly where the applicant wants to put it. And, we can continue the discussion at the next meeting.

Mr. Salsburg – As a suggestion, Andrew, would it be possible to put a correctly sized 2x4 frame where it would be?

Mr. Spencer – That was exactly what I was going to suggest. If the board would like to get a better handle we may be able to put something in its location. I don't know if we would want to put a full scale piece there, but we can definitely stake it out to show where you the limits of that size would be in relation to the roadway and the relationship to Route 96, if that would be beneficial.

Mr. Salsburg – Well I think it should have the correct height and width.

Ms. Morley – I think it should be full scale.

Mr. Salsburg – It's not that big 4x4.

Mr. Spencer – Al, is there an issue with doing that at this point in time?

Mr. Benedict – I don't think so. As long as the Thruway Authority and the DOT are okay with you doing that.

Mr. Spencer – I can make that call to see if we can. We have the ability to make a sign there permanently there from them, so I'll make that phone call and see if we can get something staked out.

Mr. Nearpass – It's something that would help and definitely not something that is mandatory by any means, but anytime you can get a good visual representation on what's going to go there is always a good option.

Ms. Morley – It doesn't have to be the full sign, a banner of some sort, so we can get the gist of that size of that size and pulling in and out of there. Because if you try to pull out of there and head towards Eastview at 5:30 at night that extra sign there is going to add some more confusion.

Mr. Salsburg – A piece of plywood with a couple stakes holding it up.

Ms. Morley – Would just give us a general gist.

Mr. Nearpass – You know Fred, a 4x5 piece of plywood might be a small civil works project with the wind loading and all that up there with it being so close to the road. I know it's easier said than done, I've seen some of those temporary signs they almost have to be cemented into the ground, so

Ms. Morley – Even if they can do a visual for us, if they can put it up and we can see it from here, whatever. I'm just telling you at 5:30 at night when you need to pull out towards Eastview it's not pretty and you add another sign.

Mr. Salsburg – If Andrew could notify Lisa when it's up, we can go over and look before it blows down.

Mr. Spencer – I can provide you with another type of visual that might aid you in review of this and see what we can do on the site directly. It might end up being just a few stakes with ribbon pulled between it to give you an indication of where it is being located. Something of that nature.

Mr. Nearpass – Anything you can do to help, it would be great. Thank you.

Lisa, when is the next meeting?

Ms. Boughton – Your next meeting is June 15th and currently the only thing you would have on is the UofR Medicine that carries over, as of right now.

Mr. Nearpass – Very good. Is that good Andrew? Any other comments, anybody?

Lisa, is there anything you need to bring up or you have for us?

Motion to adjourn Mr. Salsburg, seconded by Ms. Morley. It was unanimously agreed and RESOLVED that the meeting was adjourned at 8:00 PM.