

TOWN OF VICTOR ZONING BOARD OF APPEALS, November 6, 2023

A regular meeting of the Town of Victor Zoning Board of Appeals was held on November 6, 2023, at 7:00 p.m.

PRESENT: Michael Reinhardt, Chairman; Mathew Nearpass, Vice-Chairman, Alexis Ogra, Fred Salsburg, Lya Theodoratos

OTHERS: Joe Bodine, Sandra and John Billone, Terry Dacey, Ed Kahovec, Town Board Member; Adam Ryczek, Victor Code Enforcement; Suzy Mandrino, Town of Victor; Amber Downs, ZBA secretary

Chairman Reinhardt called the November 6, 2023, 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. He 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 will 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 Alexis Ogra, seconded by Matt Nearpass:

RESOLVED, that the minutes of the meeting held on October 2, 2023, BE APPROVED.

Adopted: Ayes 5, Nays 0

PUBLIC HEARING

**BILLONE, 378 Co Rd 9** **21-Z-2023**  
for an Area Variance to allow construction of a driveway gate forward of the frontline of the principal structure (house) where §211-31 G. (2) states accessory structures are not permitted to be forward of the frontline of the principal structure.

Chairman Reinhardt- Alright, first is the Billone, am I pronouncing that right? Billone. Come on up, whoever is making the presentation. Let us know who you are ...

Mr Billone- I am John Billone ...

Chairman Reinhardt- Hi John.

Mr Billone- that's my wife Sandra, we reside at 378 Co Rd 9. And we're here to ask about our gates which we'd like to install ...

Chairman Reinhardt- yes, so you want to put a gate forward of your principal structure ...

Mr Billone- correct.

Chairman Reinhardt- you sent us some pictures, and also some other information, so why don't you start and if you have a, tell us what you'd like to see happen and we're going to ask you questions ...

Mr Billone- well I'd like your approval.

Chairman Reinhardt- of course.

Mr Billone- \*laughter\* well mainly for uh security reasons, during the summer I've been working on, the front of my yard for pretty much every day and I've noticed a lot of people going north on Co Rd 9 turn into my driveway because they pass the Cobblestone, going to Cobblestone, so they pull into my driveway and they come in 40-50 feet, and I do have a turn around circle so it's convenient for them to turn around and go back out, so I'm trying to avoid that and uh some people just pull in 20 feet or so and then they back out onto the road, and you know go up to Cobblestone and turn in there so, mainly its, its uh to put the gates up would be for security reasons, and privacy I guess.

Chairman Reinhardt- okay.

Mr Billone- that's you know, pretty much, pretty much it.

Chairman Reinhardt- alright. So, we're going to ask you some questions.

Mr Billone- sure.

Chairman Reinhardt- before we do, I want to at least explain a little but how the county planning board referral process works, if you're not familiar with it. Because of the proximity of your residence to Co Rd 9, general municipal law requires us to refer the case to the County Planning Board ...

Mr Billone-sure.

Chairman Reinhardt- for their recommendations, now depending on what they feel gravity of it is, is going to depend on how we vote, so if they, and their wisdom, decide to recommend a denial, we would have to then say it's a majority plus one, so we're a board of 5, so we need, 3 is a majority, plus one is 4 to override their recommendation for denial. Sometimes they just may call and say well here's what we think but you can vote however you want, that's a completely different animal ...

Mr Billone- sure.

Chairman Reinhardt- and all you would need then is a regular majority. Which would be 3.

Mr Billone- okay.

Chairman Reinhardt-alright.

Mr Billone- sure.

Chairman Reinhardt - when is the County Planning Board going to hear this case?

Ms. Downs- So November 8<sup>th</sup> is the County meeting, so our meeting following that would be December 4<sup>th</sup>.

Chairman Reinhardt- so what we'd like to do, that's December 4<sup>th</sup>. So, what we'd like to do is start to create a record, ask you some questions, and then you come back on the 4<sup>th</sup>, we'll take a look at what the county planning board had to say, we'll let you know what that is ...

Mr Billone- okay.

Chairman Reinhardt- and we're probably going to ask you a few more questions and then figure it out whether uh we grant the approval or deny it ...

Mr Billone- okay.

Chairman Reinhardt- okay?

Mr Billone- sure.

Chairman Reinhardt- so... with that Fred, you got any questions?

Mr Salsburg- well I'm not too clear on what we're going to be asked to vote on ...

Mr Billone- I'm sorry I can't hear you.

Mr Salsburg- I'm not too clear on what we're voting on, the drawing I assume the drawing that was submitted to the town shows the driveway ...

Mr Billone- mhm.

Mr Salsburg- but that's not the one we're looking at, there's another one that you drew in sort of a concept of, but its not detailed at all, is that the only drawing there is of the driveway of where the gate is going to be ...

Mr Billone- well that's what the, that's what they wanted to know where the gates were going to go so, I'm not sure what you need more than where the gates are going to go, I gave them a picture of the gates and showed them where they were going to go now, I don't know if you need more detail ...

Mr Nearpass- I think what Fred is referring to is there's the, the engineering drawing but its, I don't know if we can flip to it here, but its hand drawn, over it like another driveway ... that ....

Mr Salsburg- there's a conflict in the drawings...

Mr Nearpass- is that hat you're talking about?

Mr Salsburg- yea.

Mr Billone- okay, what you're looking at, you're looking at, can I go up to the board... okay ...

Ms. Downs- there is a pointer on the podium.

Mr Billone- this here?

Ms. Downs- yup.

Mr Billone- what do I do with it?

Ms. Downs- if you press the button, its like a laser pointer, that way you can point to the screen.

Mr Billone- oh, okay. I get you. Okay here we go, okay this driveway here was the existing driveway when I bought the property, and uh this structure here was an existing 6 car garage, that's gone. I relocated the driveway to that point there and mainly because right over here where Cobble Creek Road is there's a hill and the cars coming down it are doing 65 all day long, so I moved the driveway so it gave us, my wife mainly, a better chance at getting out of the drive without getting killed, so anyway besides that, I moved the driveway so my gates are about, I'm going to say about 60-65' back from the right-of-way, you know maintaining gates right there. As you come down the road, they turn into the driveway come up and around and go back out and go back and go make a right on to Cobble Creek so, its, so we did relocate the driveway, I'm sorry, if that was your question.

Mr Salsburg- is there a record of it?

Mr Billone- yea, well they have it at the town does. This was a County uh, this was a county decision, and they gave me the go ahead to go ahead and do the change in my driveway.

Chairman Reinhardt- you have a, I think again what Fred is trying to, and I think we probably all agree here, do you have an updated survey of what and where that current driveway is?

Mr Billone- what you're looking at? Or ...

Chairman Reinhardt - that's your, that's somebody's pen that ...

Mr Billone- I, I, yea, I drew that in.

Chairman Reinhardt- are you a surveyor?

Mr Billone- no.

Chairman Reinhardt- okay.

Mr Billone- no.

Chairman Reinhardt- okay, so what we're going to look for is, is there a survey map that shows that that driveway, from my understanding the county asked you to do, and the location of it.

Mr Billone- the county wasn't, the county didn't say anything about the driveway itself, but eth right--of-way coming from the road into the property as far as the main design of the driveway, they didn't ask for any of that, they just said, it was a telephone call, they said ...

Mr Ryczek- Mr Billone? ...

Mr Billone- I'm sorry ...

Mr Ryczek- so that's, that's a scan of your site plan, when we did your CO inspection did you provide the building department with an instrument survey and does that survey show the new driveway ...

Mr Salsburg- as built, sort of ...

Mr Billone- wow, one question at a time... I'm sorry. Uh, whatever they, when I came, oh I'm sorry, \*laughter\* uh if they asked for one, I'm sure we got one ...

Mr Ryczek- do you maybe have a copy of that instrument survey that's ...

Mr Billone- I could get one for you.

Mr Ryczek- it shows the driveway in the right location?

Mr Billone- the one that's in there now?

Mr Ryczek- right.

Mr Billone- yea.

Ms. Billone- is that the one that Andrew did? The architect?

Mr Billone- no Andrew did something else.

Ms. Billone- oh okay. That's all I thought it was that ...

Mr Billone- no, my grandsons an engineer and he, he helped me you know design it and whatever, but if this is what is required I, I'm not sure.

Chairman Reinhardt- we're probably going to give you a few things to ...

Mr Billone- okay sure.

Chairman Reinhardt- get to us the next time.

Mr Billone- sure. Sure.

Chairman Reinhardt- Fred, other questions?

Mr Billone- I'm sorry I, I'm sorry I didn't what was your question?

Mr Salsburg- well have you decided if its going to be the wing panels or the two ...

Mr Billone- not necessarily because the way the grade is, the grade goes down quite a bit so I'm not sure if I was going to put those wing gates on there or not, its more ornamental then anything else. But it wasn't something that I needed to do or not do, so ...

Mr Salsburg- and the two posts that are there now, are the ...?

Mr Billone- mhm, yes.

Mr Salsburg- hinge posts.

Mr Billone- for, they're 6 x 6 ...

Mr Salsburg- yea.

Mr Billone- yea.

Mr Salsburg- no, that's all I got.

Chairman Reinhardt- Matt, questions?

Mr Nearapss- sure, so one of them obviously we, the is it a fence or is it a structure and we can have that maybe discussion later, um for the applicant, I think one thing too is you'll just need to finalize the design, right so how you want it to, how wide is it going to be, is it going to have the, do you want it to have the what'd you call it the wings, yea, if you wanted to have the wings or not, so we just need to understand what you're really proposing ...

Mr Billone-that was optional ...

Mr Nearapss- which option do you pick? Do you want the wings or not?

Mr Billone- I don't care.

Mr Nearpass- \*laughter\*

Mr Billone- no, no I'm not trying to be smart; I'm just saying if I could, I don't know how its going to look with the wings, it may not look good with the wings. So, I'm just like well ...

Ms. Downs- can you just talk into the microphone Mr Billone?

Mr Billone- I'm sorry.

Mr Nearpass- yea, so again, we don't, we're not deciding ...

Mr Billone- I can't hear, that's why....

Mr Nearpass- I think it would help to just have a, even a drawing or something of, if you were looking at the fence, how do you want it ...

Mr Billone- well...

Mr Nearpass- to look.

Mr Billone- what I could do is I could put them up, and then you could see what they are going to look like, that'd be, I mean I, because the, they're good size wings and good size gates so, its I, the gates are in my backyard. So, I took pictures of them ...

Mr Nearpass- yup, I saw that. I saw the pictures.

Mr Billone-yea, so, but they were upside down, just happened to be that way ...

Mr Nearapss- okay.

Mr Billone- but I mean I could do a, there's gates right now.

Mr Nearapss- do you plan on motorizing the gates? Or there ...

Mr Billone- that's ...

Mr Nearapss- because the pictures you sent were motorized gates too, so its ...

Mr Billone- that's questionable. I, probably not. I'll be honest with you. Like just because I just don't see why, we go to Florida in the wintertime for about 3 months, so but even at that I don't think I'd close them, because in case of a fire or whatever, snow plowing so, probably just on weekends when were not there for a long, maybe a long weekend I would close them, just for privacy but uh ...

Mr Nearpass- and how far from the road will they be?

Mr Billone- I think it's on the, I think its 65' ...

Mr Nearapss- so 65' wont really, I know when you started you talked about people coming in and kind of doing a "k" turn and that's really not going to prevent that, right I mean it'll ...

Mr Billone- no, no ...

Mr Nearpass- it'll prevent people from going ....

Mr Billone- no its not, I pushed the gates back ...

Mr Nearapss- up and around, but ...

Mr Billone- its back far enough for two cars to come in and be off the road. So, you could open up the gates and come into the, into the uh property. But no, it's not going to prevent that at all, but its going to prevent people from coming in and going around the circle and coming back out, that's ...

Mr Nearapss- sure.

Mr Billone- what I mean though, especially in the winter time when the conditions aren't such where they want to back out into the road they feel, well its plowed let me go up and around the house and turn around and come back out, so I mean there's a lot of ways I guess you could, you know it all depends on the person that's going to be driving and how comfortable they feel.

Mr Nearapss- sure, I was just trying to ...

Mr Billone- yea, yea I know what you're saying ...

Mr Nearapss- understand, but the problem that you're trying to solve ...

Mr Billone- no, its not going to prevent people from you know coming in, even in the wintertime, I don't know, I mean I've seen accidents and people hitting deer and whatever, its just, you know it's a 55, and I'd like to get that changed if I could, that will be my next project. Get that speed limit lowered because let me tell you they're doing 60-65 all day long on that road, there was as sheriff's car there about a week ago monitoring the traffic but, it just what its you know, you pull out of my driveway, I mean you can't go 65 MPH, and they're on your butt, I mean until you get to Valentown Road, they're just, and that's where I usually make a turn, make a left onto Valentown to go and they're you know, they're doing 65 and they're on your ... flashing their lights, or beeping their horns, I don't know what to say, you know ...

Mr Nearpass- sure. I'm just trying to figure out ...

Mr Billone- no, no, no ...

Mr Nearapss- and I, and I think you made the right decision to move the driveway in a little further for safety and all that, I'm just trying to get at ...

Mr Billone- yea.

Mr Nearpass- how much the, you know having a variance for this particular fence or structure is really going to help, right is it, is it just, is it a nice to have or is it something you absolutely have to have because ...

Mr Billone- uh, uh, I would like to have it for privacy, that's not going to prevent people from coming into my driveway and back out. That's not the reason I'm putting them up. It'd be more for privacy and security more than privacy, I guess.

Mr Nearapss- but for the most part it sounds like it's going to be opened most of the time ...

Mr Billone- oh, oh definitely, yea. Its going to be opened 95% of the time.

Mr Nearpass- so that kind of throw the privacy things out the window, that's what I'm trying to figure out here ....

Mr Billone- well I ...

Mr Nearapss- if its going to be opened most of the time ...

Mr Billone- but I do have that option. I do have the option to close it. It's like having a gun in the house, you got the gun but you're not going to use it ...

Mr Nearpass- I'm just wondering are there other, are there other ways, so you're saying, so the 5% of the time, is it for when you're not home, I think you said down in Florida or somewhere else, is there another means, I know you put up some road cones, or you put up something else that just makes it clear that, I'm just trying to explore all other options. Not the prettiest looking thing but are there other options for you to ...

Mr Billone- I've had road cones on that property for 3 years when I was doing the construction, it just you know, everybody thought it was a racetrack. \*laughter\* so there's a lot of ways you look at everything but you know it's, its again I think the fence or the gates I should say, leave more of a deterrent, more so then somebody saying okay, you know let me just drive in and drive around and come back out, and just I don't, for us, I mean we're up in age and I think it's a mental thing, having that security...

Mr Nearapss- I'm just trying, what I'm just trying to get at is maybe what's unique about your situation versus everybody else that has a driveway and might want to put a fence across it.

Mr Billone- well uh, I did take pictures of 4 driveways I think on the road that have gates, um, there's one of them right there, well there's all 3 of them right there. They're all within a mile north and south of my property, and as you can see that's you know uh, the one um that one there's been since 1960, no I'm sorry, this one here has been there since 1960, this one here is going to winery I'm not sure if you know where that is, you know where the winery is, okay yup, that goes into the winery that one there, this one



goes into um, what's that property down there, um, the guy past the way had a heart attack, not Galisano, his partner.

From audience- Polisseni

Mr Billone- Polisseni. I'm sorry, thank you. Polisseni's gates.

Chairman Reinhardt- That one is in Monroe County

Mr Billone- understood ...

Chairman Reinhardt- the reason why I say that is because Monroe County is whole different set of rules so, so with all due respect that one doesn't count.

Mr Billone- I didn't realize that until I think I talked to somebody on the board, that it was, I didn't know it was Monroe County but there's a sign there, but you know it's, its there. So, um, I don't think when people drive by and say oh that's Monro County that's okay. So, not you know ...

Chairman Reinhardt- it matters here.

Mr Billone- to you, right. Exactly.

Chairman Reinhardt- right, we look at things that happen ...

Mr Billone- right.

Chairman Reinhardt- changing the character of the neighborhood in Victor.

Mr Billone- right.

Chairman Reinhardt- not Monroe County ...

Mr Billone- okay.

Chairman Reinhardt- not Pittsford.

Mr Billone- understood.

Chairman Reinhardt- not Canada. Just Victor.

Mr Billone- understood.

Chairman Reinhardt- okay.

Mr Billone- sure. But okay these two are in I guess uh, well Victor or Ontario County, these two here.

Chairman Reinhardt- the one probably, the first one you said in the 1960s, that ...

Mr Billone- that's what she said.

Chairman Reinhardt- that one predates the code. At least the code we're working with.

Mr Billone- okay.

Chairman Reinhardt- so it, might be looking at one.

Mr Billone- I, again ...

Chairman Reinhardt- okay, just ....

Mr Billone- I brought that up because that's what they, that I was told. It follows ...

Chairman Reinhardt- its important ...

Mr Billone- grandfathered in.

Chairman Reinhardt- its important for us to figure out what the current facts are.

Mr Billone- right.

Chairman Reinhardt- right, and pin them down so we can understand them ...

Mr Billone- sure. I completely understand.

Mr Nearapss- I'm good with questions for now.

Chairman Reinhardt- Alexis?

Ms. Ogra- um, I don't have any questions, I think the application is fine as is, and I would vote in favor if we were voting tonight.

Mr Billone- thank you.

Chairman Reinhardt- Lya?

Ms. Theodoratos- yea, I don't have any questions either but I get exactly your point why you want it there and I get it people will some people will come up, right up to the house and drive through your circular drive, I've seen it where I used to live right across the street from me and it was not a big property like yours, it was right off the street and some people will drive through that circular drive and the reason why if its approved you should keep it closed most of the time is for your own safety, you can be in the yard and somebody is coming 60 MPH and run over you because I saw that across the street from me and that was, thank god no body was there but that's dangerous.

Mr Billone- yea, well this summer uh, to your point, I was working out in, doing a whole bunch of stuff our in the yard and I had people coming up and wanting to know who did the stonework, who did this who did that, and it just, you know they were good people, just curious about you know who the contractors were and stuff and you know I'm working, I'm not paying attention and people just drive up and there out of their car and who do you know who is who today. You know I mean you say is he a good person or a bad person, I don't know, are they there to harm you or are they just saying hello kind of thing. So I think, mainly with my wife I'm, I'm in and out of the house a lot and she's home quite a bit so I think I might close the gates if I were to leave and I knew she was going o be there all day and I didn't expect anybody, I probably would be, to be quite honest with you, I would probably close the gates, not

lock them, well I would lock them, but not lock them, lock them you know just over them, it'd be quite, well because it just, its scary when you look at the 11:00 news every night, you just don't know ...

Ms. Theodoratos- it can happen anywhere.

Mr Billone- exactly. That's why I'm saying you know; you don't have to be in the hood. For something like that to happen so I, you know, maybe at night I would close them, I don't know. You know to be honest I say they'd be opened 95% of the time but maybe at night, yea we're going to bed at 9:00 what down there close the gates, tomorrow morning I'm going to open them. I Might get into that habit, its like locking your front door every night. Or closing your garage door every night. It's a habit type thing and you know I think going to bed I would maybe feel more secure with those gates being closed, okay, not saying they can't be opened, but You know you just feel mentally relieved ...

Ms. Theodoratos- and also another thing I'm thinking of again if the application is approved, keeping it closed because if somebody loses control of their car and starts coming through at least that gate stops them a little, I mean these, some of these things you know hopefully won't happen ...

Mr Billone- I don't know if the gates would stop ...

Chairman Reinhardt- Sorry, sorry, sorry Lya. Lya, sorry. Safety is not an issue here, alright, it, it, we, looking at the criteria, the criteria ...

Mr Billone- my safety is an issue; my wife's safety is an issue.

Chairman Reinhardt- okay, let me if I could, let me finish.

Mr Billone- okay, sure.

Chairman Reinhardt- for granting of an area variance there's criteria, you filed in an application, briefly is it going to change the character of the neighborhood, alright, I'm not asking, just let me run through, alright, is it going o change the character of the neighborhood, is it significant, is it going to have an environmental impact, is there another way, a feasible way for you toa accomplish the goal, without a variance, and is it self created. So, of those 5 criteria, safety really isn't discussed in that, it's not ...

Mr Billone- I guess it all depends how you, what safety means to you.

Chairman Reinhardt- we can have a debate over safety ...

Mr Billone- right. Exactly.

Chairman Reinhardt- but, outside of the confines of your application, we, safety is important, the, call the sheriff if you think people are speeding on that road, but that's not the issue here.

Mr Billone- I understand that.

Chairman Reinhardt- the issue is your asking for an exception to the rule. That's a variance. Right, and as I explained to you those criteria are going to be evaluated, now if you're not sure about how any of that works or how that applies we cant give you legal advice, so I encourage you that if you have an attorney or you may need to seek council, its like yea I don't understand this could you help me, talk to legal counsel and they'll walk you through it, this is important stuff, this is something that you want, something for your property, and if it's done right, you've probably got a better chance of getting what you want, but

if its um creating gray areas and uh not really keeping to the point, you might not like the answer that you're looking for. You follow me?

Mr Billone- not really.

Chairman Reinhardt- okay.

Mr Billone- no, I'm not.

Chairman Reinhardt- let me try a different way.

Mr Billone- so you're, excuse me just one minute, so I better understand what you're saying, you're saying I should seek counsel?

Chairman Reinhardt- that's completely up to you. Looking at the criteria, your application ...

Mr Billone- mhm.

Chairman Reinhardt- do you still have a copy of it?

Mr Billone- did I see a copy of it?

Chairman Reinhardt- do you have a copy of your application?

Mr Billone- no, I do not.

Ms. Downs- the back table with the resolutions, the criteria are listed on the resolutions back there if you'd like to look them, but it's the five questions that you answered ...

Mr Billone- oh yea.

Ms. Downs- on your application.

Mr Billone- yes, I'm familiar with it.

Chairman Reinhardt- so if you, I encourage you, take that.

Mr Billone- okay.

Chairman Reinhardt- look at it. So, when you come back, those pieces, the criteria, those five criteria, we have to look at that, and we have to fill in the blanks for what's called justification. The facts that apply to, for example is it going to change the character of the neighborhood and we would vote on it, yes it will, no it won't, we just can't say yes or no, we have to put some reasoning behind it. Is it significant, yes/no. We need reasoning behind it. So, as you go through that criteria, safety is never a discussion about it.

Mr Billone- I'm surprised.

Chairman Reinhardt- that's the law, I didn't ...

Mr Billone- no, no, no, no, I know and I'm just saying safety, I would think would always be the first criteria of ...

Mr Nearpass- well I mean at the end of the day, if the only thing is well, I just feel safer because of it, what does it stop you from doing, right? ....

Mr Billone- I'm sorry.

Mr Nearpass- if, if people could just come in front of us and say "I feel safer" with this gate or fence or 20-foot-tall wall, should that just mean you get it ... right it doesn't make it right or that there isn't a better way that's more within character of the neighborhood and that's what we're trying to get at is the ....

Mr Billone- you know I had ...

Mr Nearpass- is it the right fit, is there something unique and, so why I was asking what's unique about your situation because again if, I live in a development I got a 60' long driveway ...

Mr Billone- right.

Mr Nearpass- you know, if I came in front of this board and said Well, I want a fence or a gate in front of my house to feel safer, you know I, I, that just ...

Mr Billone- understood.

Mr Nearpass- that's just not the trump card that says oh, you get it because you'll feel safer, you have to, I have to prove alright, its within character of the neighborhood, no one within 500 feet you know has a ...

Mr Billone- right.

Mr Nearpass- negative opinion for or, opinion for or against about it, it's not substantial or its not in a right-of-way, like so there's, there's other things and so safety isn't really something we evaluate, so if the only thing you have is that its safety, it's just a tougher sell, I recommend like Mike said, go through the 5 criteria, and just have a response, right, or work with counsel ...

Mr Billone- didn't I do that?

Ms. Ogra- you did. He submitted it already, we have it here.

Mr Billone- I did that.

Chairman Reinhardt- what my concern is, is you keep drifting back into safety, safety, safety, and we have to ignore that, I understand that's important to you ...

Mr Billone- yes, it is.

Chairman Reinhardt- I absolutely understand that ...

Mr Billone- yea.

Chairman Reinhardt- but that's not a relevant fact that we can consider when granting or denying a variance.

Mr Billone- okay.

Chairman Reinhardt- your better discussion is, there are other fences in the neighborhood, now how we look at that, that's something different ...

Ms. Ogra- but here's, the issue ...

Chairman Reinhardt- it, it counts, it matters.

Mr Nearpass- but he answered and said safer.

Mr Billone- well okay, uh, another point which id like to explore on is that, okay my house is in the middle of 4 acres, and I don't have neighbors, nobody can see me, at night you cant see my house, you cant see anything, so for somebody to walk into my property and I'm not saying gates would deter those people, but I'm just saying, if I don't have the gates you're more or less welcoming people to come in because there's no, there's no deterrent there and if I was, you know we came from Highland Green, we lived up in Highland Green and you know 20 feet I had a neighbor, 40 feet across the street, I had people, I mean people constantly looking out their windows so, you had a lot of protection, I don't have that ...

Chairman Reinhardt- alright you're ...

Ms. Ogra- can I just say ...

Mr Billone- so safety to me, I mean I hear a noise in my house I kind of like oh, what was that ...

Chairman Reinhardt- alright, so there's a good example, you lived in Highland Green ...

Mr Billone- yes.

Chairman Reinhardt- do you think that, just hypothetical, if you put this same structure, a gate, the 5 x 5 pillars, in the front of your property, do you think that would change the character of the neighborhood there?

Mr Billone- I didn't need to.

Chairman Reinhardt- yes or no ...

Ms. Ogra- can I just ...

Chairman Reinhardt- it would, just ...

Mr Billone- well yea, but I didn't need to. I never had gates in my life.

Chairman Reinhardt- okay, go ahead. Alexis, maybe ...

Mr Billone- but no, I'm not trying to say ...

Chairman Reinhardt- I, I'm doing my very best and ...

Mr Billone- I know and I'm trying to because its our safety and I know safety to maybe people don't make any difference, to me that's why I moved the driveway because of our safety, cost me a lot of money to do, but you know what I didn't put a price on my wife's life, or my life. So, I says you know what, whatever the cost it costs, I want to be there I want to be safe. And that's all. I mean, I put a lot of money into the house, and I didn't think the gates would be a big deal, I, to be quite honest with you, I didn't know I needed a variance, I didn't know a lot of things I didn't know, but, I mean I guess it's a big deal, I mean I, I think the property came out beautiful from what I bought it from so now, I think a set of gates is being blown out of proportion but that's my opinion. But ...

Ms. Ogra- I just need to say, it seems like Mr Billone, you have an issue, the issue is that people drive up your driveway, they're using, they're going all the way up to turn around in the circle of your driveway, that makes you feel unsafe, but your issue at heart is that people are driving all the way up to your driveway, turning around in the circle, safety is a feeling. Now you've already proven that you don't believe that this would be out of character of the neighborhood because there are already gates in the neighborhood, and tonight we've already established one of the gates is in Monroe County, but two of them are there, you live on a very rural road, um, Matt brought up here next to me, that he lives in a residential neighborhood, I too live in a residential neighborhood, if you put a gate in front of my house, probably wouldn't stop people from walking up to trick or treat at my house, because I live 10 feet away from the road, and my neighbors are 5 feet away from me on each side, but you live on a very rural and, it's not out of the character of the neighborhood, which you've already you know tried to point out. Um, you've already pointed out here too that you know you really couldn't get this from another feasible way, someone brought up you know cones to put in front of your house, although I'd say that cones would pretty much be really, really out of character of the neighborhood, rather than a fence, which would be more in character of the neighborhood, you've said that the area variance is substantial, you do want to, you know something, put something in front of your house. Which you've put in your application, you don't feel that it has any sort of environmental impact, which I probably wouldn't think either, a squirrel is going to jump the gate, its going to jump the gate. Um and your alleged difficulty here is you know self-created. You have a long driveway; you have a big turnaround. So, I think we've already gone through everything here, safety is a feeling, its not part of the criteria, but he's already addressed the criteria here. And he's brought it up multiple times, so I don't think security and harping on it continuously from the bard really makes sense because it's a feeling.

Mr Billone- it is.

Ms. Ogra- feeling safe or not, but you've also in addition already gone through your application, both in your application and here tonight, brought up all of the points that you think make your application viable.

Ms. Billone- thank you, you've explained it very well.

Ms. Ogra- thank you.

Chairman Reinhardt- alright.

Mr Billone- hey, Mike. Go ahead.

Chairman Reinhardt- other things that you could do ...

Mr Billone- I'm sorry Mike, I can't hear you.

Chairman Reinhardt- alright, I'm exploring other things that you can do to accomplish, preventing or deterring people from using your property. What about no trespassing signs? Have you thought about that? --- Look, I'm ....

Mr Billone- no, no, No I'm laughing ...

Chairman Reinhardt- I'm trying, I know, I'm not making a joke ...

Mr Billone- no, I'm laughing ...

Chairman Reinhardt- what I'm trying to do is create a set of facts ...

Mr Billone- Mike, please ...

Chairman Reinhardt- here ...

Mr Billone- I'm not ...

Chairman Reinhardt- let me finish if I could ...

Mr Billone- go ahead.

Chairman Reinhardt- I wasn't interrupting you ...

Mr Billone- no, no I'm sorry.

Chairman Reinhardt- what I'm trying to do is create a set of facts so that this board can make a well rounded thorough reasoned decision. If we don't explore this stuff, we're not doing our job ...

Mr Billone- Mike, the only reason I was laughing was because when you said private property, I back up to the fifth green, on the gold course, and constantly had golfers come into my property looking for their balls, okay, so probably just a couple months ago, went to Home Depot bought private property signs, put them on five of the trees, it was no deterrent. She saw a lady come into my driveway, or come into my back yard came up 40 or 50 feet almost to my house, I mean so, people don't ready signs, people will stop at a gate, and I just, just that's what it is, but I know what you're saying about private property, it doesn't work, only because I've gone through it with golfers, if they're going to go after a ball, they'll come after anything, so, I rest my case I guess ...

Chairman Reinhardt- I'm going to take that as a, no? ... You haven't put no tress passing signs on the ...

Mr Billone- my back lot I did.

Chairman Reinhardt- let me try again ...

Mr Billone- go ahead.

Chairman Reinhardt- I'm not talking about your backyard ...

Mr Billone- yea.

Chairman Reinhardt- I'm talking, the issue here is your driveway ...



Mr Billone- right, right.

Chairman Reinhardt- are there no trespassing signs ...

Mr Billone- no.

Chairman Reinhardt- no. Okay, that's it. We're good, anyone from the public want to speak for or against the application? --- awesome, good. So, what we need from you though is, an updated instrument survey ...

Mr Billone- okay.

Chairman Reinhardt- that shows where the driveway is, and I think you said that garage has since been ...

Mr Billone- mhm. Oh, yea that's gone.

Chairman Reinhardt- so an updated instrument survey would reflect that, where the driveway currently is, where the garage is gone, and then if you would put the proposed location of where the, there's currently some structure there, right? There's two posts?

Mr Billone- there's two 6 x 6 posts.

Chairman Reinhardt- 6 x 6 posts.

Mr Billone- right.

Chairman Reinhardt- so have that location then we can figure out how close it is to the road, how far it is from the home and, and we'll have a much better idea on how to deal with it.

Mr Billone- okay.

Chairman Reinhardt- okay?

Mr Billone- okay.

Chairman Reinhardt- very good.

Mr Nearapss- is it a structure or a fence, do we need to have that discussion?

Chairman Reinhardt- I think we're working from a structure, because it seems to, you have, the issue what we were trying to figure out is whether or not it's a fence or a structure, but you have 4x4 posts, you have um, wrought iron metal gate, and then wings that are going to go off to the side, so ...

Mr Billone- possibly. And they're 6x6 posts.

Ms. Downs- I just can't hear you when you're no speaking into the microphone.

Mr Billone- oh, I'm sorry. I couldn't hear you. They're 6 x 6 posts, in concrete and uh, they are 16 feet apart and the gates are 14 ½ feet, approximately 8 foot each gate. And the wings would go on the other sides of the 6 x 6.

Chairman Reinhardt- so, the again, the instrument survey is going to help us quite a bit on where is the current structure, where are those posts in relation to the road, in relation to your home ...

Mr Billone- mhm.

Chairman Reinhardt- alright and then that garage being gone, so something that is as up to date as possible. More current than the one we're looking at.

Mr Billone- okay. The garage has been gone for, there were some out shed too, that were gone, there was an existing farmhouse that was there, that's been demolished.

Chairman Reinhardt- right, I understand.

Mr Billone- oh, okay.

Chairman Reinhardt- something current.

Mr Billone- okay.

Chairman Reinhardt- a survey from a licensed engineer that shows all of those things ...

Mr Billone- okay.

Chairman Reinhardt- as it looks today.

Mr Billone- that shouldn't be a problem.

Chairman Reinhardt- perfect.

Mr Billone- okay. Alright, thank you very much. Is that it?

Chairman Reinhardt- that's it.

Mr Billone- okay, thank you.

Chairman Reinhardt- yup, thank you.

Mr Billone- you have a good night.

Chairman Reinhardt- you too.

Mr Salsburg-not much of a structure, is it? A little bit of a structure, but not very much.

Chairman Reinhardt- I think it fits what, Adam had uh, was looking into it, it fits better into the definition of a structure as opposed to a fence.

**HADLOCK, 7273 St Rt 96**

**23-Z-2023**

**Seeking an area variance for their updated sign to include "Benjamin Moore"**

Chairman Reinhardt- HADLOCK. Thanks for your patience, come on up. --- And you are?

Mr Dacey- Terry Dacey.

Chairman Reinhardt- Hi, Terry. So real quick on the front-end same thing with the county planning board, do you know how that works?

Mr Dacey- no.

Chairman Reinhardt- okay, so, much like uh what we told the prior applicant, because of the proximity to State Route 96, the law requires us to refer it to the County Planning Board for, lack of a better term, their two cents, their opinion. Signage, they're going to have more to say about signage than they would a fence. We can't predict what they're going to do, if they recommend a denial, then to get a variance approval, you need a majority plus one. We can't decide on it today, its going to be the same December 4<sup>th</sup>.

Ms. Downs- 4<sup>th</sup>, yup.

Chairman Reinhardt- so we're going to do the same thing, try and create a record here, get as much information as we can, listen to your application, we'll ask some questions, have you back on the 4<sup>th</sup>, review the County Planning Board decision, and then figure it out.

Mr Dacey- okay.

Chairman Reinhardt- alright.

Mr Dacey- yup.

Chairman Reinhardt- Go ahead.

Mr Dacey- so this fall we decided before winter to clean up the building, um we painted it, and my son suggested that we improve the appearance of our sign, which is almost 40 years old, so we um painted it, and we made it smaller, um we moved the Benjamin Moore logo, which had been below what was Balis Furniture and they're long gone, moved it up, and attached a new compliant Benjamin Moore logo, they've gone from white to red, over the what was Balis Furniture. And then we were informed after many years of having the Benjamin Moore logo there that the Town of Victor doesn't allow logos, so here I am, that's all it is.

Chairman Reinhardt- okay. Alexis, questions?

Ms. Ogra- how did we get the application if it'd been there for so long?

Mr Dacey- the sign has been there for; I think we've been there about 38 years.

Ms. Ogra- yea, did we ...

Mr Dacey- and the sign is so, the sign on the right originally that was it, it was us and Balis, built the building, and I don't know maybe 10 years ago, it, he added, many years ago the word "leather house" and then, he agreed, said "ah, why don't you put a Ben Moore sign over it" so we did. And then, this fall, Balis is long gone, they're out of business, so prior to when or I'm sorry after that photo on the right was taken, we painted over his name because he's gone, and it was just that and it looked kind of stupid with

this big blank red spot, so we made the sign smaller, painted it, we've got a tremendous number of compliments on it, um put the flowers out there and in the spring we're going to plant um, a permanent, um bushes underneath it, and so we just took the Benjamin Moore sign which is no longer compliant with them, its white, its supposed to be red now and just moved it up and um, put it over Balis's name, so in, in the process made the sign smaller.

Ms. Ogra- okay, so did somebody from the Town reach out to you?

Mr Dacey- yea, he stopped by and said you can't do that ...

Ms. Ogra- did we get a complaint?

Mr Ryczek- no, it was an observation being made, they had updated their sign, and it required a permit based on the code ...

Ms. Ogra- but ...

Mr Ryczek- so ...

Ms. Ogra- they didn't need a permit for the previous sign?

Mr Dacey- I'm sure we had ...

Mr Ryczek- there's no record, in their file for the original Benjamin Moore sign.

Ms. Ogra- so, they didn't ...

Mr Ryczek- there's sign permit applications for other signs ...

Ms. Ogra- yea.

Mr Ryczek- there was a dress store, a, something like that a long time ago ...

Mr Dacey- they were there for a very short time.

Mr Ryczek- sure, um so that, all that stuff was in the file but there was no record of the Benjamin Moore sign, right. So ...

Mr Dacey- yea, at the time when Balis put up the "Leather House" sign I assume he didn't do anything and I know we didn't do anything when we put our "Ben Moore" logo over it, we didn't know we needed too.

Ms. Ogra- okay.

Mr Dacey- and it's been there for my son thinks about 10 years.

Ms. Ogra- okay. Yea, I don't have a problem with the application or the sign or anything I was just curious about like how I guess we got here if you had had it for so long, how, you know why you got to come in now ...

Mr Dacey- all we've gotten is compliments. So ...

Ms. Ogra- I like the flowers.

Mr Ryczek- the way that the code reads, when they update a sign, that is not compliant, it's supposed to come to compliance and requires a permit, so we don't need to receive a complaint if somebody needs a building permit.

Ms. Ogra- okay.

Mr Ryczek- okay.

Ms. Ogra-no, I, I was just curious how we got it, is, Because I wasn't sure how, you know usually it's a complaint or ...

Mr Dacey- and in my application I included that I'm required to have Benjamin Moore's name as part of the program which I am a participant in. Now, um, that being said there are towns that will push back on that as obviously you are, but I included in it um, the page from Benjamin Moore's contract that states we are required to have our, their name/their logo on the exterior of our building.

Ms. Ogra- okay, I don't have a problem with it, if we were up for vote, I'd vote for it today but, we'll be here next month.

Mr Dacey- and our biggest competitor up the street Sherwin Williams, with their name across front of the building with a logo, the color of the earth logo on their sign. They are our biggest competitor.

Mr Nearapss- there's a difference right, its allowed when it's on the building versus a monument sign, right, I think, right? ...

Mr Ryczek- so, Benjamin Moore is advertising a brand for sale, Sherwin Williams is the name of the store, so it, I, I had a conversation with you, I told you it was a unique situation ...

Mr Dacey- well we referenced car dealers ...

Mr Ryczek- right.

Mr Dacey- Victor Dodge Ram Jeep, those are logos.

Mr Ryczek- right.

Mr Dacey- every Chevrolet dealer has a logo.

Mr Ryczek- right and those were approved as part of their Planning, you know so it's a different path that they took ...

Mr Dacey- yea, I have an Ace Hardware store in Pittsford ...

Mr Ryczek- right.

Mr Dacey- Name is Hadlock Hardware LLC, my building says Ace Hardware, now that's a logo ...

Mr Nearapss- so here's, it isn't necessarily the issue that it's a graphic logo, its that its Benjamin Moore, right it's not ...

Mr Ryczek- correct, the logo doesn't have anything to do with it ...

Mr Nearpass- the picture ... yea ...

Mr Ryczek- its that you're advertising a brand for sale which is prohibited by our code.

Mr Nearpass- right. We had um ...

Mr Dacey- but how is that different than a car dealer? They're advertising, Victor Dodge Ram Jeep ...

Mr Nearpass- they, like he said, they've gone through an approval process ...

Mr Dacey- yea, yea ...

Mr Nearpass- much like you're going through an approval process ...

Mr Dacey- right, okay ...

Mr Nearpass- it resulted in a positive outcome for them ...

Mr Dacey- okay. Okay.

Mr Nearapss- we'll all figure out ...

Mr Dacey- okay.

Mr Nearpass- if it results in a positive outcome for you or not and some it does, some it doesn't, every situation is unique.

Mr Dacey- yea.

Chairman Reinhardt- where are we? Alexis you're done, Lya ...

Ms. Ogra- all set.

Chairman Reinhardt- questions?

Ms. Theodoratos- the two signs that we have the photos of, is it the same sign and you just ... okay.

Mr Dacey- so, there's 6 ...

Ms. Theodoratos- I wasn't clear ...

Mr Dacey- screws that are holding the Benjamin Moore logo over what underneath says "Balis Furniture" ... obviously we flipped it.

Ms. Theodoratos- right, yea ...

Mr Dacey- be kind of foolish to ...

Ms. Theodoratos- and what happened to the building number? That was ...

Mr Dacey- I took it off ...

Ms. Theodoratos- you took it off ...

Mr Dacey- I can put it back on, but I, I like the sign smaller rather than bigger, usually you know people don't make things smaller, and I'm happy to put it back on or what I would prefer to do if you know you allow, is to just put big numbers on the, over my door, somewhere on the front of the building. For both parties in the building. So.

Ms. Theodoratos- are you planning, if its approved are you planning to illuminate ...

Mr Dacey- no.

Ms. Theodoratos- no. Okay.

Mr Dacey- there's no electricity up there. Solar panels would not be real effective.

Ms. Theodoratos- that's the only question, thank you.

Mr Dacey- you're welcome.

Chairman Reinhardt- Matt, questions?

Mr Nearpass- what's the, so we, I can think of a, at least one other case where we've had a business that with inside of it, had a product line that was um, that wanted to also have signage on the exterior, that particular case we denied. For things unique to that, is that the relationship here, is Benjamin Moore um, they're not the, you know, the, you're the business so, Hadlock's, LLC, or Hadlock's whatever it is, is the ...

Mr Dacey- yea, yea that's my Hardware store. Is Hadlock Hardware.

Mr Nearapss- sorry ...

Mr Dacey- Hadlock Paint.

Mr Nearapss- Hadlock Paint...

Mr Dacey- yes.

Mr Nearpass- um, is its own entity, as the leaser of the building ...

Mr Dacey- Benjamin Moore dealers across the country are all independent.

Mr Nearpass- right. Um, and is Benjamin Moore the only product line that you have? From a ...

Mr Dacey- paint line, I sell yes.

Mr Nearpass- inside ...

Mr Dacey- yes.

Mr Nearapss- um ...

Mr Dacey- I'm also the largest Benjamin Moore distributor in the United States, well I have a special relationship with them.

Mr Nearapss- well, very cool. Um, so I'm just trying to get at what um, what might be unique here in terms of, I know you've got this contract, although it is a little vague when I read it about, are they really forcing you to have an exterior sign, right, I, It's a little bit of a grey area. Um, but we get an awful lot of businesses that really want to have, right, the, you know signage for product lines that are um, within their entity ...

Mr Dacey- so my biggest, two biggest competitors are Sherwin Williams and PPG, their name on their building tells you what they say, I'm sorry what they sell, and I, you know I'm at a serious disadvantage not being able to convey to people what we sell.

Mr Nearapss- is that because of the name of the business that you chose?

Mr Dacey- because I'm not owned by Benjamin Moore, or you would let me put Benjamin Moore on my building.

Mr Nearapss- have you, has there been any negative impact to the business because before you didn't have Benjamin Moore on there, I mean what's the ...

Ms. Ogra- he's always had it.

Mr Dacey- well it's been there for a long time, I'm not sure exactly how long it's been there, um ...

Mr Nearpass- oh, so the Benjamin Moore on the first one was also there for 10 years.

Mr Dacey- yea but the sign itself is like 38 years old or however long we've ...

Mr Nearapss- with Benjamin Moore on it, before?

Mr Dacey- no. No, we added it maybe about 10 years ago.

Mr Nearapss- okay, but for 10 years its ...

Mr Dacey- yea.

Mr Nearpass- its had Benjamin Moore on it? ... Okay, I get that.

Mr Dacey- yes.

Mr Nearapss- alright, I didn't understand that before, um ...

Mr Dacey- and in doing so, it has a significant impact on what we pay for paint.

Mr Nearpass- and, 10 years, I'm looking at code enforcement, 10 years ago, when did the signage code change, it changed right around then, right? Could this be a previously existing non-conforming ...?



Mr Dacey- I don't have ...

Mr Ryczek- I think it was prior to that ...

Mr Dacey- knowledge of when that was put up ...

Mr Nearpass- I'm just, I mean from my perspective ...

Mr Dacey- it was "Leather House" for a long time and then ...

Mr Nearpass- yea, yea, yea I'm just saying if, if that sign, which I would argue is, is almost identical to the new one that you put there just inverted the colors ...

Mr Dacey- yea, I mean, if I had ...

Mr Nearpass- considering it previously existing non-conforming ...

Mr Dacey- you know if I had to, I could put ...

Mr Nearpass- conforming ...

Mr Dacey- the white one back on it.

Mr Nearpass- would be ...

Mr Dacey- over it, you know. But ...

Mr Nearpass- because the only thing you really did is, obviously you've reduced the size of it, you took out "Balis" now if another, somebody else comes in, that building ...

Mr Dacey- there is someone in there and he has no interest in the sign, that's why we did what we did. So, we asked him first, do you want your name or at any point will you, and he's not opened to the public, because, his doors are locked, so he says no way. I don't want to draw any attention to us.

Mr Nearpass- you own the building?

Mr Dacey- I own my part of the building, well, my sister owns my part of the building, and he owns his part, its set up as a condo ...

Mr Nearpass- okay.

Mr Dacey- so I don't own what is formally Balis Furniture.

Mr Nearpass- okay.

Mr Ryczek- 2007.

Mr Nearpass- was the new? ...

Mr Dacey- so it's definitely since then ...

Mr Ryczek- yea it was the year, the orientation of the code, or origination and there's no amendments noted.

Mr Nearpass- okay, um I'll yield my time, I guess just to me, maybe with this particular one somehow the, it's been there so long, its within character of the neighborhood whether it was previously existing but non-conforming, um ...

Mr Dacey- we've been around for 103 years ...

Mr Nearpass- and you've reduced the size of, I mean, to me if you be okay with continuing to have the size of the sign, not get any larger than it is ...

Mr Dacey- absolutely, I wanted to make it smaller. But that's why I took off the um, the number on top, we wanted to be, it to be attractive, um and as I said we've gotten many, many compliments from it. Um, you know as we wanted so we painted the building and all that ...

Mr Nearpass- okay. I'm good for now.

Chairman Reinhardt- I think, and I'll yield to Fred in a second, but to, I think its dangerous to, it needs to be confirmed whether or not it's a non-conforming pre-existing condition or if it's been there, just because it's been there a day, a week, 10 years, if it violates the code, it still violates the code, there's no, it's been there forever ...

Mr Dacey- mhm, understand.

Chairman Reinhardt- alright, um so I think what we need to look at and Matt if you could, because we've got some time here, is to figure out whether that sign, the white one, with the red, was or is a non-conforming, pre-existing condition. Or if it's just been there and ...

Mr Dacey- it was not there back to 2007, that I'm sure of.

Chairman Reinhardt- did we get that confirmed on whether or not that, that original sign the, you know the white one, if that pre-existed and if it was, when it was originally put up, if it complied with the code. Because I think that would clear up so many different ...

Mr Nearpass- I think his point is that there's no permit, so he has no idea when it was put in.

Mr Ryczek- it's not in the record, so I couldn't tell you ...

Chairman Reinhardt- okay.

Mr Dacey- nor could I, give you any ...

Mr Ryczek- right.

Mr Dacey- I'm guessing.

Mr Ryczek- I'm basing it off of the timeline that he's providing and that would be more recent than the initiation of the fence, or the sign code excuse me, I searched the record, to see if there was a variance before I recommended him to come to the Zoning Board ...

Mr Dacey- yea.

Chairman Reinhardt- okay.

Mr Ryczek- um, and there were sign permit applications but none of them included the Benjamin Moore ...

Mr Dacey- there's definitely not one made.

Chairman Reinhardt- okay, that helps. Thanks.

Mr Dacey- no, that was, that was between me and Alan Brandt you know, when he put "Leather House" up and then he said uh you know, put your Benjamin Moore sign over it, so ...

Mr Nearpass- code enforcement because its, it is two separate parcels, if they are like business condos, do they, are they each allowed to have their own monument sign?

Mr Ryczek- um, so I, I, no, that, the original monument sign pre-dated the existing sign code, okay, so Balis and Hadlock's is fine, when they changed the sign, alright, it required a permit because the sign that they were changing didn't meet current code, so then that sign is now required to come to conformity, so you have to look at everything about that sign, whether its pylon or monument or, you know the advertising the brand, um, in my research of the file that original development was approved as "Hadlock's Plaza" so in my opinion was Hadlock's could remain because that is the name of the plaza. That's up to you guys, you can, that's just an opinion, so, um, that's kind of how we got to where we're at now.

Mr Nearpass- so per the code it should just literally be a Hadlock's Plaza ...

Mr Dacey- yea, can I just ...

Mr Nearpass- no directory? ...

Mr Ryczek- correct.

Mr Dacey- yea, so we, I was 20 something years old when we built this building, we started building the building with the intention of renting out to other tenants, the space that we're in now across that front, our store was going to be where Balis was, facing 251, um, that was the plan, the building was under construction so it was solely being built by Hadlock Paint, so that may be in your paperwork where Hadlock Plaza came from, because there was no Balis ...

Mr Ryczek- right.

Mr Dacey- so we had basically just the front of the buildup when Bob Brandt came to us and said how much space are you renting out and coincidentally the space that he wanted was exactly what we were going to use so we just reconfigured the building, it's also why the building looks ridiculous and it looks like our warehouse goes all the way through his store, and it does, it's because that's where we originally were going to be and then we moved down the 96 side and gave him that, while the building was under construction, but initially my father built the building by himself, so ... that's where the Hadlock Plaza name came from, but before anybody, it was, occupied it, it was Hadlock and Balis, and all the legal work to make it two separate owners.

Chairman Reinhardt- Fred?

Mr Salsburg- I don't think it's, this is substantial, and uh, how could the sign be there all those years and the Town not go out to the applicant's attention. ... because he made it smaller or ...

Mr Dacey- we made it look better.

Mr Salsburg- oh ...

Mr Dacey- we cleaned it up.

Mr Salsburg-this time, its backwards. It used to be another, instead of a Benjamin Moore was it ever something else?

Mr Dacey- yea, yes, so originally Balis Furniture added a leather department and called it "Leather House," so ...

Mr Salsburg- ahh.

Mr Dacey- where that white Benjamin Moore was, was a black and white sign that said, "Leather House" and then he said ah, I don't really care about that, so he said go ahead and you can have that space and we put a "Ben Moore" sign on it. Not thinking we needed any kind of permit or whatever because he already had a "Leather House" sign on it for I don't know how long ...

Mr Salsburg- on the building?

Mr Dacey- on the sign.

Mr Salsburg- oh.

Mr Dacey- and the building. Yea, no he put it on the building too, yea. Yea.

Mr Salsburg- I don't have any more because it's coming back ...

Chairman Reinhardt- Adam, my understanding, even for the applicant to ask for the Benjamin Moore to go on the building itself, same issue ...

Mr Ryczek- yea the code doesn't differentiate uh, it just says prohibited signs, signs which permanently advertise a particular brand that a business offers for sale...

Chairman Reinhardt- and that counts for posters in his windows, anything Benjamin Moore anywhere on the building in the windows, on the sign, code says needs a variance.

Mr Ryczek- correct.

Mr Nearpass- even a poster on the window?

Mr Ryczek- uh ...

Mr Nearpass- I didn't think those were considered signs.

Mr Ryczek- it's a window sign, unless it's under a certain size, the code is pretty specific, as far as that goes, do they exist, yes, to her point as far as receiving complaints vs. code enforcement saying okay this is something that requires a permit, but the history of the amount of sign variances that have been requested on 96, its important for us to you know try to stay on top of those things when they happen or else everybody will, so ...

Chairman Reinhardt- right. So, anything that you have like an old photograph, anything that shows that picture, you know that shows Benjamin Moore, has been on that sign for more than 10 years ...

Mr Dacey- that's all I have is that one.

Chairman Reinhardt- I think the board is, at least I get the feel of it, it's been there even though you don't get grandfathered in, right, if its ben there for quite a while it's going to be hard to make an argument saying ...

Mr Dacey- yea.

Chairman Reinhardt- how is it changing the character of the neighborhood.

Mr Dacey- yea, I ... you know it was my son's guess that that's how long it's been there, but ...

Chairman Reinhardt- more than 10 years?

Mr Dacey- no, not, no, no probably about 10, but I'm like you said 2007, I'm telling you it hasn't been up there that long, so if the rules changed in '07 that was put up after the rules changed. Theres no question about that.

Chairman Reinhardt- alright, anyone form the public want to speak for or against the application? ---  
Hearing none, okay so if you have anything for us, any questions for us? ---

Mr Nearpass- can I ask one more?

Chairman Reinhardt- yea, yea, go ahead.

Mr Nearpass- so, I think you mentioned your top sales for Benjamin Moore.

Mr Dacey- yea.

Mr Nearpass- what brand do you think is more important for you, is it customers find you because your Hadlock's House of Paint or you think they pull in because they see Benjamin Moore?

Mr Dacey- that's a really good question, um, you know we've been in business ...

Mr Nearpass- to be honest I've been here for 20 years ...

Mr Dacey- yea.

Mr Nearpass- and I've always gone there and known it as Hadlock's House of Paint.

Mr Dacey- yea.

Mr Nearpass- if you would have asked me whose paint you sold, just one man's opinion, I would've had no idea.

Mr Dacey- we, um ...

Mr Nearpass- even though the sign has been there ...

Chairman Reinhardt- I do, I beg to differ, because I would, I do, I know ...

Mr Nearpass- I know it always as Hadlock's.

Chairman Reinhardt- I know that Hadlock's sells Benjamin Moore.

Mr Dacey- yea.

Chairman Reinhardt- and that's, outside of, I've got a lake house out in Conesus, I know they sell it there, so if I want Benjamin Moore to me, that's the only two places ...

Mr Dacey- he's my customer ...

Chairman Reinhardt- its ...

\*laughter\*

Mr Dacey- he gets it all from us.

Chairman Reinhardt- that's the only two places ...

Mr Dacey- yea.

Chairman Reinhardt- I know that I can get Benjamin Moore is Hadlock's.

Mr Dacey- yup. Our business you know we're a family owned business, we're fourth generation, we're 103 years old, so our name is worth something, you know, but um, you know the world is changed, um at one time, you know we were primarily a distributor we serviced over 100 Martin Seymour and Dutch Boy dealers was the lines we carried, of those 100 stores that we serviced in western and central New York, one of them is still in business. Rochester used to have over 200 hardware stores, today there's 5. So, you know that's been the history of independent, we call them mom and pop paint hardware stores. There aren't any left, so is our name you know important when back then you know in Rochester there was Sheen's and Moran's and a whole bunch, sure it was, today you know Benjamin Moore is more important than ever, because they you know, Sherwin Williams, PPG and Benjamin Moore and that's it, um, for independent dealers, um, Benjamin Moore is, it's in the United States today, you're either a Benjamin Moore dealer or you wish you could become one because I literally don't know who is in second place, because it just doesn't matter, there is no other paint line in the United States today sold by independents that is worth anything anymore.

Chairman Reinhardt- 20-mile radius of you, who else sells Benjamin Moore?

Mr Dacey- our biggest competitor and very, very good friend is Meyer Hardware. Um, recently Benjamin Moore became the exclusive supplier to all ACE Hardware stores, that's why we opened an ACE Hardware store in Pittsford, um there are two ACE Hardware store, one in Honeoye Falls, one in Fairport,

they get to sell some Benjamin Moore products, um but hardware stores and paint stores are different, we don't really consider hardware stores to be competitors, Meyer Hardware has had Benjamin Moore longer than we have, and we, the ultimate compliment is that we consider them to be a paint store competitor because they are that good. So that's it, it's us and Meyer's, um and so we're the, you know we're the largest Benjamin Moore dealer in upstate New York, and we're the largest Benjamin Moore distributor in the United States, but that just because there really aren't very many of them, we're kind of unique on that situation. So, the guy in Lakeville gets all his paint from me. For example.

Chairman Reinhardt- that helps, good.

Mr Dacey- yea.

Chairman Reinhardt- other questions?

Ms. Ogra- 10 years ago when you put the original Benjamin Moore sign on, did anyone from the Town stop by ...

Mr Dacey- no.

Ms. Ogra- call you, anything like that ...

Mr Dacey- we've never, I've never had to appear before any Town in my lifetime, so ...

Ms. Ogra- okay.

Mr Dacey- yea.

Ms. Ogra- I mean I know obviously we're looking at the sign as it is now, and not how it was etc.

Mr Dacey- yea.

Ms. Ogra- How it meets the code, whatever ...

Mr Dacey- yea, I know.

Ms. Ogra- but you know we, I guess now we've got maybe a more vigilant code department than we did 10 years ago, but it's been there for 10 years, you can't tell me code enforcement from our Town didn't drive up and down 96 all the time. Some of us have been on this board for more than 10 years. So ...

Mr Dacey- the only guy I've ever ...

Ms. Ogra- we know where to file complaints, so I don't have a problem with it ...

Mr Dacey- yea ...and the Fire Marshall the only guy I've ...

Ms. Ogra- it meets the criteria ...

Mr Dacey- ever had a relationship with, and we get along great, so ...

Ms. Ogra- I think, I'm all in favor for it, I'm hopeful that your back on December 4<sup>th</sup>.

Mr Dacey- okay.

Chairman Reinhardt- alright, anything else?

Mr Salsburg- nope.

Chairman Reinhardt- good, anything else for us?

Mr Dacey- no.

Chairman Reinhardt- okay, good. See you on the 4<sup>th</sup>.

Mr Dacey- alright, I have to sign your book, I didn't ...

Chairman Reinhardt- good, thanks so much.

Mr Dacey- you're welcome.

Chairman Reinhardt- Ed, anything for us?

Mr Kahovec- tomorrows election day get out and vote.

Chairman Reinhardt- alright. Adam, anything?

Mr Ryczek- um, just to comment on this, you know they needed a permit, why I stopped, the main reason you know having the record for the variance is, is because of the amount of applications that you guys ...

Ms. Ogra- yea.

Mr Ryczek- have been getting, and other applicants want to see the history of signs that exist when they want the same thing, and so I feel like it's the responsibility of the Zoning Board to go through the motion, either approve or deny the variance, then there's that record of it, for the next applicant that comes and wants to put Nike or whatever other brand on their sign. That's all.

Mr Salsburg- I vote that we call the earth stable and the top of the bushes unstable and can't use them, you had that in your comments ...

Mr Ryczek- oh.

Mr Salsburg- what do we go by, the top of the flowers or the ground ...

Mr Ryczek- uh, yea he indicated that they wanted to put shrubs in, and it was a determination made by the Zoning Board that a monument sign was defined as no more than 1, the lowest portion of the sign would be no greater than 1 foot above adjacent grade, so I said, if you want to count bushes as adjacent grade that's your determination to make.

Ms. Ogra- I think it looks nice with the stuff underneath.

Mr Ryczek- yea, those all blew over.



Mr Nearpass- its like the first one tonight, I'm just trying to find something unique about it that's not just "I feel safe, and I really like how it looks" and "my customers like how ..." that's it, I just want the applicants to tell me, what is unique about it ...

Ms. Ogra- he did tell you, the first one.

Mr Nearpass- no, he didn't. ... and that's just my opinion, he didn't.

Ms. Ogra- safety is a feeling though. And he said people are driving up to the thing and turning around there.

Mr Nearpass- people turn around in my driveway all the time too, like I, I get it, I how, I, I, I'd love to know really how many people that is, and is it unsafe or not, they're not going 65 miles an hour down his driveway. Um, so I ...

Ms. Theodoratos- I've seen, in New Rochelle, across the street from me and it was just a circular, you know it wasn't the houses like here ...

Mr Nearpass- again, if someone ...

Ms. Theodoratos- somebody I saw go fast ...

Mr Nearpass- if someone goes flying around ...

Ms. Theodoratos- and could've killed somebody...

Mr Nearpass- not in his driveway.

Ms. Theodoratos- in the driveway. I'm telling you ...

Mr Nearpass- in his driveway?

Ms. Theodoratos- drove right through, you know a circular ...

Mr Nearpass- in his driveway ...

Chairman Reinhardt- alright, stop, stop ...

Ms. Theodoratos- and it was the neighbor down the street ...

Chairman Reinhardt- time out, time out, time out ...

Mr Nearpass- in his driveway ....

Chairman Reinhardt- time out, sorry, sorry, people, people, lets stick to the point, New Rochelle all due respect has nothing to do with Victor ...

Ms. Theodoratos- yea, no, I was just ...

Mr Nearpass- right.

Ms. Theodoratos- talking ...

Chairman Reinhardt- it doesn't ...

Ms. Theodoratos- about the driveway.

Chairman Reinhardt- its doesn't, alright his best line is to say this structure is not going to change the character of the neighborhood ...

Mr Nearpass- right.

Chairman Reinhardt- and focus on that.

Mr Nearpass- he should focus on telling us, I took down 2 structures in the front of my, the building came down and this came down, so just let me have this damn fence as a structure.

Ms. Ogra- he did say that.

Mr Nearpass- I would have ... no, he didn't. We said a lot of things for him, I need him to tell us what he's really ...

Ms. Ogra- he said it. And he said it in writing ...

Mr Nearpass- the first thing he said is safety.

Mr Ogra- yea, you're ...

Mr Nearpass- the whole thing is about safety.

Ms. Ogra- you're harping on the thing that he cares about the most.

Mr Nearpass- I know but I'm ... okay, I'm done.

Chairman Reinhardt- and all ...

Mr Salsburg- he doesn't go on about safety in the documents.

Mr Nearpass- of course he does, I read it. Safety is the first two sentences, I read it.

Mr Salsburg- security ...

Mr Nearpass- okay security. Sorry. If you want to read it out loud ...

Chairman Reinhardt- alright. We are, we are charged with when, whether we grant a variance or deny it, if a court ever looks at our review, they're going to look at what the justification was, and if we start saying safety, safety, safety its going to get overturned.

Mr Nearpass- right, I ...

Ms. Ogra- yea, but the paper ...

Mr Nearpass- I want both of the applicants ...

Ms. Ogra- shows ...

Mr Nearpass- to get what they want, but I, I'm just trying to say they've got to really tell us how it pertains to the code.

Ms. Ogra- yea, but we've got two records, you've got what he says here in person, and also what he has sent physically in his paper application, and his paper application and tonight, he said it. Did he go on about one specific aspect that he, he was very emotional and felt was very important to him. Yes, but he did also bring up all of the other factors.

Chairman Reinhardt- and in the justifications that, the resolution eventually I have to sign for, for the board, safety cannot be in any part of those justifications.

Ms. Ogra- yea, and it doesn't have to be, but just because he brought it up doesn't mean it has to be in the you know, in the variance if we grant it.

Chairman Reinhardt- true.

Mr Salsburg- do we keep this stuff for next time?

Chairman Reinhardt- alright, anything else? Entertain a motion for adjournment.

On a motion made by Matt Nearpass and seconded by Fred Salsburg the meeting was adjourned at 8:00 pm.