

TOWN OF VICTOR ZONING BOARD OF APPEALS, September 6, 2022

A regular meeting of the Town of Victor Zoning Board of Appeals was held on September 6, 2022, at 7:00 p.m.

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

OTHERS: Eric Ferri, Clifford Anderson, Ezra Karaka, James Boglioli, Ed Kahovec, Town Board Member, Adam Ryczek, Town of Victor code enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Michael Reinhardt called the September 6, 2022, Zoning Board of Appeals meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

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

PAST MINUTES:

On motion of Fred Salsburg, seconded by Donna Morley:

RESOLVED, that the minutes of the meeting held on August 15, 2022, BE APPROVED.

Adopted: Ayes 3, Nays 0, Abstained 2

PUBLIC HEARING

ERIC FERRI, 7195 Gillis Rd

14-Z-2022

Seeking an area variance to place a shed 4' from the side setback where 15' is required.

Chairman Reinhardt – Alright, so first on the agenda is the Eric Ferri 7195 Gillis Road. Hello Eric.

Mr. Ferri- Hello guys, how you guys doing?

Chairman Reinhardt- good how are you?

Mr. Ferri- good, good.

Chairman Reinhardt- So as a review, you were here on August 1st, your proposed variance was for a 4' side setback and there was quite a bit of discussion about how and the manner in which the shed was located, it's a new construction, your lot is 100' wide and stop me if any of this is wrong, I'm just reviewing where we are so far, there is an intent to put a pool there, although its not currently, when I say current, within the year, that's off in the future at some point, foundation is being dug, the shed foundation has also been dug as well, there's some issue on whether or not it can, the shed can be rotated and at the last meeting, when Fred was chairing, this would be on the 15th, there was some discussion about, it went from 4' to 6'. And there was still unclarity about whether or not the shed could be further

moved to the east and comply with the code. I think you sent some drawings, so if you have more information for us and further discussion, we'd love to hear it.

Mr. Ferri- alright, well basically as you said, some revised drawings here, which show an 8' setback instead of 6', per photo 1, and photo 2 shows the size of the shed and the site plan per the request I moved the future pool to, further to the east to create a flat back yard in front of the covered porch, and the shed is 41' away from the property setback from the rear which we are in the variance code, and per the request we pushed the shed 2' into, towards the east and rotating the shed, we'd be fighting against the hill so basically the door would be on the flat part, the garage door and a window, you see some of the elevations and foundation plans on the next sheet shows the sloped hill on the elevations. Again, the structure is foundation, concrete, concrete slab, 2' x 6' walls.

Chairman Reinhardt- okay, so in reviewing the minutes from, oh you know what we didn't approve the minutes did we --- can we just, hold that thought.

Mr. Ferri- sure.

Chairman Reinhardt- for a second—because I, the minutes that I'm referring to are important I want to make sure that they're approved, and then we're going to circle back to your application if that's okay with you.

Mr. Ferri- that's fine.

Chairman Reinhardt- alright great. So, the August 15th minutes, I was absent as well as Matt so 3 were here Sarah, Donna, and Fred, so if all is in order, I would entertain a motion for approval of the August 15th minutes.

Mr. Salsburg- I make a motion we approve those minutes.

Chairman Reinhardt- thank you Fred, and second?

Ms. Morley- I'll second it.

Chairman Reinhardt- Donna thank you, all in favor.

“aye”

Chairman Reinhardt- again Matt and I are, have to abstain. Okay, Thanks for your patience. So, what I want to refer to then is the August 15th minutes and I'm going to paraphrase it because I don't have the actual verbatim, but in a nutshell, correct me if I'm wrong, a question that Fred had asked is well can't you move the shed further to the east and comply with the code and your response was we could move it but we don't want put it in the middle of the backyard.

Mr. Ferri- and the flat, creating more flat space for the, basically a flat back yard and pinching the shed closer to the corner.

Chairman Reinhardt- can it be moved to the east and comply with the code?

Mr. Ferri- in theory, yes.

Chairman Reinhardt- what do you mean in theory?

Mr. Ferri- well –

Chairman Reinhardt- is further excavation going to be needed?

Mr. Ferri- further excavation and then the shed would be basically in the middle of the back yard.

Chairman Reinhardt- and help me understand what you mean by you don't want to put it in the middle of the, you can do it, but you don't want to put it in the middle of the backyard?

Mr. Ferri- correct, it just, don't want a structure right in the middle and right in front of the covered porch there and due to the width of the lot, again 100' you know, a little bit, setting it back towards the property line will give, create more of a better visual and a bigger flat yard for ---

Chairman Reinhardt- aesthetics?

Mr. Ferri- aesthetics.

Chairman Reinhardt- okay, so is it fair to say that you could put it, comply with the code, move it enough to the east, comply with the code without having any further topo issues? --- The topography of the land is it inhabiting you from going further east? I understand going back toward the Kujawski residence, it's going to be a problem because of there is a slope, there's a, its, I can tell, I can see that, but moving it to the east, it really sounds like it is purely aesthetics that you don't want to put it in compliance with the code because of just how it looks.

Mr. Ferri- correct.

Chairman Reinhardt- okay. Alright Fred do you have nay other questions, concerns, comments on this one?

Mr. Salsburg- well he's brought the drawing up to current and reluctantly slid the shed over a little bit and then a little bit more, it's a bad situation, the neighbor was here, no problem there, can't see it, I don't think you could see it from the road, I'm feeling pretty good about it, ever though it doesn't meet the code.

Mr. Nearpass- was the neighbor okay with the grading? I, I drove by it, it was probably 2 weeks ago now and he took a pretty good chunk out of that hill, is that what this picture is, is this picture recent, or is it? It's kind of tough to tell here, but you know its about a, 18' to 20' tall, you know peak at the top. It seemed like it was awful close to the neighbor's house, so is all of that been, been grading permits and people have looked at that and that hill's been –

Mr. Ryczek- no, I mean the permit's opened on the single-family dwelling, so it's part of their, they're not imposing so, it's not formal site plan review because it's a single-family home, it doesn't go to the planning board and all that, it's a simpler process.

Mr. Nearpass- okay, alright.

Ms. Morley- and the Kujawski's were here.

Mr. Nearpass- and the neighbors didn't have any issue with the way it's been re-graded or anything?

Ms. Morley- they didn't say anything.

Mr. Nearpass- okay, okay, sorry. Go ahead Fred, back to you.

Mr. Salsburg- he did say that he was kind of nervous about it, he'd be watching.

Mr. Ferri- yes, so I think he was watching once we dug for the shed, that's what he –

Mr. Salsburg- so far so good –

Mr. Ferri- are you going to leave it that way, and basically, described to him that we're putting the shed in that –

Mr. Salsburg- and so far, he's, okay?

Mr. Ferri- yea. Yes.

Chairman Reinhardt- can you, so let's put a name, Bruce Kujawski?

Mr. Ferri- yes, Bruce.

Chairman Reinhardt- okay, alright just so we're, he and she is kind of tough, let's create a good record and ---

Mr. Ferri- correct.

Chairman Reinhardt- make sure we're talking about the same person. Anything else Fred?

Mr. Salsburg- no.

Chairman Reinhardt- okay, Matt?

Mr. Nearpass- I'm still somewhat on the fence, I did read the minutes, it sounded like everybody had a good discussion on it, I guess the issue I have is just the size of the shed, right, I mean if it was just a shed that you'd kind of normally put in on this size lot, this size house, you'd probably be okay, right, an 8' x 12' or a 8' x 10' or something to that effect, I think you'd be pretty much right on that line, do you really need a 16' x 20' shed?

Mr. Ferri- yes, because ---

Mr. Nearpass- I'm not looking at that, I mean that's a 2-car garage, right?

Mr. Ferri- well 24' x 24' is 2 car garage, but again this, this will just hold all my dad's gardening tools and basically snow blowers, rototiller, mower, his tools, again the garage is small, we're not putting any tools in there just to protect from the vehicles, and again due to the lot restriction we thought that that square footage and that size of the shed will hold all of his equipment/ yard tools and –

Mr. Nearpass- and I'm just trying to balance the, I mean you could have come in with a 640 SF shed right, and with those bounds are because you want a larger shed does that translate to, you know, we're just obligated to approve some kind of variance because of that particular want? Right, and I want to hear what the others have to say on it, I am on the fence a little bit here, but I did get out to the property I did

see what you've done, it looks like a nice home and what you're doing there, like I said the slope was a little interesting, I think in the minutes I saw you were going to put, you were going to brick it, or you were going to do something on the back of that hill or were you just going to leave it?

Mr. Ferri- well the back of the hill –

Mr. Nearpass- I'm, I mean its like a right angel cut, right?

Mr. Ferri- correct. So that's going to be all block –

Mr. Nearpass- block, that's what I thought ---

Mr. Ferri- going all the way up and then, it will probably be, I want to say 4' knee wall of 2 x 6 going around, so the block will hold the earth, so basically, we're creating a retaining wall.

Mr. Nearpass- and that retaining wall would be how far from the back of the shed, the shed is going to be right up against it?

Mr. Ferri- well the foundation / let me repeat that, the foundation and the block wall is acting as a retaining wall, so basically the wood would not hit the dirt, so basically, we'll do 6-7 courses of block, once we get up to that grade –

Mr. Nearpass- but in your drawing here, is that wall a foot behind the shed? Is it 10' behind the shed is right, those blocks –

Mr. Ferri- it's the foundation wall of the structure.

Mr. Ryczek- Matt, what he's trying to say is they're going to backfill against the shed, so the grade will hit the back of the shed and then slope down towards the front, so there will be no space between the wall, the wall of the structure is the retaining wall –

Mr. Nearpass- is the retaining wall –

Mr. Ryczek- like you would backfill a basement.

Mr. Nearpass- okay.

Mr. Ryczek- okay.

Mr. Nearpass- okay, I'm all set.

Chairman Reinhardt- Donna?

Ms. Morley- I'm all set.

Chairman Reinhardt- Sarah?

Ms. Mitchell- so quick question, is it 8' from foundation or 8' from the overhang?

Mr. Ferri- its 8' from the overhang.

Ms. Mitchell- okay, so I just want to say thank you, because this is the first time, I feel like you took the things that we said and you took them back and you restructured this, so I appreciate that and now I, the way its presented, now I am in support of the application.

Chairman Reinhardt- I'm still troubled by this, with the amount of space that you have and the needs and the wants and this board has been confronted with this future pool issue a few times, enough that its come back, its come back into my lap, that, well one neighbor asked for the future pool and we allowed that to be a consideration for the shed to be closer to the lot line and to this day, 5-6 years have passed and no pool has been there, and the other neighbor we held him feet to the fire and says well no, you can put that shed anywhere you want and we didn't give him the same kind of latitude that we gave the other neighbor who he said he was going to put a pool and he didn't. That to me is a bit of smoke and mirrors and in my view that doesn't sit well with me is, as a board member. So, when you say there's a future pool there, is it next year, 5 years, 10 years, if its never going to be there, that's a factor and if you're not going to put the pool there then that shed most certainly can be moved and still be in compliance with the code. And second, rotating it, I understand that the door situation, so you don't want it to be put, I think you said to the back or for the windows to the back –

Mr. Ferri- the side of because we'll be fighting with the against grade –

Chairman Reinhardt- you can put doors and windows anywhere you want if the thing hasn't been constructed yet, put the door on the north side of the shed and put your windows on the east and west and for that matter put them on the south side as well above grade line. You're a constructor, you're a contractor, you can figure it out.

Mr. Ferri- oh, I understand, so if you look at the pictures, we're fighting against the hill so I would have to carve the hill more and create more, I would have to do a retaining wall for my, for the door to come in sideways on the shed, so that's why the door per the design and the layout of the site, the door has to be right in the front there because we're fighting against the hill, if you can go to my next –

Mr. Nearpass- I thought the cutout was the –

Chairman Reinhardt- hang on, hold on, I'll get you a chance, so I just understand. The door can be on the north side of the building, can it not, if you rotate it?

Mr. Ferri- if we rotate it long ways ---

Chairman Reinhardt- if, if right now the shed runs long ways east and west, is that right?

Mr. Ferri- correct.

Chairman Reinhardt- so if you rotate it so the shed runs long ways north and south, why can't the door be on the north side of the building?

Mr. Ferri- you want, you're saying the door still be here, north side, no on the east or west, and if you rotate it long ways, is that what you're saying?

Chairman Reinhardt- alright, let's, right now the way that photo 2 shows, the shed runs long ways east and west, is that right?

Mr. Ferri- correct.

Chairman Reinhardt- let's just say the, pick a side, which side is the door going to go on, east or west?

Mr. Ferri- right here. Right here where the shed, right here on this ---

Chairman Reinhardt- so its going to go on the north side of the building, so if you rotate it --

Mr. Nearpass- it's going on the south side of the building, right?

Chairman Reinhardt- if you rotate it, why can't it be on short side?

Mr. Ferri- see this grade, this would be all filled with dirt, going against --

Chairman Reinhardt- not if you rotate it --

Mr. Ferri-to keep the structure--- huh?

Chairman Reinhardt- not if you rotate it.

Mr. Nearpass-no, so that's what I'm asking, I think what he's saying is this is still going to be filled, I was of the opinion when he described it that the whole back lot line was going to be carved out, you're only carving out a portion for the ---

Mr. Ferri- shed location. And that's it --

Mr. Nearpass- alright.

Mr. Ferri- and then everything's going to be re-graded so it matches, and we can have a lot of, proper water damage.

Mr. Nearpass- I see. So, this would be filled back in.

Chairman Reinhardt- right, I understand that the grading diagram, and if you rotate it, the grade is still going to be with that same, with the same line but its going to be on the long side of the building. We're not, we're not on the same page here ---

Mr. Ferri- I'm going to say, so you're saying rotate it and still keep the door on the north side, that's what I'm understanding that you're saying.

Chairman Reinhardt- correct.

Mr. Ferri- so it'd be closer to the house. So, if we rotate it --

Chairman Reinhardt- but I'm trying to really wrap my arms around are 2 things, is that shed can be put in some place on that property without any need for a variance and the other piece is, the need for that much space, and you have a shed of 320 SF in addition to a 1 story garage of 700 SF that's 1,020 SF, a 1 story garage measuring 28' x 26' is a 2-car, is a deep 2 -car garage. That's a lot of stuff. That's a lot of lawn mowers, tools and ---

Mr. Ferri- again we have a set of stairs in the garage that takes up 6' on the back of it so the cars bump right up to that wall. So there, again the depth of the garage and the width is 24' is pretty standard, so you

could fit 2 cars in the side and on the back on the garage and the set of, on the blueprints that are submitted there's a set of stairs for access to go right down to the garage. I mean going down to the basement, so half that garage is eaten up by a set of stairs. So again, cars fit in there with, tight, so that back wall quote unquote is not readily available for storage.

Chairman Reinhardt- that's news.

Mr. Ferri- correct. I'm trying, I'm trying to understand what you're putting down, so again, so that's what created the square footage of the 360 SF shed. That was what my parents had previously at their other location.

Chairman Reinhardt- alright so that solves the size of, granted it's still a 700 SF of a 2-car garage, stairs or not, and the concern that I have is the future pool and the, sum and substance of what you're saying is you don't want to put it in the middle of your back yard, just for aesthetic purposes---

Mr. Ferri- and location too, so when, again like you say 8-9 years, so if they sell, if somebody re-buys the house, sells the house, wants to put a pool there, they're going to be like, oh, I'm not going to buy the house because the shed's right in the middle of their backyard and I can't put the pool there. So, what –

Chairman Reinhardt- that's if and but, that's, I, I don't have a crystal ball, you don't have a crystal ball, that's not how variances work, right, variances, there's criteria, there's a balancing test for each criteria, one is whether or not its going to change the character of the neighborhood, another is whether or not the request for the variance is substantial, another is, is there another way that the applicant can pursue without the variance, you can, you can put that shed there without a variance, granted that's ---

Mr. Ferri- correct. But it's in the middle of the backyard, so if you went there and it's like 100' that's not a lot, and if you visualize moving that right in the middle of that back yard, again, its an aesthetic look as well, and like you said, we're not, we're not making it look bad, we're not in a neighborhood, again we're not close to any other, any other houses ---

Chairman Reinhardt- 8' is a little less than a 50% ask, right? So, you need –

Mr. Ferri- you need 15 so, I'm a little bit over.

Chairman Reinhardt- over, right.

Mr. Ferri- yea.

Chairman Reinhardt- thank you.

Mr. Ferri- so, that's what Fred was saying so I was complying with him, we're keep, pushing the shed closer into the backyard –

Chairman Reinhardt- I do appreciate, I think we all do, we appreciate your efforts on trying to make this work and still comply with the code as best as you can and, the need and the want for a variance. Donna where are you on this?

Ms. Morley- I'm okay with what he did, he's not in a development, and if I'm looking at this correctly, where ethe porch is, is there, windows there? I wouldn't want to really look out my window at the shed right on top of you, but that's just me.

Chairman Reinhardt- okay, but would you think that the whole idea of the view off the back porch, he's looking into the side of the hill, he's made an issue of the steep slope and then you see the Kujawski residence, unique as it is, you're seeing the roof. But, what –

Mr. Ferri- well basically the Kujawski residence has these 8' shrubs on the back line, so basically, they hid from looking down and also for us looking up. So, they won't quote unquote sit on their deck and see the top of the roof of the shed –

Chairman Reinhardt- okay, Matt where are you on this?

Mr. Nearpass- I agree with what you were saying earlier about the kind of that future pool block that we've got in that ---

Mr. Ferri- right again, can we say about nice flat back yard –

Mr. Nearpass- it's a distraction ---

Chairman Reinhardt- hold on, hold on –

Mr. Nearpass- you know if –

Mr. Ferri- oh, sorry to interrupt.

Mr. Nearpass- it's a bit of a distraction because to Mike's point, its not there, its not part of a, again, t's part of your plan, right that you want to do, versus if you, you take the shed, you out it where its complaint, you then, which to me could be the opposite end, like almost to where the other side of the pool, a smaller shed to the other side of the pool, and see how that works, and work with that, when it comes time, when you really want to put a pool or something else in, you at least have the, we've tried it this way, we can't do it this way, here's why, and you've got something to work with, I, I just, I just think it's a, it's a large shed, obviously, and we've got this space being taken up by what says future pool and I'm just trying to, at this point, kind of just, say look, if this wasn't there, and I get it, it might not be desirable to put it, but it wouldn't be directly in the back yard it would be on the, I think then, that would be the south, or the north east corner.

Mr. Ferri- mhm.

Mr. Nearpass- and you could have your 320 SF shed and it would go right there.

Mr. Ferri- again, I just designed it for ---

Mr. Nearpass- I, I know ---

Mr. Ferri- the property, you know if they, if next person that buys the house wants to do a pool house connected to it and the shed there, again I, that's another –

Mr. Nearpass- I know you're trying to like, to solve for all things, right, but, and Mike talked about it earlier, you know, the, we can't take all of that into account. We got to take what we kind of have in front of us, and so, yea, I get it, you know maybe they'd want, but then they're going to say well do I need a second accessory structure, is a second accessory structure allowed in a R-1 or R-2, I'm not even sure without a variance off the top of my head.

Mr. Ryczek- yes, its allowed.

Mr. Nearpass- okay, so you could have the second, so I'm, it just, it just kind of going piece meal for me here versus if you really wanted to have a 320 SF shed, you could put it right in that upper corner where the, where it says future pool and then deal with future pool, whenever future comes, I don't know if future is next year, 10 years from now, 20 years from now, can you dela with future pool then. So, I, I'm leading on a no from my side, just because there's, there is a lot of room back there and it's a big shed, so, could you live with a smaller shed and put it over there, could you live with the same size shed and again put it in that future pool spot, and then when you get to the future pool point where you're ready to do it, sure. This is what we want, you know we've got to move some things around to make it work, that's kind of a different case, I think.

Mr. Salsburg- if the shed was rotated, you'd be looking at the peak with the garage door in it. And that might have lesser of a visual impact then the long side of the roof facing the house.

Mr. Nearpass- yea, I'm, I'm kind of looking at it as the, obviously the size of the shed is always a self-induced, it's always a self-induced factor, right?

Mr. Ferri- correct.

Mr. Nearpass- ones mans 320 SF shed is another mans 100 SF shed, its kind of dependent on how much stuff we have, and I'm just trying to balance here the, you know, the size of the shed with the known size of the lot, the know size of the home, what you want to do with it and there's still quite a bit of land back there, again I'm just ignoring the fact that there's this future pool block and just looks to me if you flipped it, you put it on the other side or if you wanted to shrink the size of the shed you could still make it work, put it right on the 15' line and you have a, what is it, a 16' x 8', 16' x 10' size shed, and you've got your space for the, I, I and I echo what everyone else has said, I appreciate you coming in front of the board as many times as you did and my apologies not being here the last time, and working with us and making kind of these concessions but I, it just feels like the ---

Mr. Ferri- again, it's a visual thing, so if we put the shed on that side from the family room looking out the windows you'll see the shed, again it was just basically a, just a visual thing and again –

Mr. Nearpass- I look out my back window and I probably see 6 sheds, my neighbor has a shed, the other neighbors got one and its all good and it's just the neighborhood I decide to live in, we all, you know enjoy the communal backyard thing, but we've got the pros and cons, I see a pool, I see a basketball court, I see shed and all that other stuff, and it just as much as the aesthetics can come into play, it's a, its not a trump card to say I just don't want it there because I don't like the way it looks.

Mr. Ferri- I'm just, again not the way it looks I'm just saying in creating a back yard a bigger space, so its not just cramming everything in the middle, so it was just tried to do something for the, again don't like me to say it, a future pool, or a future pool house ---

Mr. Nearpass- I mean –

Mr. Ferri- outside the shed and if you want to maximize the lot, again ---

Mr. Nearpass- but couldn't your future pool slide to the west, to where the portion of that shed is today and then the shed goes to the east of that in the space that's remaining.

Mr. Ferri- yea, so I would have to, that grade starts going down harder, so the shed would be more –

Mr. Nearpass- you're going to have to grade it for your future pool anyways, right?

Mr. Ferri- well, no. Again, it's a flat backyard, if you've been there, we're trying to create this flat backyard, dog whatever if they decide to fence it in, I have that as designated in front of the patio, it's a flat backyard for the kids and then you can fence around the pool protect that and then you have your shed there. Again ---

Mr. Nearpass- but your already planning, you already have dug kind of, dug out the part for the shed, right, I mean it's –

Mr. Ferri- correct. Just to give an example the show and ---

Mr. Nearpass- so its flat?

Mr. Ferri- and we've, and we did a, and we created a flatter backyard because the hill did come closer, but we didn't touch the grade up towards the back property lines, so that was staying as is, but we just slowly tried to create ---

Mr. Nearpass- but you're going to put a pool there and have to do that at some point, right?

Mr. Ferri- no its ready right now for a pool.

Mr. Nearpass- okay, so ---

Mr. Ferri- so its ready for a, it's a flat backyard or we could put a future pool in that area, yea.

Mr. Nearpass- so to me, that whole back setback is flat to a certain extent, that whole north, that's a north facing, right, up is north –

Mr. Ferri- so right here

Mr. Nearpass- Up is north –

Mr. Ferri- right in front of, right in front of this –

Mr. Nearpass- on the south, I'm sorry, so then –

Mr. Ferri- so this whole—

Mr. Nearpass- the south side –

Mr. Ferri- is all flat

Mr. Nearpass- is all flat

Mr. Ferri- and then the hill starts right here, so –

Mr. Nearpass- but that south back lot line –

Mr. Ferri- the north –

Mr. Nearpass- where it says –

Mr. Ferri- the south, the back, yes.

Mr. Nearpass- right, is flat? Now that you've dug into it, I know in here you said there's going to be a grade that kind of cuts diagonally across the shed to the north, but that's got to only be a little strip because if you're telling me that where the pool is, it's flat.

Mr. Ferri- correct, its, this is, this square right here that I'm drawing out, right there in front of the shed is flat going next to the pool is flat, going around, that's all flat and then the hill comes right down.

Mr. Salsburg- if this application is turned down, you think you'd still keep the same size shed and shove it over another 7', further, 15' setback.

Chairman Reinhardt- you understand the question?

Mr. Salsburg- what would you do?

Mr. Ferri- I, so you're saying if we got shut down.

Chairman Reinhardt- let's just say denied if the variance –

Mr. Ferri- denied. If we got denied, so basically, I have to talk to my dad, we didn't think about that.

Chairman Reinhardt- okay, in the shed any utilities, electric, plumbing, anything?

Mr. Ferri- nope.

Chairman Reinhardt- anyone from the public want to speak for or against the application? Alright, as I said it's a balancing, 1 criteria, if you will for or against isn't fatal to an area variance, so we're going to walk through the criteria, and I think you're getting the just that there's some in favor and some that probably aren't, right, so what we have to do at this point, we're going to go through the criteria and make sure we have it as accurate as we possibly can.

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.

I think primarily what's going on here is the distance behind the house, albeit here you are asking for 8', the shed itself is guarded both by vegetation and the house so, I think it would be hard for us to say that it would produce –

Mr. Salsburg- its well removed from sight line from the road.

Chairman Reinhardt- that's my point. It would not, it would not produce, it would not change the character of the neighborhood or the location of it, in respect of, if its 8' or if it's in compliance to the code, I don't, you really have to look hard to see where that shed is, so I don't think that we're, it would change or produce a negative impact in the neighborhood, anyone want to add anything or comment on the first criteria?

2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

I don't think there's a question that you can put that shed in the back yard and you don't need a variance, in and of itself clearly indicates that you can get that shed back there and you don't need a variance. Anyone want to add anything or comment on the second criteria?

3. The requested area variance is substantial.

You've indicated 8', it's a little more than 50% that's arguably substantial. Anyone want to add anything or comment on the third criteria.

Ms. Mitchell- isn't 8' less than 50%? Because if the setback is 15'

Chairman Reinhardt- 15' so we'll go with a little less than, I don't have the math but, a little less than, somewhere between 45% and 50%, is that fair enough?

Mr. Ferri- mhm.

Chairman Reinhardt- so we'll keep it at that, I still think its substantial.

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

I haven't heard anything about whether it be the slope or the location that its going to cause any kind of negative impact to any of the neighboring properties, anyone want to add or comment on the fourth criteria?

5. The alleged difficulty is self-created.

Its not constructed yet, you can, again, based on the second criteria, you can put that in compliance with the code, you're choosing not to, so that's self-created. Anyone want to comment on any of the five criteria or any further conditions for the proposed variance presuming that its granted?

Ms. Mitchell- can I make a suggestion that we add 8' from the overhang?

Chairman Reinhardt- well that's the code.

Ms. Mitchell- okay.

Chairman Reinhardt- you do realize it's the eve, right? It's not the structure itself.

Mr. Ferri- yea.

Ms. Mitchell- okay, yea, I just wanted to make sure.

Chairman Reinhardt- good, thank you. Anything else? Any lights on, any electric, so there's no light Issues, okay. Fine, alright, then I would entertain, if necessary, a motion for approval.

On a motion made by Sarah Mitchell and seconded by Donna Morley:

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

Michael Reinhardt	nay
Donna Morley	aye
Sarah Mitchell	aye
Mathew Nearpass	nay
Fred Salsburg	aye

Adopted: 3 Ayes, 2 Nays

Chairman Reinhardt- alright, 3 to 2, you have the shed.

Mr. Ferri- thank you.

Chairman Reinhardt- you're welcome.

Mr. Salsburg- he's done a good job identifying the side yard line, surveyed with a string.

Chairman Reinhardt- yes.

Mr. Salsburg- with a string down it.

Chairman Reinhardt- yup. Again, your work is appreciated.

Mr. Ferri- yes, thank you. Thank you, guys.

Chairman Reinhardt- okay, thank you.

Mr. Ferri- have a good night.

Chairman Reinhardt- have a good night.

CLIFF ANDERSON, 6756 Co Rd 41

13-Z-2022

Seeking a use variance to allow a three-family dwelling on the parcel where three-family dwellings are prohibited in the Residential 2 district.

Chairman Reinhardt- Cliff Anderson.

Mr. Anderson- so Ezra is the primary investor on this property, he's got all the numbers on this, everything that you guys wanted to hear from, we were here –

Mr. Salsburg- did you say your names.

Mr. Anderson- oh yea, Clifford Amderson.

Mr. Karaka- and I'm Ezra Karaka.

Mr. Anderson- so he has all the information pertaining to this property, you know, I had put forth the motion for him, you know to come before you guys, to at least hear out this variance, you know, I'd be the person performing the task and duties on the property, you know and he's going to be able to better explain this spreadsheet to you folks, where is the actual location of funds are coming from, okay. So, with that in mind, I'll give it to him.

Chairman Reinhardt- okay.

Mr. Karaka- good evening everyone, so when I purchased the property it has 3 meters of electric, 3 kitchens so there's a, and looks 20 years or so, it was like that, you know, there so when I purchase it, yes it's written as 2 family and I didn't pay attention with the closing papers so that's my mistake for not doing it, but right now if you look at the numbers, so I have on the left side its 3 units and the income, and on the right side it's the 2 units, the expenses will stay the same expenses, you know that's, that's nothing we can do if it's 2 family or 3 family, the expense will stay the same way. And then the purchase price plus the work needs to be done. There was some work that we have to do some structure work, you know, foundation and some beams that surprised us that we had to do it but that's a must for safety and basically if you look at the bottom line of what I'm into the property and the income, you know its \$476,000 would be a give or take, you know the expenses on it and the bottom line if its 2 apartments \$15,000 net and if its 3 apartments in \$23,000 and change. Without the mortgage, if I'll take the mortgage, I'm most likely not going to make any money on this property. Now, the prices have since I closed, until now of construction went up, you know I don't have to tell you, material and everything else went up a lot in the last year so I need your help if you can take a look and see what can be done as far as keeping it as 3 family which was like that for 20 years so I can make some profits too from this.

Chairman Reinhardt- alright, you mentioned mortgage a couple times, so show me, tell me where in the spreadsheet the mortgage number is.

Mr. Karaka- there is no mortgage in the expenses. The expenses there's no mortgage. Meaning if I put the mortgage, I'm going to be much less.

Chairman Reinhardt- right so there's where I'm driving at, the criteria that we look at for a use variance we've talked about this before, you have to comply with all of them, unlike the applicant before where it's a balancing test, you have to hit all 4 of these. Alright. So far so good.

Mr. Karaka- yea.

Chairman Reinhardt- and one is whether or not you have a unique hardship, and whether or not you can get a reasonable return on your investment, so the code really doesn't, or at least the criteria doesn't really factor in whether or not you have a mortgage, whether or not the interest rate is 2% or 20% or somewhere between, that, that's all-due respect, that's your problem. Alright. The reasonable return is this is a rental unit, can you as a homeowner, an owner of the property get a reasonable return on that investment, on that property, can you get it with 2 units, can you get it with 3. I think what you're showing here is that you'd rather have 3, I mean we are in a capital society, you're going to do better if its 3 units as apposed to 2, but what I'm seeing here and correct me if I'm wrong, you could do it with 2, its tighter, its more challenging but you can do it, you still can get that reasonable return with 2 units, is that, your nodding your head, is that accurate.

Mr. Karaka- in some respect what you're saying there is some return, but the return is very very, as in investor putting in money and I'm not sure if it's worth it for me to put it so much, right now I'm on the

beginning so I have the option of doing it or not, but if I'm going to go into this house and there will be surprises as you all know when you start doing construction there's going to be more expenses to it.

Chairman Reinhardt- sure, and the –

Mr. Karaka- so –

Chairman Reinhardt- the element of it's a fact that there are 3 electrical meters there is irrelevant because its, the code you can have 2. How it, I think we've all agreed, how 3 got there, I don't know.

Mr. Karaka- that confuse me.

Chairman Reinhardt- anybody, somebody knows, but no body in this room. So to comply with the code we're looking at 2 units and you want to get to 3, it just is a matter of convenience if you will that there's already that 3rd meter there and the question then becomes whether or not you as the applicant can show us that you can't realize a reasonable return on that property unless you are permitted to go get the variance, the use variance and go for 3 units as opposed to 2. That, that's the nutshell that we have, that make sense so far?

Mr. Karaka- it makes sense, yes.

Chairman Reinhardt- okay, so, before I open it up to the board, anything else you want to add, comment, let us know.

Mr. Karaka- um.

Mr. Anderson- I think what Eddie's trying to say is the hardship for him as an investor in the property is the factor for him is the longevity in which it would take him to re, get the return or the investment back, you know, I think that's what his hardship is going to be, you know opposed to having, you know what he's throwing out the mortgage term, you know, 30 year mortgage of 15 year mortgage just sheer by the numbers, you know, you look at it, and is it worth it, worth him to invest in that property half a million dollars, ¾ of a million dollars in order to bring it up to code and have a reasonable return that would, you know, be beneficial for him, as an investor. I think that's what, what, you know the factor is here.

Chairman Reinhardt- I agree. Theres multiple factors involved, I don't think as construction, anyone in the construction field will tell you that, that everything from wood to –

Mr. Anderson- oh yea.

Chairman Reinhardt- its right through the roof.

Mr. Anderson- I mean, in the last year I've seen our products go up 33% across the board, you know, in just the last year alone, I mean, we're not even going from the inception of COVID in 2019 you know.

Chairman Reinhardt- I think there's also the piece that you can over improve a property, you can put way too much into it and you can say well I'm not getting a reasonable return, well –

Mr. Anderson- sure.

Chairman Reinhardt- if the market for example says that property has a value of \$250,000 and you put \$500,000 into it, that's really not a good investment, right, you're, it's a balancing act of how do you put

in enough money into the property so that it can be in compliance with the code and still get a reasonable return on the investment. The kicker here is the further in need of, the property is of improvements the more money you have to put into it.

Mr. Anderson- sure.

Chairman Reinhardt- so that really doesn't, I think factor into a use variance, its, does the code allow an applicant to invest in a property and get a reasonable return on that particular piece, and I'm going to, it's a hard standard, use variances are very very difficult, I'll tell you that right now, if you haven't figured it out already, so anything else you want to add before the board asks some questions here.

Mr. Anderson- no.

Chairman Reinhardt- okay, Fred, got some questions?

Mr. Salsburg- well my problem is that I can't bring my conscious to bring a 3 unit rental unit up in that area because if we give it to you, w got to give it to the next applicant, and I don't want to see rental property expand in that zone up there, there isn't any there now, other than this house and we almost would be inviting a 3 unit and a nonresident to, landlord –

Chairman Reinhardt- you're looking at Fred at the 3rd criteria, is if granted it would alter the essential character of the neighborhood.

Mr. Salsburg- it'll be there forever.

Chairman Reinhardt- okay, that, that's what I think what he's –

Mr. Salsburg- even if the house falls down. It's still going to be there.

Mr. Anderson- sure, I mean I can respect that and understand that, but I don't think it's much different than having a housing track less than a mile away, you know, you got miles of housing tracks all the way up and down Co Rd 41, you know what I mean.

Chairman Reinhardt- that's not how the code defines it though.

Mr. Anderson- I, I understand that, but I mean as far as, you know, Fred's got the hardship of, you know if it's there then we got to give it to everybody and I can respect that and understand that but I, I really think that there's not much different than having housing track and having 40 families in one housing track stacked on top of one another opposed to having, you know, a 3 unit rental property there, you know.

Mr. Salsburg- we don't see too many houses stacked up on top of one another up in that area.

Mr. Anderson- well I mean –

Mr. Salsburg- I know you're using that as an example.

Mr. Anderson- no, I mean, I –

Mr. Salsburg- its an unfair example, but –

Mr. Anderson- Sure. Sure. I mean, I, like I said I respect it, I mean I do know, I do know a couple builders that have built right along Strong Road and then right down and around right in, right around the golf course there, you know Victor Hills right on the other side of Victor Hills there's housing tracks right in there on either side of it, you know.

Mr. Karaka- also I wouldn't, sorry to stop you, I wouldn't never come up to the board if it wasn't for the 3 meters, which I know it's irrelevant but, I wouldn't never come up and ask to change anything because it was there, so it was there, so I thought, you know my mistake, and I'm taking it –

Mr. Salsburg- I'm sorry about that –

Mr. Karaka- that I –

Mr. Salsburg- personally.

Mr. Karaka- it was there and now it's taken away so it's changing the whole bottom line.

Chairman Reinhardt- you should never apologize for asking, right, that's how you figure things out.

Mr. Karaka- yea.

Chairman Reinhardt- and that's why we're here.

Mr. Karaka- yea.

Chairman Reinhardt- alright, any other questions or comments Fred.

Mr. Salsburg- no this is, this is one of the biggest deviations from the code that I have in my mind at the moment, I don't like it very well.

Chairman Reinhardt- Matt, questions, comments.

Mr. Nearpass- uh, yea, a few so, thank you for putting this together, I'm a numbers guys so, I like numbers so, if you could bear with me here, I think I'm going to try to convince you you're better off with 2, first question what would be, in the column with the 3 units, what would be the square footage of each of those units, apartment 1, 2 and the studio?

Mr. Karaka- uh, I have no idea, I would say so --- I don't want to --

Mr. Anderson- I mean to give you an idea, just to looking at this –

Mr. Nearpass- within 100 SF of each should suffice.

Mr. Anderson- yea, I mean, this, the, if you look here this back unit here this is like the whole, all separated out, so from here over to here, that would be the studio, that's a loft, it would be a loft studio there and then the house is split somewhere about here, and it's, they're both 2 story, here and here, so basically at the kitchen dinette area where this bay window is that would be proposed to be B unit, so A, B and C unit, that, that would be the proposals for that. And again, I mean they all are 2 story in that area,

so to give you an idea, I mean you're probably, from here to here, you're probably about 25' maybe 25' deep, so ---

Mr. Salsburg- would you say the A and the B units are somewhere near the same size?

Mr. Anderson- yea, they're approx.---

Mr. Salsburg- the third one is half that? –

Mr. Anderson – I think that the B unit is slightly bigger by maybe 500 SF, at max.

Mr. Nearpass- what are we talking about?

Mr. Anderson- um, geez, I mean, give me a second here, approx. 1,200SF / 1,250 SF in both A and B unit and the C unit would be probably somewhere close to, I'd say 850-900 SF.

Mr. Nearpass- and you said 1 & 2, A & B would be what?

Mr. Anderson- somewhere in the ballpark of 1,200, I'd say 1,200-1,250 SF.

Mr. Nearpass- each.

Mr. Anderson- mhm.

Mr. Nearpass- so, the first that stuck out to me was in the scenario where there's only 2 units, you should be able to get more than \$1,400 for the second unit because if you're only going to put in 2 units, one of those units is going to consume the space for the studio, I'm assuming, you're going to take that space –

Mr. Anderson- sure.

Mr. Nearpass-you're really, not really looking at \$2,800, you're looking at \$1,400 plus something else for that additional unit, maybe it's not quite the \$750 but maybe its another \$500 or \$450 because you've got 2 units now, 1 is significantly larger than the other and to me I'm kind of looking at too is, you know, what is selling a lot is, you know, or what people are asking for are homes where there's a larger space and then like an in law quarters or something like that next to it. In addition, I still struggle with, I don't think in the 3-unit scenario, you're going to find that the studio apartment is going to bring down the value of the other 2. Right, its going to be difficult, I believe, especially at least in Victor and it's a rural community to a certain extent to find a studio and then 2 other, you know, 1,300 SF, how many bedrooms in each?

Mr. Anderson- 3.

Mr. Nearpass- so 2, 3, so 2 other families to also want to have a studio apartment kind of attached to it, I just, to me if you think of the size of the yard, the parking, the logistics of all that, it just feels like apartment 1 and apartment 2 aren't the same value, they're different values with a studio apartment and without a studio apartment, and with a studio apartment, in my opinion apartment 1 and 2 are less valuable than if they are without it. On the expenses side, your management fees, your insurance, the water, and miscellaneous, those would all be higher in the scenario where you've got 3 families, 3 families calling you, or 3 tenants calling you, or the management fees if the rent is higher would be, would be higher as well as a percentage of a slightly larger number, as well as your reoccurring costs, so on the contractor side, you're going to have to build out a bathroom, you're going to have to buildout an

extra kitchen, like all of that, you've got to build that out, so your cost, your fix costs into the 3 units has to be higher than the 2 units. Right, so if you go down the 2 unit side, it's kind of, it might be a couple \$100 less a month, I don't think it's as drastic as it's shown here, as \$750, I think your fix costs are cheaper on the 2 unit side, I think you're going to bring in more income out of apartment 1 and 2 because 1 of the apartments will be larger because it'll consume the other half and that you're going to have this studio that I think is going to, again, I think it's going to bring down the appeal of apartment 1 and 2 just, again because 3 families, like I said cars, backyard, like how do you, it just doesn't fell right, there's a, probably a reason why there aren't many 3 family homes at all within the area, I just don't, I just don't think it really works. And just with the numbers and I know we're all kind of estimating here, it just feels like, you're taking, you'll be taking less risk and you may even have a better return with the 2 family approach because your costs are going to be lower to get into it and you're going to have more of an appeal to just 2 apartments, 1 larger than the other, again you also have the advantage if you ever wanted to sell it, that you could sell it as something with an in law quarters or something to that effect. That's kind of my pitch for that, I kind of look at it, and I've only had, I've looked at this just for 5 minutes like everybody else, I kind of feel like you're better off with the 2 units from a return perspective, but, I'll, it's your property, it's your investment, but I don't really see a drastic difference at all, actually I see it better as the 2 units.

Mr. Karaka- there's also limit of how much you can charge, you know rent, you know when its not a brand-new house versus like if you between the 3 and 2, you know 41 there's new homes, you know people would rather go to new area versus –

Mr. Nearpass- sure.

Mr. Karaka- so—

Mr. Nearpass- regardless of how much you charge –

Mr. Karaka- we have competition.

Mr. Nearpass- regardless of how much you charge, adding a studio you would have to charge less for those other 2, those other 2 units I think would get less than they would if they were 2 units on their own. Even if they were the exact same size. As well as your fix costs, again you're not making an extra bathroom, you're not making an extra kitchen.

Mr. Anderson- but, you know, I mean it's everything is all stubbed in for that already, you know, so you'd be eliminating that, and you'd be opening the space up, but I mean even if we had like I, I mean it –

Mr. Nearpass- even if you didn't touch the space—

Mr. Anderson- yea. You know, I mean.

Mr. Nearpass- and you just left it as storage pretty much.

Mr. Anderson- I mean, I mean hypothetically it sounds great but either way it still has to be finished, you know, so you're going to be losing a few things but not very much.

Mr. Nearpass- yea, but finished doesn't mean adding a bathroom and –

Mr. Anderson- no, no certainly –

Mr. Nearpass- right.

Mr. Anderson- certainly it doesn't –

Mr. Nearpass- all that stuff is expensive, right?

Mr. Anderson- yea, no certainly there is an expense there, but I mean as the property sits now, like it does have to be reworked, you know—

Mr. Nearpass- sure.

Mr. Anderson- so there's, now we're talking about you know, tub, toilet and sink and you know maybe 5 boxes for cabinets, you know 6 boxes for the space in the studio --

Mr. Nearpass- and countertops and flooring and the plumbing and all of that, I mean we all know it all adds up –

Mr. Anderson- it's all going to have to go in there one way or another because of the way the property sits now. The property sits now we're all that was already out of there when it was purchased, you know what I mean so, or a vast majority of it was, I should say, not all of it, but, you know, so no matter what there's that inception of cost in there is always going to be there to get it livable, to get it, a CO on the property, you see what I'm saying.

Mr. Nearpass- yea, you're going to have to drywall it and frame it and all that but, I don't think he's going to force you to put in a kitchen or a bathroom.

Mr. Anderson- oh maybe not a kitchen or a bathroom.

Mr. Nearpass- that's what I'm saying is that –

Mr. Anderson- yea I guess what I'm trying to make you realize Matt, is not being in the property itself, is you could, yes you could eliminate the toilet, tub and sink, in that studio you could eliminate the kitchen but there, you know there's a vast more, majority of that is still got to get finished one way or another so you still need floors, walls, ceilings, light fixtures stuff like that, you know.

Mr. Nearpass- all I'm saying is, one path is cheaper than the other, I don't want to tell you how much, one has to be cheaper than the other –

Mr. Anderson- sure, yea, no I mean certainly you're cutting costs in certain areas. Absolutely.

Mr. Nearpass- and convenience for the tenants so there's, there's now 7 bedrooms, right and so, cars, all that kind of stuff, the site, it doesn't, its not conducive to having let's say 7 cars, or let's say 5 cars plus someone that wants to have friends over, right, it just seems like adding that extra unit from a logistics perspective will make it difficult for tenants and is going to also devalue what you're going to get out of it, you might have an extra apartment but I think you're going to get less for the other 2 and you're going to find that it's hard to –

Mr. Anderson- sure.

Chairman Reinhardt- okay, Donna?

Ms. Morley- did you already purchase the property?

Mr. Karaka- yes.

Ms. Morley- so when you purchased the property what was it under, 2 family?

Mr. Ryczek- yes, its listed in assessment data as a 2-family home. So, where the 3rd meter came from, I had a chance to walk through with Cliff, the studio/loft as they call it, so its not 1 room, it's 2 stories, its just an opened second story, by a staircase, so it's not necessarily a room, but the kitchen area wasn't complete, there's, you know plumbing for a sink and you can plug a fridge in anywhere, there's no gas or electric hookup for a range, so we wouldn't consider that a kitchen, how the 3rd meter got there, I have no idea, but you're talking 2 main panels and then that sub panel, and there was some other wonky type –

Mr. Anderson- yea, we couldn't really tell exactly what it was.

Mr. Nearpass- *inaudible*

Mr. Ryczek- what's that?

Mr. Nearpass- how old is the home?

Mr. Ryczek- I don't know exactly, but over 100 years.

Mr. Anderson- 19, yea, yea.

Ms. Morley- so my only question was, was when you came last time you said \$2,200- \$2,400 rent per month, per unit.

Mr. Anderson- certainly, I mean I, I wasn't the investor, you know –

Ms. Morley- okay, that's fine, no, I just wondering why, because you have, to me, that's a lot of money difference.

Mr. Anderson- mhm.

Mr. Karaka- we did some homework to see what exactly now, you know, the rent in these type of homes going in the area. There is higher and there's lower. So, this is why we made –

Ms. Morley- okay, that's my only question. Thank you.

Chairman Reinhardt- Sarah?

Ms. Mitchell- I have nothing else to add.

Chairman Reinhardt- alright, so a lot of what Matt is saying, I agree with and you on the second column, with 2 units, your numbers, you have apartment 1 at \$1,400 and apartment 2 at \$1,400 and I'm sorry if I'm being redundant but you don't factor in anything for that space of what that studio is. However big that is, it has some value to it, so unless your just going to say you're going to board it up and say I'm not going to do anything with it, arguably why would you, you would take that studio space and have it as whether it be apartment 1 or apartment 2, so arguably apartment 1 could be \$1,400 and apartment 2 is going to be something more than \$1,400, it might not be \$1,400 plus \$750 but its something, it might be

\$500, it has some value to it, that space has value. Whether or not you put a bathroom in there, in that studio, in addition to that, let's just call it for apartment 2, is it attached to apartment 1 or apartment 2?

Mr. Anderson- uh.

Chairman Reinhardt- 2.

Mr. Ryczek- the apartment to the east so, as he's referring to it –

Chairman Reinhardt- okay, we'll just call in apartment 2, so if the studio is attached to apartment 2, you could put a bathroom in there, you're not going to put a kitchen in there, I think you as a contractor know, your bread and butter is kitchens and bathrooms, right, so you could sweeten that place, no you got 2 bathrooms in a pretty spacious apartment, family might be bigger, means the money is going to be bigger, and I also have a little trouble too when we're looking at the criteria of competent financial evidence, \$1,400, I don't know where you got that number from, you're not quite, and I know, you don't have it memorized but, its about 1,250 SF, you know, the code, what we're really left with is having some hard numbers, this is the square footage, this is what the market is going to hold for a 1,250 SF apartment goes for X amount of dollars, its really not much different than how does anyone know that a house on Main Street when it goes up for market is going to sell for whatever the number turns out to be, research is done, realtors know that, I don't know if that's 1,250 is right or wrong but if we're going to assume that 1,250 SF is right, Matt's point is well taken then that that studio does have some value and is going to be something more than 1,250 which then the bottom line turns out to be, your difference might be a couple \$100 in a course of a month, you're going to make money on it, it might take you a little longer to do, but you're going to make money on it. I'm not seeing anything that tells me otherwise. So, correct me if I'm wrong, tell me it's a, I'm not looking at it –

Mr. Karaka- I can tell you that this one here is, I haven't even and excuse me, you said before mortgage is your problem, I mean, it is what it is, but even taken my, some of the money out to get some, it's going to be a lot of money for me to put into this location and you know it's going to be very hard to recoup this money, many years.

Chairman Reinhardt- so most, I know it's a, I understand most investors buy property cash, use as much money as they can so they don't, it's that Dave Ramsey thing, if you're taking out a mortgage, you're paying for it twice, you're paying the bank and you're paying for the property itself so the more of your money that you can, right, you know that, you're an investor –

Mr. Karaka- yes, but, you know, money finish at one point. So, if you want to continue buying you need to refinance, take the money, and go somewhere else and continue, if not you'll stay in one place. So that's –

Chairman Reinhardt- not all properties are good investments, are they?

Mr. Karaka- you know –

Chairman Reinhardt- not so much.

Mr. Karaka- you have to, depends on which, we can have 10 people doing real estate in the room and each and every one doing it differently and all, you know ---

Chairman Reinhardt- do you think that there's anything else that if we gave you more time that you can show better financial evidence that 2 units isn't going to work?

Mr. Karaka- I think so. I think so.

Chairman Reinhardt- what would you show us, if we gave you, if, and I say if, if we gave you more time, what would you show us?

Mr. Karaka- because maybe I should do the measurements of the apartments and see exactly what it is, you know, see what it is and from what I see in the area, I won't be able to get so much money from this particular you know apartment, again another \$100, \$150 more maybe, could be, there is value to it, it could be a den, you're right, you know it could be something that, activity room, but you're not going to get so much, so much out of it. You know, so much, you're not going to get \$750. \$100-\$150 more, could be ---

Chairman Reinhardt- all the doubles –

Mr. Nearpass- sure, you're also not going to have the additional cost of to finish it and market it and insure it, and all that, right, you're not going to have that cost. You are using your own money, and that adds up to let's say \$30,000 –

Mr. Ryczek- another piece of information that I'll offer is, I mentioned this to Cliff, is when you go from 2 family to a 3 family it's not, because a 3 family it's a multi-dwelling, the building code and the restrictions change, you go from residential code to building code, the classification of the building changes, the cost you're going to have for fire separation, sprinkler systems, you know, I believe you're on septic there, there's going to be much more cost if you kick into a multi dwelling versus a 2 family home.

Mr. Nearpass- so they would be, I thought we asked that 2 times ago if they would need sprinkler systems.

Mr. Ryczek- not for a 2 unit.

Mr. Nearpass- but 3, they would.

Mr. Ryczek- correct.

Mr. Anderson- we brought it up and, I don't know if there was any outline to that, you know and I know I deferred to you on that Adam and talked to you about it, I thought it was after 3 stories it'd required a sprinkler system, is that, that's not the case here, the case is once it's a 2, like, once it's a 2 story –

Mr. Ryczek- no, you have to reference a different section of the code now, at that point.

Mr. Nearpass- once its 3 units.

Mr. Anderson- could you, could you, do you know what that code is by any chance or –

Mr. Ryczek- I, its very complex because you have to go to existing building code and then you know the level of alteration and the classification, now you're in the building code, you're jumping from not the residential into existing building but you're jumping from the actual building code, the state building code into existing building code so there's really no, the path is complex –

Mr. Anderson- so it's a –

Mr. Ryczek- I definitely don't have all the answers, I have to read through it –

Mr. Anderson- right.

Mr. Ryczek- multiple times, so, I just want to let you know that there is a huge trigger there once it changes.

Mr. Nearpass- just so he understands, the trigger is the 3rd unit.

Mr. Ryczek- correct.

Mr. Nearpass- the trigger isn't the 2 stories or the 2 units.

Mr. Anderson- right, right. I mean that's understood, I, I guess for me, you know, and this is just curiosity, you know is, do we have a definitive answer to, does that property need a sprinkler system in it and in the entire unit, you know because of that and what's, you're telling me that, you, you haven't, there's a gray area, is what I'm, is that what I'm understanding, is there gray area, you don't have an exact answer to that ---

Chairman Reinhardt- how about ---

Mr. Anderson- exact answer to that –

Chairman Reinhardt- if the board desires that giving you some more time to get competent financial information regarding rentals, hold the sprinkler system off a second, Main Street is filled with rental properties.

Mr. Anderson- yup.

Chairman Reinhardt- there should be some data if you're going to invest in rental properties, how much did those go for, with the space because you're not going to pull a number out of a hat to say oh \$1,400 for this unit, you're going to do your research, if \$1,400 and it turns out to be it's \$25 a square foot, if that's the going rate, that's the going rate, I don't know what the number is, but its not for me to tell you what the number is, you need to tell us, here are the financials, here's what rental property goes for, it's, whether it be by square foot and if you say Main Street, is approximately, and don't guess at it because these numbers, with all dues respect, you're guessing at them, if you can provide us with what do rental properties go for, fine you can use something in the area within, I'll give you a mile and a half radius, should be plenty of space that you'll find rental units, what are the numbers, how much they go for, so now we really can start plugging a number in, and what does this go by square foot, and what's the square foot of each individual, so the studio, apartment 1 and apartment 2, then what I'd like you to know is, apartment 1 and apartment 2 plus studio, so now we can start to figure out, this is what a reasonable return is after all those improvements are done, how much can be your return, and the improvements, that's more on you, that's the mortgage, because what we're looking at is, if you want to get this thing up and running, is 3 units permissible, or its just not a sustainable investment. Alright, does that make sense so far?

Mr. Karaka- yea.

Chairman Reinhardt- so then the second thing is if the board decides to give you that amount of time, is that would give Adam a little bit of time to get an outline and say here's how I know what I know, and here's why our code enforcement officer believes that you're going to need a sprinkler system, which is

going to, I think, I don't think its any secret, everybody knows that's going to really raise those rates, right? Right? Adam, you think you can do that. And provide an outline?

Mr. Ryczek- absolutely.

Chairman Reinhardt- okay so, Sarah, given what I've proposed there would you like to see more –

Ms. Mitchell- the only thing I didn't necessarily agree with was the comparison of rental in the village versus where they are.

Chairman Reinhardt- okay.

Ms. Mitchell- because the village you could potentially get more money because there's things in walking distance opposed to where they are, they can walk to the golf course. So that's really –

Chairman Reinhardt- that's a good point.

Ms. Mitchell- so I just think that comparison out more in like a rural area would be a better comparison than something within the village. Is my thought.

Chairman Reinhardt- I would echo that so, you want to put some village rentals in there, fine, but fair comparison, comparable, should be as close to what that looks like in that suburban rural area.

Mr. Karaka- okay.

Chairman Reinhardt- alright. So, the more you can get the better it looks, better numbers we can see. Good point Sarah. Donna? You good with that?

Ms. Morley- I'm good with it, yup.

Chairman Reinhardt- Matt?

Mr. Nearpass- yup.

Chairman Reinhardt- Fred?

Mr. Salsburg- he can take all the time he wants.

Chairman Reinhardt- okay, so if you want to do that, how much time do you need to find those numbers?

Mr. Karaka- 2-3 weeks.

Chairman Reinhardt- so we meet again, September 19th, and our meeting after that is October 3rd. You tell us what fits. Hmm, October 3rd?

Mr. Karaka- yea.

Chairman Reinhardt- alright, so by October 3rd you get us the numbers and it would also help too if you have these sooner, I mean, I appreciate it –

Mr. Karaka- yea, no problem. We'll have it before.

Chairman Reinhardt- if we have them before we can take a look at them, that'd be great.

Mr. Karaka- yea.

Chairman Reinhardt- and Adam's going to get the outline for us and once, think you can have that a week before, so we can share that with Cliff and, so he can be prepared as well on what your thoughts are on that?

Mr. Ryczek- yup.

Chairman Reinhardt- great. Okay, questions?

Mr. Karaka- no.

Mr. Anderson- no.

Chairman Reinhardt- no. Thank you so much for you time.

Mr. Anderson- appreciate it. Thank you, guys.

Chairman Reinhardt- alright, have a good night.

Mr. Anderson- you too.

VICTOR SQUARE, 4-20 Commerce Drive

17-Z-2022

Seeking an area variance to combine parking lots with Victor Crossing where §211-32 states that parking and paved areas may be located within up to five feet of the property boundary line for side and rear boundaries of lots located within the Commercial District

VICTOR CROSSING, 400-441 Commerce Drive

16-Z-2022

Seeking an area variance to combine parking lots with Victor Square where §211-32 states that parking and paved areas may be located within up to five feet of the property boundary line for side and rear boundaries of lots located within the Commercial District

Chairman Reinhardt- VICTOR SQUARE. Thanks for your patience.

Mr. Boglioli- Not a problem, I do this for a living, so, sometimes its never this early. Good evening my name is James Boglioli and I'm an attorney for Benderson Development, this is a unique application because there's actually a variance I didn't create, I'm doing it to satisfy the Planning Board, so, I'll walk through it with you, we own Victor Square and Victor Crossing which is the shopping center anchored by Walmart, they share an access on 96, with a signal, and then there is a dual driveway system that the Planning Board required to be put in when we initially build Victor Crossing, which is the larger of the 2 shopping centers, the next slide please, oh I got the clicker, sometimes I'm not used to doing it, oops, I'll go back, in May we submitted a site plan to add a 4,000 SF addition to the end of Victor Square, that didn't require any variances and this is the plan that we submitted, the property line for Victor Square is

right there, with Victor Crossing's being on this side of it, when we submitted the application to the Planning Board, the Planning Board discussed the fact that this driveway configuration system was very confusing for people when using it, was somewhat dangerous and asked me to go back and see if I could redesign it and add a little parking on this side of this shopping center, so that traffic would flow much better there, I went back and redesigned the site plan, and what we did is we got rid of the dual driveway, we added a parking field here, a small parking field, and it generated 1 variance for each project. And that variance is the property line runs down the middle of the parking field, right here. So, we don't have the required setback between the 2 properties because the property, the line runs through the parking lot. For all intents and purposes it flows like a parking lot for a commercial shopping center, we did agree to a condition that I would execute and record a reciprocal easement agreement so that if any property was ever sold, there would be cross access and cross parking and they could never block it off and create a situation where you had a parking lot without a setback, so that is basically the project. The only variance I need is 1 for Victor Crossing, 1 for Victor Square, so that I could fix this driveway and build this parking lot.

Chairman Reinhardt- alright, so I think you're aware –

Mr. Boglioli- mhm.

Chairman Reinhardt- county planning board needs to take a look at this.

Mr. Boglioli- yes.

Chairman Reinhardt- so, we can't do anything today.

Mr. Boglioli- yup.

Chairman Reinhardt- looking at the Planning Board review if I understand it right that there is a proposed 4,000 SF addition to the Bassett Building, has that already been done?

Mr. Boglioli- that's what started the project, so if I back up, just there's nothing there now, I submitted this site plan to the Planning Board in May, with the addition, they asked me to fix the driveway, that's how we got here.

Chairman Reinhardt- so there was some discussion about there not being any impact to the conservation easement, where is that?

Mr. Boglioli- the conservation easement is not built on, it ends right there, you see where that, that, trees end, we purposely, the site plan, the formal site plan submitted which you have, shows it called out, but it, we avoid the conservation easement.

Chairman Reinhardt- so the proposed additional parking spaces, is not going to have any impact on the Conservation Easement.

Mr. Boglioli- no, it is not.

Chairman Reinhardt- okay. There's no issues with the emergency vehicles.

Mr. Boglioli- nope.

Chairman Reinhardt- alright.

Mr. Boglioli- it actually improves the circulation for the emergency vehicles.

Chairman Reinhardt- so the total amount of new spaces that you're gaining, is how many?

Mr. Boglioli- about 15 total.

Chairman Reinhardt- okay, alright, Sarah, questions, comments, concerns?

Ms. Mitchell- so it's a parking lot over 2 parcels, pretty much.

Mr. Boglioli- it's a parking lot over 2 parcels.

Ms. Mitchell- so, what if 1 parcel no longer stays you as ownership?

Mr. Boglioli- I'm, as I noted previously, we're going to record a reciprocal easement agreement.

Ms. Mitchell- okay.

Mr. Boglioli- that agreement is in perpetuity, it can't be changed, and what it requires is that there's always cross access and cross parking, so if we ever sold one of the parcels, this would go on the exact same way it is, no one could change it.

Ms. Mitchell- so then who maintains it?

Mr. Boglioli- in the reciprocal easement agreement it calls out who maintains the parking lot.

Ms. Mitchell- and this makes it safer there?

Mr. Boglioli- it makes it safer because if you go back –

Ms. Mitchell- it just makes me think that it doesn't. But that's just ---

Mr. Boglioli- it actually does, they wanted, they wanted, when people come in here they turn quickly off this driveway and then they're trying to make a, a quick decision on where they go, it was originally put in because at the time the Planning Board wanted people to get behind the building, I wasn't working for Benderson at the time, this configuration, new configuration brings people right out across the front or right into the parking lot in this area, and it moves the decision point further up away from the driveway, that's a quick moving driveway that section that there in there are going back and fourth in here, so

having anyone make a, move quicker into the, into the facility. From the Planning Board I believe did make a positive recommendation on this, and we don't need it for the 4,000 SF building expansion, so its not tied to that, they just asked me to do it, so I'm here.

Ms. Mitchell- that's all I had for now.

Chairman Reinhardt- Donna? --- Matt?

Mr. Nearpass- no, I concur, I, even just looking at it quickly it doesn't make my eyes hurt as much as the current configuration, I have gone through there many times too, and it is confusing, so I'm okay.

Chairman Reinhardt- Fred?

Mr. Salsburg- nah, seems like a halfway good idea.

Mr. Boglioli- I'll take it, a halfway good idea.

laughter

Mr. Boglioli- I don't think the first design was a good idea to begin with, so, it's, we're heading in the right direction with it.

Mr. Salsburg- it's an improvement then.

Mr. Boglioli- it's an improvement to that, that was a no-good idea.

Chairman Reinhardt- so the Victor Crossing/Victor Square its just the mirror image of –

Mr. Boglioli- yup.

Chairman Reinhardt- the application and they need to be together?

Mr. Boglioli- it's the same variance for each property because of the line.

Chairman Reinhardt- right. Okay, anyone want to speak for or against the application. What am I missing? Hold on.

Ms. Downs- there's an e-mail from a neighbor.

Mr. Boglioli- Dave Anderson?

Ms. Downs- no.

Mr. Nearpass- is it in the dropbox.

Ms. Downs- yes.

Mr. Nearpass- so here it is, neighbor correspondence.

Ms. Downs- yes.

Mr. Nearpass- to Lisa Boughton.

Ms. Morley- Tammy VanBuren.

Mr. Boglioli- I didn't get it, so –

Chairman Reinhardt- you didn't get it.

Ms. Downs- I just received it today, so I do apologize.

Mr. Boglioli- it doesn't impact, I know, I have 2 neighbors that come out a lot on this site, it doesn't impact any of the neighbors, all the houses are here, the parking lot is here, this neighbor here, is Dave Anderson asked us to add some additional landscaping and even though we're not impacting anything from this side of the site over we did add the additional landscaping in that area as requested. In connection with the site plan application, but I don't know –

Chairman Reinhardt- Matt has the e-mail if you could review it, read it –

Mr. Nearpass- sure, so its from Tammy VanBuren 365 Meadowlark Lane.
“Zoning Board of Appeals,

Please enter the below into the record for the 9/6/2022 Public Hearing.

Please deny the request for variances for the above development. The property has already had variances granted so that they could build the existing plaza. The developer is requesting variances so that they can build an addition for a mattress store to the existing building. There is no need for an addition to the building as there are currently two empty stores that can be used for the proposed mattress store. One if the empty stores is being used for a temporary seasonal Halloween store, which could be used for permanent tenant at any time. There are also some empty stores in the adjacent development which has the same owners and could be used for the new tenant

The Planning Board approved a new entrance/exit to the site which will allow easier access to the two empty stores.

The developer purchased the property and knew what the existing zoning requirements are and need to develop the property within those requirements. The Town does not need to grant variances so that they can add to property which has open, usable spaces. If the existing spaces to not meet the needs of the tenants that want to occupy the space, then perhaps they need to look elsewhere.

Please take the above facts into consideration and deny the request.

Thank you,
Tammy VanBuren”

Mr. Boglioli- thank you, I can address that, the variance is not related to the addition. So I don't need the variances, if this got denied, the 4,000 SF addition is permitted as of right, so I don't need the additional parking, I don't need the connection, so that, she ties that to that, so that variance is not related to that, it doesn't impact any of the neighbors, it actually improves the existing situation, we do have some vacancy in the building but we are actually negotiating with some different types of tenants for that vacancy, this is a very, this is a mattress store, Sleep Number, so it is a low traffic generator and only requires 4,000 SF, not real deep, they don't sell anything from the store, so you go in, it's like shopping for a car, you look at it, then they deliver the mattress to your house from another location, so its actually just a show room addition, that deeper space we're negotiating with a different type of tenant, the store wouldn't take that and we barely have any vacancies left in Victor Crossing at this point, that is we have some very small vacancy and they won't go there.

Mr. Nearpass- I, I believe you said earlier that the Planning Board asked you to do, take a look at –

Mr. Boglioli- this whole driveway –

Mr. Nearpass- this whole driveway, right?

Mr. Boglioli- this whole variance is –

Mr. Nearpass- is a result of their request.

Mr. Boglioli- yes. It is a result of their request, so –

Mr. Nearpass- adding an additional cost.

Mr. Boglioli- no, its an additional cost for us that, I'm willing, we're willing to undertake to make it better.

Mr. Nearpass- right.

Mr. Boglioli- so.

Chairman Reinhardt- so, stated a different way if we could, correct me if I'm wrong, if this board at some point denies the variance, you're doing this project anyway –

Mr. Boglioli- mhm, anyway.

Chairman Reinhardt- you've already gotten approval from Planning Board; you're going to go ahead with it –

Mr. Boglioli- yea.

Chairman Reinhardt- just the driveway, that's just going to remain as is.

Mr. Boglioli- as is.

Chairman Reinhardt- understood.

Mr. Boglioli- yea.

Chairman Reinhardt- right, alright anyone else? Alright, then Planning Board, County Planning Board –

Mr. Boglioli- is in a week, right?

Chairman Reinhardt- is the 14th, so we'll see you here on the 19th.

Mr. Boglioli- thank you.

Chairman Reinhardt- alright.

Mr. Boglioli- have a nice night.

Chairman Reinhardt- thanks for your patience.

Mr. Boglioli- thank you.

Mr. Nearpass- do we have to ask formally with the second application, or is this just covered under –

Chairman Reinhardt- um.

Mr. Nearpass- do you have to ask the public for comment on the second application as well, that, that kind of thing.

Mr. Boglioli- you probably do have to open it and ask for comment.

Chairman Reinhardt- we can, does the public have anything, there's no one here, alright. We'll do it again the next time, back on the 19th, but yea, it's a formality.

Mr. Boglioli- have a nice night.

Chairman Reinhardt- thank you, you too. Adam, anything for us? You good. Anyone? Anyone? Ed?

Mr. Kahovec- no, just sorry I was late, I had a budget meeting, working on the budget for 2023.

Chairman Reinhardt- everything going, okay? Oka, good, good.

Ms. Morley- that sounds good.

Chairman Reinhardt- alright, I would entertain a motion to adjourn.

On a motion made by Chairman Reinhardt and seconded by Donna Morley the meeting was adjourned at 8:35 pm.